

He Whakaputanga me te Tiriti  
The Declaration and the Treaty



# He Whakaputanga me te Tiriti The Declaration and the Treaty

*The Report on Stage 1 of the Te Paparahi o Te Raki Inquiry*

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HE MIHI

*Tātaí whetū kí te rangí, mau tonu, mau tonu  
Tātaí tangata kí te whenua, ngaro noa, ngaro noa*

*E koutou kua ngaro kí te pū o mahara  
E koutou i pikau i tēnei take ki te aro o Te Rōpū Whakamana i te Tiriti o Waitangi  
Tēnei ka haku, tēnei ka mapu*

*Kua kore koutou i te tirohangā tangata  
Kua kore koutou i te pūao o te ata tū  
Tē kite i te mutunga o ngā mahi, tē rongo i te tutukīngā o ngā moemoeā.  
Tēnei ka auē, tēnei ka auhī*

*Mā ngā haumāuiui o tēnei kaupapa koutou e hahū mai anō  
Ka rangona tonutia ā reo e ngā rau o te pūrongo  
E Rima, Hōne, ko kōrua tēnā, ā, koutou katoa i te hīnganga o te tīni, i te moenga o te mano  
He aha māku ?  
He tangi, he mihi, he poroporoaki  
E moe, i te moenga roa, kí reira okioki ai*

*While the starry hosts above remain unchanged and unchanging  
The earthly world changes inevitably with the losses of precious, loved ones*

*To those of you who have been lost to the void of memories  
To you who heralded this inquiry before the Waitangi Tribunal  
For you we lament*

*To those of you who are lost from sight  
To you who will not see the dawn of a new day  
Not see the completion of your work nor to hear of the achievement of your dreams  
For you we cry of distress*

*You are remembered through the fruit of your toil and your voices are heard by the pages of our report*

*Rima Edwards, John Alexander, all of you who departed to the assembly of the hundreds and  
the congregation of the thousands*

*What am I left to do ?  
Grieve, acknowledge, farewell  
Rest now in peace*



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## Waitangi Tribunal

Te Rōpū Whakamana i te Tiriti o Waitangi

Tākiri te haeata, ka ao, ka awatea, horahia mai ko te ao mārama

The Honourable Te Ururoa Flavell  
Minister for Māori Development

The Honourable Christopher Finlayson  
Minister for Treaty of Waitangi Negotiations

Parliament Buildings  
WELLINGTON

14 October 2014

E ngā Minita e noho mai nā i ērā taumata i te Whare Pāremata, ngā mihi maioha ki a kōrua.

I enclose a copy of our report on stage one of the Wai 1040: Te Paparahi o te Raki inquiry. The report is titled *He Whakaputanga me Te Tiriti – The Declaration and the Treaty*. It is concerned with the meaning and effect of:

- ▶ He Whakaputanga o te Rangatiratanga o Nu Tireni, and the Declaration of Independence of New Zealand, and
- ▶ Te Tiriti o Waitangi, and the Treaty of Waitangi, at the time of the first signings in February 1840.

As you will know, the claimants and the Crown agreed that our inquiry should be conducted in two stages. The first stage has been dedicated solely to addressing these questions concerning the ‘meaning and effect’ of the declaration and treaty. This was no easy task – but an essential step towards the second stage in which we consider claimant arguments that, since 6 February 1840, the Crown has caused them prejudice by acting inconsistently with treaty principles.

The Te Paparahi o te Raki stage 1 inquiry panel is the first Tribunal panel to have heard comprehensive historical claims from the descendants of the rangatira who signed te Tiriti in February 1840 at Waitangi, Waimate, and Mangungu. We are therefore the first to have had the

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opportunity to hear and test the full range of evidence about the treaty's meaning and effect in February 1840.

It is our view that an agreement was reached at Waitangi, Waimate, and Mangungu in February 1840. That agreement can be found in what signatory rangatira (or at least the great majority of them) were prepared to assent to, based on the proposals that William Hobson and his agents made to them by reading te Tiriti and explaining the proposed agreement verbally, and on the assurances the rangatira sought and received.

We have concluded that in February 1840 the rangatira who signed te Tiriti did not cede their sovereignty. That is, they did not cede their authority to make and enforce law over their people or their territories. Rather, they agreed to share power and authority with the Governor. They agreed to a relationship: one in which they and Hobson were to be equal – equal while having different roles and different spheres of influence. In essence, rangatira retained their authority over their hapū and territories, while Hobson was given authority to control Pākehā.

The rangatira also agreed to enter land transactions with the Crown. The Crown promised to investigate pre-treaty land transactions and to return any land that had been wrongly acquired. In our view that promise, too, was part of the agreement made in February 1840. Further, as part of the treaty agreement, the rangatira may well have consented to the Crown protecting them from foreign threats and representing them in international affairs where necessary. If so, however, the intention of signatory rangatira was that Britain would protect their independence, not that they would relinquish their sovereignty.

The evidence is that this is the arrangement that Hobson explicitly put to rangatira – both through the Māori text and through his verbal explanations – and that they then assented to after receiving assurances in respect of their equality with the governor. Though Britain intended to obtain the sole right to make and enforce law over Māori as well as Pākehā, Hobson did not explain this. Rather, in keeping with his instructions, he emphasised that Britain's intention was to control Pākehā in order to protect Māori. The detail of how this relationship was to work in practice, especially where the Māori and Pākehā populations intermingled, remained to be negotiated over time. It is clear that at no stage, however, did rangatira who signed te Tiriti in February 1840 surrender ultimate authority to the British.

While some may see our conclusions as radical, they are not. In truth, our report represents continuity rather than dramatic change. Leading scholars – both Māori and Pākehā – have been expressing similar views for a generation or more. When all of the evidence is considered, including the texts as they were explained to rangatira, the debates at Waitangi and Mangungu, and the wider historical context, we cannot see how other conclusions can be reached.

I reiterate that our report concerns the meaning and effect of the treaty in February 1840. It does not contain findings in respect of claims, and nor does it make recommendations. It makes

no conclusions about the sovereignty the Crown exercises today. Nor does it say anything about how the treaty relationship should operate in a modern context.

E ngā Minita – those who read our report will see that we have considered challenging and complex issues about how New Zealand was founded – about the places of both Māori and non-Māori in this land. These are issues we as a nation have struggled with. However challenging, they are important not only to the Tribunal and to the parties in this inquiry, but also to the nation as a whole.

Heoi anō, e ngā amokura, e ngā amokapua, kua whārikihia ngā whakaaro o te Roopū Whakamana i te Tiriti o Waitangi. Hei aha? Hei whakaaroaro mā koutou o te Whare Pāremata, waihoki, hei huritao, hei kohuki mā te motu whānui hoki.

Nāku noa



Judge C T Coxhead  
Presiding Officer

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We wish to acknowledge the staff and contractors who contributed to the preparation and running of the first stage of the Te Paparahi o Te Raki inquiry. Among them are Barry Rigby, Tina Mihaere (inquiry facilitators), Danny Merito (claims coordinator), and Jordin Tahana (assistant registrar).

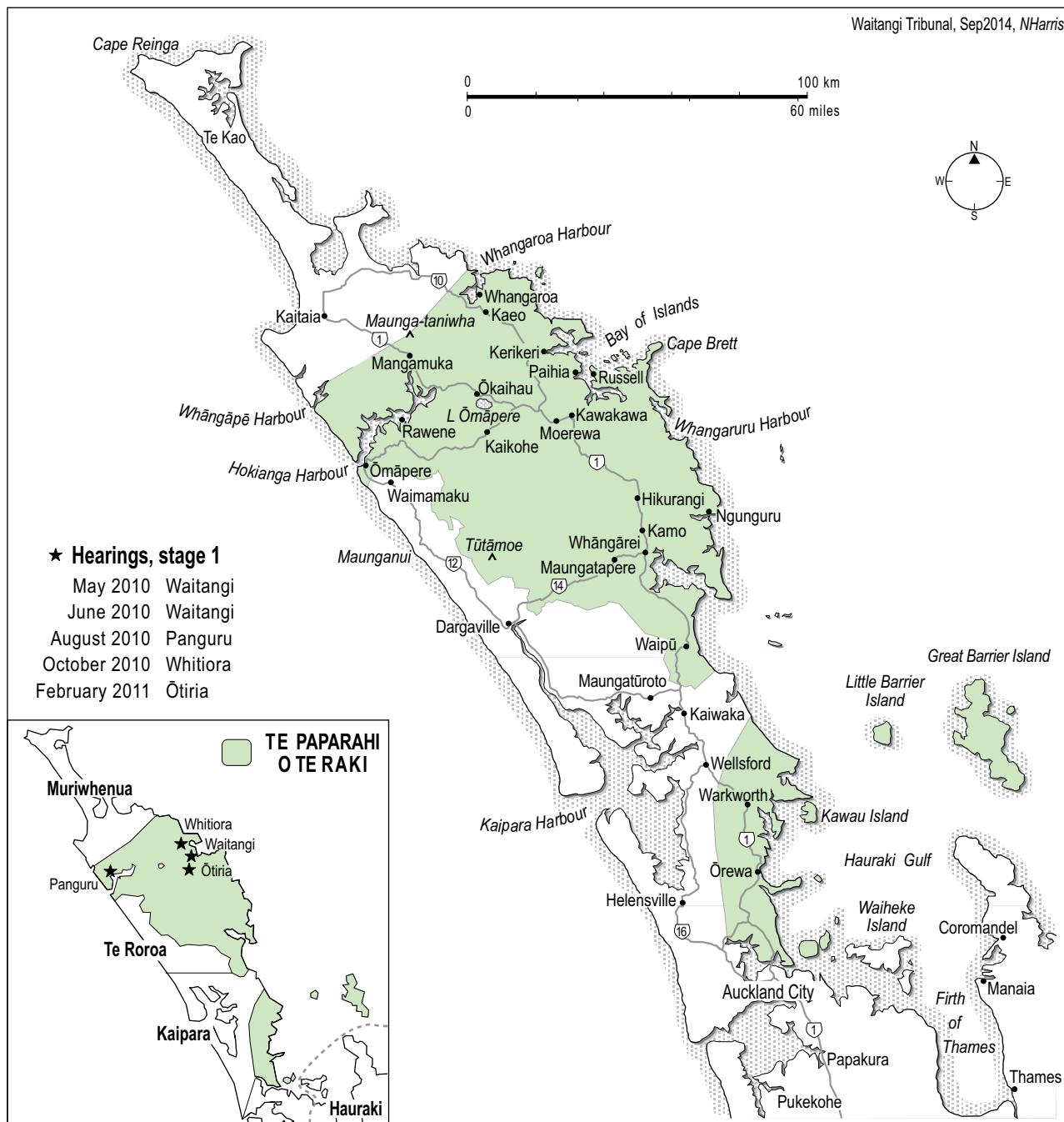
During hearings, the Tribunal relied upon the special skills of Pita Tipene (master of ceremonies), Rangi McGarvey (interpreter and translator), and Alan Doyle (sound technician).

## ABBREVIATIONS

ATL	Alexander Turnbull Library
app	appendix
CA	Court of Appeal
ch	chapter
CMS	Church Missionary Society
comp	compiler
DNZB	<i>Dictionary of New Zealand Biography</i>
doc	document
ed	edition, editor
fn	footnote
fol	folio
HMS	His Majesty's Ship, Her Majesty's Ship
ltd	limited
no	number
NSW	New South Wales
NZJH	<i>New Zealand Journal of History</i>
NZLR	<i>New Zealand Law Reports</i>
OTS	Office of Treaty Settlements
p, pp	page, pages
para	paragraph
pt	part
ROI	record of inquiry
s, ss	section, sections (of an Act of Parliament)
SC	Supreme Court
sec	section (of this report, a book, etc)
SOE	State-owned enterprise
SOI	statement of issues
vol	volume

'Wai' is a prefix used with Waitangi Tribunal claim numbers.

Unless otherwise stated, endnote references to claims, documents, memoranda, and papers are to the Wai 1040 record of inquiry, a select copy of which is reproduced in the appendix. A full copy is available on request from the Waitangi Tribunal.



## CHAPTER 1

# INTRODUCTION

### **1.1 THE MEANING AND EFFECT OF THE TREATY**

Did the rangatira of the Bay of Islands and Hokianga cede sovereignty – that is, the power to make and enforce law – to the British Crown when they signed te Tiriti o Waitangi in February 1840? If not, what was their understanding of the relationship they were establishing with the Crown? These are questions we face in this, stage 1 of our Te Paparahi o Te Raki (the great land of the north) inquiry. They are momentous questions – ones that are important not only to the Tribunal and to the parties in this inquiry, but also to all New Zealanders.

None of these questions is new. Indeed, ever since rangatira affixed their moko, marks, or signatures to te Tiriti at Waitangi on 6 February 1840, there has been discussion about the exact nature of the agreement that was reached. The Crown has always seen the treaty as an act of cession, in which Māori submitted to British sovereignty and government in exchange for certain protections. Others have seen it differently. To many Māori, the treaty has been seen as an assertion of rangatiratanga, of chiefly authority, not its diminution. The treaty has also been hailed as New Zealand's founding document, its Magna Carta, a sacred covenant between Māori and the Crown; and it has been dismissed as an irrelevance, a fraud, a sham, and a 'simple nullity'. It has been seen as an act of humanitarianism, extending Britain's protective arm around vulnerable Māori shoulders; and as an act of imperialism, designed to deliver Māori land, resources, and power into grasping British hands. It has been seen as affirming He Whakaputanga o te Rangatiratanga o Nu Tireni – which was first signed in 1835 and is known in English as the Declaration of Independence of New Zealand – and as superseding that declaration. The treaty has been seen as a basis for national unity founded on a solemn partnership between two peoples, and as a basis for division and special rights; as a source of national pride, and as a source of national guilt; as an honest and well-intentioned act by Britain and its representatives, and as a dishonest one; as a pact founded on common understanding, and as an example of two cultures talking past each other.

For the claimants in this inquiry, te Tiriti has particular significance because their tūpuna were its initial signatories. On 6 February 1840, at Waitangi, some 43 to 46 rangatira<sup>1</sup> signed. A few days later, six rangatira signed at Waimate, apparently without debate. Then, on 12 February at Mangungu in the Hokianga, some 64 rangatira debated and signed te Tiriti at an event that was even larger in scale than the previous week's at Waitangi. Altogether, within our inquiry area, more than 150 rangatira signed te Tiriti

during the course of the year, though our focus in this stage 1 inquiry is on those first signings in February 1840.<sup>2</sup>

We heard, during this stage of our inquiry, from descendants of many of the original signatories at Waitangi, Waimate and Mangungu, who told us how Māori understandings of the treaty had been passed down from generation to generation and could now be heard by a wider audience. ‘The truth has never been told or acknowledged so there is still much misunderstanding and apprehension about the place of Te Tiriti in New Zealand’s Constitution,’ Erima Henare of Ngāti Hine contended. The claimants, he said, sought to have ‘the myths that are perpetuated about us thrown off’.<sup>3</sup>

The task before us, then, was neither simple nor one we undertook lightly. Whatever the treaty means, it means something essential – to the claimants, to the Crown, to all people of New Zealand. No other document in the nation’s history has been written about so much, or generated so much controversy, or been seemingly open to so many wildly contrasting interpretations.

All of those interpretations reflect their time and place, and the concerns, preoccupations, and perspectives of whoever is speaking or writing. When rangatira gathered at Waitangi, Waimate, and Mangungu, they brought with them an understanding of the world that was based on whakapapa; on the values of whanaungatanga, manaaki-tanga, kaitiakitanga, and rangatiratanga; on the imperatives of mana, tapu, and utu, all of which we discuss in chapter 2. They came from a world in which each hapū was autonomous and exercised power over its own territories, retaining that autonomy even when acting in alliance or concert with other hapū. The rangatira brought also their own individual experiences and concerns, based on the interests of their hapū; on their relationships with the traders, missionaries, sawyers, whalers, and others who had visited or settled in their lands; and on their engagement with the ideas those people had brought. The British brought their own perspectives and motivations, which typically included belief in an omnipotent God; in individual rights to life, liberty, and property; in the importance of commerce as a means of personal advancement; in the superiority of British institutions of

## ‘Tiriti’ and ‘Treaty’

In this report, where we use ‘te Tiriti o Waitangi’ or ‘te Tiriti’, we are referring to the text in te reo Māori. Where we refer to ‘the Treaty of Waitangi’ or ‘the Treaty’, we are referring to the text in English. Where we want to refer to both texts together, or to the event as a whole without specifying either text, we use the term ‘the treaty’ in lower case.

Likewise, where we refer to ‘He Whakaputanga o te Rangatiratanga o Nu Tireni’ or ‘he Whakaputanga’ we are referring to the Māori text of the 1835 declaration; where we refer to ‘the Declaration of Independence’ or ‘the Declaration’ we mean the English text; and we use ‘the declaration’ to refer to both texts together, or to the event as a whole without specifying either text.

We explain our reasons for adopting this terminology in section 1.4.2.

law and government, under which Parliament held sovereign power; and in their own roles as agents of civilisation. In February 1840, the leaders of those two worlds established a formal relationship with each other through the mechanism of the treaty. It is our task to determine the nature of that relationship as each party understood it, and indeed to determine whether there was any common understanding at all.

An obvious question arises: why is the treaty’s meaning and effect being considered now, almost 30 years after the Tribunal’s jurisdiction was extended to cover historical claims? The answer, simply, is that this is the first Tribunal panel to receive the direct wero (challenge) to carry out that task, because we are the first to hear comprehensive historical claims from the descendants of te Tiriti’s original, February 1840 signatories. We are therefore the first to hear the claimants’ kōrero tuku iho (traditions handed down through generations) about what their tūpuna intended; and we are also the first to hear detailed



Erima Henare giving evidence in our opening hearing at Te Tii Marae, Waitangi

evidence about events prior to 1840 in the Bay of Islands and Hokianga which, we were told, profoundly shaped those original signatories' understandings of and willingness to sign te Tiriti. Overall, we are the first panel that has been given an opportunity to hear and test the full range of evidence about the treaty's meaning in February 1840 to both Māori and the Crown.

The status of this report needs to be understood. In spite of the importance of its subject matter, it does not stand alone. Rather, it is a contextual report, prepared as a preliminary step towards the completion of our inquiry into Te Paparahi o Te Raki treaty claims. This report

represents the completion of stage 1 of that inquiry. In stage 2, we will consider the claims of Te Raki Māori that the Crown has in various ways acted inconsistently with the principles of the treaty and so has caused them prejudice. Consideration of what the treaty meant to its original signatories is an essential step in that process.

## 1.2 TE PAPARAHİ O TE RAKI INQUIRY

Te Paparahi o Te Raki for our purposes encompasses all territories north of Auckland that have not been the subject of previous Waitangi Tribunal historical reports.

Between 1987 and 2006, the Tribunal reported on its inquiries into the Kaipara and Te Roroa districts covering much of Northland's west coast, and the Muriwhenua (far north) district. Together, those inquiries covered about half of the land area from Auckland northwards. The areas that remain for this inquiry include the Hokianga and most of Northland's east coast, broadly covering Whangaroa, the Bay of Islands, Whāngārei, Mahurangi, and the Gulf Islands (see map, page xxvi).

It was in this inquiry district – and, in particular, in the Bay of Islands and Hokianga – that many of the earliest encounters occurred between European explorers and Māori, and it was here that the relationship between Māori and Europe really began to grow. Rangatira from these areas were the first to reach out to Britain, seeking relationships at both trading and political levels. The missionaries came first to the Bay of Islands and Hokianga, and it was in these areas that trade and European settlement first flourished. It was also in the Bay of Islands that Britain's first official representative landed in 1833, bringing a promise of the King's friendship.

More than 180 years later, the claimants told us that the King's promise to their tūpuna had not been fulfilled. Many of those claimants identified themselves as Ngāpuhi, the largest of New Zealand's iwi, whose territories are said to be bounded by 'nga poupou maunga o te wharetau o Ngapuhi' ('the mountain pillars of the sacred house of Ngapuhi'), broadly corresponding with the Hokianga, Whangaroa, Bay of Islands, and Whāngārei areas.<sup>4</sup> Some claimants said they represented 'the hapū of Te Tai Tokerau (Northland);<sup>5</sup> or 'Ngāpuhi-nui-tonu'<sup>6</sup> ('great everlasting Ngāpuhi', a term used by some to refer to all people from north of Tāmaki-makaurau (Auckland));<sup>7</sup> or even all descendants of Māui-tikitiki-a-Taranga.<sup>8</sup> Many identified with individual hapū or iwi that are commonly seen as affiliated with Ngāpuhi. Other claimants did not identify as Ngāpuhi, but rather as members of other iwi. Some made claims based on location – for example, Whāngārei, Whirinaki, Kerikeri, Waitangi, Waimate, and Whangaroa – or marae, or whānau.

When discussions first began about moving forward with an inquiry into Te Raki claims, claimants told us they



The flagstaff at the Treaty Grounds, Waitangi. The staff stands on the very spot where te Tiriti was first signed on 6 February 1840.

wanted an inquiry process that aligned with their understanding of both the declaration and the treaty. In other words, they wanted a process that would affirm the sovereignty of hapū.<sup>9</sup> As discussions continued, the claimants suggested we hold our inquiry in two parts, with the first solely dedicated to understandings of the meaning and effect of the declaration and the treaty:

because of the special circumstances that gave rise to the development, negotiation and conclusion of Te Tiriti o



Nga Pou Kōrero (*from left*): Hōne Sadler, Rima Edwards, Patu Hohepa, Erima Henare, and Hirini Henare

Waitangi in the Tai Tokerau as the constitutional foundation stone of the modern Aotearoa New Zealand nation, it is absolutely essential that this aspect of the argument . . . set the foundation of any claims process that must follow.<sup>10</sup>

The Crown and the great majority of claimants agreed with this approach, and as a result we made a decision to proceed with a two-stage inquiry.<sup>11</sup> In this first stage, our entire focus has been on determining the ‘meaning and effect’<sup>12</sup> of the declaration in 1835 and the treaty when it was first signed in February 1840. This includes

consideration of how Māori and the Crown understood those documents; and the nature of the relationship they entered into and the mutual commitments (if any) they made through those documents.<sup>13</sup>

From the beginning of our discussions with the claimants, they emphasised that they wanted an inquiry that allowed hapū to relate their own understandings of he Whakaputanga and te Tiriti, and of the events that led rangatira to sign them. Specifically, they wanted to appear at Waitangi and share their kōrero ‘at the very place that these precious taonga were brought forth’<sup>14</sup> We, too, were

eager to hear those views, along with the views of other witnesses. As we told the claimants, ‘We have always said that we want to hear “your kōrero, your history, your stories and your evidence”.<sup>15</sup> To allow that to happen, during 2010 and 2011 we held a full five weeks of hearings, with the kaupapa focused on the declaration and the treaty. For the first two weeks, those hearings took place at Te Tii Marae at Waitangi. Subsequent hearings were held at Waipuna Marae at Panguru; at Whitiara Marae at Te Tii, Mangonui; and at Ōtiria Marae at Moerewa.<sup>16</sup> The panel also visited sites of significance to the claimants in the Hokianga and Bay of Islands.<sup>17</sup>

During those five weeks, we heard the kōrero of the claimants’ chosen representatives: their rangatira, their kaumātua, and their tohunga. Much of what they told us had, they said, never before been aired in a public forum. As Titewhai Harawira said on the first day of hearings,

Today is a very important day in the history of Aotearoa. For the first time, in the history of Aotearoa, we will be hearing the Ngāpuhi story, the Ngāpuhi story as told by the tohunga of Ngāpuhi.<sup>18</sup>

Rima Edwards referred to the prediction of the prophet Papahurihia after the signing of te Tiriti:

Kua mau tatou ki te ripo. Kaati ka taka ki tua o te rua rau tau ka tu mai te pono ki te whakatika i nga mea katoa.

We have been caught in a whirlpool. Alas, it will last for beyond two hundred years when the truth will stand to put everything right.<sup>19</sup>

The hearings, Edwards said, would allow that truth to emerge:

We have come here to pass on our knowledge to you, much of which has never been shared in a public situation before, because we want you to be completely informed. We want you never again to be able to say that you did not know. We have come here to entrust you with the taonga of our learning, and our past, and our feelings and our hopes and desires

for the future because we want you to understand us and to be able to address our issues comprehensively, meaningfully and effectively.<sup>20</sup>

Patu Hohepa referred to the words of the Te Māhure-hure rangatira Mohi Tāwhai before the signing at Mangungu: that Māori understanding of what was occurring ‘will sink to the bottom like a stone’, while British views ‘will float light, like the wood of the whau tree and always remain to be seen’.<sup>21</sup> Hohepa said, ‘the stones have now come up and they want to talk’.<sup>22</sup>

Altogether, more than 70 witnesses spoke at the hearings, including hapū representatives, constitutional scholars, linguists, anthropologists, and historians. We have considered written evidence and reports provided by these witnesses, along with books, academic journals, and theses relevant to the issues, and archival material referred to by the witnesses.<sup>23</sup> All parties to the inquiry had the opportunity to give their views on the evidence by way of closing submissions.

Our hearings were open to all members of the public, and on most days several hundred attended. The hearings were also broadcast. The written evidence presented to us is a matter of public record, as are the full transcripts and recordings of all of our hearings.

The hearings were held before an inquiry panel comprising Judge Craig Coxhead (Ngāti Makino, Ngāti Pikiao, Ngāti Maru, Ngāti Awa), a judge of the Māori Land Court, as presiding officer; Joanne Morris; Kihi Ngatai (Ngāiterangi and Ngāti Ranginui); Professor Ranginui Walker (Whakatōhea); Keita Walker (Ngāti Porou); and Professor Richard Hill (Victoria University of Wellington).<sup>24</sup> Keita Walker attended the hearings, but was unable to take part in deliberations for this report, and so has not signed it.

## 1.3 THE PARTIES’ POSITIONS

### 1.3.1 Claimant submissions

The essence of the claimants’ position in this inquiry is that their tūpuna did not cede sovereignty when they signed te Tiriti.<sup>25</sup> Rather, the claimants argued, the Crown



The Tribunal sitting at Waitangi during the opening hearing (from left): Professor Richard Hill, Keita Walker, Judge Craig Coxhead, Kihi Ngatai, Professor Ranginui Walker, and Joanne Morris

was granted only limited powers, which did not amount to sovereignty.<sup>26</sup> Some claimant counsel said the new Lieutenant-Governor William Hobson was to be subordinate to rangatira and would exercise authority only to protect the mana of the signatories' hapū.<sup>27</sup> Others saw the treaty as establishing a shared-power arrangement in which rangatira and the Lieutenant-Governor would be equals.<sup>28</sup> In either case, most claimant counsel argued that the Crown would have authority only over Pākehā, or over territories that rangatira released to the Crown, while rangatira would retain authority in relation to their own communities.<sup>29</sup> As Hōne Pereki Sadler put it, his Ngāti Moerewa tūpuna 'did not cede or relinquish anything by signing te Tiriti other than granting the Crown the right to regulate the conduct of its own settlers'.<sup>30</sup> Some

claimants, in addition, argued that te Tiriti reinforced he Whakaputanga. As counsel for one claimant group put it, he Whakaputanga was 'Aotearoa's primary constitutional document, the source [from] which Te Tiriti flows'.<sup>31</sup>

Claimants said it was clear that their tūpuna did not cede sovereignty both from the text of te Tiriti and from the debates that occurred before it was signed. Within the text, they said, 'tino rangatiratanga', which article 2 of te Tiriti reserved for Māori, would have been clearly understood as superior to 'kawanatanga', which under article 1 was ceded to the Crown.<sup>32</sup> Claimants also argued that, during debates before signing te Tiriti, rangatira repeatedly sought and received assurances that Hobson would be their equal and would not have authority above them.<sup>33</sup> Claimants argued that rangatira in 1840 debated

and signed only the Māori text, and so it should be given greater weight than the English text. Indeed, they argued that the English and Māori texts were wholly separate documents with different meanings, and that the Māori text was the only one that we should consider if we are to understand the treaty's meaning and effect.<sup>34</sup>

### 1.3.2 Crown submissions

Crown counsel submitted that rangatira who signed te Tiriti 'ceded sovereignty to the Queen'<sup>35</sup> and the treaty was 'the means by which the Crown obtained Māori consent to assert sovereignty over New Zealand'.<sup>36</sup> British sovereignty was acquired, counsel said, by a series of steps which included the treaty, Hobson's proclamations of British sovereignty over the North and South Islands in May 1840, and Crown publication of those proclamations in the *London Gazette* in October 1840.<sup>37</sup>

Crown counsel submitted that rangatira who signed te Tiriti would have understood that they were giving 'consent to the institution of a new Governor in New Zealand'; that the new Governor 'would have authority to make laws for all people (Maori and non-Maori) and all land in New Zealand where the Treaty was signed'; that British laws would apply to all people (Māori and non-Māori); that the Governor would protect Māori property rights; that 'Subject to the Governor's authority over all people and places within New Zealand, the chiefs would retain chieftainship over their people and properties'; and that 'Māori would gain the benefits of becoming British subjects', and would be able to practise any beliefs, including traditional beliefs.<sup>38</sup>

Counsel acknowledged that there was a 'lack of clarity' about the relationship between 'kawanatanga' and 'tino rangatiratanga'.<sup>39</sup> Nonetheless, they argued that rangatira who signed te Tiriti would have understood that the Governor would have 'over-arching authority' and that their continued 'chieftainship' over their people and territories would be subordinate to that authority.<sup>40</sup> Counsel rejected claimant arguments that the treaty established 'dual jurisdiction' or 'shared authority' in which the Governor would have jurisdiction over British subjects and rangatira would have jurisdiction over their own

people.<sup>41</sup> They also rejected the claimant argument that the 1835 declaration remained in force after te Tiriti was signed.<sup>42</sup>

Crown counsel submitted that rangatira would have understood the treaty on the basis of the Māori text and the 'events surrounding the signings', including the oral explanations given in Māori.<sup>43</sup> However, they rejected claimant submissions that the Māori and English texts were wholly separate documents. Counsel submitted that 'Te Tiriti/The Treaty' was 'one document that exists in two languages', though they acknowledged that there are differences between the texts.<sup>44</sup>

### 1.3.3 Oral tradition and written evidence

We heard a range of views on how we should treat oral tradition and written evidence in our inquiry. Several claimant counsel said that claimants' oral traditions provided better evidence of rangatira intentions in 1835 and 1840 than nineteenth-century accounts written by Pākehā.<sup>45</sup> Some also argued that we should give general preference to the evidence of claimant witnesses, because they were the experts on Māori understandings of the declaration and treaty, whereas the Crown's expert witnesses lacked expertise in te reo Māori, or in the tikanga and history of te Tiriti's original signatories.<sup>46</sup>

The Crown did not make any general submission about how we should treat oral tradition. Its submissions relied heavily on written evidence, including accounts by European observers who were present when rangatira debated the treaty, though it acknowledged that such English-language accounts did not provide a perfect record of discussions or allow us to know precisely what was said in Māori.<sup>47</sup> The Crown did accept some evidence from claimant 'oral history' that was not specifically supported by documented evidence, while also disputing other evidence that was presented as oral tradition and not substantiated by documents.<sup>48</sup> The technical witnesses commissioned by the Crown told us they had relied mainly or entirely on written records.<sup>49</sup>

Previous Tribunals have also addressed the issue of how to balance oral tradition alongside written records. In the *Turangi Township Report* in 1995, the Tribunal concluded

that both had limitations: both were likely to be incomplete, both reflected particular cultural perceptions and values, and both were subject to interpretation and reinterpretation over time before they were presented to the Tribunal.<sup>50</sup> The Tribunal's view in the *Muriwhenua Land Report* in 1997 was that accounts written by nineteenth-century European observers were often self-serving, one-sided, and based on mistranslations and on European cultural perspectives that differed from those of Māori. That Tribunal also acknowledged that oral traditions had their 'vagaries', but nonetheless may contain 'inner truths'.<sup>51</sup> Some of the scholars in this inquiry acknowledged the value of traditional evidence as a way of filling gaps and addressing flaws in written records arising from what Professor Dame Anne Salmond called 'the [limited] linguistic abilities, cultural presuppositions, understandings and interests of [European] observers'.<sup>52</sup>

We have, in this inquiry, taken into account both oral tradition and written records whenever they have been relevant to the issues under consideration. However, we have not preferred one type of evidence over another, nor any one type of witness over any other. Rather, we have sought to weigh all evidence on its merits taking account of factors such as whether it is independently corroborated (either by documents or oral tradition); and the source's authority, purpose, expertise, biases, motivations, credibility, and proximity to the events being described. To take any other approach, in our view, would have been to prejudge the inquiry and fail to give the matters before us the consideration they deserve.

#### **1.3.4 The meaning of 'sovereignty'**

During this inquiry we heard various explanations from claimants,<sup>53</sup> the Crown<sup>54</sup> and technical witnesses<sup>55</sup> about the meaning of the term 'sovereignty'. This included perspectives on what the term meant to British authorities in 1840;<sup>56</sup> how its meaning had changed over time, both before 1840 and since;<sup>57</sup> and whether the terms used in te Tiriti – 'tino rangatiratanga' and the transliteration 'kawanatanga' – as well as other words such as mana or kīngitanga, could be considered equivalents of sovereignty.<sup>58</sup> We will discuss these perspectives in detail in

relevant chapters. Since the question of sovereignty forms a central theme of this report, however, it is important to provide some clarity from the beginning.

The question of what sovereignty meant – and still means – is reasonably straightforward if kept at a sufficiently generic level. Crown counsel,<sup>59</sup> some claimant counsel,<sup>60</sup> and several witnesses<sup>61</sup> referred to the English jurist Sir William Blackstone's 1765 explanation that in any form of government there must be 'a supreme, irresistible, absolute, uncontrolled authority, in which . . . the rights of sovereignty reside'.<sup>62</sup> Crown counsel emphasised Blackstone's definition of 'sovereign power' as 'the making of laws; for wherever that power resides, all others must conform to, and be directed by it'.<sup>63</sup> The Crown in this inquiry used Blackstone to arrive at its own position that sovereignty meant "civil government", especially government by legislation.<sup>64</sup> Some claimant counsel also saw some overlap between Blackstone's explanation of sovereignty as 'supreme . . . authority' and the Māori concept of mana.<sup>65</sup>

In our view, 'sovereignty' can be understood in general terms as the power to make and enforce law. That, then, is the summary definition we will use for the purpose of determining whether, through the treaty, Māori ceded sovereignty to the Crown and consented to Britain asserting its sovereignty.

In describing sovereignty in this manner, we need to be clear that for our purposes 'law' does not refer only to English law made by Parliament and the courts. Rather, we are referring more generally to the system of rules that regulate behaviour in a society. In the case of indigenous societies, this system of rules is typically referred to as 'customary law' or 'custom law', which the Law Commission in 2001 described as 'the body of rules developed by indigenous societies to govern themselves'.<sup>66</sup> In that paper, former Waitangi Tribunal chairperson Chief Judge Edward Durie is quoted as describing Māori custom law as the 'values, standards, principles or norms to which the Māori community generally subscribed for the determination of appropriate conduct'.<sup>67</sup> Separately, he has argued that Māori behavioural norms 'were sufficiently regular to constitute law', with 'a predictable response'

when people failed to comply.<sup>68</sup> Custom law was still law, he said, regardless of the fact that it was generated by ‘social practice and acceptance’ rather than by an overarching authority, or the fact that disputes were resolved between parties rather than by an external agency.<sup>69</sup>

We will discuss Māori and British systems of law and authority in chapter 2 and in subsequent chapters. Here, our purpose is simply to acknowledge that, as we consider the question of who had the power to make and enforce law both before the February 1840 treaty signings and afterwards, we are referring to Māori as well as British systems of law.

## 1.4 ABOUT THIS REPORT

### 1.4.1 The scope of this report

#### (1) A contextual report, not a report into claims

One of the Tribunal’s functions under the Treaty of Waitangi Act 1975 is to inquire into and make recommendations on claims that the Crown has acted inconsistently with ‘the principles of the Treaty of Waitangi’ and so has caused prejudice to the claimants.<sup>70</sup> For these purposes, it is our role to determine what ‘the principles of the Treaty’ are, and likewise to determine the treaty’s ‘meaning and effect’. The Act requires us, in carrying out our functions, to ‘have regard to’ both the English and Māori texts, and says that the treaty’s ‘meaning and effect’ are ‘embodied in the 2 texts’, though it is for us ‘to decide issues raised by the differences between them’.<sup>71</sup>

This stage 1 report, as we said above, is a contextual one. Its purpose is to determine the ‘meaning and effect’ of the treaty when it was signed in February 1840, as well as the ‘meaning and effect’ of the declaration in 1835.<sup>72</sup> It therefore does not contain formal findings and recommendations about claims that Crown actions since the first signing on 6 February 1840 have been inconsistent with treaty principles and have caused prejudice to the claimants. We will consider those matters in stage 2 of our inquiry.<sup>73</sup>

The issues involved in the claim were complex, and our hearings and deliberations necessarily lengthy. Our conclusions needed to be framed within the broad parameters of the evidence presented, and to take account of

both western and indigenous scholarly methodologies. Although individual members naturally held different views on a range of issues, these were addressed within the terms of the Treaty of Waitangi Act 1975, and we were eventually able to come to the common conclusions reached in this report.

#### (2) Events after the February 1840 signings of te Tiriti

When we were defining the issues to be considered during this stage 1 inquiry, some of the claimants asked us to consider events after the signing of te Tiriti – such as the 1845–46 Northern War,<sup>74</sup> which, we were told, Māori entered ‘to defend their understanding of He Whakaputanga and Te Tiriti’.<sup>75</sup> While sympathetic to their views, we thought that stage 1 of our inquiry should have a clear focus on the meaning and effect of the declaration and the treaty, and that later events, which are the subject of claims, should be considered in stage 2 when all relevant evidence can be heard and tested. Later, after submissions from claimant counsel, we said that we would not hear evidence ‘that has no causal relationship’ with the declaration or the treaty,<sup>76</sup> and that post-1840 understandings of those documents were relevant ‘only insofar as’ the declaration and treaty ‘caused those later understandings’.<sup>77</sup>

As a result, in this stage of our inquiry, we have focused on evidence that is directly about the meaning and effect of the declaration in 1835 and the treaty in 1840. We have, for example, considered post-1840 recollections of the debates over the declaration and the treaty from people who were there. We have also considered nineteenth- and twentieth-century back-translations – that is, translations of the signed Māori texts back into English. And we have mentioned Hobson’s May 1840 proclamations asserting British sovereignty. But we have not considered detailed evidence about events that will be the subject of claims in stage 2, such as the Northern War.

#### (3) Geographic scope

Although our inquiry district covers much of the territory north of Tāmaki-makaurau, this report has a narrower geographic scope, which arises from our focus on the meaning and effect of the declaration and the treaty. The

treaty was first signed in the Bay of Islands and Hokianga, by rangatira from those areas. The declaration, likewise, was signed at Waitangi, and most of its signatories were from the Bay of Islands and Hokianga. In this stage 1 report, therefore, we are mainly concerned with events in and people from those areas during the period from 1769 through to February 1840. We acknowledge, however, that during that period Bay of Islands hapū extended their authority into Whangaroa, and Bay of Islands and Hokianga hapū also acquired influence in many other parts of the north. Similarly, rangatira travelled and were influenced by events in other parts of New Zealand and the world, including New South Wales and London. While our principal focus has been on the Bay of Islands and Hokianga, we have therefore considered events in other locations both inside and outside the inquiry district where relevant.

### 1.4.2 Terminology

#### (1) Te Tiriti and the Treaty

As noted earlier, in this report we have chosen to use ‘te Tiriti’ to refer to the Māori text, ‘the Treaty’ to refer to the English text, and ‘the treaty’ to refer to both texts together or to the event as a whole without specifying either text. We have adopted this terminology with the intention of providing clarity for readers without prejudging the relevance of either text to the treaty’s overall meaning and effect (since that was a matter of contention between the parties).<sup>78</sup> We will address these questions of interpretation in later chapters.

#### (2) Te Paparahi o Te Raki: the name of this inquiry

During early discussions with claimants, some suggested that our inquiry district be named ‘Te Paparahi o Ngāpuhi’ (the great land of Ngāpuhi). They also said they wanted an inquiry process that enhanced Ngāpuhi whanaungatanga, while allowing each hapū and community its own distinct voice.<sup>79</sup> However, while many parties to this inquiry identified themselves as Ngāpuhi, not all did. In keeping with the principle of whanaungatanga, we therefore chose the name ‘Te Paparahi o Te Raki’ to ensure that no party should feel excluded.<sup>80</sup>

#### (3) ‘Ngāpuhi’

While ‘Ngāpuhi’ today refers to people from throughout the Bay of Islands, Hokianga, Whangaroa, and Whāngārei areas, and is sometimes used to refer to people from throughout the north, that was not always the case. Rather, prior to the mid-nineteenth century, ‘Ngāpuhi’ appears to have been used within the Bay of Islands and Hokianga to refer to a smaller group of hapū. Throughout this report, when we refer to historical events, we use ‘Ngāpuhi’ as it was used at the time.

Where we use ‘Te Raki’, we are referring to the entire inquiry district; and where we use ‘the north’ we are referring to all territories north of Tāmaki-makaurau. Most often, we use more specific terms, such as area or hapū names, to specify the places or people we are referring to.

#### (4) The sound written as ‘wh’

In te reo Māori, the phoneme (distinct sound) now written as ‘wh’ was typically written by Europeans in the early nineteenth century as ‘w’. ‘Kaiwhakarite’, for example, was typically written ‘kaiwakarite’, and ‘Whakaputanga’ written as ‘Wakaputanga’. In this report, we use the original ‘w’ spelling only in direct quotations; otherwise, we use the modern digraph ‘wh’.

### 1.4.3 The structure of this report

Both the Crown and the claimants saw the treaty as part of a longer-term relationship between Britain and Māori which had begun with Cook’s arrival in 1769 and intensified rapidly during the 1820s and 1830s. Both also emphasised that the treaty could be understood only within its historical context: to know what both Māori and British intended in 1840, we would have to understand the events that preceded the treaty, and the intentions and perspectives of those involved. We have therefore structured this report to tell the story of Māori and British relationships from Cook’s arrival in 1769 through to the signings of te Tiriti at Waitangi, Waimate, and Mangungu in February 1840, and the subsequent British proclamation of sovereignty in May of that year. This is, however, not a general history of that period: our focus throughout is on matters that are relevant to the meaning and effect of the

declaration and the treaty – that is, matters relevant to the question of who had authority to make and enforce law in any particular time and place, and how that authority was exercised. Our conclusions on the declaration can be found in chapter 4, and our conclusions on the treaty can be found in chapter 10.

Our report is structured as follows.

### **(1) Chapter 2: Two Peoples, Two Worlds**

When they met in 1769, both Māori and British brought their own systems of law and authority, which in turn were based on their own ways of understanding the world and their relationships with others. In chapter 2, we introduce those contrasting world views and systems of law and authority. We consider the whakapapa-based world view of Māori, with its overriding value of whanaungatanga; its spiritual and legal imperatives of mana, tapu, and utu; its systems of political organisation based on autonomous hapū guided by rangatira who embodied the mana of their people and territories. We also consider the eighteenth-century British world view, with its own way of understanding relationships among people and land; its concept of God; its science; its system of law based on personal rights and responsibilities; and its systems and concepts of government based on overarching sovereign authority.

### **(2) Chapter 3: From Encounter to Alliance?**

The first encounters between northern Māori and Europeans were often characterised by conflict as their contrasting ways of understanding the world – and therefore lawful or correct behaviour – came into contact. Over time, each side made accommodations and began to adapt, finding ways to maintain peace in order to harness the benefits of contact – such as exchange of goods, resources, technology, and ideas. In chapter 3, we tell the story of those early decades of contact, and in particular how rangatira engaged with Britain and the wider world, during the period from 1769 through to 1834. We describe those first, uneasy encounters between Māori and visiting British or French crews; the rapid growth in contact during the early nineteenth century as whalers, traders,

and missionaries arrived, and at times began to challenge Māori systems of law and authority; the journeys of rangatira to New South Wales and London, seeking alliances for political and economic purposes, as well as a greater understanding of the new world that had descended upon them; the increasing official engagement between Britain and Māori of the Bay of Islands and Hokianga during the 1830s, including the appointment of James Busby in 1832 as Britain's first official representative in New Zealand; and the adoption of a national flag in 1834.

### **(3) Chapter 4: He Whakaputanga and the Declaration of Independence**

Busby's arrival marked a significant step in the official relationship between Britain and Māori. He had been sent to advance British imperial interests by controlling wayward Britons, and so bring peace to the colonial frontier and foster goodwill between Britain and Māori. All of this was to be achieved through the agency of rangatira, for Britain continued to recognise tribal independence and had granted Busby no legal authority in New Zealand. Māori engaged with Busby for their own reasons, many of which had also to do with trade, peace, and control of Europeans in New Zealand, as well as protection from perceived French threats.

The Māori and British agendas were to collide in October 1835, after Busby received a letter from the Anglo-French adventurer Charles de Thierry, who claimed to have purchased both land and sovereignty over the Hokianga. Busby called a hui, at which 34 rangatira signed he Whakaputanga, declaring their rangatiratanga, kīngitanga and mana over their territories. Busby intended the declaration to establish a Māori legislature which would have power over individual hapū. The claimants in this inquiry, however, saw it as an assertion of Māori sovereignty based on existing systems of authority and law, under which hapū were the main political unit after the declaration as before. In chapter 4, we consider how the declaration was created, and draw conclusions on its meaning and effect in 1835.

We also consider events in the Bay of Islands and Hokianga during 1836 and 1837, when a series of intertribal



The Tribunal hearing closing submissions from counsel, Ōtiria Marae, Moerewa

conflicts, and escalating disorder among European settlers, led Busby and other Europeans to call for formal British intervention.

#### **(4) Chapter 5: Contested Ground**

The period between 1835 and 1840 was marked by significant growth in contact between Māori and Europeans, as traders, settlers, missionaries, and others arrived in increasing numbers. Around this time, a significant minority of Bay of Islands and Hokianga Māori were engaging with Christianity and literacy; the Māori economy had been reshaped from one based on subsistence to one based on trade; traditional practices such as polygamy and the keeping of slaves were becoming less common; and intertribal warfare was falling back to more usual levels following the major campaigns of the 1820s. Some European accounts in the late 1830s said that Māori were dying out through the combined effects of disease, warfare, and other vices arising from European influence. In

chapter 5, we consider how Bay of Islands and Hokianga Māori society changed as a result of growing contact with Europeans. In particular we consider the effects of contact on Māori systems of law and authority – asking whether Māori were losing control over their lives in a manner that might have made them willing, in February 1840, to consent to Britain asserting its authority over them or within their territories.

#### **(5) Chapter 6: The British Move towards Annexation**

During the 1830s, private British interests attempted to persuade British authorities to approve plans for the colonisation of New Zealand, and to establish a British government here. Britain acknowledged the independence of Māori hapū, and initially resisted those pressures. By the end of 1837, however, its position was changing. Faced with reports of Māori depopulation and European disorder, the British Government decided to increase its involvement in New Zealand. Over the next two and a half years, it

considered various proposals for extending its authority before, in 1839, deciding to acquire sovereignty over ‘the whole or any parts’ of New Zealand where Māori would consent to that occurring.<sup>81</sup> In chapter 6, we consider how these events unfolded during the second half of the decade, and what motivated Britain’s decisions to seek sovereignty. We focus particularly on the instructions given to Hobson, including the reasons given for Britain’s decision to seek sovereignty, the question of how Hobson was to explain the proposed treaty to Māori, and what was said about Māori consent.

### **(6) Chapter 7: The Negotiation and Signing of Te Tiriti o Waitangi**

Hobson landed in late January 1840, immediately declaring himself Lieutenant-Governor over British settlements in New Zealand. He then set about obtaining Māori consent to a treaty that would legitimate, in British eyes, a declaration of British sovereignty. On 5 February, rangatira from the Bay of Islands and Hokianga gathered at Waitangi to listen to Hobson’s proposal. The following morning, more than 40 rangatira added their moko, marks, or signatures to te Tiriti. That document, of course, was a translation from Hobson’s English text, and it is now well established that there were important differences between the two. Most significantly, in the English text, rangatira were said to give the Crown ‘all the rights and powers of Sovereignty’, in return for which they were guaranteed ‘full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and Other Properties’, as well as ‘all the Rights and Privileges of British Subjects’. In te Tiriti, rangatira were guaranteed ‘te tino rangatiratanga’ over their whenua (lands), kainga (homes), and ‘taonga katoa’ (often translated as ‘treasured possessions’), and the Crown was granted ‘kawanatanga’ (most often translated as ‘government’).

A few days later, six more rangatira signed te Tiriti at Waimate, and on 12 February at Mangungu another 64 signed. In chapter 7, we examine how the treaty was drafted and translated; consider the meanings of the English and Māori texts, and the differences between them; and discuss the debates – asking, for example, what

assurances rangatira sought and received, and what conditions they placed on the transaction. We do not, however, draw any conclusions about the meaning and effect of the treaty in this chapter; those conclusions are in chapter 10.

### **(7) Chapter 8: Past Perspectives on te Tiriti and the Treaty**

More or less from the time te Tiriti was signed, there have been differing perspectives about what it meant. Often, those perspectives have reflected the differences between the two texts. Māori have usually based their understandings on the Māori text, stressing te Tiriti’s guarantee of tino rangatiratanga, and rejecting the view that sovereignty was ceded. Pākehā have traditionally based their understandings on the English text, and so have seen the treaty as a document by which Māori ceded sovereignty to the Crown. Since the 1970s, scholars have focused considerable attention on the differences between the two texts, as well as what was said in the treaty debates. Also since that time, the treaty has been recognised in various statutes, including the Treaty of Waitangi Act 1975, and so has been the focus of Tribunal and judicial attention. In chapter 8, we explain the main developments in scholarship about the treaty since the 1970s, and consider what the courts and the Tribunal have said about the treaty. We do this as important context for the claimant and Crown submissions, and our own consideration of the treaty’s meaning and effect.

### **(8) Chapter 9: Claimant and Crown Evidence and Submissions**

In chapter 9, we consider the submissions of claimant and Crown counsel, and the evidence provided by the claimants and other witnesses. These included submissions and evidence about the debates that occurred immediately before the signings; about the signings themselves; about the key terms used in the texts of te Tiriti and the Treaty, and the accuracy of the translation from English into Māori; about the relationship between the 1835 declaration and the treaty; and about the treaty’s meaning and effect. We also consider submissions about interpretation, regarding the relative weight we should give to each text; the relative weight we should give to claimant traditions

and European written accounts; and how international law applied in 1840.

### (9) Chapter 10: Conclusion

In 1840, Britain's view was that it had acquired sovereign authority over all of New Zealand. While the status and rights of rangatira would be respected, they would be subordinate to British government and British law. The Māori view, according to the claimants, was that rangatira would retain their full authority, with the Governor having only limited powers. In chapter 10, we consider all of the evidence before us and arrive at our own views on the treaty's meaning and effect in February 1840.

### Notes

1. The exact number is difficult to determine, as we will explain in chapter 7.
2. Ministry for Culture and Heritage, 'Waitangi Treaty copy', <http://www.nzhistory.net.nz/media/interactive/waitangi-treaty-copy>, last modified 5 September 2013
3. Document A30(a), p3
4. Document A25(a), pp38–40; transcript 4.1.1, pp 39, 44, 104, 111, 154–155, 165–166, 233, 236, 251; doc B15(d), p7; doc D8, pp 12, 19; doc B10, pp 54–55; doc A37, pp 23–24, 46–47; doc A37(b), pp 5–7, 9–11, 62. The maunga are Pūhangā Tohorā, Te Ramaroa, Whiria, Panguru, Papata, Maungataniwha, Tokerau, Rākau-mangamanga, Mania, Tūtāmoe, and Maunganui.
5. Claim 1.1.96, claim 1.1.287, claim 1.1.375, claim 1.1.380
6. Claim 1.1.2, claim 1.1.29, claim 1.1.84, claim 1.1.90, claim 1.1.101, claim 1.1.173, claim 1.1.174, claim 1.1.232, claim 1.1.334, claim 1.1.351
7. Claim 1.1.351, p7; see also transcript 4.1.1, pp 105–108, 111–114, 154–155, 165–166; doc A37(b), pp 9–11, 72; doc A37, pp 23–24; claim 1.1.351, p7; submission 3.1.501, pp 32–33
8. Claim 1.1.356
9. Submission 3.1.19, pp 3–4. The Ngāpuhi-Nui-Tonu Design Group had been established in 2006 to engage with claimant groups and propose a process for the conduct of this inquiry. The group comprised Raniera (Sonny) Tau and Titewhai Harawira (Ngāpuhi Kaumātua/Kuia Council); Patu Hohepa (Te Rōpū Whakapiripiri o Te Tai Tokerau); and the coordinators of seven claimant clusters: Hokianga Claims Alliance; Whangaroa Papa Hapū; Te Waimate/Taiāmai Claims Alliance; Te Aho Alliance (previously Ngāti Hine Claims Alliance); Puhipuhi Te Maruata Claimant Forestry Alliance; Te Tai Tiriti o Waitangi Forum; and Mahurangi and Gulf Islands Collective. The Whāngārei Core Collective Claimant Group did not support the Design Group's proposals: memorandum 2.5.11, pp 1–2; see also submission 3.1.19, p 13.
10. Submission 3.1.22, p 4
11. Memorandum 2.5.15, pp 1–2; see also memo 2.5.14, pp 1–2
12. Treaty of Waitangi Act 1975, section 5(2)
13. Memorandum 2.5.23, p 8
14. Submission 3.1.19, p 9
15. Memorandum 2.5.23, p 3
16. Transcripts 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5
17. Memorandum 2.5.48, p1; memo 2.5.49, p1; memo 2.5.53, pp 1–2; memo 2.5.54, p1
18. Transcript 4.1.1, p 20
19. Document A25(b), p 8; see also doc A25, p 72
20. Document A25(b), p 12
21. Document A22, p 65
22. Transcript 4.1.1, p 306
23. The Crown Forestry Rental Trust (on behalf of the claimants) commissioned reports from, among others: Dr Grant Phillipson; Dr John Barrington; Ralph Johnson; Dr Vincent O'Malley and John Hutton; Dr Merata Kawharu; and Drs Manuka Henare, Hazel Petrie, and Adrienne Puckey. The Crown commissioned evidence from Professor Alan Ward, Professor Paul McHugh, Dr Donald Loveridge, and Dr Phil Parkinson. The Tribunal commissioned reports or evidence from Samuel Carpenter and Professor Dame Anne Salmond. In addition, claimants submitted reports or other evidence from Professor Alison Jones and Dr Kuni Jenkins, Professor Margaret Mutu, Moana Jackson, Peter McBurney, and Dr Manuka Henare. Of these expert witnesses, O'Malley, Ward, Loveridge, McHugh, Parkinson, Salmond, Jackson, and Carpenter gave evidence at the hearings (transcripts 4.1.3 and 4.1.4). Manuka Henare gave evidence as a claimant (transcript 4.1.2). The Tribunal also invited three other scholars to provide evidence for this inquiry, but in the event none did so (memos 2.5.23 and 2.5.38).
24. Memorandum 2.5.17, memo 2.5.33
25. Submission 3.3.2, pp 10, 11–13, 23–24, 32; 194, 199; submission 3.3.11(c), pp 59–60, 63–67, 77–79; submission 3.3.23, pp 3, 12, 14, 17, 52–56; submission 3.3.9, p 2; submission 3.3.10, p 7; submission 3.3.13, p 4; submission 3.3.19, p 10; submission 3.3.21, p 20; submission 3.3.24, pp 22–23; submission 3.3.27, p 4; submission 3.3.28, pp 17, 97; submission 3.3.35, p 12; submission 3.3.58, p 4
26. For example, see submission 3.3.14, p 52; submission 3.3.28(a), pp 18, 88–89, 95; submission 3.3.11(c), p 46
27. For example, see submission 3.3.11(c), pp 63, 66, 78; submission 3.3.30, p 88; submission 3.3.21, pp 30, 39; submission 3.3.18, p 3; submission 3.3.24, p 17
28. For example, see submission 3.3.24, p 29; submission 3.3.28(a), pp 18, 88–89, 95; submission 3.3.30, p 86
29. More specifically, we were told, the Crown would be empowered to control disorder among Pākehā and to regulate land transactions in ways that accorded with tikanga (for example, see submission 3.3.14, p 52; submission 3.3.28(a), pp 18, 88–89, 95; submission 3.3.11(c), p 46). Some claimant counsel also said rangatira intended the Crown to act as their protector in international relationships, though others disagreed (for example, see submission 3.3.23, p 7 and, for the opposing

view, submission 3.3.11(c), pp 63, 66, 78). Some said the Kāwana may also have had a negotiating or mediating role in disputes between tribes, or between Māori and Pākehā, though it was emphasised that this did not mean the Kāwana could impose his decisions on Māori (for example, see submission 3.3.24, pp 2, 16, 24).

**30.** Document B38, p 6

**31.** Submission 3.3.5, p [5]; see also submission 3.3.24, pp 8–9; submission 3.3.23, p 7; submission 3.3.2, pp 115, 121, 177; submission 3.3.14, pp 71–73, 91; submission 3.3.30, p 35; submission 3.3.26, p 19; submission 3.3.11(c), pp 59–60, 64–67

**32.** For example, see submission 3.3.13, p 16; submission 3.3.24, pp 2, 16, 24; submission 3.3.11(c), pp 47–49, 52–55, 58–59; submission 3.3.20, p 27; submission 3.3.14, pp 56–57, 75

**33.** Submission 3.3.11(c), pp 71–72, 80–81; submission 3.3.20, pp 28–29; submission 3.3.36, pp 8–10; submission 3.3.24, pp 16, 20; submission 3.3.40, pp 6–7; submission 3.3.11(c), pp 63, 66, 78; submission 3.3.50, pp 8–9; submission 3.3.36, pp 6, 8–10

**34.** Submission 3.3.2, pp 14, 16–17, 36, 42, 45, 48–49; submission 3.3.15, pp 3, 15, 34; submission 3.3.30, p 9; submission 3.3.11(c), pp 26–28; submission 3.3.6(a), p 8; submission 3.3.3, pp 7–10; submission 3.3.21, p 17; see also doc A30(c), p 6; doc C10(a), p 7; doc D4, pp 42, 63; doc C18(a), p 14; doc A25(b), p 12; doc A32(c), pp 6–7; doc B10, pp 66–68; doc D14(b), p 7; transcript 4.1.3, pp 152–153. The claimants made similar points about he Whakaputanga: submission 3.3.14, pp 6, 17; submission 3.3.2, pp 14, 16, 36, 42, 45, 48–49; submission 3.3.3, pp 7–10; submission 3.3.21, p 17; doc B10, pp 66–68; doc A32(c), p 7; doc D14(b), p 7; doc A30(a), p 4; doc A30(c), pp 6–7; doc D4, p 42; doc A25(b), p 12; doc A16, p 187.

**35.** Submission 3.3.33, p 21, see also pp 182, 187

**36.** Ibid, p 21

**37.** Ibid, pp 84–85, 178–179

**38.** Ibid, pp 17, 104–105, 180–181, see also p 189

**39.** Ibid, pp 21, 188

**40.** Ibid, pp 17, 20–21, 145, 161–162, 189

**41.** Ibid, pp 98–100, 136

**42.** Ibid, pp 6–7, 21–22, 189

**43.** Ibid, pp 104–105

**44.** Ibid, p 8, see also pp 6–7, 16, 101–103

**45.** Submission 3.3.2, pp 13, 51–53, 168–169; submission 3.3.14, p 45; submission 3.3.26, pp 38–39; submission 3.3.30, p 53

**46.** Submission 3.3.2, pp 9–10, 17, 49, 77–78, 84–88, 92, 108, 143, 157–158; submission 3.3.28(a), p 12; submission 3.3.3, p 22

**47.** Submission 3.3.33, pp 20, 157–159. Italics removed from the quotation of ‘precisely’: p 20.

**48.** Submission 3.3.33, pp 6, 12, 19, 40–44, 163–169

**49.** See comments by Professor Alan Ward, transcript 4.1.4, pp 304–305; Dr Donald Loveridge, transcript 4.1.4, pp 433–434; Professor Paul McHugh, transcript 4.1.4, p 600; and Dr Phil Parkinson, transcript 4.1.4, p 620

**50.** Waitangi Tribunal, *The Turangi Township Report 1995* (Wellington: Brooker’s Ltd, 1995) p 294

**51.** Waitangi Tribunal, *Muriwhenua Land Report* (Wellington: GP Publications, 1997), pp 2–3

**52.** Document A22, p 3; see also doc A11, pp 6–8; transcript 4.1.4, p 305

**53.** Document A25, p 92; doc D4, pp 22, 40–42, 48, 51–54, 63; doc B26(a), pp 20, 26–27; submission 3.3.20, pp 8, 13, 15–17, 26–27; submission 3.3.13, pp 17–26, 31–32, 39–41; submission 3.3.24, pp 2, 15–16, 25–26; submission 3.3.11(c), pp 37, 46–48, 52–55; submission 3.3.24, pp 16, 20; submission 3.3.2, pp 16–17, 159–165, 174–175, 211–212; submission 3.3.30, pp 50, 73–74

**54.** Submission 3.3.33, pp 88–93, 98–101, 112–136

**55.** Document A17, pp 5–8, 27–35, 83–84, 139–168, 175–176; doc A19, pp 73–78; doc A19(a), pp 49–50; doc A20, p 99; doc A21, pp 4–5, 7–8, 13–16, 22–26, 72, 78, 82; doc A22, pp 13–29; doc D1, pp 10–14, 85–98; doc D2, pp 17, 27; doc A1, pp 302–303

**56.** Submission 3.3.33, pp 88–93, 98–101; doc A17, pp 5–8, 27–35, 139–168; doc A19, pp 73–77; doc A19(a), pp 49–50; doc D2, p 27; submission 3.3.20, pp 2, 13, 15–17; submission 3.3.13, pp 31–32; submission 3.3.24, pp 25–26

**57.** Document A21, pp 4–5, 7–8, 13–16, 18, 22–26, 72, 78, 82; submission 3.3.13, pp 17–26

**58.** Document A17, pp 83–84, 139–168, 175–176; doc A19, pp 73–78; doc A1, pp 302–303; doc A22, pp 13–29; doc A25, p 92; doc B26(a), pp 20, 26–27; doc D2, p 17; doc D4, pp 22, 40, 48, 51–54, 63; submission 3.3.20, pp 26–27; submission 3.3.13, pp 39–41; submission 3.3.24, pp 2, 15–16; submission 3.3.11(c), pp 37, 46–48, 52–55; submission 3.3.2, pp 16–17, 159–165, 174–175, 211–212; submission 3.3.30, pp 50, 73–74; submission 3.3.33, pp 112–136

**59.** Submission 3.3.33, pp 89–91

**60.** Submission 3.3.30, pp 73–74; see also submission 3.3.15(a), pp 16–17; submission 3.3.13, pp 154–155; submission 3.3.37, p 94; submission 3.3.8, p 10

**61.** Document A17, pp 34, 159–160; doc A22, p 24; doc A19(a), p 23; doc D1, p 76

**62.** Document A17, p 34; William Blackstone, *Commentaries on the Laws of England*, 3 vols, 15th ed (1809; repr Marston Gate: Forgotten Books, 2013), vol 1, pp 48–49; see also submission 3.3.33, pp 89–91

**63.** Submission 3.3.33, pp 90–91, see also p 89; Blackstone, *Commentaries on the Laws of England*, vol 1, p 49

**64.** Submission 3.3.33, pp 88, 90–93

**65.** Submission 3.3.30, pp 73–74; see also submission 3.3.15(a), pp 16–17; submission 3.3.13, pp 154–155; submission 3.3.37, p 94; submission 3.3.8, p 10. Rima Edwards referred to sovereignty as ‘the Power and Authority to govern a Country and to make laws that affect everything within that Country’: doc A25, p 92.

**66.** Law Commission, *Māori Custom and Values in New Zealand Law* (Wellington: Law Commission, 2001), p 15

**67.** Ibid, pp 15–16

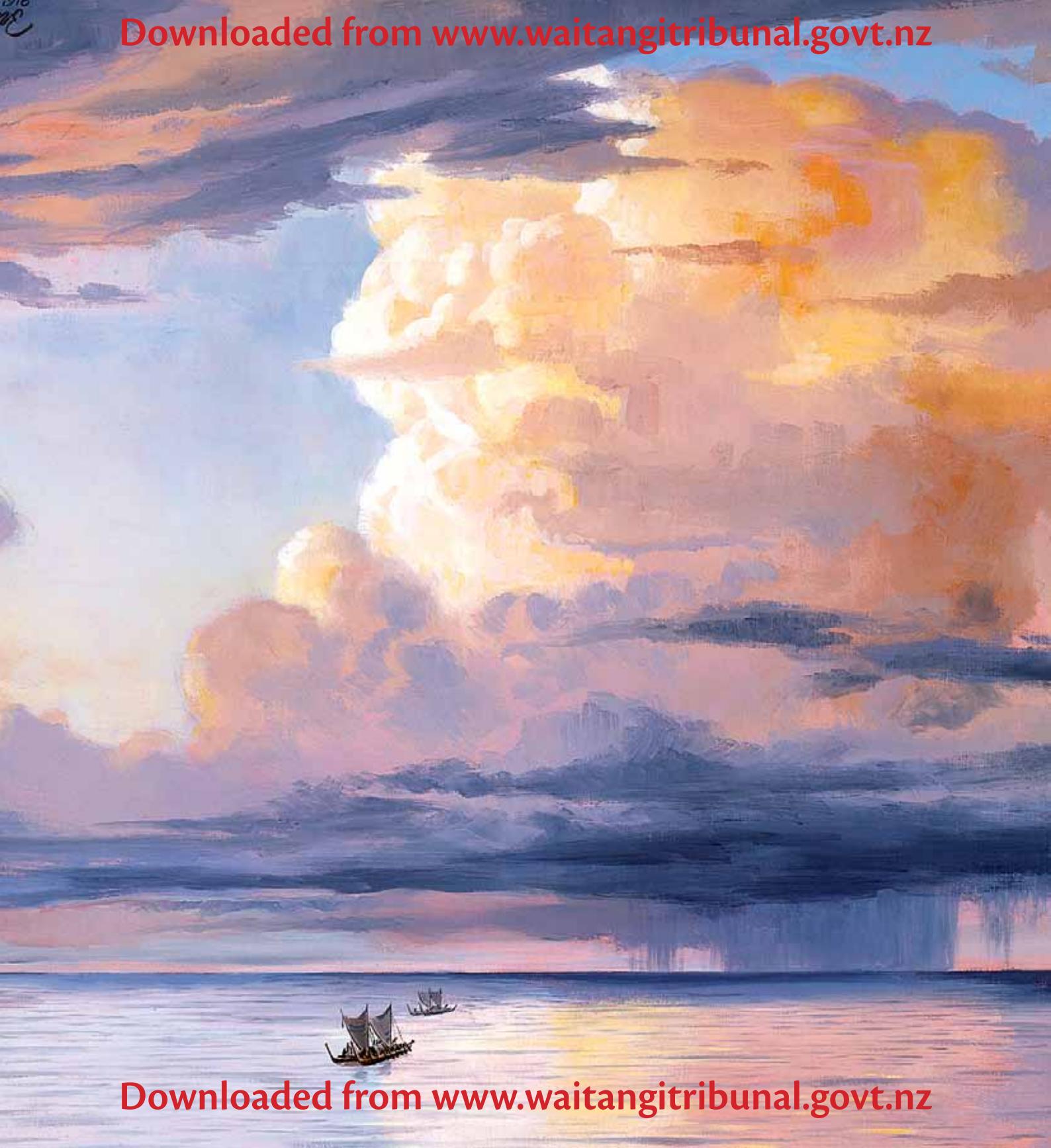
**68.** Edward Taihakurei Durie, ‘Custom Law’ (Wellington: Stout Research Centre, Victoria University, 1994), p 4

**69.** Ibid, p 4

**70.** Treaty of Waitangi Act 1975, ss 5(1)(a), 6(1), 6(3)

71. Ibid, s5(2)
72. Memorandum 2.5.15, pp 1–2; see also memo 2.5.14, pp 1–2
73. Memorandum 2.5.26, p 4; see also memos 2.5.34, 2.5.50, 2.5.59
74. Submission 3.3.28(a), pp 96, 97–112; submission 3.3.24, p 20; submission 3.3.2, p 228; submission 3.3.27(a), p 15; submission 3.3.21, p 41; doc D14(b), pp 4, 11–13; doc D5, pp 46–52; doc C19, pp 16–17; doc B34, pp 18–31; doc A34, pp 5–6; doc A25, p 83
75. Submission 3.3.28(a), p 96
76. Memorandum 2.5.23, pp 2–4
77. Memorandum 2.5.26, p 5; see also memo 2.5.20, p 5; memo 2.5.52, p 3; submission 3.1.21, p 2; submission 3.1.104, p 4; submission 3.1.135, p 5. Questions concerning the Northern Wars and the ongoing exercise of tino rangatiratanga were subsequently included in the statement of issues for stage 2 of this inquiry (memo 2.5.97, annex A)
78. For the Crown’s submissions on these points, see submission 3.3.33, p 8. For claimant submissions and views on these points, see submission 3.3.2, pp 14, 16, 36, 42, 45, 48–49; submission 3.3.3, pp 7–10; submission 3.3.21, p 17; submission 3.3.14, pp 6, 17; doc C10(a), p 7; doc D4, pp 42, 63; doc C18(a), p 14; doc A25(b), p 12; doc A30(a), p 4; doc A32(c), pp 6–7; doc B10, pp 66–68; doc D14(b), p 7; transcript 4.1.3, pp 152–153. See also doc A16, p 187.
79. Submission 3.1.19, p 8
80. Memorandum 2.5.11, pp 1–4
81. The Marquis of Normanby to Captain Hobson, 14 August 1839, BPP, 1840, vol 33 [560], pp 37–38 (IUP, vol 3, pp 85–86)

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## CHAPTER 2

# TWO PEOPLES, TWO WORLDS

### 2.1 INTRODUCTION

This report is about Māori and British relationships in the Bay of Islands and Hokianga from first contact in 1769 through to the signing of te Tiriti in 1840. There were many facets to those relationships, including trade, the sharing of ideas and technology, personal bonds or rivalries, and much more. Our particular concern, though, is with political relationships between rangatira and Britain's official representatives, and the questions of law and authority arising from those relationships.

In order to understand what ultimately led rangatira and the Queen's representative to sign te Tiriti, we must first understand the people involved. We must understand how they viewed the world, how their societies were structured, how they understood leadership and authority, how they made decisions, what actions they saw as acceptable and unacceptable, and how those norms were enforced. The purpose of this chapter is to provide the beginnings of that understanding.

First, we will meet Bay of Islands and Hokianga Māori as they were prior to first contact with Europeans. We will see how whanaungatanga (kinship) provided a fundamental ordering principle for their society, encompassing not only relationships among living people, but also with whenua (land or territories) and tūpuna (ancestors) – all of whom embodied atua (ancestor-gods). We will see how the maintenance of spiritual balance among atua in their various manifestations was an essential driving force behind Māori actions; how that balance was enshrined in values such as manaakitanga (caring for or nurturing others) and kaitiakitanga (guardianship or care for the environment); how it gave people mana, empowering them to act in the world; and how it was maintained through the legal and spiritual imperatives of tapu (sacred, or set apart) and utu (reciprocity). We will introduce Māori systems of authority and social organisation, discussing how hapū and other kin groups interacted, both in competition and alliance, and how rangatira played a leadership role in which they embodied the mana of their people. As we seek to understand these systems of law and authority, we will also explore some aspects of the claimants' history. We will meet some of the tūpuna of those who signed te Tiriti in February 1840, and we will consider how their society was organised from earliest settlement to the time of first European arrival, and a little beyond.

We will also meet eighteenth century Europeans. European society at that time was in the midst of a period of almost unprecedented change, affecting all aspects of the social order – politics, science, religion, class, and commerce. The Protestant Reformation had splintered the religious unity of western Christendom. Europe was

◀ *Into the Unknown* by Hawaiian artist Herb Kawainui Kane. The painting commemorates the epic journeys made by Polynesian ancestors from their homelands into the eastern Pacific, where they reached island chains as distant as Hawaii, Rapanui, and Aotearoa.

exploring and expanding, so that its trade and settlement now encompassed swathes of the Americas, Africa, and Asia. Enlightenment values of reason and individualism were encouraging new explanations of an enlarged world. Many of these changes were most marked in Britain.

In the midst of so much change it is difficult to characterise briefly the British world view. Nevertheless, one common thread in these developments might be found in the idea of the individual. European and (especially) British elites emphasised individuals in relation to others, and in relation to authority. All individuals, even the monarch, had to comply with the law, but were also said to be protected by it, and might (if they were allowed to vote) have a say in its creation. Individuals had fundamental rights – to life, liberty, and property – which the state was expected to uphold. Protestant individuals had a personal relationship with God, by whom all were believed to be created equal, yet before whom some could rise above others if they lived Christian lives. They were also expected to abide by Protestant values, such as industry, thrift, discipline, and peace and fellowship, which were seen as keys to both material prosperity and spiritual advancement. Together, these institutions and values amounted to an idea of civilisation which imperial Britain saw as its gift to the world.

It is these two peoples and their two worlds – of Britain, and the Māori of the Bay of Islands and the Hokianga – that we will seek to understand in this chapter. We begin with Māori.

## 2.2 TE AO MĀORI

### 2.2.1 Introduction: te ao o ngā tūpuna

Tradition has it that one of the first things the claimants' forebears did after they made landfall on either side of the Hokianga harbour was to build whare (houses) to honour their atua. Nukutawhiti and Ruanui were close kin, descendants of Kupe,<sup>1</sup> who had jointly made the decision to leave Hawaiki because of a great war that was raging there. As they completed their houses, a tohorā (whale) entered the harbour. Each wanted to use the whale as a gift to his atua during a ceremony to open his whare, and

so each used karakia (incantations or prayers) to force the whale to beach on his own side of the harbour. In the spiritual battle that ensued, both Nukutawhiti and Ruanui used their entire repertoire of karakia – commemorated in the saying 'Hokianga Whakapau Karakia' (Hokianga where the karakia became exhausted) – and the whale was lost to both when it swam out to sea.<sup>2</sup>

This tradition reveals a number of key values and motivations underpinning Māori systems of law and authority. It speaks to the vital role of atua and tūpuna, both in motivating and in guiding the actions of the living. It shows how great men and women interacted with the forces of nature at a spiritual level by using the spoken word. It signals the reciprocal nature of relationships, in which the actions of one party affected the other, demanding counter-action to restore balance. It tells how leaders were inspired to great deeds – such as ocean voyages to unknown territories – to seek better lives for their people; and how kin could be allies or rivals depending on the circumstances. And it shows how place names and narratives were used to remind future generations about the actions of atua and tūpuna; and how recalling those deeds has allowed the descendants of Nukutawhiti and Ruanui through many generations to demonstrate their kinship with each other and with the harbour itself.

### 2.2.2 The emergence of Te Ao Mārama

Claimants told us how their tūpuna understood their place in the universe through the principle of whakapapa – genealogical progression – in which all things could be traced back in a logical sequence to the beginning of creation. Through this principle, all people and all elements of the physical and spiritual worlds were seen as related at a fundamental level.<sup>3</sup>

All whakapapa, we were told, begin in Te Korekore: the absolute nothingness.<sup>4</sup> According to the Ngāpuhi theologian Māori Marsden, Te Korekore was a void, a realm of formless potential, of 'primal, elemental energy or latent being'. From there, all things emerged and took form – wairua (the spirit that infused all things), mauri (essential energy or life force), consciousness, darkness, light, sound, sky, earth, water, and everything else both



Papatūānuku, the earth mother

material and spiritual. First, there was Te Pō, the world of darkness or night, ‘the realm of becoming’.<sup>5</sup> A soft light entered Te Pō, creating Pō-tahuri-atu (the night that faces day), within which Hawaiki-nui, Hawaiki-roa, Hawaiki-pāmamao and Hawaiki-tapu (great, extensive, far-distant and sacred Hawaiki, respectively) were formed, as homes for ancestor-gods and heroes.<sup>6</sup>

The first gods were Rangi-nui (god of the heavens) and Papa-tū-ā-nuku (mother earth), representing the male and female principles. Their offspring – including Tāne, Tangaroa, Rongomātāne, Tūmatauenga, Haumia-tiketike, Rūaumoko, Tāwhiri-mātea, Uru-te-ngaanga and Whiro – were born into this dim, pre-dawn world, but made the momentous decision to separate their parents, ushering in Te Ao Mārama, the world of light or the world of being.<sup>7</sup>

Within this world, each of these atua were said to play a vital creative role. Tāne clothed the world by creating the insects, birds, plants, trees and rocks of the forests; and fashioned the first woman, Hine-ahu-one, from the soil of Hawaiki. He also ascended into the heavens to obtain the three baskets of knowledge – broadly corresponding to knowledge of the worlds of Te Korekore, Te Pō and Te Ao Mārama, only the last of which could be perceived through the physical senses. Tangaroa fashioned the oceans and marine life; Rongomātāne governed the realm of food crops such as kūmara, and was also responsible for peace and for lifting the state of tapu (sacredness); Tūmatauenga created the first man, and oversaw war; Haumia-tiketike was responsible for foods growing above ground, such as fern; Rūaumoko was the god of earthquakes and volcanic eruptions; Tāwhiri-mātea governed weather; Uru-te-ngaanga cared for the heavens and their constellations, including the Mangorora (the Milky Way) and Matariki (the Pleiades); and Whiro was the atua responsible for ‘death, sickness, all bad things’.<sup>8</sup>

Later, Māui, the youngest-born, and the mythic personification of discovery, used his enchanted fishhook to pull up from the ocean depths the North Island – Te Ika-a-Māui – and many other Polynesian islands.<sup>9</sup> Within Ngāpuhi tradition, as related to us by Rima Edwards, the motivating force behind all of this creation was a supreme being, Io, who dwelled within Te Korekore, and

from whose consciousness the worlds of Te Pō and Te Ao Mārama were formed. Edwards referred to the various manifestations of Io, including Io matua te kore (‘The first God who came out of Te Korekore’), Io te kakano (‘The seed from which all things in the World grow’), Io-te-mana (‘The supreme power of Io Matua Te Kore from beyond’), Io te mauri (‘The living element in all things created to the world’), Io te tapu (‘The pure spirit that is free of evil’), Io te wairua (‘The spirit of Io that is given to the heart of the world’), Io matangaro (‘Knowledge that cannot be seen or known by mankind’), and Io te wananga (‘The spring and source of all knowledge’).<sup>10</sup>

### 2.2.3 Whanaungatanga, mana, tapu, and utu

These kōrero about the emergence of life from Te Korekore, Marsden has written, were deliberate constructs by the holders of esoteric knowledge ‘to encapsulate and condense into easily assimilable forms their view of the World, of ultimate reality and the relationship between the Creator, the universe and man’.<sup>11</sup> In this reality, all things were recognised as personifications of atua, who were related to living humans through whakapapa. Edwards explained it thus:

Na runga i tenei whakapapa ka noho whanaunga nga mea katoa o Te Ao. Nga rakau, nga ika, nga manu, nga peepeke, nga purerehua, nga otaota, nga Turehu, nga Whatukura, nga Mareikura, nga Kararehe, nga Ponaturi me te Tangata hoki.

It is on the basis of this genealogy that all things of the world are related. The trees, the fish, the birds, the insects, the butterflies, the small plants, the Fairy people, the male elements and the female elements of the heavens, the people who live under the sea and mankind of [course].<sup>12</sup>

The actions of atua determined events within the physical world. As Edwards explained, if heavy rain caused flooding this was not a mere physical event, but Tāwhiri-mātea expressing his anger against Tāne.<sup>13</sup> In similar manner, atua also determined human actions: planting, fishing, gathering food, constructing whare or waka, mourning the dead, making war, making peace,

and asserting rights over land and other resources.<sup>14</sup> Life in Te Ao Mārama therefore involved a constant dialogue between the living and their ancestor-gods. Hōne Sadler said:

Kua pēra katoa ki te taiao, ō tātou tūpuna i a rātou e hīkoi ana, i hīkoi tonu, i karakia tonu, karakia tahi, i hīkoi tahi me ū rātou atua. I hīkoi-tahi ai rātou me ū rātou atua ki tō rātou taiao. Hei ārahia atu nei i a rātou i roto i wā rātou mahi katoa, kāhore he mahi kia timata, kia karakia anō, mehemea he tuaraka, mehemea he hī ika, mehemea he hanga whare, he iwi whakapono, he iwi marama ki tō rātou ao, e taea e rātou katoa i ngā karakia te tāhuri atu i ngā tohu o te ao, kia rite ki tā rātou e hiahia ana.

Our ancestors when they walked the earth they prayed and they walked with their gods, they walked with their gods all through their world. They led them everywhere in all the things they did. There wasn't a single thing they did without karakia at first. Whether they went to fell a tree, when they went fishing, whether they were erecting a house, they were people of faith and belief. People who understood their world, they could achieve through their karakia, to read the signs of the world, to accomplish [what] they wanted.<sup>15</sup>

The view that all things were related, and that the well-being of any person or group was intimately connected to the well-being of their kin, could be encapsulated in the principle of whanaungatanga (kinship).<sup>16</sup> So intimate were kinship connections that the actions of any individual within a group were seen as the actions of the group as a whole. Rangatira could refer to their tūpuna and their hapū as 'ahau', which literally meant 'myself', but also meant that their hau, their breath of life, was shared.<sup>17</sup> In this way, according to Marsden, to serve one's kin through acts of 'loyalty, generosity, caring, sharing, fulfilling one's obligations to the group, was to serve one's extended self'. 'Whanaungatanga is a sacred thing,' said the claimant Tom Murray, 'the expression of true relationships between whanau and hapu, based on their shared whakapapa.'<sup>18</sup>

According to the Tribunal in *Ko Aotearoa Tēnei*, whanaungatanga was 'the defining principle' of the Māori

world view, and could be seen as a 'revolving door between the human, physical and spiritual realms'. Not only did whanaungatanga explain how all things were related, it also 'assert[ed] hierarchies of right and obligation among them', defining how people should act in relation to each other and environmental resources, and affirming their ongoing, active connections with tūpuna and atua. As one example, 'humankind . . . has dominion over plants because whakapapa tells of the victory of Tū-mata-uenga over his brother Tāne-mahuta', but that dominion must be balanced with care since Tāne was also a human ancestor.<sup>20</sup>

It is, therefore, only through this web of spiritual relationships that Māori systems of law and authority can be understood. According to Edwards: 'Ka poua te mana, te tapu, te mauri me te Wairua o Io Matua Te Kore e ia ki roto ki enei uri katoa.' ('The supreme power, the state of spiritual purity, the life element and the spirit of Io Matua Te Kore was imbued by him into all these, his descendants.')<sup>21</sup> Wairua, Edwards said, could be understood as 'te hau o Io Matua te Kore' ('the breath of Io Matua te Kore').<sup>22</sup> According to Marsden, mauri was the cosmic energy or 'life-force' imparted by wairua, which 'generates, regenerates and upholds creation', both unifying all things and giving each its distinct essence.<sup>23</sup>

Tapu is commonly translated as 'sacred', but we were told that encompassed only a part of its meaning. As Marsden described it, tapu had both spiritual and legal connotations:

A person, place or thing is dedicated to a deity and by that act it is set aside or reserved for the sole use of the deity. The person or object is thus removed from the sphere of the profane and put into the sphere of the sacred. It is untouchable, no longer to be put to common use. . . . any profane use is sacrilege, breaking of the law of tapu.<sup>24</sup>

Although tapu was delegated from atua, it was not a permanent state. Through sacred rites, a person or thing could be dedicated for use by atua and so become more tapu; and tapu could also be neutralised through ritual and also through contact with profane objects such as

cooked food.<sup>25</sup> In an environmental context, resources such as trees, fish and so on could be set aside from use by making them tapu through the imposition of rāhui; and conversely they could be used only if their tapu was removed through appropriate incantations to atua.<sup>26</sup>

Edwards described how tapu regulated behaviour in pre-European times, with transgressions being punished either in the physical or the spiritual realms:

Ko te Tapu tetahi ahua e whakarongo ai te wairua o te Tangata. Ko te tapu he wairua horomata horekau nei he kino kei roto. Engari ki te takahia tera tapu ko nga hua puta he kino katoa. I konei ano ka puta te mana o Whiro [te Atua o nga mea kino]. Ko te tapu tetahi mea e matakai ai te tangata Maori na runga i tana mohio ki te takahia e ia te tapu ka pa mai ki runga kia ia ki tana whanau, hapu Iwi ranei tetahi raruraru nui. He aitua, he mate, he mauiui, he parekura he muru me era atu momo kino o roto o te whare a te Atua nei a Whiro. Ko tenei tapu horekau nei he kino kei roto ko te tapu Io Matua te Kore.

Sacredness is an element that gains the respect of the spirit of man. Tapu is a state of spiritual purity that contains no evil. But if sacredness is trampled on the outcomes are all bad. It is here that the mana of Whiro [the God of all things bad] becomes active. Desecrating that which is made sacred brings enormous fear to the Maori person because he accepts that if he desecrates that which is sacred he invites great tragedy for himself [and] his whanau, hapu and Iwi. Violent injury, death, illness, many deaths, plunder and other bad things that are contained within the house of this God. This sacredness that contains no evil is the sacredness of Io Matua Te Kore.<sup>27</sup>

According to Marsden, the legal aspect of tapu involved a contract between people and atua, ‘whereby a person dedicates himself or an object to the service of a deity in return for protection against malevolent forces and the power to manipulate his environment to meet needs and demands’.<sup>28</sup> When a person was dedicated to an atua in this way, he or she was infused with the spirit of that atua and so acquired mana – spiritual power or authority – allowing the person to act in the physical world. Marsden

therefore defined mana as ‘lawful permission delegated by the gods to their human agents and accompanied by the endowment of spiritual power to act on their behalf and in accordance with their revealed will’. Since this power was delegated, no human could ever be more than the ‘agent or channel – never the source of mana’.<sup>29</sup>

Edwards said that humankind had access to only a fraction of the mana handed down from Te Korekore; most of it was retained by Io and his nearest descendants:

te mana tukuiho ko te mana motuhake ko tera te mana i tukua mai i Tuawhakarere ka pouheretia kia Ranginui me Papatuanuku ka pouheretia ki a raua tamariki maha kia Tane ma, ka pouheretia ki a ratou uri maha o te Taiao ki nga rakau ki nga manu, ki nga ika me era atu, tukuiho hoki ki te Tangata. Koia tenei te mana tukuiho e korerotia nei e te Tangata ara iti noaiho o tenei mana i tukua maie ia ki te tangata ko te nuinga o te kaha o tona mana i puritia e ia kia aia ano ara kia Rangi me Papa me a raua tamariki a Tane ma.

the supreme power and supreme authority was handed down from the beginning which was then imbued into Rangi and Papa and then into their many children such as Tane and then it was imbued into their many descendants of nature that is the trees the birds the fish, and the many others and finally handing it down to mankind. This is the supreme power that is talked about by man and only a small part of Io’s mana he handed down to mankind the greater part of his powers he retained to himself [and] to Rangi and Papa and to their children Tane and the others.

Whatever happened on earth, including storms, earthquakes, floods or other actions, was therefore an expression of the supreme authority extending back to Te Korekore.<sup>30</sup> Hōne Sadler, too, described how mana derived from whakapapa relationships could not be broken or transferred:

ko tō rātou here ki te whenua, ehara i te mea here noa iho ki te taura ka taea te tapahi. Engari ko te here ko te here o te pito ki te whenua. Nā reira koia ko tāku e kī ake ana ko te nohonga a ō tātou mātua a ō tātou tūpuna i hangai e rātou i runga i ngā

whakapapa mai i haere mai rātou ko ō rātou nohonga katoa he mea ū he mea tūturu, e kore ra e taea i te wetewete.

their connection to the land was not like a rope that can be cut, but it [was] like the connections of the umbilical cord to the land. Therefore that is why I say that how our ancestors lived was established through the lines of descent that they came from and all of the settlements were maintained and cannot be separated.<sup>31</sup>

In 1994, then Waitangi Tribunal chairperson Chief Judge Edward Durie described the same concept another way: ‘The land was contained in the people.’ To establish mana in relation to land, therefore, it was only necessary for a person ‘to say who they were’.<sup>32</sup>

Another fundamental imperative was utu. As the Tribunal said in *Ko Aotearoa Tēnei*:

Though it [utu] is often rendered in English as revenge, its true meaning is the use of reciprocity in the pursuit of balance. To put it in another way, in the web of kinship every action demands an equal and opposite reaction in order to maintain balance. This idea underpins rules of positive conduct (hospitality, generosity, and so forth) as well as negative conduct (punishment and retribution).<sup>33</sup>

Nuki Aldridge saw utu as ‘effecting a law and restoring balance’.<sup>34</sup> Drs Manuka Henare, Hazel Petrie, and Adrienne Puckey described it as a law aimed at the promotion of harmony or balance.<sup>35</sup> Durie explained it as being concerned with ‘the maintenance or balancing of mana through reciprocity between individuals, between descent groups, and between the living and departed’.<sup>36</sup> As we will see throughout this report, there were various means of achieving utu. The use of force against people was one; others included the taking of material possessions as compensation (muru); and appeals to atua through the use of mākutu.<sup>37</sup>

Together, mana, tapu, and utu can be seen as fundamental aspects of a system of law and authority that applied long before Europeans arrived.<sup>38</sup> That system, Aldridge said, was based on fundamental laws or principles which

could be applied selectively to specific situations. In his view, tikanga (which he referred to as ‘the science and philosophy of law’) could be seen as ‘guiding commandments underlying behaviour’ which derived from atua. In turn, kaupapa were ‘the body of principles that create the laws’, including tapu and utu. These principles might demand that resources be conserved (tapu) or that action be taken to achieve balance (utu). Ritenga (often translated as rules) were the actions required to enforce kaupapa. An example of ritenga, Aldridge said, was the requirement for people who went fishing to return the first fish to Tangaroa.<sup>39</sup> Durie, similarly, referred to tikanga as ‘principles for determining justice’, noting that the word tikanga derived from tika – ‘that which is right or just’.<sup>40</sup>

According to Durie,

Maori norms were sufficiently regular to constitute law, in this context a social norm being defined as legal if its application or neglect provoked a predictable response.

Under this definition, Durie continued, it did not matter whether disputes were ‘settled through an external agency, or whether, as was usual amongst Maori, disputes were adjusted by the parties themselves’. In either case, law was still law.<sup>41</sup>

In an oral culture, sacred or specialised knowledge was transmitted from generation to generation verbally – through pepeha (sayings), whakataukī (proverbs), tauparapara (formal incantations), waiata, place names, and other kōrero, as well as through whakairo (carving), rāranga (weaving), and tā moko (tattooing). Through speech, song and visual forms, whakapapa were described, and the exploits of ancestor-gods told to others. These were the histories that the late Sir James Henare expressed as: ‘Ko ngā tohu ō rātou tapuwae i kakahutia i runga i te mata o te whenua’, the footsteps and teachings of past rangatira etched into the landscape.<sup>42</sup> They were also sources of knowledge not only about history and identity, but about who had authority to make and enforce law, and about law itself. Höne Sadler told us, it was the ancestors who created the laws, and they who provided guidance on how to live in this world.<sup>43</sup>



The great navigator Kupe, discoverer of Aotearoa

#### 2.2.4 Rāhiri's people

Claimant traditions speak of Kupe-ariki as the navigator who first discovered the land fished up by his tūpuna Māui. Kupe's sojourn to these islands on the *Matawhao* is remembered in the names he bestowed on the landscape which are still in use today. His first landfall on the west coast was commemorated in 'Te Ramarama-roa a Kupe' (the eternal beacon of Kupe), inspired by the afternoon glow on the hills above Hokianga that guided the waka's approach from the North Cape. Te Pouahi (the pillar of fire), at the entrance to the Hokianga harbour, also commemorates this first landing. Hokianga itself derives its name from Kupe's words of farewell before returning home:

Hei konei rā, e Te Puna o te Ao Mārama,  
Ka hoki nei tēnei, e kore e hoki anga nui mai.

Goodbye, Spring of the World of Light,  
This one is going home and will not return this way again.<sup>44</sup>

It is said that in addition to taunaha whenua (naming the land), Kupe buried the bones of his son Tumutumuwhenua (or Tuputupu-whenua) to lift the tapu over the new territory for the future generations. He is also said to have left behind his dogs, his anchor, and his taniwhā to watch over Hokianga. Kupe passed on the knowledge of his exploratory travels to his people on his return to Hawaiki, and in so doing inspired subsequent migration from Polynesia and, eventually, the permanent settlement of Aotearoa by his descendants Nukutawhiti and Ruanui.<sup>45</sup> 'Kupe [was] our beginning point,' John Klaricich told us, 'the foundation and substance that remains unchanged':

Innate courage, curiosity, confidence in [his] own belief systems and technology, and deep understanding of the natural world, is how Kupe arrived. Here in Te Wahapu every place name is accounted for, recorded and remembered in the tapestry of the land.<sup>46</sup>

In turn, Nukutawhiti and Ruanui are remembered by many of the claimants as their earliest ancestral

permanent residents. Ruanui set forth with his people in the *Māmari* waka, while Nukutawhiti re-adzed and enlarged Kupe's waka to become *Ngātokimatawhaorua*. Traditions tell of this voyage following a path set by Kupe, and coinciding with a nova explosion which allowed *Ngātokimatawhaorua* to speed across Te Moana-nui-a-Kiwa on a crest of surging waves under a sky lit up as if it were day. In this version, Aotearoa was not the long white cloud first perceived by Kupe's wife Kura-marotini, but Ao-o-te-ra-roa or Awatea-roa – the long day – to commemorate the waka's supernatural passage.<sup>47</sup> As *Ngātokimatawhaorua* reached Hokianga, great waves almost swamped it, forcing it towards rocks. Nukutawhiti responded with a karakia to Tāne and Tangaroa. He removed his amokura (sacred feather) and cast it into the ocean as a gift to the atua, causing the sea to calm so landfall could be made. It is due to this event that some of his descendants now say the mauri of their people can be found in the water.<sup>48</sup>

Ruanui initially settled at Te Pouahi at the northwestern entrance to the Hokianga, and Nukutawhiti settled on the opposite shore at Ōpononi, and it was from those locations that their spiritual battle took place.<sup>49</sup> Over time, their descendants spread out to explore both sides of the harbour and many other parts of the north, naming the land as they went.<sup>50</sup> Claimant traditions recall other waka following theirs: the *Kurahaupo*, *Mataatua*, *Takitimu*, *Tinana*, and *Mahuhukiterangi* all either travelling from Hawaiki and making landfall on the tail of Māui's fish, or migrating there from other parts of Aotearoa during the early settlement period.<sup>51</sup> Descendants of Nukutawhiti and Ruanui intermarried with each other and with people from these other waka, creating multiple, overlapping lines of descent – yet all of which could trace to Kupe, Ruanui, Nukutawhiti, and one of Nukutawhiti's descendants, Rāhiri. For this reason, according to Patu Hohepa, all of today's major tribal groupings in the north are karanga maha, relatives through multiple lines of descent.<sup>52</sup>

Of these founding tūpuna, Rāhiri – the shining day – is seen as having consolidated and expanded the influence of the people who came ultimately to be known as Ngāpuhi.<sup>53</sup> Rāhiri's tūpuna refer to him as 'te tumu herenga waka', the

stake to which the multiple waka of the north are bound.<sup>54</sup> Others put it more baldly, repeating an old saying: 'Kotahi ano te tangata horekau i puta i a Rahiri, He Kuri' ('The only Ngāpuhi person that did not descend from Rahiri is a dog').<sup>55</sup>

The descendants of Rāhiri came to dominate Hokianga and much of the interior, before their power spread to the coastal Bay of Islands and Whangaroa during the early decades of contact with Europeans. It was they who entered the first arrangements with traders and missionaries, and they who first signed he Whakaputanga and te Tiriti, as we will see in later chapters.<sup>56</sup>

Rāhiri's father, Tauramoko, was an eighth-generation Hokianga-born descendant of Nukutawhiti; and his mother, Hauangangi, was a high-ranking woman of Ngāti Awa and the *Mataatua* line. The name 'Ngāpuhi' – today used to refer to all of Rāhiri's descendants<sup>57</sup> – is sometimes said to come from Hauangangi's father, Puhi-moana-ariki, though many dispute that. Another explanation is that Puhi-moana-ariki (also known as Puhi-te-awa or Puhi-taniwhā-rau) is a taniwhā from Hawaiki who watched over Nukutawhiti on his journey. Nukutawhiti is said to have adopted the name Ngāpuhi in honour of that taniwhā, while Ruanui's people initially took the name Puhi-te-awa after the taniwhā's other name, later becoming Ngāti Aewa (and later still Ngāti Ruanui). Another explanation is that the three names (Puhi-moana-ariki, Puhi-te-awa and Puhi-taniwhā-rau) were given to the son of the high-born woman Arikitapu, to commemorate the circumstances surrounding his birth. Yet another version says that 'ngā puhi' refers to 'the chiefly women', and refers to Kupe's wife Kuramarotini and her sister Rongorongo.<sup>58</sup>

Just as there are many explanations for the origins of the name 'Ngāpuhi', so there are many different explanations of Ngāpuhi identity. Ngāpuhi today does not associate with any single waka, or maunga, or awa.<sup>59</sup> It has many significant tūpuna, of whom we have named only a few.<sup>60</sup> Claimants described the territories of Ngāpuhi-tūturu (true or authentic Ngāpuhi) as being encircled by 'nga poupou maunga o te wharetapu o Ngāpuhi' ('the mountain pillars of the sacred house of Ngāpuhi'), broadly covering the territories of Hokianga, Whangaroa, Bay of Islands



Pouerua (the two posts). The terraced slopes were once home to a large pa, which was surrounded by extensive gardens. Rāhiri's son Uenuku grew up here among his mother's Ngāi Tāhuhu people.

and Whāngārei.<sup>61</sup> They also referred to 'Ngāpuhi-nui-tonu' ('great, everlasting Ngāpuhi') or 'Ngāpuhi-whānui' ('broad Ngāpuhi') are said to encompass all people and territories north of Tāmaki-makaurau (Auckland).<sup>62</sup> It is important to be clear that in pre-European times, Rahiri's descendants referred to themselves by hapū names, and not by the overarching name 'Ngāpuhi'. Even well into the nineteenth century, 'Ngāpuhi' seems to have been used only by a group of hapū from the northern Bay of Islands (see sections 2.2.7 and 3.1).<sup>63</sup>

Rāhiri grew up at Whiria pā at Pākanae in the Hokianga, and married Āhuaiti, of Ngāi Tāhuhu, which

was then the dominant group in the Bay of Islands interior and southwards to Whāngārei. His second wife, Whakaruru, was of Ngāti Awa, which had influence in the Hokianga and the Bay of Islands interior, as well as northwards to Whangaroa. Through other marriages, he extended his influence south to Waipoua, and across to Whanganuru and Whāngārei, as well as into Taranaki.<sup>64</sup> Over the course of his life, Rāhiri would base himself at Whiria, which acquired the reputation of an impregnable fortress as he and his sons forced their Ngāti Awa kin southwards. In these ways, like many of the great leaders who would follow, his reputation was forged from a

combination of military exploits and diplomacy (as shown in particular by his use of intermarriage to expand kinship ties and influence).<sup>65</sup> Sir James Henare said it was Rāhiri who brought together the scattered groups descended from Nukutawhiti and called them Ngāpuhi, providing yet another explanation for the tribal name. Rāhiri's legacy is recalled in the phrase 'ngā maramara o Rāhiri' (the chips of Rāhiri), referring to the influence that his descendants would ultimately have throughout many parts of the north.<sup>66</sup>

It is the story of Rāhiri's sons Uenuku-kūare and Kaharau that best captures his influence, both as a tribal progenitor and as a source of political kawa (custom). The tradition is that Rāhiri and Āhuaiti separated when she was pregnant, and so their son Uenuku-kūare was born and grew up among his mother's Ngāi Tāahu people at Pouerua.<sup>67</sup> Rāhiri's second son, Kaharau, grew up at Whiria with him and his second wife Whakaruru. As a young man Uenuku ventured west to find his father, but Kaharau – motivated by jealousy – challenged his tuakana (brother). Rāhiri, fearing harm to either of his sons, intervened, sending them to plait twine for a kite. It is from this that Whiria ('plait') received its name. When the kite was set free, it flew east and landed near Kaikohe, which then became the dividing line between Uenuku's territory in the east (Te Tai-tamawāhine: the female coast), and Kaharau's territory in the west (Te Tai-tamatāne: the male coast). In this way, Rāhiri intended that the brothers would stand as equals, independent of each other but offering aid in times of need.<sup>68</sup>

This covenant was enshrined in the whakataukī:

*Ka mimiti te puna i Taumarere,  
Ka toto te puna i Hokianga  
Ka toto te puna i Taumarere,  
Ka mimiti te puna i Hokianga*

*When the spring of Taumarere is empty,  
the spring of Hokianga is full;  
[W]hen the spring of Taumarere is full,  
the spring of Hokianga is empty.*<sup>69</sup>

According to Hohepa, the saying has multiple meanings. It can refer to the tides of both coasts: when one is out, the other is full. It is also a reference to the underground waterways linking Hokianga on the west coast and Taumārere on the east, said to be the pathways of taniwhā. At its most profound, however, it refers to the ancestral ties between the two coasts, which are said to bind each to support the other in times of conflict or strife.<sup>70</sup> According to Erima Henare, the pepeha talks of

the springs of human beings. When the people of Hokianga require assistance, the people of Taumārere help them. When the people of Taumārere require assistance the people of Hokianga help them.<sup>71</sup>

Other claimants said the pepeha also recognises the equality and autonomy of Rāhiri's two sons and their descendants. It is, John Klaricich said, 'a covenant expressed poetically'.<sup>72</sup>

The pepeha also speaks to the dominance that Rāhiri and his descendants would ultimately hold over territories spanning both coasts. Consistent with his father's wishes, Uenuku based himself at Pouerua, where he married Kareāriki of Ngāi Tāahu, who is credited with discovering the hot springs at Ngāwhā. Kaharau remained with his father at Whiria, and together they fought several battles against Ngāti Awa. In subsequent generations, kin relationships between the brothers' descendants were cemented through intermarriage: the most famous was between Uenuku's daughter Ruakiwhiria and Kaharau's son Taurapoho, who established themselves midway between Pākanae and Pouerua. The east–west axis was also strengthened through ongoing exchange: Uenuku's daughter Uewhati, for example, electing to return to her grandfather's rohe at Hokianga, rather than remain at her birthplace at Pouerua.<sup>73</sup> Four generations after Rāhiri – according to Henare, Petrie, and Puckey – his great-grandsons Māhia and Tūpoto finally achieved complete dominance over greater Hokianga and the interior south of Lake Ōmāpere, along with kinship ties to Whangaroa, the Bay of Islands coast, and Whāngarei.<sup>74</sup>

## 2.2.5 Hapū and rangatira

Like other Māori, the earliest permanent residents of the Hokianga and Bay of Islands lived in small, highly mobile groups, mainly in unfortified kāinga (villages), sustaining themselves by foraging, hunting large fauna, and cultivating introduced crops such as kūmara.<sup>75</sup> By Rāhiri's time, however, larger groups were emerging, and territorial relationships were becoming more important as the focus of economic activity turned towards year-round cultivation and the taking of fish and shellfish. Fortified pā, of which Whiria was one, were built on hillsides and became bases from which territories were defended.<sup>76</sup>

From this time onwards, the fundamental unit of economic and political organisation was the hapū. In many respects, everyday life continued to revolve around whānau, who might cultivate their own crops and gather food for themselves. But, increasingly, the demands of larger-scale economic activities, along with defence and the acquisition of territory, demanded that whānau work together in larger kin-based groups under coordinated leadership. Hapū were not simply large whānau but political and economic groupings based on a combination of common descent and interest. Most often they took their name from a shared ancestor. Whānau groups typically lived in dispersed, small-scale settlements throughout the territories of their hapū, moving about seasonally to make the most of food sources. But it was the hapū that held the rights in land. It was also hapū who held rights over other resources such as fishing grounds and shellfish beds, and over significant assets such as whare tūpuna (meeting houses), large waka, fishing weirs, nets, and pā, all of which were the products of community labour.<sup>77</sup>

Māori Marsden has described the hapū as an '[an] organism rather than [an] organisation', referring to the willingness of individuals to act and view themselves as aspects of a whole rather than separate members of a group.<sup>78</sup> Edwards described the role of hapū this way:

ko te Hapu te kaipupuri i te mana kaitiaki o nga whenua me era atu taonga. Ko nga Hapu ano hoki te mana whakahaere i nga tikanga me nga mahi. Ko te whanau kei roto i te Hapu. Ka whanau mai he uri horekau i whanau mai ki roto i te whanau

engari i whanau mai ki roto ki te Hapu. Ko te Iwi horekau ano kia pakari noa . . .

the Hapu held the mantle of guardianship of the land and other possessions. It was also the Hapu that held the mantle of governance of the customs and things to be done. The whanau was within the Hapu. When a child is born that child was not born into the whanau but was born into the Hapu. The Iwi had not yet matured . . .<sup>79</sup>

Henare, Petrie, and Puckey noted that 'hapū' literally translates as 'pregnant', and 'whānau' can mean 'to give birth'. In their view, hapū can be translated as 'tribe'. They noted that 'iwi' is today commonly translated as 'tribe'. In their view, 'iwi' only began to acquire political functions from about the 1850s onwards, and prior to that amounted to no more than 'a loose association of related peoples who did not act on a day-to-day basis as a corporate group'.<sup>80</sup>

Within hapū, political leadership was provided by rangatira – a word that means 'weaver of people'. Rangatira played many roles. One of their principal responsibilities was to coordinate community effort in activities such as hunting, horticulture, and building waka, pā, whare, or other communal property. They also mediated in disputes among their people, built consensus in group decision-making, and allocated land and other resources for people to live on within their rohe. In relations with other hapū, rangatira were diplomats, arranging alliances or cooperative relationships for military and economic purposes and cementing them through intermarriage, gifts, and shared feasting. They were also leaders in warfare and territorial expansion, as the stories of Rāhiri and Kaharau suggest.<sup>81</sup>

In an environment of resource scarcity and territorial competition, mana over hapū territories had to be actively asserted, exercised, and defended. All territories were under the authority of one hapū or another, and the boundaries were typically well known. Often, they were clearly defined by natural features such as 'Streams, rivers, hills, rocks, cliffs and prominent trees', or by other markers such as piles of stones.<sup>82</sup>

Continued occupation and use (ahi kā roa) was one means of defending rights over land and resources.

According to Henare, Petrie and Puckey, whakapapa relationships had to be kept active, in fulfilment of duties and obligations to atua: blood ties alone were not enough.<sup>83</sup> Another way of asserting mana over land or resources was through place names, pepeha, whakataukī and other kōrero linking the territory to significant tūpuna, showing how they had established rights in it.<sup>84</sup> Territories could also be acquired or lost through gifting – a practice that served to cement relationships between neighbouring hapū, or to rebalance those relationships after periods of conflict. Finally, rights in land could be lost, gained or defended by conquest.<sup>85</sup> the ability to hold land in this way was known as ringa kaha (literally ‘strong arm’, though also translated as strong defence).<sup>86</sup>

While rangatira exercised authority in relation to both territories and people, in neither case did that authority belong to them as individuals. Rather, they embodied the mana of their atua, the ancestor-gods from whom the other members of their hapū also descended. Their authority to lead depended on how successful they were at advancing hapū interests. Their mana could grow or diminish depending on exploits in warfare, diplomacy, hospitality, and in making their people more prosperous. In all of these things, their mana and that of their people and whenua were closely aligned. Mana, in other words, was bestowed by virtue of their relationships with people (mana tāngata), land (mana whenua), and tūpuna (mana tūpuna): all of which embodied atua.<sup>87</sup>

Many of the claimants stressed the consensual relationship between rangatira and their hapū as one of the defining aspects of the political kawa of Rāhiri’s people. Rangatira did not lead their own people by coercion, but rather by example, persuasion and effective management.<sup>88</sup> Within hapū, many decisions were made following discussion among whānau leaders, with rangatira acting as mediators.<sup>89</sup> Pita Tipene described the relationship between rangatira and hapū in this way:

Mā ngā hapū e whakahaere ngā tikanga, ko te hapū te rangatira o ngā rangatira. Mai rānō i pērā ai, he kawa tūturu i heke mai i ō mātou mātua tūpuna. Mehemea kei a koe te mana hei whakahaere, kei a koe te whakapapa, mehemea ka piki

haere tō [pai] mō te whakamahi i ēnā mahi, ka whakatūria koe, he kai-hau-tū hei rangatira mō te iwi. Engari, rerekē ki a mātou te rangatira ki ētahi atu. Ko te rangatira, ko te kai-whakarāranga i te tira, i tō taha. Ehara te rangatira kei runga ake i te hapu, koia me whakarongo ki te hapū i runga hoki i te tikanga, ka kore koe e whakarongo ka whakarerea koe . . .<sup>90</sup>

It is the hapu who are in charge, the hapu is the chief of the chiefs. This is how it has been since time immemorial, these traditions and principles that descend from our ancestors. If you have the mana to lead, if you have the genealogy, if you have the capacity to do the work, you will be recognised and you will be the chief for your people. But our own views of what a rangatira is, are different to others views. To us a rangatira is a person who weaves people together, a person at your side. The rangatira is not above the hapu. The rangatira must listen to the hapu, in accordance with tikanga. If they do not listen they will be cast aside . . .<sup>91</sup>

Erima Henare told us that the roles of rangatira were ‘determined by meritocracy’:

There was no lineal descent as of right. Leadership was earned. The [principal] pathway to earning that leadership followed the footsteps in the martial arts of Tumatauenga, the Warlord of the Māori metaphysical term. In other words . . . [rangatira] were proven battle hardened warriors. This was a cultural imperative of those times. You’ve proved your mettle on the battlefield and you’ve earned that respect accordingly.<sup>92</sup>

Although rangatira were ‘entitled to respect’, they

were also duty bound to protect the mana of the hapū, its lands and the lives that were led there . . . Because it was the hapū who gave Rangatira their status, it was to the hapū that Rangatira owed their allegiance.<sup>93</sup>

One way in which this combination of authority and obligation manifested itself was in relationships with the environment. According to Marsden, ‘all life was birthed from Mother Earth’ and thus ‘the resources of the earth did not belong to man but rather, man belonged to the

earth.<sup>94</sup> Rangatira were obliged to exercise their authority in accordance with this principle, caring for and nurturing resources to preserve their mauri and keep them available for future use.<sup>95</sup> This is the sacred contract between humans and atua that Marsden described earlier, and the value now referred to as ‘kaitiakitanga’.<sup>96</sup> In practical terms, this value was exercised through the imposition of rāhui, temporary bans on the use of places or resources.<sup>97</sup> Marsden said that rāhui could be imposed on forests, rivers, lakes, harbours or other places in order to conserve or replenish resources such as fish or bird life. The area would then be monitored and, ‘when it was considered that the resource had regenerated itself sufficiently, the tapu was lifted in accordance with the appropriate kawa and the resource restored to general use’.<sup>98</sup>

A decision to impose rāhui could be made by rangatira or by tohunga with expertise on the relevant resource, often in consultation with kaumātua (elders).<sup>99</sup> Appropriate rituals would be conducted to impose rāhui, summoning forth mauri to aid replenishment of the resource. Often, a physical marker such as a stone, fern branch, or carved rākau (stick) would be placed within the area under rāhui, warning people not to use the area and also serving as a repository for that mauri.<sup>100</sup> According to Aldridge, ‘how did Maori apply the law? The simple answer is that people lived it. They lived the tapu and rahui . . . and they knew what it meant to transgress.’<sup>101</sup> We are reminded, too, of Edwards’s comment: ‘ki te takahia tera tapu ko nga hua ka puta he kino katoa’ (‘if that sacredness is trampled the outcomes are all bad’).<sup>102</sup>

As well as conservation, rāhui could be imposed for other purposes. A particular tree might be set aside for use in carving, or a flax bush reserved for a woven cloak.<sup>103</sup> Rāhui were also imposed on places where accidental deaths occurred.<sup>104</sup>

Whereas rāhui were temporary and deliberately imposed, some places and people were intrinsically tapu. The dead, and any place associated with them such as burial grounds and battlefields, were highly tapu. So, too, were leaders – rangatira and tohunga – whose roles demanded that they be set aside for use by atua. The head, also, was particularly tapu.<sup>105</sup> In the landscape, maunga

were perceived as sacred, serving atua by standing guard over the territories of Rāhiri’s people.<sup>106</sup> Likewise, other places or landscape features embodying atua were also tapu.<sup>107</sup>

When a rangatira named a place, he imbued it with his tapu and so reserved it for use by his people. According to Henare, Petrie and Puckey, the tapu nature of relationships with land were then ‘spelled out in the pepeha’ – allowing future generations to assert their rights by recalling the maunga, moana, awa, whenua and tāngata from whom they descended.<sup>108</sup>

At a personal level, tapu could be passed on by contact. According to Marsden, a tapu person ‘must observe strict laws of behaviour and conduct in regard to both their personal lives and in the conduct . . . of sacred ritual’. Failure to do so would result in the weakening of their tapu and so a loss of personal mana.<sup>109</sup> For this reason, rangatira and tohunga were often fed by servants, since contact with cooked food was believed to neutralise their tapu.<sup>110</sup> When a tohunga came into contact with a highly tapu object, he would conduct a cleansing ritual before returning to secular life, ‘to avoid spreading this contamination or . . . offending the gods’.<sup>111</sup>

For people who were less tapu themselves, or who challenged atua by violating tapu intentionally, the consequences were more severe. According to Marsden,

Because of [its] prohibitive aspect, tapu persons, places or things may not be interfered with or transgressed. Such transgression invites divine retribution – illness, death, mental ill-health, misfortune.<sup>112</sup>

The ultimate physical sanction for transgression was to be killed and eaten – an action that resulted in the complete removal of the victim’s tapu and its consequent transfer to the victor.<sup>113</sup>

## 2.2.6 Relationships between groups

Mana and tapu also played vital roles in relationships between groups, guiding hapū either to cooperate with each or to compete as circumstances demanded. In a world based on whakapapa, the choice between cooperation

and competition depended to a significant extent on the closeness of kinship links, though other factors – such as whether cooperation served the hapū's economic interests – were also relevant.<sup>114</sup> Among closely related groups, the principle of manaakitanga was a significant influence on behaviour. Closely related to whanaungatanga, manaakitanga is often translated as hospitality, though it also encompassed values such as generosity, kindness, caring and support for others, all of which served to cement social relationships between groups as well as within them.<sup>115</sup>

Together, whanaungatanga and manaakitanga found their expression in various ways. Though hapū exercised autonomy over their rohe, they also cooperated with each other. Coastal groups, for example, sometimes gave inland kin access to the fishing and shellfish grounds for which they were kaitiaki, to the extent of allowing them to build villages. One hapū might be granted rights to travel through, occupy or use land for which another had ancestral rights. Closely related hapū sometimes worked together when cooperative effort was needed, for example to provide labour for large cultivations. They also came to each other's aid in times of conflict, offering sanctuary or military reinforcement.<sup>116</sup> Though he was not writing specifically of the Bay of Islands and Hokianga, Dr (later Professor) James Belich has noted that it was typical among pre-European Māori for small hapū comprising perhaps 30 people to rapidly coalesce into much larger groups of perhaps several hundred, suggesting 'that such large groups were not ad hoc but were accustomed to acting together'.<sup>117</sup>

Ties between kin groups were strengthened and reinforced in a number of ways. Exchanges of gifts enhanced the mana of the giver and created an obligation to reciprocate, in ways that reinforced common bonds 'until the parties were so close and accepting of one another that each could rely on the other to be generous in times of local privation, and to expect no immediate response'.<sup>118</sup> Hākari (feasts) and hahunga (ceremonial scraping of bones, often accompanied by feasting) provided similar opportunities for hapū to reinforce social bonds, discuss political matters, and enhance mana through generous hospitality.<sup>119</sup>

Intermarriage was a cornerstone of whanaungatanga, with unions between high-ranking individuals also bringing together their respective hapū. Marriages could be used to keep mana whenua within existing hapū, or to reinforce ties between closely related peoples. They could also create bonds with previously distant or unrelated peoples, both close to home and further afield. The alliances created through marriage could serve economic purposes, such as securing access to distant food sources, and could also reinforce military alliances or secure peace between warring hapū.<sup>120</sup>

While hapū could cooperate, breaches of tapu and threats to mana (including challenges over territory or resources) could also lead them to conflict. Forceful responses were seen as legitimate and indeed essential means of restoring mana, reflecting universally accepted tikanga. Failure to respond would itself be degrading. Consistent with the principle of whanaungatanga, utu would be taken against the group, rather than solely against the offending individual if there was one.<sup>121</sup> The nature of the response would depend on a number of factors including the take (cause), how closely related the parties were, and their relative power. Among close kin, the most common means of dispute resolution was the taua muru (plundering party), through which the offended group restored its mana by visiting the offenders and taking or destroying property. Often, taua muru ended in hākari which also contributed to the restoration of balance. If a taua muru was resisted, force might be used to extract utu; for the most part, however, taua muru was 'a ubiquitous Maori system for peaceful dispute resolution' commonly used in the Bay of Islands and Hokianga as well as other parts of New Zealand.<sup>122</sup>

Among unrelated groups, disputes were more likely to lead to warfare, but warfare was still considered tika – legal and right – if fought for a legitimate take.<sup>123</sup> Typical take involved violations of the tapu of a living person or their tūpuna or atua. For example, violence against a person of high rank might be cause for war, as might desecration of a burial ground, or encroachment on the land or resource rights of other hapū.<sup>124</sup> In such cases, utu was most often sought from the offending individual or group,

but might be sought from others such as the offenders' kin, and sometimes from others who had no direct link to the original cause.<sup>125</sup> Victory could be a considerable source of mana for those involved, who not only would gain reputations for military prowess but might also acquire new territories for their people.<sup>126</sup>

Once war had begun, utu could be achieved and peace therefore restored by a range of methods including inter-marriage, the gifting of land, and mediation by neutral rangatira.<sup>127</sup> Captives could be taken during the conflict, and might later be returned as part of peacemaking.<sup>128</sup> The important point for our purposes is that warfare was generally considered tika among pre-European Māori.<sup>129</sup> Put simply, it was a commonly understood system for enforcing commonly understood laws.

## 2.2.7 Hokianga and the Bay of Islands in the 1700s

In the generations that followed Uenuku and Kaharau, their descendants maintained a hold on the Hokianga and significant parts of the interior. Every so often new hapū formed as populations grew, rivalries developed, marriages occurred, and circumstances otherwise changed. By the second half of the eighteenth century, the territories spanning Hokianga and the Bay of Islands were heavily populated by New Zealand standards, with many kāinga and pā, and extensive gardens in the interior. As populations grew, so did competition among the groups occupying these lands.<sup>130</sup>

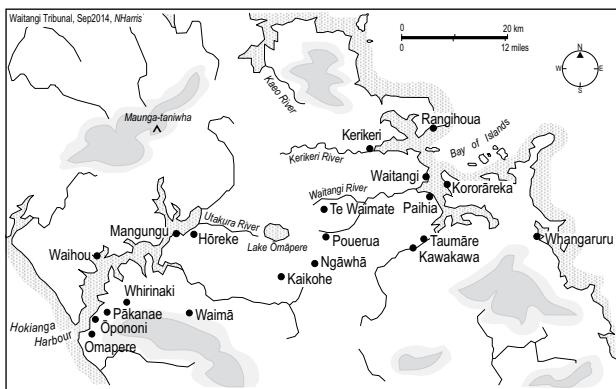
In the Hokianga, prominent hapū included Te Māhurehure, Ngāti Korokoro, Ngāti Hau and Te Uri o te Aho. According to Henare, Petrie and Puckey, it had been Tūpoto – the son of Uenuku's daughter Ruakiwhiria and Kaharau's son Taurapoho – who had united this region, naming many of its locations and marking boundaries for the hapū of his children just as Rāhiri had once done. Te Māhurehure, Ngāti Korokoro, Ngāti Hau and Te Uri o te Aho, they said, could all trace descent from Tūpoto and could be seen as members of the overarching kin group Ngāi Tūpoto. For these reasons, the maunga ringing the harbour were known as 'te whī-tiki o Tupoto' (the belt of Tūpoto).<sup>131</sup> We are wary, however, of oversimplifying what are inevitably complex and overlapping lines of descent.

Hohepa referred to these Hokianga hapū as also descending from another of Uenuku's daughters, Maikuku, and her husband Hua, while Sissons, Hongi, and Hohepa also recorded whakapapa showing Ngāti Korokoro and Te Māhurehure descending from Uewhati, another of Uenuku's daughters.<sup>132</sup>

Around Kaikohe, the key hapū groupings by the mid-eighteenth century included Ngāti Tautahi, Ngāti Tawake, Ngāti Whakaekē, and Te Uri o Hua. According to Sissons, Hongi, and Hohepa, these hapū could trace descent to Tūpoto's brother Māhia, and more specifically to Māhia's descendant Te Wairua. Te Uri o Hua could also trace descent from Maikuku and Hua through their son Te Rā, as could Ngāti Rāhiri which was based around Waitangi. In turn, these hapū were closely aligned with Ngāti Rēhia, into which Māhia's son Tautahi (eponymous ancestor of Ngāti Tautahi) had married.<sup>133</sup> Sissons, Hongi, and Hohepa described this as the 'northern alliance' of Bay of Islands hapū – an alliance 'between the descendants of Maikuku . . . and those of her sister, Ruakiwhiria'.<sup>134</sup> It appears that only hapū from this 'northern alliance' initially called themselves 'Ngāpuhi', the name being applied to all of Rāhiri's descendants only much later, probably not until after 1840 (see section 3.1).<sup>135</sup>

From about 1770 onwards, these 'northern alliance' hapū began an expansion that would continue well into the nineteenth century. Their first conquest, under the leadership of Te Wairua's son Auha and his brother Whakaaria, took Waimate and Kerikeri from Ngāti Miru and Te Wāhineiti. Both of those hapū affiliated to *Mataatua* waka and could trace descent from Nukutawhiti and Ruanui, but not from Rāhiri. Later, Auha's son Te Hōtete, and Te Hōtete's son Hongi Hika would, with their allies, extend their authority into the coastal Bay of Islands and Whangaroa, and much further as well, through a combination of conquest, absorption and intermarriage.<sup>136</sup> Another important hapū within this alliance, at least as it evolved during the early nineteenth century, was Te Hikutū, which had territories in the southern Hokianga and at Rangihoua and Te Puna in the north-western corner of the Bay of Islands.<sup>137</sup>

The south-eastern Bay of Islands group included the

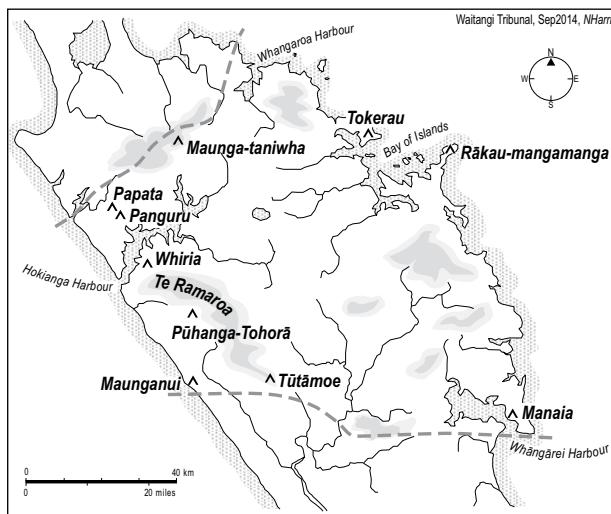


Māori settlements in Hokianga and the Bay of Islands

hapū Ngāti Manu, Ngāti Rangi, Ngāti Hine, Ngāti Hineira and Ngare Hauatu. According to Henare, Petrie, and Puckey, these hapū could also trace descent to Maikuku through her daughter Rangiheketini and granddaughter Hineāmaru. This group – today referred to as the southern alliance – would in the late eighteenth century capture Taiamai from Ngāti Pou, who had migrated into that area from Hauraki, perhaps in the sixteenth century. Through intermarriage, Ngāti Pou could also trace descent to both Uenuku and Kaharau, the latter connection being through Tūpoto. Later, Hongi and his allies would push Ngāti Pou from Whangaroa.<sup>138</sup>

The south-eastern Bay of Islands coast, meanwhile, had been held from the fifteenth century onwards by Ngare Raumati, early migrants from the Bay of Plenty. Though generally regarded as unrelated, they too could whakapapa to Uenuku. Ngare Raumati would also be challenged and absorbed by parties led by Te Hōtete and Hongi, from the late eighteenth century onwards.<sup>139</sup>

This, then, was the dense web of kinship and rivalry that dominated the territories from Hokianga to the Bay of Islands in the period shortly before the *Endeavour* came upon the scene. Crucially, hapū remained the primary political unit – not only at the time of first contact with Europeans but for many decades afterwards. Although alliances were forming, they were no more than loose coalitions of autonomous hapū brought together by common



Eleven Ngapuhi maunga

interest and kinship; they were not new political entities. Indeed, the claimants scarcely mentioned these alliances in their evidence, but placed considerable emphasis on the kawa of fully autonomous hapū who were able to cooperate or compete with related hapū as circumstances demanded. Aldridge told us:

In times of war or ceremonial occasions, hapu joined readily with other hapu groups, but each hapu was responsible for its own government, autonomy was fundamental.

The ‘hapu was the governing body’ and ‘one hapu would not tell another hapu what to do. But they would provide assistance to maintain the social order.’<sup>140</sup> Similarly, Hohepa told us how, among Rāhiri’s descendants, no single line would dominate, either in pre-European times or indeed today:

Kei i a hapū, kei i a iwi, kei i a whānau tōnā ake mana. He rerekē mātou ki ētahi atu iwi, he ariki kei runga, he whānau-ariki kei runga hei whakahaere, he hapu-ariki kei runga, kāhore ko te mana, i timata mai i te kōtahi, puta atu ki te whānau, puta atu ki te hapū mehemea e hiahia ana ka hono

hei iwi, mehemea hiahia ana ka hono hei roopū mō te katoa, arā, ko Te Tai-Tōkerau

Each hapu was responsible for its own mana. Other iwi have ariki on top. There's an Ariki family. We don't have that. So it's a reversal, you begin at the bottom with one into the whānau, then to the hapu and then you might come together [as a larger group] on specific purposes.<sup>141</sup>

This kawa is today summed up in the pepeha 'Ngāpuhi kōwhao-rau' (Ngāpuhi of one hundred holes).<sup>142</sup> According to Hohepa:

Ko te kōwhao-rau he kupenga, ko te kōwhao-rau he whakapapa, ko te kōwhao-rau he kāinga-rua, he kāinga-toru, ko te kōwhao-rau he whanaunga-maha, na reira, mātou i ora ai, nā te kōwhao-rautanga.<sup>143</sup>

The kowhao-rau we speak of can be likened to a net with many holes. Kowhao-rau refers to genealogy and relationships. Kowhao-rau can be likened to a second and third house. Kowhao-rau refers to our many kin relationships. And that is why we have survived, because of all of these separate but related connections.<sup>144</sup>

We do not know when this pepeha came into use. As we have already noted 'Ngāpuhi' was not used as a name for all of Rahiri's people until well into the nineteenth century. Henare, Petrie and Puckey noted that Ngāti Hine had a similar saying – "Ngāti Hine pukepukerau" (Ngāti Hine of a hundred hills).<sup>145</sup> In their view, 'kōwhao-rau' referred to the 'fiercely independent and autonomous nature' of each hapū within its own boundaries, both in terms of authority and identity.<sup>146</sup>

It was Rāhiri's descendants who would dominate the early decades of contact with Europeans – the early exchanges with explorers, the trading relationships, the early encounters with missionaries and their new ideas, and above all the formal relationships with Britain and its officials. They lived according to Rāhiri's kawa: as distinct hapū, staunchly independent, each maintaining authority over its own people and territories, and each also highly

conscious of kinship, capable of cooperating with others or of fighting as circumstances demanded. Like their forebears, they remained fundamentally concerned with relationships, and their lives continued to be governed by the spiritual and legal imperatives of mana, tapu and utu.

## 2.3 THE BRITISH WORLD

### 2.3.1 Cook's instructions illuminate the British world

When James Cook sailed south on his first Pacific voyage of 1767 to 1771 he carried two sets of instructions, reflecting the voyage's twin purposes. The first set told him to observe the Transit of Venus at Tahiti, and so help provide the data that the Royal Society needed to decide the distance between the Earth and the Sun. This in turn would allow them to determine the dimensions of the known universe.<sup>147</sup> The second set was secret Admiralty instructions written in 'Obedience to the King's Commands'. Cook was instructed to sail on into southern seas, to discover *Terra Australis Incognita* – the fabled unknown southern continent whose mirage had captured the European imagination.<sup>148</sup> Should he fail to find it, however, Cook was instructed to 'fall in with the Eastern side of the Land discover'd by Tasman and now called New Zealand'.<sup>149</sup>

Cook's twin sets of instructions spelt out the British motives for this ambitious voyage of exploration. In short, Cook was sent to extend the reach of Britain's knowledge and its commerce, and if possible to expand its empire's borders. Like other early British explorers into the Pacific, he was reminded that 'Discoverys of Countries hitherto unknown' or 'imperfectly explored' would add to the honour of the nation, to 'the Dignity of the Crown of Great Britain', and 'tend greatly to the advancement of the Trade and Navigation thereof'.<sup>150</sup> To these ends, Cook was accompanied by a party of scientists, including astronomers and naturalists, most famously the botanist Joseph Banks, who were to help him observe the nature and properties of the geography, fauna, and flora of any lands he encountered, and to bring home specimens of any rocks, minerals, seeds, fruits, and grains it was practicable to collect.



Map of the world, 1630. This map shows the mythical southern continent *Terra Australis Incognita*, which Cook was sent in search of, and was the first widely available map to show any part of Australia.

Cook was also instructed to 'observe the Genius, Temper, Disposition and Number' of any 'Natives'. With 'the Consent of the Natives' he was instructed 'to take possession of Convenient Situations in the Country in the Name of the King of Great Britain'. If Cook found any country uninhabited, however, he should simply 'take Possession for his Majesty by setting up Proper Marks and Inscriptions, as first discoverers and Possessors'.<sup>151</sup>

Cook's instructions in part reflected the eighteenth-century British concerns which helped bring an end to

slavery within Britain itself at about this time (though not British involvement in the slave trade, nor in its empire).<sup>152</sup> Cook was urged by the Royal Society's President the Earl of Morton to

exercise the utmost patience and forbearance with respect to the Natives . . . To check the petulance of the Sailors, and restrain the wanton use of Fire Arms. To have it still in view that shedding the blood of those people is a crime of the highest nature: – They are human creatures, the work of the same

omnipotent Author, equally under his care with the most polished European; perhaps being less offensive, more entitled to his favor.

Instead of the use of force, Cook was advised that '[t]here are many ways to convince them of the Superiority of Europeans'.<sup>153</sup>

How Cook's voyage opened contact between Māori in the Bay of Islands and the wider world is a subject of our next chapter. We have discussed Cook's instructions here, however, because they so clearly mirror the motives, values, and institutions of the British authorities who sent him forth. They illustrate that British science and imperialism were conjoint enterprises. They show the intense British desire to expand its trade, and where 'convenient' its Empire, through acquiring newly discovered lands. And they demonstrate a belief that 'Natives' awed by Europeans' superiority in so 'many ways' might be persuaded to give up authority and possession over their own lands.

The ambitious nature of Cook's instructions demonstrates a powerful belief in British cultural superiority and national destiny. A spectacular series of victories over France (and Spain) in the Seven Years War (1756–63) redrew the imperial map in North America, forcing out the French entirely and evicting Spain from Florida; France also had to relinquish valuable 'sugar islands' in the West Indies, and allow the British to consolidate their presence in India. These victories made Britain the world's pre-eminent imperial and naval power, and helped bind the British together as a nation.<sup>154</sup>

There was tremendous pride in British institutions of government. These provided protection for core British elite values such as the importance of the rule of law, the sanctity of private property rights, the advance of science and reason, and the spread of Christ's Protestant gospel.<sup>155</sup> British imperialism, based on naval power, relied heavily on advances in scientific fields such as astronomy, navigation, and cartography.<sup>156</sup> Underpinning both the pursuit of knowledge and empire was a belief that British expansion fulfilled God's purposes.<sup>157</sup> The spread of civilisation, commerce, and Christianity was thus the holy trinity of British

imperialism generally, not least to evangelicals seeking to save native souls.<sup>158</sup>

In the following sections, we briefly explore the history of the institutions, beliefs, and values which the British of the mid-eighteenth century saw as key to their identity and their power.

### 2.3.2 The power of property rights

Despite Parliament's power, Britain in the mid-eighteenth century was not yet a democracy as we now know it. Only a small proportion of the population could vote, being roughly one in 10 men who owned a sufficient quantity of land and other property, and who were neither Catholic nor Dissenters.<sup>159</sup> But a much smaller group of a few thousand aristocrats and gentry dominated Britain, controlling Parliament, the legal system, and the armed forces. A principal source of their power and status was the wealth they derived from their ownership of substantial lands. Agriculture remained the principal source of wealth, and four or five thousand individuals owned three quarters of all agricultural land in Britain.<sup>160</sup> This tiny group leased most of their land to tenant farmers, who in turn exploited a mass of landless labourers.<sup>161</sup>

Britons in the mid-eighteenth century experienced unprecedented increases in agricultural production, and a rising and increasingly urban population. British elites attributed much of the improvement in production to the power of private property rights.<sup>162</sup> This followed a European tradition stretching back to antiquity that associated 'improvement' with the individual ownership of land, most famously elaborated by the seventeenth century British philosopher John Locke.<sup>163</sup> Individual property rights were the hallmark of commercial civilisations based on agriculture.<sup>164</sup> Indeed, the word 'improvement' originally meant to put to a profit, and in particular applied to the transformation of open fields or common land into individual ownership, through the process of 'enclosure'.<sup>165</sup> This process had long been under way in Britain, but as late as 1700, about half the arable land in England remained treated as common. Enclosure accelerated markedly throughout Britain, however, in the eighteenth century.<sup>166</sup> Common rights to resources such as

pasture or firewood were eroded as access was restricted to individual owners.<sup>167</sup> Simultaneously, many wetlands were drained, and forests destroyed. Much more was produced, but it was controlled by fewer people.<sup>168</sup>

Whole rural communities were dislocated through this agricultural revolution, supplying an urban workforce (and a pool of potential colonists) to a Britain that was just beginning to industrialise.<sup>169</sup> Meanwhile, in London, and also in ports such as Glasgow, Liverpool, and Bristol, an increasingly prosperous and powerful merchant class provided British global trade with most of its capital and credit.<sup>170</sup> British society was thus in flux in the mid-eighteenth century; what, however, of British identity?

### 2.3.3 The emergence and expansion of Europe

Britain in the mid-eighteenth century was at the forefront of a Europe in ferment. Revolutions in politics, culture, science, agriculture, finance, and industry were transforming it into a rich and powerful civilisation of ever-increasing global reach.<sup>171</sup>

Europe's new-found power and confidence represented a profound change. Its consolidation in the centuries following the collapse of the western Roman Empire in the fifth century had suffered serious setbacks when it was riven by war, and wracked by famine and plagues towards the close of the Middle Ages, most significantly in the fourteenth century Black Death, which carried off perhaps a third of Europe's population.<sup>172</sup> By the fifteenth century, however, there had emerged a new Europe, of Christian states with a common elite culture, similar institutions, and a fairly integrated economy.<sup>173</sup> Some of those states then began an expansion beyond Europe, as first Portugal and Spain, then the Dutch, French, and the British, all established colonial empires on the edges of Africa, Asia, and in the Americas. Europe's dynamism from the sixteenth century was stimulated by trade, plunder, slavery, and (over time) settlement in the American 'new' worlds especially.<sup>174</sup>

Increasing contact with the wider world gave a renewed focus to the question of identity, and what it meant to be European and, later and more particularly, British. This was not at issue for most European people, who were

overwhelmingly rural, with horizons limited to family, village, and perhaps religion.<sup>175</sup> Europe's educated elites, including British elites, however, had much more in common with one another than they did with either the rural peasantry or the growing urban working class. Europe does not have a clear boundary with Asia and so has always been culturally defined. It was the establishment of the Roman Empire, above all, which created an enduring idea of Europe as the centre of civilisation.<sup>176</sup> After the Roman Empire's collapse its pieces, including Britain, were first re-forged as medieval Christendom, to be defended against the barbarian and infidel.<sup>177</sup> Following the Enlightenment, European elites reconceived of themselves as the civilised heirs of Greek thought and the Roman Empire, fused together in particular by a common system of law and conception of property.<sup>178</sup>

There is remarkable continuity to the cultural power of law in Europe. Herodotus, the father of history who lived in the fifth century BC, held that individual Greek citizens were free because, unlike Asians, they were not subject to the will of any other individual, but only to the law.<sup>179</sup> The origin of law was the city — the Greek *polis*, the Roman *civitas* — from which derives the European vocabulary of politics, police, and civilisation.<sup>180</sup>

Eighteenth century Enlightenment thought considered that, just as all people were created equal before God, all cultures could aspire to civilisation. In this 'statal' view of human development, there were several rungs to be climbed up the ladder of civilisation, as peoples rose from being hunter-gatherers, through pastoralists, to becoming agriculturalists.<sup>181</sup> Eighteenth-century elite Europeans regarded their civilisation as founded upon agriculture, and very powerful connections were made between the practice of agriculture and the right to property. But, just as it had been for Greeks and Romans, civilisation's crowning stage was the city and its commerce, secured by the laws provided by a settled form of government.

As we shall see, educated eighteenth-century Britons found this vision of human individual and social perfection especially attractive. Britons began to believe that they could help other peoples achieve such a vision in the course of incorporating them into the British Empire.



The Thames and Westminster Bridge from the north, circa 1750. The bridge symbolised the growth of London into a city from where political power was wielded around the globe.



### 2.3.4 The state of the nation: British sovereignty and government

George III, King of the United Kingdom of Great Britain and Ireland, and Supreme Governor of the Church of England, sent Cook south. King George's power was restrained by Parliament. In this respect, the British saw themselves as very different from other Europeans – especially their great rivals the French and Spanish – most of whom were ruled by absolute and Catholic monarchs.<sup>182</sup> The British establishment understood their constitutional history as distinguished by the struggles to extricate themselves from the authority of the Catholic Church, and to make their monarchs subject to the will of the people, as expressed by Parliament, and through law.<sup>183</sup>

Key constitutional documents symbolised and conveyed this understanding of British history. The most famous was the Magna Carta (Latin for 'Great Charter') of 1215, through which the King was forced to guarantee individual rights and liberties against the monarch's authority, and to make that authority subject to 'the law of the land'.<sup>184</sup> These rights included security of property, and personal liberty, in particular the right to freedom from imprisonment without a trial by jury. Also of great constitutional significance was the Bill of Rights 1688, through which the King of England relinquished to Parliament almost all significant powers.<sup>185</sup> The 'cult of Parliament' was shared by English, Welsh, and (after the Union of 1707) Scottish ruling elites, as an emblem of being British: a people whose constitution uniquely assured their ancient rights and liberties.<sup>186</sup> A third key constitutional document was the Act of Settlement 1700 – still in force in Britain and the Commonwealth today – which was passed 'for the further limitation of the Crown, and better securing the rights and liberties of the subject'; it both compelled the monarch to accept the independence of the judiciary, and ensured a Protestant succession by barring any Catholic (or anyone married to a Catholic) from ascending to the throne.<sup>187</sup>

The changing balance of power between the monarch and Parliament had the effect of reducing the monarch's role in executive government. Over the course of the eighteenth century, monarchs were increasingly required

to act on the advice of their Cabinet Ministers, who together formed the government of the day. This was a complex and fitful process of constitutional change, and one that was very far from complete in the 1760s. The influence of King George III in government was 'still potentially strong'.<sup>188</sup> The constitutional convention that Britain's government should be provided by a politically aligned Cabinet, presided over and led by a prime minister who owed his position to the support of Parliament (not the favour of the monarch), was only just being 'securely established' at the time of the treaty.<sup>189</sup>

This indeed became – certainly by 1840 – the 'principal convention of the British constitution': that (save in very few exceptional circumstances) the monarch must exercise his or her formal legal powers 'on and in accordance with ministerial advice'.<sup>190</sup> This meant that the monarch's powers to govern were in effect those of the Ministers of the Crown, who together formed the government drawn from Parliament. Thus, the Crown – the monarch in his or her public capacity as an institution, rather than as a person – had become for all significant purposes synonymous with Her Majesty's Government.<sup>191</sup> The concept of the state captures this meaning of 'the Crown'.<sup>192</sup>

Just prior to Cook's voyage, William Blackstone's *Commentaries on the Laws of England* provided the definitive statement on the British constitution in 1765. Blackstone defined sovereignty as "a supreme, irresistible, absolute [and] uncontrolled authority" which must exist in every form of government. As Blackstone explained, the sovereignty of Britain was by now in effect lodged in Parliament, itself made up of three independent powers, the monarch, the House of Lords, and the House of Commons.<sup>193</sup>

Parliamentary rule through the making of law reflected, said Blackstone, the fact that the 'spirit of liberty' was 'deeply implanted in our constitution, and rooted even in our very soil'.<sup>194</sup> Thus, it was believed, liberty defined what it meant to be British.<sup>195</sup> The conjunction of liberty and law was for eighteenth century Britons, some suggest, 'a supreme ideology', even 'a form of religion'.<sup>196</sup> According to Blackstone, three rights or liberties were primary, and in combination ensured that all British individuals were

'perfectly free': 'the free enjoyment of personal security, of personal liberty, and of private property'.<sup>197</sup>

### 2.3.5 Being British in the mid-eighteenth century

British identity by the mid-eighteenth century was founded on 'Protestantism, social openness, intellectual and scientific achievement, and a prosperity based upon trade'. Above all, as we have seen, it was based on constitutional liberty.<sup>198</sup> Indeed, eighteenth century Britons thought the reasons for both Britain's break with Rome, and for its commercial success, were 'the intellectual and political independence of the free-born Englishman'.<sup>199</sup> In E P Thompson's words, liberty – popularly conceived of as the British 'birthright' – encompassed a moral consensus consisting (as noted above) of security of property, above all, but a host of other notions also:

Freedom from absolutism (the constitutional monarchy), freedom from arbitrary arrest, trial by jury, equality before the law, the freedom of the home from arbitrary entrance and search, some limited liberty of thought, of speech, and of conscience, the vicarious participation in liberty (or in its semblance) afforded by the right of parliamentary opposition and by elections and election tumults (although the people had no vote they had the right to parade, huzza and jeer on the hustings), as well as freedom to travel, trade, and sell one's own labour. Nor were any of these freedoms insignificant; taken together, they both embody and reflect a moral consensus in which authority at times shared, and of which at all times it was bound to take account.<sup>200</sup>

The eighteenth century proclaimed itself an enlightened age, and Britons of all classes were encouraged to use reason to improve themselves – technologically, scientifically, and morally. Yet, for all the advancements in understanding of the natural world, most Britons – even including the educated – still inhabited a world peopled by spirits, ghosts, demons, sorcerers, and witches. Furthermore, many educated Europeans believed fearsome giants guarded the entrances to the Pacific Ocean at Van Diemen's Land, and Tierra del Fuego. So, as Professor Dame Anne Salmond has noted, though this was the Age

of Reason, 'fantasy was far from dead, and the worlds that came together' in the meeting of British and Pacific peoples 'were as much imaginative as real'.<sup>201</sup>

In this respect, it is also important to remember that science and religion were still in harmony: Isaac Newton knew the world as one planet among many in a universe ruled by scientific law, yet he saw no contradiction in identifying this as God's divine or natural law also.<sup>202</sup> Scientific enquiry was a matter of natural theology, in which the world was the pages of God's mind laid open to the inquiring and systematic mind of man that was extending and disseminating knowledge in every direction at marvellous speed.<sup>203</sup> The three volumes of the first edition of the *Encyclopaedia Britannica* were published between 1768 and 1771, just as Cook was sent to explore the Pacific. Reading and writing became much more widely practised in Britain at this time. Literacy was critical to the ongoing construction of being British.<sup>204</sup> Commercial achievement in an increasingly contractual age also placed a premium on literacy. And, above all Protestant identity depended on reading one's Bible.

The British were increasingly busy spreading 'the good word' too: evangelicalism had been on the rise throughout Britain and its colonies from the 1730s, as religious practice increased and diversified.<sup>205</sup> Evangelicals initially concerned with irreligious British soon began to turn their attention to other peoples.<sup>206</sup> This reflected an ever-deepening cultural commitment to empire as integral to British identity. It was, asserted one cleric in 1759, not just a duty but a British 'Birthright' to spread 'the purest Light of the Gospel, where Barbarism and Ignorance totally prevailed'.<sup>207</sup> For, as we now explore, by the mid-eighteenth century Britain's power and the British people's sense of who they were was increasingly bound up in the idea of empire.<sup>208</sup>

### 2.3.6 Imperial Britain

Britain came late to empire, but by the mid-eighteenth century was the pre-eminent imperial power. After the Seven Years War, the Empire was seen as not just economically significant, but vital to Britain's standing as a great power.<sup>209</sup> Indeed, it was for the first time conventional for

Britons to speak and write about ‘the British Empire’.<sup>210</sup> While that Empire had both formal and informal components, for our purposes we generally use the term to relate to formally acquired territories.

The legal basis for the expansion of the British Empire was the royal prerogative powers – the monarch’s powers that can be exercised without reference to Parliament.<sup>211</sup> While the royal prerogative was once the source of a broad range of powers held by the reigning monarch, over time, as we have seen, those powers were whittled away by Parliament and the courts so that they became ‘the residue of discretionary or arbitrary authority . . . legally left in the hands of the Crown’ (the executive government).<sup>212</sup>

The prerogative powers of the Crown to act independently of Parliament remained more intact abroad, and especially in the Empire, than they were in the realm of Britain. Two prerogative powers are especially significant for our purposes. First, the Crown has always had the power to conduct foreign affairs, including the power to acquire new territory.<sup>213</sup> Second, the Crown has certain prerogative powers to establish the institutions of government (legislative, judicial, and executive) in that territory.

The Crown’s prerogative power meant that ‘[m]onarchy was at the legal core of the Empire’.<sup>214</sup> Well into the eighteenth century, the expansion and governance of empire was a matter of royal authority in name and in fact.<sup>215</sup> All colonies required royal authorisation, for no body of British subjects abroad could presume to govern themselves without royal permission.<sup>216</sup> Further, the formal Empire’s governance long remained founded on the authority of the monarchy, through ‘royal approval of relevant Parliamentary legislation, royal proclamations, appointment and instruction of royal Governors, [and] review of acts passed by colonial legislatures’.<sup>217</sup>

However, by Cook’s time Parliament was ‘the ultimate arbiter’ of the empire also.<sup>218</sup> The British Parliament was asserting the authority to make law for all British colonies, and to regulate the whole Empire. From the mid-seventeenth century, a series of Navigation Acts, for example, required all colonial trade in key commodities such as sugar and tobacco to be funnelled back to Britain, and required all goods destined for the colonies to pass

through Britain first. In doing so, they created the empire as a unified trading area.<sup>219</sup> Most famously, in the 1760s the British Parliament would assert the power to tax its colonies, which challenged American colonists’ perception that liberty was the essence of being British and provoked them into rebellion.<sup>220</sup> Subsequently, the American Revolutionary War of 1775 to 1783, which resulted in the loss of the 13 colonies that were to become the United States, would prompt British authorities to reconsider how to allow British subjects the liberty to govern themselves.

From the outset, the engagement with empire had posed fundamental questions about the basis upon which British legal authority could be established beyond the realm. Initially, the focus was how to justify a legal jurisdiction to control and discipline British people trading and settling beyond the boundaries of Britain. The British were not especially concerned with exercising a legal authority over indigenous peoples.<sup>221</sup> This reflected the fact that Britain, like other European powers, was focused on building a maritime trading empire. Eventually, the ‘most distinctive feature of the future British Empire’ was ‘the prominent place enjoyed by colonies of white settlement’, but establishing such colonies was a slow and uneven process. British bridgeheads onshore only gradually extended to become substantial settlements.<sup>222</sup> Meanwhile, relationships with the surrounding indigenous peoples were framed by strategic or trading considerations.<sup>223</sup>

As a result, according to Paul McHugh, British imperial practice during the seventeenth and eighteenth centuries did not deny ‘the political and legal distinctiveness of the native polities’ within their colonies. Rather, it invariably left their political structures intact, and indeed wherever possible ‘relied upon collaboration with such indigenous structures’.<sup>224</sup> This practice reflected

the notion of sovereignty that then prevailed, one that could simultaneously claim Crown sovereignty whilst also recognizing the continuity of the indigenous polity and the exemption of indigenous peoples from English law [in their dealings among themselves].<sup>225</sup>

But over time, the British answers to the questions of

how legal authority could be established in new areas of empire changed. Their answers evolved along with their imperial experience, and indeed that experience also shaped how they conceived of the key ideas at issue, of sovereignty, property, and subjecthood.<sup>226</sup> It is important, at this point, to stress the diversity of the British Empire; the British developed many different ways and means of applying their authority, depending on local circumstance. Only a few general points on British imperial practice are therefore useful at this stage.

First, wherever the British went they remained wedded to the belief that their relations with other peoples had to be legitimised.<sup>227</sup> They renounced ‘the image of their Empire as one based on conquest’, even though conquest was an acknowledged mode of acquiring colonies.<sup>228</sup> Indeed, as McHugh has emphasised, the British almost invariably made treaties whenever and wherever their empire went:

Britain willingly treated as sovereign any non-Christian polity enjoying a perceptible degree of political organization, this recognition requiring the presence of rulers and leaders with whom it could negotiate.<sup>229</sup>

In these respects, Britain’s imperial practice concerning the relations between nations was affirmed and influenced by the eminent Swiss jurist Emmerich de Vattel, whose *The Law of Nations* (as translated into English in 1765) argued that all nations, no matter how small, are independent and equal. The theory, if not necessarily the practice, had it that regardless of their relative power, no nation could lawfully interfere with another without consent.<sup>230</sup> In McHugh’s view, Vattel’s work ‘became the handbook of the Foreign Office’, making Britain’s imperial practice explicable on no basis ‘other than something approaching Vattel’s theory of independent and equal state sovereignty’.<sup>231</sup>

If so, others of Vattel’s arguments had perhaps more troubling implications for British imperial practice. Vattel argued that the Law of Nations would

only recognise the ownership and sovereignty of a Nation over unoccupied lands when the Nation is in actual occupation of

them, when it forms a settlement upon them, or makes some actual use of them.<sup>232</sup>

For, in similar vein to the stadal view of human development outlined earlier, Vattel considered that ‘The cultivation of the soil is an obligation imposed upon man by nature’, so that those who ‘despise’ it, ‘fail in their duty to themselves . . . and deserve to be exterminated like wild beasts of prey’.<sup>233</sup> This was already an old thought. Locke had said much the same a century earlier when arguing that ‘in the beginning all the world was America’, and that in such a state of nature, those opposing the European right to occupy vacant lands might ‘be destroyed as a Lyon or a Tyger, one of those wild Savage Beasts, with whom Men can have no Society nor Security’.<sup>234</sup>

It is, indeed, the long and very varied British experience in America which did much to inform its approach to the new theatres of empire in the Pacific, including New Zealand, that voyages such as Cook’s had opened up to the rival European powers.

From the early seventeenth century numerous royal Charters provided rights to establish colonies and to settle over vast territories in North America that paid no regard to whether the land was already inhabited.<sup>235</sup> The first charter of Virginia, for example, granted to a handful of colonists all ‘the Lands, Woods, Soil, Grounds, Havens, Ports, Rivers, Mines, Minerals, Marshes, Waters, Fishings, Commodities, and Hereditaments’ to be found there.<sup>236</sup>

Since the charters largely ignored the existence of the original Native American inhabitants, it was left to the various colonies that they authorised to decide how to engage with them. As McHugh notes, ‘this created a patchwork’ of policy. Nevertheless, it is perhaps possible to describe some broad ‘patterns of similarity’.<sup>237</sup> For, despite extraordinary devastation wrought by disease that left colonists marvelling at how God had ‘cleared the land’ for them, the British in all their various colonies did have to engage with Native American peoples, and under broadly similar circumstances.<sup>238</sup>

First, relations with Native American tribes were often ‘based upon treaty or compact’.<sup>239</sup> Secondly, the settlers bought Native American land more often than they took

it. Indeed, the various colonies all regulated sales within a short time, and, henceforth, government purchase of Native American land preceded grants to settlers.<sup>240</sup> Crucial to this policy was the early recognition that the Indians of eastern North America were agricultural peoples with a clear system of property rights.<sup>241</sup> The British colonists bought land because it suited them: it was much easier and cheaper to buy from Native Americans than to fight them (and besides they were needed as allies against the French).<sup>242</sup> Thirdly, during the late sixteenth and for some way into the seventeenth century they also typically sought to accommodate those peoples within the Christian and civil community.<sup>243</sup> The hope that this could be achieved was often expressed by making comparisons between Native Americans and Ancient Britons, who had been civilised by the Romans, through persuasion and force; as one observer put it, ‘The Roman swords were best teachers of civility to this and other countries near us’.<sup>244</sup>

These British policies concerning Native American people and property had differing fortunes. The various British colonies continued to declare that land should preferably be purchased, not plundered. However, as settler land hunger grew, the colonies also acquired Native American land through violence and war. Many wars were fought, and when the colonies won them they always took land, even if they did not generally acknowledge that these wars had been fought in order to acquire land.<sup>245</sup>

The British policies for integrating Native American peoples as citizens of the civic and Christian community in eastern North America were even less consistently followed.<sup>246</sup> Instead, through disease, war, and landlessness Native American peoples all along the eastern seaboard were reduced either to occupying very marginal positions on the fringes of settler society, or were isolated and separated from settlers in what were already, in effect, reservations.<sup>247</sup>

In the end, after much resistance, and at the closure of the Seven Years War, the British imperial authorities intervened and attempted to close off the colonial frontier. They did so through the Royal Proclamation of 1763, which attempted to stop the spread of uncontrolled

settlement by drawing a line right along the Atlantic watershed from Florida to Quebec.<sup>248</sup> This was necessary, the Proclamation explained, so that Native Americans west of that line ‘should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been Ceded to or Purchased by Us, are reserved to them’.<sup>249</sup>

McHugh suggests that the Proclamation represented a ‘pivotal moment in the history of imperial Britain’s relations with aboriginal peoples’<sup>250</sup> Through it, British authorities intended to take over colonial relations with the Native Americans in the unsettled area, and contain settler aggression, by establishing a peace, conducting treaties, and controlling land sales. The British authorities therefore proclaimed that only the Crown could buy Native American land in the vast area west of the Atlantic watershed.<sup>251</sup> Needless to say, settlers, whose numbers were now growing very rapidly, chafed at their confinement, and their dissatisfaction contributed to their subsequent rebellion.<sup>252</sup>

Indeed, it is this time, immediately prior to Cook’s voyage, that represents a significant turning point in the character of the British Empire, and in particular its engagement with indigenous peoples. After the Seven Years War, Britain gained control of territories containing large non-Christian populations, especially in India, and British rulers throughout the empire now became increasingly preoccupied with asserting authority over other peoples and their lands.<sup>253</sup> At the same time, emigration began to surge, especially to America.<sup>254</sup> This was also the point when both in North America and in India the former empire of maritime trade began to change. In parts of India and elsewhere, the British went to war and became rulers through conquest.<sup>255</sup> In America, the empire became ever more clearly a matter of white settlement and domination. Unsurprisingly, the British notion of sovereignty became more exclusive, and less accommodating of indigenous political authority within the formal boundaries of Empire.<sup>256</sup>

Britain soon lost the American (but not the Canadian) colonies and it then established a foothold in Australia. As the British imperial theatre expanded out from that

foothold to become a presence throughout much of the Pacific, the lessons it would draw from its long and ongoing experience in applying empire in the new world remained open questions. Would the British Crown recognise Pacific peoples as sovereign, and seek treaties with them as they generally had with indigenous peoples elsewhere? Would they continue to buy land – or try to take it? Would the Crown renew a commitment to assimilation, or would it seek to separate Pacific peoples from settlers as had become the practice in America? And, while interacting with Pacific peoples, how would the Crown accommodate settler expectations that they would enjoy both English law, and the liberty of self-government? As we shall see, the evolving answers to such questions shaped how the British Crown began to approach New Zealand.

## 2.4 CONCLUSION

For all of their differences, the Māori and British views of the world were united by one thing: both typically saw their own lives as expressions of their relationships with their gods. For Māori, divinity was expressed through whakapapa, and infused all aspects of creation. Ultimately, there was Te Korekore, the absolute nothingness, from which emerged atua who guided, motivated and authorised all actions among living people. For most British people, there was one God, whole and indivisible, with whom each individual could enjoy a personal relationship, advancing himself or herself in life by doing good deeds, working hard, reading the Bible, and otherwise acting in ways that were seen as reflecting Christian values. From these different conceptions of how the universe was organised, and from different experiences within the temporal world, there had evolved distinct values systems, distinct approaches to social and economic relationships, and distinct systems of law and government.

In the Māori world, Te Korekore was the ultimate source of law, authority, and indeed life itself. From there flowed wairua and mauri, infusing all things. From there, too, flowed the whakapapa through which all things were connected by bonds of kinship. A fundamental imperative

was to maintain spiritual purity – tapu – in all living things. Without that purity, they had no mana, no authority to act in the temporal world. Where tapu was violated, action must be taken to restore it and so restore balance among Te Korekore's offspring. This was utu.

In practical terms, the mana flowing from Te Korekore rested with hapū, who were groups of families united by bonds of kinship. It was hapū who held authority in relation to land and other resources such as fishing grounds, cultivations, pā, waka and whare tūpuna. In turn, a portion of their collective mana flowed to their rangatira, their 'weavers of people', who acted as guides, mediators, managers, diplomats and leaders in war. Rangatira sometimes wielded considerable power, but it was a power exercised with hapū consent.

Both within and between hapū, the system of law was based on tapu and utu, applied as circumstances demanded. Guidance on how those principles might apply could be found in kōrero about the actions of tūpuna, which also provided guidance on who had authority in any given place or situation. Specific ritenga could be laid down by those who were sufficiently tapu, and rāhui could be imposed, but only for so long as those actions served the underlying spiritual requirements. Violations of tapu could be punished either in the physical or spiritual worlds. In the physical world redress would be sought by kin of the affected party, against kin of the offender. That redress could include mākutu (spiritual curses), stripping of possessions, or death, depending on what was required to restore tapu; equally, tapu could flow back to the offended party through restorative actions such as gifts, feasting and intermarriage – all of which were common as means of restoring peace between conflicting parties.

There were, by the time Cook sailed onto the horizon, dozens of hapū in the Hokianga and the Bay of Islands. All were autonomous, and all exercised authority over the entirety of their own territories and the people within them. Many of these hapū were also linked by bonds of kinship. Those who were close kin were used to cooperating – sharing access to fishing grounds, working together on common cultivations, and forming military alliances to defend their territories or attack the territories

of more distant kin or non-kin. Yet, just as these groups could cooperate, they could also compete and fight among themselves. In Māori eyes, this complex interplay of cooperation and rivalry involved no contradiction: under customary law, each hapū simply acted as tapu and utu demanded in any given circumstance. Whether acting together or separately, none relinquished its own autonomy.

Whereas Māori authority was distributed, British authority remained highly centralised. Sovereignty resided in Parliament – the monarch, lords and commons. It was Parliament that made law, delegating the application and administration of that law to courts and the various agencies of executive government. The king or queen was the nominal head of state but was not above the law. Individuals, in this system, ostensibly had rights and freedoms which the law protected, most particularly the rights to personal security, personal freedom and private property.<sup>257</sup> For the British elite, this system of British law existed alongside a system of values, which included Protestant virtues such as thrift, hard work and dedication to a personal God, as well as Enlightenment ideas of intellectual progress and material prosperity. These values, together with personal and property rights, were seen as having secured British people unprecedented material, technological and spiritual advancement, and as supporting the rise of its empire. Britain, in British eyes, was the apex of civilisation.

From 1769, the worlds of imperial Britain and Māori would collide. Over the following 71 years, there would be conflict and misunderstanding; there would be trade, intermarriage, and sharing of ideas and technology. Each people, at times, would seek to impose its values on the other, and each, at times, would also bend its own rules in order to smooth its relationships with the other. Just how far those accommodations and adaptations went is a key part of our story, as indeed is the question of whether either people came to dominate the relationship, asserting its own systems of law and authority over the other. We begin that story now, as 12-year-old Nicholas Young becomes the first person on HMS *Endeavour* to sight land.

## Notes

1. Patu Hohepa, in his evidence to the Ngāwhā Tribunal, said: ‘The descent lines from Kupe flow to both Nukutawhiti and Ruanui.’ In the case of Nukutawhiti’s descent from Kupe, Hohepa referred to whakapapa written down by the prophet Aperahama Taonui in 1848: doc A37(b), p 64. Höne Sadler, in his evidence to this Tribunal, described Nukutawhiti’s descent from Kupe: transcript 4.1.1, pp 147, 153, 159.
2. Transcript 4.1.1, p 94; doc A37(b), pp 30, 68; doc A37, pp 114–115; Jeffrey Sissons, Wiremu Wi Hongi and Pat Hohepa, *The Pūriri Trees are Laughing: A Political History of Ngā Puhi in the Inland Bay of Islands* (Auckland: The Polynesian Society, 1987), pp 51, 53; doc A25(a), p 35; Malcolm McKinnon, ed, *Bateman New Zealand Historical Atlas: Ko Papatuanuku a Takoto Nei* (Auckland: Bateman, 1997), plate 18. Ruanui is sometimes referred to as Nukutawhiti’s brother-in-law and sometimes as his nephew. According to Patu Hohepa, Ruanui was Nukutawhiti’s nephew by marriage: that is, Ruanui was the son of Te Hou-o-te-Rangi, the brother of Nukutawhiti’s wife Aniwanika: doc A37(b), p 68.
3. Document A25(a), pp 2–9; doc B10, p 13; transcript 4.1.1, pp 146–147, 158–159, 169–170, 173–174, 176–177, 309; doc B18(a), pp 14–15; see also Te Ahukaramū Charles Royal, ed, *The Woven Universe: Selected Writings of Rev Māori Marsden* (Otaki: Estate of Reverend Māori Marsden, 2003), pp 16–22
4. Document A25(a), p 2
5. Royal, *The Woven Universe*, pp 20–22, 47; doc A25(a), pp 2–3
6. Document A25(a), pp 3–12, 15–16; Royal, *The Woven Universe*, pp 11, 16–22, 48, 60–62, 95; transcript 4.1.1, pp 38–39, 44–45, 168–170, 173–174
7. Document A25(a), pp 6–8; Royal, *The Woven Universe*, pp 11, 16–22, 48, 60–62, 95; transcript 4.1.1, pp 38–39, 44–45, 168–170, 173–174. In some traditions, it was Tāwhaki who ascended to the heavens to obtain the baskets of knowledge: doc A37, pp 36, 40–41, 49–50.
8. Document A25(a), pp 5–8, 11–14, 21–22; Royal, *The Woven Universe*, pp 16–22, 60–62, 95
9. Document A25(a), pp 24–27; transcript 4.1.1, pp 79–80, 82–83
10. Document A25(a), pp 2–3; Royal, *The Woven Universe*, pp 16–18, 31–33, 62; transcript 4.1.1, pp 146–147, 158–159. The existence of Io as a pre-European belief is the subject of ongoing discussion. Some scholars have argued that there is no evidence of Māori having any concept of supreme being prior to contact with Europeans and that Io is a post-colonial construct: see Basil Keane, ‘Traditional Māori Religion – Ngā Karakia a te Māori – Ngā Atua – The Gods’, in *Te Ara – the Encyclopaedia of New Zealand*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/traditional-maori-religion-nga-karakia-a-te-maori/page-1>, last modified 10 April 2013, which refers to Peter Buck, *The Coming of the Maori*, 2nd ed (Wellington: Whitcombe and Tombs, 1950), p 526.

Manuka Henare, in his doctoral thesis, acknowledged that metaphorical descriptions of Io as ‘supreme creator’ may have been influenced by Christianity, but nonetheless argued that belief in Io as an originating cosmic source of power predate European influence: doc A16, p 73. Several claimants giving evidence to the Tribunal during the first week of hearings referred to Io as a source of all creation. Rima

- Edwards also explained how the spirit of Io is seen as inhabiting every person: doc A25(a), pp 17–18.
11. Royal, *The Woven Universe*, pp 55–56
  12. Document A25(a), pp 8–9
  13. Ibid, p 12
  14. Ibid, pp 27–30
  15. Transcript 4.1.1, pp 170, 175; see also doc A25(a), pp 43–69. We also note the view of Tom Murray that ‘Maori believed that nothing could be achieved on or under the land without spirituality at the beginning. Maori today believe that spirituality is the beginning of everything’: doc B25, p 5. Similarly, we note the view of Nuki Aldridge that ‘To Maori, if a thing did not possess a wairua then it could not possess form – it would be lifeless, and so decay’: doc B10, p 19. Manuka Henare (doc B3, p 18) referred to ‘Māori vitalism [which] is the belief in an original singular source of life in which life continues as a force, which imbues and animates all forms and things of the cosmos. Accordingly, life itself cannot be reduced to matter or form and in Māori thought; life itself is independent from form. See also doc B3, pp 10–17, 22–26.
  16. Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity, Te Taumata Tuarua*, 2 vols (Wellington: Legislation Direct, 2011), vol 1, p 64; doc A37, pp 131–141
  17. Anne Salmond, *Between Worlds: Early Exchanges Between Maori and Europeans, 1773–1815* (Auckland: Penguin Books, 1997), p 176; doc A37, p 156
  18. Royal, *The Woven Universe*, pp 41–42
  19. Document B25, p 8
  20. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, pp 13, 17, 35–37; see also doc A25(a), pp 12–13
  21. Document A25(a), pp 8–9
  22. Ibid, p 17
  23. Royal, *The Woven Universe*, pp 44, 47, see also pp 19, 49, 60, 70
  24. Ibid, p 5
  25. Ibid, pp 5–7; see also Michael Shirres, ‘Tapu Being with Potentiality for Power’ (MA thesis, University of Auckland, 1979), pp 17–21, 23–27
  26. Royal, *The Woven Universe*, pp 48–49
  27. Document A25(a), pp 16–17
  28. Royal, *The Woven Universe*, p 5
  29. Ibid, pp 4–6
  30. Document A25(a), pp 9–10; see also transcript 4.1.1, pp 176–177
  31. Transcript 4.1.1, pp 178, 182
  32. Edward Taihakurei Durie, ‘Custom Law’ (Wellington: Stout Research Centre, Victoria University, 1994), p 62
  33. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, p 37
  34. Document B10, p 53
  35. Document A37, p 302
  36. Durie, ‘Custom Law’, p 54
  37. Ibid, pp 43–44, 54–55; doc A37, pp 156, 322; doc B10, p 30; doc A25(a), pp 14–16; doc A1, pp 48, 51, 57; doc A11, pp 18, 192; Khylee

- Quince, ‘Maori and the Criminal Justice System in New Zealand’, in *Criminal Justice in New Zealand*, ed Warren Brookbanks and Julia Tolmie (Auckland: LexisNexis, 2007), pp 339–340
38. Document B10, pp 27–31; Durie, ‘Custom Law’, pp 3–10; doc A37, pp 133, 237, 302, 313–314; Royal, *The Woven Universe*, pp 5, 56; Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, pp 16–17; doc A25(a), pp 9–10, 29–30; transcript 4.1.1, pp 172, 176–177; Quince, ‘Maori and the Criminal Justice System in New Zealand’, pp 336–341
  39. Document B10, pp 27–30; see also doc B18(a), p 36; doc A37, pp 313–314
  40. Durie, ‘Custom Law’, p 3
  41. Ibid, p 4; see also doc A37, pp 313–314
  42. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, p xxxiii
  43. Transcript 4.1.1, pp 171, 175
  44. Merata Kawharu, *Tāhuhu Kōrero: The Sayings of Taitokerau* (Auckland: Auckland University Press, 2008), p 89; doc A37, pp 51–53; doc A37(b), pp 63–64; doc A25(a), pp 33–35
  45. Document A37(b), pp 63–64; transcript 4.1.1, pp 91–93; see also transcript 4.1.1, pp 67, 73, 101, 108; doc A37, p 52. According to Hōne Sadler, Tumutumu-whenua was Kupe’s son, who was left behind at Te Puna o te Ao Marama and to whom Kupe’s words of farewell were directed: transcript 4.1.1, pp 157, 167.
  46. Document C9, pp 5–6
  47. Transcript 4.1.1, pp 93–95, 155, 166–167; doc A37, pp 78, 114–116, 169–170; doc A37(b), pp 65–66, 71; doc A25(a), pp 35–36; Angela Ballara, *Iwi: The Dynamics of Maori Tribal Organisation from c1769 to c1945* (Wellington: Victoria University Press, 1998), p 203. According to Edwards, Ngātokimatawhaourua is used interchangeably with Ngātokimatahourua as the name of Nukutawhiti’s waka. According to Edwards, after Kupe returned from Hokianga he bound the Matawhao to another waka, the *Aotea*, to create a wakahourua, a double-hulled waka. Before Nukutawhiti’s journey to New Zealand, he re-adzed Kupe’s waka to make it larger: this whao tuaruatanga (second adzing) was the origin of the name Matawhaourua: doc A25(a), pp 33–36. According to Edwards, Ngātokimatawhaourua is used interchangeably with Ngātokimatahourua: doc A25(a), p 35. Hohepa gave Nukutawhiti’s full name as Uenuku-mai-i-tawhiti, but distinguished him from Uenuku of Hawaiki: doc A37(b), p 28. According to Judith Binney, in some Ngāpuhi whakapapa Nukutawhiti precedes Ranginui and Papatūānuku: Judith Binney, *Stories Without End: Essays 1975–2010* (Wellington: Bridget Williams Books, 2010), pp 28–31.
  48. Document A37(b), pp 65–66; see also doc C9, pp 9–11
  49. Transcript 4.1.1, p 94; Sissons, Hongi, and Hohepa, *The Pūriri Trees are Laughing*, p 53; doc C9, pp 11–12
  50. Document C9, p 12; transcript 4.1.1, pp 94–95; doc A37, pp 78, 114–116, 169–170; doc A37(b), pp 65–66, 71
  51. Document A25(a), pp 36–37; doc A37, pp 113–127
  52. Document A37(b), pp 35, 48–50, 77–78; transcript 4.1.1, pp 105–108, 112–113, doc A37, p 116. Specifically, Hohepa referred to Te Rarawa, Te Aupōuri, Ngāpuhi, Ngāi Takoto, Ngāti Kuri, Ngāti Wai, Te Roroa, and Ngāti Whātua. Separately, he also referred to Te Parawhau’s

and Ngāti Kahu's kinship ties with these other groups: doc A37(b), pp 9, 50, 72, 78; transcript 4.1.1, pp 107, 111, 113. Hohepa and others gave further details of these overlapping whakapapa, explaining for example how Ngāti Ruanui, Te Rarawa, Te Aupōuri and Ngāti Kuri were all descended from Ruanui, but later intermarriage also linked them closely with Nukutawhiti's people: doc A37, pp 114–116, 169; doc A37(b), p 69. Sadler spoke about his Ngāti Moerewa whakapapa uniting Nukutawhiti's line with Rāhiri's: doc B38, p 3. Hohepa and Henare, Petrie and Puckey also explained how Ngāti Wai and Ngāti Manaia can whakapapa to Rāhiri, as can many who identify principally as Te Parawhau, Te Roroa, and Ngāti Whātua; and how Ngāti Rēhia can whakapapa both to Ngāpuhi and Ngāti Wai: doc A37, pp 197–201; doc A37(b), p 78; transcript 4.1.1, pp 218, 224; see also Ballara, *Iwi*, p 203.

**53.** Transcript 4.1.1, pp 103, 109; doc A37, pp 23–25, 45–47, 179–181, 366; doc A37(b), pp 3–7, 9–11, 40–44, 70–71, 76; doc A25(a), pp 31–32, 35–36. Further reinforcing Rāhiri's importance, Edwards provided whakapapa showing Rāhiri's descent from both Kupe and Māui: doc A25(a), pp 31–32.

**54.** Document A37, pp 45, 82

**55.** Document A25(a), p 36; doc A37, p 45. Another version is that anyone not descended from Rāhiri is a horse: see transcript 4.1.1, pp 102, 109; doc A37, pp 120–121.

**56.** Document A37, pp 370–371; Sissons, Hongi, and Hohepa, *The Pūriri Trees are Laughing*, pp 13–15

**57.** Document A37, pp 23–24, 45–47; doc A37(b), pp 3–7, 9–11, 40–44, 70–71, 76; doc A25(a), pp 35–36

**58.** Document A25(a), pp 37–38; transcript 4.1.1, pp 155–156, 166–167, 178; doc A37, pp 24, 173, 179, 239; doc A37(b), pp 13, 30, 38–41, 64; Sissons, Hongi, and Hohepa, *Ngā Pūriri o Taiamai*, pp 57–60; Kawharu, *Tāhuhu Kōrero*, p 109. The story of Arikitapu is that, while pregnant, she consumed the heart of another high-born woman (hence Puhi-kai-ariki) and had the rest of her body cast into the sea (Puhi-moana-ariki). After the boy was born he was taken for baptism by a tōhunga, who then asked 100 taniwha to return him to his parents (Puhi-taniwhā-rau). Another version has it that 'ngā puhi' refers to Kupe's wives, Kuramarotini and Hineiteaparangi: doc A37(b), p 64.

**59.** Document A37(b), pp 5–7, 10–12, 47–48; doc A37, pp 23–24; doc A25(a), pp 33–42

**60.** Document A37(b), pp 7, 12–16, 26–36; doc A37, pp 23–24, 51–53, 114–116, 235–236, 240–245; doc A25(a), pp 33–42

**61.** Document A25(a), pp 38–40; transcript 4.1.1, pp 39, 44, 104, 111, 154–155, 165–166, 233, 236, 251; doc B15(d), p 7; doc D8, pp 12, 19; doc B10, pp 54–55; doc A37, pp 23–24, 46–47; doc A37(b), pp 5–7, 9–11, 62; transcript 4.1.1, pp 233, 236. The maunga are Pūhangā Tohorā, Te Ramaroa, Whiria, Panguru, Papata, Maungataniwha, Tokerau, Rakaumangamanga, Manaia, Tutamoe and Maunganui. Each is said to look out towards the next, so that together they encircle and stand guard over Ngāpuhi territories while also acknowledging the autonomy of individual hapū. Concerning the name 'Tokerau', see doc B15(d), p 7; doc D8, pp 12, 19.

**62.** Transcript 4.1.1, pp 105–108, 111–114, 154–155, 165–166; doc A37(b),

pp 9–11, 72; doc A37, pp 23–24; claim 1.1.351, p 7; submission 3.1.501, pp 32–33

**63.** Sissons, Hongi, and Hohepa, *Ngā Pūriri o Taiamai*, p 57; Ballara, *Iwi*, pp 131–132, 157; Ballara, *Taua*, pp 192, 228; doc A37, pp 173–175, 197, 287, 366–367; Judith Binney, *The Legacy of Guilt: A Life of Thomas Kendall* (Wellington: Bridget Williams Books, 2005), p 209 n 6

**64.** Kawharu, *Tāhuhu Kōrero*, p 101; doc A37, pp 24–25, 45–46, 174–181; Sissons, Hongi, and Hohepa, *Ngā Pūriri o Taiamai*, p 62; transcript 4.1.1, pp 163–164, 216–217, 222–223; doc A37(b), pp 71–72

**65.** Kawharu, *Tāhuhu Kōrero*, p 101; doc A37, pp 24–25, 179–181; doc A37(b), pp 71–72; Sissons, Hongi, and Hohepa, *Ngā Pūriri o Taiamai*, pp 60–61. Rāhiri's cousin Te Kaka also forced Ngāti Awa from Whangaroa.

**66.** Kawharu, *Tāhuhu Kōrero*, p 113; doc A37(b), p 70

**67.** Transcript 4.1.1, pp 103, 110, 153, 164; doc A37(b), p 71

**68.** Document A37, pp 25–26, 184; doc A37(b), pp 41–42, 71–72; transcript, 4.1.1, pp 51–52, 104, 110–111, 153–154, 164–165, 312–313; doc A25(b), p 40; doc A30(c), pp 24, 87. Another version is given in Sissons, Hongi, and Hohepa, *Ngā Pūriri o Taiamai*, pp 66–69, 74–77. Te Tai-tamawāhīne is variously said to have been named for its gentler waters, for Uenuku's milder temperament, and because Rāhiri's wives came from that coast; and te Tai tamatāne is said to have been named for its rougher seas, Kaharau's warrior prowess, and because Rāhiri was from this coast: transcript 4.1.1, pp 51, 113, 223, 312

**69.** Document B10, p 33; see also doc A32, p 4; doc C9, pp 13–14; doc C21, p 16; Kawharu, *Tāhuhu Kōrero*, p 51

**70.** Transcript 4.1.1, pp 104, 110–111; doc A37(b), pp 41–42, 72

**71.** Document A30(c), p 87

**72.** Document C9, pp 13–14; doc B10, p 33

**73.** Document A37, pp 24–25, 174–175, 180–181, 244; doc A37(b), pp 61, 74; Sissons, Hongi, and Hohepa, *Ngā Pūriri o Taiamai*, pp 68–69, 80–81; Waitangi Tribunal, *Ngawha Geothermal Resource Report 1993* (Wellington: Brooker and Friend Ltd, 1993), pp 8–9; transcript 4.1.1, pp 148, 159–160

**74.** Document A37, pp 174–175

**75.** Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, pp 14, 33–38, 115–116, 131–134, 238–239; James Belich, *Making Peoples: A History of the New Zealanders: From Polynesian Settlement to the End of the Nineteenth Century* (Auckland: Allen Lane, 1996), pp 28–30, 44–48; doc A37, pp 221–224; Bruce Biggs, 'In the Beginning', in *The Oxford Illustrated History of New Zealand*, ed Keith Sinclair, 2nd ed (Auckland: Oxford University Press, 1997), pp 3–8; Peter Addis, 'Kūmara – Growing Kūmara', *Te Ara – the Encyclopedia of New Zealand*, Ministry for Heritage and Culture, <http://www.teara.govt.nz/en/kumara/page-2>, last modified 22 September 2012; Durie, 'Custom Law', p 12

**76.** Belich, *Making Peoples*, pp 48–54, 61–62, 67–75, 81–85; Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, pp 237–239; K R Howe, *Where the Waves Fall: A New South Sea Islands History from First Settlement to Colonial Rule* (Sydney: Allen and Unwin, 1984), pp 40–42; Anne Salmond, *Two Worlds: First Meetings Between Maori and Europeans, 1642–1772* (Auckland: Viking, 1991), pp 36–39;

doc A37, pp 24, 94–95, 110–111, 154, 221–232, 324–326, 336–338, 364; Janet Davidson, ‘The Polynesian Foundation’, in *The Oxford History of New Zealand*, ed William H Oliver (Wellington: Oxford University Press, 1981), pp 19–23; Ann Parsonson, ‘The Expansion of a Competitive Society: A Study in Nineteenth-Century Maori Social History’, NZJH, vol 14, no 1 (1980), p 47; Atholl Anderson, ‘A Fragile Plenty: Pre-European Maori and the New Zealand Environment’, in *Environmental Histories of New Zealand*, ed Eric Pawson and Tom Brooking (Melbourne: Oxford University Press, 2002), pp 28–29, 32–33; Jean Maingay, ‘Kororipi Pā: Its History and Archaeology’, in *Te Kerikeri, 1770–1850: The Meeting Pool*, ed Judith Binney (Wellington: Bridget Williams Books, 2007), pp 26–29; Durie, ‘Custom Law’, p 13. Regarding pā, Höne Sadler gave the example of Tuanui, from which his tūpuna could ‘see from coast to coast . . . Hokianga, Ruapekapeka, Motatau, the pā in Maungaturoto, Ngawha, and others’, and so defend themselves or respond to others’ calls for help: doc B38, p 4.

77. Document A37, pp 135–137, 151–159; doc A37(b), p 77; doc B10, pp 31–32; Belich, *Making Peoples*, pp 81–89; Atholl Anderson, ‘Origins, Settlement and Society of Pre-European South Polynesia’, in *The New Oxford History of New Zealand*, ed Gyselle Byrnes (Melbourne: Oxford University Press, 2009), pp 43–45

78. Royal, *The Woven Universe*, p 41

79. Document A25, p 59. Edwards was referring to the time of te Tiriti. However, we think his explanation applies equally to earlier times.

80. Document A37, pp 136–137, 152. Durie also referred to iwi becoming more clearly defined and assuming political functions only from the late nineteenth century onwards. Prior to that, he said, iwi referred to ‘a social category, those of common descent’ but not to a ‘social group, those who regularly operated together’ (emphasis added): Durie, ‘Custom Law’, pp 30, 59.

81. Document A37, pp 224–232, 313–314, 365–366; doc A37(b), pp 77–78; Belich, *Making Peoples*, pp 81–83, 86–89

82. Document A37, p 98; Durie, ‘Custom Law’, p 87

83. Document A37, pp 99, 144, 320–321

84. Ibid, pp 98–103, 320–321

85. Ibid, p 321; Durie, ‘Custom Law’, pp 41–45, 63–65

86. Document A37, pp 229, 321, 344; doc A30(c), pp 24–29, 83

87. Document A37, pp 224–232, 365–366; Belich, *Making Peoples*, pp 81–83, 86–89

88. Transcript 4.1.1, pp 77–78, 108, 114, 154, 165, 310; doc A30(c), p 7; submission 3.3.2, p 99; see also doc A37, pp 225–230, 314

89. Royal, *The Woven Universe*, pp 35–36; doc A37, pp 228, 314; doc B10, p 30; Durie, ‘Custom Law’, pp 32, 39–40, 56–57

90. Transcript 4.1.1, p 77

91. Ibid, pp 77–78, as adapted by the Tribunal

92. Document A30(c), p 7

93. Ibid. Höne Sadler explained the relationship of hapū and rangatira in this way: ‘ko ngā hapū, ko ngā tūpuna o ngā hapū, he ariki kia tū ai he hapū’ (‘the hapū and the ancestors of the hapū were ariki for the hapū’); transcript 4.1.1, pp 154, 165. Patu Hohepa told us ‘ko te hapu, te rangatira o ngā rangatira’ (‘the hapū is the leader of the leaders’); transcript 4.1.1, pp 108, 114

94. Royal, *The Woven Universe*, p 67
95. Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, p 17
96. Document A37, pp 133, 139–140; Waitangi Tribunal, *Ko Aotearoa Tēnei, Te Taumata Tuarua*, vol 1, pp 7–8, 13, 17, 37–38, 116–118
97. Document A37, pp 102, 106–111; Royal, *The Woven Universe*, pp 49–50, 69–70; Durie, ‘Custom Law’, pp 72, 87
98. Royal, *The Woven Universe*, p 49
99. Ibid, pp 50, 70; doc A37, p 107
100. Document A37, pp 106–108; Royal, *The Woven Universe*, pp 50, 70
101. Document B10, p 28
102. Document A25(a), p 16
103. Document A37, pp 106–107
104. Royal, *The Woven Universe*, p 69; doc A37, pp 107–108
105. Royal, *The Woven Universe*, pp 6, 41; doc A37, pp 56, 62–63, 66–69, 75
106. Document A37, pp 57–60, 66
107. Ibid, pp 77, 79
108. Ibid, pp 83–84
109. Royal, *The Woven Universe*, p 41
110. Ibid, p 8
111. Ibid, pp 6–7, see also pp 40–41
112. Ibid, p 41; see also Durie, ‘Custom Law’, pp 52–54; Quince, ‘Maori and the Criminal Justice System in New Zealand’, p 340
113. Document A25(a), pp 14–15; Ballara, *Taua*, pp 133–135; see also doc A37, pp 68, 165, 253, 285, 385, 468
114. Durie, ‘Custom Law’, pp 18–20, 24–25, 28; doc A37, pp 146–147, 153–154, 160; Ballara, *Taua*, pp 122–126
115. Document A37, pp 133, 139–140
116. Royal, *The Woven Universe*, p 72; doc A37, pp 26–27, 70, 156–159, 350–351; doc B38, p 6
117. Belich, *Making Peoples*, p 84
118. Waitangi Tribunal, *Muriwhenua Land Report* (Wellington: GP Publications, 1997), p 28; doc A37, pp 301–302
119. Document A37, pp 307–312
120. Ibid, p 153. Some of the claimants spoke of marriages used in these ways. For example, see doc C40, pp 3–4; doc C6, p 3; doc B18, p 34
121. Document A37, p 156; Ballara, *Taua*, pp 103–111
122. Ballara, *Taua*, pp 103–111; doc A37, pp 156, Durie, ‘Custom Law’, pp 44–45, 52–53; Quince, ‘Maori and the Criminal Justice System in New Zealand’, p 340; doc A1, p 48; doc B10, pp 28–29
123. Ballara, *Taua* pp 48–49, 83, 122; doc A25(a), pp 12–15; Durie, ‘Custom Law’, pp 43–44. Rima Edwards and Henare, Petrie and Puckey explained how conflict between atua over the separation of Ranginui and Papatūānuku provided precedent for conflict in future generations: doc A25(a), pp 12–15; doc A37, pp 35–36.
124. Ballara, *Taua*, pp 82–85; Durie, ‘Custom Law’, pp 43–44; doc A25(a), p 16; doc A37, pp 157, 344–346, 368, 520, 607; Quince, ‘Maori and the Criminal Justice System in New Zealand’, p 338
125. Ballara, *Taua*, pp 82–83; Durie, ‘Custom Law’, pp 43–44. Ballara gave an 1830s example of Bay of Islands taua (war parties) travelling

to Tauranga seeking utu against a group that had not been involved in the initial conflict: Ballara, *Taua*, pp 99, 147.

**126.** Dorothy Urlich Cloher, *Hongi Hika: Warrior Chief* (Auckland: Viking, 2003), pp 41–51; Ballara, *Iwi*, pp 130, 157

**127.** Document A37, pp 219, 230, 258–259, 270, 307, 311; Ballara, *Taua*, pp 86, 153–162

**128.** Durie, ‘Custom Law’, pp 27–28, 33, 39–40; doc A1, pp 62–66; see also doc A11, pp 232–233; doc A37, pp 515–518; Ballara, *Taua*, pp 12, 100–101, 133–134

**129.** Durie, ‘Custom Law’, pp 43–44; doc A25(a), pp 12–15; doc A37, pp 35–36; Ballara, *Taua*, pp 48–49, 83, 122

**130.** Document A37, pp 287, 363; Salmond, *Two Worlds*, p 234; doc A37(b), pp 95–96; Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, pp 87–90

**131.** Document A37, pp 99, 102–103, 157, 175, 319, 328–329, 348–349, 356, 366; transcript 4.1.1, pp 68–69, 73–74, 150, 161; doc A37(b), pp 61, 73–75

**132.** Document A37(b), pp 74–75; Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, p 81

**133.** Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, pp 24–25, 36–42, 87–95; doc A37(b), pp 73–75; doc A37, pp 176, 181, 368–370; transcript 4.1.1, p 13; see also transcript 4.1.1, pp 149, 160, 161

**134.** Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, p 93; doc A37(b), pp 95–97; doc A37, pp 287–290

**135.** Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, p 57; Judith Binney, *The Legacy of Guilt*, p 209 n 6; Ballara, *Iwi*, pp 131–132, 157; Ballara, *Taua*, pp 192, 208, 228; Ballara, ‘Warfare and Government in Ngapuhi Tribal Society, 1814–1833’ (MA thesis, University of Auckland, 1973), pp 108–109; doc A37, pp 173–175, 197, 287, 366–367. For examples of nineteenth century usage of ‘Ngapuhi’, see doc A11(a), vol 4, pp 1377–1378; Busby to Bourke, 16 June 1837, QMS 0345, ATL, Wellington; Henry Williams, *Early Journals*, ed Lawrence Rogers (Christchurch: Pegasus Press, 1961), p 374; see also S Percy Smith, *Maori Wars of the Nineteenth Century: The Struggle of the Northern Against the Southern Maori Tribes Prior to the Colonisation of New Zealand in 1840* (Christchurch: Whitcombe and Tombs, 1910), pp 49–50

**136.** Document A37, pp 179–180, 184, 363–365, 368–370, 375; Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, pp 36–37, 40–41, 47–52, 60, 64, 81–83, 87–146; doc A37(b), p 74; Salmond, *Two Worlds*, p 220; see also transcript 4.1.1, pp 218, 225. Henare, Petrie and Puckey described Ngāti Miru and Te Wāhineiti as hapū of Ngāti Pou, but elsewhere they referred to the three as separate hapū: doc A37, pp 145, 176. Sissons, Hongi, and Hohepa described them as separate hapū: *Nga Pūriri o Taiamai*, p 87. Sissons, Hongi, and Hohepa noted that Hongi was descended from Hua, Tautahi and Tawakehaunga, eponymous ancestors of the three principal Kaikohe and northern alliance hapū: *Nga Pūriri o Taiamai*, p 36. Henare, Petrie and Puckey referred to intermarriage among the various northern alliance hapū during the eighteenth and early nineteenth centuries, which reinforced kinship ties: doc A37, pp 147, 252. See also Jack Lee, *The Bay of Islands* (Auckland: Reed, 1996), p 32.

**137.** Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, pp 18–19, 36, 38; doc A37, pp 147, 252, 287, 369–370, 622, 785; see also Kathleen

Shawcross, ‘Maoris of the Bay of Islands, 1769–1840: A Study in Changing Maori Attitudes towards Europeans’ (MA thesis, University of Auckland, 1966), pp 204, 206; Ballara, ‘Warfare and Government in Ngapuhi Tribal Society: 1814–1833’, pp 32–33, 52, 289, 291; Binney, *The Legacy of Guilt*, pp 11, 209 n 6, 218 n 43. The name Te Hikutū refers to the upright tail of a whale which is said to have signalled to Kupe that his journey to Aotearoa was complete: doc A37, p 52. Hongi Hika’s first wife was of Te Hikutū: doc A37, pp 147, 252. Sissons, Hongi, and Hohepa said that Te Hikutū was ‘closely related to Ngāti Korokoro and Ngāti Pou’: Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, p 38.

**138.** Document A37, pp 175–176, 181–183, 371; Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, pp 57, 87; Ballara, *Iwi*, pp 129–130; see also doc A37(b), pp 96–97

**139.** Document A37, pp 182–184; Sissons, Hongi, and Hohepa, *Nga Pūriri o Taiamai*, p 87

**140.** Document B10, pp 32–33; see also doc B13(a), pp 13–14; doc A30(c), p 87

**141.** Transcript 4.1.1, pp 106, 112

**142.** Document A37, pp 14, 158–160, 470–471; doc A37(b), pp 48, 57; doc A30(b), pp 4–5; doc D13, pp 22–24; transcript 4.1.1, pp 106, 112–113, 136

**143.** Transcript 4.1.1, p 106; see also doc A37(b), p 57

**144.** Transcript 4.1.1, pp 106, 112, as adapted by the Tribunal

**145.** Document A37, p 158

**146.** Ibid, p 14. Other explanations, given by Hohepa in his evidence to the Ngāwhā Tribunal, were that ‘Ngapuhi . . . will never be captured because there are so many escape holes’ and that ‘each Ngapuhi belongs to a multiplicity of hapū’: doc A37(b), pp 71, 77; see also doc A37, pp 158–159.

**147.** John C Beaglehole, ‘Eighteenth Century Science and the Voyages of Discovery’, NZJH, vol 3, no 2 (1969), p 110

**148.** John Darwin, *After Tamerlane: The Rise and Fall of Global Empires, 1400–2000* (London: Penguin, 2007), p 106

**149.** Phillip Stephens, ‘Additional Instructions for Lt James Cook’, in *The Journals of Captain James Cook on His Voyages of Discovery*, ed JC Beaglehole, 4 vols (Cambridge: Cambridge University Press, 1968), vol 1, pp cclxxxii–cclxxxiv

**150.** This was the standard wording of early British explorers’ instructions. See Glendyr Williams, ‘The Pacific: Exploration and Exploitation’, in *The Oxford History of the British Empire*, ed William R Louis, 5 vols (Oxford: Oxford University Press, 1998–99), vol 2, p 558 n 17

**151.** Stephens, ‘Additional Instructions’, pp cclxxxii–cclxxxiv

**152.** Peter J Marshall, ‘Introduction’, in *The Oxford History of the British Empire*, vol 2, p 15

**153.** Earl of Morton, ‘Hints offered to the consideration of Captain Cooke’, in *The Journals of Captain James Cook on His Voyages of Discovery*, vol 1, p 514

**154.** Document A21, p 14; John Merriman, *A History of Modern Europe from the Renaissance to the Present* (New York: W W Norton, 1996), pp 444–446, 455–457, 463–464; Marshall, ‘Introduction’, pp 20, 26; Paul McHugh, *Aboriginal Societies and the Common Law: A History of*

- Sovereignty, Status and Self-Determination* (Oxford: Oxford University Press, 2004), p 111; Margaret Steven, *Trade, Tactics and Territory: Britain in the Pacific, 1783–1823* (Melbourne: Melbourne University Press, 1983), pp 17, 22
155. Jack P Greene, ‘Empire and Identity from the Glorious Revolution to the American Revolution’, in *The Oxford History of the British Empire*, vol 2, p 208
156. Richard Drayton, ‘Knowledge and Empire’, in *The Oxford History of the British Empire*, vol 2, pp 232, 246–247
157. Ibid, p 233
158. Ibid, pp 231–236; Belich, *Making Peoples*, pp 213–214
159. Linda Colley, *Britons: Forging the Nation 1707–1837* (New Haven and London: Yale University Press, 1992), p 51; doc A17, p 105
160. Peter J Cain and Anthony G Hopkins, *British Imperialism: Innovation and Expansion, 1688–1914* (Longman: London, 1993), pp 58–60; Colley, *Forging the Nation*, pp 60–61
161. Tom Brooking, ‘Use it or Lose It: Unravelling the Land Debate in Late Nineteenth Century New Zealand’, NZJH, vol 30, no 2 (1996), p 145
162. Mark Overton, *Agricultural Revolution in England: The Transformation of the Agrarian Economy 1500–1850* (Cambridge: Cambridge University Press, 1996), p 165
163. Peter Laslett, ed, *Locke's Two Treatises on Government*, 2nd ed (Cambridge: Cambridge University Press, 1970), p 309
164. Nicholas Thomas, *Discoveries: The Voyages of Captain Cook* (London: Allen Lane, 2003), pp xxii–xxiii; Stuart Banner, *Possessing the Pacific: Land, Settlers and Indigenous Peoples from Australia to Alaska* (Cambridge, Mass: Harvard University Press, 2007), pp 10–12, 55–57, 70
165. Richard Drayton, *Nature's Government: Science, Imperial Britain, and the 'Improvement' of the World* (New Haven: Yale University Press, 2000), p 51
166. Merriman, *A History of Modern Europe*, pp 367–368
167. Ibid, p 368; Anne Salmond, *The Trial of the Cannibal Dog* (London: Penguin Books, 2003), pp 12–13; Salmond, *Two Worlds*, p 90
168. Roger Osborne, *Civilization: A New History of the Western World* (London: Jonathan Cape, 2006), pp 348–350
169. Patrick K O'Brien, ‘Inseparable Connections: Trade, Economy, Fiscal State, and the Expansion of Empire, 1688–1815’, in *The Oxford History of the British Empire*, vol 2, pp 56–59; Grace Karskens, *The Colony: A History of Early Sydney* (Sydney: Allen and Unwin, 2010), p 65
170. O'Brien, ‘Inseparable Connections’, pp 60–61
171. Belich, *Making Peoples*, p 115; Peter J Cain and Anthony G Hopkins, *British Imperialism, 1688–2000*, 3rd ed (New York: Routledge, 2013), pp 66–67
172. Darwin, *After Tamerlane*, pp 30–31
173. Ibid, p 32
174. Ibid, p 154
175. Anthony Pagden, ‘Europe: Conceptualizing a Continent’, in *The Idea of Europe: From Antiquity to the European Union*, ed Anthony Pagden (Cambridge: Cambridge University Press, 2002), pp 33–34
176. Ibid
177. Geoffrey Treasure, *The Making of Modern Europe, 1648–1780* (London: Methuen, 1985), p 6
178. Pagden, ‘Europe: Conceptualizing a Continent’, pp 35–49
179. Ibid, p 37
180. Ibid, p 40
181. Anthony Pagden, ‘The Struggle for Legitimacy and the Image of Empire in the Atlantic to c1700’, in *The Oxford History of the British Empire*, vol 1, p 45; John C Weaver, *The Great Land Rush and the Making of the Modern World, 1650–1900* (Montreal: McGill–Queens University Press, 2003), pp 150–151; doc A17, pp 36, 44
182. Peter N Stearns, *Western Civilisation in World History* (New York: Routledge, 2003), pp 69–70
183. Greene, ‘Empire and Identity’, pp 208–210; Colley, *Forging the Nation*, pp 18–29
184. Philip A Joseph, *Constitutional and Administrative Law in New Zealand*, 4th ed (Wellington: Brookers Ltd, 2014), pp 164–165; doc A17, pp 90, 93–94
185. Joseph, *Constitutional and Administrative Law in New Zealand*, pp 3, 164, 166–168; doc A17, pp 97–98
186. Colley, *Britons: Forging the Nation*, pp 50–52; Greene, ‘Empire and Identity’, pp 212–213; Marshall, ‘Introduction’, p 1
187. Joseph, *Constitutional and Administrative Law in New Zealand*, pp 168, 211, 641; in New Zealand this Act remains in force, only slightly modified, as the Act of Settlement 1700.
188. Stanley A de Smith, *Constitutional and Administrative Law*, 3rd ed (New York: Penguin Books, 1977), p 145
189. Ibid, pp 144–145; Joseph, *Constitutional and Administrative Law in New Zealand*, p 727
190. de Smith, *Constitutional and Administrative Law*, pp 44, 99; Joseph, *Constitutional and Administrative Law in New Zealand*, p 37
191. Joseph, *Constitutional and Administrative Law in New Zealand*, p 612; de Smith, *Constitutional and Administrative Law*, p 119
192. Joseph, *Constitutional and Administrative Law in New Zealand*, p 612; de Smith, *Constitutional and Administrative Law*, pp 113, 123
193. William Blackstone, *Commentaries on the Laws of England, in Four Books*, 3 vols, 15th ed (1809; repr Marston Gate: Forgotten Books, 2013), vol 1, pp 48–49; doc A17, p 34
194. Blackstone, *Commentaries on the Laws of England*, vol 1, p 127
195. Greene, ‘Empire and Identity’, p 208; Colin Kidd, *British Identities before Nationalism: Ethnicity and Nationhood in the Atlantic World, 1600–1800* (Cambridge: Cambridge University Press, 1999)
196. Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia 1787–1868* (London: Vintage Books, 2003), p 29
197. Blackstone, *Commentaries on the Laws of England*, vol 1, p 143
198. Greene, ‘Empire and Identity’, p 208
199. Ibid, p 229
200. Edward P Thompson, *The Making of the English Working Class* (New York: Pantheon Books, 1964), p 79
201. Anne Salmond, *Aphrodite's Island: The European Discovery of Tahiti* (North Shore: Viking, 2009), p 21

- 202.** Salmond, *Two Worlds*, pp 52–60; Merriman, *History of Modern Europe*, pp 325–348
- 203.** Drayton, ‘Knowledge and Empire’, p 234; Darwin, *After Tamerlane*, pp 206–207
- 204.** Colley, *Forging the Nation*, pp 40–42
- 205.** Boyd S Schenther, ‘Religious Faith and Commercial Empire’, in *The Oxford History of the British Empire*, vol 2, pp 141–143; Richard R Johnson, ‘British North America, 1690–1748’, in *The Oxford History of the British Empire*, vol 2, pp 293–294; Merriman, *History of Modern Europe*, pp 415–416
- 206.** Colin Kidd, *The Forging of Races: Race and Scripture in the Protestant Atlantic World, 1600–2000* (Cambridge: Cambridge University Press, 2006), p 120
- 207.** Greene, ‘Empire and Identity’, pp 218–220
- 208.** Marshall, ‘Introduction’, p 26; Kathleen Wilson, *The Island Race: Englishness, Empire and Gender in the Eighteenth Century* (London and New York: Routledge, 2003), pp 15, 49–51
- 209.** Marshall, ‘Introduction’, p 1
- 210.** Ibid, p 7
- 211.** Joseph, *Constitutional and Administrative Law*, pp 643, 658; Ian K Steele, ‘The Anointed, the Appointed, and the Elected: Governance of the British Empire, 1689–1784’, in *The Oxford History of the British Empire*, vol 2, p 110
- 212.** de Smith, *Administrative and Constitutional Law*, p 114; Joseph, *Constitutional and Administrative Law*, p 643
- 213.** Document A21, p 5
- 214.** Steele, ‘The Anointed, the Appointed, and the Elected’, p 105
- 215.** Ibid, pp 110, 121
- 216.** Paul McHugh, *The Māori Magna Carta: New Zealand Law and the Treaty of Waitangi* (Oxford: Oxford University Press, 1991), p 24
- 217.** Steele, ‘The Anointed, the Appointed, and the Elected’, pp 107, 110
- 218.** Ibid, pp 105, 107, 115–116; Marshall, ‘Introduction’, p 11; McHugh, *Aboriginal Societies*, pp 91–98
- 219.** Jacob M Price, ‘The Imperial Economy, 1700–1776’, in *The Oxford History of the British Empire*, vol 2, p 78
- 220.** Marshall, ‘Introduction’, p 11; John Shy, ‘The American Colonies in War and Revolution, 1748–1783’, in *The Oxford History of the British Empire*, vol 2, pp 309–314; Stephen Conway, ‘Britain and the Revolutionary Crisis’, in *The Oxford History of the British Empire*, vol 2, p 328
- 221.** McHugh, *Aboriginal Societies*, pp 43–44, 71–73, 94–95
- 222.** Nicholas Canny, ‘The Origins of Empire: An Introduction’, in *The Oxford History of the British Empire*, vol 1, p 15; James Horn, ‘British Diaspora: Emigration from Britain, 1680–1815’, in *The Oxford History of the British Empire*, vol 2, pp 28–29
- 223.** McHugh, *Aboriginal Societies*, pp 108, 120
- 224.** Ibid, pp 67–68, 76–78, 84–85, 108
- 225.** Ibid, p 107
- 226.** Ibid, especially pp 66–68, 70–87, 102–103
- 227.** Document A21, p 7; Pagden, ‘The Struggle for Legitimacy’, p 37
- 228.** Pagden, ‘The Struggle for Legitimacy’, pp 37, 40
- 229.** McHugh, *Aboriginal Societies*, p 111
- 230.** Ibid, pp 110–111
- 231.** Ibid, p 110
- 232.** PG McHugh, ‘The Aboriginal Rights of the New Zealand Maori at Common Law’ (PhD thesis, Cambridge, 1987), p 42
- 233.** Pagden, ‘Europe: Conceptualizing a Continent’, pp 48–49
- 234.** Pagden, ‘The Struggle for Legitimacy’, pp 43, 46
- 235.** McHugh, *Aboriginal Societies*, pp 91–98; Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge, Mass: Belknap Press, 2005), p 15
- 236.** The First Charter of Virginia, April 10, 1606, [http://avalon.law.yale.edu/17th\\_century/va01.asp#1](http://avalon.law.yale.edu/17th_century/va01.asp#1), accessed 19 September 2014; Banner, *How the Indians Lost Their Land*, p 15
- 237.** McHugh, *Aboriginal Societies*, pp 44, 103
- 238.** Virginia DeJohn Anderson, ‘New England in the Seventeenth Century’, in *The Oxford History of the British Empire*, vol 1, p 196; Peter C Mancall, ‘Native Americans and Europeans in English America, 1500–1700’, in *The Oxford History of the British Empire*, vol 1, pp 331–333, 339–341, 346–348; Banner, *How the Indians Lost Their Land*, pp 22–43
- 239.** McHugh, *Aboriginal Societies*, p 99; see also Daniel K Richter, ‘Native Peoples of North America and the Eighteenth-Century British Empire’, in *The Oxford History of the British Empire*, vol 2, p 356
- 240.** Weaver, *The Great Land Rush*, pp 136–137
- 241.** Banner, *How the Indians Lost Their Land*, pp 19–20; Banner, *Possessing the Pacific*, pp 10–12
- 242.** Banner, *How the Indians Lost Their Land*, pp 39–43
- 243.** Nicholas Canny, ‘England’s New World and the Old’, in *The Oxford History of the British Empire*, vol 1, p 163
- 244.** Canny, ‘England’s New World and the Old’, p 154
- 245.** Banner, *How the Indians Lost Their Land*, p 26
- 246.** Canny, ‘England’s New World and the Old’, pp 164–168
- 247.** Anderson, ‘New England in the Seventeenth Century’, p 214; Johnson, ‘British North America’, p 283; Richter, ‘Native Peoples of North America’, pp 347, 350–356, 361–363
- 248.** Richter, ‘Native Peoples of North America’, p 364; McHugh, *Aboriginal Societies*, p 104
- 249.** Banner, *How the Indians Lost Their Land*, p 92
- 250.** McHugh, *Aboriginal Societies*, p 108; Weaver, *The Great Land Rush*, p 154
- 251.** Banner, *How the Indians Lost Their Land*, pp 104–105
- 252.** McHugh, *Aboriginal Societies*, p 104
- 253.** Ibid, pp 108–109, 118–119
- 254.** James Belich, *Replenishing the Earth: The Settler Revolution and the Rise of the Anglo-World, 1783–1939* (Oxford: Oxford University Press, 2009), p 28
- 255.** Peter J Marshall, ‘The British in Asia: Trade to Dominion, 1700–1765’, in *The Oxford History of the British Empire*, vol 2, pp 487, 491
- 256.** McHugh, *Aboriginal Societies*, p 108
- 257.** Blackstone, *Commentaries on the Laws of England*, vol 1, p 143

## CHAPTER 3

# FROM ENCOUNTER TO ALLIANCE?

### 3.1 INTRODUCTION

In this chapter, we trace the series of engagements which took place from 1769 to 1834 between British people and Māori of northern New Zealand, particularly the Bay of Islands and Hokianga. These engagements at first occurred only within New Zealand, but in time extended to the newly established British settlement in New South Wales and further afield to England itself. The nature of the engagements changed too: from brief encounters characterised by mutual discovery and cross-cultural misunderstanding to more sustained interaction, following extended visits of travellers and the arrival of missionaries and early settlers, in which both Māori and British began to bridge some of the cultural divides between them. Neither side was homogeneous. The Europeans whom Māori met and interacted with were not just British, and ranged from relatively benevolent governors to exploitative and ruthless ships' captains. Māori, for their part, were motivated in these interactions by their own varied interests and those of their hapū. The potential for misunderstanding always held grave consequences: those occasions where Europeans deployed their superior firepower demonstrated why it was always likely that Māori would suffer most should relationships turn sour.

Nevertheless, Europeans and Māori of the Bay of Islands and Hokianga began to adapt their behaviour through sustained interaction with each other. In chapter 5, we discuss the extent of Māori cultural adaptation and change during the pre-treaty period. The events described in this chapter begin to show how the change that did occur was by no means a one-way process. As historians like Richard White have suggested, in his important 1991 work, *The Middle Ground*, accommodation happened in the space between the two sides in which neither was dominant:

On the middle ground diverse peoples adjust their differences through what amounts to a process of creative, and often expedient, misunderstandings. People try to persuade others who are different from themselves by appealing to what they perceive to be the values and practices of those others. They often misinterpret and distort both the values and the practices of those they deal with, but from these misunderstandings arise new meanings and through them new practices – the shared meanings and practices of the middle ground.<sup>1</sup>

In the course of the interaction between Europeans and Māori in the decades after 1769, both sides learnt to modify their own behaviour during trading and other exchanges.

Māori increasingly overlooked European transgressions of tapu, for example, for the sake of harmonious relations; while some Europeans learnt more about how to avoid giving such offence in the first place. Māori and British authorities in particular soon discovered that there were many incentives for both sides to build mutual understandings by developing firmer relationships.

Interaction between leading rangatira and representatives of the British Crown commenced some three decades after Cook's first voyage and increased steadily thereafter. The initial impetus was the establishment of a penal colony at Botany Bay in 1788, which created new and ultimately significant commercial interests for Britain in the Pacific. At first, rangatira were focused on establishing relationships with the Governors of New South Wales; but two rangatira even met the British monarch himself. They brought with them two key concerns: cementing the beneficial economic relations that were being established both at home and abroad, and securing assistance to control the behaviour of British subjects in New Zealand, such as whalers and escaped convicts, who threatened the peace and the interests of all concerned. The issue of regulating the conduct of those British who were seen as disorderly in the eyes of British authorities became a constant subject of debate, particularly after missionaries had become established in New Zealand. It is this ongoing discussion that frames the central questions we examine in this chapter. How were Māori to respond to European contact and settlement? What role could and should the British Crown play? Understanding how these questions were answered during these decades provides an essential background to the events that are the focus of our report: he Whakaputanga o te Rangatiratanga o Nu Tireni and te Tiriti o Waitangi.

The British Government eventually responded to the questions rangatira posed by appointing a diplomatic representative to New Zealand in 1832. This action was prompted by a request from the Governor of New South Wales, a predecessor of whom had taken matters into his own hands both by issuing a proclamation warning British

subjects against committing certain criminal acts in New Zealand and by appointing missionaries as Justices of the Peace. The British Government had recognised the need to take some form of action, even though it exercised no legal authority in New Zealand. Imperial legislation was passed providing greater powers to authorities in New South Wales to punish British offenders, but only were they to return or be returned to New South Wales for trial: New Zealand remained an independent country. But the British Government also came to see the cultivation of closer relations with Māori as both necessary to deal with the growing range of British interests in New Zealand as beneficial to its wider interests in the Pacific.

Apart from the significant addition of the Australian penal colonies, Britain's interests in the Pacific had remained largely unchanged following its victory over France in the Seven Years War in 1763, which had left it the pre-eminent imperial power. Despite the loss of its American colonies it had maintained this position, and with its final victory in the Napoleonic Wars in 1815, swept aside all its imperial rivals. But as the Australian colonies began to assume a position of economic importance in their own right, and became a significant destination for British migration, the French re-emerged in the Pacific as a threat. Although New Zealand remained a peripheral concern to the authorities in Britain, the country and its resources were of sufficient interest for the British not to lose their foothold there to a foreign power. For these reasons, the British authorities – and not just those in New South Wales – came to use the term 'alliance' to describe the relationship that had formed between Britain and northern Māori groups when explaining why a diplomatic representative – the British Resident – had been sent to the Bay of Islands.

These developments saw New Zealand come increasingly within Britain's sphere of influence, yet it remained outside the formal part of the British Empire. It became part of the 'extraordinary range of constitutional, diplomatic, political, commercial and cultural relationships' that could exist within empires, as described by the British

historian Dr John Darwin. Over the course of its existence, Darwin has explained, the British Empire came to include:

colonies of rule (including the huge ‘sub-empire’ of India), settlement colonies (mostly self-governing by the late nineteenth century), protectorates, condominiums (like the Sudan), mandates (after 1920), naval and military fortresses (like Gibraltar and Malta), ‘occupations’ (like Egypt and Cyprus), treaty-ports and ‘concessions’ (Shanghai was the most famous), ‘informal colonies’ of commercial pre-eminence (like Argentina), ‘spheres of influence’ . . . like Iran, Afghanistan and the Persian Gulf, and (not least) a rebellious province at home.<sup>2</sup>

Although these and many more possibilities were either in formation or had yet to eventuate in the period we consider in this chapter, they are indicative of the range of relationships the British established and maintained. Such relationships were also subject to change, depending on British priorities across the empire and whether Britain had the capacity to defend its control against challengers. During this period, however, Britain preferred the lower cost of an informal empire to the expense of formally annexing foreign lands. This was no less the case in the South Pacific, where, in the decades before 1840, Britain pursued a policy of ‘minimum intervention’. John Ward’s 1948 assessment of the situation has remained widely accepted by historians. As he put it, ‘For the greater part, the official attitude favoured keeping out of the islands as far as the growth of British trade and settlement and British missionary activity would permit’.<sup>3</sup> By 1834, New Zealand remained part of Britain’s informal empire: a zone of primarily British commercial activity within a British sphere of influence. Proposals for establishing a colony of settlement were only just emerging on the horizon. Yet, the story of the six and a half decades after Cook’s ‘discovery’ of New Zealand in 1769 is largely one of intermittent adjustment of the degree of British influence, mediated particularly from the new centre of British

power established in New South Wales, whose leaders had increasing interests to protect.

The story of these decades for Māori of the Bay of Islands and Hokianga was one of intermittent adjustment of a different kind. The extent of interaction with the British – beginning in particular with Hongi Hika’s meeting with King George IV and culminating in the appointment of the British Resident – encouraged leading rangatira to believe they had established an alliance with the British monarch, one from which they would secure the assurances they were seeking. Māori society and attitudes were also evolving after European contact. As we noted in chapter 2, new hapū alliances were emerging, and the meaning of ‘Ngāpuhi’ itself may have begun to shift. Although political authority remained with hapū the situation was dynamic, especially with the arrival of Europeans. We return in chapter 5 to assess in more detail the extent of these changes and the factors that influenced them. Here we ask how – from the point of encounter, and through subsequent engagement – did Māori of the Bay of Islands and Hokianga come to understand their relationship with the British? How far, too, was their understanding shared by the British? Did an ‘alliance’ develop?

## 3.2 EARLY EUROPEAN EXPLORERS, 1769–72

We begin the narrative with the first engagements between northern Māori and Europeans: the visits of three expeditions in 1769 and 1772. Only one was British, while the other two were French.

### 3.2.1 Cook at the Bay of Islands, 1769

Two days after Nicholas Young sighted Te Kuri-a-Paoa from the masthead of the HMS *Endeavour* on 7 October 1769, Captain James Cook and members of his crew stepped ashore on the beach at Tūranganui-a-Kiwa, or present-day Gisborne.<sup>4</sup> Their arrival had profound effects on Māori. Of course, Abel Tasman had already encountered Māori both at Taitapu (Golden Bay) in December 1642 and again at Manawatāwhi (the Three Kings Islands)



in January 1643. But these brief encounters had left what historians agree was 'no substantial impression'.<sup>5</sup> Cook's circumnavigation of New Zealand, by contrast, took six months, and led to close and personal engagements with numerous Māori coastal communities.<sup>6</sup> The effects of these interactions rippled out well beyond the specific communites which he and his crew encountered. Cook's arrival made Māori realise that there were people in this world who were not like them. They were left with the awareness that this strange people had very odd customs, extraordinary materials, and formidable technology, including ships, muskets, and cannons. Yet, for all their strangeness, Māori found that they could deal with these new people. These realisations shaped future interactions between Māori and Europeans.

As we noted in chapter 2, Cook had been given two sets of instructions by the Admiralty before his departure. In the first set, he was required to proceed to a suitable location in the southern hemisphere where members of the Royal Society could observe the transit of Venus. The second set of instructions, which he was to open once at sea, required him then to search for the mythical southern continent *Terra Australis Incognita*. If he failed to find it, he was to proceed to New Zealand.<sup>7</sup> According to these instructions, Cook was,

with the consent of the natives, to take possession in the name of the King of Great Britain, of convenient situations in such countries as you may discover, that have not already been discovered or visited by any other European Power . . . but if you find the countries so discovered are uninhabited, you are to take possession of them for His Majesty by setting up proper marks and inscriptions as first discoverers and possessors.<sup>8</sup>

The head of the Royal Society, the Earl of Morton, had advised Cook to 'exercise the utmost patience and

◀ An imagined encounter between James Cook and Bay of Islands Māori. Here, Cook is said to be explaining the difference between small shot, used to kill birds, and bullets, used to kill people, after having fired on Māori once the *Endeavour* had entered the Bay on 29 November 1769.

forbearance' with native peoples. He was at all times to avoid bloodshed, remembering that the natives were 'the natural, and in the strictest sense of the word, the legal possessors of the several Regions they inhabit'. Moreover,

No European Nation has a right to occupy any part of their country, or settle among them without their voluntary consent. Conquest over such people can give no just title; because they could never be the Aggressors.

They may naturally and justly attempt to repell intruders, whom they may apprehend are come to disturb them in the quiet possession of their country, whether that apprehension be well or ill founded.

Therefore should they in a hostile manner oppose a landing, and kill some men in the attempt, even this would hardly justify firing among them, 'till every other gentle method had been tried.<sup>9</sup>

Despite stated good intentions, cultural misunderstanding and violence were common in Cook's early meetings with Māori. Within barely two days of the arrival of the *Endeavour* at Tūranga, up to nine local men had been killed by Cook's guns in several different incidents – in some cases because their likely ritual challenges were perceived as aggression. Overall, Dr (later Professor Dame) Anne Salmond suspected, Tūranga Māori watched the *Endeavour* sail away on 11 October with some relief.<sup>10</sup>

During the next seven weeks, Cook had further encounters with Māori in what became known to Europeans as Hawke's Bay, the East Coast, the Bay of Plenty, and the Coromandel Peninsula, and he and his party traded harmoniously with the local people in several of these locations. On 14 November at Te Whanganui-o-Hei (Mercury Bay), Cook recorded that he 'took formal possession of the place in the name of His Majesty', an act he repeated at Queen Charlotte Sound on 30 January 1770.<sup>11</sup> Professor Paul McHugh dismissed the significance of these pronouncements:

Being unilateral and in contravention of his instructions, in that Maori consent had not been obtained, and receiving no subsequent adoption and approval by the Crown, Cook's

► A 1923 sketch of HMS *Endeavour*. The ship, which gained fame when James Cook used it on his first Pacific voyage from 1768 to 1771, was a converted Whitby collier previously named *Earl of Pembroke*. Sold to private ownership and renamed *Lord Sandwich* in 1775, she was scuttled three years later while serving as a troop transport during the American War of Independence.



actions were precipitate and ineffective as against other nations even were symbolic annexation (and unconfirmed) regarded at that time as sufficient of itself to establish the Crown's sovereignty.<sup>12</sup>

Nevertheless, the actions taken by Cook at this time did much to create the impression that New Zealand had come within Britain's sphere of influence, if not formal authority.<sup>13</sup>

By 24 November 1769, Cook had reached what he called Bream Bay, near the mouth of Whāngārei Harbour. It was to the north of here that serious difficulties in exchanging gifts with Māori emerged. On 25 November, seven large canoe-loads of people paddled out to the ship and began to trade.<sup>14</sup> Trading proceeded as Cook's crew would have expected, until some Māori began to refuse to reciprocate the Europeans' handing-over of goods, despite the crew making it clear (no doubt assisted by Tupaia, the ship's Tahitian interpreter) what they wanted in return. The same thing happened the next morning, and the

Europeans reacted to this 'cheating' and 'dishonesty' with gunfire.<sup>15</sup>

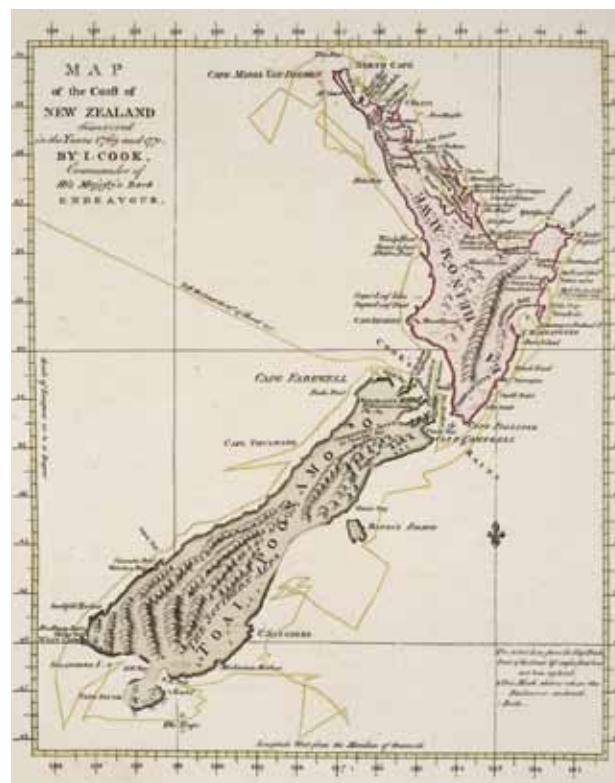
It was almost certainly more complicated than that. When a group of Māori were presented with gifts by another, there was no expectation of an immediate return. Rather, the return – which was generally of *at least* equal value – would be made in due course, at a time chosen by the recipient. Thus, what the Europeans perceived as unfairness or trickery was probably in Māori eyes its opposite. And Māori themselves could not comprehend why these strange visitors gave them presents and then immediately attacked them. As Kathleen Shawcross observed in her 1967 thesis (still regarded as a leading authority on this period), 'there was plenty of room for misunderstandings'.<sup>16</sup>

The *Endeavour* then pushed northwards, and Cook would possibly not have entered the Bay of Islands at all had it not been for the weather. By 27 November 1769 he had in fact passed well beyond Cape Wiwaki, the northern headland of the Bay, only to be driven south that

afternoon and into the next day by strong winds. On the morning of 29 November, the *Endeavour* entered what the naturalist Joseph Banks called ‘a most spacious and well sheltered harbour, or rather collection of harbours almost innumerable formd by Islands’, and anchored off the side of Motuarohia Island.<sup>17</sup>

The ship was soon surrounded by a flotilla of nearly 40 canoes of varying sizes and carrying around 300 to 400 people (probably members of Ngare Raumati or Ngāti Wai<sup>18</sup>). Some tried to take the ship’s anchor buoy but were driven back by a blast of small shot and cannon fire over their heads. Shawcross speculated that the buoy sat over a tapu shellfish bed, and the attempt to remove it was because ‘its continued presence there would be considered a greater threat to Maori welfare than would be the risks inherent in its removal’.<sup>19</sup> At around three in the afternoon, Cook took the ship’s pinnace and yawl with a party of armed marines and landed on the island. Again he was quickly surrounded and confronted, this time by an even larger crowd, some of whom attempted to seize the landing craft. The locals were perhaps still seeking an opportunity to extract utu for the violence on 25 November and for whatever offence had been caused by the buoy. They were, however, again driven back by gunfire and overhead blasts from the ship’s cannons.<sup>20</sup>

The remainder of the *Endeavour*’s interaction with Bay of Islands Māori was relatively peaceful, despite a further transgression by three members of Cook’s crew who that very night entered a tapu garden on Motuarohia and stole growing kūmara.<sup>21</sup> According to Shawcross, the locals, having experienced the Europeans’ firepower, fell back on ‘thoroughgoing friendliness and conciliation’.<sup>22</sup> Whether this friendliness was genuine or designed to restrain the destructive instincts of their powerful visitors is difficult now to say. Shawcross, for one, thought local Māori ‘were making a perfectly logical adjustment to what they had discovered about the explorers by the end of the second day of the expedition’s sojourn in the area’.<sup>23</sup> Cook’s crew also managed to obtain sexual services from local women. Dr Grant Phillipson described this as a properly negotiated and ‘Maori-controlled encounter’, although Shawcross again raised the possibility that the women



*Map of the Coast of New Zealand Discovered in the Years 1769 and 1770 by J Cook, Commander of His Majesty's Bark Endeavour, 1773.* Cook gave the Bay of Islands its name, noting its large number of islands which helped form ‘safe and Commodious Harbours’.

‘submitted to the pressing requests of their formidable visitors for expediency’s sake’.<sup>24</sup>

In any event, when the *Endeavour* left the Bay of Islands on 5 December 1769, it was pursued for a distance, according to one crew member, by ‘Several Large Canoes full of Indians who all Seemd very Sorry at our Departure from them’.<sup>25</sup> Shawcross agreed that relations seemed friendly upon departure, although she suspected that venereal disease would have manifested itself a short time after.<sup>26</sup> Dr Vincent O’Malley and John Hutton, however, echoed Salmon’s suggestion about Cook’s earlier departure from Tūranga:

*A New Zealand Warrior in His Proper Dress, & Completely Armed, According to Their Manner.*  
Sydney Parkinson, who was employed as a botanical artist on Cook's first voyage, drew this man at Tūranga, where the crew of the *Endeavour* first came ashore in October 1769.



It was doubtless with considerable relief that Bay of Islands Maori bid farewell to Cook and his party on 5 December 1769. The first encounter between northern Maori and representatives of the British Crown had been far from a pleasant experience for the local tribes.<sup>27</sup>

We believe this description is indeed more fitting for Tūranga than the Bay of Islands. In belated accordance with his instructions, Cook had largely tempered his tendency to shoot people dead when they threatened his party. Both he and Banks felt considerable regret about the deaths at Tūranga.<sup>28</sup> Māori, as well, had quickly learnt how Europeans preferred to conduct trade, and that their weapons were too formidable to overcome. After the initial confrontations at and on Motuarohia, the encounters seem to have been amicable, in what was perhaps an early case of ‘middle ground’ accommodation. The trade in sexual services was new, but appears to have been carried out in a way that did not offend Māori sensitivities.<sup>29</sup> In all this, the two sides were undoubtedly assisted by Tupaia’s ability to translate and effectively bridge the two world views. Tupaia had been absent during the confrontation on Motuarohia – a fact his biographer Joan Druett thought served as ‘a demonstration of what the circumnavigation of New Zealand would have been like’ without him.<sup>30</sup>

### 3.2.2 De Surville at Tokerau, 1769

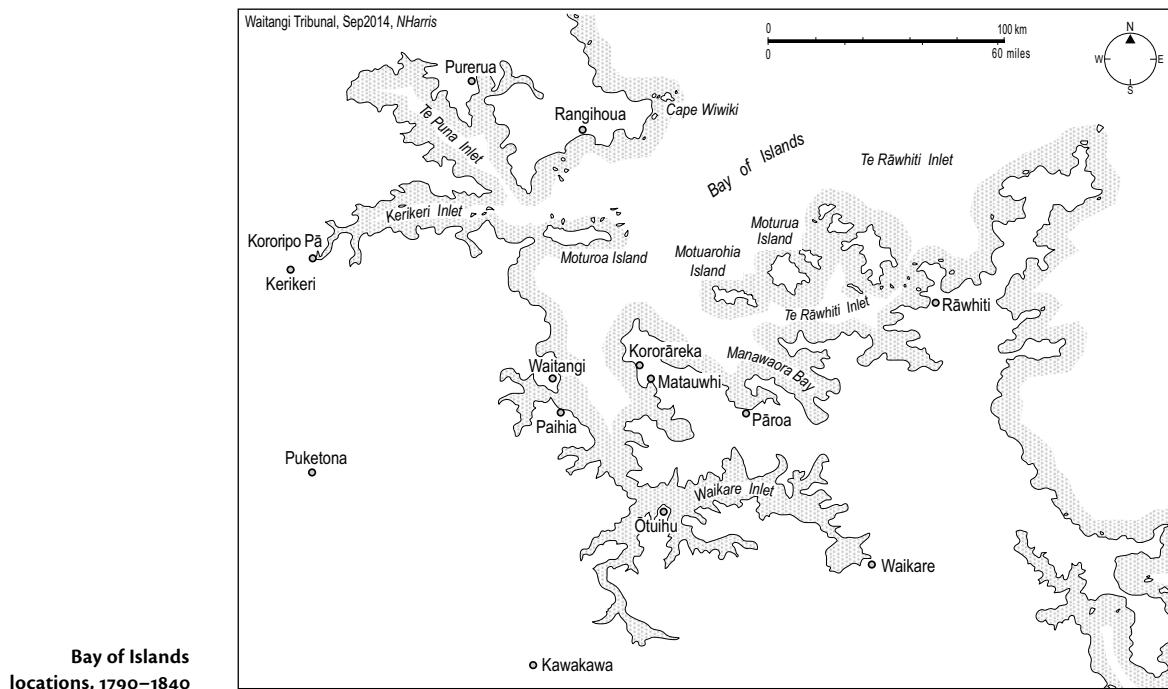
A French East Indian Company (Compagnie des Indes Orientales) vessel called the *St Jean Baptiste*, under the command of Jean-François-Marie de Surville, also arrived in northern New Zealand waters in December 1769. In fact, the two ships crossed tracks in a gale near North Cape on 16 December, but they remained oblivious of each other’s existence. The French had turned to the opening frontier in the Pacific after their aforementioned defeat in the Seven Years War in 1763, which had resulted in their expulsion from North America and their main bases in India. But the French Government had been left in no position to carry out expeditions of the scale required, so it was left (for now) to private companies – particularly the French East Indian Company – to

secure French interests.<sup>31</sup> De Surville had been sent by that company on a trading expedition in search of a land (not New Zealand) recently rumoured to have been discovered by the British. His ship – in contrast to the *Endeavour* – was poorly provisioned, and he arrived off the coast of Tokerau (Doubtless Bay) on 17 December 1769 with a crew half-starved and sick with scurvy. The local Te Paatū hapū had probably heard from other Māori about the weapons at Cook’s disposal and his willingness to use them, and treated de Surville and his crew most hospitably.<sup>32</sup>

But cultural misunderstandings inevitably occurred during the ship’s two-week stay. Most particularly, on 31 December local Māori dragged away the ship’s yawl that had beached after coming loose during a storm. Under Māori custom it was entirely their right to do so, but de Surville arrived on shore determined to reclaim the boat from this ‘theft’. He became enraged when a chief who had provided food and offered shelter to de Surville’s crew at a time of great need some time earlier would not show its whereabouts. He had the man ‘arrested’, burned a canoe and took another, and razed many dwellings to the ground. He then retreated to his ship with his prisoner, a man named Ranginui, and immediately set sail for Peru. Ranginui thus became the first Māori to leave New Zealand with European sailors. He was treated well enough on board but died from scurvy on 24 March 1770 off the coast of South America. Shawcross thought de Surville’s final ‘savagery’ towards the Māori of Tokerau exceeded anything Cook had yet perpetrated, although it is worth noting that de Surville’s party never once fired on the local people.<sup>33</sup> Indeed, their fate might have been much worse, as was demonstrated by the next French visitor.

### 3.2.3 Marion du Fresne at the Bay of Islands, 1772

Marc-Joseph Marion du Fresne was, like de Surville, a longstanding officer in the Compagnie des Indes Orientales. In October 1771, he set sail from Mauritius in two ships, the *Mascarin* and the *Marquis de Castries*, on an expedition to return a Tahitian man to his homeland and to find *Terra Australis Incognita*. Marion du Fresne funded the voyage himself, albeit with the French King providing one of the two vessels. Not long into the journey, the



Tahitian succumbed to smallpox, but Marion du Fresne carried on in anticipation of the trading opportunities that awaited. By late March 1772, the two ships had reached the coast of Taranaki. From there they sailed northward, briefly encountering Māori in Muriwhenua the following month. By 1 May, they had reached Rākaumangamanga (Cape Brett), the south-east entrance to the Bay of Islands. After some initial hesitation, which historians ascribe to a fear of suffering the same fate as Ranginui in 1769, a few Māori began cautiously to approach the ships and go on board. They were relieved to find the Europeans friendly and welcoming, and on 3 May hundreds boarded the *Marquis de Castries* and the *Mascarin*.<sup>34</sup>

On 4 May 1772, the French ships ventured inside the Bay of Islands and anchored to the north of Motuarohia. The following day, 100 canoes came out to trade and people poured on to both ships. Bay of Islands Māori had a great desire for iron, having grown to appreciate its qualities in the three years since Cook had gifted them iron

goods, but cloth – and particularly red cloth – was also highly esteemed. The French offered trade in both. In due course they moved their ships to the lee of Moturua, where they set up a hospital camp on shore for their sick men. They also established a second camp on the mainland at Manawaorua Bay, where they planned to fell large trees and build new masts to replace those recently damaged on the *Marquis de Castries*. Soon enough, sexual relations began between the Frenchmen and Māori women, with the Europeans showing appropriate respect to the married and betrothed. Throughout May 1772, relations between the two peoples appeared, to the French at least, to be very good. Marion du Fresne was familiar with Rousseau's ideas of the noble savage, and Salmon observed that he 'thought himself in paradise in the bay'.<sup>35</sup>

But all was not well, and nor could it have been given the Europeans' limited understanding of local feuds and Māori customs. For a start, the French had sailed into a tense political environment, with Ngāpuhi hapū

challenging Ngāti Pou's and Ngare Raumati's rights in the south-eastern part of the Bay. According to Dr Angela Ballara, the mana over islands such as Moturua and Motuarohia lay with the rangatira Te Kauri of the Ngāpuhi hapū Te Hikutū, and Ngāti Pou were in fact residing there with Te Kauri's permission. Unwittingly, the French intruded and made local tensions worse. A French sailor shooting birds on Waewaetōrea Island on 5 May stumbled across two groups of Māori preparing to fight each other. When one party saw him with their opponents, they fled, fearing his musket. His ensuing popularity with one side would have been undermined by the sense of grievance inevitably felt by the other. That the Europeans could potentially be played off by competing Māori factions in the Bay is shown by the many requests made of the French for help in attacking Te Kauri. Even the innocent trading of goods by the French would have led to jealousy and resentment from those who felt they had missed out on particularly coveted items.<sup>36</sup>

Moreover, the French and Māori did not understand each other's customs, and several French reprisals for Māori actions were particularly inflammatory. Some of the trouble was caused by the Māori theft of European property. Theft was rare in Māori society because it was punished so severely (by death or muru), but Māori may have been emboldened to steal from Europeans because of a sense that the same rules did not apply. In early June, the French caught a man attempting to steal a cutlass on board the *Mascarin*. To make an example of him, they held him in irons, a humiliating experience that reduced him to the status of a slave. After his release he swore his intention to exact *utu*. Soon after this, the shore camp near the remasting site was hit by night-time thefts. The French, in retaliation, burned a nearby village they found abandoned, reasoning that the occupants' absence signalled some kind of guilt. Not only that, but they tied up an elderly chief in a failed attempt to extract a confession. As soon as Marion du Fresne heard of this, he had the man freed, but the damage was done. The violation of the chief's tapu and his degrading treatment meant he was now obliged to take a 'terrible revenge' on the French to restore his mana.<sup>37</sup>

There were various other affronts. The establishment

of the hospital camp on Moturua prompted some locals to leave, and the sailors' use of the villagers' empty huts would have served only to confirm the unsettling impression that the French intrusion was permanent. Later, some of Marion du Fresne's officers took a fine waka they wrongly considered abandoned, and a chief was struck by a sailor when helping himself to a work party's food without permission. Salmond speculated that before long the local women would have also been showing signs of venereal disease, and that the presence of 200 additional mouths to feed would have placed strain upon local food supplies. But the key factor leading to bloody conflict seems to have been a serious breach of tapu by Marion du Fresne, which itself exacerbated the inter-hapū tensions.<sup>38</sup>

Marion du Fresne had taken to visiting what he called 'Tacoury's cove', or the part of Manawaorua Bay near Te Kauri's main settlement at Orokawa, where a great bounty of fish and birds could be obtained. However, the area was – or soon became – extremely tapu because some relations of Te Kauri's had drowned there. While it is not clear when exactly this took place, it was certainly before Marion du Fresne undertook another of his fishing expeditions to the cove on 7 June 1772. According to later Māori accounts, Marion du Fresne and his party were accompanied by members of Ngāti Pou, who – fearing an angry reprisal from Te Kauri – warned Marion du Fresne not to pull in his nets on Ōpunga Beach where the drowned men had washed ashore. These warnings were ignored, however, and the damage was done. As Salmond explained,

The fish of the bay had been touched by the tapu of death, and had perhaps themselves nibbled on the bodies of the drowned men. To catch these fish was bad enough, but to eat them was tantamount to cannibalism, an attack on the tapu of the corpses and that of their tribe, and on the mana of their tribal gods.<sup>39</sup>

Te Kauri was now effectively obliged to avenge this desecration, for failure to do so would see him haunted by his relations' spirits and condemned by the *atau*.<sup>40</sup>

It is a moot point as to whether Marion du Fresne knew the seriousness of what had occurred. While O'Malley and

Hutton cited an early nineteenth-century account based on Māori sources that spoke of repeated warnings given to Marion du Fresne, Salmond considered that the offence ‘was almost certainly committed without the French ever realising what they had done’.<sup>41</sup> In any event, matters proceeded swiftly. The very next morning, Marion du Fresne was invited to a ceremony on a hill high above Te Kauri’s village. There he was presented with gifts and honoured by having a crown of feathers placed around his head. Shawcross thought this was in recognition of Marion du Fresne’s importance, but Salmond felt it ‘sealed his death warrant’, and characterised it as more of a set-up: that is, it was either Te Kauri’s enemies provoking him further after Marion du Fresne’s violation of tapu, or Te Kauri was party to it and the ceremony served as ‘a ritual prelude to the events that were to follow’.<sup>42</sup>

On 12 June, Te Kauri personally came to the *Mascarin* to take Marion du Fresne fishing. Marion du Fresne went willingly with 15 of his men, even leaving behind the armed guard that usually accompanied him.<sup>43</sup> A local on board the ship at that time warned Marion du Fresne that Te Kauri would kill him, but the Frenchman was convinced that a people who so ‘loved’ him, and to whom he had done no harm, could not possibly want to hurt him. Soon after, however, he and his crew met their fate at what the French named ‘Anse des assassinats’ (which today still carries the name ‘Assassination Cove’). Not only that, but all except one of a 12-strong party of wood-cutters from the *Marquis de Castries* were similarly dispatched the next morning. (One wounded man managed to swim back to the *Mascarin* and raise the alarm.) These were part of a coordinated series of attacks on the French: the hospital camp on Moturua was advanced on in the night by 500 armed warriors who were dissuaded from an assault only by the French quickly manning their guns, and a similar force had also surrounded the remasting camp.<sup>44</sup>

Confirmation of Marion du Fresne’s fate came soon enough, when Māori at Te Kauri’s village were seen brandishing French cutlasses and pistols and wearing the clothes of Marion du Fresne and other slain officers. The French quickly regrouped and began their own



Historic Places Trust memorial plaque at Te Hue Bay recording the death of Marion du Fresne and 26 members of his crew in 1772. Less well known are the French reprisals, which caused the deaths of about 300 Māori and left Ngāpuhi with a lasting anxiety about the French.

reprisals. The party retreating from the remasting camp, for example, opened fire on a large group of pursuing Māori, leaving, in Salmond’s words, ‘a tangle of dead and wounded warriors on the beach’. On 14 June, they led an assault on Moturua Island’s fortified pā, taking it without any loss of life among their own, but with the deaths of some 250 to 300 Ngāti Pou, many of whom drowned in the water beneath the clifftop defences. They then burned the pā. A week or so later, the French killed another 25 or so Māori who had attempted to ambush them on Moturua. During the following weeks, the two sides largely kept their distance while the French carpenters hurried to make their ships seaworthy.<sup>45</sup>

On 7 July, however, a well-armed French contingent landed at Te Kauri’s village to establish what exactly had happened to Marion du Fresne. The village was all but deserted, although Te Kauri himself, wearing Marion du Fresne’s cloak, was spotted on a nearby hill. The Frenchmen found evidence that their compatriots had been eaten – evidence confirmed by later tribal accounts. They burned this and another village, and by 13 July were ready to depart. Before they sailed away, they buried a

bottle on Moturua in which they left documents proclaiming New Zealand French territory, thereby ‘unconsciously echoing Cook’, as Salmond observed.<sup>46</sup>

Claimant witnesses gave us their own accounts of what took place. Hori Parata explained that:

One of my tupuna, Te Kuri, was involved in the attack on Captain Marion du Fresne and his crews for his repeated failure to respect the customs and mana of the rangatira. There is no question that such violations and breaches were the sorts of things that caused our tupuna to apply utu and muru against Pakeha at that time. They lived their lives according to their own highly developed tikanga.

Prior to the attack Te Kuri had befriended Captain du Fresne, however this friendship could not protect du Fresne when he ignored warnings that he was transgressing tapu. Te Kuri and others killed 2 boat crews from du Fresne’s ships as they came ashore, their bodies were gutted and hung for the hangi. Du Fresne’s head was cut off and planted on a stake. The tree from which they were hung is still standing.<sup>47</sup>

Nuki Aldridge was also adamant that Marion du Fresne had knowingly breached tapu, and had thus suffered the consequences. He placed the deaths of the Frenchmen within the overall context of the three early visits of Cook, de Surville, and Marion du Fresne:

Du Fresne certainly knew he was breaching a law regarding the fishing place – it is said that some of the Maori tried to tell him about the tapu. He understood this, but he took liberties. He and his men breached the local laws.

What I believe is that Maori were grieving over what had happened so far in the early contact period. I believe you can’t look at the response of Maori to Du Fresne in isolation. Having had guns used upon them, having had their villages burned and their people kidnapped, without the Europeans being punished by their own people, they applied the law of the land.<sup>48</sup>

The legacy of Marion du Fresne’s encounter with Bay of Islands Māori was profound. While Ngāti Pou and Te

Hikutū had united to attack the French, Ngāti Pou (alternatively in some accounts Ngare Raumati or Ngāti Wai) suffered greater loss of life (especially on Moturua) and were therefore seriously disadvantaged in their struggle with Ngāpuhi for supremacy in this part of the Bay. Moreover, their ‘guilt by association’ for their greater friendship with Marion du Fresne worked against them, and it was not long after 1772 that Ngāpuhi succeeded in pushing Ngāti Pou and Ngare Raumati out of the Bay. At times Ngāti Pou must have been in two minds about whether to appease Te Kauri by siding with him against the French or whether to seek French support to defeat their foe. The latter suggestion was made to the French repeatedly, including as late as the morning of 13 June by a group surrounding the remasting camp.<sup>49</sup>

No ships visited northern New Zealand for two decades after Marion du Fresne’s ill-fated stay, and the regular appearance of European ships in northern waters did not begin until after 1800. As Phillipson observed, another consequence was a longstanding Māori animosity to the French, who were known thereafter as ‘the tribe of Marion’.<sup>50</sup> Inevitably, there was a corresponding preference among Māori for the British. More immediately, the events of 1772 showed that, despite the accommodations that had occurred during Cook’s visit to the Bay of Islands, Māori and Europeans were some way off grasping each other’s cultures and values. Tupaia aside, there were still no real intermediaries who had lived in both cultures and could facilitate mutual understanding.

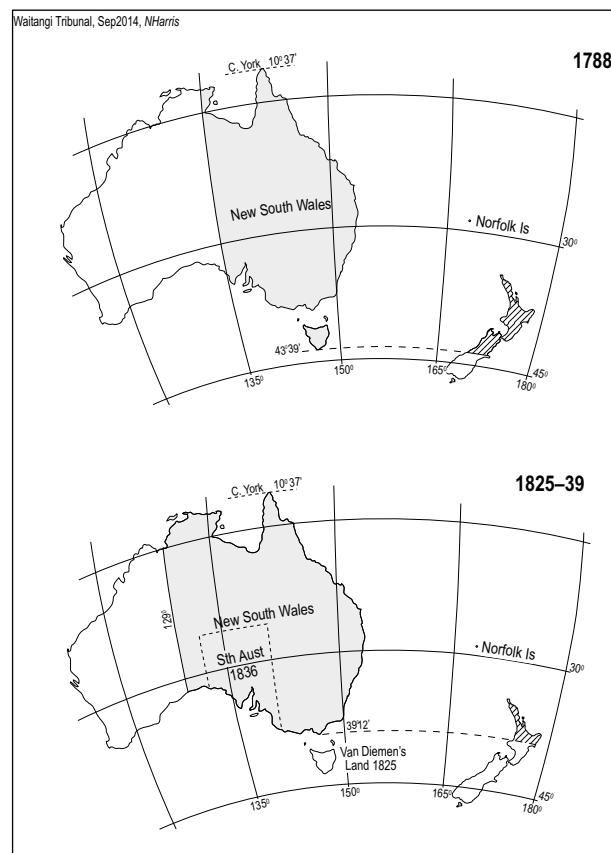
### 3.3 KĀWANA KINGI: FORGING RELATIONSHIPS

The establishment of a British penal colony in New South Wales in January 1788 was the single most significant development after Cook’s arrival for bringing New Zealand within Britain’s sphere of influence. Its location was at once remote – thus fulfilling the intention to dispatch criminals to a place beyond their immediate capability to return – but also full of economic and strategic potential for the expansion of trading routes to the east, which were then monopolised by the East India Company,

as well as exploiting new resources. Australian historians continue to debate the extent to which the imperial authorities intended the original colony, at the moment of its founding, to serve solely as a remote prison or as a strategic outlier of empire.<sup>51</sup> Similarly, historians continue to debate why the British accepted the advice of Joseph Banks and acted on the premise that the land was sparsely inhabited with an uncivilised population, whose consent for the establishment of the colony would not be needed and who could be left largely to their own devices.<sup>52</sup> We do not intend to traverse the reasons for and consequences of this decision, which continues to reverberate in Australia today. It is enough for us to say here that, no matter how the original decision is interpreted, the settlement – as well as that soon to be established in Van Diemen's Land (later Tasmania) – quickly became the host for a range of commercial activities that extended into the wider Pacific, particularly New Zealand.

Governor Arthur Phillip's commission, which repeated the terms of his instructions, defined New South Wales as including 'all the islands, adjacent in the Pacific Ocean, within the latitude . . . of 10 degrees 37 minutes south and 43 degrees 39 minutes south'. The entire area of New Zealand north of Banks Peninsula potentially lay within these specifications, depending on the definition of 'adjacent'. Phillip was specifically instructed to take the uninhabited Norfolk Island, but not New Zealand.<sup>53</sup> Nevertheless, a right to act in respect of New Zealand was assumed by a later governor, as we shall see.

The New South Wales frontier soon enough came to interact with New Zealand. Abundant flax and timber resources (essential for refitting ships), as well as its people, made New Zealand the focus of initial political interest.<sup>54</sup> The expansion of whaling and sealing operations from the turn of the century intensified this interest, and further exposed Māori to the outside world. Missionaries from the London Missionary Society (a non-denominational body founded in 1795) also took a more active interest in New Zealand, having established bases in Port Jackson (Sydney) and other locations of the Pacific. With ever increasing engagement with New Zealand taking place, the early governors of New South Wales took



The changing boundaries of the colony of New South Wales

action to establish relationships with Māori from the Bay of Islands and Hokianga, where potential for trading opportunities seemed greatest. The rangatira who came to engage with these governors wanted to secure their people's primacy in the new economic ventures and learn more about the new site of British authority. It was fortunate that these key early engagements involved forward-looking rangatira, such as Tuki Tahua and Te Pahi, and a relatively benevolent officer like Philip Gidley King – at first the Lieutenant-Governor of Norfolk island and later the Governor of New South Wales, and known to Māori as Kāwana Kingi. These leaders created expectations on both sides about future conduct. They also established

a precedent of high-level access for Māori visitors to the offices of power at Port Jackson.

### 3.3.1 Tuki and Huru at Norfolk Island, 1793

As the First Fleet set sail for Botany Bay, Governor Phillip was aware that the abundance of flax and timber in New Zealand might well meet the needs of the British Navy in India for sails and masts and that the flax could also be a source of clothing for his convicts. But he also knew from Cook's reports that Norfolk Island offered the same resources, and only five days after arriving in New South Wales he dispatched Lieutenant-Governor King to the island to establish a convict outpost. King, however, soon despaired of successfully working the Norfolk Island flax into fibre and suggested that some of his convicts be sent to New Zealand to observe Māori techniques. When this proposal was rejected, King turned to the idea that Māori expertise might be brought to Norfolk Island. In January 1791, while on a return visit to England, he wrote that, if only 'a Native of New Zealand' could be obtained, there was 'no doubt but Norfolk Island would soon clothe the inhabitants of New South Wales'. In April the same year, he upped the suggestion to the need for 'two or three New Zealanders'. He later repeated this request to naval captain George Vancouver, who was embarking on a Pacific voyage and whom King encountered at the Cape of Good Hope in July.<sup>55</sup>

Eventually, the authorities agreed. Vancouver was sent instructions in August 1791 to have his supply ship, sailing between North America and Port Jackson, divert to New Zealand. There its commander was to 'use his best endeavours to take with him one or two flax-dressers'. After various delays, these instructions reached Vancouver a year later.<sup>56</sup> Vancouver duly passed the task to Lieutenant James Hanson of the *Daedalus*, whom he instructed in December 1792 to make for Doubtless Bay or an adjacent port in the north of New Zealand, and

use your best endeavours to take with you one or two of the natives of that country versed in the operations necessary for the manufacture of the flax-plant of which their garments are mostly made, for the purpose, if possible, of instructing the

new settlers at Port Jackson in the management of that very valuable plant, and this being a subject of no small importance you are to pay particular attention to the effecting it, in the execution whereof the native of the Sandwich Islands [Tahiti] you have on board may be essentially serviceable from his speaking nearly the same language ...<sup>57</sup>

Unaware of these developments, King had meantime continued to request support in 'procuring' Māori assistants (as he had put it to Vancouver).<sup>58</sup> In November 1791, he had even asked the skipper of an American whaler, the *William and Ann*, 'to endeavour by fair means to obtain Two of the Natives from about the Bay of Islands, & Mercury Bay', offering a £100 reward as an inducement. King later learnt that the ship visited Doubtless Bay but no Māori could be persuaded to return with it.<sup>59</sup>

Hanson arrived in the *Daedalus* off the Cavalli Islands in April 1793.<sup>60</sup> His official version of what then took place was merely that he 'obtained two Natives' and proceeded to Sydney, but further details emerged from a dinner conversation Hanson had some months later. Apparently, he 'did not think it prudent to stop to make a strict scrutiny into the abilities of any particular people', particularly because there was much sickness among his crew, so he

therefore by presents inveigled two young men out of a Canoe, and taking them below, under pretence of giving them something more, he instantly made all sail.

When the pair eventually came out on deck, they were shocked to find they were now far from land. These two young men were Tuki Tahua, from Doubtless Bay, and his friend Hurukokoti (or Ngahuruhuru), from the Bay of Islands.<sup>61</sup> According to their own account, later told to King, they and several companions had gone to the ship out of curiosity. Tuki and Huru had then been lured on board by the iron tools and other items Hanson showed them, and been generally 'blinded by the curious things they saw'. When they realised the ship was moving away from the waiting canoes they became frantic, but were restrained and could do little more than call to the others in their group to paddle away lest they too be taken.<sup>62</sup>

Shawcross noted the lack of any official condemnation of Hanson's 'decidedly unfair methods', although Salmond thought him at least wise not to attempt to land, given the likelihood of the locals remembering the events of 1769 and 1772.<sup>63</sup>

Hanson arrived in Sydney on 20 April 1793. Tuki and Huru saw little more than the port and were soon transferred to another ship, the *Shaw Hormuzeear*, which sailed for Norfolk Island on 24 April. Soon after their arrival, King pressed them for what they knew about dressing flax, but – after such a long wait for this very moment – he was quickly disappointed. As King put it,

Every information that could be got from them, respecting their mode of manufacturing the Flax plant, was obtained in One day . . . and which turned out to be very little, as this operation is the peculiar Occupation of the Women . . .

But while King's primary object in bringing Māori to Norfolk Island had failed, there were unexpected benefits. Tuki and Huru lived with King and his family for the next six months. As Salmond noted, their status in such a brutal place was 'paradoxical', for they were at once captives and honoured guests. King became fond of them, and both sides learnt a little of the other's language and customs. Tuki and Huru quickly undermined British stereotypes of Māori as bloodthirsty savages,<sup>64</sup> while King's friendship must have dispelled some of their own notions of what Europeans were like.

This new-found bond was strengthened by the circumstances of Tuki's and Huru's return to New Zealand. At last, in November 1793, a ship arrived that King felt he could divert to New Zealand for several days to fulfil his promise to return his friends safely. The *Britannia*, with King and the two Māori on board, sailed from Norfolk Island on 9 November 1793 and sighted North Cape three days later. Near Murimotu Island, canoes came out to it and, when some of their occupants recognised Tuki, they climbed on board and embraced him with joy. King intended to sail on to the Bay of Islands the next day, but the ship was becalmed. Anxious about the time he was taking away from his command, King asked Tuki if he

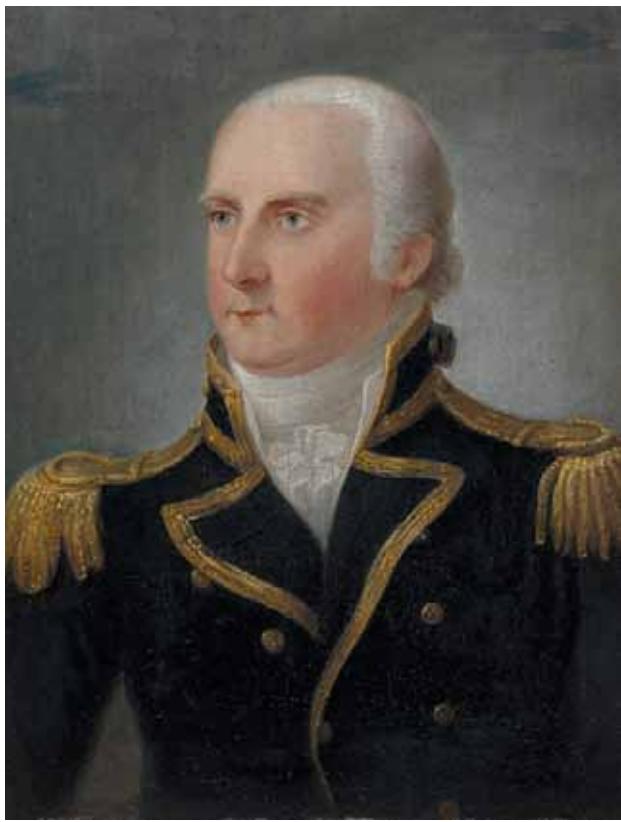
would prefer to leave the ship here or return to Norfolk Island. Tuki himself was concerned first to establish whether there were good relations between the Muriwhenua people and his own at Doubtless Bay, but once the chief Tokoki came on board and gave his reassurance, Tuki and Huru were happy to disembark. King wondered if Tokoki could be trusted, but Tuki assured him that a high chief 'never deceives'.<sup>65</sup>

King accepted this, but took Tokoki aside and said he would return in three months' time to check whether Tuki and Huru were safely home. If they were, he would give Tokoki 'some very considerable presents'. Tokoki then embraced King in a long and clearly symbolic hongi, which both repeated with Tuki and Huru. Tuki explained to King that Tokoki had 'now become their Father'. Salmond felt the whole ceremony had been designed 'to establish an honorary kinship relation' among the four men. At Tokoki's request (relayed by Tuki and Huru), King then had his soldiers fire their muskets and the ship's cannons while the 150 assembled Māori watched from the deck.<sup>66</sup> King was first careful to explain that

it was our intention and wish to be good neighbours and friends . . . and . . . these weapons were never used, but when we were injured, which I hoped would never happen, and that no other consideration, than satisfying his curiosity, could induce me to show what these instruments were intended for.<sup>67</sup>

Tuki and Huru then departed, laden with gifts from King including 10 sows and two boars, garden seeds (for crops like the potato), and tools. The locals who had visited the ship also received presents. Tuki and Huru reminded King of his promise to visit again soon, at which point they themselves would return to Norfolk Island, this time with their families.<sup>68</sup>

King's hosting of Tuki and Huru, and their happy return to New Zealand, had a number of important and lasting legacies. For a start, King was able to use the limited information provided by the two men to improve flax production. Northland Māori in turn experienced what Salmond called 'a local agricultural revolution'. The



New South Wales Governor Philip Gidley King. King developed positive relationships with northern Māori in the late eighteenth and early nineteenth centuries and is credited with gifting them the potato. Years later, 'Kāwana King' remained fondly remembered in the north.

introduction of pigs may have been unsuccessful,<sup>69</sup> but the potato, recognised as one of King's gifts, quickly became a valued crop, and its widespread redistribution throughout the north would have greatly enhanced his mana. Thirdly, as Dr Phillipson pointed out, 'King's visit made the world a much smaller place'. Having told the Muriwhenua people on the deck of the *Britannia* how close Norfolk Island was, Tuki rushed to the poop and fetched a fresh cabbage to show them, as if to emphasise his point.<sup>70</sup>

Moreover, King had established a warm and positive relationship with northern Māori. As Salmond put it,

Much of the content of the term 'Kaawana' (Governor) in Northland Maori in the late eighteenth and early nineteenth centuries derived from what people knew about Philip Gidley King. He was the Governor whom Maori people knew best, who had learned some of their language, had treated their kinsfolk with honour and had shown his chiefly prestige with generous hospitality and gifts.<sup>71</sup>

Shawcross argued that King would have been seen as one of those high chiefs who 'never told an untruth or deceived', and his assurances that the British would maintain friendly relations must have increased positive attitudes to Pākehā in the north. She added:

Certainly northern Maoris could not have been more helpful, and were never for decades less troublesome, to visiting Europeans than they were for up to fifteen years after King's visit. In addition, the kind treatment and very desirable presents which Tuki and Huru had received from King and others, and the curious sights which these first two northern Maori travellers had seen abroad, were to influence several Maoris to travel to European countries in the early nineteenth century.<sup>72</sup>

Phillipson sounded a note of caution about this kind of analysis, since he felt King's original 'hara' of kidnapping Tuki and Huru had really only been repaid with their safe return with presents. King had also failed to fulfil his promise to return to New Zealand, and had warned that British guns would be employed upon any injury to Pākehā by Māori. Phillipson doubted that the ensuing view of kāwana among the chiefs could 'have been entirely positive'.<sup>73</sup> Indeed, in his brief of evidence, Aldridge criticised King for taking so long to return Tuki and Huru, and for failing to charge those who had kidnapped the pair in the first place.<sup>74</sup> However, O'Malley and Hutton suggested – correctly, we think – that the fact King was so warmly remembered in the north decades later was 'a telling point'.<sup>75</sup> Reverend Samuel Marsden, the senior Anglican clergyman in New South Wales, observed this 44 years after King's return of Tuki and Huru, and later still, in 1844, a visitor to Kaitaia reported that

Governor King is . . . remembered by the natives with great affection. Two New Zealand youths were taken by him from Doubtless Bay to Norfolk Island, (Hura & Tuke) and treated by him with great friendship.<sup>76</sup>

### 3.3.2 Te Pahi in Sydney, 1805–06

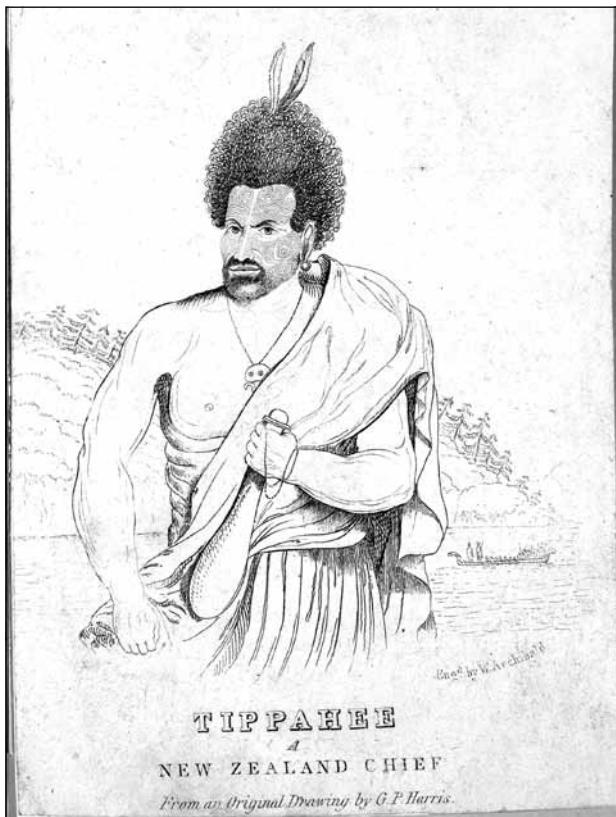
Regular ship visits to northern New Zealand waters did not commence until after 1800, with the rise of the whaling trade. By 1801, six British ships were hunting whales off northern New Zealand, and in the following years there were even more, including an American vessel.<sup>77</sup> It seems that no ships entered the Bay of Islands itself after Marion du Fresne's departure until after 1800.<sup>78</sup> Soon enough, however, the Bay, with its sheltered coves and availability of produce like potatoes, was receiving regular visits. In 1803, a teenaged local named Teina went on board the *Alexander*, under Captain Robert Rhodes, and accompanied the ship back to Port Jackson. There, he stayed from June to September 1803 with the Governor, who since 1800 had been Philip Gidley King himself. After another spell at sea whaling, Teina returned with Rhodes to the Bay of Islands, where he disembarked with pigs gifted by King. Salmond suggested these were probably the first introduced at the Bay.<sup>79</sup>

In February 1805, the *Alexander* left Sydney for England with a cargo of whale oil and sealskins, as well as a plan for more fishing off northern New Zealand en route. Rhodes picked up Teina again at the Bay of Islands but the crew became involved in a serious scrap with local Māori, during which the ships' cannons were used to inflict 'terrible execution', as the first mate Jorgen Jorgensen described it. Rhodes promptly made sail with both Teina and another young man named Maki now unwillingly on board. After considerable delays at Tahiti, where two Tahitians joined the ship, and at Brazil and St Helena, the *Alexander* finally arrived in England in June 1806. But its cargo was ruined and the crew were left with nothing. Teina soon died, as did the Tahitians some months later, despite the care of the London Missionary Society. Only Maki remained, but he himself was kidnapped (again) and sold to the master of another ship, and his eventual fate is unknown.<sup>80</sup> The experiences of Teina and Maki show that, while the advent

of whaling brought new opportunities for northern Māori, the old dangers of kidnapping and coastal bombardment remained ever-present.

When Rhodes had returned to Port Jackson from one of his whaling expeditions in May 1804, King opened an inquiry into his conduct, charging him with 'firing on the Natives of New Zealand, and flogging them on board the ship'. It may in fact have been this earlier behaviour that sparked the confrontation with Bay of Islands Māori in 1805. Rhodes was apparently not disciplined, but this inquiry and Teina's visit to Port Jackson may have served to 'reawaken' King's interest in New Zealand, as Salmond put it.<sup>81</sup> In April 1805, King reported that the seeds he had given Tuki and Huru in 1793 had 'turned to a very beneficial account, not only for their own advantage, but also in supplying the Whaling Ships very liberally with potatoes and other productions'. Overall, he thought, Māori interaction with whaling crews had been 'very advantageous', with ships putting into the Bay of Islands and other harbours without ever having 'any altercation with the natives, but have received every kind officer and assistance in procuring their Wood and Water, &c, at a very cheap Rate in Barter'. In the same month, King instructed the commandant on Norfolk Island, Captain John Piper, to commission a reliable whaling captain to take breeding pigs to 'the most powerful Chief or person in the place they may touch at' in the north-east of New Zealand.<sup>82</sup>

That rangatira would almost certainly have been Te Pahi of Te Hikutū, who had his base at Te Puna on the Purerua Peninsula near the northern entrance to the Bay of Islands. Te Pahi had gained a reputation for hospitality to visiting whaling ships, and in December 1804 had already sent his son, Maatara, on a whaling ship to Sydney 'in order that he might see the English at their settlement'.<sup>83</sup> After six months at sea, Maatara arrived in Port Jackson on 9 June 1805. King recognised the importance of the visitor, and hosted him at Government House. At the end of July, King ensured Maatara was returned safely to the Bay of Islands on the sealing ship *Venus*, which journeyed via Norfolk Island. There King had its skipper, William Stewart, collect two sows and two goats to be gifted to Te Pahi. This was the first of three deliveries of pigs made from Norfolk



**Te Hikutū rangatira Te Pahi.** A powerful Bay of Islands leader, Te Pahi helped build understandings between the British and Māori in the early nineteenth-century. He was rewarded with a medal by New South Wales Governor Philip Gidley King in 1806 but was wrongly attacked at his pā in 1810 by whalers, who stole the medal. In April 2014, the medal was jointly purchased at auction in Sydney by Auckland Museum and Te Papa Tongarewa.

Island to Te Pahi over the next couple of months, totalling 26 sows and four boars.<sup>84</sup> Shawcross concluded that these animals were the 'decisive factor in the spread of pigs throughout northern New Zealand'.<sup>85</sup>

Before the third delivery arrived in October 1805, however, Te Pahi had taken four of his sons<sup>86</sup> to Norfolk Island on board the *Venus* with a view to thanking King personally in Sydney. Captain Piper, though, had to rescue the youngest son from Stewart, who seems to have

intended him to be the payment for Te Pahi's passage. Piper then had Te Pahi and his sons transported safely to Port Jackson on HMS *Buffalo*, via a week in Hobart where Te Pahi 'met with much civility' from the local officials.<sup>87</sup> When he arrived at Government House in Sydney on 27 November 1805, Te Pahi greeted King with a hongi and explained the reasons for his visit:

he gave me to understand that he had long designed the visit he had now accomplished, to which he had been encouraged by the reports of my two visitors at Norfolk Island in 1794 [1793], the request of his father, and the prospect of his country being benefited by his visit, as it had been for the great blessing bestowed on it by the introduction of potatoes at Tookee and Woodoo's return from Norfolk Island. He also added that leaving New Zealand was much against the wishes of his dependants, but that objection was much outweighed by the probable advantages they would derive from his visit, and concluded by saying that he considered himself under my protection.<sup>88</sup>

Te Pahi was the first rangatira of real significance to visit New South Wales.<sup>89</sup> As Salmond remarked, he was on 'no idle journey'. Rather, he 'had come to see King, but also to investigate Governor King's society'.<sup>90</sup> Moreover, thought O'Malley and Hutton, Te Pahi also had an 'expectation of establishing an ongoing relationship with the Governor for the benefit of his people'.<sup>91</sup>

Te Pahi and his sons stayed with King in Sydney for three months, until late February 1806. Like Tuki before him, Te Pahi greatly impressed King, who wrote: 'To say that he was nearly civilized falls far short of his character'. Te Pahi observed weaving, gardening, farming, and carpentry, collected seeds and seedlings, and made a very favourable impression on Samuel Marsden. He watched the trial of three men accused of stealing pork, and became most angry with the sentence of death handed down upon one of them. He could understand a man being put to death for stealing something of lasting value like a piece of iron, he explained, but not for taking a mere 'wherewithal to eat'.<sup>92</sup> He found other European customs and social habits equally odd. The author and traveller

John Lidiard Nicholas wrote in 1817 that Te Pahi's remarks were well remembered in Sydney, which showed both

the solidity of his understanding and the justness of his conceptions. On our remonstrating with him on the absurdity and inconvenience of his customs, he immediately censured some of our own as far more ridiculous, and many of his arguments were both rational and convincing.<sup>93</sup>

Another subject of Te Pahi's disdain – which clearly pleased his hosts – was indigenous Australians. According to King, he deplored 'their going naked, and their want of ingenuity or inclination to procure food and make themselves comfortable'. He was also contemptuous of the ritualised combat in the Aboriginal mortuary ceremony he witnessed, proclaiming that a shield was 'an unnecessary appendage' with which to face a barrage of hurled spears. The *Sydney Gazette* suggested Te Pahi had little time for 'the natives' because he himself had such a 'high relish for civilization'; by contrast, the Aboriginals were 'a naked race, who have for so many years disregarded its advantages'.<sup>94</sup> At the same time Te Pahi clearly did not regard Europeans as in any way superior to himself.<sup>95</sup> As we have seen, he viewed some of their behaviour as decidedly uncivilised. In King and other officials, however, he recognised members of his own social class, or fellow rangatira, with whom he felt he could work.<sup>96</sup>

During his stay with King, Te Pahi had occasion to complain that a Māori had been flogged by a whaling captain. King promised to 'impress on those who might visit him the necessity of their conducting themselves and people in a peaceable manner'.<sup>97</sup> King might also have explained to Te Pahi that, in May of that year, he had already published an order in the *Sydney Gazette* requiring ships' masters leaving New South Wales to seek permission before taking Māori and other Polynesians aboard their ships and to treat the seafarers well. This notice was as follows:

WHEREAS a number of Otaheitans and Sandwich Islanders have been brought from Otaheite by the Harrington Letter of Marque and two Spanish Vessels she took out of the Ports of Coquimbo and Caldera, for the purpose of manning

them; and several New Zealanders being brought here and left here by South Sea Whalers from the East Coast of that Island; and it being intended by the Persons who have hitherto been allowed to frequent the Islands in Bass's Straits to send some of these credulous people to that place, where their Treatment and Return are very suspicious and doubtful; and it being of the utmost consequence to the interest and safety of Europeans frequenting those Seas, and more particularly the South Sea Whalers, that these people should suffer no ill Treatment, but on the contrary, experience every kindness until they can return to their native country: IT is therefore hereby strictly forbid sending any Otaheitan, Sandwich Islander or New Zealander from this Settlement to any Island or other part of this Coast, on any Sealing or other Voyage; or to any place to the Eastward of Cape Horn.

All Masters of Ships, Foreign as well as English, are hereby forbid taking away any such *Otaheitan, Sandwich Islander* or *New Zealander* from hence without the GOVERNOR's permission in writing; which will not be given unless with a certainty of the Masters taking them to the Islands they belong to.

During their stay here, those whose service they are employed in are not to beat or ill use them; but if their Employers, or those who brought them to this Colony are not able to maintain and employ them, they are to report it to the Governor, who will take measures for their employment and maintenance until they can be sent home.

And it is to be clearly understood, that all such Otaheitans, &c. are protected in their properties, claims for wages, and the same redress as any of His Majesty's Subjects.

Government House, Sydney,  
26 May, 1805.<sup>98</sup>

We do not think this went as far as extending to Māori and other Polynesians 'some of the civil rights of British subjects, long before the signing of the Treaty of Waitangi', as Salmon put it.<sup>99</sup> In fact, this apparent early concern for the well-being of Māori and other Polynesians was at least equally motivated by a concern to protect the whalers and, more generally, the pursuit of British commerce. While King did not go as far – unlike one of his successors as governor – to assert any formal jurisdiction over



Government House in Sydney, circa 1807. It was here that Governor King hosted Teina in 1803 and Te Pahi and his sons in 1805 and 1806, and Te Pahi stayed here again while Governor Bligh was under house arrest in 1808. The site is now the location of the Museum of Sydney in Bridge Street.

acts committed by British subjects in New Zealand itself, his proclamation was still difficult to enforce and largely ineffective.

Te Pahi came back to New Zealand with his mana enhanced.<sup>100</sup> He was laden with gifts from King, including the framework and bricks for a house which was erected for him at Te Puna. O'Malley and Hutton felt his stay with King 'could hardly be judged anything other than a huge success' for he had returned with not only useful material

goods but also with knowledge and a positive relationship with Kāwana Kingi.<sup>101</sup> For the claimants, Te Pahi's sojourn in Sydney may not quite have marked the beginnings of an alliance or formal relationship between Māori and the British Crown,<sup>102</sup> but it certainly belonged on the same continuum. As Hugh Te Kiri Rihari put it, te Tiriti in 1840 'was intended to ensure the continuation of the direct relationships begun by our tupuna, Te Pahi and Kawana Kingi, Hongi Hika and the King'.<sup>103</sup>

## 3.4 VOYAGES TO ENGLAND

### 3.4.1 Te Mahanga and Maatara

In their growing discovery of European society, Bay of Islands Māori were by now beginning to look further afield than Sydney. The first Māori appears to have reached London in April 1806 (that is, slightly ahead of the unwilling Teina and Maki). The previous September, the whaling ship *Ferret* (the same vessel that had brought Maatara to Sydney in 1804) had called at Te Puna en route to England with a cargo of whale oil. One of its passengers was John Savage, a military surgeon in New South Wales, who used the month or two he spent in the Bay of Islands as the basis for his book, *Some Account of New Zealand*, published in 1807. While at Te Puna, Savage fielded several requests from Māori to accompany him back to England, and in the end he chose a young man named Te Mahanga to go with him.<sup>104</sup>

During his month-long stay in London, Te Mahanga was amazed by what he saw, such as the tall buildings, the coaches, and the items for sale. He was introduced to Savage's patron, the wealthy aristocrat Earl Fitzwilliam, who gave him an array of tools to take home with him. Te Mahanga sailed again on 13 June 1806 on the *Ferret*, which eventually returned him to the Bay of Islands around March 1807.<sup>105</sup>

While Te Mahanga appears to have been a man of reasonable status at the Bay,<sup>106</sup> we think O'Malley and Hutton were right to describe him as 'no Te Pahi', and to characterise his trip as 'more in the nature of a private adventure than diplomatic mission'.<sup>107</sup> In later years, Te Mahanga claimed to have met King George and Queen Charlotte, but this seems most unlikely, since Savage did not record any such encounter in his book.<sup>108</sup> Ormond Wilson noted that Te Mahanga 'enjoyed boasting' and reasoned that it was Earl Fitzwilliam's 'imposing presence and the furnishings of his house (including a bust of the noble lord himself) which became transmuted in [his] mind from nobility to royalty'.<sup>109</sup>

But if Te Mahanga's journey was 'little more than a sideshow in the broader story of Northland cultural contacts',<sup>110</sup> that could not be said of the experience of other

Māori who left New Zealand for England around the same time. In the middle of 1806, Maatara again set off from the Bay of Islands at Te Pahi's behest, this time bound for London on the whaler *Richard and Mary*. The ship arrived in Port Jackson on 16 July 1806 and left again on 8 September, reaching Gravesend on 17 April 1807.<sup>111</sup> In London, Maatara met Sir Joseph Banks, who wrote that Maatara had come to 'see the King and obtain from his Majesty and the English nation axes, Iron and musquets in order that they may be enabled to build houses and live as English men do'.<sup>112</sup> According to the merchant Alexander Berry, who – after Maatara's return to New South Wales from England in late 1808 – brought him back to the Bay of Islands on the *City of Edinburgh*, Maatara had 'been treated in England with every attention, and even introduced to the Royal family'.<sup>113</sup> If this is correct and we discount Te Mahanga's claim, then Maatara was the first Māori to meet British royalty. It seems he did return with presents, although Marsden reported that these had all been stolen from him by the time he arrived home.<sup>114</sup>

### 3.4.2 Ruatara

Another young Māori who developed ambitions to meet British royalty was Ruatara. Samuel Marsden described him as a nephew of both Te Pahi and Hongi Hika from Te Puna, although there is some doubt about his whakapapa.<sup>115</sup> In September 1805, he and two Māori companions at the Bay of Islands joined the whaling ship *Argo*, which had brought livestock for Te Pahi from Norfolk Island. The ship spent six months at sea before returning briefly to the Bay, after which it spent another six months cruising off the coast of Australia. In September 1806, Ruatara and his companions were discharged without pay in Sydney. There they were looked after by Marsden, who used his influence to see Ruatara secure a working passage back to the Bay of Islands on board another whaler, the *Albion*, a month later. After a further six months at sea, Ruatara was landed safely back in the Bay of Islands, this time with pay (in the form of European goods).<sup>116</sup>

It is not clear why Ruatara and his two companions joined the *Argo*. Wilson wrote:

Whether the trio were seduced by promises of rich rewards or were incited by accounts they had heard of the wonders seen by Te Pahi and his sons in Sydney, or whether they were simply impelled by an inherited Polynesian instinct to sail across the seas, there is no way of telling. The remarkable fact is that despite frequent hardships, non-payment of wages and abandonment at Sydney, so many of them, as well as Ruatara himself, afterwards set forth again.<sup>117</sup>

Indeed, Ruatara was obviously determined to get back to sea, for in 1807 he joined the crew of a sealing ship, the *Santa Anna*, which had called at the Bay of Islands en route to the Bounty Islands to the south-east of the South Island. Unfortunately for him, the hardships he endured on this expedition exceeded even his poor treatment by the captain of the *Argo*. Ruatara and a gang of 13 others, including another Māori, two Tahitians, and 10 Europeans, were left on the islands to gather sealskins while the ship sailed away to obtain potatoes at New Zealand and pork at Norfolk Island. Their existence must have been miserable, because the Bounty group is little more than a cluster of barren rocks in the open ocean, devoid of vegetation and a water supply. The gang, poorly provisioned in the first place, were reduced to drinking rainwater and eating seals and seabirds to survive in the eight months<sup>118</sup> it took for the *Santa Anna* to return for them; indeed, three men died during the wait.<sup>119</sup>

When at last the survivors reboarded the ship in October 1808, Ruatara nonetheless requested to join the crew for the voyage to England with its cargo of sealskins. As Marsden explained, Ruatara had 'long entertained an ardent desire to see King George', and 'embarked on board as a common sailor with the hope of gratifying his wish'.<sup>120</sup> Some historians have suggested that it was Ruatara's ambition to see the King that prompted him to join a whaling ship in the first place, in 1805, and that the trip to the Bounty Islands was a further stage in an incredible odyssey to achieve that.<sup>121</sup> But this seems to be reading too much into Marsden's mention of Ruatara's long-held desire. There is no reason to conclude Ruatara had somehow thought that sealing and whaling expeditions in the

South Pacific were stepping stones to London. When the opportunity to go there presented itself in 1808, however, he took it, although in reality he appears not to have had any choice but to go on board.<sup>122</sup>

When Ruatara finally reached London, in July 1809, his hopes were dashed. He asked the ship's captain how he might visit the King but was told either that the King's house was too hard to find or that the King did not receive visitors. According to Marsden, this news 'distressed him exceedingly'. Moreover, Ruatara was only infrequently allowed on shore as the ship was unloaded, and after two weeks he was told that he would be put on the *Ann*, a convict transport leaving shortly for New South Wales from Gravesend. Ruatara asked for payment in wages and clothing but was given nothing other than the vague promise of two muskets in Port Jackson. At this point he also fell dangerously ill. Thus 'friendless, poor, and sick', in Marsden's words, he was brought to the *Ann*, although he was so 'naked and miserable' that the master would not receive him until he was at least clothed.<sup>123</sup>

By an unusual stroke of good fortune for Ruatara, travelling on the same ship was Marsden himself. Marsden had been in England seeking Anglican Church Missionary Society (CMS) workers for the mission that he had been planning in New Zealand since his encounter with Te Pahi in 1805. He was returning to New South Wales with his first recruits. He had had no inkling of Ruatara's arrival in London, and indeed no idea of Ruatara's presence on the *Ann* until one day, well into the voyage, he 'observed him on the forecastle'. Ruatara was 'wrapped up in an old greatcoat' and coughing blood. He explained to Marsden that he had been beaten by the sailors on the *Santa Anna* and not only defrauded of his wages by its captain but also denied an opportunity to meet the King.<sup>124</sup> He despaired that 'his countrymen [would] find great fault with him for coming back without attaining the object of his voyage'.<sup>125</sup> With the help of the ship's master and surgeon, Marsden nursed him back to good health before the ship reached Rio de Janeiro.<sup>126</sup> Ruatara left the *Ann* with Marsden at Port Jackson in late February 1810.<sup>127</sup> As one door had closed for him, therefore, another had opened.

## 3.5 TE PAHI'S TROUBLES WITH WHALERS

### 3.5.1 Te Pahi, Atahoe, and George Bruce

Before proceeding further with Ruatara, we return to the story of Te Pahi, who had meantime remained central to so much of the interaction between Māori and Europeans at the Bay of Islands. When we last mentioned Te Pahi, it was April 1806, and he and his sons had just returned to Te Puna from their successful stay with Kāwana Kingi. On that voyage, on the armed tender *Lady Nelson*, Te Pahi had fallen sick and been looked after by a sailor, George Bruce. Bruce was a former child convict and policeman who had at one time fled the New South Wales authorities and turned to bushranging to avoid the sentence of a severe lashing. Now, as the ship arrived at the northern tip of New Zealand, the captain flogged him for ‘theft, disobedience and embezzlement’. Just before the vessel headed south to the Bay of Islands, Bruce jumped ship and, after the *Lady Nelson* had left the Bay on 7 May 1806, took up residence at Te Puna under the protection of Te Pahi.<sup>128</sup>

In time Bruce had married Te Pahi’s daughter, Atahoe, been tattooed, and was working for Te Pahi as an interpreter and adviser in the rangatira’s dealings with visiting whaling ships. Some European visitors to the Bay were far from welcome. The renegade crew of the *Venus*, for example, which had sailed from Port Dalrymple in northern Van Diemen’s Land to the Bay of Islands in June 1806, abducted three high-born Ngāpuhi women and traded them with tribal enemies in Hauraki, the Bay of Plenty, and East Cape, who killed and ate them. This created the take for Ngāpuhi reprisal raids in 1818 and 1820,<sup>129</sup> thus demonstrating again how European provocations could as easily exacerbate intertribal violence as lead to revenge attacks on Europeans themselves.

The ongoing reports of violent and cruel behaviour by whalers and sealers in New Zealand prompted King’s replacement as Governor, William Bligh, to issue an order in April 1807 similar to the one King had published in 1805. Unlike King’s proclamation, however, which required ships’ captains to receive written consent before taking any Māori or other Polynesians from New South Wales, Bligh’s proclamation announced an absolute

ban against taking any of these people to Britain. It also imposed a penalty should any be brought to New South Wales and not maintained before being returned to their own lands. The wording of this notice was as follows:

All Masters of Ships or Vessels are hereby forbid embarking from this *Colony* any Natives of the South Sea for Great Britain.

And in case any Ship arrives at this Colony and its Dependencies from the South Seas, and shall bring any Natives of the Islands therein, then the said Master or Owners shall be answerable for the Maintenance of such Natives until an opportunity offers of sending them back from whence they came, which they are hereby bound to perform, under a penalty of 20 £ for each person, besides the maintenance of those who may be kept here contrary to this Regulation.

By Command of His Excellency.

E Griffin, Sec.

Govt House, Sydney, April 5, 1807.<sup>130</sup>

As with King’s proclamation, however, Bligh’s order proved impractical and was routinely ignored.<sup>131</sup>

In October 1807, a trading ship, the *General Wellesley*, arrived in the Bay of Islands under Captain David Dalrymple, ‘a drunkard given to casual violence’. The ship’s pilot claimed to have felled Te Pahi and taken the chief’s club during a dispute. When another ship came from Sydney with a warrant for George Bruce’s arrest ‘dead or alive’, Bruce was able to hide out on the *General Wellesley*. In gratitude, he promised to show the crew a gold mine at North Cape, where the ship then sailed after taking on Atahoe and three young Māori sailors at Whangaroa. It is not clear whether any land search for the supposed mine was undertaken, but in any case no gold was discovered and a storm gathered that blew the *General Wellesley* 100 miles offshore. Apparently, Bruce was offered the opportunity to get back to land in a small boat but declined. Dalrymple had no wish to spend time taking his ship back to New Zealand, and so sailed off into the Pacific with Bruce and Atahoe his unwilling passengers.<sup>132</sup>

Some historians have described this as a kidnapping,<sup>133</sup> but it was certainly not – or at least not at this point. O’Malley and Hutton were more accurate, we think, in referring to Bruce and Atahoe as ‘kidnapped for all local Maori knew’.<sup>134</sup> Te Pahi himself, according to one account, was angrier with Bruce than with Dalrymple, believing that Bruce had organised the abduction of his daughter.<sup>135</sup> As it transpired, Dalrymple thought he could use Bruce as an intermediary in his negotiations for sandalwood in Fiji, but when Bruce failed in this regard the captain began to treat him and Atahoe harshly. After a series of adventures in the Pacific the ship reached Malacca, where Dalrymple set sail while Bruce was still onshore. Dalrymple then sold Atahoe into slavery in Penang.<sup>136</sup>

With the help of the local British authorities, Bruce was able to rescue Atahoe and secure a passage for them first to Bengal (where their plight was recorded in the *Calcutta Gazette* in May 1809) and then back to New Zealand. On this homeward leg, Atahoe gave birth to a daughter. Instead of being taken all the way back to New Zealand, Bruce, Atahoe and their baby were then dropped at the Derwent (Hobart), and from there made their way to Port Jackson. Atahoe died of dysentery a few weeks later, on 27 February 1810. Bruce, fearing arrest for his earlier desertion, fled to England, leaving his daughter in the female orphanage. He lived out his days in London, always hopeful of a return to New Zealand.<sup>137</sup>

After the disappearance of Bruce and Atahoe, Te Pahi’s goodwill towards traders and whalers must have been decidedly strained. This can only have been exacerbated when, in around March 1808, Captain Alexander Bodie of the *Elizabeth* tied Te Pahi to the ship’s rigging for hours in a dispute over a trade of potatoes. Not only was Te Pahi blameless, but, as Salmond put it, this was also ‘a terrible assault upon the mana of a chief, and Te Pahi and his people must have been extremely angry’. At around this time, other Bay of Islands Māori suffered crop thefts and beatings. In a particularly violent episode in early 1808, the ship *Parramatta* took on board urgently needed supplies of pork, fish, and potatoes. When the locals who had provisioned the ship asked for payment, they were thrown

overboard and some were shot. As fate would have it, a storm then drove the *Parramatta* onto rocks before it had left the Bay, and the crew were massacred and the ship plundered.<sup>138</sup>

At around the end of May 1808, Te Pahi decided to go to Sydney. Wilson observed that no explanation for this trip can be found in the records but suggested that Te Pahi’s complaints in Sydney about the behaviour of the whalers reveal the likely reason. Bruce later guessed that Te Pahi had gone there in search of himself and Atahoe.<sup>139</sup> Whatever the primary motive, the trip was considerably less successful than Te Pahi’s previous visit to Port Jackson. Things began badly before his ship, the *Commerce*, had even left New Zealand. Te Pahi went on board with three sons and ‘several attendants’, and advised its master, Captain James Ceroni, to call at Whangaroa for provisions because the large number of ships that had recently visited the Bay had diminished local supplies.<sup>140</sup> During their stay at Whangaroa, however, Ceroni dropped his watch, which the Whangaroa people regarded as some kind of atua, into the water. This was a calamitous incident, for, as Wilson put it, it would have been seen as ‘an act as serious as breaching a tapu’. Moreover, after the ship departed, Whangaroa Māori were afflicted by the outbreak of an epidemic which claimed many lives. In local minds, the two events were connected.<sup>141</sup>

Te Pahi himself fell ill again on the voyage to Port Jackson (via Norfolk Island), and arrived in New South Wales on 10 July 1808 seriously unwell. He was taken to Government House with orders that he be well cared for during his recovery. But this was to be no repeat of Te Pahi’s stay with Kāwana Kingi in late 1805 and early 1806. The government of New South Wales was in turmoil after a mutiny against Governor Bligh, led in January 1808 by Major George Johnston of the New South Wales Corps. Bligh was under house arrest and, though Salmond felt that Te Pahi must have at least seen him, there is no record of them conversing.<sup>142</sup> After Te Pahi recovered, he was asked to leave Government House and had to sleep rough; without King or Marsden in town, he lacked a benefactor. While Te Pahi was in Sydney, Joseph Foveaux arrived and

assumed the position of Acting Governor, but Salmond doubted Foveaux would have shown Te Pahi any sympathy. As she put it, ‘Te Pahi’s faith in the mana of governors must have been shaken’ by his experiences. He and his sons sailed home with Ceroni in the *Commerce* on 26 September 1808.<sup>143</sup>

### **3.5.2 The attack on the Boyd and the death of Te Pahi**

Not long after this, on 15 November 1808, Maatara himself arrived back in the colony from England, and also stayed at Government House, where Bligh remained confined. As we have noted, he returned to New Zealand on the trading vessel *City of Edinburgh*, owned by Alexander Berry and captained by Simeon Pattison. Travelling with them as a passenger on the voyage was Ceroni, who initially suggested that the ship take on supplies at Whangaroa but then became distinctly uneasy at the prospect as they approached. Instead, Pattison took the boat on to the Bay of Islands, arriving on 1 March. This was in fact the first of three occasions when the *City of Edinburgh* nearly put into Whangaroa. The second was when Te Pahi likewise suggested to Berry that he resupply his ship there, since Te Pahi now considered Whangaroa under his own mana following the death of the leading chief in the epidemic. But Berry instead chose to anchor off Kororāreka in the territory of Te Pahi’s Ngāti Manu rivals, the brothers Tara and Tupi.<sup>144</sup>

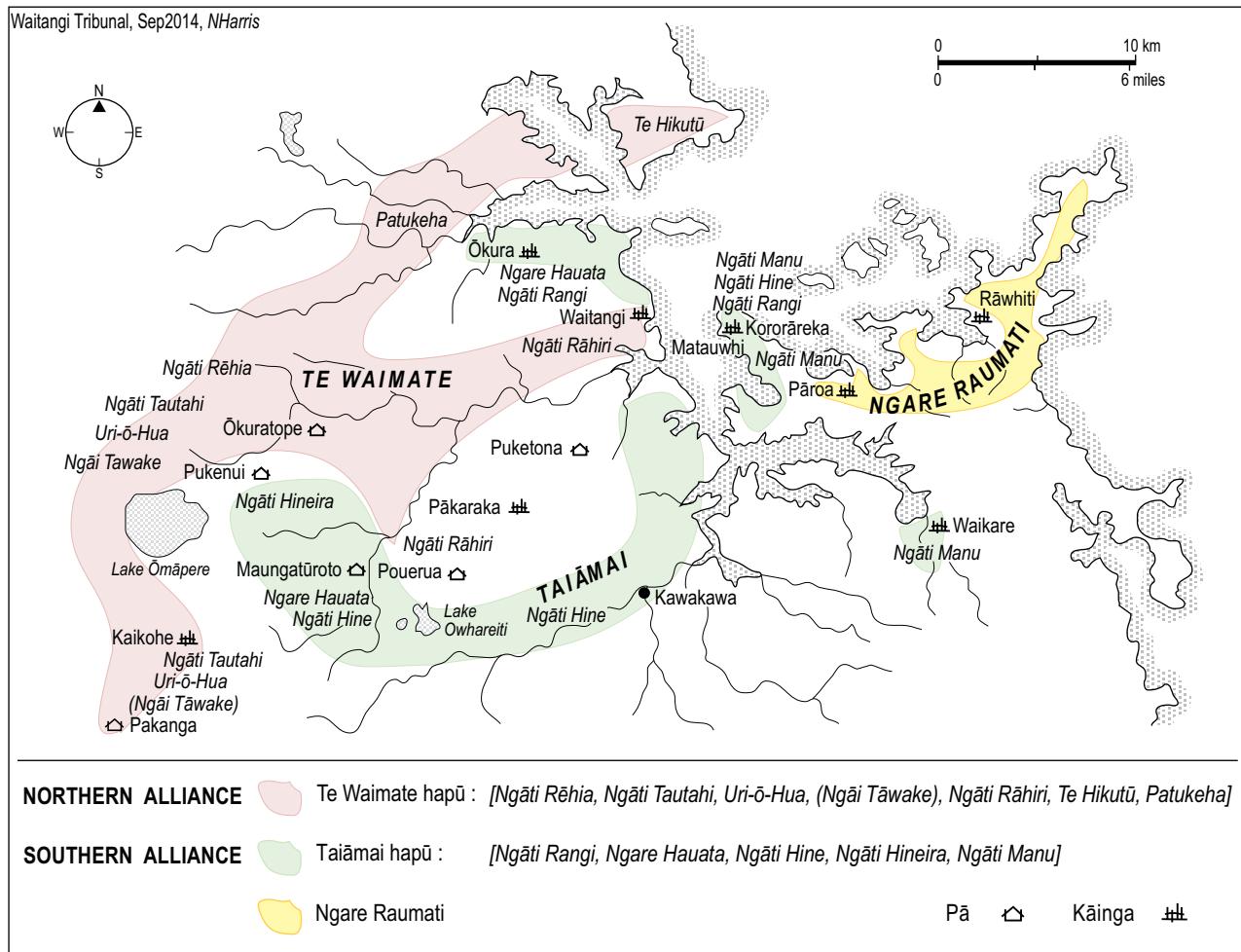
Here we note that the hapū living around the northern shores of the Bay of Islands – such as Ngāti Rēhia, Te Hikutū, Ngāti Tautahi, and Ngāti Tawake at Te Puna, Kerikeri, and Waimate – formed an alliance in opposition to the southern hapū at Kororāreka, Kawakawa, Taiāmai, and Pāroa, like Ngāti Manu, Ngāti Hine, and Ngāti Rangi. As we indicated in chapter 2, among Māori living at the Bay, only the northern alliance were known as ‘Ngāpuhi’. Among other tribes whom the Bay of Islands people united against in warfare, ‘Ngāpuhi’ was used to refer to both northern and southern alliances – as well as related kin groups in Hokianga – from about 1815 at the earliest.<sup>145</sup>

The *City of Edinburgh* remained at the Bay of Islands for three months undergoing repairs before sailing off in late May 1809 on a trading expedition to the Pacific. At least

half a dozen Māori now served on the crew. During their time at the Bay, Berry and his party had been attacked by Waraki, Te Pahi’s ally at Waitangi. However, Berry’s men responded with firepower and drove Waraki’s warriors off, killing many in the process. Such attacks were clearly the consequence of the decision to do business with one alliance at the Bay rather than another. After a number of months at sea, the *City of Edinburgh* returned to New Zealand in late October to complete its cargo. Berry was determined to call at Whangaroa on this (third) occasion, but the Māori crew members begged him to steer clear of the place. They explained that, as revenge for the deaths caused by Ceroni’s accident with the watch, the Whangaroa people had sworn to kill all the sailors of the next European ship to visit. Berry put this down to petty jealousy and ignored them, but as fate would have it strong winds prevented the *City of Edinburgh* from entering Whangaroa, and the ship sailed on to Bay of Islands instead.<sup>146</sup>

A ship that soon did put into Whangaroa Harbour, however, was the transport *Boyd*, which had departed from Sydney on 9 November 1809. It may well have called at Whangaroa because it had several Māori crew members from there, including a man called Te Āra, also known as George, who was the son of the local Ngāti Uru chief Pipikoitareke.<sup>147</sup> Te Āra was in fact related to Te Pahi by the latter’s marriage to Ngara, the daughter of Te Āra’s brother Te Puhi. Te Āra had been ill and unable to work on the *Boyd*’s voyage from Port Jackson, and as a result he had been insulted, tied up, and flogged by the ship’s master, John Thompson, despite the protests of the other Māori sailors. These others were also apparently mistreated. To add to this humiliation, Te Āra had his possessions, including his clothes, taken from him, so that when the *Boyd* arrived at Whangaroa ‘he was received by his countrymen almost in a state of perfect nudity’. When Te Āra’s people learnt what had happened to him and the others, they decided to take utu by seizing the ship and killing the Pākehā crew.<sup>148</sup>

There are numerous accounts of what took place,<sup>149</sup> but it seems that Thompson and most of the crew were lured into the bush to cut spars, and were there confronted



Northern and southern alliances and Ngare Raumati, pre-1830

about the indignities suffered by Te Āra. They turned to walk away, but were massacred and later eaten. Their attackers donned the dead sailors' clothes and rowed out to the *Boyd* that night, boarding the ship and killing all the remaining crew except those who escaped high into the rigging. Those men, too, were eventually captured and killed. Wilson calculated the death toll at between 40 and 70 Europeans.<sup>150</sup> The number who died in this episode rose still further when Pipikoitareke discharged a

musket on board the ship and ignited gunpowder, killing himself and around 14 fellow Māori, and burning the ship to the waterline. Several Europeans were spared, however: a woman and three children, including the cabin boy. Apparently the second mate also survived, initially at least, but he was also dispatched when it was found he was not up to the task of manufacturing iron fish-hooks.<sup>151</sup>

Why exactly was the *Boyd*'s crew attacked? Some historians seem to regard the attack as the inevitable

consequence of Ceroni dropping his watch and the subsequent epidemic. Wilson, for example, wrote that these events 'obliged' Whangaroa Māori 'to inflict retribution on the next vessel to appear a year later: the *Boyd*'.<sup>152</sup> Others, however, ascribed the killings more to Te Āra's treatment on the *Boyd* itself. O'Malley and Hutton considered that the decision to attack came only after Te Āra had 'recounted the cruelties inflicted upon him by the Europeans to his tribe once on shore'.<sup>153</sup> But all seem agreed that the incident with the watch and the subsequent deaths were – as Wilson put it elsewhere – 'pre-disposing factors in an event triggered off by the lack of respect shown by Captain Thompson towards the chief's son'.<sup>154</sup>

A claimant perspective on the attack on the *Boyd* was provided by Aldridge. He explained the attack in similar terms to those he used in respect of the killing of Marion du Fresne – that is, as a reaction to the cumulative impact of a series of affronts:

If you think of all the things that had transpired, all I can see is that Whangaroa Maori implemented a law. They thought, you've done this thing to our people, and we've sat in judgment and this is what we'll do. It goes back to utu, which I have talked about already. Utu is not revenge; it is about what a father does when his son is treated in this way. It is about effecting a law and restoring balance. If the various Pakeha had done these things in England, they would have been punished – which is also effecting a law. . . . Because of the cumulative effect of all of the incidents I have mentioned, it probably would not have mattered which ship had arrived. Te Ara's treatment may have triggered the incident, but overall Ngapuhi were trying to enforce their own laws in their own country. De Surville, Du Fresne, Ceroni, the epidemic, the kidnapping of Huru and Tuki, and the treatment of Ranginui – those events and many others made the *Boyd* incident 'happen'.<sup>155</sup>

It seems that Te Pahi reached Whangaroa after the attack and was dismayed by what he encountered. Wilson speculated that he in fact went to Whangaroa to warn the crew of the *Boyd* of the dangers they faced given Ceroni's

accident with the watch.<sup>156</sup> According to later accounts, Te Pahi arrived while some surviving crew remained high in the rigging. He encouraged them down and promised to protect them, but then was forcibly restrained while these men too were killed. It is impossible to know if this is true. What seems clear, however, is that Te Pahi accepted an invitation to share in the loot, and took away three boat-loads of plundered goods.<sup>157</sup> He may have felt justified in doing so because of the ill-treatment he had received in recent times – not just from the pilot of the *General Wellesley* and Captain Bodie of the *Elizabeth* but also from Captain Hingston of the *Speke* (the vessel that had brought Maatara home from England), who had flogged him over a missing axe.<sup>158</sup> Alternatively, as Shawcross suggested, he may have been bribed to cease his defence of the surviving sailors.<sup>159</sup> In any event, his share of the spoils and indeed his very presence at the scene allowed his rivals to frame him as the principal instigator of the whole affair.

The first Europeans to reach Whangaroa after news of the burning of the *Boyd* filtered back to the Bay of Islands were a party led by Berry. At Whangaroa, he first met two Ngāti Uru chiefs, whom Salmond thought were 'very likely' Te Āra and his brother Te Puhi, who freely admitted the fact of the killings. Berry held the pair captive at gunpoint until he had retrieved the survivors and the ship's papers. He then took the two men back to the Bay of Islands and performed a mock execution of them, finally allowing them their freedom on the condition that they become slaves of Matengaro, a Bay of Islands chief associated with Tara whom Berry was close to. It was probably Matengaro – a likely enemy of Te Pahi – who convinced Berry that Te Pahi was entirely to blame for the killings. Before leaving the Bay, Berry, Pattison, and the *City of Edinburgh*'s mate, James Russel, wrote a notice warning other ships' captains about what had happened. This statement, which was reproduced in the *Sydney Gazette* on 21 April 1810, claimed that Te Pahi – 'that old rascal . . . who has been so much, and so undeservedly caressed at Port Jackson' – had ambushed the *Boyd*'s crew and killed all but a few of them.<sup>160</sup>

As Salmond put it, these accounts were 'a disaster for Te Pahi', who became universally regarded by Europeans



The blowing up of the *Boyd* in Whangaroa Harbour in 1809. An iconic and rather fantastic depiction, this image was painted 80 years after the event. Between 40 and 70 European members of the ship's crew were killed and eaten by Ngāti Uru after one of their relations had been mistreated while working as a sailor during a voyage from Sydney. The *Boyd*'s gunpowder then exploded accidentally, killing 14 Māori. This infamous episode reinforced stereotypes of Māori as 'bloodthirsty savages'.

as a treacherous murderer until contrary accounts began to make their way into print several months later.<sup>161</sup> Not only that, but in late March 1810 a revenge party of sailors from half a dozen whaling ships that were anchored at the Bay of Islands descended upon Te Pahi's island home off Te Puna, burned his village, and killed some 60 people.<sup>162</sup> Te Pahi himself was lucky to escape: he was wounded by musket shot and had to swim for his life to the mainland. But his luck ran out when he was killed a short time later in a fight with a Whangaroa rival<sup>163</sup> that had most likely

been precipitated by the *Boyd* affair. From staying with Kāwana Kingi as an honoured guest in late 1805 and early 1806, and sending his son Maatara to England where he met royalty in 1807, Te Pahi's world had within a few years disintegrated. He had been subjected to repeated mistreatment by the masters of European ships; his daughter Atahoe and son-in-law had vanished on the *General Wellesley*; and his son Maatara had died of some bronchial condition not long after his return to the Bay with Berry. Now Te Pahi himself was dead, a victim, as Salmond put

it, of a ‘lethal combination of inter-tribal animosity and European antagonism’.<sup>164</sup>

Wilson saw Te Pahi’s demise in much broader terms. He argued that King’s lavish attention to Te Pahi had caused resentment and jealousy among the whalers, who ‘were interested only in favourable terms of trade and cheap labour’ and had ‘little sympathy with policies directed towards the well-being of the people’ (policies, no doubt, such as King’s and Bligh’s orders of 1805 and 1807 respectively). He noted that this foreshadowed the later divergence between the settlers on the ground in New Zealand and the Colonial Office. Te Pahi, Wilson suggested, was ‘the first to be caught between these opposing European points of view’ and ultimately ‘paid dearly for King’s favours’.<sup>165</sup> Now Te Pahi and King were both dead, and it fell to the next set of leaders to repair the relationship between Ngāpuhi and the British.

### **3.6 RUATARA, MARDEN, AND THE ESTABLISHMENT OF THE RANGIHOUA MISSION**

#### **3.6.1 Ruatara’s return and further mistreatment**

The successors to Te Pahi and King in furthering the relationship between Bay of Islands and Hokianga Māori and the British were clearly Ruatara and Marsden. But the *Boyd* killings put paid to Marsden’s plans to found his mission in New Zealand, for the time being at least. As he wrote,

This most awful calamity extinguished at once all hopes of introducing the Gospel into that country. Every voice was naturally raised against the natives, and against all who were in any way attached to their interest.<sup>166</sup>

There were several other consequences as well. The attack on Te Pahi’s settlement was another reminder to Māori of the potency of firearms, and may well have contributed to the growing drive for Māori to arm themselves.<sup>167</sup> It was also a reminder to Europeans that Māori were cannibals, causing some to claim that Māori had worse characters than Aboriginal people in Australia – a

reversal of the prevailing stereotypes. Marsden was one who worked indefatigably to counter this negativity.<sup>168</sup>

Despite the fall-out, there remained positive signs for the future. Ballara felt that the good impression Te Pahi had made still gave British officials ‘confidence in the possibility of mutually advantageous relations with Maori’.<sup>169</sup> Māori, for their part, remained generally willing to overlook misbehaviour by Europeans in order to maintain trading relationships, thus recognising the benefits of finding middle ground.<sup>170</sup> And Marsden argued repeatedly that events such as the *Boyd* killings were essentially the fault of Europeans. ‘The New Zealanders will not be insulted with impunity’, he told Governor Lachlan Macquarie. Marsden sought to pressure the Governor to establish a more formal British presence in New Zealand, for the express purpose of controlling the behaviour of British subjects, rather than allowing unfettered European expansion. This included obtaining official support for missions.<sup>171</sup> Macquarie, for his part, had first and foremost economic interests to consider. He had supported influential Sydney merchant Simeon Lord’s request for a flax monopoly in New Zealand in 1810, and saw such resources as increasingly important.<sup>172</sup> Macquarie also offered Thomas Kent appointment as a Justice of the Peace in New Zealand in 1810, in conjunction with Kent’s interest in Lord’s venture there, but nothing came of either the business or the appointment.<sup>173</sup> Marsden considered that commerce and civilisation were essential pre-requisites to Christian conversion.<sup>174</sup> Here, the interests of the missionaries and the authorities in New South Wales in establishing some form of British presence in New Zealand were likely to align, even though there was no specific authorisation from Britain to do so.

We shall return, then, to the story of Ruatara and Marsden. At last mention, they had disembarked from the *Ann* at Sydney in February 1810. Marsden had in mind that Ruatara would proceed directly to the Bay of Islands with his first two mission recruits, carpenter William Hall and ropemaker John King. Marsden had recorded his confidence that Māori ‘would soon become a great nation, if the Arts could be introduced among them, without the



The Reverend Samuel Marsden. Marsden, the senior Anglican chaplain in New South Wales, was convinced that Māori were ripe for 'salvation'. He held plans to establish a mission in New Zealand for nearly a decade before it happened in 1814.

ruinous vices and prevalent diseases of Civilized Society'. As noted, the *Boyd* killings put paid to that. General antagonism towards Māori now prevailed at Port Jackson, and Hall and King became nervous at the prospect of crossing the Tasman. Hall concluded it was providence that had saved them from 'a very hostile savage kind of people'. For Ruatara, the postponement of Marsden's mission project had a positive side. He spent 18 months labouring for Marsden at his Parramatta farm and learning the art of agriculture, particularly the cultivation of cereal crops.<sup>175</sup>

In late 1811, Ruatara expressed a desire to return to the Bay of Islands, and Marsden arranged for him and three other Māori staying at Parramatta – one of whom

appears to have been a son of Te Pahi – to work their passage home on the whaling ship *Frederick* under Captain Alexander Bodie.<sup>176</sup> Marsden sought an assurance from Bodie that he would treat Ruatara and his companions well and, when this was forthcoming, allowed them to embark on the ship. Marsden privately expressed some suspicion of Bodie, however.<sup>177</sup> He may not have known that Bodie had tied Te Pahi to the rigging of the *Elizabeth* at the Bay of Islands in early 1808 (when Marsden was absent from New South Wales in England).<sup>178</sup> As it transpired, his doubts were justified. After six months' whaling – and despite Ruatara having used his connections to help provision the ship at North Cape with pork and potatoes – Bodie refused to drop Ruatara and his companions off in the Bay of Islands. Instead he made for Norfolk Island, where he abandoned Ruatara and two of the other Māori crew, forcibly taking Te Pahi's son with him on the ship's voyage to England.<sup>179</sup>

Once again, Ruatara had been left unpaid, destitute, and practically naked in a foreign port by an unscrupulous ship's captain. He had also lost the seeds and tools that Marsden had given him, and which he so desired to make use of at his settlement at Rangihoua, near Te Puna. Coincidentally, on this occasion too his salvation came in the form of a ship named *Ann*, this time a New Bedford whaler under the command of Captain Gwynn, who clothed and fed Ruatara, and brought him safely back to Port Jackson in August 1812. Fittingly, perhaps, when Marsden again arranged Ruatara's working passage home to the Bay of Islands in late 1812 it was on another a ship named *Ann*, this time a British whaler,<sup>180</sup> from which Ruatara disembarked at the Bay in early 1813. As Wilson noted, he had spent almost his entire time abroad since 1805.<sup>181</sup> At last, he could plant fields of wheat on his home soil. Marsden wrote that Ruatara

was anxious that his country should reap the advantages of which he knew it was capable, by the cultivation of the soil on waste lands, and was fully convinced that the wealth and happiness of a country depended greatly on the produce of its soil . . .<sup>182</sup>

Just after Ruatara had left Port Jackson on the *Frederick*, in late 1811, Marsden received a visit from two more Māori. These were Kawiti, who would go on to become a powerful leader of Ngāti Hine, and another of Te Pahi's sons. Kawiti explained that his matua (senior relation) Tara had sent him 'to Port Jackson to see if he could learn any thing, or obtain any useful Articles'. Instead, Kawiti had endured possibly a worse experience while sealing on Macquarie Island than Ruatara's Bounty Islands ordeal, receiving scant reward for 10 months of relentless hardship. When he got home, and Tara asked him what he had learnt and brought back with him, Kawiti said he would 'tell him I brought nothing, I learn nothing'. He also passed on the news that Tara had recently loaded a ship with spars at the Bay of Islands that had then sailed off without making payment, and claimed that 'the English treated the New Zealanders very bad'. 'I was a King in New Zealand', Kawiti explained, 'but now I am a Cook at Port Jackson.'<sup>183</sup>

Marsden was by now also receiving regular reports from visiting Māori and European sailors that the *Boyd* killings had been provoked and that Te Pahi had been innocent of blame. He must have felt vindicated, after the initial reports suggested he had naively placed his trust in a bloodthirsty killer.<sup>184</sup> He began to compile evidence about the mistreatment of Māori and other Pacific peoples by European ships' captains, and in 1813 presented Governor Macquarie with 'a sheaf of sworn affidavits' detailing 'outrages' going back as far as 1801.<sup>185</sup>

As a result of this lobbying, Macquarie issued a proclamation on 1 December 1813 that went further than the earlier orders of King and Bligh. It noted that 'just' complaints had been made against ship captains and their crews by Māori and other islanders, and that crew members had also 'fallen a sacrifice to the indiscriminate Revenge of the Natives of the said Islands, exasperated by such Conduct'. In order to protect lives, property, and trade, the Governor required the owners and masters of British-registered ships to sign a £1000 bond of good behaviour before leaving port. In this they would undertake to treat islanders and their property well, and not to remove any male islander from his home without his and his people's consent, or indeed any female islander without the

Governor's consent. Male islanders were to be paid in full and returned by the ship's captain 'wheresoever he shall be requested' by the islanders to do so.<sup>186</sup> Thus, by imposing this good behaviour bond, Macquarie's proclamation went much further than those issued previously. It attempted to impose pre-emptive measures to control the actions of British subjects in distant places.

The proclamation also noted that 'the Natives of all the said Islands are under the Protection of His Majesty, and entitled to the good Offices of his Subjects'. Any sailors or masters charged and convicted of offences 'against the Law of Nature and of Nations' would 'be further punished with the utmost rigour of the Law'.<sup>187</sup> The Governor's extension of His Majesty's 'Protection' reflected the necessity the governors felt to act on the reports they were receiving. As Ward put it:

It was convicts under their charge who were escaping to the islands. It was often traders from New South Wales who carried bloodshed and crime to the islands. It was in New South Wales that the loudest complaints were voiced by missionaries and traders against the unregulated condition of the islands.<sup>188</sup>

The fact was, however, that crimes (as defined in Britain) committed by British subjects in New Zealand, as well as other islands of the 'South Seas', were beyond New South Wales' formal jurisdiction. Macquarie's 'unilateral action' in his 1813 proclamation, McHugh noted, was 'unauthorised by the Crown and received no subsequent approval'.<sup>189</sup> The British Government clarified the situation in 1817, as we shall see below.

### 3.6.2 Kendall and Hall visit Rangihoua

Marsden's plans for the mission in New Zealand were proceeding well. He had been joined in October 1813 by Thomas Kendall, who was to be the mission's school teacher. While Kendall was eager to leave for New Zealand, Hall remained reluctant, though he was soon enough persuaded by the threat of dismissal from the CMS and the loss of his tools if he did not. Furthermore, Marsden had set up a philanthropic organisation to

support (and of course convert) islanders brought to Port Jackson, for which Macquarie agreed to act as patron. Its full title was the 'New South Wales Society, for Affording Protection to the Natives of the South Sea Islands, and Promoting their Civilization'. Marsden then purchased the brig *Active* to serve as the mission's own vessel, signing on Peter Dillon as its first master. While Macquarie would not let Marsden leave Port Jackson, because he held an official post as chaplain in New South Wales, Kendall and Hall were free to go, and they sailed in the *Active* in March 1814 with a crew that included a young Ngare Raumati man called Tui (who had been staying at Parramatta),<sup>190</sup> two Tahitians, a Hawaiian, and an Aboriginal.<sup>191</sup>

In the meantime, Ruatara had returned to a very different Rangihoua from the one he had left. Te Pahi had of course died, and his most likely successors were also either dead or judged not fit for the task. It was thus Ruatara who succeeded to Te Pahi's mana, probably because of his knowledge of Europeans.<sup>192</sup> But he was still young – perhaps about 25 or 26 – and his leadership was not settled. Indeed, he was ridiculed by some of his people for the stories he told of incredible sights in other lands. He distributed seeds and predicted that his community would soon have bread and biscuit to eat. But his relations pulled their ripened wheat plants out of the ground, expecting to find grains at the roots. Now disbelieving Ruatara's claims, they burned their remaining crops. Though Ruatara maintained his own wheat crop, matters were made worse by his lack of a proper mill to grind his grains into flour. Altogether, his mana was diminished by this failure to deliver edible proof of his advocacy for planting wheat, and he sent an urgent request to Marsden for a hand mill.<sup>193</sup>

After first calling at Van Diemen's Land, the *Active* arrived at Rangihoua in June 1814. Kendall and Hall's main object was to ascertain the likely safety of the proposed mission in New Zealand, and in that regard they were well satisfied. Both men were warmly welcomed and Kendall wrote that 'the true character of the New Zealanders is not so despicable as Europeans are apt to imagine . . . It has been truly said of these People, that they are a Noble Race.' From Ruatara's perspective, perhaps the most important

item of the *Active*'s cargo was a mill sent by Marsden. He put it to use immediately, grinding wheat and making a cake in a pan. At last Ruatara's doubters were won over: Marsden wrote that the chief's relations 'shouted for joy' at beholding such an achievement.<sup>194</sup>

Marsden also sent Ruatara a letter of friendship:

#### Duaterra King

I have sent the Brig Active to the Bay of Islands to see what you are doing; and Mr Hall and Mr Kendall from England. Mr Kendall will teach the Boys and Girls to read and write. I told you when you was at Parramatta I would send you a gentleman to teach your Tamoneeke's [tamariki] and Cocteedoe's [kootiro] to read. You will be very good to Mr Hall and Mr Kendall. They will come to live in New Zealand if you will not hurt them; and teach you how to grow corn Wheat and make Houses. Charles has sent you a cock and Mrs Marsden has sent you a shirt and jacket. I have sent you some wheat for seeds, and you must put it into the ground as soon as you can. I have sent you a mill to grind your corn. If you will come in the Active to Parramatta, I will send you back again. Send me a man or two to learn how to make an axe and everything. You will send the Active full of moca [muka – dressed flax], potatoes, lines, mats, fish and nets. I have sent a jacket for Kowheetee [Kawiti]. Tell him to assist you and Terra [Tara] to lade the ship. You will be very good to all my men and not hurt them, and I will be good to you. Anne, Elizabeth, Mary, Jane, Charles, Martha, Nanny and Mrs Bishop, Mrs Marsden are all well, and wish to know how you are. If you do not come to see me send me word by Mr Kendall and Mr Hall what you want, and I will send it to you. – I am,

Your friend,  
Samuel Marsden<sup>195</sup>

Professor Alison Jones and Dr Kuni Jenkins referred to this letter as 'the first treaty', in that it responded to Ruatara's request for a teacher to come to live at his settlement with a 'simple proposal': "You will be good to me and I will be good to you". In this way, they argued, the letter laid the basis for Pākehā settlement in New Zealand.<sup>196</sup>

We are not aware of any other description of Marsden's arrangement with Ruatara as a 'treaty', although we agree that the letter proposes a set of reciprocal obligations to make the new mission settlement work.

Hall and Kendall stayed six weeks. Despite the enmity between those on the southern and northern shores of the Bay of Islands, Marsden had sent a very similar letter to Tara at Kororāreka, and when Hall and Kendall visited him they were well received. They also spent a pleasant time with Pōmare at Matauwhi. In Salmond's view, these meetings with southern alliance leaders made the northerners nervous, and when Ruatara introduced Hall and Kendall to his uncle, Hongi Hika, he stressed the great number of fighting men at Hongi's disposal. Hongi possessed 10 muskets and knew how to fire them, but he nevertheless struck Kendall as having 'a very mild disposition'. As it happened, when the *Active* was ready to leave the Bay of Islands in late July, Hongi came on board as a passenger with his eight-year-old son Rapiro. As Ruatara's senior relation, Hongi insisted that Ruatara come too and act as interpreter. Various other Bay Māori joined or rejoined the vessel, including Tui and his brother Korokoro.<sup>197</sup> According to Dr (later Professor) James Belich, Korokoro accompanied them to 'keep an eye on' Hongi and Ruatara.<sup>198</sup>

### 3.6.3 Hongi and Ruatara in Sydney and the mission's departure for New Zealand

The *Active* arrived at Port Jackson on 22 August 1814. Kendall and Hall reported on the Bay of Islands' wonderful climate, scenery, and soil. Marsden now had 12 Māori visitors at Parramatta, who were shown all kinds of trades and skills: spinning, weaving, carpentry, smithing, brickmaking, gardening, mechanics, and various types of farming. They observed the church-going of the Sabbath and Marsden dispensing justice as a magistrate. Marsden wrote:

They tell me when they return, they shall sit up whole nights, telling their People what they have seen, and that their

men will stop their Ears with their Fingers – We have heard enough, they will say, of your incredible Accounts, and we will hear no more – they are impossible to be true.<sup>199</sup>

The visitors also met Governor Macquarie, who made them gifts of clothing and promised them livestock when they went home. Ruatara noted the current scarcity of wheat in New South Wales, and hatched plans to export wheat to Sydney – as Salmond put it, 'the first Maori scheme for an export venture'.<sup>200</sup>

Marsden pushed on with his plans for the establishment of his New Zealand mission, full of anticipation for his evangelical work. He wrote:

I consider New Zealand as the Great Emporium of the South Sea Islands, inhabited by a numerous race of very intelligent men. I hope to erect the Standard of Christ's Kingdom there.<sup>201</sup>

In early November 1814, Macquarie gave Marsden permission to go, on the condition that he would ascertain the potential for New Zealand as the site of an official British settlement. Macquarie issued a new proclamation which granted Marsden formal leave for a period of four months to establish a mission in New Zealand; Kendall was also appointed as

one of his Majesty's Justices of the Peace in the Bay of Islands, in New Zealand, and throughout the Islands of New Zealand, and those immediately contiguous thereto.

Kendall, the proclamation stated, was to be 'respected and obeyed as such throughout the said Islands and Places'.<sup>202</sup>

In a separate proclamation issued three days earlier, Macquarie had also declared that ships' masters and crew had been 'offering great Insult and Injury' to Māori of the Bay of Islands and other parts of New Zealand, and that this was causing 'great Prejudice to the fair Intercourses of Trade which might be otherwise productive of mutual Advantages'. The Governor was

equally solicitous to protect the Natives of New Zealand and the Bay of Islands, in all their just Rights and Privileges, as those of every other Dependency of the Territory of New South Wales . . .

This was the first of such proclamations targeted specifically at New Zealand, and the first time a New South Wales Governor had described New Zealand as a ‘Dependency’: a territory over which the full legal powers of another territory would apply. As we have seen, New South Wales did not possess these powers over New Zealand, but Macquarie’s proclamation suggested further means by which certain powers would be exercised. Māori could not be removed from their districts without the permission of their families or chiefs; Kendall (who was described as Resident Magistrate in this proclamation) would have to certify any such permission as having been granted. The proclamation further disallowed the landing or discharge of any sailors in New Zealand without similar approval. In order to carry this into effect, Ruatara, Hongi, and Korokoro were

invested with Power and Authority . . . and are to receive due Obedience from all Persons to whom these Orders have Reference, so far as they relate to their obtaining Permission to remove or carry away any of the Natives of New Zealand, or the adjacent Isles, or to land or discharge any Sailors or other Persons thereon.<sup>203</sup>

As had been the case with his 1813 proclamation, Macquarie was again asserting a form of jurisdiction over New Zealand, despite the full range of his actions – from Kendall’s appointment to the vesting of authority in rangatira – lacking specific authorisation. This 1814 proclamation, however, was an important development, for it marked the first operative designation of identified individuals (one British and three Māori) in New Zealand as purportedly having official powers. The proclamation was additionally important, as McHugh noted, as ‘one of the earliest signs of what was to become a consistent feature

of British practice in New Zealand’, in that it ‘recognised the power and authority of the Chiefs and through them purported to establish some British authority over its own seafaring subjects’.<sup>204</sup>

In any event, the *Active* sailed from Sydney on 28 November 1814. The large party included Marsden; JL Nicholas; the missionaries Hall, Kendall, and King and their families; a new captain (Thomas Hansen) and his wife; the crew (including five Māori and a Tahitian); Ruatara; Hongi and his son; Korokoro; Tui; and a number of others. Aside from their officers’ uniforms, Macquarie gave the three rangatira a cow each.<sup>205</sup> Before the boat left Port Jackson it sat for several days in Watson’s Bay waiting for the winds to change. Marsden and Nicholas noticed that Ruatara and the other chiefs appeared ‘gloomy, sullen, and reserved’, and wondered if there had been some ill-feeling caused by the distribution of gifts. As Nicholas later wrote in his book, *Narrative of a Voyage to New Zealand*,

this was not the true cause, and, to our very great surprise and alarm, it was one which of all others we could least suppose; a jealousy and distrust of the Missionary establishment, which, from some wicked misrepresentations, they regarded as ruinous to the independence of their country, and fatal to their own influence; while not only their liberties, but even their lives, would be compromised by it. Duaterra, after some hesitation, gave this as the true reason of the change in his own manner, and in that of his companions; and told us plainly, he regretted, from his heart, the encouragement he had given us to go to his country; as he was informed by a gentleman at Sydney, that the Missionaries then going, would shortly introduce a much greater number; and thus, in some time, become so powerful, as to possess themselves of the whole island, and either destroy the natives, or reduce them to slavery. The gentleman, he said, desirous to convince him of the truth of this assertion, bid him look at the conduct of our countrymen in New South Wales, where, on their first arrival, they despoiled the inhabitants of all their possessions, and shot the greater number of them with a merciless cruelty; while, in some few

years, the whole race of that once happy people would be entirely extinct. This diabolical reasoning succeeded but too well in awakening all the fears and suspicions of Duaterra, who communicated his apprehensions to the other chiefs[.]<sup>206</sup>

Marsden considered that the idea of being overrun by Europeans had ‘darted into [Ruatara’s] mind like a poisoned arrow’. Ruatara now also feared the anger of his own people ‘if he should be the author of their country being taken and given to the English’.<sup>207</sup> Marsden offered to turn the ship back and ‘never more think of holding any intercourse with his country’ – a position O’Malley and Hutton described as a ‘resort to brinkmanship’. Ruatara relented upon receiving Marsden’s assurance that the missionaries would make their settlement at Rangihoua, ‘where he and his tribe could easily protect it’. With this arranged, wrote Marsden, Ruatara ‘resumed all his usual good humour’.<sup>208</sup>

It is not clear exactly who was pressuring whom here. Dr (later Dame Professor) Judith Binney described Ruatara as ‘torn between his fears and his desire to introduce the techniques of agriculture’ and as offering his agreement only ‘reluctantly’.<sup>209</sup> Belich, by contrast, thought it little wonder Ruatara’s mood had improved, for he ‘had just secured a monopoly over the first permanent European settlement in New Zealand, a goose that would reliably lay eggs of iron, if not gold’.<sup>210</sup> Wilson summed up the exchange between the two men like this:

Marsden, it seems, outwitted Ruatara but it is possible that Ruatara had outwitted Marsden. We can be certain that Marsden had no intention of abandoning his missionary voyage, nor of going elsewhere than to the Bay of Islands. But if his offer, or threat, was no more than bluff, one may almost suspect Ruatara of having put on a show with the sole object of getting the mission more firmly under his control.<sup>211</sup>

#### 3.6.4 The mission is established

The *Active* reached the coast of New Zealand on 16 December 1814. It anchored first at North Cape and then again further south at the Cavalli Islands. Ruatara and Hongi took the opportunity to make peace with Te Āra and Te Puhi, who were passing through Matauri Bay with

150 Ngāti Uru warriors after attending a tangi. Marsden quizzed Te Āra about the *Boyd* killings, and gained further confirmation that they had been provoked by European cruelty and that Te Pahi was innocent of blame. The *Active* reached Rangihoua on 22 December 1814. The locals were astonished by the livestock unloaded, particularly when a cow ran amok, and when Marsden mounted and rode his horse along the beach. For Ruatara, whose stories about the Europeans’ animals had been greeted with such scepticism by his people, this was another moment of vindication.<sup>212</sup> He told Marsden triumphantly,

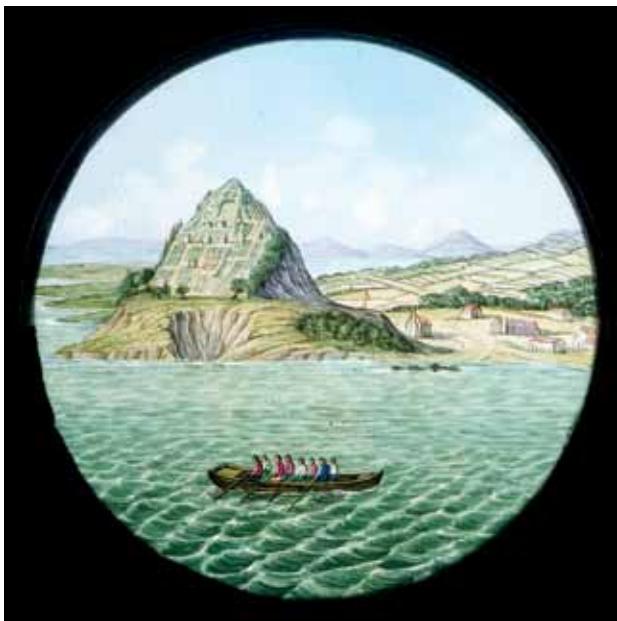
I have now introduced the cultivation of wheat in New Zealand. It will become a great country, for in two years more I shall be able to export wheat to Port Jackson in exchange for hoes, axes, spades, and tea and sugar.<sup>213</sup>

On 24 December, a spectacular welcome for the European settlers took place. Korokoro and a large body of his warriors brought Marsden and Nicholas to the shore in a fleet of canoes, and then held what Nicholas described as a ‘sham fight’ with an equivalent party of Ruatara’s people. Jones and Jenkins were critical of historians’ lack of emphasis on – or even mention of – this ‘amazing and electrifying event’.<sup>214</sup> As they put it,

The grand choreography of the event ensured that the arrival of Marsden was to be understood by local iwi as particularly auspicious. The pōwhiri at Rangihoua was spectacular: it took up a large amount of space – the whole beach and foreshore, as well as the valley leading to the body of the pā. Significantly, during the wero the tangata whenua came charging into the midst of the manuhiri (represented here by Korokoro’s men) – a massive display of confidence, defiance, and challenge towards the arriving Europeans. An intensely emotional mingling of both sides occurred early in the event.<sup>215</sup>

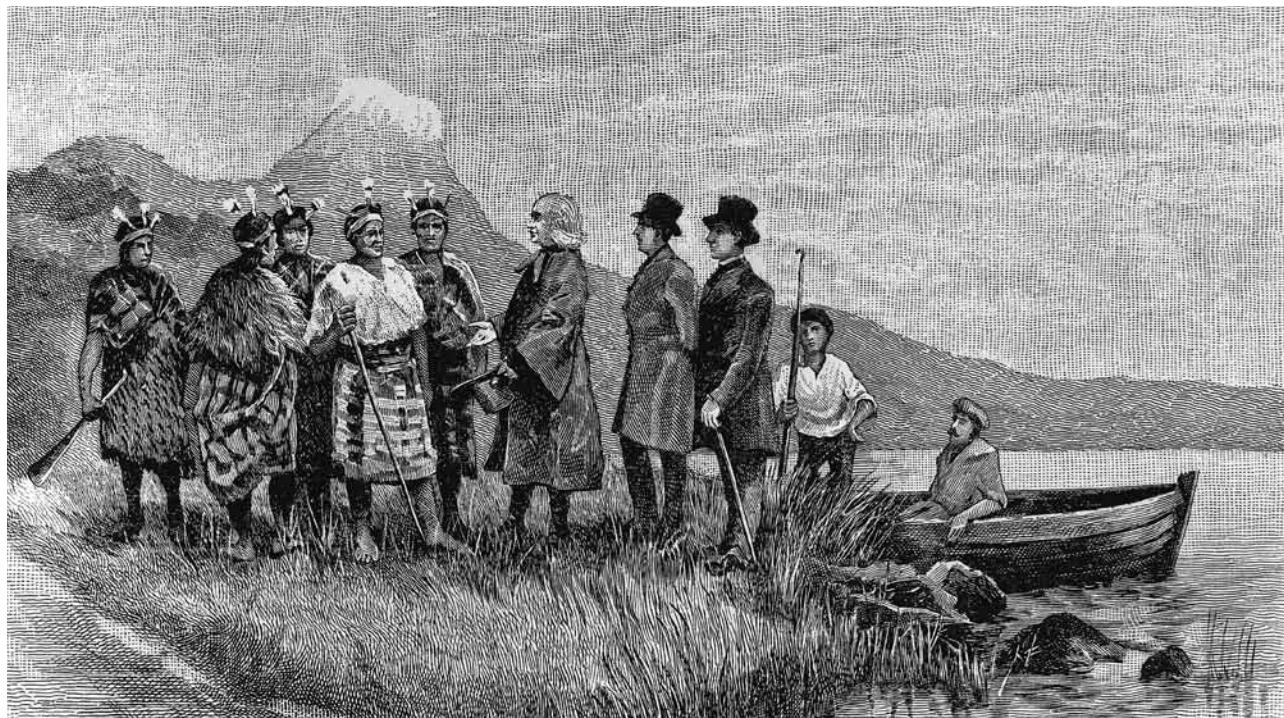
From the Māori perspective, they argued,

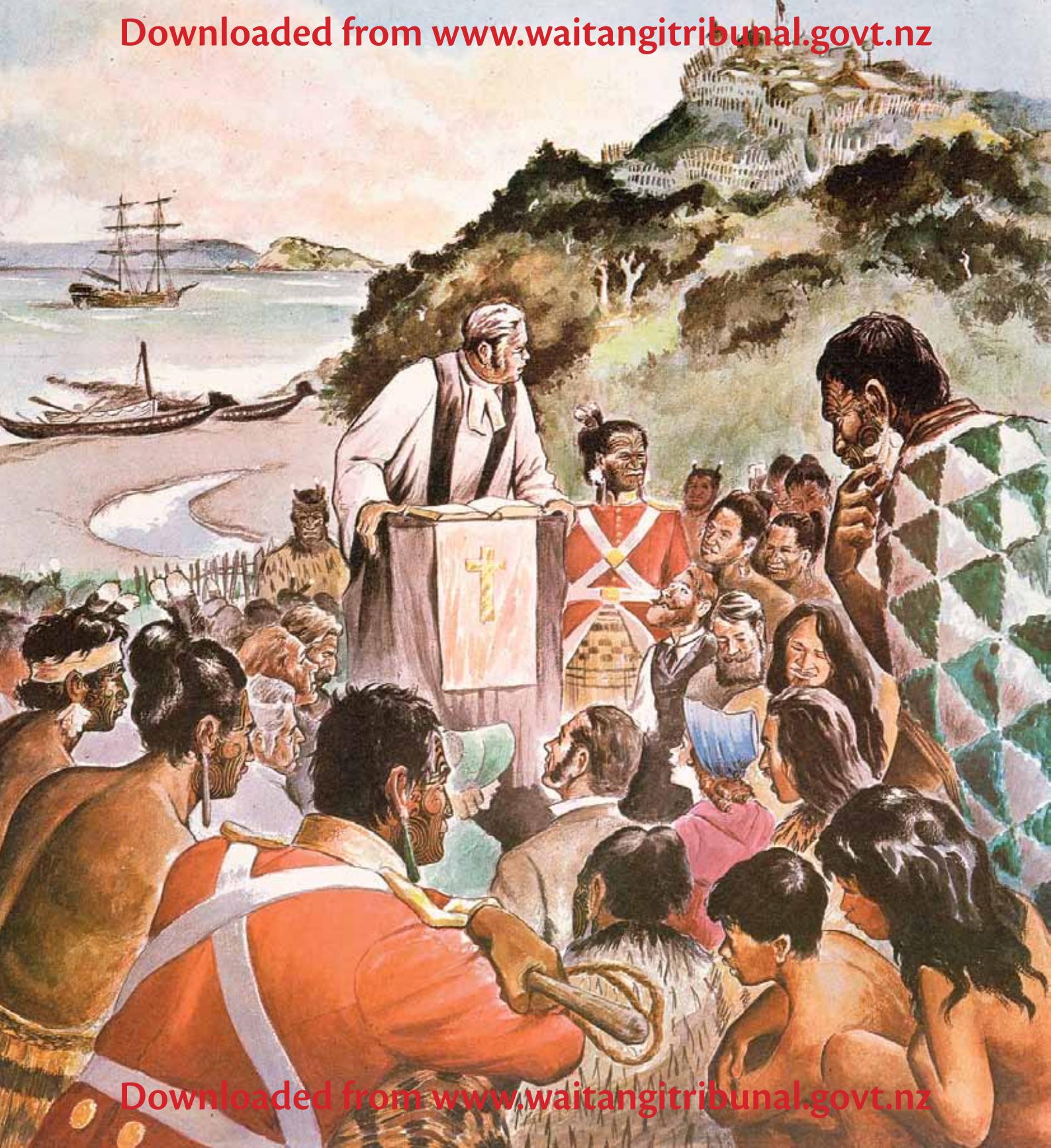
a commitment to a relationship was made at that event; a relationship that was to be characterised by wehi and ihi and



◀ Rangihoua Pā and the Oihi missionary settlement, circa 1830. This image does nothing to convey the steep and enclosed nature of the site on which the mission settlement was located. The location of the pā, while also steep, was in reality not quite so vertical as depicted here.

▼ Samuel Marsden landing at Rangihoua, December 1814. This is a rather fanciful reconstruction, complete with a snow-covered peak in the background. In reality, in Marsden's formal welcome on 24 December, a dramatic 'sham fight' was staged between hundreds of warriors, signifying the great importance of the occasion.





manaakitanga and which would be productive for both its partners. In more dramatic terms, because of the relationship between Ruatara and Marsden, and the successful pōwhiri on the beach that engaged the people, Māori in the north-eastern Bay of Islands now became locked into a highly significant shared project that would change their lives and the history of their country for ever.<sup>216</sup>

On Christmas Day, Ruatara flew the Union Jack at Rangihoua. Marsden, who saw it when he awoke on the *Active*, wrote:

I considered it the signal for the dawn of Civilization, liberty and Religion in that dark and benighted land. I never viewed the British Colors with more gratification, and flattered myself they would never be removed till the Natives of that Island enjoyed all the happiness of British Subjects.<sup>217</sup>

Marsden went on shore in his surplice to deliver his first sermon, while Hongi, Ruatara, and Korokoro wore their officers' uniforms, including their swords. A large number of Korokoro's people remained present; together with the Rangihoua locals, there would have been several hundred people in attendance. At the conclusion of the service, Ruatara translated Marsden's sermon for them. That evening Marsden rejoiced that 'the time was at hand when the Glory of the Lord would be revealed to these poor benighted Heathens'.<sup>218</sup>

Just what Ruatara said on this occasion is an intriguing question. We can be relatively certain that he did not translate Marsden's words too closely or literally. Jones and Jenkins wrote:

The sermon, with all the settlers present, was Ruatara's opportunity for publicly demonstrating his 'control' of the Europeans, as well as for reinforcing through his kōrero the

◀ Samuel Marsden delivering his first sermon at Oihi, Christmas Day 1814. Hongi Hika, Ruatara, and Korokoro wore the uniforms presented to them by Governor Macquarie. As Professor Alison Jones and Dr Kuni Jenkins suggested, Ruatara's translation of Marsden's words would have been regarded by those assembled as the main event.

possibility of positive social and economic change for his region. . . . Ruatara was *not* merely Marsden's interpreter, quite the contrary. Marsden, on this day, had become the *assistant* in Ruatara's – and his more powerful and ambitious uncle Hongi's – plans. All this is not to suggest that Marsden was *merely* a bit-player in Ruatara's independent scheme. Marsden appears to have had a big influence on Ruatara's thinking about the possibilities for his people, and Marsden had his own ambitious plans for expansion of his control. The occasion of the Pākeha tohunga's public performance brought the crowd together, but it was Ruatara who made the important speech, and to whom the people responded with a rousing haka.<sup>219</sup>

Despite the ceremony that attended the first days of the mission, Ruatara remained obviously ambivalent about it. Kendall complained that Ruatara 'had prepared the way for our entrance, but seemed to be almost unwilling to aid us any further',<sup>220</sup> while King wrote that 'There has been a great deal said about Duaterra and a great deal expected from him, by some . . . but his mind was much prejudiced against us'.<sup>221</sup> Ruatara would have valued the mana and trade that accrued to him through the presence of the missionaries, but – aside from his fear of being overrun – was probably not much interested in religious moralising and talk of civilisation.<sup>222</sup> He kept the mission under his watchful eye and resisted any notion of its relocation (a genuine concern given that at least one rival chief had tried to tempt Marsden into settling elsewhere).<sup>223</sup> Ruatara even controlled the mission's stores and once took charge of the missionaries' entire stock of iron in order, as Belich put it, 'to remind them who was boss'.<sup>224</sup>

What compounded everything was the mission settlement's location, on the steeply sloping, south-facing hillside named Oihi above Rangihoua Bay.<sup>225</sup> The site has been described as a 'barren, claustrophobic cove',<sup>226</sup> and its utter unsuitability for agriculture left the missionaries with no hope of establishing any kind of independence from their Māori hosts. They were left at Ruatara's mercy, which was undoubtedly his intention.<sup>227</sup> This may have been Marsden's preference too, for making the mission equally reliant on his dispatch of supplies from Sydney



The Oihi mission site. Marsden's missionaries lived on the the steep slopes and narrow terraces, overlooked by Rangihoua Pā and dependent on their Te Hikutū hosts. The missionaries squabbled with each other and occasionally came to blows.

was a means of him maintaining his own form of control.<sup>228</sup> Then, just before Marsden was due to return to New South Wales, Ruatara fell seriously ill. Despite the condition of his mission's protector, Marsden sailed away, 'leaving the three families and some unmarried men in a temporary, draughty, leaky home divided into partitions'.<sup>229</sup> Ruatara died on 3 March 1815, only a week after Marsden's departure.<sup>230</sup>

The day he left, Marsden was able to execute what he saw as a deed of purchase for the Oihi mission site, which was estimated to cover 200 acres. The wording of the deed, which had been drawn up on parchment before he

left Sydney and was the first such document to be used in New Zealand, was as follows:

Know all men to whom these presents shall come, That I, Ahooodee o Gunna [Te Uri o Kanae, a nephew of Te Pahi's], King of Rangee Hoo, in the Island of New Zealand, have, in consideration of Twelve Axes to me in hand now paid and delivered by the Rev Samuel Marsden, of Parramatta, in the territory of New South Wales, given, granted, bargained and sold; and by this present instrument do give, grant, bargain, and sell unto the Committee of the Church Missionary Society for Africa and the East, instituted in London, in the

kingdom of Great Britain, and to their heirs and successors, all that piece and parcel of land situate in the district of Hoshee, in the Island of New Zealand, bounded on the south side by the bay of Tippoona and the town of Ranghee Hoo, on the north side by a creek of fresh water, and on the west by a public road into the interior; together with all the rights, members, privileges, and appurtenances thereunto belonging; To have and to hold, to the aforesaid Committee of the Church Missionary Society for Africa and the East, instituted in London, in the kingdom of Great Britain, their heirs, successors, and assigns, for ever, clear and freed from all taxes, charges, impositions, and contributions whatsoever, as and for their own absolute and proper estate for ever:

In testimony whereof, I have, to these presents thus done and given, set my land, at Hoshee, in the Island of New Zealand, this twenty-fourth day of February, in the year of Christ one thousand eight hundred and fifteen.

THOS KENDALL  
JL NICHOLAS<sup>231</sup>

Hongi drew Te Uri o Kanae's moko on the deed to signify the latter's consent to the settlement, and Kanae declared the land tapu to all but the Europeans.<sup>232</sup>

### 3.7 THE SIGNIFICANCE OF HONGI'S ENGLAND TRIP

In this section we relate Hongi's 1820 visit to England, which the claimants regarded as a momentous event in their history. In doing so we consider what motivated him to make this trip. Before that we first traverse a matter of growing concern at the Bay of Islands at the time: the question of how the behaviour of disorderly Europeans could be controlled and their transgressions punished.

#### 3.7.1 The question of British authority at the Bay

With Ruatara's death, Hongi assumed his role as mission patron (although Ruatara's successor more locally at Rangihoua was Wharepoaka).<sup>233</sup> The missionaries remained more or less stuck – William Hall left to live at Waitangi in September 1815, but was back at Rangihoua by January 1816 after his house was plundered, and both

he and his wife were assaulted by visiting Māori. Hall, Kendall, and King were also stuck with each other,<sup>234</sup> and the years following the mission's establishment were characterised by much squabbling – and the occasional physical fight. Part of the problem was that they needed to trade to survive but, starting with Hall, began to do so individually, thus ruining any chance of a sense of community.<sup>235</sup> They were also subjected to regular bullying by their Māori protectors, who regarded them (unlike Marsden) as having little status. As Shawcross observed, Rangihoua (and presumably other) Māori 'were clearly quick to appreciate that such aggressive behaviour, if stopped short of physical violence, was not bad enough to drive off Europeans who had urgent reasons for coming to the Bay'.<sup>236</sup>

Aside from the missionaries' singular failure to win any converts, the powers granted to Kendall proved ineffective, despite his various attempts to enforce them.<sup>237</sup> Nicholas later claimed in London that Macquarie's proclamations had been 'laughed at a good deal as an Assumption of Authority'.<sup>238</sup> Marsden nevertheless increased his efforts to pressure both the New South Wales and British authorities to exert more formal powers in New Zealand.

The British authorities had instructed Macquarie to impose the first New South Wales import duties in 1813, after which New Zealand imports (specifically timber and probably flax) were taxed as being from a foreign country.<sup>239</sup> But after an approach from Marsden, who was eager to see Māori enterprise develop, duties on timber from New Zealand entering New South Wales (but not Van Diemen's Land) were lowered in 1815.<sup>240</sup>

Marsden was particularly unhappy with the apparent inability of authorities in New South Wales to take action against British subjects who had breached the terms of the proclamations. In April 1815 he had brought charges of fraud and cruelty against a captain who had committed offences against Māori at the North Cape and Bay of Islands, but was unable to take them further, as the judge declared that no court in New South Wales could try such a case. Marsden therefore requested that the CMS in London (which had been established by evangelical Anglicans in 1799) press the British Government



Kerikeri mission station, circa 1825. The mission station at Kerikeri was the second established by the Church Missionary Society. It lay next to Hongi Hika's own base at Kororipo Pā, thereby strengthening Hongi's monopoly on European trade at the Bay.

to introduce legislation that would allow such offences to be tried in the New South Wales courts. In December, Marsden tried again, bringing charges against another captain for seizing people of Santa Christiana, in the Marquesas, but the case was again dismissed on the grounds that the New South Wales courts held no jurisdiction. Marsden then persuaded the London Missionary Society to join the CMS in lobbying ministers for legislative action.<sup>241</sup>

The British Parliament responded by passing the Murders Abroad Act 1817. It provided that the crew members of British vessels accused of murder or manslaughter in New Zealand, Tahiti, 'and other Islands, Counties

and Places not within His Majesty's Dominions' would be tried in British territory 'in the same manner as if such Offence or Offences had been committed on the High Seas'.<sup>242</sup> It was both the first British Act of Parliament to mention New Zealand and also the first occasion where New Zealand was expressly described as being outside formal British control, 'nor subject to any European state or power, nor within the territory of the United States of America.'

Through this legislation, McHugh said, Britain 'expressly disavowed any sovereignty over New Zealand'.<sup>243</sup> As such, the Act signalled the continuation of Britain's policy of minimum intervention in the South Pacific.

Since Britain had only recently secured victory in the Napoleonic Wars, it was focused on consolidating its significant gains in key strategic locations of the empire, particularly along the main trading route to India.<sup>244</sup> There was little appetite to exercise formal control over remote islands at this time (due in part to the associated expense), and little immediate competition from other powers. However, the Murders Abroad Act contained a crucial omission: although crimes (as defined in Britain) committed by British subjects could be tried, no provision was given for the enforcement of these measures by the New South Wales courts. This error remained uncorrected for six years (see section 3.8).<sup>245</sup>

Despite the Act's disavowal of British sovereignty, Macquarie continued to behave as if he had been granted authority to exercise some form of jurisdiction in New Zealand. In 1819, he appointed another missionary, John Butler, a Justice of the Peace at the Bay of Islands. Butler, the first ordained missionary to settle in the north, was commissioned to

keep His Majesty's peace and for the preservation thereof and the quiet rule of Government of His Majesty's people within and throughout the British Settlements at New Zealand a dependency of the said Territory [New South Wales] . . .<sup>246</sup>

Marsden and Macquarie, however, had developed different plans for the extent of action to be taken in New Zealand. In 1816, after agreeing to lower the import duties on New Zealand timber, Macquarie had sought approval for an official commercial settlement for manufacturing hemp from flax in New Zealand; though this was declined, the British authorities gave approval for an unofficial commercial settlement, so long as consent was received from Māori.<sup>247</sup> Marsden, for his part, opposed an official settlement, but supported an unofficial British settlement for the purposes of introducing the 'arts of civilisation' to New Zealand.<sup>248</sup> These plans did not develop beyond the existing missionary settlements at this time, including the additional appointment of Butler, though trade in New Zealand was certainly on the increase.

We note that New South Wales' lack of jurisdiction over

New Zealand was emphasised by John Bigge, who had been commissioned by the British Government in 1819 to inquire into the state of the New South Wales colony. In 1823 he reported to the Secretary of State for War and the Colonies, Lord Bathurst, that

The jurisdiction conferred on the Governors of New South Wales extends to the islands adjacent to the eastern coast of that colony, an expression too vague to support the exercise of a criminal authority in New Zealand, which is situated one thousand miles from it. To remedy these doubts, therefore, it would be advisable to give an express authority to the Governor of New South Wales to appoint magistrates, as well as constables, in the Islands of New Zealand[.]<sup>249</sup>

This 'express authority' was never given. In 1825, Governor Sir Thomas Brisbane asked Lord Bathurst directly whether the reference in his commission to 'the Islands adjacent' included New Zealand. His recall to Britain meant a reply was never provided. However, as EJ Tapp pointed out in 1958, the instructions for his successor as Governor, Sir Ralph Darling, provided an answer of sorts. In altering the boundaries of New South Wales to accommodate the creation of Van Diemen's Land as a separate colony, the southern boundary of New South Wales was placed on a line of latitude that ran through the middle of the North Island.<sup>250</sup>

### 3.7.2 The pursuit of muskets

By the close of 1815, Bay of Islands Māori had become primarily interested in trading muskets. As Shawcross explained, on occasions during that year and with increasing frequency thereafter, Māori refused to trade with the missionaries unless guns were on offer. By 1818, 'this method of squeezing muskets out of reluctant missionary hands' had become standard;<sup>251</sup> and by 1820 it was, wrote Shawcross, 'virtually impossible' for any Europeans at the Bay to obtain goods or services without payment in guns.<sup>252</sup> Hongi was the prime accumulator, driven by the desire to avenge Ngāpuhi defeats in battle by Hauraki at Puketona in 1793 and Ngāti Whātua at Moremonui in 1807, as well as the deaths in 1806 of the three high-born

women (including one of his relations) who had been abducted and traded with tribal enemies by the pirates of the *Venus*.<sup>253</sup> In early 1818, he and southern alliance rangatira Te Morenga set off on separate taua to the Bay of Plenty and beyond to seek utu for the deaths of these women. The muskets they had brought them success, but Hongi clearly wanted many more.<sup>254</sup>

In August 1819, Marsden arrived in the Bay of Islands on his second voyage to New Zealand, bringing with him three new missionaries: James Kemp, Francis Hall, and the new superintendent of the mission, the aforementioned Butler. To Korokoro's intense disappointment, Marsden quickly selected Hongi's own base at Kerikeri as the site for a second mission settlement – a decision no doubt hastened by Hongi's repeated encouragement. In November, Marsden thus again concluded his stay with the signing of a heavily legalistic deed, this time with Hongi (who affixed his own moko) for 13,000 acres of Kerikeri land for the price of four dozen axes. As with the Oihi transaction, we refrain from passing comment on whether this arrangement could be described as a sale, which is a matter for our stage 2 inquiry. The key point is that Hongi had strengthened his monopoly on European trade at the Bay and gained further advantage over his southern alliance rivals. Marsden, for his part, had aligned himself even more closely to the most powerful chief at the Bay and could depart, he felt, confident in the security of his new settlement.<sup>255</sup>

But it was the ongoing instability in the missionary community that precipitated a remarkable development in 1820, when Kendall sailed for London with Hongi. In short, Kendall felt a pressing need to return to England. His family life had become very difficult, and he was worn down by his disputes not just with King and (William) Hall but now also with Butler, whose authority he would not respect. He hoped to be ordained into the priesthood and to gain some recognition for his pioneering work on the vocabulary and grammar of the Māori language. In this regard he had been dismayed to learn that Marsden had sent Tui and another young Māori, Titere, to England in 1818 to help Professor Samuel Lee at Cambridge

University produce a Māori dictionary. Kendall felt compelled to proceed to England and prove his own worth as a linguist. This ambition was matched by Hongi's own.<sup>256</sup> We discuss Hongi's motives for travelling to England below, but note here that he had told a visiting British military officer in February 1820 that he 'should die if he did not go – that if he once got to England, he was certain of getting twelve muskets, and a double-barrelled gun'.<sup>257</sup>

As Binney put it, Kendall took Hongi with him – as well as the youthful Rangihoua rangatira Waikato, who was to act as Hongi's assistant – to buy Hongi's ongoing favour. Kendall had been supplying Hongi with arms secured in trade with visiting whaling ships and now was taking him to 'the source of supplies'. After all, Kendall 'no longer possessed the power of choice in this relationship'. But Hongi also presented Kendall with a convenient front for the achievement of his own aims. The two men's purposes in embarking on the whaler *New Zealander* on 2 March 1820 were therefore interlinked.<sup>258</sup> Indeed, when Marsden arrived at the Bay on the *Dromedary* on 27 February 1820, there was little he could do other than tell Kendall that he did not sanction the trip.<sup>259</sup> Nor could the CMS, which was furious with Kendall, refuse hospitality, as it was well aware of Hongi's importance to its New Zealand mission. As Dr Dorothy Cloher remarked, 'Kendall had selected the right companion for his return home'.<sup>260</sup>

### 3.7.3 Hongi's meeting with George IV

Kendall and the two chiefs arrived in England on 8 August 1820. On 14 August, Kendall set out a list of what his companions wanted to achieve from the trip:

Shungee and Whykato are come with a view to see King George, the multitude of his people, what they are doing, and the goodness of the land. Their desire is to stay in England only one moon (*month?*); and they wish to take with them at least one hundred men as settlers. They are in want of a party of men to dig up the ground in search of iron. An additional number of Blacksmiths; an additional number of carpenters; and an additional number of preachers who will try to speak to them in the New Zealand tongue in order that they may

understand them. Also 20 soldiers and 3 officers over them. The above settlers are to take cattle with them in order to assist in cultivating the land. Land will be readily granted to the settlers. 'the words of Shunhee and Whykato.'

Shunhee and Whykato assert that as Englishmen are permitted to visit New Zealand, it is just and reasonable that New Zealanders should be permitted to visit England. Shungee wishes to take a Lion with him to New Zealand. The natives wish to take with them a large dog each. [Deletion in original.]<sup>261</sup>

Binney felt that this read like a list of 'demands' and that it reflected Hongi's and Waikato's 'certainty of control over the European intrusion'.<sup>262</sup>

Upon their arrival, Kendall, Hongi, and Waikato proceeded immediately to Cambridge University to begin further work on the Māori-language grammar and dictionary. In Cambridge, the rangatira met many members of high society, including aristocrats, academics, and senior clerics, as well as a young law student named Baron Charles Philippe Hippolyte de Thierry – 'an opportunist of the first order', whom they encouraged to purchase land in New Zealand. After two months, the chiefs returned to London as guests of a Cambridge acquaintance. On 21 October, they visited the House of Lords, where they made quite an impression, although of course such a brief experience was not sufficient to acquaint the pair with the intricacies of British law-making and the operation of government. Then, on 13 November, Hongi's wish was fulfilled when he and Waikato were presented to George IV at Carlton House.<sup>263</sup>

It is generally accepted that this meeting was a great success. Phillipson regarded it as the 'most important contact between Crown and Maori until the arrival of [British Resident James] Busby in 1833',<sup>264</sup> thus eclipsing earlier meetings between senior chiefs and New South Wales governors. According to one account, Hongi greeted the King with the words, 'How do you do, Mr King George?' to which the King replied, 'How do you do, Mr King Shungee?'.<sup>265</sup> The two men then had a friendly conversation in which they discussed the King's divorce

proceedings, Hongi apparently wondering why the King had such trouble with one wife when he managed comfortably with five.<sup>266</sup> The King is said to have remarked upon Māori cannibalism, adding, as if to put his visitors at ease, that shipwrecked British sailors sometimes ate each other as well.<sup>267</sup> The King then showed Hongi and Waikato his armoury, and presented both with presents: for Waikato, a gun and a helmet; for Hongi, a helmet, a coat of chain mail, and two guns. They were also conducted on a tour of the British Museum, the Tower of London, and the Menagerie in the Strand, where Hongi was startled by the elephant. At Woolwich arsenal, wrote Binney, 'Hongi stood in ecstasy'.<sup>268</sup>

From the claimants' perspective, the two leaders met as equals.<sup>269</sup> As Erima Henare wrote:

He aha te tikanga o ēnei kōrero mo Hongi Hika? Ko te mea nui ko tana tūtakitanga ki te Kingi o Ingarangi. He orite ki te orite, he mana ki mana, he rangatira ki te rangatira, he āriki ki te āriki.<sup>270</sup>

What is the underlying meaning of these stories about Hongi[?] Of great purport is his meeting with the King of England. Like with like, power with power, chief to chief, supreme authority to supreme authority.<sup>271</sup>

At some stage also during their discussion, Hongi must have learned that the King was either unaware of or had forgotten about Marsden and his missionaries. According to Francis Hall, this considerably lessened the missionaries' standing in Hongi's eyes when he returned to the Bay of Islands:

Shungee's Voyage to Europe has not benefited the Mission. He arrived from Port Jackson with Mr Kendall & Wycato on the 11 July [1821] and since that period we have been more insulted and our persons and property in more danger, I conceive, than at any period since the Mission was established in New Zealand. On his arrival at Keddee Keddee he remained sullenly at his hut about half a mile distant from the Settlement for several days, without coming to see us.

He represented among Tribe that we were only poor people (Cooks) that King George whom he had seen knew nothing at all about us nor Mr Marsden either. In consequence of this, we have had to bear with many hard speeches and cruel mockings not worth repeating.<sup>272</sup>

Aside from this revelation, and the light-hearted banter about difficult wives and cannibal sailors, subsequent Māori accounts of the encounter between Hongi and King George suggest there was a more serious side to the discussions. In 1831, according to Marsden, a chief he named 'Whare' (most likely to have been Wharepoaka<sup>273</sup>) told Governor Darling in New South Wales that Hongi and the King had exchanged solemn promises:

A chief named Waikato who married a sister of Whare accompanied the late chief Shunghee [Hongi] to England in the year 1821 [1820]. They were both introduced to his late Majesty King George the fourth, & to His late Royal Highness the Duke of York, both made them some valuable presents. His Majesty told them, they must not kill any of his subjects who visited New Zealand, & they promised to obey the King's commands. At the same time the Europeans were not to kill the New Zealanders.<sup>274</sup>

Further detail about their encounter came in a letter Hōne Heke wrote to Queen Victoria in 1849, which began:

Nui Tireni  
Hurae 10 1849  
E Te Kuini o Ingarangi

Tena ra ko koe,

Homai te aroha o te kupu a Kingi Hori i homai ki a Hongi, i tana taenga atu ki Oropi ka ui mai a Kingi Hori ki a ia i haere mai koe ki te aha. Ka mea atu ia – e rua aku mea, i haere mai ai ahau, he pu, he hoia, kia toru tekau. Ka puta mai te kupu a Kingi Hori ki aia ka mea, kahore ekore ahau e pai kia tukua atu nga hoia ki Nui Tireni kei riro to kainga. Waiho mo au tamariki mo tou iwi e kore to matou mahi e tika, ka totohe tonu to raua korero. Ka puta te kupu a Kingi Hori ki a Hongi

ka mea engari nga Mihinare e tukua atu e ahau kia koe he hoa mou, he iwi pai ratou, ki te he whakahokia mai ratou – ki te tika to ratou mahi me atawhai ratou e koutou koia tenei kua atawhaitia ratou e matou. Kua ai mai ratou ekore koutou e pai ki e tahi wahi o koutou.<sup>275</sup>

The official translation of this was as follows:

To the Queen of England, greeting, – show us the same affectionate regard that King George did in what he said to Hongi when he went to Europe. King George asked him, ‘what was your reason for coming here;’ he said ‘I had two objects in doing so – muskets and 60 soldiers.’ To which King George answered, ‘I will not consent to send soldiers to New Zealand lest you should be deprived of your country, which I wish should be left for your children and your people, for they would not act properly.’ They continued arguing on the subject for a long time, and then King George said to Hongi, ‘it is better that I should send some missionaries to you, as friends for you, for they are good people; should they act wrongly, send them back; but if they act properly, befriend them.’<sup>276</sup>

It is impossible now to know the accuracy of these accounts, although perhaps Heke’s version is plausible enough. Regardless of the specific detail, Hongi clearly returned to New Zealand believing that he and the King had come to an agreement and had established a personal relationship. Dr (later Dame) Claudia Orange described the ensuing Ngāpuhi view of their relations with the British monarch as a ‘special bond’.<sup>277</sup> However, as Phillipson noted, it would appear that the British did not hold a similar understanding in 1820.<sup>278</sup>

**3.7.4 Hongi's acquisition of muskets and motive for trip**  
Kendall, Hongi, and Waikato sailed for New South Wales in the *Speke*, which was also transporting 158 convicts, on 22 December 1820. Before they left, the CMS made a bad miscalculation with the gifts it assembled for the departing rangatira. Hongi regarded them as insultingly inadequate, particularly when compared with those brought back to the Bay of Islands the previous year by two chiefs of much lesser standing and age, Tui and Titere. While

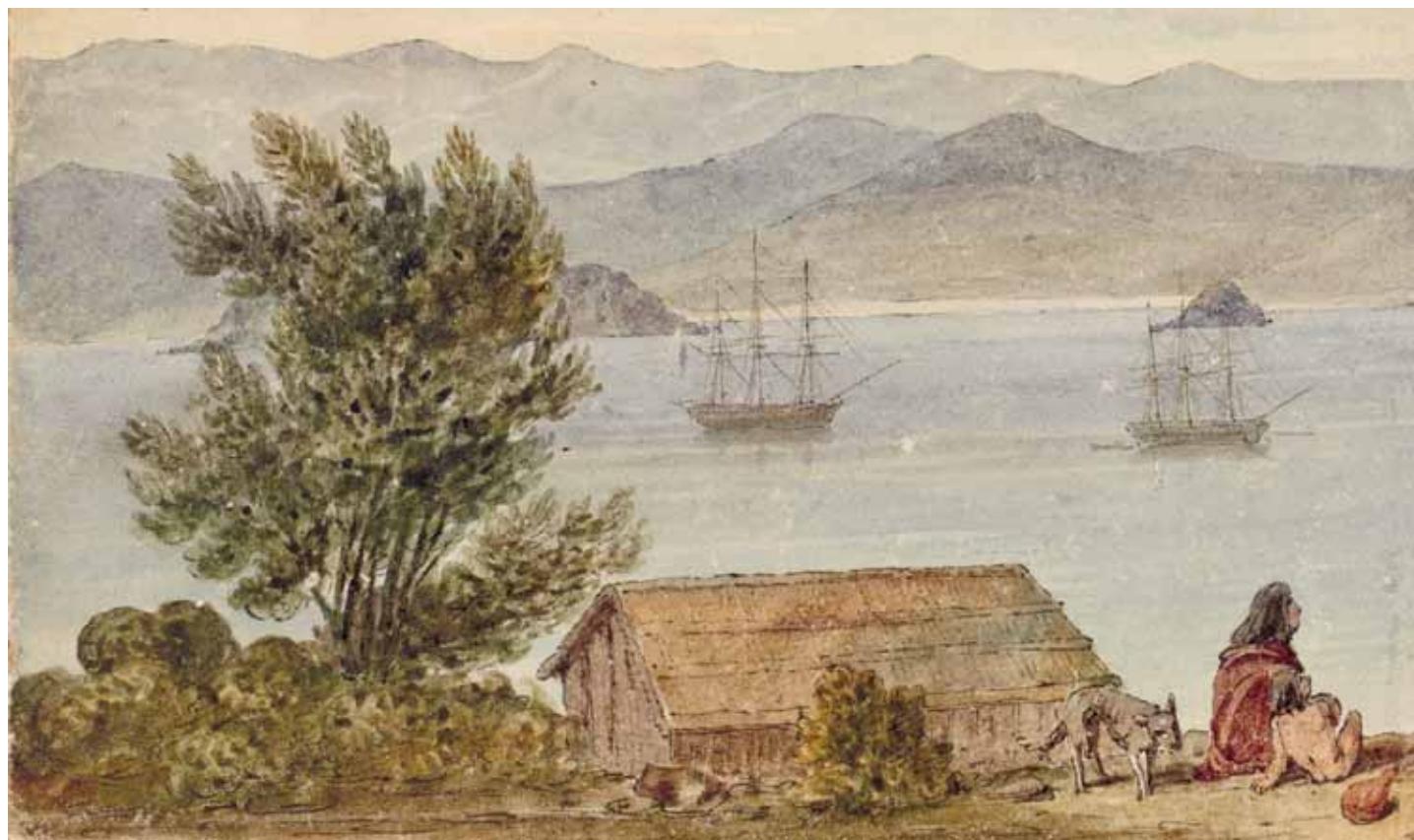


**Waikato, Hongi Hika, and Thomas Kendall during their visit to England, 1820.** While English accounts of the encounter between Hongi and King George IV suggested a light-hearted exchange, the claimants regard the meeting as one of equals that created a special bond between Ngāpuhi and the British monarch.

the Society hastily added to the presents, this put further strain on Hongi's relationship with the missionaries.<sup>279</sup>

The *Speke* arrived in Sydney on 18 May 1821, leaving Kendall and the rangatira around six weeks until they sailed on to the Bay of Islands on the *Westmoreland* on 4 July.<sup>280</sup> It would appear that during this time in Sydney, Hongi managed to acquire a large supply of muskets. The

exact number is unknown, but estimates vary between 300 and 500,<sup>281</sup> and the upshot was that Hongi was able to embark upon the field of battle later in the year with a force armed with up to 1000 guns.<sup>282</sup> There is some disagreement among historians as to how exactly Hongi acquired such a large number of weapons. The orthodox position, perhaps, is that Hongi traded most of the gifts he



The Bay of Islands, circa 1827

had received in England – a version of events that probably originates with Francis Hall's observation to that effect in 1821.<sup>283</sup> However, Cloher argued that this interpretation is 'highly questionable'. For a start, she doubted the gifts Hongi had for trade could have yielded such a price (and we know in any event that Hongi kept his armour – see below). Rather, she thought the answer was to be found in research published on de Thierry in 1977 by JD Raeside.<sup>284</sup>

On the basis of Raeside's book, Cloher contended that, while in Cambridge, de Thierry had promised to supply Hongi with a large number of muskets as payment for an estate of land in New Zealand. She reasoned that

de Thierry had ordered the weapons from the English gunsmiths Theophilus and William Richards, who then shipped them to Sydney, where they presumably sat in a warehouse awaiting the arrival of Kendall and Hongi. The key piece of evidence is de Thierry's failure to pay the Richards brothers a debt of £857 – roughly the same amount as the value (between £800 and £900) of goods de Thierry claimed he had provided to Hongi and Kendall – which contributed to de Thierry's imprisonment in 1824 for bankruptcy. Cloher suggested this debt would not have concerned Hongi.<sup>285</sup> As she wrote of Hongi's meeting with de Thierry in Cambridge:



he must have been hard put to moderate his delight in discovering so early in the piece an opportunity to advance his primary aim – to contrive, one way or another, to obtain guns. If this ambition could be advanced by assuring this apparent idealist that he could have property in New Zealand to establish a settlement, then so be it, they would give him assurances aplenty.<sup>286</sup>

We agree that the idea Hongi could have traded his presents in Sydney and obtained such a substantial supply of arms is rather far-fetched. Raeside's evidence,<sup>287</sup> and Cloher's interpretation of it, are more convincing, even

if some vagaries exist around this 'remarkable feat of procurement'.<sup>288</sup>

If that more or less explains how Hongi acquired his muskets, a related controversy concerns whether guns really were Hongi's key motive for travelling to England. In his 2003 doctoral thesis, Manuka Henare argued that Kendall's 14 August 1820 list of Hongi's objectives was evidence that the acquisition of arms was not the major purpose of the visit. Henare contended that the many historians who had asserted that Hongi's motivation was revenge on his enemies were wrong on two scores. As he put it:



Painter August Earle meets the mortally wounded Hongi Hika near Kororāreka, 1827. The missionaries greatly feared the consequences of the death of their protector, Hongi, but in fact when he died in 1828 it boosted missionary endeavours by opening up competition among rangatira to act as mission patrons.

Cowan, Shrimpton and Mulgan, Condliffe and Airey, Harrison, Binney, J Lee and others reached their conclusion to demonstrate that Hongi's motivation was driven by *utu*, rendered as revenge, on his enemies. This explanation is simplistic, somewhat monist and constitutes a form of reductionism in arguing a one-reason case for motivation. However, the assertion does not make sense. If Hongi was motivated solely by *utu*, he did not need to go to England to purchase guns, ammunition and the necessary accessories. He had only to go direct to Sydney to do so[.]<sup>289</sup>

To Manuka Henare's list of (in his eyes) erring historians could be added the likes of Belich, Paul Moon, Ballara, Wilson, and Cloher (a descendant of Hongi's brother<sup>290</sup>), as well as Phillipson, whose evidence was produced for our own inquiry. Henare's point was that Hongi was 'on rangatira business for rangatira purposes' in visiting England. He was motivated by 'the well being of his people' and one of his 'princip[al] objectives' was to meet George IV. Hongi's purchase of weapons in Sydney, by contrast, was an 'after-thought; when an opportunity



Henry Williams's mission house at Paihia. Williams arrived in Paihia in 1823 and lived in this house from 1830. Paihia was a particular contrast with Kororāreka across the water, which at that time the missionaries referred to as 'hell'. The sailors of Kororāreka in turn likened Paihia to 'heaven'.

arose . . . he made a decision to sell gifts and purchase guns'. The impetus may, Henare suggested, have come from his encounter in Sydney with two Hauraki rangatira, Te Hinaki and Te Horeta, which reminded him of Ngāpuhi's losses at Hauraki hands in the past.<sup>291</sup>

Manuka Henare received some support for this position within our inquiry. O'Malley and Hutton, for example, felt that Henare was 'right to caution against reliance on retrospective sources which attribute Hongi's motives in travelling to England in the light of his subsequent

actions'.<sup>292</sup> And Jones and Jenkins agreed with Henare that Hongi was on a chiefly mission to recruit the immigrants listed by Kendall.<sup>293</sup> However, we are wary of reading too much into the absence of any reference to guns in Kendall's statement of Hongi's intentions. As Hongi's regular agent in musket purchases – and even if he had not been so implicated – Kendall would hardly have arrived in London and reported to the CMS that Hongi had come to obtain arms. Cloher thought that Kendall's list of Hongi's objectives was designed to disguise his own ambitions for

the trip,<sup>294</sup> and we do not doubt that it also obscured some of Hongi's. We note finally on this point that Manuka Henare, O'Malley and Hutton, and Jones and Jenkins did not consider Raeside's research in their own accounts.

The claimants, for their part, were in no doubt about Hongi's main purpose. As Erima Henare put it,

E ai ki nga kōrero, kaore ia (a Hongi Hika) i tuohu i aha ki te Kingi o Ingarangi. Ko tana hiahia, he nui ngā kōrero o te Karauna tae noa mai ki etahi iwi o ēnei rā ko te kupu *partnership* nei. Ehara tēra. Ko te whāinga a Hongi Hika he *relationship* kē, he whakahoatanga. He whakahoatanga orite. Koia na te haere o Hongi Hika ki Ingarangi.<sup>295</sup>

It is said (Hongi Hika) would not bow down to the King of England. It was his desire, and there is extensive Crown discussion right up until the present day, about this word *partnership*. But that misses the point. Hongi was seeking a relationship, a friendship. A relationship of equals. That is the reason for Hongi Hika travelling to England.<sup>296</sup>

### **3.7.5 Legacies of the trip: 'nation making' and warfare?**

Regardless of Hongi's intentions, and the means by which he returned to the Bay of Islands so laden with muskets, he clearly felt that his meeting with the King had established a personal bond between the two rangatira. To claimants like Erima Henare, the meeting also established, more broadly, a relationship between Ngāpuhi and the monarch that was given further expression in later years with the signing of te Tiriti. He said it also began a 'conversation' between Ngāpuhi and the sovereign that lives on today.<sup>297</sup>

Manuka Henare believed that the meeting had significance for other reasons. He referred to it as the first of a series of six key 'nation making' events between 1820 and 1840 through which Māori became increasingly conscious of 'themselves as people on a global stage'<sup>298</sup> and developed 'from tribes to nation' – a phrase that formed the subtitle of his thesis. Hongi, for example, returned from England and his meeting with George IV 'as a proto nationalist', particularly in terms of the assurances he had reputedly been given about Māori rights when visiting both Britain and New South Wales.<sup>299</sup> We do not have a

view on Henare's theory, because it clearly encompasses a broader collective of Māori than the hapū of the north. Moreover, our impression is that both hapū identity and authority remained strong in the north during this time.

In this regard, we note that some also contend that northern hapū moved closer together in outlook and purpose after Hongi's return, through the employment of his muskets against old foes. According to Erima Henare, when Hongi returned from England, he met with Kawiti and the two men discussed 'federating Ngāpuhi together'. Hongi's battles during the next few years were with this goal in mind: 'to attain a federation among Ngāpuhi, based around their martial strength'.<sup>300</sup> Ballara argued that the many different descent groups in the Bay of Islands, Hokianga, and Whangaroa were inspired by Hongi and his 'quantum leap in exotic arms' to participate in taua against old enemies to the south. When they did so, all were known as 'Ngāpuhi', a name which created fear across the motu.<sup>301</sup> The key point for us, however, is that this was an external perspective, and the kin groups maintained their rivalries and separate identities within the Bay itself. It is possible, as Henare suggested, that the taua assisted in the later creation of an overarching 'Ngāpuhi' identity, which became more explicit over time.

It is not necessary to traverse the details of the 'musketeer wars' in the years that followed. Suffice it to say that Hongi's reprisals against Ngāpuhi's enemies in Hauraki, Waikato, Te Arawa, and elsewhere – including, particularly, Ngāti Whātua, on whom Hongi was able to exact terrible revenge for the earlier defeat at Moremonui – were devastating. Francis Hall witnessed the return of canoes to Kerikeri on 19 December 1821 from the attacks on Ngāti Paoa and Ngāti Maru in Hauraki. The heads of enemies were paraded, and the widows of (the few) fallen Ngāpuhi warriors clubbed prisoners of war to death in frenzies of rage.<sup>302</sup> In the fight with Ngāti Whātua in 1825, Hongi's muskets gave Ngāpuhi a decisive advantage. A later recorder of Māori history, George Graham, described a 'corpse strewn field of strife', with the Ngāti Whātua dead so reminiscent of a 'great array of fish laid out' that this description gave the battle its name, Te Ika-a-Ranganui.<sup>303</sup> Hongi wore his royal gift of chain mail throughout, thus



A rangatira speaks to warriors before they embark in waka for an attack on Hauraki Māori

'proclaiming his alliance with the most powerful man in the world', as Phillipson put it.<sup>304</sup>

Ngāpuhi's own self-image and fearsome reputation must have been considerably enhanced if not actually created during these years of warfare under Hongi's leadership. As Erima Henare argued:

They were all powerful. They were all dominating at that time, and this is not being boastful, and I don't want members of the Tribunal to take this wrong. The fact that Ngāpuhi were able to sustain an economy, the fact that Ngāpuhi were able to sustain almost everyone living in Port Jackson and Port Phillip at that time, it (Ngāpuhi) waged war against almost every iwi in this country, speaks of the mana of Ngāpuhi.<sup>305</sup>

It was not just Ngāpuhi's tribal enemies who had reason to fear Hongi. As mentioned above, Hongi returned from England with a decidedly ungenerous attitude to the missionaries, having learnt that they were not known to the King and that the King had not, as they claimed, forbidden them to trade in muskets. Hongi remained the missionaries' patron, but chiefs within his sphere of influence, such as Wharepoaka and Waikato at Rangihoua, routinely allowed the local missionaries to be bullied and stolen from, while Hongi himself sometimes turned a blind eye to his people plundering the mission station at Kerikeri. Shawcross sensed that Hongi's attitude softened in around 1823, and attributed this in part to the arrival in August of that year of Henry Williams as head missionary. Williams

– a strong personality – refused to be intimidated and soon gained the respect of his Ngāpuhi hosts.<sup>306</sup>

However, when Hongi was shot in the chest at the start of 1827 in fighting with Ngāti Pou at Whangaroa, the missionaries – both the Anglicans at Kerikeri and the Wesleyans at Whangaroa – feared they would have to abandon New Zealand entirely if their protector succumbed to his wound. The CMS missionaries outside Hongi's control at Paihia were similarly alarmed.<sup>307</sup> After a lingering decline, Hongi died in March 1828. But the missionaries' worst fears were unfounded – in fact, Hongi's death was something of a boost to missionary endeavour in the north, opening up competition among rival rangatira for the status of mission patron and the trading benefits that flowed from it. Not only that, but the missionaries began winning conversions to Christianity – an objective that had not remotely appealed to Hongi. As taurekareka or pononga (slaves) were released by Ngāpuhi now fearful of retaliation by their foes, Hongi's death effectively spread the Christian message to other iwi through the return home of many of the missionaries' earliest converts.<sup>308</sup>

We consider issues around conversion, the end of musket warfare, and other aspects of cultural change and adaptation more thoroughly in chapter 5. Suffice it to conclude here that Hongi's status and achievements enhanced relations between Māori and the Crown and, in Ngāpuhi eyes, secured important assurances from the British monarch about there being no prospect of British military interference in New Zealand. In the claimants' view, they also served as an important prerequisite for some of Ngāpuhi's key initiatives of the 1830s. Hongi's attempts at achieving unity were a repeated theme in the evidence of Erima Henare, who told us that such efforts continued until Hongi's death:

Ana, whai muri atu i tēna i mua atu i te matenga o Hongi i haere atu a Kawiti ki te kite i a ia i Pīnia. He maha ngā haere-nga o Kawiti ki Pīnia ki ngā rangatira o Whangaroa. I mua noa atu i te matenga o Hongi Hika i haere atu a Kawiti ki reira. Ka noho rāua ka kōrero mo tetahi whakakotahitanga o ngā iwi o Te Taitokerau. A e mea nei te Pākehā e wheterei-hana. Kua tīmata noa atu raua ki te kōrero i tera kōrero.<sup>309</sup>

After that, but before Hongi died, Kawiti went to visit him in Pīnia. Kawiti made many visits to Pīnia to see the rangatira of Whangaroa. Long before the death of Hongi Hika, Kawiti went there and they sat together and talked about unifying the people of the North. Pākehā would describe this as a confederation. They had already, some time ago, commenced these discussions of unification.<sup>310</sup>

### 3.8 NGĀPUHI APPEALS TO BRITISH AUTHORITY, 1831

As we have noted earlier, because the Murders Abroad Act of 1817 had failed to make provision for British subjects to be tried in New South Wales for serious crimes committed in New Zealand, the British authorities eventually came to see the need to pass further legislation to address the omission. An Imperial Act of 1823 (the New South Wales Act, 4 Geo IV c 96) gave the New South Wales legal system jurisdiction to prosecute, try and punish British subjects who had committed offences in New Zealand. This Act was even translated into Māori so that Māori attention could be drawn to its provisions, which included an acknowledgement that New Zealand 'was not subject to His Majesty'. A replacement enactment followed in 1828 (the Australian Courts Act, 9 Geo IV c 83). Given Britain's lack of territorial jurisdiction in New Zealand, these measures were effective only if the perpetrators returned (or were brought back) to British territory, and (European) witnesses were available.<sup>311</sup>

Even with legislation that allowed for the New South Wales authorities to try British subjects for murders and manslaughters committed in New Zealand, two incidents soon illustrated the limits to which imperial legislation could be used to regulate the New Zealand frontier. The British Parliament could only legislate (and had legislated in 1817) for criminal acts committed abroad that were also crimes at home. However, both of these incidents – which implicated ships' captains in the initiation of intertribal warfare in separate parts of New Zealand in 1830 – involved British subjects committing acts that were not crimes, but were widely vilified by contemporaries. The perpetrators could not be prosecuted and punished in the New South Wales courts and, given the nature of

their acts, the British Parliament was not likely to criminalise those acts in Britain purely to allow the prosecution of persons committing them abroad. These circumstances prompted Britain to look at its position in New Zealand afresh, and contributed to the next step taken by rangatira of the Bay of Islands and Hokianga towards establishing an alliance with the Crown: a petition to King William IV in late 1831.

### 3.8.1 The Girls' War, 1830

The first of the 1830 incidents was the so-called 'Girls' War' of February and March 1830, although here the extent of European influence is debatable. The European in question was whaling captain William Brind, who was such a regular visitor to the Bay of Islands that when in port he stayed in his own house. For some time, Brind had been in relationships with Māori women, first with a daughter of the leading southern alliance chief Pōmare I (although this liaison appears to have ended not long after Pōmare's death in 1826), and thereafter with Pehi and Moewaka, the daughters of the great northern chiefs Hongi and Rewa respectively.<sup>312</sup> This switch of women – and effective switch of allegiance – may have sparked the initial conflict.

Brind arrived at Kororāreka on his ship, the *Toward Castle*, on 4 February 1830. Some time thereafter, Pehi and Moewaka got involved in a skirmish with local Ngāti Manu women in the water off the Kororāreka beach. More grievous than any physical assaults, however, was that the wife of the leading Ngāti Manu rangatira Kiwakiwi offered serious verbal insults to the northern chief Ururoa, a relation of the deceased Hongi. The matter quickly escalated, and drew in relations and allies from both sides. Brind may or may not have encouraged a fight – Marsden, who arrived from Sydney on 8 March, certainly thought so, although Brind left the Bay before any armed conflict erupted. As it happened, the two groups might have left their confrontation peaceful and largely ritualistic, except that one of Kiwakiwi's men accidentally shot a woman on Ururoa's side. After that, on 6 March 1830, a vicious two-hour battle ensued, described by European observers as 'bloody' and 'a day of horror and distress'. According to the missionary William Williams, when the shooting

stopped, some 30 lay dead on the Kororāreka beach and 70 had been wounded.<sup>313</sup>

Among the dead was a senior northern rangatira, Hengi. Perhaps prompted by threats from the leading northern rangatira Tītore – or perhaps, as the missionaries suspected, because Ngāti Manu had had the better of the fight – Kiwakiwi and his people abandoned their settlement at Kororāreka as a pre-emptive act of appeasement and burned their own huts. Peace was made at a missionary-facilitated hui several days later when Kororāreka was ceded to the northern alliance. The benefactors were Rewa and Tītore, who had ostensibly remained neutral during the fight. They quickly moved to occupy Kororāreka with 400 to 500 members of Ngāi Tawake and Ngāti Rēhia, including other leading rangatira such as Tāreha, Wharerahi, and Moka. As Wilson observed, 'it is difficult not to suppose that the Waimate chiefs had long felt jealous of Kororareka's lucrative trading position'. In other words, tribal animosities and northern opportunism may have caused the fighting as much as any action of Brind's. Nor did the matter quite end, for there was a reprise of the battle in 1837, a subject we return to in chapters 4 and 5.<sup>314</sup>

The important aspect of the Girls' War, for our purposes, was that Brind was almost universally blamed – not just by the missionaries but by both sides in the conflict. Dr Phillipson thought this rather convenient for all concerned but also suggested that Brind had been 'cavalier in terms of swapping alliances and casual treatment of his obligations', and that his actions had indeed ultimately led to the southern alliance's loss of Kororāreka.<sup>315</sup>

After returning to Parramatta, Marsden wrote to Governor Darling on 2 August 1830:

Your Excellency is aware that there is no legal authority – civil, military, or naval – to restrain the bad conduct of the masters and crews of those ships which put into the harbours of New Zealand, nor to notice their crimes, however great; and from the great quantity of arms, powder, and ammunition now in the possession of the natives, there is much reason to apprehend that they will at some period redress their own wrongs by force of arms if no remedy is provided to do them justice.<sup>316</sup>

Marsden suggested that an armed British naval vessel stationed in New Zealand would have the desired effect.<sup>317</sup> The following April, Marsden told Dandeson Coates, the secretary of the CMS, that Brind ‘has been the cause of much bloodshed’. This was because, despite the *tuku* (transfer) of Kororāreka, Hengi’s sons had still required explicit *utu* for their father’s loss, and had sought it through raids to the Bay of Plenty shortly after the Girls’ War and into the start of 1831. As a result of this fighting, the dried heads of fallen warriors were being brought to Port Jackson for sale by Europeans. For this, as well, Marsden blamed Brind.<sup>318</sup>

### 3.8.2 The *Elizabeth* affair

It was a second telling event of 1830 that motivated the British Government to take more decisive action. While it did not involve Ngāpuhi, it clearly concerned Ngāpuhi considerably more than Brind’s role in the Girls’ War had done. In October 1830, the Ngāti Toa leader Te Rauparaha came to an agreement with John Stewart, the master of the brig *Elizabeth*, to transport a party of Ngāti Toa warriors from Kapiti Island to Banks Peninsula to attack Ngāi Tahu. Te Rauparaha was particularly seeking *utu* for the deaths of three Ngāti Toa chiefs at Kaiapoi some months previously. The payment to Stewart was to be a cargo of flax. There are a number of different accounts of what took place, but it seems that, after arriving at Akaroa, Stewart lured the senior Ngāi Tahu rangatira Tamaiharanui and his wife and daughter on board to discuss trade. Tamaiharanui was locked in chains below deck, where Te Rauparaha appeared from hiding. The concealed Ngāti Toa party then attacked the leaderless village on shore. Although a Ngāi Tahu account claimed the attack was unsuccessful, according to a Ngāti Toa source, they slaughtered some 300 men, women, and children in the pā. In any event, Tamaiharanui and his wife were taken back to Kapiti and tortured to death, a gruesome event witnessed by some Europeans. Their daughter was spared this fate after one of her own parents strangled her and pushed her body from the *Elizabeth* into the sea.<sup>319</sup>

A Ngāi Tahu survivor called Ahu soon made it to the Bay of Islands, where he told a meeting of Ngāpuhi

chiefs what had taken place. They were ‘greatly incensed’, according to Marsden, and in April 1831 sent a deputation of Ahu and the aforementioned ‘Whare’ (who, as noted, is likely to have been Wharepoaka) to Port Jackson to complain to Governor Darling.<sup>320</sup> We have already related Whare’s account of the nature of the agreement in 1820 between Hongi and George IV, and it was this understanding that he now invoked, arguing that Stewart’s actions had breached the European duty of non-violence towards Māori. According to Marsden, Whare and his compatriots now looked ‘for redress and protection to the British Government according to His late Majesty’s promise, made to Shunghée [Hongi] & Waikato’. After introducing Whare to Darling, Marsden told the Governor that

W[h]are is very desirous to obtain from Your Excellency some assurance that the Europeans shall not be allowed to kill his countrymen in the manner they have done at [Akaroa] . . . Before W[h]are left the Bay of Islands, the New Zealanders declared that if the Europeans united with any of their tribes in their mutual wars, and killed the natives as they had done the people at [Akaroa], they would kill the white people as a satisfaction for their friends who were murdered.<sup>321</sup>

In other words, as Phillipson pointed out, the Māori position remained one of strength, and Whare’s request for support was equally a warning.<sup>322</sup>

What particularly concerned Ngāpuhi was that the *Elizabeth* affair marked a new departure in intertribal conflict. As we have seen, the kidnapping of Bay of Islands women of rank by the crew of the *Venus* had created the take for revenge attacks carried out some years later, but in that case the kidnappers were not working on commission for one Māori group or another. Ngāpuhi now feared that the Trojan Horse method could be employed against them by one of their enemies to the south as *utu* for the many attacks led by Hongi.<sup>323</sup> As Phillipson put it, Te Rauparaha’s and Stewart’s actions ‘broke the delicate balance of Maori-shipping relations’.<sup>324</sup>

Darling had already been briefed about the affray in February 1831. He had immediately had the *Elizabeth* and its master seized, and begun taking statements from

witnesses with a view to prosecuting Stewart under the Murders Abroad Act 1817. In reviewing the depositions, however, the Crown Solicitor at Sydney had 'very great doubt (notwithstanding the atrocity of conduct of the parties concerned) whether any offence has been committed which is cognizable by the Common Law of England'.<sup>325</sup> To Darling's great frustration, witnesses and alleged perpetrators were allowed to leave the colony.<sup>326</sup> But while no prosecutions were ever pursued, this was not entirely the end of the matter. After Darling learnt further details at his meeting with Ahu and Whare on 13 April 1831 – and doubtless under pressure from Marsden – he reported to the Secretary of State for War and the Colonies in London that he intended to immediately appoint to New Zealand

a person in the character of *Resident*, which appears in accordance with the wishes of the Natives, so as to assure them of the desire of His Majesty's Government to afford them protection and to tranquillize the minds of the Settlers . . . [Emphasis in original].<sup>327</sup>

It is notable that the initiative to establish a formal British presence in New Zealand again came from a New South Wales governor, and not from London. Darling not only had received regular reports of violence but was also well aware of the growing commercial interest in New Zealand. Flax exports, for example, had boomed after Hongi's death and by 1831 were worth £26,000. In 1830, nearly 30 ships averaging over 100 tons each voyaged from New South Wales to New Zealand.<sup>328</sup> From 1826, there was also the commercial shipbuilding operation in the Hokianga of Raine, Ramsay, and Browne, which we discuss at section 3.9.3. Darling was thus simultaneously lobbied to take action by both mercantile and humanitarian interests. He went so far as to identify officers for appointment as Resident, although he pursued this no further when he received notice in September 1831 that he was to be recalled to England and replaced.<sup>329</sup>

### 3.8.3 *La Favorite* and the petition to William IV

The immediate cause of the petition to William IV was the developing concern that France was increasing its

interest in New Zealand. In September 1831, while Darling was identifying candidates for appointment as British Resident, the missionary William Yate and Rewa were in Sydney, probably visiting Marsden at Parramatta.<sup>330</sup> While they were there, the French corvette *La Favorite* docked at Port Jackson. French interest in the Pacific had expanded from the primarily scientific and exploratory voyages of the past decade (including the expedition of Durmont D'Urville) to include significant commercial ventures, led by a series of trading vessels. *La Favorite* was dispatched to provide protection to French traders wherever possible.<sup>331</sup>

Rewa spoke to *La Favorite*'s captain, Cyrille Laplace, during the vessel's five-week stay in Sydney, throughout which its relations with the local authorities were entirely cordial.<sup>332</sup> However, rumours had begun to swirl around Port Jackson that Laplace intended to sail to New Zealand and seize the country for France, though in fact he had not been instructed to do so. Rewa (and Yate) conveyed these rumours home to the Bay of Islands, where they arrived on the *Active* on 20 September. As Henry Williams recorded in his journal that day, 'French man of war expected. Considerable doubts in the Colony as to her intention'.<sup>333</sup>

Thereafter, anxiety over the potential arrival of *La Favorite* escalated. Whether by way of missionary or Māori initiative, a letter from the rangatira to the British monarch was planned. Williams noted on 28 September that several chiefs had come to discuss such a letter with him, and a hui at Kerikeri on 4 October settled on its wording.<sup>334</sup> William Williams wrote in his journal on 27 September that the New South Wales Governor himself had suggested that the chiefs approach the King, although historians have dismissed this as implausible.<sup>335</sup> In the meantime, on 3 October, *La Favorite* had come into view. Williams's wife, Marianne, wrote that day:

David [Rāwiri] Taiwhanga came running in to tell me that the ship was now come, about which we had heard so much by our own vessel, and from Rewa, who had visited New South Wales, – that they were the enemies of King William, come to spy out the land, and had four hundred men on board; that as Mr Williams was at Kerikeri at the Committee,



French sailors and Māori on the beach at Kororāreka during the visit of *La Favorite*, 1831. The arrival of the corvette caused a panic among the missionaries, and Māori, – who recalled the vengeance of Marion Du Fresne's crew in 1772 – signed a petition to King William IV seeking his protection from 'te Iwi o Marion'.

I must give him the flag of our nation to hoist upon the flag-staff on the hill. I told him the line was broken, which was the reason no flag had been hoisted for several Sundays. Oh! He would send a boy up; would I not give him a rope? I should have it again in a few days. Did I not wish to shew the flag of my country? Then, if they tore it down, Mr Williams would write to the rulers of our land to fight for us.<sup>336</sup>

*La Favorite* anchored at 3 pm on 4 October,<sup>337</sup> when it would have become quickly apparent to the missionaries

that the French came with no hostile intentions. Some chiefs may have already signed the letter to the King before the ship's arrival,<sup>338</sup> although other signatures were clearly affixed on 5 October, the letter's date. By 6 October, according to Dr Peter Adams, both Henry Williams and his brother William had acknowledged that the French had no designs on New Zealand at all, but still the missionaries made no attempt to withdraw or amend the petition.<sup>339</sup> It is little wonder that Laplace was left with an unfavourable view of the missionaries:

I soon had gained the conviction that these Apostles of the Gospel, thinking our sojourn in the region to be for political ends, sought to overturn the good harmony that reigned between ourselves and the natives, by insinuating to them that I had come to take possession of the Bay of Islands and to avenge the death of Marion, assassinated by their ancestors towards the end of last century.<sup>340</sup>

A similar French perspective was provided by the explorer Dumont D'Urville, who described the petition as 'cette pièce ridicule' and a missionary 'ruse' to determine the chiefs to seek British protection.<sup>341</sup>

The petition was signed (through the drawing of moko) by 13 rangatira: Wharerahi, Rewa, Te Kekeao, Titore, Te Morenga, Ripi, Hara, Te Atua Haere, Patuone, Nene, Moetara, Matangi, and Te Taonui.<sup>342</sup> The first eight were from the Bay of Islands and the last five were Hokianga based, thus demonstrating, in Phillipson's view, 'a wide base of support for the petition from the leadership of wider Nga Puhi'. Te Morenga, however, was the only southern alliance chief to sign, and others from the south may have been deterred by the proclaimed alliance with the King being so closely associated with Hongi – as indeed was the hui venue of Kerikeri. Notable omissions from the signatories, for unknown reasons, included Kawiti, Pōmare II, Wharepoaka, and Tāreha, the latter two being northern alliance chiefs.<sup>343</sup>

The question remains as to who really drove the petition. Historians like Adams have taken the view that the missionaries were almost entirely responsible for it. He felt that Yate (or someone else sailing on the *Active*) had possibly 'got it into his head that the French ship had designs on New Zealand and persuaded the missionaries to take urgent action'. Alternatively, he suspected, 'the missionaries merely used the French ship as an excuse to put pressure on the British Government by getting the Maoris to ask for British protection'. He noted the fallacy of Yate's claim that *La Favorite* had anchored the day after the petition was signed, citing evidence pointing to this occurring the day before.<sup>344</sup> Phillipson – who seems to have taken Yate's word on the timing of ship's arrival – was more inclined to regard the petition as driven equally by

Ngāpuhi and the missionaries. The signatories included so many powerful and independent-minded rangatira, he argued, the petition could not simply have been 'a missionary jack-up'. Moreover, he believed it entirely possible that Ngāpuhi retained a deep-seated anxiety about French reprisal, given not only the lasting legacy of Marion du Fresne's death – as evidenced by the ongoing references to the 'tribe of Marion' – but also the fact that seeking utu for distant events was entirely in keeping with Māori custom.<sup>345</sup>

From a Māori perspective, Manuka Henare argued in his doctoral thesis that Yate was merely 'the scribe for the rangatira', who therefore – implicitly – drove its wording.<sup>346</sup> Despite this, he rejected the idea that the chiefs were concerned about French retaliation, and seemed to suggest that the idea of a French threat and the reference to 'te Iwi o Marion' 'served a missionary agenda for a modicum of official British intervention'.<sup>347</sup> In our view, Yate could not have been merely the scribe if he inserted matters that did not actually concern the chiefs. Henare also remarked upon the significance of the language in the Māori text of the petition as an example of the nation-making aspect of the document:

First, is the way that many rangatira began to speak to an outside world in written form. At the same time, through literacy they progressed the identification of themselves and their people as a people in a wider world. This is seen in the opening statement of the letter, when after addressing King Wiremu, they identify themselves and their country by writing, 'Ko mātou ko ngā rangatira o Nu Tireni' rendered as, we the leaders of Nu Tireni. This was to be a standard way of rangatira addressing others in the world.<sup>348</sup>

But Aldridge contended that aspects of the original petition's language were inauthentic and thus strongly suggested that the missionaries were responsible for its construction:

I can tell from the document . . . that, from the way it was written, it looks like it was engineered. The way it was written suggests someone was directing this. Even the format says

## The 1831 Petition to William IV

The original text of the 1831 petition to King William IV read as follows:

Ki a Kingi Wiremu te Rangatira atawai o Ingarangi

E Kingi Wiremu. Ko matou ko nga Rangatira o Niu Tireni e hui-huia nei ki tenei kainga ki te Kerikeri, e tuhituhi atu nei ki a koe; e rongo ana hoki matou ko koe te Rangatira nui o tarawahi, nou hoki nga kaipuke maha e u mai nei ki to matou wenua.

He hunga rawa kore matou he oi ana o matou taonga he rakau, he muka, he poaka, he kapana, he oi ka hokona enei mea ki ou tangata, ka kite matou i te taonga o te Pakeha. Ko tou kainga anake to atawai ana ki a matou nou ana hoki nga Mihaneri e ako nei i a matou ki te wakapono ki a Ihowa te Atua ki a Ihu Karaite ana hoki tana tamaiti.

Kua rongo matou ko te Iwi o Marion tenei me ake u mai kit e tango i to matou kainga, koia matou ka inoi ai kia meinga koe hei hoa mo matou nei kai tiaki i enei motu kei tata mai te wakatoi o nga tau iwi kei haere mai nga tangata ke ki te tango i to matou wenua. A ki te mea ka tutu e tahio ou tangata ki a matou, ka noho nei hoki he hinu ki te wenua nei he mea oma mai i runga i te kaipuke mau ra pea ratou e riri kia rongo ai, kei ho noa te riri o te tangata maori.

No matou tenei pukapuka no nga Rangatira o te Iwi Maori o Niu Tireni.

Signed in the presence of the Committee  
of Missionaries at Kerikeri, Oct 5, 1831.

William Yate<sup>1</sup>

The translation of the text into English by the secretary to the Church Missionary Society, William Yate, was as follows:

To King William, The Gracious Chief of England

King William. We, the chiefs of New Zealand assembled at this place, called the Kerikeri, write to thee, for we hear that thou

art the great Chief of the other side of the water, since the many ships which come to our land are from thee.

We are a people without possessions. We have nothing but timber, flax, pork and potatoes. We sell these things, however, to your people, and then we see the property of Europeans. It is only thy land which is liberal towards us. From thee also come the Missionaries who teach us to believe on Jehovah God, and on Jesus Christ His Son.

We have heard that the tribe of Marion\* is at hand coming to take away our land, therefore we pray thee to become our friend and guardian of these Islands, lest through the teasing of other tribes should come war to us, and lest strangers should come and take away our land.

And if any of thy people should be troublesome or vicious towards us (for some persons are living here who have run away from ships) we pray thee to be angry with them that they may be obedient, lest the anger of the people of this land fall upon them.

This letter is from us the chiefs of the natives of New Zealand.

The foregoing is a *literal* translation of the accompanying document.<sup>2</sup>

\* The French Ship *La Favorite* anchored the day after the document was signed. The Natives call the French Marion from the name of the Captain who was cut off in June 1772.

Because of what he saw as the serious mistakes in the English translation, Nuki Aldridge provided us with his own translation of the original petition, as follows:

To King William the rangatira who  
has the wellbeing of England

Dear King William we collectively are the rangatira of New Zealand. We were brought together to this village at Kerikeri, we are writing (letter) to you, we are told without doubt that

you are the big chief across the way (sea), yours are the many ships that have come to our Country.

We are people without, the only resources we have are timber, flax fibre, pigs, potatoes. These we exchange with your people. We have seen the resource of the Pakeha. Your village alone has/is embrac(ing)ed us. Your own missionaries are teaching us to have faith in the god Jehovah and his only son Jesus Christ.

We have heard that this nation of Marion are coming upon us to take our village. That is why we ask (of you) that you be(come) a friend with us as guardians of these islands for those that provoke (incite) from strange tribes are near, which would bring foreigners to take away our land.

It will also mean some of your people will make mischief, and they will live off the fat of this land, they who have deserted from ships. Perhaps if you chastise them they will listen, or else the anger of tangata Maori will be upon them.

This letter is from us the (collective) rangatira of the Maori nation of New Zealand.<sup>3</sup>

Dr Patu Hohepa, a former Māori Language Commissioner and an expert in Ngāpuhi reo, also provided us with a translation ‘for the purpose of extracting some important words and issues from the Māori text without having them lost in translation’:

that to me. Maori never used ‘ko matou’ prior to contact. You weren’t allowed to speak collectively on behalf of people – this is what the old people used to tell me. To use ‘ko matou’ was in conflict with tikanga. . . . The letter was signed in the presence of the committee of Missionaries – I would suggest that while the missionaries were present they were directing the letter. If the missionaries were directing the letter they would have had an ulterior motive of keeping out the French Catholics. William Yate was a missionary. He also acted as a scribe for rangatira. Yate urged the chiefs to ask for protection. The rangatira say that they were called to a meeting. . . . They didn’t come together, they were asked to come together.

King William, the Caring Chief of England,

King William. We, the Chiefs of New Zealand, being assembled in this community at Te Kerikeri, are writing to you, because we are hearing that you are the important chief across the waters, and you also own the many ships that make landfall here in our country.

We are people without precious things – our only valuable things are timber, dressed flax, pigs and potatoes, and so when we sell these things to your people, we see the valuable possessions of the Pakeha. Only your homeland has been showing kindness to us, and furthermore, the Missionaries that are teaching us to believe in Jehovah the God and also Jesus his son, are also yours.

We have heard that this tribe of Marian (du Fresne) may be landing here to take possession of our homeland, and that is why we ask that you become a friend for us, a care giver of these islands, in case the belligerence of the strangers closes in, in case other people come to take our country.

Also, if it happens that some of your people play up against us, or secretly reside in this land after fleeing here by ship, perhaps you can chastise them so that they listen, lest the anger of the Maori people suddenly smite (them).

This message is from us, from the Chiefs of the Maori People of New Zealand.<sup>4</sup>

Huihulia is ‘made to meet.’ As I read it they were brought together at this village at Kerikeri. Again, an expression such as ‘hinu ki te whenua’ means ‘the fat of the land,’ which was not a Maori expression.<sup>349</sup>

Perhaps because he believed it was penned by Eruera Pare instead of Yate, Hohepa was much more complimentary about the language:

The sentences are complex, and close to 100% grammatically correct. The whole letter is in good formal Ngāpuhi idiolect with a Missionary Touch. The idioms peculiar to Ngāpuhi

such as *heoi anō, he oi, e . . . ana, e . . . nei, te . . . ake, meinga, me ake mai, te iwi o Marian*, are sprinkled through the text. The Māori text in fact hangs together much better than the English.<sup>350</sup>

These contrasting and somewhat confusing views perhaps suggest the safer ground is indeed Phillipson's explanation of the petition as 'a joint missionary-Nga Puhi initiative'. On balance, he was probably right to suggest that the involvement of so many important chiefs, as well as the repetition of Whare's April 1831 appeal to Governor Darling over the need to control British subjects in New Zealand, meant 'it is almost impossible to view the petition as solely a missionary creation'.<sup>351</sup> Nor, though, should we be under any illusions about the longstanding missionary agenda of pushing Ngāpuhi into the arms of the British. Marsden had taken the occasion of the Girls' War to try to persuade Ngāpuhi leaders that they should save their strength for resisting foreign powers – by which he did not mean the British. As he wrote,

We told them that if they wished to enjoy their native land they must not kill one another; if they continued to do so they would have no men to protect their country from any foreign enemy who should at any future period wish to take it from them.<sup>352</sup>

By contrast, Marsden used every opportunity to portray the British as benevolent and trustworthy, indulging in what Phillipson called 'constant pro-British and pro-government propaganda'. Phillipson summed up the 'recurring themes' from Marsden's journal as follows:

that the King wished to protect Maori from the illegal actions of his subjects; that the King wanted to secure their independence and freedom from foreign threats, such as from the tribe of Marion (France); that such foreign threats were a real danger; that the Governor of New South Wales would punish criminals, both Maori and European, if they visited the colony; that British law was superior and benign; and that Britain had no territorial ambitions in New Zealand.<sup>353</sup>

Part of Marsden's object was of course to deflect the fear first expressed by Ruatara, and repeated thereafter by a number of others, that the missionaries were the thin end of a British wedge and would be followed soon enough by soldiers.<sup>354</sup> Even Hongi, who had asked George IV to send him soldiers, expressed this concern in 1823. In reply, Marsden told him that they had 'plenty of land at Port Jackson – more than [they] wanted', and he

took a chart and showed him what a little spot New Zealand was compared with New Holland, and that New Zealand was not an object to the English and therefore he need not be afraid of them . . .<sup>355</sup>

In short, it cannot be doubted that it suited the missionaries for Ngāpuhi to hold fears about the French uppermost in their minds.

After more wild rumours about the French, the Acting Governor of New South Wales, Patrick Lindesay, sent the sloop *Zebra* to the Bay of Islands with a warning to any Frenchmen found claiming New Zealand that the country was under British protection 'according to the expressed wish of the inhabitants'. The *Zebra* returned with the news that all concerns about *La Favorite* had been completely without basis. It also brought back the petition, which was then dispatched to England.<sup>356</sup> The *Sydney Gazette* rejoiced 'to hear of the application of the Chiefs for British protection', adding that it would

greatly facilitate that formal occupancy on the part of our nation, which we have so frequently and so strongly urged, and on which the future peace and welfare of these colonies will so materially depend.<sup>357</sup>

## 3.9 THE ARRIVAL OF THE BRITISH RESIDENT

### 3.9.1 Early colonisation schemes

By the time of the appointment and arrival of the British Resident in New Zealand, various plans for organised British colonies in New Zealand – other than mission settlements – had appeared but had been rejected (or not

supported) by the Colonial Office. These dated back several decades and show the steadily building interest, often from New South Wales, in exploiting New Zealand's natural resources. As early as 1792, a John Thomson put forward his ideas for establishing a settlement using convict labour in New Zealand, while in late 1793 Philip Gidley King suggested that a settlement 'at the Bay of Islands or the River Thames' would result in 'much publick good . . . to the commerce of Great Britain and these colonies'.<sup>358</sup>

Later, in 1810, New South Wales Governor Lachlan Macquarie noted that 'some time since' various Sydney merchants had proposed to him 'forming a settlement at their own expence on the northern island of New Zealand' to cut flax for manufacture into rope and canvas.<sup>359</sup> This was the venture planned by Simeon Lord and others including Thomas Kent, who, as we mentioned, was offered appointment by Macquarie as a Justice of the Peace. Upon his return to Sydney in 1810, George Bruce was enlisted by the scheme's promoters, undoubtedly because of his connection to Te Pahi. News of the *Boyd* killings may have led to Bruce subsequently being omitted from the settlement plans, while the venture itself failed for other reasons.<sup>360</sup> Similarly, as we also noted earlier, Macquarie's proposal for an official commercial settlement was rejected in 1816.<sup>361</sup>

In 1821 a group of English entrepreneurs announced that a party would soon embark on a colonising expedition to New Zealand. In contrast to Macquarie's endorsement of similar Sydney-based proposals, the Colonial Office offered no encouragement.<sup>362</sup> A further English-based scheme was that of Edward Nicholls, in 1823. He proposed a colony of military settlers as a means of dissuading Māori from fighting each other, as well as of providing Britain with an abundance of flax, and offering an alternative destination to the United States for Irish and Scottish migrants. The scheme received the support of businessmen with interests in South Pacific whaling and trading, but the organisers still sought a government loan of £20,000. The Government was not interested.<sup>363</sup>

In 1825, the first New Zealand Company was set up by a group of London investors with the object of exploiting

New Zealand's resources of flax and timber. Within a year, the company had raised £100,000 of capital under the chairmanship of John Lambton and deputy chairmanship of Robert Torrens (the father of the later Governor of South Australia of the same name). It sought a 31-year trade monopoly over New Zealand from the British Government – which it felt could free the British Navy from any reliance on the Baltic for its supplies – warning that if this was not granted the door would be open for the French or Russians. The Government was sympathetic, but made it clear it would not provide a military force in support. Undeterred, the company's two ships – complete with agricultural equipment and 50 workers – set forth in September 1825 under the command of Captain James Herd, picking up the (now) former missionary Thomas Kendall in Sydney to act as guide and interpreter. While the expedition did reach parts of New Zealand, including the Bay of Islands and Hokianga, the economics of the undertaking did not stack up, and both Herd and the company's directors in London abandoned the venture.<sup>364</sup>

In 1826, the backers of Nicholls' 1823 proposal were again pushing the idea of a military settlement in New Zealand to provide some security for Britain's trading interests in light of the instability wrought by Māori warfare and the supposed threat of French colonial expansion. These British-based businessmen included the whaling firm Samuel Enderby & Son. Torrens, who was Nicholls' uncle, wrote to the Colonial Office a short while later, offering to command the proposed military force. Again the Colonial Office showed no interest in a military outpost in New Zealand. Undeterred, Torrens proposed the following year that 500 British settlers be sent to New South Wales via New Zealand, where their gathering of flax or kauri spars en route would pay for their entire emigration once they arrived in Sydney. The Navy Board refused to become involved in such an impractical scheme, despite Torrens's protest that the scheme would be 'perfectly easy and certain' were it focused solely on flax collection. Torrens's response, Dr Patricia Burns emphasised, was in typical New Zealand Company fashion: 'an unwarranted optimism, a fondness for the idea of

very large profits derived from New Zealand produce, and a refusal to heed the opinion of experienced officials.<sup>365</sup>

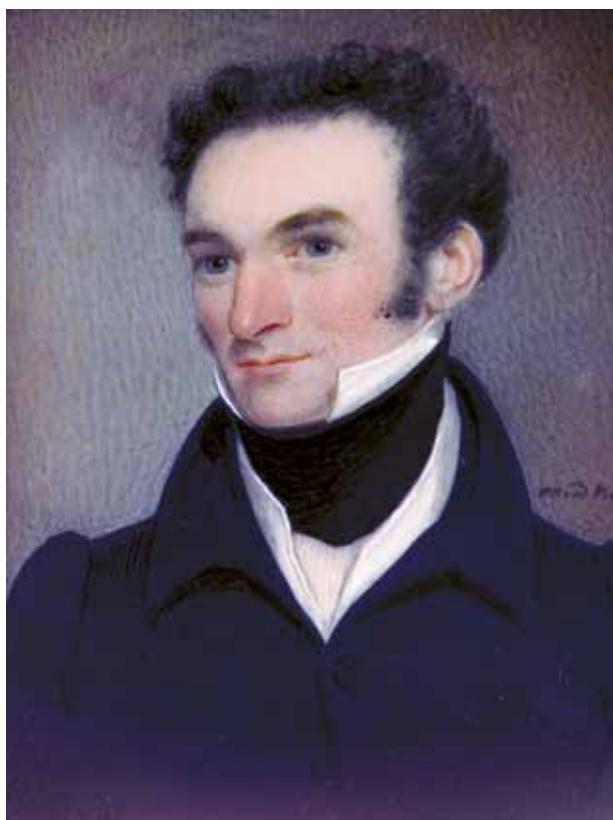
As Dr Donald Loveridge observed, these schemes had been motivated primarily by the desire to create a secure base for the exploitation of New Zealand's resources.<sup>366</sup> We discuss Edward Gibbon Wakefield and his theories of systematic colonisation in chapter 6. Suffice it to note here that the various plans to establish colonies of settlers in New Zealand seem to have had no bearing on the Colonial Office's decision to appoint a British Resident in New Zealand.

### 3.9.2 Busby's appointment and arrival

When Darling's replacement as Governor, Sir Richard Bourke, arrived in Sydney in December 1831, he immediately revived the plan to appoint a British Resident. This may in part have been prompted by lobbying from Sydney traders with business interests in New Zealand. He wrote to the Colonial Office that he had found that 'the Merchants of this place' expressed 'Considerable anxiety . . . that the intercourse with New Zealand should be placed upon a better footing'.<sup>367</sup> However, the New South Wales Executive Council thought the Resident would achieve nothing without a contingent of soldiers (who, in Bourke's words, would protect him and 'give weight to his interference'), and that such a deployment would need to be sanctioned in London.<sup>368</sup> Bourke duly wrote to the Colonial Office on 23 December 1831 to seek this approval. He attached the chiefs' petition to the King at the same time.

As it happened, Lord Goderich, the Secretary of State for War and the Colonies, had already decided to act on Darling's dispatch of 13 April 1831. He wrote to Bourke on 31 January 1832, confirming that the Residency would proceed, albeit without the assistance of any troops or the ongoing availability of a naval ship.<sup>369</sup> He told Bourke that

After the Resident shall have conciliated the good will of the native Chiefs and in some measure restored that confidence between them and British Subjects, which the bad faith of the latter has so unhappily interrupted, you will be better able to judge in what manner it will be practicable to support



**James Busby.** Busby, a Scottish settler in New South Wales, sought out appointment as British Resident in New Zealand. He settled at Waitangi in 1833 under the protection of the rangatira Te Kēmara, erecting a house that had been shipped there for him from Sydney.

the authority of the Resident without exciting the jealousy or illwill of the Natives.<sup>370</sup>

Loveridge, giving evidence for the Crown, felt that this vague advice sounded 'suspiciously like a policy adopted in the absence of any real policy', especially as Goderich went on to explain that any coercive measures the Resident might make against British subjects would not be 'strictly legal' and the Resident would need to be indemnified given 'the risk of . . . litigation on such ground'.<sup>371</sup> But notwithstanding these impediments, Goderich stressed

the moral underpinning for the Government's support of 'the punishment and prevention of these atrocities':

The unfortunate natives of New Zealand, unless some decisive measures of prevention be adopted, will, I fear, be shortly added to the number of those barbarous tribes, who, in different parts of the Globe, have fallen a sacrifice to their intercourse with civilised men, who bear and disgrace the name of Christians . . . There can be no more sacred duty than that of using every possible method to rescue the natives of those extensive islands from the further evils which impend over them, and to deliver our own country from the disgrace and crime of having either occasioned or tolerated such enormities.<sup>372</sup>

In 1831, James Busby, a Scottish settler in New South Wales, was temporarily back in Britain, seeking recompense for allegedly unfair dismissal from a previous job in the colony.<sup>373</sup> It seems he heard that the Colonial Office was contemplating the appointment of a British Resident in New Zealand, and decided to signal his availability for the position. Despite not having set foot there himself, in June 1831 he wrote an essay entitled 'A Brief Memoir Relative to the Islands of New Zealand', which was published in 1832 in his book *Authentic Information Relative to New South Wales and New Zealand*. In the essay on New Zealand, he wrote that if the Colonial Office sent

an authorized agent or resident . . . invested with the authority of a magistrate over his own countrymen, he would be able to enter into a separate treaty with each chief, or a general treaty with the whole, having for its basis the reciprocal security of British subjects and the natives of New Zealand in their commercial intercourse. And the delivering up, by the latter, of all runaway convicts and persons not having authority from the British Government, to trade in the Islands.<sup>374</sup>

Presumably to make the appointment of a Resident seem even more advantageous, Busby also claimed that:

Without assuming any authority over the natives beyond what might be voluntarily conceded to his [the Resident's]

character, or attempting any interference in their internal government, except by persuasion and advice, it is beyond a doubt that the influence of the resident would be sufficient to induce the New Zealanders to abandon the worst practices to which they are at present addicted, and which, even now, a respect for the opinions of Europeans, leads them to conceal and deny: and that, joined to the exertions of the Missionaries in their education, and the humanizing influence of commerce, and the domestic industry it would produce, their respect for the British character would lead them at length to abandon the ferocious character of the savage and the cannibal, for the principles of a milder religion, and the habits of a more civilized people.<sup>375</sup>

It is as well to remember this early confidence when considering Busby's later despondency about renewed tribal warfare.

Despite his lack of training in the law and absence of experience of either diplomacy or New Zealand, Busby was successful in being offered appointment as British Resident in March 1832. As Loveridge observed, he had been 'able to pull the right political strings', such as winning the support of the missionaries. He also had a patron in the form of Lord Haddington and experience as a (minor) colonial official.<sup>376</sup> The Colonial Office's preference for appointing a civilian over a military officer was a further benefit. But in certain regards Busby's was a flawed appointment. In petty fashion he quibbled almost instantly over the date his salary would commence and the size of house that would be provided for him, and failed to develop a positive relationship with his superior, Bourke. As Adams put it,

Neither in looking for the most suitable candidate for such a difficult pioneering task, nor in the manner of his appointment, did the Colonial Office show much care. Consequently, the Resident appointment was compromised from the beginning.<sup>377</sup>

Busby sailed for New South Wales in the middle of the year, arriving in mid-October.<sup>378</sup> He took with him both Goderich's instructions about the Residency and the

King's reply to the chiefs' 1831 petition, which had also been written by Goderich. Both documents were dated 14 June 1832. Busby had suggested that he should carry the King's reply and ventured that, if this was agreed, he should be presented to the King before his departure. As he put it:

With their simple ideas of Majesty it would detract not a little from the respect in which . . . [the chiefs] would hold me, if I had it not in my power to say that I had been in presence of the King . . .<sup>379</sup>

Loveridge was unable to discover whether Busby did in fact achieve an audience with King William, but we assume not, as Busby would surely have made something of it. Eric Ramsden thought Busby had not been presented, and in fact had been 'snubbed' for making such an application.<sup>380</sup>

Goderich's instructions dwelt on legal matters. He reiterated to Bourke that the Resident would lack the authority to give proper effect to his role. For example, there was no lawful basis for him to apprehend individuals or force them back to Sydney to stand trial. Nor were acts such as provoking warfare between tribes or trading in dried heads covered by British criminal law. However, a Bill had been drawn up which Goderich hoped would shortly resolve these problems.<sup>381</sup> Commonly known as the South Seas Bill, it was

A Bill . . . to make provision for the Prevention and Punishment of Crimes committed by His Majesty's Subjects in Islands situate in the Southern or Pacific Ocean, and not being within His Majesty's Dominion.

The Bill would enable the New South Wales legislature to pass

all such Laws and Ordinances as to them may seem meet for the prevention and punishment of Crimes and Offences committed by His Majesty's Subjects within the said Islands of New Zealand, or any other Islands within the Southern or Pacific Ocean, not being within His Majesty's Dominion; and

. . . any such Laws or Ordinances . . . to make effectual provision for the seizure, detention, trial and punishment of any such Offenders, either within the said Colony of New South Wales, or within the Islands in which any such Offences may have been committed, or within any adjacent Islands . . .<sup>382</sup>

Goderich was confident that the Bill's passage would provide the New South Wales Legislative Council with 'the power of rendering Mr Busby's Mission effectual to the purposes with which it has been undertaken'. Even if it did not pass, he believed that Busby's mission would

still not be unattended with important advantages, and His Majesty's Government will be acquitted of the reproach of an acquiescence in crime, which they will have done the utmost in their power to prevent . . .

Predictably, perhaps, the Bill did fail, with members of Parliament pointing out that the British Parliament could not legislate for a foreign country such as New Zealand.<sup>383</sup>

Since Goderich was well aware of the obvious economic ramifications for New South Wales of the appointment, it fell to Governor Bourke to give Busby his more detailed and practical instructions (Goderich having observed that Bourke was 'perfectly aware of the objects, which have led to this appointment in a commercial point of view'<sup>384</sup>). Bourke's instructions were dated 13 April 1833, which we note was two years to the day after Darling wrote to Goderich to express his intention to appoint a Resident. Bourke certainly laid emphasis on the importance of trade, telling Busby that 'it will be your duty to assist, by every means in your power, the commercial relations of Great Britain and her colonies with New Zealand.'<sup>385</sup> Bourke further explained that the *Elizabeth* case

made it at once apparent that it was no less a sacred duty than a measure of necessary policy to endeavour, by every possible method, to rescue the natives of those extensive islands from the evils to which their intercourse with Europeans had exposed them, and, at the same time, to avert from the well-disposed of His Majesty's subjects, settled in New Zealand, the fatal effects which would sooner or later flow from the

continuance of such acts of unprincipled rapacity and sanguinary violence, by exciting the natives to revenge their injuries by an indiscriminate slaughter of every British subject within their reach.<sup>386</sup>

This concern that Māori should not be hurt lest innocent British lives or trade be affected was a common theme dating back to Governor King's 1805 order. However, apart from deterring such incidents and facilitating trade, Bourke told Busby that his

principal and most important duty it will be to conciliate the good-will of the native chiefs, and establish upon a permanent basis that good understanding and confidence which it is important to the interests of Great Britain and of this colony to perpetuate.<sup>387</sup>

In this, Busby was to capitalise on the chiefs' clear regard for the British monarch by reading the King's reply to as large a gathering of rangatira as possible. Bourke also instructed Busby to forge a profitable alliance with the missionaries and take on a powerful chief as his patron.<sup>388</sup>

Bourke's idea appears to have been that, since the British Government had little option short of the acquisition of sovereignty over New Zealand to control the activities of its subjects, Busby's 1831 proposal that the chiefs might act collectively to impose law and order – and potentially deport Britons to New South Wales – was worth taking seriously.<sup>389</sup> As he put it to Busby:

There is still another form in which the influence which it is hoped the British Resident may obtain over the New Zealand chiefs may be even more beneficially exhibited. . . . It is also possible, that at your suggestion, and by the aid of your counsels, some approach may be made by the natives towards a settled form of government, and that by the establishment of some system of jurisprudence among them, their courts may be made to claim the cognizance of all crimes committed within their territory; and thus may the offending subjects, of whatever state, be brought to justice . . .<sup>390</sup>

Bourke believed that Busby could achieve this by

the skilful use of those powers which educated men possesses over the wild or half-civilized savage, [through which] an influence may be gained by which the authority and strength of the New Zealand chiefs will be arrayed on the side of the Resident for the maintenance of tranquillity throughout the islands.<sup>391</sup>

Phillipson argued that Bourke seemed to assume in these instructions that Europeans would always be in the wrong in clashes between Māori and ships' crews, and that it would be a straightforward exercise to influence the chiefs to capture and hand over the offending parties. 'It was all wildly unrealistic,' he concluded, 'and left the Resident with little chance of success.'<sup>392</sup>

One can see how it may have been hoped that the post of British Resident in New Zealand would function, to some extent, as similar postings had elsewhere. As McHugh explained, the concept of a Resident was by no means new. It had been a longstanding practice in India, where British Residents exercised an indirect control over British subjects through co-opting the local authorities into acting on their behalf. As McHugh put it, they 'exercised an authority of suasion and influence derived less from Crown authorisation than as a delegation and integration into the legal system of the host court'. Their ability to act as 'puppet master' depended on their personal ability to 'manoeuvre their position'.<sup>393</sup> Whether Busby would be able to achieve this in New Zealand of course remained to be seen.

Bourke had delayed Busby's departure from Sydney for New Zealand in the hope of hearing that the South Seas Bill had passed, but on 21 April 1833 eventually sent the Resident on his way to do what best he could with the limited legal powers available to him.<sup>394</sup> Busby could, for example, send witnesses to Sydney to obtain arrest warrants, but Bourke conceded that this process,

which is at best but a prolix and inconvenient operation, and may incur some considerable expense, will be totally useless unless you should have some well-founded expectation of securing the offender upon or after the arrival of the warrant [from Australia], and of being able to effect his conveyance

here for trial, and that you have provided the necessary evidence to ensure his conviction.<sup>395</sup>

Busby himself recorded that Bourke had expressed the view that sending a Resident to New Zealand without the powers intended by the South Seas Bill would be ‘productive of little or no good’.<sup>396</sup> Busby was clearly going to have to rely upon the support of the rangatira.

Busby sailed for New Zealand on HMS *Imogene*, which entered the Bay of Islands on 5 May 1833. Bourke had instructed him to present his credentials to the signatories to the 1831 petition upon his arrival, as would a diplomatic representative. Bourke had added:

If your proposal to reside, in an accredited character, in New Zealand, shall be received by the chiefs with . . . satisfaction . . . you will then confer with them as to the most convenient place for establishing your residence, and will claim protection for the persons and property of yourself, family, and servants . . .<sup>397</sup>

After inclement weather, Busby finally came onshore at the Paihia mission station on 7 May and met the missionaries, who busied themselves both with arranging the hui at which Busby would read the King’s letter and translating the letter into Māori.<sup>398</sup>

The date for Busby to be received by the chiefs was set down for 17 May. That morning he left the *Imogene* and was rowed ashore, the ship firing a seven-gun salute to mark his formal arrival. While we lack an account of this moment quite as vivid and full as Nicholas’s description of Marsden’s arrival at Rangihoua in 1814, we know enough to conclude that the local rangatira endeavoured to make a striking impression. After all, Busby’s arrival arguably marked the most significant new development in terms of the British presence at the Bay since the establishment of the first mission.

An account published in the *Sydney Gazette* of 2 July 1833 described Busby’s moment of arrival:

The [official] party then proceeded to the Missionary village, a short distance from the beach, and when near to it

were received by three white-headed chiefs, who, rising in succession, welcomed them in a short speech, delivered with so much gesticulation as to resemble a dance. The main body of the chiefs and warriors then advanced with great noise and clamour; they were then arranged in a dense but regular body, when they commenced the war dance of the country, wielding their muskets with great force, and going through various evolutions; the tendency of their movements being to create a feeling of their power and force, after which they quietly seated themselves, when six or eight of the chiefs delivered in succession a short speech of welcome. The latest speakers making a way, the party advanced through the troops preceded by one of TAHI TAPI’s [Tohitapu’s] wives in a kind of dance. As soon as the natives had passed, they commenced firing their muskets, and making a dreadful shouting.<sup>399</sup>

Phillipson noted, however, that there was some apprehension: both Henry Williams and William Williams had recorded local concern about Busby’s role, and about whether the warship that had brought him would remain and might be about to disgorge soldiers.<sup>400</sup>

Altogether some 600 Māori and 50 Pākehā (including, of course, a large contingent from the *Imogene*) gathered at Paihia for the occasion. They arranged themselves around the front of the chapel, with the Europeans sitting on chairs. Busby placed the King’s letter on a table, ceremoniously breaking its seal (the translation having already been made from an open copy), and read it aloud, with Henry Williams providing the translation. Busby then read out his own address, which William Williams translated. This both repeated the King’s messages of friendly relations and control over British subjects’ behaviour and emphasised how honoured the chiefs should feel to have the King’s representative come to reside among them. As if preoccupied by his lack of military support and potentially vulnerable personal security, Busby also stressed the ‘sacred’ nature of his role.<sup>401</sup>

One of the most noteworthy aspects of the letter is Goderich’s use of the word ‘alliance’ to describe the relationship that had formed between Māori and Great Britain. Adams suggested it was ‘no more than a vague expression of goodwill’, although he felt that ‘combined

## King William IV's Response to the Rangatira

### The English text

Lord Viscount GODERICH, one of the Principal Secretaries of State to HIS MAJESTY THE KING OF GREAT BRITAIN—

To the Chiefs of New Zealand.

FRIENDS,

I AM commanded by THE KING to acknowledge the receipt of the letter which you addressed to HIS MAJESTY, and which you intrusted to Mr WILLIAM YATE, to forward to England.

THE KING is much gratified to find that the cause for alarm, which appears to have existed at the time when your letter was written, has entirely passed away; and he trusts that no circumstances may occur in future, to interrupt the internal tranquillity of New Zealand, which is so necessary to the maintenance of a close commercial intercourse between its inhabitants and those of Great Britain.

THE KING is sorry for the injuries which you inform him that the people of New Zealand have suffered from some of his subjects. But, He will do all in His power to prevent the recurrence of such outrages, and to punish the perpetrators of them according to the laws of their country, whenever they can be apprehended and brought to trial; and THE KING hopes, that mutual good will and confidence will exist between the people of both countries.

In order to afford better protection to all classes, both Natives of the Islands of New Zealand, and British subjects who may proceed, or be already established therefor purposes of trade, THE KING has sent the bearer of this letter, JAMES BUSBY, Esquire, to reside amongst you as His MAJESTY's RESIDENT, whose duties will be to investigate all complaints which may be made to him.

It will also be his endeavour to prevent the arrival among you of men who have been guilty of crimes in their own country, and who may effect their escape from the place to

which they may have been banished, as likewise to apprehend such persons of this description as may be found at present at large.

In return for the anxious desire which will be manifested by the BRITISH RESIDENT, to afford his protection to the inhabitants of New Zealand, against any acts of outrage which may be attempted against them by British subjects, it is confidently expected by HIS MAJESTY, that on your parts you will render to the RESIDENT that assistance and support, which is calculated to promote the object of his appointment, and to extend to your country all the benefits which it is capable of receiving from its friendship and alliance with Great Britain,

I am,  
Your friend,  
GODERICH.

### The Māori translation

Na te Rangatira nui, na Waikauta KORERIHA, ko ia nei te tahi o nga tino kai tuhituhi a te KINGI O INGARANI—

Ki nga Rangatira o Nu Tirani.

E HOA MA,

KUA mea mai TE KINGI ki hau, kia korero atu ki a koutou, kua tae mai nei ki TE KINGI to koutou pukapuka, i ho atu e koutou ki a TE IETI kia kawea ki Ingarni.

E hari ana te Kingi no to mea kua pahure ke atu te mea i matakai a koutou, i te tuhituhinga o to koutou pukapuka, (ara ko te tangohanga o to koutou kainga e te iwi o Mareau), a e hiahia ana ia kia kaua e poka ke a mua atu te tahi mea, hei wakararuru i to koutou kainga, kei wakamutua hoki te hokohoko o ana tangata o Ingarni ki a koutou.

E kino ana te KINGI ki nga mahi kino o ana tangata ki te hunga o Nu Tirani, kua tuhituhia mai nei e koutou. Penei

ka tohe nga tangata ki aua kino a mua, ma te Kingi e riri, mana ano e utu aua tangata kino, ki te tikanga o nga ture o to ratou kainga, ua hopukina, ua wakawakia ratou. A e mea ana TE KINGI kia pai marie nga wakaro o koutou katoa ko ana tangata, a te tahī o te tahī.

A kua tonoa e TE KINGI te tangata i tenei pukapuka a TE PUHĪPI, kia noho ki to koutou kainga; he tangata hoki no TE KINGI, hei kai wakarite i nga mea o te tangata maori o Nu Tirani, o nga tangata hoki o KINGI WIREMU e noho ana i a koutou, hei kai hoko. Mana ano e wakawa nga mea kino, katoa, e wakapuaki ai koutou ki a ia.

Manā hoki e mea, kia kaua e haere atu ki to koutou kainga nga tangata i mahi kino i to ratou kainga, a kua oma i

te kainga i herehere ai ratou; mana hoki e hopu aua tangata e haere noa nei i to koutou a kainga.

Na! ka wakaro te tangata o TE KINGI ki te tiaka i nga tangata o Nu Tirani i nga mahi kino o nga tangata o Ingarani, waihoki e mea ana TE KINGI, kia utua tenei wakaro e koutou, ara kia meinga koutou hei hoa, hei kai tiaki i tona tangata, kia puta ai te mea e noho ai ia ki a koutou, a kia wiwi ai koutou ki nga pai katoa e riro ki a koutou, no te mea ka meinga koutou hei hoa mo te KINGI O INGARANI.

Na to koutou hoa,  
Na te KORERIHA.  
Hune 14, 1832.<sup>1</sup>

with the actual appointment of a Resident, it indicated a further step towards a more positive interpretation of New Zealand's independent status and Maori rights'. Adams also noted, however, that 'Goderich's high-flown humanitarian declarations were tempered by a consideration for the market place'. In other words, the British interest in trade – channelled primarily through New South Wales – remained a paramount consideration.<sup>402</sup>

Unlike the chiefs' letter to King William, the reply and its translation were not subject to linguistic analysis by the claimants, although Hohepa contended that the King's reply was as much a part of the 'historical and anthropological linguistic trail to Te Tiriti' as 'the words between Hongi Hika and King George [and] the 1831 letter of the chiefs to King William IV'.<sup>403</sup> The description, for example, of Busby as a kaiwhakarite, or mediator between Māori and Pākehā, is an obvious link with 1840, as we shall see in chapter 7. We note also that Goderich's senior role within the British Government was translated as 'Rangatira nui' – that is, clearly senior to that of Busby the kaiwhakarite. Presumably Hohepa would regard Busby's address as part of the same trail or whakapapa. We can see, for example, that the word 'taonga' was used five times in its translation to convey belongings, 'riches', 'all good things', and 'all ...

things which you desire'. Orange also pointed to the use in the address of 'whakarangatiratanga' to convey the honour bestowed on the chiefs by the King sending them an envoy. As she put it, this literally meant 'increasing their chiefly mana'.<sup>404</sup>

When Busby had finished speaking and his address had been translated, some 10 to 15 chiefs responded. Frustratingly, we know little of their speeches and nothing of their identities other than that they came from Hokianga, Kororāreka, Kawakawa, and Waikare, among other places.<sup>405</sup> The hui appears, then, to have brought together the major alliances at the Bay of Islands and beyond. Busby was pleased with the chiefs' messages of welcome, although one told him that it would have been better if he had brought soldiers to protect him, for Māori were 'very wicked'.<sup>406</sup> Another referred to the settlers' warnings

that the present proceeding is only preparatory to the enslavement of the New Zealanders; and that the Missionaries and myself [Busby] are to receive from the Government a certain number of dollars for each native who is converted, or who is brought into connection with the English, the intention being to send Ships of War to take them off for Slaves.<sup>407</sup>

## Busby's Address and its Translation

### The English text

JAMES BUSBY, Esquire, the British Resident—

*To the Chiefs and People of New Zealand.*

MY FRIENDS,

You will perceive by the letter which I have been honoured with the commands of THE KING OF GREAT BRITAIN to deliver to you, that it is HIS MAJESTY's anxious wish that the most friendly feeling should subsist between his own subjects and yourselves: and how much He regrets that you should have had reason to complain of the conduct of any of HIS subjects.

*To foster and maintain this friendly feeling – to prevent as much as possible the recurrence of those misunderstandings and quarrels which have unfortunately taken place – and to give a greater assurance of safety and just dealings both to His own subjects, and the people of New Zealand, in their commercial intercourse, with each other – these are the purposes for which HIS MAJESTY has sent me to reside amongst you.* And, I hope and trust, when any opportunities of doing a service to the people of this country shall arise, I shall be able to prove to you how much it is my own desire to be the friend of those among whom I am come to reside.

It is the custom of HIS MAJESTY, THE KING OF GREAT BRITAIN, to send one or more of His servants to reside as His Representatives in all those countries of Europe and America, with which he is on terms of friendship; and in sending one of His servants to reside among the Chiefs of New Zealand, they ought to be sensible not only of the advantages which will result to the people of New Zealand, by extending their commercial intercourse with the people of England, but of the honor THE KING of a great and powerful nation like Great Britain, has done their country in adopting it into the number of those countries with which He is in friendship and alliance.

I am, however, commanded to inform you that in every country to which HIS MAJESTY sends his servants to reside as His Representatives, their persons and families, and all that belongs to them are considered sacred. Their duty, is the cultivation of peace, and friendship, and goodwill; and not only THE KING OF GREAT BRITAIN, but the whole civilized world would resent any violence which his Representatives might suffer in any of those countries to which they are sent to reside in His name. I have heard that the Chiefs and people of New Zealand have proved the faithful friends of those who have come among them to do them good, and I therefore trust myself to their protection and friendship with confidence.

All good Englishmen are desirous that the New Zealanders should be a rich and happy people; and it is my wish, when I shall have erected my house, that all the Chiefs shall come and visit me, and be my friends. We shall then consult together by what means they can make their country a flourishing country, and their people a rich and a wise people, like the people of Great Britain.

At one time Great Britain differed very little from what New Zealand is now. The people had no large houses, nor good clothing, nor good food. They painted their bodies, and clothed themselves with the skins of wild beasts. Every Chief went to war with his neighbour, and the people perished in the wars of their Chiefs, even as the people of New Zealand do now. But after God had sent HIS SON into the world to teach mankind that all the tribes of the earth are brethren, and that they ought not to hate and destroy, but to love and do good to one another; and when the people of England learned His words of wisdom, they ceased to go to war with each other, and all the tribes became one people.

The peaceful inhabitants of the country began to build large houses, because there was no enemy to pull them down. They cultivated their land and had abundance of bread, because no hostile tribe entered into their fields to destroy the fruits of their labours. They increased the

numbers of their cattle because no one came to drive them away. They also became industrious and rich, and had all good things they desired.

Do you, then, O Chiefs and Tribes of New Zealand, desire to become like the people of England? Listen *first* to the word of God, which HE has put it into the hearts of His servants, THE MISSIONARIES, to come here to teach you. Learn that it is the will of God that you should all love each other as brethren, and when wars shall cease among you, then shall your country flourish. Instead of the roots of the fern, you shall eat bread, because the land shall be tilled without fear, and its fruits shall be eaten in peace. When there is abundance of bread, men shall labour to preserve flax, and timber, and provisions for the ships that come to trade; and the ships which come to trade, shall bring clothing, and all other things which you desire. Thus shall you become rich. For there are no riches without labour, and men will not labour unless there is peace, that they may enjoy the fruits of their labour.

JAMES BUSBY.  
Bay of Islands,  
17th May 1833.

#### The Māori translation

*Na te PUHPI, te Tangata o TE KINGI O INGARANI—*

*Ki nga Rangatira me nga Tangata o Nu Tirani.*

E HOA MA,

Kua rongo nei koutou ki te pukapuka o TE KINGI O INGARANI, i kawea mai nei e hau. E hiahia ana ia kia waka-hoatia koutou ki a ia. Ko tana mea kino te mahi kino o te pakeha ki a koutou.

Ko a hau tenei kua tonoa mai e ia kia meinga ai koutou hei hoa pumau ki a ia. A kia kore ai e tutu nga tangata o TE KINGI O INGARANI ki a koutou. A kia tika ai te hokohoko a

te pakeha ki te tangata maori, a te tangata maori ra nei ki te pakeha. Hei a muri nei ki te tutu e tahi tangata kia koutou, hei reira koutou kite ai, ko a hau te hoa mo te tangata maori.

No tua iho ano tenei ritenga o TE KINGI O INGARANI kia tonoa e tahi o ona tangata ki nga kainga tawiti o Uropi, o Amerika, o hea, o hea, nga kainga hoki e wakahoatia ana ki a ia. A ka tonoa mai nei a hau e TE KINGI kia noho ki to koutou kainga. Kia mahara koutou, e nga Rangatira o te tangata maori, hei pai tenei mo koutou; ma konei hoki ka hono ai to koutou hokohoko ki a matou, ki nga tangata o Ingarni: kia mahara ano hoki koutou, he wakarangatiratanga tenei na TE KINGI o te iwi nui o Ingarni, ta te mea hoki ka wakahoatia koutou ki a ia.

Tenei ake ano tenei korero; ka tonoa nga tangata o TE KINGI kia noho kihea kihea, nona pu hoki ia tangata. E kore rawa e ahatia aua tangata, o ratou tamariki ra nei, o ratou taonga ra nei e te kainga e noho ai ratou. E noho ana hoki ratou hei hunga mo te pai, mo te atawai, mo te maunga rongo. Ki te mea e ahatia nga tangata o te KINGI, ka riri ia me nga pakeha katoa. Oti ra kua rongo a hau, he hunga pai nga rangatira me nga tangata o Nu Tirani, ki nga pakeha e noho ana ki a ratou mo te pai, koia hoki a hau te mataku ai kia noho, ko taku ko tahi anake ano ki to koutou kainga.

E mea ana nga tangata wakaro katoa o Ingarni, kia noho pai te tangata maori, kia wiwi ano ki nga taonga o te pakeha. A e mea ana a hau, ka oti te tahi ware moku te hanga, kia haere mai nga rangatira maori katoa kia kite i hau, kia waka-hoatia ano ki hau. A kia wakaro ano hoki koutou he pai mo to koutou kainga, kia wakarite ai koutou ki nga tangata e Ingarni.

Inamata riro ko te ritenga o Ingarni kei te ritenga o Nu Tirani. Kahore o ratou ware pai, kahore he kahu pai, kahore he kai pai. He mea pani o ratou hiako ki te ta, ko o ratou kakahu he huruhuru kararehe. A e wawai ana tenei kainga ki tera atu: a ngaro iho nga tangata i te parekura ma koutou ka ngaro nei. Oti ra ka tonoa e te ATUA tana TAMAITI ki te ao, hei ako i te tangata, he teina, he tuakana nga tauwi katoa i te ao: a he mea he te wawai, te hae; ko te pai ia kei te aroha,

kei te atawai. Na! Wakarongo ana nga tangata o Ingarani ki ana kupu pai, mutu wakarere te wawai o ratou ki a ratou ano, ka wakakotahitia ka huihuia taua iwi katoa.

Ko te hunga mo te pai kei te hanga i e tahi ware nunui mo ratou, kahore hoki he tangata hei wawahī; ka ngakia te wenua, ka hua te kai, kahore hoki he hoa riri hei takahi: ka tini haere nga kararehe, kahore hoki he tangata e wiua ketia ai, e tangohia ai. A ka mahi ano ka wiwi ki te taonga.

E mara ma, E nga Rangatira, e nga Tangata o Nu Tirani, peratia koutou me te hunga o Ingarani? Ma tua ka Wakarongo ki te kupu o te ATUA kua ho mai nei ki ona tangata ki TE MIHANERE.

Kia rongo koutou ko te hiahia o te ATUA kia aroha koutou katoa ki akoutou ano, kia wakateina, kia wakatuakana

koutou katoa. A ka wakamutua te wawai, ko reira kake haere ai to koutou kainga, ka pai ano. Ka mutu te kai i te aruhe, kei te taro anake; ka ngakia katoatia te wenua, ka kainga marietia nga kai. Ka nui hoki te kai, ko reira hoki mahia ai he Muka, he Rakau, he Kai ra nei, hei hokohoko mo te kaipuke. A ka riro mai mo koutou he kakahu me nga mea katoa e pai ai koutou. Makonei ka wai taonga ai koutou. Ki te kahore hoki he mahi, kahore he taonga, tena ko te mahi, ma te rangimarie anake, ma te ata noho ka puta ai, kia kite ai te tangata i tana mea i mahi ai ia.

Na te PUHIPI.

Paihia

Mai 17, 1833.<sup>1</sup>

This chief told Busby, ‘You are welcome – *even if you are the man who has come to sell us!*’ (Emphasis in original).<sup>408</sup> Overall, however, Phillipson noted the European observers’ agreement ‘that the welcome for the Resident was unanimous and that clearly the Bay and Hokianga Maori had decided to accept him, his letter, and his offer of friendship’.<sup>409</sup>

Busby thought that 22 chiefs were present, but it seems that the missionaries advised him that 40 of those in attendance were rangatira who would need to be presented with gifts. Busby put away the 15 suits of clothes he had to distribute and instead borrowed blankets from the mission’s stores so that he had sufficient to present one to each of the 40 chiefs, along with a quantity of tobacco. The mission then provided a feast for the 600 Māori present, while the 50 Europeans had a meal at Henry and William Williams’s house. As Henry Williams recorded,

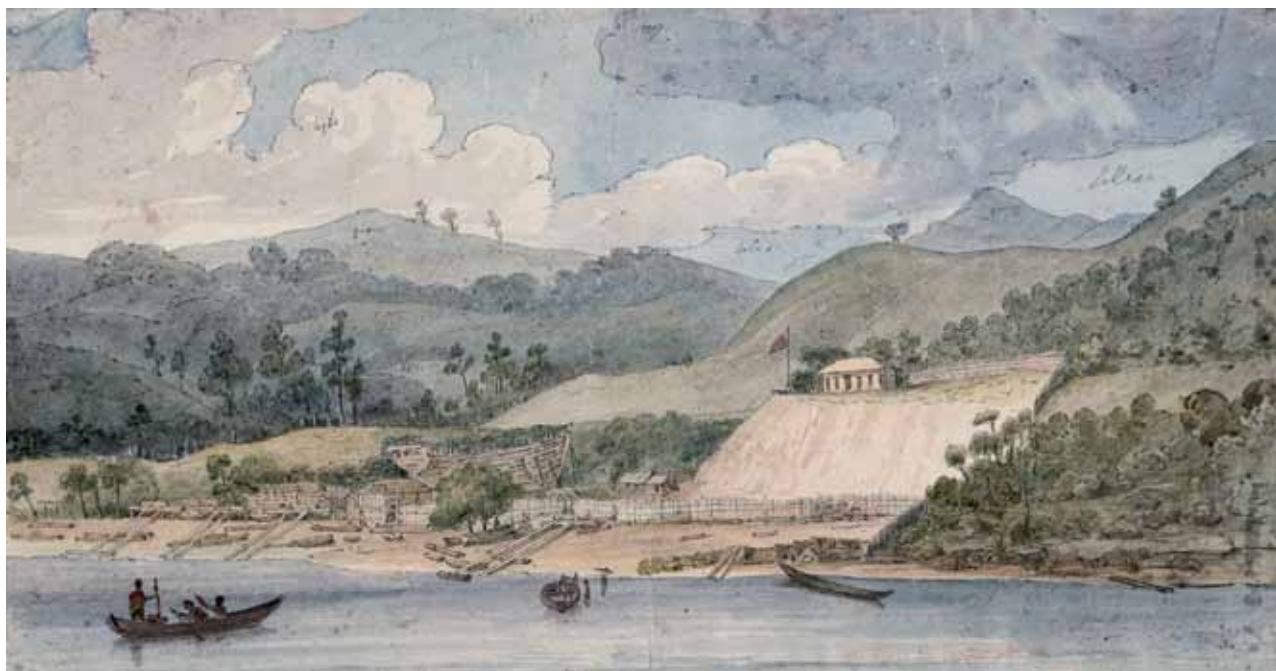
At three [pm], the Natives were served with their repast of beef, potatoes, and stir-about. As our [Māori mission] Boys have had some experience in this important duty, at our Annual Meetings, our Visitors [Busby and the naval officers]

were a good deal surprised at the order and expedition with which this assemblage of New Zealand rank was supplied, as the feast consisted of about 800 dishes constructed of a plant similar to the flag. All passed off very agreeably.<sup>410</sup>

The question subsequently arose as to where Busby should erect the bricks and frame of the house that he had had shipped from Sydney.<sup>411</sup> After the *Imogene* sailed away on 19 May,<sup>412</sup> he was accommodated by his missionary allies, and at first it seemed logical he should settle near them at Paihia, although the missionaries appear to have favoured a little distance and may have suggested Busby look slightly northward to Waitangi. Busby reported to Bourke on 18 June 1833 that

I have, therefore, fixed upon a place about a mile and a half from the Mission station, which was recommended to me by a majority of the chiefs, and it is, in my estimation, the most eligible site for my dwelling.

Busby may even have had settling at Waitangi in mind before he left New South Wales, as he wrote on 22 July 1833



The Hōrēke dockyard, 1828. Here, settlers milled timber for export to Sydney and also built ships, including the 400-ton barque *Sir George Murray*.

that the land had been ‘transferred’ to him by William Hall before his departure.<sup>413</sup> In any event, Busby settled at Waitangi under the protection of Ngāti Rāhiri and their rangatira Te Kēmara. As early settlers in the north usually did, he later attempted to negotiate the formal ‘purchase’ of the land.<sup>414</sup>

### 3.9.3 The selection of a national flag

In 1826, the Sydney shipbuilders Raine, Ramsay, and Browne entered into a transaction with local rangatira, including Te Taonui, for land at Te Hōrēke in the Hokianga. They were soon producing spars, planks, and flax for export to Sydney, and by the following year some 50 British settlers were engaged at what had become a shipbuilding operation in its own right. Lee remarked upon ‘this startling irruption of European enterprise’, which he attributed to a concurrent boom time in Sydney. The first vessel built at the Hōrēke shipyards was a schooner called

*Enterprise*, and this was followed in 1828 by a brig, the *New Zealander*, and in 1830 by a 400-ton barque, the *Sir George Murray*.<sup>415</sup>

The problem for these ships was that they were built outside territories ‘subject to His Majesty or to any European power or state’, as was required for them to obtain a British register and freely enter international ports.<sup>416</sup> Raine had attempted to obtain a certificate of registry for the *New Zealander* when it first arrived in Sydney in December 1828, but was told that ‘no such registry could be granted’. He appears to have been permitted to sail the vessel ‘between this colony [New South Wales] and New Zealand exclusively’.<sup>417</sup> When the *Sir George Murray* sailed into Port Jackson in November 1830, however, it was immediately seized by Customs.<sup>418</sup> Patuone and Te Taonui were both on board the *Sir George Murray* at the time of its seizure, and the impounding was, as Orange put it, ‘an insult to their mana’.<sup>419</sup>

Raine's business was by now bankrupt, and Hokianga settler Thomas McDonnell shortly afterwards bought both the *Sir George Murray* and the entire shipbuilding enterprise at auction in Sydney.<sup>420</sup> It seems that the matter of registration may have been resolved by the granting of a licence to the *Sir George Murray* to trade between Australia and New Zealand, as had occurred with the *New Zealander*,<sup>421</sup> although in January 1833 the *New Zealander* too was seized by Customs in Sydney for lacking a British register. The press remarked that it was 'somewhat surprising that this question has not been settled, petitions to the Home Government on the subject having been sent upwards of four years since'.<sup>422</sup>

Before leaving for New Zealand, Busby was approached by the then owner of the *New Zealander*, Joseph Hickey Grose, who sought a register for the ship. Busby astutely recognised that the issue provided an opportunity for him to draw the chiefs – who would probably never have contemplated 'confederating for any national purpose' – into working in concert. After his arrival in New Zealand, therefore, and a few days even before he was presented to Bay of Islands Māori, he outlined his plans to the Secretary of State for War and the Colonies for the rangatira to come together and choose a national flag for New Zealand-built ships. He himself would undertake to certify the chiefs' registration of the ships, but only if two-thirds of them agreed upon a flag design and petitioned King William to have it respected. Through this precedent he hoped the chiefs would 'consent that they will henceforth act in a collective capacity in all future negotiations with me, with the ensuing "confederation of chiefs" providing the basis for "an established Government".<sup>423</sup> Busby's excessive optimism meant he looked forward the following month to building a 'Parliament House' and introducing a 'passport' system to enable the chiefs to expel escaped convicts.<sup>424</sup>

In November 1833, Bourke sent Busby his approval, along with a flag with four horizontal blue bars on a white background and the Union Jack in the top left corner. This arrived in January 1834 but, as Busby explained, was rejected by the missionaries because of its 'total absence of red, a color to which the New Zealanders are particularly partial and which they are accustomed to consider

as a indicative of rank'.<sup>425</sup> Henry Williams requested three more designs be made up, and these were delivered on HMS *Alligator*,<sup>426</sup> which arrived at the Bay of Islands on 9 March 1834.<sup>427</sup> One of these was the design of the mission's own flag, which had been flown from the *Active* for some time. A hui was convened at Busby's new Residency at Waitangi, with the sailors from the *Alligator* erecting a marquee for the occasion out of the ship's sails.<sup>428</sup> The three flags flew from short poles outside the tent.<sup>429</sup>

The gathering to select a national flag took place on 20 March 1834. William Williams observed that 26 'principal chiefs' were in attendance,<sup>430</sup> while Busby counted 25 chiefs,<sup>431</sup> and William Marshall, the *Alligator*'s surgeon, wrote that 'about thirty Tangata Mauri, or heads of tribes' were present.<sup>432</sup> They included Kiwikiwi, Te Morenga, Moetara, Waikato, and Hōne Heke.<sup>433</sup> Pōmare may or may not have been late for the formalities (see below). There were also hundreds of supporters.<sup>434</sup> Marshall described how the tent was divided by a barricade, with the leading chiefs moving into the vacant side as their names were called, 'to the no small discontent of the excluded'.<sup>435</sup> Another observer from the *Alligator*, the Austrian Baron Karl von Huegel, gave a more colourful account of this process:

A rope was then drawn dividing off part of the tent, and one of the New Zealanders belonging to the Waimati mission read out the name of the first chief of each horde in turn, whereupon the man in question responded and was required to creep under the rope and into the area partitioned off. It is not easy to imagine how ludicrous the effect was: the New Zealanders, many of them incongruously dressed, striding in all dignity up to the rope, and then prostrating themselves to crawl under it with embarrassing entanglement in their mats and blankets.<sup>436</sup>

The point of separating the chiefs in this was, of course, so that Busby could ensure only his 'parliament' voted on the flag.<sup>437</sup>

Busby then addressed the hui, stressing repeatedly the personal interest of the British monarch, as well indeed as Busby's own connection to him.

It would seem that Busby had by now become proficient enough in Māori to deliver the address himself. Marshall, for example, referred to Busby making a speech and remarked that he had ‘in vain attempted to procure a copy of Mr Busby’s address on this occasion, and cannot, therefore speak with any certainty as to its contents’.<sup>438</sup> Hohepa noted several errors in Busby’s address but added that he thought the rangatira would have understood it.<sup>439</sup>

Phillipson noted Busby’s emphasis on the King’s initiative, friendship, and – in due course – personal approval.<sup>440</sup>

Busby did not invite any responses to his speech but proceeded directly with the vote. He was assisted by Eruera Pare, who wrote down each rangatira’s selection.<sup>441</sup> According to Busby, 12 chiefs chose the mission flag, 10 another, while three voted for the third option. The winning choice was then raised alongside the Union Jack on

## James Busby’s Address to the Chiefs on the Occasion of the Adoption of a Flag, 17 March 1834

### The Māori address

E aku hoa, kua wakaae te Kingi o Ingarani ki a koutou hei hoa mona, na ka tonoa mai hoki hau, tana Retuirenete, kia noho ki Nu Tirani, a e hiahia ana hoki ia kia hohoko ona tangata ki a koutou, a kia mahi tika ratou; kia kaua e riri ki a koutou, me koutou ano hoki ki a ratou. – Otira kahore he kara mo nga kaipuke i hanga ki Nu Tirani, hei puke hohoko mea, a ko nga kaipuke kara kore e tangohia. – A he mea tika ma nga rangatira e wiriwiri tetahi kara mo Nu Tirani. – A ko nga kaipuke hoki e hanga ki konei ka tukua kia hohoko nga turanga kaipuke o te Kingi o Ingarani – koia ra ko tenei, ko te mea i tuhituhi ai hau mo nga rangatira o Nu Tirani. A e te toro enei kara kua oti te kawe mai e te Rangatira o tetahi o nga kaipuke taua o Kingi Wiremu, – koia hoki ka wakaminea nei e hau nga Rangatira kia wiriwiri ai e koutou tetahi kara mo Nu Tirani – ma nga rangatira nunui anake, e wiriwiri te kara – no te mea ko etahi pea e hiahia ki tetahi kara, ko etahi e hiahia ki tetahi atu. Otira ma te Rangatira ano e mea ki a ia ano te kara e tino pai, a ko te kara e tangohia e te tokomaha o nga Rangatira ko to kara tera mo Nu Tirani a he io ano hoki te mea e tangohia – Ano ka wiriwiri te kara, ka kawea e te Rangatira o te puke taua a ka wakatakoria ki nga wae-wae o te Kingi – a ki te paingia te kara e ia ko nga kaipuke e wakatare ana i taua kara e kore e tangohia, otira ka tukua ki nga turanga kaipuke o Kingi Wiremu, hohoko ai. – A kia wakaro nga Rangatira o Nu Tirani ki tenei ki te aroha nui o te Kingi o Ingarani ki a ratou, a kia atawai ratou ki ona tangata.

### The English translation

The King of England has graciously taken you the representatives of the Maori people to be his friends and has sent me his representative to reside here in New Zealand. He desires me to express to you his desire that you and I are to long continue to be friends and work together for the good of everybody. He hopes that you will live in peace with the new settlers. He realizes that the ships that have been built in New Zealand have no flags of their own and therefore desires you the chiefs to accept this flag as a pattern for the flags for such ships so that such ships sailing the seas in flying for trade would fly the flag of the King of England, and on your behalf I would like to write to the King of England to signify your acceptance of the flag. Three flags have been delivered to me by the Captain of one of the ships of his Majesty King William and I desire that you as chiefs choose one of these flags to be the flag for New Zealand. I want you to consult with chiefs of other parts of New Zealand so that your decision would be the decision of the majority, for I visualise that many would prefer one and others would prefer another. When you have made your decision the Captain of the ship will bear your choice to the King of England signifying that the particular flag is the one you have chosen as the flag for New Zealand and such a flag will then be flown on the ships of New Zealand serving under His Majesty King William. Please give this matter your due consideration. I send you the greetings of King William of England.<sup>1</sup>

a larger flagstaff, and HMS *Alligator* fired 21 guns. This itself was a significant act; James Stephen, the Permanent Under-Secretary of the Colonial Office, later regarded it as a formal recognition of Māori independence (see chapter 6).<sup>442</sup> Busby did not record any dissatisfaction with the selection process, claiming that the chiefs appeared ‘to have a perfect understanding of the nature of this proceeding’.<sup>443</sup> However, Marshall’s version of events was somewhat different. He recorded 12 votes for the winning flag, 10 for the second, and six for the third, with abstentions from two rangatira ‘apparently apprehensive lest under this ceremony lay hid some sinister designs on our parts’. Overall, thought Marshall,

had anything like freedom of debate been encouraged, instead of suppressed, before proceeding with the election, I have little doubt but that the real sentiments of those present would have been elicited; and, assuredly, an opportunity might have been afforded of answering any objections as they arose, and, in that way, more completely satisfying the minds of the people as to the objects contemplated by our Government.<sup>444</sup>

Von Huegel thought that the chiefs were baffled by the entire notion that King William was showing his friendship by letting them select a flag for their ships, which he would seize if they failed to fly it. ‘Most of them regarded the proposal as indicating anything but friendship,’ wrote Von Huegel. He also described the vote as rather less straightforward than either Busby or Marshall had made it seem:

When it came to voting, each of the first three voters named a different flag; of the rest a majority said that they did not care which flag was chosen. One of the above-mentioned servants of the missionaries then took a sheet of paper and wrote down every voter’s name and his opinion; as for the majority who had affirmed indifference, he pressed each man in turn to name a preference, and adding up the votes he announced which flag was chosen.<sup>445</sup>

After the formalities were over, Busby invited the 50 or so Europeans present into the Residency for a meal, while

the Māori attendees were given ‘a thin paste made of flour and water’ outside.<sup>446</sup> Busby had even deliberately under-catered for his Māori guests in the hope of dissuading the rangatira from bringing so many supporters next time.<sup>447</sup> Marshall was scathing that Busby had not ‘provided seats for the chiefs at the same table with the Resident and his “pale-faced” guests’.<sup>448</sup>

Moreover, while the feasting (‘or rather fasting’, joked von Huegel<sup>449</sup>) was taking place, many Māori gathered in the tent to hold a lively debate about the proceedings – arguably, the kōrero that had been denied them by Busby. We have only a very limited record of this discussion – which Marshall described as ‘warlike’ and ‘wordy’<sup>450</sup> – from von Huegel’s journal. Like Marshall, von Huegel could not understand what was being said and had to ask the missionaries now and then to translate. He did manage, however, to record some of what was said:

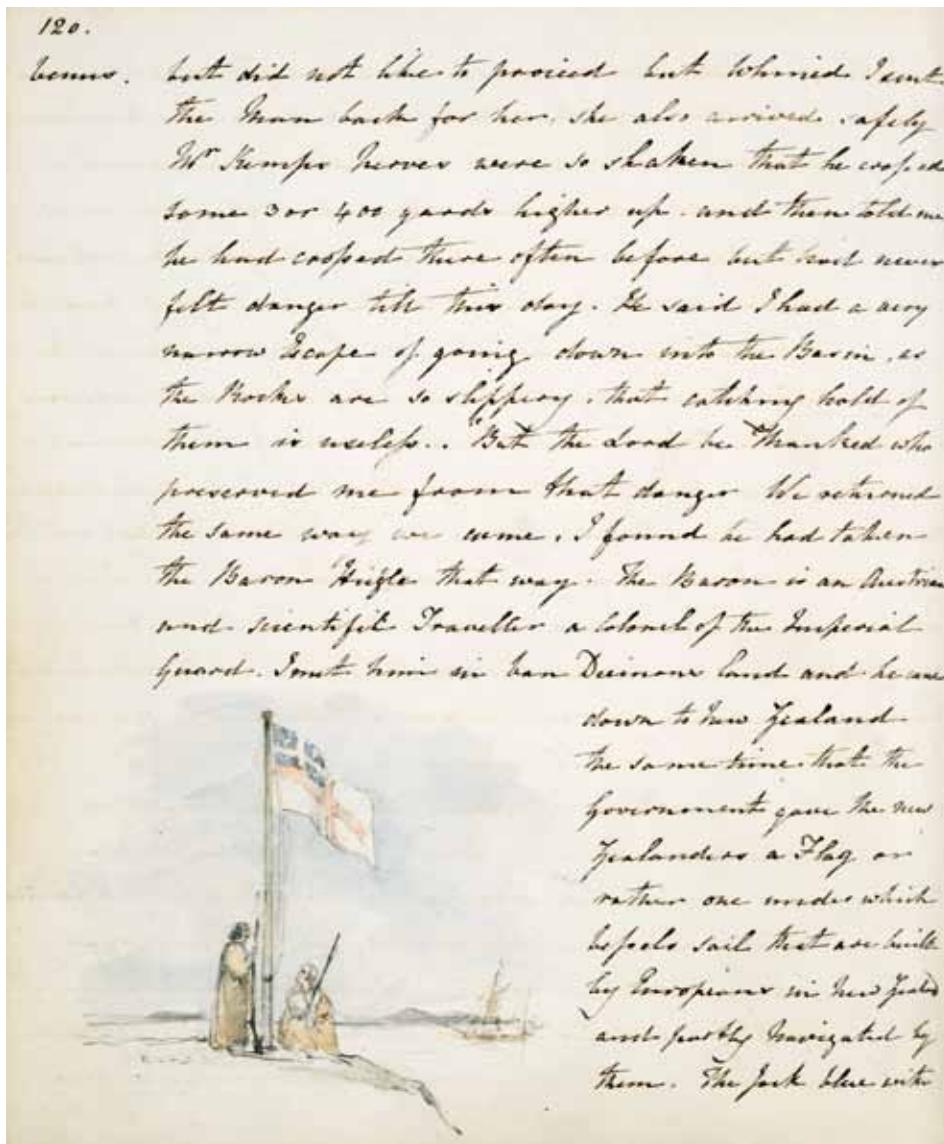
Kiwy Kiwy [Kiwikiwi] said:—How have we come into this situation of having to hoist a flag on our boats to ensure their safety? . . . It is through our own fault, it is through our own fault that we have to do it. If we had been more united among ourselves, if we had had no enmity of one horde against another, we would have been able to oppose their landing. Temorina [Te Morenga]. I will tell you why we had to bow down before the will of the strangers. Would any of us really urge other New Zealanders to drive strangers away from the landing-place? . . . Our fault was not in allowing the strangers to land, it was in our setting upon them and murdering them. We should help a man in trouble and not harm him. Now the ships are afraid to approach our coasts, and yet what things we have received through the strangers! Whence came the blankets we wear, the tobacco we smoke, the pigs and potatoes? It all came from the strangers, they have done us good, and we should protect them.<sup>451</sup>

Von Huegel noted that his guide from the previous day also spoke, and ‘made a powerful speech against the plundering of ships driven ashore’.<sup>452</sup> It seems that the focus of at least some of the debate, therefore, was not on the seizure of New Zealand-built vessels in foreign ports but on attacks on the crews of ships that foundered on the

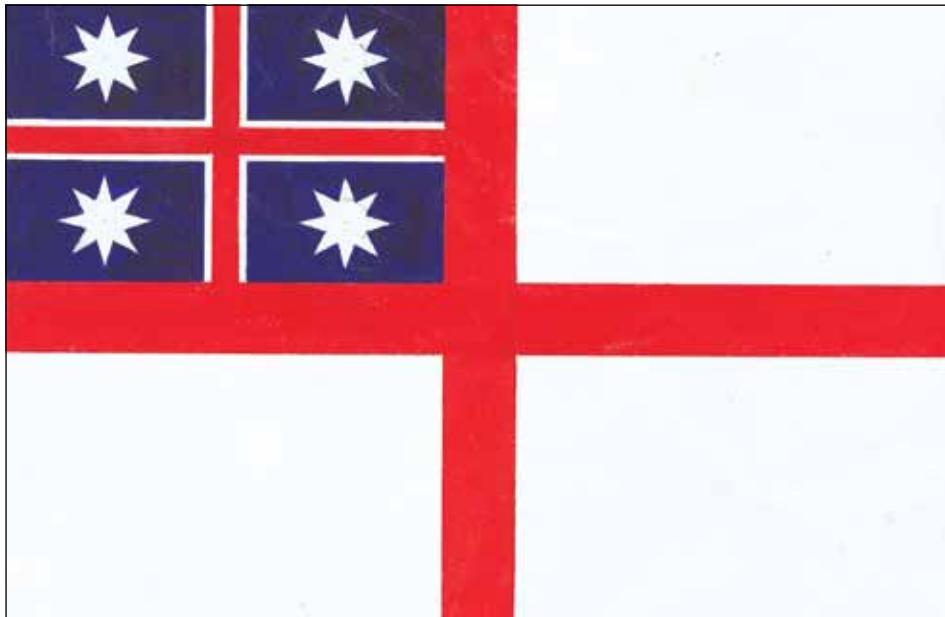
northern New Zealand coast. Von Huegel noted that a ship from Van Diemen's Land had recently been driven ashore in the Hokianga Harbour and the crew had been attacked by local Māori before being rescued by Moetara.<sup>453</sup>

According to Marshall, during the speeches Pōmare

– who was apparently aggrieved at not having been invited to the hui before the other chiefs<sup>454</sup> – belatedly arrived with 60 warriors armed with muskets and waited at a short distance, probably in expectation of a formal welcome.<sup>455</sup> William Williams endeavoured to persuade him



Page from a manuscript by Edward Markham with a sketch of two Māori next to the new national flag, circa 1836. While Markham was in New Zealand in 1834, it does not seem that he was present at the hui that selected the design, and some of the detail of his flag is incorrect.



New Zealand's first 'national' flag. The flag, which had been flown by the missionaries, was chosen by northern rangatira at a March 1834 gathering at Waitangi that Busby had called in response to the impounding in Sydney of New Zealand built ships for their failure to display national colours.

to lay down his guns, but he initially refused, claiming that it was 'New Zealand custom' to carry weapons and pointing out that the officers of the *Alligator* still carried their swords. Eventually, his point made, Pōmare allowed himself to be won over by the missionaries' 'soothing' talk.<sup>456</sup> There is some doubt about whether Pōmare actually arrived late, however. Von Huegel wrote that the flag ceremony began when 'the greater part of the leaders expected had arrived', but without Pōmare, Kiwikiwi, and 'the leader of Koraradica' which may have been a reference to Titore. But later he wrote that Pōmare and Kiwikiwi had arrived before Busby made his opening address and well before the voting took place.<sup>457</sup>

The winning selection was sent back to England for the King's approval. Meantime, Busby issued interim certificates to shipowners 'without reference to the Chiefs'.<sup>458</sup> Secretary of State for War and the Colonies Lord Aberdeen sent confirmation of the King's approval in December 1834, and this was in turn sent on to Busby from Sydney in July 1835. At the same time, the Royal Navy was instructed to respect both the flag and Busby's joint register with

the chiefs.<sup>459</sup> Busby later called the King's approval an acknowledgement of 'the Sovereignty of the Chiefs of New Zealand in their collective capacity',<sup>460</sup> although his hope that a unified Māori government would quickly follow the flag's adoption was not fulfilled, as we shall see.

What, then, has been made of the selection of the flag? Busby himself told Bourke that

As this may be considered the first National Act of the New Zealand Chiefs it derives additional interest from that circumstance. I found it, as I had anticipated, a very happy occasion for treating with them in a collective capacity, and I trust it will prove the first step towards the formation of a permanent confederation of the Chiefs, which may prove the basis of civilized Institutions in this Country.<sup>461</sup>

In keeping with this description, Manuka Henare placed the adoption of the flag as the fourth component in his series of nation-making events that began with Hongi's meeting with George IV in 1820. He noted how the flag eventually became a symbol of Māori sovereignty.<sup>462</sup>

In a similar vein, Orange argued that the flag's long-term significance lay in

Maori understanding of the event: the belief that the mana of New Zealand, closely associated with the mana of chiefs, had been recognised by the British Crown. . . . The flag identified New Zealand as a separate country, yet associated it with Britain, known by Maori to be the world's most powerful nation. Northern Maori absorbed the flag into their oral tradition, possibly regarding it as a special rahui or protection of their identity.<sup>463</sup>

Phillipson speculated as to whether there was some significance in the selection by the rangatira of what was also the mission's flag:

It may have been a coincidence that the majority of chiefs' chose it or they may have been signalling their growing allegiance to the mission along with other things British.<sup>464</sup>

By this logic, however, the vote could be seen equally as a rejection of the missionaries, since by neither Busby's nor Marshall's count did the 12 votes in favour constitute a majority of the votes cast. That the mission flag received the highest number of votes may also have stemmed principally from its familiarity. In any case, we agree with Phillipson that

the chiefs understood the significance and symbolism of flags, both as markers of national identity for the different ships, but also as used to convey all sorts of messages and ideas.

Phillipson noted the Māori use since the 1820s of white flags to signify a truce during battle, the display of the Union Jack at Paihia every Sunday since 1823 to announce the Sabbath, as well as Rāwiri Taiwhanga's insistence that the British flag be flown when *La Favorite* appeared in 1831.<sup>465</sup> He might have added Ruatara's flying of the Union Jack at Rangihoua on Christmas Day in 1814.

We note that, in contrast to this level of attention, the flag's adoption is either barely acknowledged or not mentioned at all in modern general histories of New Zealand.<sup>466</sup>

And aside from obvious exceptions like Orange, such mention as it has received from New Zealand historians tends to treat it as a 'farce' or 'pantomime'.<sup>467</sup>

#### 3.9.4 The attack on the residency and Busby's crisis

Only weeks after the adoption of the flag, Busby's hopes that the rangatira would act collectively to make laws and dispense justice were put to the test. On the night of 30 April 1834, barely 36 hours after his wife Agnes had given birth to their first child, the Residency came under attack. Busby's servant William Moore woke him to report that unidentified Māori were breaking into the storeroom at the back of the house. Moore and Busby rushed out but were shot at and retreated indoors. Moore bravely crept out and retrieved Busby's shot belt from the storeroom and Busby, now armed, stood in his back doorway, silhouetted by the light inside. Another shot was fired that narrowly missed his head but dislodged a splinter which struck him in the face. The attackers then moved to the other side of the building, where they climbed into Moore's bedroom and took a range of possessions before withdrawing into the darkness.<sup>468</sup>

Busby sent one of his workmen to alert Henry Williams at Paihia. According to Ramsden, the 'news spread like wildfire' and, in less than an hour, ships' captains and armed sailors had arrived at the Residency. The following day, Māori gathered at Waitangi and at once expressed their concern and protested their innocence. Titore returned immediately from Whangaroa, where he had been supervising the provision of spars for the *Buffalo*, and convened a hui of leading rangatira to discuss the matter.<sup>469</sup> Busby was pleased, although he was disappointed by the chiefs' failure to decide upon a plan of action.<sup>470</sup> Overall, the Bay of Islands was plunged into tension, with suspicions aimed at one chief or another. Indignantly, Kāwiti led a taua muru on the Paihia mission, believing it to be the source of rumours that he was behind the attack. The southern alliance reinforced their fortifications and waited at Ōtuihu to be attacked by the north.<sup>471</sup> Busby refrained from pressuring any rangatira to take action to find the culprit, lest that be regarded by other Māori as 'a hostile movement'.<sup>472</sup> On 2 July, Busby reported that Bay of

Islands Māori remained ‘in a high state of excitement and agitation – mutual accusations and recriminations having passed between the most powerful Tribes’.<sup>473</sup>

While Busby was frustrated by the lack of action, he also had to temper the rashness displayed by his fellow Europeans. Without any proper basis, for example, Captain Sadler of the *Buffalo* thought Pōmare the guilty party and argued that his men should be hanged.<sup>474</sup> A group of 10 traders (including Joel Polack, Gilbert Mair, and James Reddy Clendon) also wrote Busby a pointed letter on 6 May 1834, calling for him ‘to bring the natives of this country to a proper sense of the treatment to be observed to the representative of the British Government, for Busby’s sake as well as their own. If he did not insist upon redress, they claimed, he would ‘cause us to doubt the intention of our government in appointing you, as stated in your address, for the protection of British subjects, as well as natives’. This letter was published in a Sydney newspaper on 1 July 1834, together with Busby’s reply. Busby called the traders’ letter ‘extraordinary’ and said it was ‘impossible for me to take any further notice of it’. But he did emphasise that the chiefs had

shown no want of the proper sense of the treatment to be observed to the ‘representative of the British government’ domiciled in their country – but have hastened almost with one accord, to express to me their abhorrence of the late attack upon my house, and attempt upon my life – and to assure me that they would use every means to search out and bring to punishment the guilty parties.<sup>475</sup>

According to Ramsden, the press sided with ‘the European rabble’.<sup>476</sup>

The identity of the attackers remained a mystery, and despite sending dispatches to Bourke on the subject on 15 May, 7 June, and 2 July 1834, Busby received no reply.<sup>477</sup> Around 20 October,<sup>478</sup> however, the wife of Rete, a local Ngāti Tautahi chief and relation of Hōne Heke, found what turned out to be Moore’s missing rug in her home and accused her husband of the crime. Rete was brought before his fellow chiefs and urged to confess. Titore said he himself would go to Sydney ‘as a slave for satisfaction’

if Rete did not do so. Rete duly admitted his guilt, as well as that of two of his slaves who had accompanied him that night, and the question thereafter became one of how he should be punished.<sup>479</sup> The return of the warship HMS *Alligator* on 25 October 1834 – fresh from its bombardment of a pā on the Taranaki coast where European survivors from the wrecked ship *Harriet* had been held captive – may have helped to expedite progress.<sup>480</sup>

With the *Alligator* anchored offshore, Busby called a hui of chiefs and, while only 14 could attend, Busby was satisfied that they were ‘by far the most influential of the whole number’. From Busby we know that Titore was among them and Pōmare was not.<sup>481</sup> According to an English visitor, Edward Markham, Tāreha was also in attendance.<sup>482</sup> The evening before, Henry Williams had advocated that Rete forfeit his land and be banished from the district, and Titore agreed to put this to his fellow chiefs. The other rangatira all concurred, and committed themselves to putting the punishment into effect.<sup>483</sup> Busby was less sure, since he regarded the attack on himself as akin to an attack on the King, but he held his tongue. As he wrote on 30 October 1834,

It was my intention to inform the Chiefs that it was their part to bring the Criminal to justice: and if asked (as I had no doubt I would be) what satisfaction I required – to say that the satisfaction was due to the King; and not to me – that if the three men were put to death, the King would be satisfied; but could not say whether he would be satisfied with any other punishment – In deference to the wishes of the Missionaries however declined giving any opinion whatever.<sup>484</sup>

The *Alligator*, which Busby had asked to remain present until the chiefs committed to punishing Rete,<sup>485</sup> then left the Bay of Islands on the basis that the matter was resolved. In the meantime, Busby waited on approval from Bourke before asking the chiefs to take the next step. In the midst of this, he wrote again to Bourke, on 28 November 1834, noting despondently that Rete now appeared to deny his guilt. Busby had also grown pessimistic that the chiefs would go through with punishing Rete, since such a course so entirely contradicted Māori

custom. As he put it, ‘It would shock a New Zealander’s idea of justice to be made instrumental in punishing a crime which did not injure himself or his connections.’ Altogether, Busby claimed that given the difficulty of punishing ‘a midnight attack’ on the British Resident ‘for the purposes of plunder followed up by a deliberate attempt at murder’, the whole matter ‘might be considered the crisis of British affairs at this place’. He asked Bourke to urge the British Government to grant him proper authority and support, without which, he suggested, he could ‘hold out but little hope of being able to maintain order through the power of the native Chiefs’.<sup>486</sup>

But Busby was careful not to take this line of argument too far or to make his own efforts seem ineffectual. He claimed that Māori stood on ‘the very threshold of civilization’, and he retained an absolute confidence in his ability to lead the chiefs to ‘whatever changes in their social condition may best afford them the blessings of established Government’.<sup>487</sup> Busby was perhaps having it both ways – or, as Samuel Carpenter put it (perhaps more kindly), he was wavering between ‘proclaiming his faith in the efficacy of collective action by rangatira and the need for his superiors to grant him real legal authority and enforcement power’.<sup>488</sup> Bourke, however, was not particularly sympathetic, though his delay in approving Rete’s punishment was because he had decided first to seek the sanction of the Executive Council, which was given on 27 January 1835. Busby received Bourke’s confirmation on 4 March 1835 and assembled a meeting of rangatira 10 days later.<sup>489</sup>

Twenty ‘of the most influential Chiefs’ attended the hui. Busby was perhaps fortunate that another warship, HMS *Hyacinth*, had just sailed into the Bay, and he asked its captain to remain present until the meeting had taken place as a means of strengthening the chiefs’ resolve. According to Busby, the chiefs ‘were unanimous in deciding that the sentence should be carried into effect’. They nominated four of their number to preside over the confiscation of Rete’s land, reasoning that a larger party would appear provocative. Busby objected strongly to this and urged that the entire body of chiefs accompany him. The chiefs were reluctant, but the party’s numbers eventually expanded from four to 12 after news spread that he was

distributing blankets to the participants. At Rete’s village of Puketona, some four miles inland from Busby’s house, the local people pointed to the boundaries of Rete’s land, which Busby estimated at 130 acres. At Busby’s request, Rete’s own relations burned down his huts ‘in order that the offender should have no place of residence upon the spot’. Rete had apparently seen the approaching party and only just left, and the chiefs shared his possessions out between them. Busby wrote that

I then took possession of the place as the King of England’s farm, and as they desired me to give it a name, I called it ‘Ingarani’ – the native name for England. . . . Before the meeting broke up I had prepared an instrument confiscating the land in consequence of Rete’s crime, and vesting it in the King of England, to which I procured the signatures of all of the Chiefs present.<sup>490</sup>

Unfortunately for Busby, that was not the end of the matter. In May, he reported to Bourke that ‘the Chiefs have not fulfilled their engagement’ to force Rete to leave the district, the latter having taken to using some fishing huts within a quarter-mile of the Residency. Busby explained that when he had ‘purchased’ the land he had allowed Māori to continue to use these huts when fishing, but that no formal reservation had been made. Irritated by Rete’s presence and what he saw as an abuse of his generosity in respect of the huts, he personally burned them down. Local Māori were indignant and some spoke of retaliation, and the missionaries thought them within their rights to seek compensation. But Busby was unrepentant, asserting that he would ‘not allow any person to have a hut upon my Land who continues to befriend him [Rete]’. He thought it ‘useless’ to reconvene the chiefs, given their attitude at the previous hui when they were ‘under the impression that a Ship of War was watching their proceedings’, but he let them know he felt they had broken their pledge.<sup>491</sup>

It seems that the chiefs were not prepared to act lest Rete be provoked into escalating the dispute.<sup>492</sup> Bourke suggested Busby place some of his Māori ‘supporters . . . upon it as [his] Bailiffs’, but Busby knew this was impracticable.<sup>493</sup> As Samuel Carpenter concluded, ‘By mid-1835,

therefore, Busby's attempts to encourage the growth of collective action by the chiefs to enable law enforcement had mixed results.<sup>494</sup> Phillipson thought it a moot point whether the chiefs could have done more to punish Rete, but did note Busby had enjoyed one success: there were no more attacks made upon him.<sup>495</sup>

### 3.10 CONCLUSION

By the mid-1830s, Māori of the Bay of Islands and Hokianga had experienced increasingly intensive interaction with Europeans over the course of some six and a half decades. From the early visits of British and French explorers, hundreds of Britons and people of other nationalities had come to live; others visited frequently on whaling and trading ships. Hundreds of Māori, in turn, had travelled overseas. These encounters had brought together people with very different ways of understanding and relating to the world, as reflected in their contrasting cosmologies, values and norms, religious beliefs, economic systems, and decision-making and dispute resolution processes. As contact had increased, compromises were made. Europeans learned that transgressions of tapu could lead to violence; Māori learned that engaging with Europeans could enhance access to goods and technology, and therefore bring higher material standards of living. In chapter 5, we explore the extent of change that had occurred among the hapū of the Bay of Islands and Hokianga as a result of contact with Europeans during this period. Here we note that the encounters related in this chapter show that Māori and Europeans came to accommodate each other to some extent, despite much potential for (and sometimes actual) conflict.

The first encounters between rangatira and representatives of the British Crown after Cook's visit followed the establishment of the penal colony in New South Wales. Successive governors sought to develop good relations with rangatira in order to protect burgeoning commercial interests in New Zealand. Rangatira, for their part, sought to understand Britain's economic and military power, and the ideas and institutions on which it was based. These developments led rangatira to seek out a formal alliance

with Britain – one that would provide protection against external threats and also the more unruly or unscrupulous British subjects. Hongi Hika thought he had entered into such an arrangement during his meeting with the British monarch in 1820. Other rangatira believed this alliance was intensifying in the early 1830s, probably as a result of the increasing contact that followed their 1831 petition to King William. That resulted in the appointment of Busby as British Resident, and the adoption of a national flag.

The Colonial Office, for its part, saw these developments differently. Although Britain's involvement in New Zealand had increased during this period, culminating in Busby's appointment, the British Parliament had repeatedly disavowed any sovereignty over New Zealand. Missionaries formed an increasingly powerful lobby against British settlement, but sought just enough of an official British presence in New Zealand to protect their mission and prevent the undue spread of unplanned settlement. However, as Busby's term began, British commercial interests in New Zealand increased, and with this the number of people who came to live, particularly in the north of the country. Developments in New Zealand were beginning to test the British policy of minimum intervention.

Was there an 'alliance' between Britain and Māori of the Bay of Islands and Hokianga? In the term's formal sense, in the context of relationships between states, we do not believe that there was, despite Lord Goderich's reference to the chiefs' 'friendship and alliance with Great Britain' in his letter to them on behalf of the King. However, the rangatira and the British Crown had certainly developed an understanding. Britain would offer the chiefs protection from other powers and help establish New Zealand's international status. It would also do its utmost to ensure that Māori were not injured by British settlers. In return, the rangatira would continue to assist the interests of British commerce in New Zealand and would themselves refrain from attacking British subjects. The question was whether these loose arrangements would firm up in the coming years. We consider this question in our next chapter, on the Whakaputanga o te Rangatiratanga o Nu Tireni and the Declaration of Independence of 1835.

## Notes

1. Richard White, *The Middle Ground: Indians, Empires and Republics in the Great Lakes Region, 1650–1815* (Cambridge: Cambridge University Press, 1991), p x. White's work, and its application to the New Zealand context, was discussed by Dr Vincent O'Malley and John Hutton: doc A11, pp 8–9, 45–47. O'Malley later turned this work into a book which explored these issues in more depth. Vincent O'Malley, *The Meeting Place: Māori and Pākehā Encounters, 1642–1840* (Auckland: Auckland University Press, 2012).
2. John Darwin, *The Empire Project: The Rise and Fall of the British World-System, 1830–1870* (Cambridge: Cambridge University Press, 2009), p 1.
3. John M Ward, *British Policy in the South Pacific (1786–1893): A Study in British Policy Towards the South Pacific Islands Prior to the Establishment of Governments by the Great Powers* (Sydney: Australasian Publishing Co, 1948), pp 40, 42. Ward noted that New Zealand eventually became a candidate for 'British settlement and rule' because of its 'resources of timber and flax, the usefulness of its harbours for whaling and sealing and the extent of the territory' (p 43).
4. We rely here for these dates on Professor JC Beaglehole's account in *The Journals of Captain James Cook on His Voyages of Discovery*, although we note there is some disagreement among historians on the subject. Dr Rachel Standfield and Richard Hough give the same dates, but both Dr (later Professor Dame) Anne Salmond and O'Malley state that Nicholas Young sighted land on 6 October and Cook went ashore at Tūranga on the 8th: JC Beaglehole, *The Journals of Captain James Cook on His Voyages of Discovery*, 4 vols (Cambridge: Published for the Hakluyt Society at the University Press, 1968), vol 1, pp 167–186; Rachel Standfield, *Race and Identity in the Tasman World, 1769–1840* (London: Pickering and Chatto, 2012), p 25; Richard Hough, *Captain James Cook: A Biography* (Auckland: Hodder and Stoughton, 1994), pp 113–114; Anne Salmond, *Two Worlds: First Meetings Between Maori and Europeans, 1642–1772* (Auckland: Viking, 1991), pp 122–124; Vincent O'Malley, *The Meeting Place* (Auckland: Auckland University Press, 2012), p 21.
5. Kathleen Shawcross, 'Maoris of the Bay of Islands, 1769–1840: A Study in Changing Maori Attitudes Towards Europeans' (MA thesis, University of Auckland, 1966), fol 2; see also doc A11, p 55
6. Salmond, *Two Worlds*, p 122
7. Ibid, pp 98–99
8. Document A21, pp 27–28
9. Salmond, *Two Worlds*, pp 112–113
10. Ibid, pp 125, 132, 138
11. Ibid, pp 206, 251
12. Document A21, p 28
13. Dr Donald Loveridge provided a range of examples of authorities and other commentators in the 1830s and 1840s citing Cook's actions as having established British authority in New Zealand: doc A18, pp 91, 102, 166, 168, 169, 172, 175, 213, 217.
14. Two men said they had already heard of the *Endeavour*, which showed how quickly news had spread from the site of Cook's previous encounter with locals, which was 200 kilometres to the south: Salmond, *Two Worlds*, p 213.
15. Shawcross, 'Maoris of the Bay of Islands', fol 15; Salmond, *Two Worlds*, pp 213, 216
16. Shawcross, 'Maoris of the Bay of Islands', fol 16–18; Salmond, *Two Worlds*, p 216. Shawcross's thesis was cited extensively by witnesses in our inquiry such as Dr Grant Phillipson, and O'Malley and Hutton.
17. Salmond, *Two Worlds*, pp 216–219
18. Ibid, p 233
19. Shawcross, 'Maoris of the Bay of Islands', fol 18–19. Shawcross's speculation about the shellfish bed was repeated by Phillipson as fact (doc A1, p 50), but there is no evidence we have seen that actually confirms her suspicion.
20. Shawcross, 'Maoris of the Bay of Islands', fol 18–20. Salmond noted that Cook recognised many of these people from the previous trading while the ship was at sea: Salmond, *Two Worlds*, p 221.
21. Cook punished them for this with the lash and confinement. We note that Shawcross thought the theft occurred 'immediately after' the crowd advancing on Cook's party had been forced to retreat, but Salmond seemed to indicate a lapse of time, with the sailors having gone ashore during 'the night'. Phillipson appeared to regard the kumara theft as part of the crew's retaliation for the 'cheating' in trade before the *Endeavour* even entered the Bay of Islands, but we have seen no other suggestion to this effect: Shawcross, 'Maoris of the Bay of Islands', fol 28; Salmond, *Two Worlds*, p 224; doc A1, p 50.
22. Shawcross, 'Maoris of the Bay of Islands', fol 20
23. Ibid, fol 31
24. Document A1, p 50; Shawcross, 'Maoris of the Bay of Islands', fol 22
25. Salmond, *Two Worlds*, p 231
26. Shawcross, 'Maoris of the Bay of Islands', fol 33–34. According to Professor Ian Pool, 'the evidence clearly demonstrates that [venereal] diseases were introduced right from the time of Cook's first voyage': Ian Pool, *Te Iwi Maori: A New Zealand Population Past, Present and Projected* (Auckland: Auckland University Press, 1991), p 49.
27. Document A11, p 58
28. Salmond, *Two Worlds*, pp 132–133
29. Document A1, p 50
30. Joan Druett, *Tupaia: Captain Cook's Polynesian Navigator* (California: Praeger, 2011), p 169
31. John Dunmore, *French Explorers in the Pacific*, 2 vols (London: Oxford University Press, 1965), vol 1, pp 58, 114–115
32. Salmond, *Two Worlds*, pp 299, 311–317; Shawcross, 'Maoris of the Bay of Islands', fol 45
33. Shawcross, 'Maoris of the Bay of Islands', fol 53–54; Salmond, *Two Worlds*, pp 338–340
34. Salmond, *Two Worlds*, pp 359–372; Shawcross, 'Maoris of the Bay of Islands', fol 57–60
35. Salmond, *Two Worlds*, pp 374–385; Shawcross, 'Maoris of the Bay of Islands', fol 65–76, 86–91
36. Salmond, *Two Worlds*, pp 376–379; Angela Ballara, *Taua: Musket Wars, Land Wars or Tikanga? Warfare in Maori Society in the Early Nineteenth Century* (Auckland: Penguin Books, 2003), p 175

37. Shawcross, 'Maoris of the Bay of Islands', fols 91–99, 103–107; see also Salmond, *Two Worlds*, p 383
38. Salmond, *Two Worlds*, pp 378–379, 386
39. Ibid, p 387
40. Ibid, pp 386–387, 395. We note that Phillipson and O'Malley and Hutton essentially agreed with Salmond that this particular violation of tapu was the main catalyst for the violence against the French. Shawcross, by contrast, made comparatively little of it: doc A1, p 52; doc A11, p 63; Shawcross, 'Maoris of the Bay of Islands', fols 107–108.
41. Document A11, p 63; Salmond, *Two Worlds*, p 386. Salmond added in conclusion that the French left 'never understanding why they had been attacked, nor why their friends had betrayed them': Salmond, *Two Worlds*, p 402.
42. Shawcross, 'Maoris of the Bay of Islands', fols 110–111; Salmond, *Two Worlds*, pp 387–388
43. There is some confusion in the sources about the exact number of Marion du Fresne's party. The journals of two of the French officers, Roux and du Clesmeur, suggested that there were 16 – Marion du Fresne and 15 others – while the retrospective account of another, de Montesson, says there was a total of 17: Robert McNab, ed, *Historical Records of New Zealand*, 2 vols (Wellington: Government Printer, 1908–14), vol 2, pp 413 (Roux), 463 (du Clesmeur); Isabel Ollivier and Jeremy Spencer, *Extracts from Journals Relating to the Visit to New Zealand in May–July 1772 of the French Ships Mascarin and Marquis de Castries under the Command of Major Marion du Fresne* (Wellington: Alexander Turnbull Library Endowment Trust with Indosuez New Zealand Ltd, 1985), p 237 (de Montesson). See also Salmond, *Two Worlds*, p 393; Shawcross, 'Maoris of the Bay of Islands', fol 115.
44. Salmond, *Two Worlds*, pp 380–381, 393–396; Shawcross, 'Maoris of the Bay of Islands', fols 115–118. It is not entirely clear whether Te Kauri himself or Ngāti Pou killed the Frenchmen. The French were certainly told by Māori that Te Kauri had killed their compatriots, but it may just have been Ngāti Pou that committed the acts, given their need to redeem themselves in Te Kauri's eyes for having accompanied Marion du Fresne when he breached the tapu at Ōpunga. See Salmond, *Two Worlds*, p 396; Phillipson (who preferred to describe Ngāti Pou as Ngare Raumati), doc A1, p 52; Ballara, *Taua*, p 175. In her later book *Between Worlds*, Salmond expressed no doubt that Ngāti Pou 'had been forced to take utu by killing him [Marion du Fresne]': Anne Salmond, *Between Worlds: Early Exchanges between Maori and Europeans 1773–1815* (Auckland: Penguin Books, 1997), p 381.
45. Salmond, *Two Worlds*, pp 396–400; Shawcross, 'Maoris of the Bay of Islands', fols 117–121
46. Salmond, *Two Worlds*, pp 401–402; Shawcross, 'Maoris of the Bay of Islands', fols 122–123
47. Document C22, p 4
48. Document B10, p 41
49. Salmond, *Two Worlds*, pp 376–377, 379, 396, 402; Shawcross, 'Maoris of the Bay of Islands', fol 123
50. Document A1, p 52
51. Alan Atkinson, 'Conquest', in *Australia's Empire*, ed Deryck M Schreuder and Stuart Ward (Oxford: Oxford University Press, 2008), pp 49–50; Grace Karskens, *The Colony: A History of Early Sydney* (Sydney: Allen and Unwin, 2009), pp 63–67; Robert Hughes, *The Fatal Shore: A History of the Transportation of Convicts to Australia* (London: Pan Books, 1987), pp 56–67
52. Ann Curthoys, 'Indigenous Subjects', in *Australia's Empire*, pp 80–82; Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Cambridge, Mass: Harvard University Press, 2010), pp 27–28
53. Ward, *British Policy in the South Pacific*, pp 33–34
54. Document A11, p 67; Salmond, *Between Worlds*, p 175
55. Salmond, *Between Worlds*, pp 185, 190, 205–207; McNab, *Historical Records*, vol 1, p 131 (for King meeting Vancouver at the Cape of Good Hope in July 1791)
56. Salmond, *Between Worlds*, pp 203–204, 207; McNab, *Historical Records*, vol 1, p 134. Salmond said these instructions 'were drafted in London in November in 1791' but they are in fact dated 20 August 1791.
57. McNab, *Historical Records*, vol 1, p 160. See also Shawcross, 'Maoris of the Bay of Islands', fol 131.
58. For example, on 15 January and 19 September 1792. See Salmond, *Between Worlds*, p 211; McNab, *Historical Records*, vol 1, p 153.
59. Shawcross, 'Maoris of the Bay of Islands', fol 131; Salmond, *Between Worlds*, pp 211, 213
60. We are unaware of the precise date. Dr (later Professor Dame) Judith Binney said April 1793; Salmond wrote 'early 1793': Binney, 'Tuki's universe' in *Tasman Relations: New Zealand and Australia, 1788–1988*, ed Keith Sinclair (Auckland: Auckland University Press, 1987), p 15; Salmond, *Between Worlds*, p 207.
61. Binney in 'Tuki's Universe' says 'Ngahuruhuru or Te Kurukokoti' and then abbreviates to 'Huru'; Jones and Jenkins say Ngahuruhuru is incorrect, as it was not what King recorded. They trace the error to the posthumous 1964 publication of Dr Robert R D Milligan's *The Map Drawn by the Chief Tuki-tahua in 1793* (Mangonui, p 2). In their recent book *He Kōrero: Words between Us*, they explain that they are following Salmond in using Hurukokoti: doc A26, p 3; Alison Jones and Kuni Jenkins, *He Kōrero: Words between Us* (Wellington: Huia Publishers, 2011), p 205 n 35.
62. Salmond, *Between Worlds*, pp 207–209
63. Shawcross, 'Maoris of the Bay of Islands', fol 131; Salmond, *Between Worlds*, p 209
64. Salmond, *Between Worlds*, pp 214–219
65. Ibid, pp 227–230
66. Ibid, p 230; McNab, *Historical Records*, vol 2, pp 548–549
67. McNab, *Historical Records*, vol 2, p 549
68. Ibid, pp 549–550
69. Shawcross notes that only one of Tuki's pigs remained alive a year later: Shawcross, 'Maoris of the Bay of Islands', fol 139.
70. Salmond, *Between Worlds*, pp 230, 232–233; doc A1, pp 209–210. Salmond and Phillipson both stated that Tuki's display of the cabbage was a response to those who refused to believe how close he claimed Norfolk Island to be, but as King explained in his journal, 'whether his

[Tuki's] veracity was doubted, or that he was not contented with the assertion alone, I cannot tell': McNab, *Historical Records*, vol 2, p 549.

**71.** Salmond, *Between Worlds*, pp 232–233

**72.** Shawcross, 'Maoris of the Bay of Islands', fols 136–137

**73.** Document A1, p 210

**74.** Document B10, p 41

**75.** Document A11, p 74

**76.** Document A1, pp 208–209. In November 1794, another ship, the *Fancy*, called at Doubtless Bay on its way from Norfolk Island to Hauraki, where it hoped to collect timber needed by the British navy. Tuki came on board and was pleased to receive messages and gifts from King, and several of his compatriots asked to be taken to Norfolk Island to see the kāwana. However, they soon left the ship when they became seasick in a storm. The master wished Tuki to accompany him to Hauraki but Tuki refused, saying he would not leave Doubtless Bay unless King came for him himself: Salmond, *Between Worlds*, pp 239–241.

**77.** Salmond, *Between Worlds*, pp 315–316; Shawcross, 'Maoris of the Bay of Islands', fols 147–148

**78.** 'Chronological List of Vessels 1803 – 1840', in *Bay of Islands Shipping Arrivals and Departures 1803–1840*, ed Rhys Richards and Jocelyn Chisholm (Wellington: The Paremata Press, 1992), p [6]; Shawcross, 'Maoris of the Bay of Islands', fol 125. Cook's second and third Pacific voyages took him back to New Zealand, but he spent the majority of his time at Tōtara-nui (Queen Charlotte Sound) and did not venture back to the Bay of Islands.

**79.** Salmond, *Between Worlds*, p 322. This may overlook Huru's share of the pigs given him and Tuki by King in 1793: see Shawcross, 'Maoris of the Bay of Islands', fol 139.

**80.** Salmond, *Between Worlds*, pp 322–325. Salmond did not herself say that Maki's fate is unknown, but we assume her lack of any further comment suggests this is the case. O'Malley and Hutton noted the arrival in London of Teina and Maki, but did not name them and reported only that little was known about the background of the anonymous pair or their time in London: doc A11, p 84. Other scholars have missed the fact of their journey to London altogether or confused Teina with Maatara.

**81.** Salmond thought that the presence of young Māori serving as whaling crew in Port Jackson was what 'reawakened Governor King's interest in New Zealand', although we do not doubt that the accusations against Rhodes also played a part: Salmond, *Between Worlds*, pp 323, 326.

**82.** Salmond, *Between Worlds*, pp 326–327

**83.** These are the words of Joseph Banks, who later saw Maatara in London: see Salmond, *Between Worlds*, pp 329, 550–551.

**84.** Salmond, *Between Worlds*, pp 329–330

**85.** Shawcross, 'Maoris of the Bay of Islands', fols 139–140

**86.** It is not clear how many sons Te Pahi had. He told King that he had 52 children: Salmond, *Between Worlds*, p 355.

**87.** McNab, *Historical Records*, vol 1, pp 262–263; Salmond, *Between Worlds*, p 350

**88.** McNab, *Historical Records*, vol 1, pp 263–264

**89.** As Shawcross put it, 'Te Pahi was the highest Māori *rangatira* to travel abroad to date and was the first to do so in state': Shawcross, 'Maoris of the Bay of Islands', fol 155.

**90.** Salmond, *Between Worlds*, p 351

**91.** Document A11, p 76

**92.** Salmond, *Between Worlds*, pp 351–354; McNab, *Historical Records*, vol 1, p 265

**93.** John Liddiard Nicholas, *Narrative of a Voyage to New Zealand*, 2 vols (London: Hughes and Baynes, 1817), vol 1, p 9; see also doc A11, pp 78–79

**94.** Salmond, *Between Worlds*, pp 351–352

**95.** A point made by O'Malley and Hutton: doc A11, p 78.

**96.** Shawcross, 'Maoris of the Bay of Islands', fol 153; doc A11, p 79

**97.** McNab, *Historical Records*, vol 1, pp 265–266

**98.** *Sydney Gazette and New South Wales Advertiser*, 26 May 1805, p 1

**99.** Salmond, *Between Worlds*, p 327

**100.** King suggested that Te Pahi would 'return to his own Country the greatest Monarch that ever left it': Salmond, *Between Worlds*, p 356. Binney remarked that he came back 'with his mana high': Binney, 'Tuki's universe', p 17.

**101.** Document A11, p 80

**102.** The general opinion seemed to be that this began in 1820, at Hongi Hika's meeting with George IV (see below). We note, however, that Professor Donald Denoon and Dr (later Professor) Philippa Mein-Smith wrote in 2000 that Bay of Islands Māori perceived the relationship with King as 'an alliance', as 'dozens' of them 'took overseas trips to Sydney as heads of state, traders, tourists and students'. Donald Denoon and Philippa Mein-Smith, *A History of Australia, New Zealand and the Pacific* (Oxford: Blackwell, 2000), p 67.

**103.** Document B13, p 15

**104.** Savage called Te Mahanga 'Moyhanger' and most historians have referred to him as 'Moehanga' (see, for example, Shawcross, 'Maoris of the Bay of Islands', fol 155; Ormond Wilson, *Kororareka and Other Essays* (Dunedin: John McIndoe, 1990), p 16; doc A11, p 81). However, Salmond reported that his descendants, such as Hori Parata, knew him as Te Mahanga: *Between Worlds*, pp 343, 551. Aldridge also said the use of 'Moehanga' was an error: doc B10, p 42.

**105.** Salmond, *Between Worlds*, pp 343–347, 529; Wilson, *Kororareka*, p 16. Note that on p 347 Salmond wrote that the *Ferret* got back to Port Jackson in December 1806 'and Mahanga made his way back to New Zealand', but in her timeline of whaling ship movements on p 529 she wrote that the *Ferret* touched at Sydney to land dispatches on 17 February 1807 before leaving again and dropping Te Mahanga back in the Bay of Islands 'c. March'.

**106.** Savage said Te Mahanga was 'connected with families of the first consideration in these parts' and an 1827 account described him as an uncle of the Ngāti Manu leader at Kororāreka, Te Whareumu: John Savage, *Some Account of New Zealand: Particularly the Bay of Islands, and Surrounding Country, with a Description of the Religion and Government, Language, Arts, Manufactures, Manners and Customs of the Natives, &c &c*. (1807; repr Christchurch: Capper Press, 1973), p 38; Salmond, *Between Worlds*, pp 347–348.

**107.** Document A11, p 81

**108.** O'Malley and Hutton made this very point: doc A11, p 85.

**109.** Wilson, *Kororareka*, p 28

**110.** Document A11, p 87

**111.** There is some suggestion in the historical record that Maatara went to London with Philip Gidley King on the *Buffalo*, which departed Port Jackson on 10 February 1807. However, we consider that Salmond correctly ascertained that Maatara had sailed on the *Richard and Mary* some months earlier: see Salmond, *Between Worlds*, pp 360, 373, 528, 553; Robert McNab, *From Tasman to Marsden: A History of Northern New Zealand from 1642 to 1818* (Dunedin: J Wilkie and Co, 1914), p 120; Shawcross, 'Maoris of the Bay of Islands', figure opposite fol 156, fol 159; Wilson, *Kororareka*, p 28; A G L Shaw, 'Philip Gidley King', *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/king-philip-gidley-2309/text2991>, accessed 28 August 2013.

**112.** Salmond, *Between Worlds*, p 360

**113.** Alexander Berry in *Adventures of British Seamen in the Southern Ocean: Displaying the Striking Contrasts which the Human Character Exhibits in an Uncivilized State*, ed Hugh Murray (Edinburgh: Constable, 1827), pp 332–333; see also Salmond, *Between Worlds*, p 373

**114.** Ormond Wilson, *From Hongi Hika to Hone Heke: A Quarter Century of Upheaval* (Dunedin: John McIndoe, 1985), p 57. Marsden actually wrote that 'It is said that many of the Presents which had been given to the young Chief Matari, who was in England, at the time I was there, had been stolen from him': Peter Harvard-Williams, ed, *Marsden and the New Zealand Mission: Sixteen Letters* (Dunedin: University of Otago Press, 1961), p 27.

**115.** In her DNZB entry on Ruatara, Ballara wrote (in 1990) that 'more recent research' suggested that his parents were not in fact the siblings, respectively, of Te Pahi and Hongi (Angela Ballara, 'Ruatara', DNZB, vol 1, p 375). Ballara seems to have been referring to Sissons et al's 1987 *The Pūriri Trees are Laughing*, which gives different identities for Ruatara's parents, does not mention any relationship to Te Pahi, and suggests that his relationship to Hongi was less immediate (Jeffrey Sissons, Wiremu Wi Hongi and Pat Hohepa, *The Pūriri Trees are Laughing: A Political History of Ngā Puhi in the Inland Bay of Islands* (Auckland: Polynesian Society, 1987), p 13). Writing in 1997, however, Salmond seems to have preferred Marsden's version by stating that Ruatara was 'a close relative of Te Pahi and the fighting chief Hongi Hika': Salmond, *Between Worlds*, p 408.

**116.** Wilson, *Kororareka*, pp 30–31; Salmond, *Between Worlds*, p 408. Salmond only mentioned Ruatara's discharge without pay in Sydney, but Wilson wrote that all three had the same experience. It is not entirely clear from Marsden's records which is the case, but Wilson's assumption seems reasonable. See John R Elder, ed, *The Letters and Journals of Samuel Marsden, 1765–1838* (Dunedin: Coulls Somerville Wilkie, 1932), pp 60, 63.

**117.** Wilson, *Kororareka*, p 31

**118.** Salmond wrote that the gang were dropped at the islands in November 1807 and were there a year until the *Santa Anna* relieved them in October 1808, a few weeks after another ship, the *King George*,

had passed by and alleviated their greatest distress. However, other historians, such as Wilson and O'Malley and Hutton, have stated that the men were left for five or six months. It is not clear what source Salmond relied upon for her understanding that the men were left for a year. Marsden, whose account was based on information from Ruatara himself, wrote that 'About five months after the *Santa Anna* left Bounty Island the *King George* arrived, commanded by Mr Chase, but, previous to the arrival of this vessel, the sealing party had been greatly distressed for more than three months for want of water and provisions'. This does tend to suggest that the men were left at the Bounty group in around February 1808 rather than November 1807, which would make a stay of eight months rather than six. The *Santa Anna* had reached Norfolk Island by 1 March 1808 but was then blown considerably to the north, and did not make it back to the island until 19 May. It then sailed to Port Jackson and underwent repairs before setting sail at last to relieve the gang in October: Salmond, *Between Worlds*, pp 408–409; Wilson, *From Hongi Hika to Hone Heke*, p 36; Wilson, *Kororareka*, p 31; doc A11, p 96; Elder, *The Letters and Journals of Samuel Marsden*, pp 63–64; *Sydney Gazette*, 12 June 1808, pp 1, 17; *Sydney Gazette*, July 1808, p 2; *Sydney Gazette*, 23 October 1808, p 2.

**119.** Wilson, *Kororareka*, pp 31–32; Salmond, *Between Worlds*, pp 408–409

**120.** Elder, *The Letters and Journals of Samuel Marsden*, p 64. Salmond suggested that Ruatara's decision came when the ship returned to Port Jackson and before it sailed for England, but Marsden's actual words were: 'After taking the skins on board [from the Bounty Islands], the vessel sailed for England': Salmond, *Between Worlds*, p 409; Elder, *The Letters and Journals of Samuel Marsden*, p 64. We note two points here. First, if the ship was heading straight for England, Ruatara really had no choice in the matter but to go on the ship, because he could hardly stay where he was. The idea of electing to join the crew for the voyage to London applied only if the ship sailed somewhere else first. Secondly, it is not clear where Salmond obtained the idea that the ship made first for Port Jackson. According to the *Sydney Gazette*, 23 October 1808, p 2 – which Salmond cited (and did not name a later source) – 'The Santa Anna, Captain Moody, sailed yesterday se'nnight for the sealing Isles; from whence she is to proceed to Great Britain.'

**121.** Dr (later Professor) James Belich wrote in 1996, for example, that in 1805 Ruatara 'set out on the ultimate gift visit, to King George III of Britain. Trials and tribulations on whaling and sealing ships took him twice to Sydney, and to Bounty Island, but it was not until 1809 that he made it to London'. Ballara likewise wrote in her DNZB entry on Ruatara that his 1805 departure on the *Argo* had apparently been in order to see George III, and O'Malley and Hutton repeated this: James Belich, *Making Peoples: A History of the New Zealanders: From Polynesian Settlement to the end of the Nineteenth Century* (Auckland: Allen Lane, 1996), pp 141–142; Ballara, 'Ruatara', p 375; doc A11, p 96.

**122.** On the lack of choice see note 119. It was perhaps because of this aspect that Wilson wrote, in *From Hongi Hika to Hone Heke*, that Ruatara's voyage to London was 'unintended'. That is belied by Marsden's account. We note that in *Kororareka*, by contrast, Wilson wrote that the voyage was at Ruatara's own request, 'extraordinary' as

that may seem given his experiences on the Bounty Islands: Wilson, *From Hongi Hika to Hone Heke*, p 36; Wilson, *Kororareka*, p 32.

**123.** Elder, *The Letters and Journals of Samuel Marsden*, p 64

**124.** Ibid, pp 64–65

**125.** Salmond, *Between Worlds*, p 410. While this is potentially evidence that Ruatara did get on board the *Santa Anna* in order to ultimately see the king, it does not seem conclusive. Ruatara may well have meant that, when his countrymen learnt that he had been to England and failed to meet the king, they would surely disapprove.

**126.** Elder, *The Letters and Journals of Samuel Marsden*, p 65

**127.** Salmond, *Between Worlds*, p 417

**128.** Salmond wrote that Bruce left the ship after his flogging at or about North Cape and made his way south after the *Lady Nelson* had departed. Wilson wrote instead that Bruce deserted at Te Puna and that this was ‘probably eased by the captain’s need to hasten the vessel’s return to Sydney’. Salmond would appear to be correct, as the log-book of the *Lady Nelson* recorded ‘Run from the ship Joseph Druce’ (Bruce’s alias) on 22 April 1806 when the ship was at the latitude of Karikari Bay. Bruce himself claimed in later years that Te Pahi had been ‘gratified by my attention, and being anxious to introduce the customs and arts of the English requested me to settle on the Islands’, to which the captain happily agreed. This claim of having the captain’s consent is undoubtedly fictitious, although it may be that Te Pahi and Bruce did discuss the latter settling at Te Puna at some point on the voyage. Jack Lee suspected that Bruce’s escape may even have occurred ‘with the complicity of Te Pahi’: Salmond, *Between Worlds*, pp 356–357; Wilson, *Kororareka*, p 55; Jack Lee, *The Bay of Islands* (Auckland: Reed, 1983), pp 41, 43 n 12; doc A11, p 87.

**129.** Salmond, *Between Worlds*, pp 357–362; Wilson, *Kororareka*, p 43

**130.** *Sydney Gazette and New South Wales Advertiser*, 12 April 1807, p 1

**131.** Salmond, *Between Worlds*, p 362

**132.** Ibid, pp 362–364

**133.** See, for example, Shawcross, ‘Maoris of the Bay of Islands’, fol 161; doc A1, p 212

**134.** Document A11, p 90

**135.** Shawcross, ‘Maoris of the Bay of Islands’, fol 161

**136.** Salmond, *Between Worlds*, pp 364–365

**137.** Ibid, pp 365–366. Ballara wrote in her DNZB entry on Te Pahi that Bruce abandoned Atahoe before her death, but this seems contradicted by the fact of the headstone he had erected for her in a Sydney cemetery: Angela Ballara, ‘Te Pahi’, in DNZB, vol 1, p 475.

**138.** Salmond, *Between Worlds*, p 368

**139.** Wilson, *Kororareka*, p 18, and *From Hongi Hika to Hone Heke*, p 56. By contrast, Salmond asserted these two reasons for the trip as facts: Salmond, *Between Worlds*, p 369.

**140.** Salmond, *Between Worlds*, p 369. According to Wilson, in return for piloting the vessel into Whangaroa Harbour Te Pahi and his sons were given a free passage to Sydney: Wilson, *Kororareka*, p 18.

**141.** Wilson, *From Hongi Hika to Hone Heke*, p 59; Salmond, *Between Worlds*, p 369

**142.** Rob Mundle and Salmond shed no light on this: Rob Mundle, *Bligh: Master Mariner* (Sydney: Hachette, 2010); Anne Salmond, *Bligh: William Bligh in the South Seas* (Auckland: Viking, 2011).

**143.** Salmond, *Between Worlds*, pp 370–372

**144.** Ibid, p 373

**145.** Judith Binney, *The Legacy of Guilt: A Life of Thomas Kendall* (Wellington: Bridget Williams Books, 2005), p 209 n 6; Malcolm McKinnon, ed, *Bateman New Zealand Historical Atlas: Ko Papatuanuku e Takoto Nei* (Auckland: Bateman, 1997), pl 28

**146.** Salmond, *Between Worlds*, pp 375, 377–379

**147.** The other hapū living at Whangaroa was Ngāti Pou. Both Ngāti Pou and Ngāti Uru had been driven to Whangaroa from the Bay of Islands after the death of Marion du Fresne: Salmond, *Between Worlds*, p 381.

**148.** Salmond, *Between Worlds*, pp 362, 383, 392–393, 457; doc A11, pp 94–95; doc B10, p 53. The quotation about being ‘received by his countrymen almost in a state of perfect nudity’ is from Nicholas, *Narrative of a Voyage to New Zealand*, vol 1, p 146.

**149.** On the intricacies of the matter, Wilson in *From Hongi Hika to Hone Heke*, p 58, wrote: ‘Other records disclose at least half a dozen explanations from Berry and George as to the causes of the massacre and it is fascinating though profitless to compare them with one another and to observe that as the affair receded into the past the explanations grew more detailed and precise.’

**150.** Wilson, *From Hongi Hika to Hone Heke*, p 57

**151.** Salmond, *Between Worlds*, pp 383–384, 392–393

**152.** Wilson, *Kororareka*, p 18

**153.** Document A11, p 95

**154.** Wilson, *From Hongi Hika to Hone Heke*, p 59. In ‘Maoris of the Bay of Islands’, fol 163–164, Shawcross further argued that ‘Almost certainly Maori desire for plunder also provided an important incentive to the massacre – Te Puhi’s party were quick to plunder the vessel of everything moveable after having dispatched the crew’.

**155.** Document B10, pp 53–54

**156.** Wilson, *Kororareka*, p 24

**157.** Salmond, *Between Worlds*, pp 392–393

**158.** Ibid, p 379. As O’Malley and Hutton put it, ‘Te Pahi had good grounds for claiming utu from Europeans visiting the Bay of Islands’: doc A11, p 92.

**159.** Shawcross, ‘Maoris of the Bay of Islands’, fol 164

**160.** Salmond, *Between Worlds*, pp 383–386. In fact, the claim of Te Pahi’s involvement had already been published in the *Sydney Gazette* on 10 March 1810, p 2, on the basis of third-hand information from ship captain Samuel Chace: Salmond, *Between Worlds*, p 387.

**161.** Salmond, *Between Worlds*, pp 387–388, 391–392. The intense European reaction to the killings was discussed by Dr (later Professor) Lydia Wevers in her 2002 book *Country of Writing: Travel Writing and New Zealand 1809–1900* (in chapter 1, ‘Captain Ceroni’s watch’). Wevers related how the incident ended New Zealand’s relative anonymity in the *Sydney Gazette* and thereafter became the ‘general

referent' in that newspaper 'for any shipping casualty or report of cannibalism in New Zealand'. As she put it, the episode's 'ripples spread outwards across the Tasman to London, a displacement charted in print for at least forty years'. Lydia Wevers, *Country of Writing: Travel Writing and New Zealand 1809–1900* (Auckland: Auckland University Press, 2002), pp 19, 32–33.

**162.** This attack was the subject of a Privy Council inquiry in 1812, with the Solicitor-General concluding that the whalers who had taken part were guilty of murder. Since none of the ships or persons responsible were by then in England, however, no one was ever brought to justice over the matter. There is some uncertainty on the matter of the number of Te Pahi's people killed in the attack. William Leith, who arrived at the Bay of Islands 10 days after the raid, reported that 60 people had been killed. Two witnesses closer to the events told the Privy Council inquiry that at least 15 had died. Most histories record the figure of 60, although we note that Standfield, relying on the account of Lieutenant James Finucane, reported that up to 70 had died and Te Pahi had been among them: Salmond, *Between Worlds*, pp 390–391; Standfield, *Race and Identity in the Tasman World*, pp 121–122, 205.

**163.** Salmond, *Between Worlds*, p 391

**164.** Ibid, p 393

**165.** Wilson, *From Hongi Hika to Hone Heke*, pp 55, 59–60. Salmond concurred that Te Pahi's friendship with King 'eventually proved fatal': Salmond, *Between Worlds*, p 393.

**166.** Samuel Ritchie, 'Of Red War and Little Else: European Responses to Indigenous Violence in the Tasman World, c 1769–1850s' (PhD thesis, Victoria University of Wellington, 2013), p 97

**167.** See Shawcross, 'Maoris of the Bay of Islands', fol 169–170

**168.** See Standfield, *Race and Identity in the Tasman World*, pp 123–126, 182

**169.** Ballara, 'Te Pahi', p 476

**170.** Shawcross, 'Maoris in the Bay of Islands', fol 169. For example, in February 1815 Tara was subjected to humiliating treatment on board the *Jefferson* but took no retribution against its crew of the kind meted out by the Whangaroa people after Te Āra's experiences. As Wilson put it, 'It need not however be assumed that Tara lacked the others' sense of pride.' Rather, Tara had to suffer the insults to keep the shipping trade at Kororāreka and thus 'sold himself for the axes and muskets of Europeans': Wilson, *From Hongi Hika to Hone Heke*, p 61. There were exceptions to this. In 1810 or 1811 the crew of the *New Zealander* were caught digging up a patch of growing potatoes in the northern part of the Bay of Islands. In the ensuing fight, several Māori and Europeans were killed. According to Shawcross, it was said that the perpetrators were killed in part as retaliation for the earlier attack on Te Pahi and his people, as the *New Zealander* had been one of the vessels involved. However, while Shawcross reported that an entire boat party of Europeans had been killed (and eaten), Salmond noted just three European deaths: Shawcross, 'Maoris in the Bay of Islands', fol 167–168; Salmond, *Between Worlds*, p 477.

**171.** Standfield, *Race and Identity in the Tasman world*, p 126  
**172.** Roger Wigglesworth, 'The New Zealand Flax and Timber Trade, 1769–1840' (PhD thesis, Massey University, 1981), pp 26–27  
**173.** Richard S Hill, *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand, 1767–1867*, 2 vols (Wellington: Government Printer, 1986), vol 1, pp 34–35; doc A21, p 28

**174.** Alexander T Yarwood, *Samuel Marsden: The Great Survivor* (Melbourne: Melbourne University Press, 1977), pp 168, 180; Alexander T Yarwood, 'Samuel Marsden', in *Australian Dictionary of Biography*, National Centre of Biography, Australian National University, <http://adb.anu.edu.au/biography/marsden-samuel-2433/text3237>, accessed 20 August 2014

**175.** Salmond, *Between Worlds*, pp 415, 417–419. There is some confusion about the length of time Ruatara spent with Marsden at Parramatta. Various historians have suggested periods of between six and nine months, whereas Salmond's dates indicate a stay of 18 months. Having considered this in detail, we think she is correct. See Salmond, *Between Worlds*, pp 417, 422, 557; Wilson, *Kororāreka*, p 32; Ballara, 'Ruatara', p 376; Belich, *Making Peoples*, p 142; doc A11, p 97; Lee, *The Bay of Islands*, p 60; Elder, *The Letters and Journals of Samuel Marsden*, p 65; Harvard-Williams, *Marsden and the New Zealand Mission*, pp 36, 41.

**176.** Marsden was explicit in his journal that Ruatara had embarked on the ship with three Māori companions, including a son of Te Pahi's, although in his letter to Pratt of 19 November 1811 Marsden wrote that 'I procured him [Ruatara] a Passage with two more of his Countrymen in the Frederick whaler': Elder, *The Letters and Journals of Samuel Marsden*, pp 65–66; Harvard-Williams, *Marsden and the New Zealand Mission*, p 36.

**177.** Harvard-Williams, *Marsden and the New Zealand Mission*, pp 36–37

**178.** This connection was made by Salmond, although her dating of this earlier incident to 1807 would appear to be in error: Salmond, *Between Worlds*, pp 368, 423.

**179.** Salmond, *Between Worlds*, pp 422–423

**180.** Ibid, p 423. Lee noted that 'numerous Annis . . . then plied the Pacific': Lee, *Bay of Islands*, p 61.

**181.** Wilson, *From Hongi Hika to Hone Heke*, p 36. This was also remarked upon by Belich and O'Malley and Hutton: Belich, *Making Peoples*, p 142; doc A11, p 98.

**182.** Elder, *The Letters and Journals of Samuel Marsden*, p 67

**183.** Salmond, *Between Worlds*, p 420; Harvard-Williams, *Marsden and the New Zealand Mission*, pp 40–41. Salmond wrote that Ruatara was still at Parramatta when Kawiti arrived and that it was Kawiti singing him a song composed for Ruatara by his wife Miki that stirred Ruatara to ask Marsden to arrange his passage home. Salmond surmised that Kawiti was one of the four Māori who had set sail on the *Frederick*, and that he, like Ruatara, may have been brought back to Port Jackson from Norfolk Island in August 1812: *Between Worlds*,

pp 422–423. However, in his letter to Pratt of 19 November 1811, which referred to the recent departure of Ruatara on the *Frederick*, Marsden wrote that Kawiti and another chief's son had 'come to day 16 miles to see me': Harvard-Williams, *Marsden and the New Zealand Mission*, p 38. It seems therefore that Salmond was mistaken in this matter.

**184.** Salmond, *Between Worlds*, pp 417, 419–420

**185.** Ibid, p 428

**186.** *Sydney Gazette and New South Wales Advertiser*, 11 December 1813, p 1

**187.** Ibid

**188.** Ward, *British Policy in the South Pacific*, p 33

**189.** Document A21, p 28

**190.** While Salmond called this young man 'Tui' (as did Binney in *The Legacy of Guilt* and Phillipson in his evidence (doc A1)), he is also commonly referred to by historians as 'Tuai' (for example, by Wilson in both *From Hongi Hika to Hone Heke* and *Kororareka*, by Belich in *Making Peoples*, by O'Malley and Hutton in their evidence (doc A11), and by Manuka Henare in his doctoral thesis (doc A16)). Wilson wrote a short article in the *Journal of the Polynesian Society* in 1963 on the general confusion about Māori names and identities caused by Europeans 'writing before the Maori language had been given a definitive orthography': Ormond Wilson, 'Tooi, Teeterree and Titore', *Journal of the Polynesian Society*, vol 72, no 3 (1963), pp 267–270.

Despite Wilson's near certainty in that piece that the correct spelling should be Tuai, we have chosen to use Tui, in line with both Binney and Salmond as well as the spelling used by Nicholas (who wrote that Tui 'had the name of a bird very common in New Zealand'): Binney, *The Legacy of Guilt*, p 200 n 46; Nicholas, *Narrative of a Voyage to New Zealand*, vol 1, p 241. Claimants such as Erima Henare also used 'Tui': doc A30, p 2. We note also that, while Salmond introduced Tui as being affiliated to Ngare Raumati, she also referred to both him and his brother Korokoro as Ngāti Manu: Salmond, *Between Worlds*, pp 427, 443, 455. We assume the brothers had both connections.

**191.** Salmond, *Between Worlds*, pp 428–432. Macquarie and Marsden had fallen out in early 1814, and Macquarie began to lend an ear to those who opposed Marsden's moralising over the practice of colonial shipping. Macquarie even wrote disparagingly of Marsden's advocacy of the 'cannibalistic and treacherous natives of New Zealand and Tahiti': Salmond, *Between Worlds*, p 432.

**192.** Salmond, *Between Worlds*, p 424; Ballara, 'Ruatara', p 376. Belich described Ruatara in this regard as 'a tohunga Pakeha, an expert in managing Europeans': Belich, *Making Peoples*, p 144.

**193.** Salmond, *Between Worlds*, p 424; Belich, *Making Peoples*, p 142; Ballara, 'Ruatara', p 376

**194.** Salmond, *Between Worlds*, pp 435–436, 440

**195.** Ibid, p 433. Marsden was in the habit of calling important Māori leaders 'King'. He referred to Te Uri o Kanae in the Rangihoua deed as 'King of Rangee Hoo' (see section 3.6.4) and later attempted to persuade Hongi Hika to assume that status, as we relate in chapter 4. The notion of a supreme Māori authority with whom to engage (and influence) clearly appealed to the missionaries and other Europeans alike.

**196.** Document A26, p 7

**197.** Salmond, *Between Worlds*, pp 436–440

**198.** Belich, *Making Peoples*, p 158

**199.** Salmond, *Between Worlds*, p 443

**200.** Ibid, pp 442–443

**201.** Ibid, p 445

**202.** 'Government and General Orders', *Sydney Gazette and New South Wales Advertiser*, 12 November 1814, p 1

**203.** Ibid

**204.** Document A21, pp 29–30

**205.** Salmond, *Between Worlds*, pp 446–447

**206.** Nicholas, *Narrative of a Voyage to New Zealand*, vol 1, pp 40–41

**207.** Document A11, p 102

**208.** Ibid; Salmond, *Between Worlds*, p 450; Belich, *Making Peoples*, p 143

**209.** Binney, *The Legacy of Guilt*, p 46. This was echoed by O'Malley and Hutton, who wrote that Ruatara was 'Torn between his fears for the future, and his great desire to expand his agricultural and other practices': doc A11, p 102.

**210.** Belich, *Making Peoples*, p 143. Belich seemed to imply that Ruatara's 'afterthought' that the mission be located at Rangihoua was in fact a more calculated plan.

**211.** Wilson, *From Hongi Hika to Hone Heke*, p 40

**212.** Salmond, *Between Worlds*, pp 452–461

**213.** Elder, *The Letters and Journals of Samuel Marsden*, p 70

**214.** For example, they pointed to the lack of mention of it in Binney's *The Legacy of Guilt*, Belich's and Dr Michael King's general histories, and the way that Salmond in *Between Worlds* referred to Marsden's and Nicholas's accounts of it only 'in paraphrase': doc A26, pp 10–11.

**215.** Document A26, p 13

**216.** Ibid

**217.** Salmond, *Between Worlds*, p 464

**218.** Ibid, pp 464–465

**219.** Document A26, pp 16–17. In a similar vein, Belich noted that 'It was [Ruatara's] words, not Marsden's, that Maori understood at the first sermon': Belich, *Making Peoples*, p 143. This placement of the Māori hosts at Rangihoua as the dominant actors rather clashes with the standard historical depiction of Marsden preaching to an attentive Māori congregation, which has been 'honoured by stamps and by penny-dreadful historiography ever since': Gavin McLean, 'Rangihoua Pā and Oihi Mission Station', Ministry for Culture and Heritage, <http://www.nzhistory.net.nz/media/photo/rangihoua-pa-and-oihi-mission-station>, last modified 4 September 2013.

**220.** Document A11, p 103

**221.** Binney, *The Legacy of Guilt*, p 50

**222.** As Shawcross wrote, it was a mistake to think, as Marsden did, that Ruatara actually wanted Christianity to be introduced among his people. Rather, 'on recorded occasions when Ruatara expressed eagerness to have missionaries settled at New Zealand he consistently made it clear that what he hoped the missionaries would be able to impart to his countrymen was knowledge of European agricultural techniques and crops, knowledge which would enable Ruatara's people greatly to

expand their food resources': Shawcross, 'Maoris of the Bay of Islands', fols 297–298.

**223.** On board the *Active* during its voyage to the Bay of Islands, Tui and Korokoro appeared put out, which Salmond suspected stemmed from Marsden's promise to locate the mission at Rangihoua. Then, when Marsden visited Tara on Boxing Day, the old chief pressured him to establish the mission at Kororāreka instead, which Marsden declined to do: Salmond, *Between Worlds*, pp 455, 466.

**224.** Belich, *Making Peoples*, p 143; Binney, *The Legacy of Guilt*, pp 49–50

**225.** In their recent book *Words between Us*, Alison Jones and Kuni Jenkins wrote that the Māori name for this place was 'Te Hohi', but it was called 'Oihi' by its European settlers: Jones and Jenkins, *Words between Us – He Kōrero: First Māori–Pākehā Conversations on Paper* (Wellington: Huia, 2011), p 89.

**226.** Gavin McLean, 'Rangihoua Pā and Oihi Mission Station'. In fact, in *The Bay of Islands*, p 64, Lee went so far as to write that, 'Had Marsden and his catechists searched the whole coastline, a more dismal location for their settlement could scarcely have been found.'

**227.** Lee, *The Bay of Islands*, p 64

**228.** Binney, *The Legacy of Guilt*, p 50

**229.** JMR Owens, 'New Zealand before Annexation', in *The Oxford History of New Zealand*, ed Geoffrey W Rice, 2nd ed (Auckland: Oxford University Press, 1992), p 36

**230.** Wilson wrote that Ruatara's death was 'doubtless the consequence of that other innovation [besides wheat] resulting from his travels: tuberculosis': Wilson, *Kororareka*, p 35. Belich similarly observed that Ruatara was 'probably a victim of a disease from the same source as his new-found power': Belich, *Making Peoples*, p 143.

**231.** Nicholas, *Narrative of a Voyage to New Zealand*, vol 2, pp 194–195

**232.** Salmond, *Between Worlds*, p 505

**233.** Lee wrote that, upon Ruatara's death, 'in accordance with his promise to Marsden, Hongi Hika assumed a vicarious responsibility for the safety of the mission people': Lee, *The Bay of Islands*, p 73. More immediately at Rangihoua, however, Wharepoaka became the principal rangatira, although his status remained inferior to that of Hongi: Shawcross, 'Maoris of the Bay of Islands', fols 205, 207.

**234.** In January 1816 King referred to 'us and the other prisoners that are in this settlement': Binney, *The Legacy of Guilt*, p 55.

**235.** Binney, *The Legacy of Guilt*, pp 50–52; Lee, *The Bay of Islands*, pp 74–76

**236.** Shawcross, 'Maoris of the Bay of Islands', fol 295

**237.** Binney, *The Legacy of Guilt*, p 45

**238.** Document A11, p 101

**239.** Wigglesworth, 'The New Zealand Flax and Timber Trade 1769–1840', p 264

**240.** Ibid, pp 264–265

**241.** Yarwood, *Samuel Marsden*, pp 191–192; Kelly Chaves, "Great Violence Has Been Done": The Collision of Maori Culture and British Seafaring Culture 1803–1817', *Great Circle: Journal of the Australian Association for Maritime History*, vol 29, no 1 (2007), pp 35–36

**242.** Document A18, p 21

**243.** Document A21, p 30

**244.** John Darwin, *Unfinished Empire: The Global Expansion of Britain* (London: Allen Lane, 2012), pp 323–324

**245.** Yarwood, *Samuel Marsden*, p 192

**246.** Document A18, pp 21–22

**247.** Ward, *British Policy in the South Pacific*, p 44; McNab, *Historical Records*, vol 1, p 407

**248.** Ward, *British Policy in the South Pacific*, pp 46–47

**249.** McNab, *Historical Records*, vol 1, p 594

**250.** EJ Tapp, *Early New Zealand: A Dependency of New South Wales 1788–1841* (Melbourne: Melbourne University Press, 1958), pp 72–73

**251.** That year Kendall wrote that 'such Settlers as depend wholly upon [the Society's trade] cannot procure pork and potatoes sufficient for their families'. As Binney put it, the settlers had been forced to recognise that 'the gun was the coin of this realm', and by 1818 every settler at Rangihoua was trading muskets: Binney, *The Legacy of Guilt*, pp 54, 59.

**252.** Shawcross, 'Maoris of the Bay of Islands', fols 255–256. Marsden, however, remained in denial of this at the time: Binney, *The Legacy of Guilt*, p 59.

**253.** Binney, *The Legacy of Guilt*, p 69; Wilson, *From Hongi Hika to Hone Heke*, p 16; Salmond, *Between Worlds*, p 362

**254.** Hongi followed a month behind Te Morenga, emphasising the independence of the two rangatira on what some may have later regarded as the same expedition. Wilson thought Hongi might even have been 'more influenced by a desire to prevent Te Morenga from gaining all the glory' than by a desire for utu: Wilson, *From Hongi Hika to Hone Heke*, p 17.

**255.** Wilson, *From Hongi Hika to Hone Heke*, pp 40–41; Dorothy Urlich Cloher, *Hongi Hika: Warrior Chief* (Auckland: Viking, 2003), pp 100–104

**256.** Binney, *The Legacy of Guilt*, pp 60–69; Cloher, *Hongi Hika: Warrior Chief*, pp 121–124; Wilson, *From Hongi Hika to Hone Heke*, p 17

**257.** Richard Cruise, *Journal of a Ten Months' Residence in New Zealand*, 2nd ed (1824; repr Christchurch: Capper Press, 1974), p 20

**258.** Binney, *The Legacy of Guilt*, p 68

**259.** It was while the *Dromedary* was being unloaded that a cask for Kendall marked 'Leather' broke open and revealed muskets. Marsden, who had consigned this cargo and was present when its true contents were revealed, later charged Kendall with arms dealing on the basis of this very incident: Binney, *The Legacy of Guilt*, pp 63, 78; Cloher, *Hongi Hika: Warrior Chief*, p 117.

**260.** Cloher, *Hongi Hika: Warrior Chief*, pp 122–125

**261.** Document A16, pp 167–168. The italicised comments are Manuka Henare's.

**262.** Binney, *The Legacy of Guilt*, p 68

**263.** Ibid, pp 71–74; Cloher, *Hongi Hika: Warrior Chief*, pp 125, 129–131, 140. The 'opportunist' quotation is from Cloher, p 130.

**264.** Document A1, p 213

- 265.** Binney, *The Legacy of Guilt*, p 74. Cloher noted that the king greeted Waikato in the same way: Cloher, *Hongi Hika: Warrior Chief*, p 140.
- 266.** Binney, *The Legacy of Guilt*, pp 74–75
- 267.** Wilson, *From Hongi Hika to Hone Heke*, p 43
- 268.** Binney, *The Legacy of Guilt*, p 75; Cloher, *Hongi Hika: Warrior Chief*, p 141
- 269.** As Erima Henare put it (doc A30(c), pp 34–35): ‘I te taenga atu o Hongi ki reira kaore i ki ki te Kingi; *E te matua*. Kia mohio mai koe ki tēnei. Kaore ia i ki; *E te matua*. He tūtakitanga o te tangata orite, mana orite – mana orite. Ka mutu te tūtakitanga o ngā hunga nei tēra te whakapae i Aotearoa nei, tae noa mai ki tēnei wā, na ngā kōrero a ngā kaitihi hitoria whai manahia nei e te Karaua – i tuhia e rātou. Kao, kaua e kōrero mo ngā tuhinga a te Pākehā.’ We translate this as follows: ‘When Hongi arrived there – he did not say to the Kingi; *My father*. It is important you know this. He did not say; *My father*. This was a meeting of people of equal status, of equal mana – of equal prestige. When their meeting was finished, that was what was conveyed in Aotearoa, and is still conveyed in those sentiments today. It is due to the writings of historians that the Crown’s status is elevated – that is due to what has been written by them. No, let us not talk of the written versions of the Pākehā.’
- 270.** Document A30(c), p 40
- 271.** Erima Henare’s own translation as quoted by counsel: submission 3.3.23, p 25
- 272.** Document A11, p 113
- 273.** Dr (later Dame) Claudia Orange suggested in her 1987 book that this was Wharepoaka. Phillipson considered the chief’s identity in greater detail and found various reasons for and against it being either Wharepoaka or Wharerahi, but seemed more convinced that it was the former: Claudia Orange, *The Treaty of Waitangi* (Wellington: Bridget Williams Books, 1987), p 12; doc A1, p 222.
- 274.** Document A1, pp 213–214
- 275.** Hōne Wiremu Heke to Queen Victoria, 10 July 1849 (doc A1, app)
- 276.** Document A1, p 214
- 277.** Orange, *The Treaty of Waitangi*, p 10
- 278.** Document A1, p 216
- 279.** Cloher, *Hongi Hika: Warrior Chief*, pp 142–144; Binney, *The Legacy of Guilt*, p 76
- 280.** Cloher, *Hongi Hika: Warrior Chief*, p 146; Binney, *The Legacy of Guilt*, p 78. Cloher wrote that the Speke’s voyage from England took 158 days, which would – by our calculation – suggest an arrival date of 29 May. However, Binney recorded an arrival date for the Speke of 18 May, which we have chosen to use since she named an actual date. We note in passing that other historians have suggested a markedly different period of waiting in Sydney for the onward voyage of four months, but we are unaware of the reason for this more significant discrepancy. See, for example, Wilson, *From Hongi Hika to Hone Heke*, p 19; Belich, *Making Peoples*, p 160.
- 281.** Belich wrote that Hongi returned to New Zealand with ‘as many as 400 or 500 muskets, perhaps the largest single shipment Maori ever acquired’, while other historians, such as Manuka Henare – who relied

- on *The Story of New Zealand* by Arthur Thomson, who interviewed the elderly Waikato – have put the figure at 300: Belich, *Making Peoples*, p 160; doc A16, p 168. See also Arthur S Thomson, *The Story of New Zealand: Past and Present, Savage and Civilized* (London: John Murray, 1859).
- 282.** Wilson, *From Hongi Hika to Hone Heke*, p 19 (relying on the contemporary observation of Francis Hall).
- 283.** See for example, Wilson, *From Hongi Hika to Hone Heke*, p 19. Other historians to have given this version of events include Binney (*The Legacy of Guilt*, p 78 – although on Binney’s views see more below), Belich (*Making Peoples*, p 160), Lee (*The Bay of Islands*, p 104), Ballara (*Taua*, p 192), and Manuka Henare (doc A16, p 169).
- 284.** Cloher, *Hongi Hika: Warrior Chief*, p 147; see also JD Raeside, *Sovereign Chief: A Biography of Baron de Thierry* (Christchurch: Caxton Press, 1977), pp 21–30, 48
- 285.** Cloher, *Hongi Hika: Warrior Chief*, p 147
- 286.** Ibid, pp 130–131
- 287.** See in particular Raeside, *Sovereign Chief: A Biography of Baron de Thierry*, pp 21–30, 48
- 288.** Belich, *Making Peoples*, p 160. We note that de Thierry wrote in later life that he had advanced Kendall £800 of goods in England which Kendall then sold in Sydney for a handsome return. According to de Thierry, Kendall split the proceeds with Hongi, who used his share to purchase guns and ammunition. Writing in 2005 (that is, in an addition to her 1968 text, albeit without direct reference to Raeside or Cloher), Binney remarked that this narrative possibly ‘hid the fact that he [de Thierry] himself had shipped guns, to this value, to Hongi’. She noted the debt to the Richards brothers but added that ‘there is no firm evidence, merely speculation’: Binney, *The Legacy of Guilt*, pp 183, 238–239. We note that Professor Paul Moon essentially accepted Cloher’s position in his book *A Savage Country*, where he wrote that the popular view of Hongi selling his gifts and purchasing the guns in Sydney en route back to New Zealand had ‘gained a level of credence which it may not entirely deserve’: Paul Moon, *A Savage Country: The Untold Story of New Zealand in the 1820s* (Auckland: Penguin, 2012), p 66.
- 289.** Document A16, p 167
- 290.** Cloher, *Hongi Hika: Warrior Chief*, p 16
- 291.** Document A16, pp 167, 169, 171
- 292.** Document A11, p 113
- 293.** Document A26, p 19. They acknowledged, however, that their assessment would be met with scepticism by historians who had pointed to Hongi’s desire to obtain muskets.
- 294.** Cloher, *Hongi Hika: Warrior Chief*, p 121
- 295.** Document A30(c), p 40
- 296.** Tribunal’s translation
- 297.** Document A30, pp 2, 4; doc A30(a), p 7; doc A30(c), pp 9–10, 85
- 298.** Document A16, pp 4, 158–159
- 299.** Ibid, p 171
- 300.** Document A30(c), p 90
- 301.** Ballara, *Taua*, p 192

- 302.** Wilson, *From Hongi Hika to Hone Heke*, p 24; Cloher, *Hongi Hika: Warrior Chief*, pp 166–167
- 303.** Document A36, p 308
- 304.** Document A1, p 218
- 305.** Document A30(c), p 89. In *Making Peoples*, p 160, Belich wrote of the 1821–23 campaigns that ‘For probably the first time in Nga Puhi history, Hongi was able to form an alliance of most factions and most warriors, and keep them away from home for several months on end.’
- 306.** Shawcross, ‘Maoris of the Bay of Islands’, fols 301–302, 305, 316–317; Cloher, *Hongi Hika: Warrior Chief*, pp 198–199
- 307.** Cloher, *Hongi Hika: Warrior Chief*, p 268; Belich, *Making Peoples*, p 167
- 308.** Belich, *Making Peoples*, pp 167–168; Cloher, *Hongi Hika: Warrior Chief*, p 293
- 309.** Document A30(c), pp 41–42
- 310.** Transcript 4.1.1, p 242 (as adapted by the Tribunal)
- 311.** Hill, *Policing the Colonial Frontier*, vol 1, pp 46–47; Matthew Palmer, *The Treaty of Waitangi in New Zealand’s Law and Constitution* (Wellington: Victoria University Press, 2008), p 38; doc A21, p 31
- 312.** Jocelyn Chisholm, ‘William Darby Brind’, in DNZB, vol 1, p 40; Paul Moon, *Fatal Frontiers: A New History of New Zealand in the Decade Before the Treaty* (Auckland: Penguin Books, 2006), p 32
- 313.** See Wilson, *From Hongi Hika to Hone Heke*, pp 96–98; Ballara, *Taua*, pp 201–203; doc A1, p 41. According to Lee, the ship captain Peter Bays observed that nearly 100 died in the fighting and that it recommenced the following morning with a further 50 deaths, including that of Hengi (see below). We have not seen any other reference to renewed fighting on 7 March, and William Williams’s estimate of the casualty toll was favoured by Ballara and Wilson. Marsden noted that the battle left ‘about seventy killed and wounded on both sides’: Lee, *The Bay of Islands*, pp 156–157; Elder, *The Letters and Journals of Samuel Marsden*, p 458.
- 314.** Wilson, *From Hongi Hika to Hone Heke*, pp 98–99; doc A1, p 42; Ballara, *Taua*, pp 203–204
- 315.** Document A1, p 221. Peter Bays, another ship’s captain who witnessed the fight, and whose account Wilson thought made ‘as much sense as any and more than most’, argued by contrast that ‘The natives were rather instigated to hostilities by laws of their own than provoked to it by any allurement which a foreigner might throw in their way’: Wilson, *From Hongi Hika to Hone Heke*, p 97; Elder, *The Letters and Journals of Samuel Marsden*, p 457(n).
- 316.** Elder, *The Letters and Journals of Samuel Marsden*, pp 497–498; McNab, *Historical Records*, vol 1, p 705
- 317.** Elder, *The Letters and Journals of Samuel Marsden*, pp 497–498; McNab, *Historical Records*, vol 1, p 705. Elder did not provide a date for Marsden’s letter.
- 318.** Ballara, *Taua*, pp 204–205; Elder, *The Letters and Journals of Samuel Marsden*, p 498
- 319.** Ballara, *Taua*, pp 365–366; doc A1, p 222; Wilson, *From Hongi Hika to Hone Heke*, pp 184–185; Moon, *Fatal Frontiers*, pp 34–36
- 320.** Document A1, p 222
- 321.** Ibid, pp 222–223
- 322.** Ibid, p 223
- 323.** Orange, *The Treaty of Waitangi*, p 12
- 324.** Document A1, p 222
- 325.** McNab, *Historical Records*, vol 2, p 588; doc A21, pp 31–32
- 326.** Ward, *British Policy in the South Pacific*, p 54
- 327.** Document A18, p 43; see also McNab, *Historical Records*, vol 2, pp 592–594.
- 328.** Ward, *British Policy in the South Pacific*, pp 80–81; Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830–1847* (Auckland: Auckland University Press, 1977), p 24
- 329.** Darling’s original choice was killed by Aboriginals and his second choice was Captain Charles Sturt: see doc A18, p 44; doc A1, p 234; James Rutherford, ‘James Busby’, in *An Encyclopaedia of New Zealand*, ed A H McLintock, <http://www.teara.govt.nz/en/1966/busby-james>, last modified 22 April 2009.
- 330.** Keith Sinclair, *Laplace in New Zealand, 1831* (Waikanae: Heritage Press, 1998), p 42
- 331.** John Dunmore, *French Explorers in the Pacific*, vol 2, pp 228–231, 234–235
- 332.** It seems that Rewa may also have met Laplace in Hobart: Sinclair, *Laplace in New Zealand, 1831*, p 29.
- 333.** Document A1, pp 224, 226; Dunmore, *French Explorers in the Pacific*, vol 2, p 254
- 334.** Document A1, pp 226–227
- 335.** Dr Peter Adams felt that William Williams’s account was ‘ridiculed with inconsistencies’ and argued that the idea that Darling had encouraged the chiefs to seek British protection was completely belied by the hospitality the governor showed his French visitors. Moreover, the governor did not know the French would call at New Zealand, that decision apparently only being made by Laplace after he had left Sydney. Phillipson agreed with Adams. Crown witness Dr Phil Parkinson, however, seems to have taken William Williams at face value, writing ‘Note that it was the Governor of New South Wales and the missionaries who engineered this petition, in response to agitation in Sydney’: Adams, *Fatal Necessity*, p 76; doc A1, p 225; doc D1, p 47.
- 336.** Document A1, p 226. In fact, *La Favorite* had fewer than half that number of sailors, having departed from Toulon at the end of 1829 with 165 crew. As Sinclair wrote, ‘The rumour mill in Port Jackson had been functioning well, if Mrs Williams believed there were four hundred men on board’: Sinclair, *Laplace in New Zealand, 1831*, pp 18, 118 n 51.
- 337.** Sinclair, *Laplace in New Zealand, 1831*, p 31
- 338.** William Williams wrote in his journal on 4 October that a number of chiefs had already signed the petition: doc D1, p 47.
- 339.** Adams, *Fatal Necessity*, p 76. See also doc A1, p 227.
- 340.** Document A1, p 225 (translated from the French by Sinclair, *Laplace in New Zealand, 1831*, p 88)
- 341.** Elder, *The Letters and Journals of Samuel Marsden*, p 505(n)
- 342.** Note that Parkinson argued that this was, as spelled by Yate, Taunui, who he said later took Yate’s name as Wiremu Ieti Taunui and was ‘not to be confused with Taonui’: doc D1, p 110. However, Phillipson, Aldridge and Manuka Henare all believed it to be Te

Taonui. We think they are correct, since Yate recorded the place of residence of ‘Taonui’ as Utakura (doc A16, p175), which fits with our knowledge of Makoare Taonui. For example, see Ruth Ross’s entry on him in the 1996 *Encyclopaedia: Ruth Ross, ‘Makoare Taonui’, in An Encyclopaedia of New Zealand*, ed A H McLintock, <http://www.teara.govt.nz/en/1966/taonui-makoare>, last modified 22 April 2009.

**343.** Document A1, pp 227–231

**344.** Adams, *Fatal Necessity*, p 76

**345.** Document A1, pp 225, 228

**346.** Document A16, p 172. We admit that Manuka Henare did not actually say this, but it seems a reasonable interpretation of his position. Phillipson, for one, thought it clear that Henare had come ‘to the conclusion that [the petition] was the work of its Maori signatories’: doc A1, p 231. Perhaps in a similar vein to Henare, Parkinson wrote that the original text was ‘penned by Yate, as amanuensis for the chiefs’: doc D1, p 110. However, we note that, in a 2007 publication, Henare referred to the petition as a ‘joint effort’ between the chiefs and the missionaries, adding that ‘The choice of words in the letter provides evidence that its composition was, at least in part, their [the chiefs’] own’: Manuka Henare, ‘The Māori leaders’ assembly, Kororipo Pā, 1831’, in *Te Kerikeri 1770–1850: The Meeting Pool*, ed Judith Binney (Wellington: Bridget Williams Books, 2007), pp 112, 116. Henare’s brief of evidence for our inquiry (doc B3, pp 43–47), was drawn from his doctoral thesis.

**347.** Document A16, pp 172–173

**348.** Ibid, p 173

**349.** Document B10, pp 62–63

**350.** Document D4, p 25. Parkinson wrote in response that the quality of the Māori language used should not be a surprise, since Yate was ‘a famously fluent orator and translator from Maori to English and vice versa’: doc D1(d), p 3.

**351.** Document A1, p 231

**352.** Ibid, p 220

**353.** Ibid, p 219

**354.** See Binney, *The Legacy of Guilt*, p 46, where Binney remarked upon the way these fears ‘were to be echoed again and again by Ngapuhi chiefs. The fate of the Aboriginals of New South Wales and Tasmania was not unknown to them.’

**355.** Document A1, p 221

**356.** Ibid, p 232; doc A18, p 45; Adams, *Fatal Necessity*, pp 76–77

**357.** ‘New Zealand’, *Sydney Gazette and New South Wales Advertiser*, 8 December 1831, p 2

**358.** See Salmond, *Between Worlds*, pp 231, 234–235.

**359.** See McNab, *Historical Records*, vol 1, p 297

**360.** McNab, *From Tasman to Marsden*, pp 138–142; doc A18, p 18

**361.** Ward, *British Policy in the South Pacific*, p 44; McNab, *Historical Records*, vol 1, p 407

**362.** Document A18, p 26

**363.** Nor was it interested in the various plans put forward, from 1823, by Baron Charles de Philippe de Thierry for a colony of British settlers on his Hokianga ‘estate’ and beyond. With regard to de Thierry’s 1825 proposal to cede the northern part of New Zealand to the French

Government in return for its governorship for life, Loveridge observed that the ‘only thing which seems to have grown and prospered during this period was De Thierry’s imagination’: doc A18, pp 27–31.

**364.** Document A18, pp 32–36; Patricia Burns, *Fatal Success: A History of the New Zealand Company* (Auckland: Heinemann Reed, 1989), pp 18–21; Peter Adams, *Fatal Necessity*, p 21

**365.** Document A18, pp 36–38; Burns, *Fatal Success*, pp 21–22

**366.** Document A18, p 88. See also Burns, *Fatal Success*, pp 23–25.

**367.** Ward, *British Policy in the South Pacific*, p 81. See also Adams, *Fatal Necessity*, pp 61–62.

**368.** Document A18, pp 44–45

**369.** According to Phillipson, the Colonial Office opposed the use of troops since it reasoned that a civil official would be more likely to be trusted by Māori. Goderich hoped that the Resident would be supported by regular visits from the navy, but the Admiralty declined to make a ship available: doc A1, p 234.

**370.** Document A18, p 46

**371.** Ibid; doc A21, p 36

**372.** Document A1, p 234

**373.** See Eric Ramsden, *Busby of Waitangi: HM’s Resident at New Zealand, 1833–40* (Wellington: AH and AW Reed, 1942), pp 29–34

**374.** Document A18, p 48

**375.** Ibid

**376.** Ibid, pp 46–47

**377.** Adams, *Fatal Necessity*, p 64

**378.** Ramsden, *Busby of Waitangi*, p 39

**379.** Document A18, pp 47–49

**380.** Ramsden, *Busby of Waitangi*, p 50

**381.** Document A18, p 49

**382.** Ibid, p 50

**383.** Ibid

**384.** Ibid, p 49

**385.** Richard Bourke to James Busby, 13 April 1833, BPP, 1840, vol 33 [238], p 6 (IUP, vol 3, p 54)

**386.** Ibid, p 4 (IUP, vol 3, p 52)

**387.** Ibid (IUP, vol 3, p 52)

**388.** Ibid, pp 4–5 (IUP, vol 3, pp 52–53)

**389.** Document A18, pp 51–52

**390.** Richard Bourke to James Busby, 13 April 1833, BPP, 1840, vol 33 [238], p 6 (IUP, vol 3, p 54)

**391.** Ibid, p 4 (IUP, vol 3, p 52)

**392.** Document A1, pp 235–236

**393.** Document A21, pp 34–35

**394.** Aside from the fruitless wait for news that Parliament had passed the South Seas Bill, Busby’s seven-month wait in Sydney was also due to the delay in building the frame of the house in which he would live while in New Zealand: Adams, *Fatal Necessity*, p 66; Ramsden, *Busby of Waitangi*, pp 50–52.

**395.** Richard Bourke to James Busby, 13 April 1833, BPP, 1840, vol 33 [238], p 5 (IUP, vol 3, p 53); see also doc A21, p 34; Ramsden, *Busby of Waitangi*, p 54

**396.** Document A18, p 53

- 397.** Richard Bourke to James Busby, 13 April 1833, BPP, 1840, vol 33 [238], p 5 (IUP, vol 3, p 53)
- 398.** Ramsden, *Busby of Waitangi*, pp 56–57; doc A1, p 237; doc A17, p 16
- 399.** ‘New Zealand’, *Sydney Gazette and New South Wales Advertiser*, 2 July 1833, p 2
- 400.** Document A1, p 237
- 401.** Document A11(a), vol 4, pp 1282–1283. Samuel Carpenter believed that both translations would have been made by William Williams, which accords with his greater reputation as a linguist and translator than his brother: doc A17, p 68.
- 402.** Adams, *Fatal Necessity*, p 63
- 403.** Document D4, p 23
- 404.** Orange, *The Treaty of Waitangi*, p 13
- 405.** Document A1, p 240
- 406.** Ibid, p 239
- 407.** Ibid
- 408.** Ramsden, *Busby of Waitangi*, p 58
- 409.** Document A1, pp 239–240
- 410.** Document A17, p 69
- 411.** The master of the *Imogene* had refused to carry the frame and Busby had had to have it and a quantity of bricks shipped privately, on the *New Zealander*: Ramsden, *Busby of Waitangi*, pp 51–52.
- 412.** ‘New Zealand: Shipping Intelligence’, *Sydney Gazette and New South Wales Advertiser*, 4 July 1833, p 2
- 413.** Ramsden, *Busby of Waitangi*, pp 60–61
- 414.** Lee, *The Bay of Islands*, p 174; Martin McLean, ‘The Garden of New Zealand’: *A History of the Waitangi Treaty House and Grounds from Pre-European Times to Present*, Science and Research Internal Report 76 (Wellington: Department of Conservation, 1990), p 12
- 415.** Jack Lee, *Hokianga* (Auckland: Hodder and Stoughton, 1987), pp 47–52
- 416.** Lee, *Hokianga*, p 52
- 417.** McNab, *Historical Records*, vol 1, p 686
- 418.** *The Australian*, 26 November 1830, p 3
- 419.** Orange, *The Treaty of Waitangi*, p 19
- 420.** Lee, *Hokianga*, p 53; *The Australian*, 21 January 1831, p 3
- 421.** See Henry Atton and Henry Holland, *The King’s Customs*, 2 vols (London: John Murray, 1908 and 1910), vol 2, pp 160–161
- 422.** ‘Sydney Intelligence’, *Colonial Times*, 29 January 1833, p 2
- 423.** Document A18, pp 54–55; doc A17, pp 16–17
- 424.** Document A17, p 17
- 425.** Document A18, p 55
- 426.** Document A1, p 241; doc A18, p 55. Busby noted that the missionaries had even felt the absence of red could have left the rangatira feeling ‘slighted’: doc A17, p 18.
- 427.** William Barrett Marshall, *A Personal Narrative of Two Visits to New Zealand, in His Majesty’s Ship Alligator, AD 1834* (London: James Nisbet and Company, 1932), p 1. Ramsden wrote that the *Alligator*’s main purpose for visiting was actually to apprehend escaped convicts from Van Diemen’s Land and that Bourke placed little importance on the flag issue: Ramsden, *Busby of Waitangi*, p 65.
- 428.** Ramsden, *Busby of Waitangi*, p 66; Orange, *The Treaty of Waitangi*, p 20;
- 429.** Document A1, p 241
- 430.** Ibid
- 431.** Document A11(a), vol 4, p 1295
- 432.** Marshall, *A Personal Narrative*, p 108
- 433.** Baron Karl von Huegel, diary (translation by Reuel Lochore), ATL, Wellington, pp 432–433, 438. Von Huegel wrote ‘Temorina, Taiamai, the lame Waikata, Heke’, but we think in this instance that ‘Taiamai’ must have referred to Te Morenga’s home.
- 434.** Von Huegel wrote that the chiefs were ‘accompanied by only a few of their people, no horde numbering more than 50 persons, of whom more than one-third were women’: von Huegel, diary (translation), pp 429–430.
- 435.** Marshall, *A Personal Narrative*, p 108
- 436.** Von Huegel, diary (translation), pp 438–439
- 437.** Document A1, p 241
- 438.** Marshall, *A Personal Narrative*, pp 108–109
- 439.** Document D4, pp 31–32
- 440.** Document A1, p 241
- 441.** Marshall referred to Busby’s assistant as ‘Hongi’, who we are sure would have been Pare: Marshall, *A Personal Narrative*, p 108.
- 442.** Ward, *British Policy in the South Pacific*, p 75
- 443.** Document A18, p 55
- 444.** Marshall, *A Personal Narrative*, pp 108–109
- 445.** Von Huegel, diary (translation), pp 440–441
- 446.** Marshall, *A Personal Narrative*, p 109; doc A1, p 241. Marshall thought they were also given pigs and potatoes, but von Huegel was adamant that ‘the only food served was that dubious flummery’: von Huegel, diary (translation), pp 442–443.
- 447.** Document A11(a) vol 4, p 1296
- 448.** Marshall, *A Personal Narrative*, p 110
- 449.** Von Huegel, diary (translation), p 444
- 450.** Marshall, *A Personal Narrative*, p 111
- 451.** Von Huegel, diary (translation), pp 448–449
- 452.** Ibid, p 449
- 453.** Ibid, pp 433–434. This ship must have been the *Fortitude*. As the *Sydney Herald* reported on 17 April 1834: ‘Some months ago, a vessel called the *Fortitude* “touched ground” at Hokianga, in New Zealand – she was immediately boarded and her papers and the most valuable part of her cargo seized by a tribe of the New Zealanders, who were impressed with the idea that she was aground, and consequently a fair prize. The then “chief of the heads,” assisted by his brother Moetra and another brother interfered, insisting on a restitution, this being resolutely refused by the invading tribe, a serious engagement ensued in which Moetra’s brothers and many of his relatives and tribe fell a sacrifice to their John Bull feelings, but they succeeded in restoring the property to the vessel. Moetra, by the death of his brothers in this battle, became and is now the chief of his tribe. Mr Oakes on his recent return to this colony, having represented the above to the Lieutenant Governor, His Excellency availed himself of the opportunity of forwarding to Moetra, through Mr Oakes, a dispatch expressive of His

Excellency's satisfaction at the noble conduct of the "valiant chief of the heads of Hokianga." This dispatch was accompanied by an elegant gilt sabre and military cloak (the gift of His Excellency.) Moetara was wearing his cloak and sword when von Huegel met him and proudly showed the Austrian his certificate of thanks.

**454.** At the time, Pōmare was also embroiled with Busby in a bitter dispute over possession of a boat, which may have affected his attitude to the flag hui. Owed money by several settlers, Pōmare had seized their longboat, but Busby thought Pōmare in the wrong and even had the *Alligator* point its guns at Pōmare's pā. Urgent missionary intervention, however, resolved the facts and vindicated Pōmare's stance. See Ramsden, *Busby of Waitangi*, pp 70–71; Adams, *Fatal Necessity*, p 67.

**455.** Orange thought Pōmare's arrival was deliberately late: Orange, *The Treaty of Waitangi*, p 20. We note that von Huegel's account appears to place Pōmare's arrival much earlier, before Busby began his opening address: von Huegel, diary (translation), p 438.

**456.** Marshall, *A Personal Narrative*, pp 111–112

**457.** Von Huegel, diary (translation), pp 435, 438

**458.** Document A18, p 55 n 169

**459.** Document A1, p 243; Ramsden, *Busby of Waitangi*, p 66

**460.** Document A18, p 56

**461.** Ibid

**462.** Document A16, p 179

**463.** Orange, *The Treaty of Waitangi*, pp 20–21

**464.** Document A1, p 242. Phillipson also described this flag as the 'majority choice'. But he also acknowledged, correctly in our view, that the vote had resulted in 'the inability for a majority to agree on one flag': doc A1, pp 241–242.

**465.** Document A1, p 242

**466.** It did not appear in Sinclair's *A History of New Zealand*, Oliver's *The Story of New Zealand*, Belich's *Making Peoples*, or *The New Oxford History of New Zealand*, and was mentioned only in passing in *The Oxford History of New Zealand*. See Keith Sinclair, *A History of New Zealand*, rev ed (Auckland: Penguin Books (NZ) Ltd, 1988); William H Oliver, *The Story of New Zealand* (London: Faber and Faber, 1963); Belich, *Making Peoples*; Giselle Byrnes, ed, *The New Oxford History of New Zealand* (Melbourne: Oxford University Press, 2009); Owens, 'New Zealand before Annexation', p 43.

**467.** Michael King, *The Penguin History of New Zealand* (Auckland: Penguin, 2003), p 153; Alexander H McLintock, *Crown Colony Government in New Zealand* (Wellington: Government Printer, 1958), pp 23–24; Moon, *Fatal Frontiers*, p 103

**468.** Ramsden, *Busby of Waitangi*, pp 77–78

**469.** Ibid, pp 79–80

**470.** Document A17, p 19

**471.** Angela Ballara, 'Warfare and Government in Ngapuhi Tribal Society, 1814–1833: Institutions of Authority and the Function of Warfare in the Period of Early Settlement, 1814–1833, in the Bay of Islands and Related Territories' (MA thesis, University of Auckland, 1973), p 295

**472.** Document A11, p 248

**473.** Document A11, pp 247–248

**474.** Ramsden, *Busby of Waitangi*, p 81

**475.** 'Original Correspondence', *Australian*, 1 July 1834, p 3

**476.** Ramsden, *Busby of Waitangi*, p 79. Ramsden noted, for example, the *Sydney Herald*'s report that Busby had prevented Europeans from pursuing his attackers – something which we consider quite plausible. However, we do not doubt the press's hostility to Busby. The *Sydney Monitor* (28 June 1834, p 3) wrote: 'The Europeans wished to call a meeting to adopt measures of safety and discovery, but Mr Busby considered it more prudent to pass the matter by as *country luck*. We shall be glad to hear of Mr Busby introducing his vines at the Bay of Islands. When the time comes that he can give the natives grapes and afterwards wine, we shall not hear of their attempting to kill him.'

**477.** Document A11(a), vol 4, p 1302. Busby mistakenly dated the third of these dispatches as 3 July: see doc A11(a), vol 4, p 1299.

**478.** On 30 October, Busby wrote that this had occurred 'ten days ago': doc A11(a), vol 4, p 1303.

**479.** Ramsden, *Busby of Waitangi*, pp 82–83; doc A17, p 20; doc A1, pp 251–252; doc A11(a), vol 4, pp 1303–1305

**480.** The *Harriet* affair thus involved the first action in New Zealand by British soldiers.

**481.** Document A11(a), vol 4, p 1304

**482.** Edward Markham, *New Zealand, or Recollections of It* (Wellington: Government Printer, 1963), p 81

**483.** Document A11(a), vol 4, pp 1304–1305. Markham wrote that one chief had advocated that Rete's tribe 'ought to sacrifice Twenty Slaves', but the missionaries would not hear of it: Markham, *New Zealand, or Recollections of It*, p 81.

**484.** Document A11(a), vol 4, p 1304

**485.** Ibid, p 1303

**486.** Ibid, pp 1306, 1307, 1309, 1311

**487.** Ibid, p 1310

**488.** Document A17, p 19

**489.** Document A18, p 57; doc A11(a), vol 4, p 1313; Ramsden, *Busby of Waitangi*, pp 83–84

**490.** Document A11(a), vol 4, pp 1313–1316; doc A17, pp 21–22

**491.** Document A11(a), vol 4, pp 1323–1324

**492.** Ibid, p 1324

**493.** Document A17, p 22

**494.** Ibid, p 23

**495.** Document A1, p 252

#### Page 114: The 1831 petition to William IV

**1.** Document A16, app 6. Dr Patu Hohepa claimed that the Māori text was written by Eruera Pare, but we believe that this was successfully refuted by Parkinson, who identified the handwriting very clearly as Yate's: doc D4, p 25; doc D1(d), p 2.

**2.** Document A16, p 175

**3.** Document B10, p 64

**4.** Document D4, pp 27–28

### Page 123: King William IV's response to the rangatira

1. William Barrett Marshall, *A Personal Narrative of Two Visits to New Zealand in His Majesty's Ship, Alligator, AD 1834* (London: James Nisbet and Co, 1836), pp 330–337

### Page 125: Busby's address and its translation

1. Note that we have the text of the translation because a written version was created, probably by William Williams, and printed along with the translation of the King's letter in Sydney, so that they could be widely distributed among Māori in the north of New Zealand. Ramsden noted that William Yate 'corrected the Maori version' before printing: Eric Ramsden, *Busby of Waitangi: HM's Resident at New Zealand, 1833–40* (Wellington: AH and AW Reed, 1942), p 58; doc A18, p 55; doc A1, pp 237–239; doc A17, p 68.

### Page 130: Busby's address on the adoption of a flag, 1834

1. We have taken the text from document A16, p 186, but excluded the macrons inserted in the Māori text by Manuka Henare.



## CHAPTER 4

# HE WHAKAPUTANGA AND THE DECLARATION OF INDEPENDENCE

### 4.1 INTRODUCTION

#### 4.1.1 He Whakaputanga and the Declaration

By 1835, Rāhiri's people had emerged into the world of international trade and politics with at least some of the attributes of statehood. They had a name, 'Nu Tireni', which they sometimes used in correspondence with Britain as a descriptor for these islands.<sup>1</sup> Ships from their harbours sailed under a national flag. And their independence had been recognised by Britain, then the world's dominant imperial power. Internationally, then, they had a collective identity. Within these shores, however, 'Nu Tireni' did not exist as a political entity. It did not possess the machinery of state as we would understand it today, nor indeed as the British understood statehood then. Hapū remained the dominant unit of political life. Effective power rested with them and with their rangatira, whose authority depended to a significant extent on how successfully they pursued hapū interests. The pursuit of those interests frequently led to inter-hapū cooperation and alliance, and sometimes led to competition and warfare.

From Britain's perspective, that was effectively the end of the story. As we saw in chapter 3, from the moment of his arrival in New Zealand, the British Resident James Busby had sought to mould autonomous hapū into a national congress made up of principal rangatira.<sup>2</sup> By the end of 1834, he had met with only mixed success. While rangatira had acted collectively to endorse the flag, they otherwise remained separate and independent, leading Busby to complain that 'there exists neither Government nor established order in any shape in New Zealand'.<sup>3</sup>

There are, however, other perspectives, which do not appear in British colonial records, but rather have been passed down to claimants from their tūpuna. Some claimants said that rangatira had been meeting for many years in the Bay of Islands, Hokianga, Whangaroa, and Whāngārei, to manage their relationships with Europeans. These meetings, some claimants suggested, occurred even during times of inter-hapū conflict, suggesting that smaller quarrels were put aside to achieve larger goals. By the 1830s, they said, a kind of confederation had emerged or was emerging in a manner that did not override the mana of its constituent hapū, but represented them collectively in external relationships. Other strands of claimant evidence referred to the emergence of a collective Māori identity, and to rangatira taking purposeful steps towards the establishment of a Māori state internationally aligned with Britain. To some of the claimants, by the beginning of



**He Whakaputanga o te Rangatiratanga o Nu Tireni.** The second sheet shows the signatures, marks, or moko of the 34 rangatira who signed on 28 October 1835. The third sheet shows the 18 rangatira who signed in the following four years.

1835 the machinery of state had begun to emerge; to others, it had already formed.

During the last few months of 1835, these questions of government and statehood were to move to the forefront of the relationship between rangatira and Britain – first as rangatira and Britain's official representatives grappled with the question of how to use Māori authority to control British trade in alcohol, and then as they responded to a spurious claim by the adventurer Charles de Thierry to have purchased sovereignty over substantial parts of the Hokianga. The first of these events resulted in a short-lived local 'law' banning liquor imports into the Hokianga. The second resulted in He Whakaputanga o te Rangatiratanga o Nu Tireni, known in English as the Declaration of Independence of the United Tribes of New Zealand.

He Whakaputanga (which can be translated as 'an emergence') was signed on 28 October 1835 by 34 rangatira. Over the next three and a half years, a further 18

rangatira – from the north and further afield – were to add their moko, signatures, and marks. In the text, the rangatira asserted their tino rangatiratanga over the parts of New Zealand north of Hauraki (the mouth of the River Thames). Referring to their gathering as 'te Wakaminenga o nga Hapu o Nu Tireni' ('the United Tribes of New Zealand' in the English text), they declared that all mana and kingitanga ('all Sovereign Power and Authority') in respect of their territories resided with them. They agreed to meet annually at Waitangi to frame 'ture' or laws for the purposes of justice, peace, good order, and trade. They also asserted that no one else could frame laws for their territories, and no one else could exercise powers of government unless appointed by them and acting under their authority. Finally, in return for their protection of British subjects in their territory, they sought the King's protection against threats to their mana.

When the English text was forwarded to Britain, Busby

described the document as a declaration that the rangatira had united their tribes into one independent state.<sup>4</sup> The Secretary of State for War and Colonies, Lord Glenelg, acknowledged the request for protection of this ‘Infant State’, and gave an assurance – in the King’s name – that Britain would act with goodwill towards the rangatira, and offer support and protection, so long as that was consistent with British rights and interests.<sup>5</sup>

While there is no dispute that he Whakaputanga was an assertion of the independence and authority of those rangatira who signed it, there are significant differences between claimants and Crown on how the document came to be, what it meant, and its significance in New Zealand’s constitutional history. In this chapter, we consider the context in which he Whakaputanga emerged, how it was drafted and debated, what it meant, and its overall meaning and significance at the time it was adopted and in the years immediately following. In later chapters, we will consider the significance of he Whakaputanga for te Tiriti o Waitangi.

### 4.1.2 A note on terminology

In our statement of issues, we referred to ‘He Whakaputanga/the Declaration of Independence’ as if it were a single document with distinct reo Māori and English-language versions. The claimants objected to this. In their view, the two documents are wholly separate. They argued that their ancestors debated and signed he Whakaputanga (the Māori-language text) and it was that text alone which conveyed their intentions, not the Declaration of Independence (the English-language text), which conveyed different meanings and was never debated or signed.<sup>6</sup> The Crown, in its closing submissions, continued to refer to ‘He Whakaputanga/the Declaration’, implying that it saw the declaration as a single document in two languages, although it did not express this view with any force.<sup>7</sup>

Later in this chapter we will discuss how the declaration was created, whether there are distinctions between the two versions, and whether either text is definitive. At this point, it is sufficient to acknowledge that there are texts in two languages. One, He Whakaputanga o te Rangatiratanga o Nu Tireni (te reo Māori text), was the

text that rangatira debated and endorsed, and it is the text that has shaped claimant understandings of what their tūpuna intended in 1835. The Declaration of Independence of New Zealand (the English-language text) shaped Crown understandings of what was intended, both in the 1830s and since.

In this chapter, as we noted in chapter 1, when we refer to he Whakaputanga, we are referring to the reo Māori text; when we refer to the Declaration of Independence (capitalised), we are referring to the English text. We use ‘the declaration’ (lower case) to refer to both texts together.

We note also that the sound now written as ‘wh’ was typically written as ‘w’ in the 1830s. The Māori-language text of the 1835 declaration therefore used the terms ‘Wakaputanga’ and ‘Wakaminenga’ where we would today use ‘Whakaputanga’ and ‘Whakaminenga’. In this chapter, we use the original spellings only in direct quotations; otherwise, we use the modern ‘wh’ spellings.

## 4.2 THE CONTEXT FOR HE WHAKAPUTANGA

### 4.2.1 Accelerated contact

In the previous chapter, we described how relationships between Māori and Europeans in the Bay of Islands, Hokianga, and other parts of the north had evolved during the late eighteenth century and early nineteenth centuries. Growth in trade, the arrival of missionaries and other settlers, international journeys by Māori, and the appointment of Busby as Britain’s official representative all provided points of contact. Where the two worlds intersected, there was accommodation and adaptation as both Māori and Europeans – for their own purposes and in their own ways – pursued the benefits of contact with each other (such as access to resources and technology) while seeking ways to control and minimise harm or conflict.

During the 1830s, trading relationships intensified as more ships visited and demand for New Zealand’s resources grew.<sup>8</sup> The nature of trade also changed. Cash began to replace barter or gift-giving as forms of payment.<sup>9</sup> Timber replaced flax as the principal export, increasing demand for labour and conflicts over rights.<sup>10</sup> Food became an increasingly important export item.<sup>11</sup>



Pākanae and the entrance to Hokianga Harbour. Pākanae was the home village of the Ngāti Korokoro rangatira Moetara, who for a short time enforced a ban on liquor imports in the region.

Māori demand for European goods other than muskets was also growing, though muskets remained the principal import up to the mid-1830s. Tobacco was also in increasing demand.<sup>12</sup>

There was also steady growth in the British settler population. As settlers arrived, land transactions increased.<sup>13</sup> By 1835, the European population north of Auckland still numbered only a few hundred, most of whom were in the Bay of Islands and Hokianga.<sup>14</sup> They remained vastly outnumbered by Māori, whose population in the districts north of Auckland appears to have easily exceeded 12,000.<sup>15</sup> 'Patron-client' relationships – in which settlers lived and carried out commercial activities under rangatira protection – remained the norm in the territories we are concerned with.<sup>16</sup> Power, in other words, largely remained with Māori. Rangatira were aware of British

military strength and of the potential consequences of large-scale European settlement, but it appears that in the mid-1830s the benefits of settlement were still perceived as outweighing the drawbacks.<sup>17</sup>

The 1830s was a period of relative, but not absolute, peace in the north. Relationships between Māori and Europeans were generally amicable, as each side made accommodations to maintain mutually beneficial relationships. However, tensions sometimes spilled over into open conflict for a range of reasons, including violations of tapu or mana, commercial disagreements, drunkenness, and to a lesser extent Māori loss of control over land or resources.<sup>18</sup> Similarly, relations among Māori in the mid-1830s were more peaceful than they had been during the turbulent 1820s. The major southern campaigns had ended after Titore's inconclusive taua to Tauranga

in 1833, and peace had been secured through intermarriage between high-ranking people from Bay of Islands or Hokianga hapū and those from Ngāti Whātua, Ngāti Paoa, and Waikato (a matter we will discuss in more detail in chapter 5). Among Māori, political organisation continued to be based around hapū, sometimes acting in alliance with others. Relations between the hapū of the Bay of Islands' northern and southern alliances remained uneasy after the Girls' War, and there was also fighting in the Hokianga in 1833 motivated by control over trade.<sup>19</sup>

The 1830s also marked the beginnings of other significant changes as Māori began to engage with Christianity in significant numbers, and to show greater interest in European knowledge and ideas including those concerning peace and conflict resolution. We will discuss these issues in detail in chapter 5.<sup>20</sup>

Overall, then, the mid-1830s was a crucial time in the evolution of northern Māori relationships with the wider world. In general, Māori continued to welcome Europeans for the benefits they brought, including access to goods, technology, ideas, and relationships. But they also sought to maintain control over relationships with settlers and traders, and to ensure the newcomers' compliance with tikanga.<sup>21</sup> These motivations had been evident in the 1831 petition to King William IV, which referred to the importance of trade while seeking British protection from the French and from troublesome European settlers.

Britain, too, wanted peace, trade, and control of its own disorderly subjects, albeit for reasons that reflected its own imperial interests and objectives. All of these motivations were reflected in the instructions given to Busby. He was told, also, to work through the influence of the chiefs, but he placed little value on Māori systems of leadership and decision-making, and after the Rete affair (see chapter 3) he also had little confidence in Māori systems of justice.<sup>22</sup> In this, he was a product of his culture: like other Europeans of his era, he saw civilisation in 'stacial' terms: that is, as a matter of progress up a ladder 'from savagery to civilisation', with British ideas and institutions at the top. In this, both Samuel Carpenter and Dr Manuka Henare suggested, the Edinburgh-born Busby would have been influenced by the Scottish Enlightenment view that

clan-based social structures impeded advancement in commerce, education, and civilisation.<sup>23</sup>

As we saw in chapter 3, Busby's grand design was to persuade rangatira to form a national congress of rangatira able to make laws for all, and to adjudicate disputes in the manner of a British court.<sup>24</sup> As he wrote shortly after his arrival, he hoped not only to establish this congress but also to bend it to his own ends, giving himself and Britain 'almost entire authority' over northern New Zealand.<sup>25</sup> In this way, he would solve the intractable problem of advancing British interests and controlling British subjects in a land where he had neither legal authority nor practical power. He hoped, in short, to establish a Māori government controlled by the British. Indeed, as noted in chapter 3, as early as 1833 he was making plans not only for the adoption of the national flag but also for a government to issue passports for Europeans and to build a parliament house.<sup>26</sup> Busby recognised that hapū were independent of one another and possessed 'all the functions of sovereignty which their simple state of Society requires'. While he perceived that rangatira would be reluctant to surrender to any kind of national body based on majority decision-making, he was however determined to press ahead. As a first step, he had determined that 'in any transaction which might be considered of an international character' (including negotiations with him) all of the principal rangatira should be dealt with 'in their collective capacity only'.<sup>27</sup> In this, he appears to have misunderstood or been unwilling to accept the reality (discussed in chapter 2) that rangatira authority derived from hapū and so rangatira decisions required hapū consent. As Erima Henare told us, 'It was the hapū who gave Rangatira their status, it was to the hapū that Rangatira owed their allegiance'.<sup>28</sup>

By the end of 1834, Busby was entertaining thoughts of more direct British intervention. In the long term, he continued to believe it would be possible to establish a rangatira-led government and 'impartial' justice system under his influence, operating essentially as a British dependency. In the short term, however, he wanted British legal authority to control foreign ships and British subjects, and he also wanted Britain to send constables to help with this work.<sup>29</sup> These questions of jurisdiction and authority were

to become more pressing on two occasions towards the end of 1835. The first of those concerned alcohol and its repercussions for order.

### 4.2.2 Ardent spirits and local law

In the early years of British settlement, Māori had shown little interest in liquor. Drunkenness was a problem among Europeans – particularly among sailors and sawyers – and this sometimes caused conflicts with both Māori and other Europeans. During the 1830s, however, some Māori who had regular contact with ships or British settlers had begun to drink spirits, and missionaries and other observers were noting with disapproval their occasional displays of public drunkenness, as well as the more common drunkenness of the Europeans.<sup>30</sup> Warren Jeremiah Moetara told us his tūpuna Moetara and Rangatira ‘witnessed the porangi [madness] that came with it [alcohol] and asserted that this was not what they wanted for their people’.<sup>31</sup> John Klarich spoke of Moetara having his own problems with alcohol, as well as worrying about the effects on his people of liquor and drunken Europeans’ ‘lawless behaviour’.<sup>32</sup> Drunkenness was also having an effect on commerce. According to Busby, some ships were no longer calling at the Bay of Islands because of alcohol-related problems.<sup>33</sup>

In September 1835, efforts were made on both coasts to address these concerns.<sup>34</sup> The missionary Henry Williams visited Busby at Waitangi to propose a ban on liquor imports to the district, to be enforced by local rangatira. Busby refused. Although he believed Bay of Islands Māori would happily pass such a law, they were in his view incapable of administering it in an impartial manner. As he saw it, asking the ‘rival Chiefs . . . and their lawless followers’ to enforce a law against British subjects would lead only to ‘riot and disorder’. Busby asked the New South Wales Governor Richard Bourke for legal authority and a constabulary so he could enforce a liquor ban himself.<sup>35</sup>

Less than a fortnight later, however, a ban on the ‘importation and sale of ardent spirits’ was adopted in the Hokianga, in exactly the manner Busby had opposed. This was mainly a missionary initiative, though it also involved Thomas McDonnell, a British trader who in July 1834 had

secured an appointment as ‘Additional British Resident’ in the Hokianga, partly by claiming that Busby was ineffectual and by exaggerating both the population of the Hokianga and the level of disorder there. McDonnell was appointed as Busby’s subordinate and was instructed to consult the Resident, something he conspicuously failed to do on numerous occasions. On 21 September 1835, he chaired a meeting at the Wesleyan mission house at Mangungu, at which the liquor ban was adopted.<sup>36</sup> The leading Hokianga rangatira – Nene, Patuone, Moetara, Taonui, and Mohi Tāwhai – all supported the ban, as did McDonnell and the trader James Clendon. Offenders were threatened with large fines, and a ‘board’ made up of Moetara and two Pākehā traders was appointed to search ships and enforce the ban.<sup>37</sup> Immediately after the meeting, Moetara and others apparently boarded ships in the Hokianga and emptied barrels of rum into the harbour. However, some settlers resisted the measure and the ban does not appear to have been enforced for long.<sup>38</sup>

The affair was to highlight the differing approaches of the two British Residents to Māori jurisdiction. Busby, when he heard of the ban, promptly complained to Bourke that McDonnell had exceeded his authority. He repeated his view (see section 4.2.1) that laws should be recognised only if made by all rangatira ‘in their collective capacity’; and he also re-emphasised his lack of confidence in Māori law enforcement, arguing that any action against British people or property should be carried out only under direct British supervision.<sup>39</sup> McDonnell, a few weeks later, wrote to Bourke about the ‘utter hopelessness of congregating all the native chiefs at any one place for the purpose of enacting any law within [their] collective capacity’.<sup>40</sup> Whereas Busby sought a national parliament of rangatira operating under his guidance, along with enforcement power under his direct control, McDonnell was content with local laws and local enforcement based on hapū authority. Bourke and the New South Wales Legislative Council sided with McDonnell, approving the Hokianga liquor ban on condition that it was enacted and enforced by Māori ‘under the Native Law’.<sup>41</sup>

While this affair was still simmering, questions of Māori government and lawmaking were to be raised from



Anglo-French adventurer Charles de Thierry, the self-styled 'Sovereign Chief' of New Zealand



Charles de Thierry's coat of arms, showing a crown, Māori warriors, tui, and European lions, possibly circa 1840

another direction, when Busby and Bay of Islands missionaries received letters from the Anglo-French adventurer Charles de Thierry, announcing plans to establish a sovereign state in the Hokianga.

#### 4.2.3 The 'Sovereign Chief' of New Zealand

As we saw in chapter 3, de Thierry – who had French parents but had lived most of his life in England – had met Hongi Hika, Waikato, and the missionary Thomas Kendall in 1820 at Cambridge University. During that visit, he had asked Kendall to obtain land for him in New Zealand, and in 1822 Kendall signed a deed with Patuone, Nene, and Muriwai purporting to exchange some 40,000 acres in the Hokianga for 36 axes. The purchase was later disputed, but de Thierry – on the basis of the deed, and his discussions with Hongi and Waikato – began to press ahead with ideas for colonisation, and spent much of the 1820s seeking the support of the British and then the French Government.<sup>42</sup>

By the time he approached the latter in 1825 (having failed to attract British investors and after spending a period in prison for bankruptcy), he was claiming to have acquired not only land but also sovereignty.<sup>43</sup>

De Thierry had then spent some time travelling (he was briefly involved in an ill-conceived proposal to construct a Panama canal), before he arrived in the Pacific in June 1835. He stopped for a few weeks in the Marquesas, declaring himself King of Nuku Hiva, before moving on to Tahiti in August. From there, he wrote to Busby and the Church Missionary Society (CMS).<sup>44</sup> To Busby, he announced that he was 'on my way to New Zealand' – with armed troops – 'for the purpose of establishing there a Sovereign Government'. He indicated that he was informing Busby merely as a courtesy, having already told the French and British kings, and the president of the United States.<sup>45</sup> He informed the missionaries that he had been invited to New Zealand by Hongi and other rangatira: 'And as a Sovereign

Chief by purchase, I have declared the Independence of New Zealand; that is my own Independence as Sovereign Chief.<sup>46</sup> De Thierry much later claimed he had asserted his sovereignty only because Britain had refused to annex, and only in relation to the land he had purchased, though there are reasons to doubt this explanation.<sup>47</sup>

Busby was uncertain how to respond. British authorities had long been concerned about the possibility of other European powers becoming involved in New Zealand, and this may have influenced his response – although, as Dr Grant Phillipson said, the Resident did not appear to view de Thierry's threat as any kind of national act by France.<sup>48</sup> Rather, Busby thought de Thierry was most likely a 'madman' – but, as he said to Bourke, 'there appeared to be sufficient method in the madness of such a man, to be productive of much mischief'.<sup>49</sup> He had also learned from one of the CMS missionaries who knew of Kendall's involvement that de Thierry had been promoting his colonisation schemes for more than a decade. Fearing that de Thierry might align himself with one or other tribal group in a way that gave him a power base while also destabilising intertribal politics, Busby decided to act with haste.<sup>50</sup> He told his superior:

I have . . . resolved to call at as early a day as possible a meeting of the Chiefs in order that they may declare the Independence of their Country, and assert as a collective body their entire and exclusive right to its Sovereignty: and their determination to maintain that right in its integrity, and treat as a public enemy any person who professes to assume a right of sovereignty within their Territories: and especially to warn the writer of these Letters against approaching these shores, on pain of being treated as Independent States have a right to treat persons who attempt the usurpation of Sovereign rights within their borders.<sup>51</sup>

Busby added that he would 'probably also be induced to apply to [Her Majesty] so far to take them under his protection, as to guarantee their Country against the intrusion of such adventurers', and he expressed confidence that Britain would come to Māori aid if de Thierry

did manage to land. Busby hoped that these steps would persuade de Thierry that it would be 'madness' to come to New Zealand.<sup>52</sup>

As well as informing Bourke, the Resident wrote to rangatira and to British settlers outlining the threat he perceived from de Thierry. Inviting the rangatira to a hui at his residence at Waitangi two and a half weeks later, he said that he had received a letter 'from a person afar off who desires to be king of the Maori people', and asked them what should be done with this 'interfering person'. 'Shall the land be handed over to him, and all you be slaves, or not?'<sup>53</sup> Seventy copies of this circular were printed and distributed.<sup>54</sup>

## 4.3 THE MAKING OF HE WHAKAPUTANGA

### 4.3.1 The drafting of the English-language text

Busby's next step was to draft the Declaration of Independence of New Zealand, an English-language text declaring the sovereignty of northern rangatira, and the establishment of an independent state.<sup>55</sup> Specifically:

- ▶ In article 1, the 'hereditary chiefs and heads of tribes of the Northern parts of New Zealand' were said to declare the 'Independence of our country', which was said to be an independent state 'under the designation of The United Tribes of New Zealand'.
- ▶ In article 2 of this text, the chiefs were said to declare that 'All sovereign power and authority' within this independent state resided 'entirely and exclusively' with them 'in their collective capacity'. They were also said to declare that they would not permit any other legislative authority to exist within the new state, and nor would they permit any 'function of government' to be exercised, except by people who they appointed and who acted under the authority of laws made by them.
- ▶ In article 3, they were said to agree that they would meet 'in Congress' every autumn at Waitangi, to frame laws 'for the dispensation of justice, the preservation of peace and good order, and the regulation of trade'. They were also said to invite 'Southern

Tribes' to 'lay aside their private animosities' and join them in this lawmaking confederation, for the sake of protecting their new state.

- ▶ Finally, in article 4, the chiefs were said to request that a copy of the declaration be sent to King William IV, along with a message thanking him for his acknowledgement of their flag, and asking that – in return for their protection of British subjects in New Zealand – he 'continue to be the parent of their infant State' and 'become its Protector from all attempts upon its independence'.<sup>56</sup> Busby later cast doubt on whether the request for protection was included in the original draft or added as a result of discussion with the rangatira – a matter we will consider below.

This brief text set out the key elements of Busby's plan to replace existing systems of authority with a congress of rangatira, and in so doing to extend British influence by working through the authority of rangatira. It declared authority to reside with chiefs 'in their collective capacity'. It proposed the establishment of a legislature made up of 'hereditary Chiefs and Heads of Tribes'. It also seemed to foreshadow the possibility of that legislature delegating powers to carry out 'Functions of Government'. In this, Busby seems to have seen Britain – and perhaps himself personally – as the likely recipient of these delegated powers: as we saw above, he had already asked Britain to send constables and grant him British legal authority to carry out executive functions.

### 4.3.2 Busby's account of the hui at Waitangi

On 28 October 1835, in response to Busby's invitation to discuss their response to de Thierry, 35 rangatira gathered at Busby's residence at Waitangi. According to Busby, they represented the majority of people north of the River Thames.<sup>57</sup> Many of those who had signed the 1831 petition attended, though several Hokianga rangatira could not be there, apparently because of flooding. Also present were the missionaries Henry Williams and George Clarke, and the traders James Clendon and Gilbert Mair.<sup>58</sup>

This was not the first meeting to which rangatira had been invited by Busby. Manuka Henare, in his doctoral

thesis, suggested that they would have regarded Busby's residence as a kind of 'marae' – a place where they could meet, debate and seek consensus – and Busby as a 'foreign political adviser'.<sup>59</sup> Busby reported that he gave each rangatira a blanket, and 'expressed my regret that I had no accommodation to offer him', especially as the weather was poor. He also offered pork. As with the flag hui 18 months earlier, Busby sought to deal only with those he saw as principal rangatira, and once again this led to resistance. It was, he reported, 'extremely difficult to get the Chiefs to separate themselves from their connexions, and to form themselves into anything like a regular assembly'.<sup>60</sup> Nonetheless, a debate was held, and he Whakaputanga agreed and declared.

The only known documentary evidence of what took place at this hui comes from Busby himself.<sup>61</sup> In his dispatch to Bourke on 31 October 1835, he enclosed a copy of the English-language text and gave a relatively brief account of what had been discussed. First, he addressed de Thierry's claims to land and sovereignty. The three rangatira named on the land deed (Patuone, Nene, and Muriwai) were not at the hui, but Busby had been told that de Thierry's alleged purchase was disputed.<sup>62</sup> Waikato, who had met de Thierry at Cambridge, 'indignantly denied that he had ever invited that Individual to come out and govern the Country'; nor had Waikato received any gifts, except in return for what he himself had given de Thierry.<sup>63</sup>

Busby then said that the 'Chiefs were perfectly unanimous in asserting their determination not to permit the landing of the Baron de Thierry; nor to submit to his Government'. He had also 'addressed them on the great importance of laying aside their petty jealousies, and contentions', and instead 'uniting as one man' in the defence of their country, lest any lack of unity be exploited by 'any adventurer' such as de Thierry.<sup>64</sup>

The rest of Busby's dispatch was devoted to his explanation of and justification for the declaration, 'which I drew up for the Chiefs; and which, after a considerable time spent explaining it by both the Missionaries and myself – was unanimously agreed to'.<sup>65</sup> He began by referring to

article 4, in which chiefs were said to have asked that the King become their protector against attempts on their independence.

Busby went on to assert that the Declaration

settled the basis of a Government for the Country upon the principle . . . that the powers of a Government should be vested exclusively in the Chiefs of Tribes, in their Collective capacity.

This, Busby argued, was the only basis for government that was 'at all likely to promote the improvement of the people themselves; or to afford any degree of safety and protection to British Subjects, who are settled, or may settle, among them'. So long as Māori property rights were protected, Busby said, 'I have little doubt that the Chiefs might be led to enact, and to aid by their influence and power, the enforcement of whatever Laws the British Government might determine, to be most advantageous to the Country' so long as the execution of those laws was supported by a (presumably British-led) military force.

If Britain were to establish a government backed by a military force, Busby continued, it would be 'based upon the principle of protecting a Nation in its minority, and preserving it from those evils' that British subjects might expose its 'simple Inhabitants' to. Furthermore,

no interference would be permitted with the rights of the people, individually or collectively; but what should be exercised in trust for the Country; and be more than justified by the advantages conferred.

Finally, Busby argued,

the establishment of the Independence of the Country under the protection of the British Government would be the most effectual mode of making the Country a dependency of the British Empire in everything but name.<sup>66</sup>

In other words, Busby intended the declaration not only to see off de Thierry but also to establish a legislature under British influence, which in turn would provide

a basis for Britain to establish a government backed by its own military force. By these means, the Resident hoped that Britain would be able to advance its imperial interests while also bringing what it saw as the benefits of civilisation to Māori.

In encouraging the rangatira to take these steps, Busby believed that he was acting according to his instructions and in a manner that was consistent with British interests and policy towards New Zealand, as reflected in its recognition of the New Zealand flag. He did not believe that Britain could sit by in the face of de Thierry's claim of sovereignty, but neither did he believe that Britain would want to respond by asserting its own power and taking possession of the country 'at the sacrifice of the just rights of the natives'. In any case, his dispatch suggested, such a move was not necessary since Britain could protect its interests by manipulating a congress of rangatira to enact the laws that it preferred, as we set out above.<sup>67</sup>

Busby's dispatches to Bourke said nothing about what rangatira thought of his plan for a legislature with power over all and a government to enforce its laws. Indeed, those dispatches did not even confirm that these particular matters were discussed in any detail. In other writings, however, Busby said that the plan was discussed and that rangatira expressed reservations. Specifically, in a draft letter to his patron, the Earl of Haddington, in October 1836, Busby commented that the rangatira were told of the plan but had

sagacity enough to see that any resolutions they might agree to or laws they might enact would tend nothing to the establishment of order amongst them – They rightly observed that though eleven of their number should regulate their conduct by the law if the 12th were disposed to break it, they had no resource but to let crime go unpunished or to levy war Tribe against Tribe as at present.<sup>68</sup>

Some decades later, in unpublished memoirs, Busby wrote that during the hui 'it was fully explained that each chief had relinquished his power, and the congress of Chiefs . . . would review the conduct of each Chief against whom there might be grounds of complaint', before

repeating that the rangatira did not see any way for this collective authority to be enforced.<sup>69</sup>

#### 4.3.3 How the declaration was drafted

Busby's initial dispatch to Bourke contained no detail about how the declaration was drafted, aside from his comment that he had drawn it up, and that after discussion it was unanimously adopted.<sup>70</sup> In effect, therefore, he presented the English-language text to Bourke as if it was what rangatira had assented to. That was not in fact the case. Rather, the text they debated was *he Whakaputanga* – a Māori-language translation. Both texts are set out in full on pages 168 and 169, and we will consider the differences between them in section 4.4.

In March 1836, Busby gave Bourke his account of how this translation had been made. Having completed his draft in English, Busby said, he then sent it to CMS missionary Henry Williams, asking that it be translated into Māori and that Williams and other missionaries 'offer any suggestions for its improvement which might occur to them'. No such suggestions were made, leaving Busby to conclude 'that the declaration was entirely approved by all the Missionaries who had an opportunity of examining it'.<sup>71</sup> According to Dr Don Loveridge, the inference to be drawn from this account was that both the English-language and Māori-language texts had been drafted before rangatira met with Busby on 28 October 1835.<sup>72</sup>

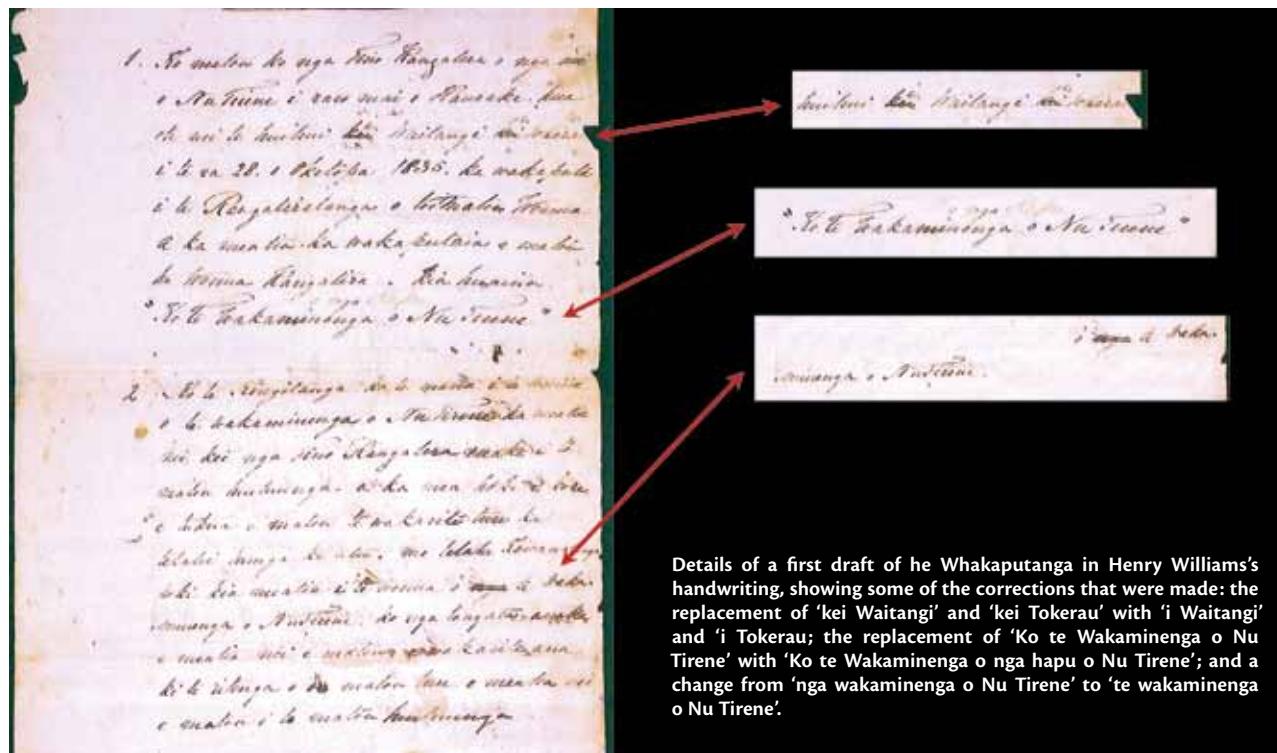
Some of the claimants took issue with this interpretation, arguing that it unfairly minimised Māori agency in the creation of *he Whakaputanga*. First, they said, it diminished the role played by Eruera Pare, a young relative of Hongi's, who was described in the signed text of *he Whakaputanga* as 'te kai tuhuhu' (the scribe).<sup>73</sup> According to Dr Phil Parkinson, this description simply meant that Pare wrote out a fresh copy of the text that Williams had translated so as to disguise the fact that this declaration of rangatira independence was a British initiative.<sup>74</sup> This is consistent with Busby's accounts: the Resident did not mention Pare at all in his dispatches around the time of the signing, but five years later was reported in a Sydney newspaper as saying that the declaration was 'in the hand writing of the son of a chief'.<sup>75</sup> Dr Patu Hohepa and Erima



Eruera Pare, 'te kai tuhuhu' (the scribe) of *he Whakaputanga*

Henare both argued that Pare's role was much more significant, as did Manuka Henare. According to them, Pare not only wrote out the Māori text but also had a significant influence on its phrasing and the concepts it expressed.<sup>76</sup> The evidence, Hohepa said, could be seen in the quality of its language and expression, which were 'formal Ngapuhi idiolect'.<sup>77</sup> He said that, although the idea and the first draft began with Busby, 'Nā Eruera Pare-hongi i tuhi, He Whakapūtanga' ('Eruera Pare-hongi wrote "He Whakapūtanga"').<sup>78</sup>

Several claimants also emphasised the broader context in which *he Whakaputanga* was created. Even if the declaration was Busby's idea, they suggested, their tūpuna agreed to it only because it was consistent with their longer-term aspirations for their relationship with Britain and the British. Nuki Aldridge, for example, referred to the declaration as being suggested by Busby but adopted by rangatira for their own purposes.<sup>79</sup> Hohepa said: 'Nā



Details of a first draft of he Whakaputanga in Henry Williams's handwriting, showing some of the corrections that were made: the replacement of 'kei Waitangi' and 'kei Tokerau' with 'i Waitangi' and 'i Tokerau'; the replacement of 'Ko te Wakaminenga o Nu Tirene' with 'Ko te Wakaminenga o ngā hapu o Nu Tirene'; and a change from 'ngā wakaminenga o Nu Tirene' to 'te wakaminenga o Nu Tirene'.

Ngāpuhi anō Ngāpuhi i whakatika koia Ngāpuhi e ū tonu nei ki te mana o Te Whakaputanga, i te mea he mea waituhi i runga i te whakaaro i totō ake i pūpu ake i te hinengaro ō tēnā kaumatua ō tēnā rangatira, o tēnā rangatira' ('It was Ngāpuhi themselves who set their destiny. Ngāpuhi still cleaves unto the mana of Te Whakaputanga, because it was constructed from the thoughts and intellect of each and every chief').<sup>80</sup> Erima Henare said that the declaration had arisen from a long-term process aimed at unifying Bay of Islands hapū and establishing 'some form of governance' – a process we will discuss further in section 4.4. If Busby were to be credited with the declaration, Henare said,

then it needs to be noted that the thought and essence behind it belongs to the ancestors of the descendants who sit here

today. Not the pakeha. That is new to Ngāpuhi. That is why most of Ngāpuhi cling to He Whakaputanga. [It was] A thought that blossomed from the brains of Maori.<sup>81</sup>

Other witnesses also gave reasons to question the view of the declaration as entirely the creation of Busby and Williams. Loveridge referred to a claim made by Busby in 1837, that, when Māori requested that the King act as a parent to the 'infant State' and protect it from attempts on its independence, 'The sentiment and the language were their own.'<sup>82</sup> This, Loveridge suggested, was difficult to reconcile with Busby's earlier comments describing the declaration as one that he had drafted and the missionaries had translated.<sup>83</sup> Samuel Carpenter, however, suggested that Busby's claim – made 20 months after he Whakaputanga was declared – was a 'self-serving' attempt to justify

greater British intervention, at a time when he was lobbying for that to occur.<sup>84</sup>

Carpenter also noted that the English text that Busby sent to Britain bore a note from him to the effect that it is a ‘correct copy of the Declaration of the Chiefs, according to the translation of Missionaries who have resided ten years and upwards in the country’.<sup>85</sup> This, Carpenter said, ‘implies that missionaries translated the final signed Māori text into English’ rather than the other way around.<sup>86</sup> Parkinson, however, argued that Busby was simply trying to disguise his own involvement in the declaration.<sup>87</sup>

Parkinson also provided us with another, little-known text of he Whakaputanga which is held in the collections of Archives New Zealand.<sup>88</sup> According to Parkinson – an expert on archival documents – this text was in Henry Williams’s hand, with a final paragraph in Busby’s script giving the date of the declaration and noting that it was signed in his presence.<sup>89</sup> The wording of the Williams text is almost identical to that of Pare’s, which was signed by the rangatira. There are some differences of wording or formatting, but most are minor.<sup>90</sup> The draft contains a number of corrections in which words have been either deleted or inserted, and these corrections are reflected in Pare’s final text.<sup>91</sup> These corrections appear to us to also be in Williams’s hand.

Parkinson considered whether the Williams text could have been a copy made after the hui for printing purposes but concluded that it was not.<sup>92</sup> Rather, both he and Manuka Henare saw it as a first draft.<sup>93</sup> In Parkinson’s view, this was convincing evidence for Busby’s explanation that he drafted the declaration and Williams then translated it prior to the hui, with Pare then making an identical copy.<sup>94</sup> To Henare, on the other hand, the corrections in Williams’s draft were evidence that changes were made as a result of discussion at the hui. He saw particular significance in one of the corrections, which we will discuss later.<sup>95</sup> Henare argued that during the hui itself Busby’s draft would have been read out in te reo Māori, ‘and then opened for comment and debate’. After amendment, the text would have been read again and further debated until rangatira agreed.<sup>96</sup>

### 4.3.4 The adoption of he Whakaputanga

Busby reported that the rangatira present unanimously assented to the declaration.<sup>97</sup> Following debate, 34 rangatira came forward and showed their agreement by adding their moko, signatures, or marks beside their names.<sup>98</sup> The names of those who signed are shown in the table over, as are their tribal affiliations as recorded on printed copies of the declaration. We have retained the spellings used in the signed document. We have also marked those who signed the 1831 petition with a ‘P’ and those who are known to have been present at the 1834 flag hui with an ‘F’.<sup>99</sup>

The signatures were witnessed by the missionaries Williams and Clarke and the traders Clendon and Mair. Parkinson speculated that Busby deliberately kept his name off the document as part of his attempt to ‘disguise the fact that it was his work’, instead ‘prevailing on’ Clendon and Mair to act as witnesses.<sup>100</sup> Jack Lee made the same point in more generous terms: ‘Busby himself, as a public servant, discreetly refrained from signing’.<sup>101</sup>

### 4.3.5 Further signatures

A codicil was subsequently added to he Whakaputanga, which read:

Ko mātou, ko ngā Rangatira, ahakoa kihai i tae ki te huihuina nei, no te nuinga o te Waipuke, no te aha rānei, ka wakaae katoa ki te wakaputanga Rangatiratanga o Nu Tireni, a ka uru ki roto ki te wakaminenga.<sup>102</sup>

Manuka Henare, in his thesis, provided the following translation:

We, the rangatira, although not able to attend the great gathering (huihuina), because of floods and for what ever other reasons, we all fully support (wakaae) the declaration of authority (independence) over Nu Tireni, and we now enter into the sacred confederation (wakaminenga).<sup>103</sup>

Beneath this codicil, a further 18 moko or signatures were added during the next three and a half years.<sup>104</sup> Of these, only the first six appeared in the versions of the

Signatory	Tribal affiliation	Signatory	Tribal affiliation
Ko te Paerata	no te Patu Koraha	Ko Kawiti	no Ngati Hine
Ko Ururoa	no te Taha Wai	Ko Pumuka	no te Roroa
Ko Hare Hongi		Ko te Kekeao <sup>P</sup>	no Ngati Matakitiri
Ko Hemi Kepa Tupe	no te Uri Putete	Ko te Kamara	no Ngati Kawa
Ko te Warepoaka	no te Hikutu	Ko Pomare <sup>F</sup>	no Ngati Manu
Ko Titore <sup>P</sup>	no Ngati Nanenane	Ko Wiwia	no te Kapo Tai
Ko Moka	no te Patu Heka	Ko te Tao	no te Kai Mata
Ko te Warerahi <sup>P</sup>		Ko Marupō	no te Wanau Rara
Ko Rewa <sup>P</sup>		Ko te Kopiri	no te Uri Taniwa
Ko Wai	no Ngaitawake	Ko Warau	no te Wanau Horo
Ko te Reweti Atua Haere <sup>P</sup>	no Ngati Tau Tahī	Ko te Ngere	no te Uri Kapana
Ko te Awa		Ko Moetara <sup>P+F</sup>	no Ngati Korokoro
Ko Wiremu Taunui	no te Wiu	Ko te Hiamoe	no te Uri o Ngonga
Ko Tenana	no Ngati Kuta	Ko Tamati Pukututu	no te Uri o te Hawato
Ko Pi	no te Mahurehure	Ko Hoane Wiremu Heke <sup>F</sup>	
Ko Kaua	no te Herepaka	Ko Te Peha	
Ko Waikato <sup>F</sup>		Eruera Pare te kai tuhituhi	
Ko Tareha	no Ngati Rehia		

<sup>P</sup> Signed the 1831 petition<sup>F</sup> Present at the 1834 flag hui

### Signatories to he Whakaputanga

declaration that were printed in 1836 and 1837. It seems unlikely that all six signatories were affected by floods, as they were from different locations.<sup>105</sup>

It is not possible to determine the exact dates on which all rangatira signed. According to Busby, Nene arrived at Waitangi the day after he Whakaputanga was signed, so it seems reasonable to conclude that he signed then.<sup>106</sup> Two others (probably Huhu and Toua) apparently signed before 4 November.<sup>107</sup> This would leave the Te Rarawa leader Panakareao signing sometime after that date but before Kiwikiwi (Ngāti Manu) signed on 18 January 1836. We cannot be sure when Tāwhai, Mate, and Patuone signed, except that it was between 29 March 1836 and 25 June 1837. Mahia signed between 12 July 1837 and 16 January 1838.

He Whakaputanga was remarkable for the range of leaders it brought together. Both the northern and

southern alliances were represented, along with leaders from Hokianga, Te Rarawa, and Ngāre Raumati (although te Uri o te Aho leader Pororua was a notable absentee).<sup>108</sup> Most of the rangatira who had signed the 1831 petition were represented.<sup>109</sup> The vast majority of initial signatories were from Bay of Islands and Hokianga territories (including the interior), or were Bay of Islands leaders who had taken possession of Whangaroa territories in the 1820s, so the claim to represent all areas ‘i raro mai o Hauraki’ may have initially been an exaggeration.<sup>110</sup> However, the later signatures extended its reach further. Huhu, Tona, and Panakareao and Te Morenga signed on behalf of Te Rarawa. Mahia signed for Te Aupōuri. Nene, Patuone, Taonui, Tāwhai, and Pita-Matangi were from Hokianga. Parore and Tirarau both had Ngāti Whātua affiliations; Parore had lived at Waipoua from the late 1820s, and Tirarau lived at Tangiteroria, between

Year	Date	Signatory	Tribal affiliation	
1836	18 January 9 February 29 March	Nene <sup>P</sup>		
		Huhu		
		Tona		
	Haimona Pita-Matangi <sup>P</sup>	Panakareao		
		Kiwi Kiwi <sup>F</sup>	No te popoto	
		Tirarau	No te Mahurehure	
		Tawai	No na te Moe	
		Mate	no te nga te rangi	
		Patuone <sup>P</sup>	no te nga tiapa	
		Parore	no nga te tau tahi	
1837	25 June	Kaha	no te Rarawa	
	25 June	Ko Timorenga <sup>1</sup>	no te Hapouri	
	12 July	Mahia	no te popoto	
	16 January 24 September 25 September	Taonui <sup>P</sup>	no te Rarawa	
1838		Papahia	no te Watu apiti (Hawke's Bay)	
		Hapuku	na ko ngati mahu ta ko kahawai te kai tuhituhi <sup>2</sup>	
1839	22 July	Ko te werowero		

<sup>P</sup> Signed the 1831 petition<sup>F</sup> Present at the 1834 flag hui

#### Signatories added below the codicil to he Whakaputanga

the Whangārei and Kaipara Harbours.<sup>111</sup> The last two signatories, of Te Hapuku and a kaituhuhi representing Te Wherowhero, extended the reach of he Whakaputanga further south (we will discuss them further in section 4.8.4). As Dame Claudia Orange put it, ‘most major northern chiefs . . . Christian and non-Christian, friend and enemy, were brought together in one cause. This was no mean achievement.’<sup>112</sup>

#### 4.3.6 Tribunal views on the making of he Whakaputanga

The documentary and oral evidence we received about the creation of he Whakaputanga had limitations. Very little was recorded by anyone other than Busby, who was writing to his Colonial Office superiors and his patron. Not only was his record incomplete, but it undoubtedly was coloured by his preconceptions about both British and Māori interests. While the written record provides some

insight, it cannot give definitive answers on some matters. Similarly, it does not appear that any detailed, consistent oral record of the debate has survived, which is perhaps surprising given the importance of he Whakaputanga to the claimants. In spite of these limitations, we think it is possible to draw some conclusions.

We can be sure that Busby called the hui. Although there is some debate about his general motivations (which we will return to later), it is clear that the immediate catalyst was de Thierry’s letter. The Resident was, in other words, responding to a perceived foreign threat with the potential to interfere with both Māori and British interests. We also see no reason to doubt Busby’s assertion that he wrote the first draft in English. In this respect, it is notable that he had more or less exactly predicted the content in his dispatch to Bourke two and a half weeks before the hui.

**He Whakaputanga o te Rangatiratanga o Nu Tireni**

1. Ko matou ko nga Tino Rangatira o nga iwi o Nu Tireni i raro mai o Hauraki kua oti nei te huihui i Waitangi i Tokerau 28 o Oketopa 1835. ka wakaputa i te Rangatiratanga o to matou wenua a ka meatia ka wakaputaia e matou he Wenua Rangatira. kia huaina 'Ko te Wakaminenga o nga Hapu o Nu Tireni'.
2. Ko te Kingitanga ko te mana i te wenua o te wakaminenga o Nu Tireni ka meatia nei kei nga Tino Rangatira anake i to matou huihuinga. a ka mea hoki e kore e tukua e matou te wakarite ture ki te tahi hunga ke atu, me te tahi Kawanatanga hoki kia meatia i te wenua o te wakaminenga o Nu Tireni. ko nga tangata anake e meatia nei e matou e wakarite ana ki te ritenga o o matou ture e meatia nei e matou i to matou huihuinga.
3. Ko matou ko nga Tino Rangatira ke mea nei kia huihui ki te runanga ki Waitangi a te Ngahuru i tenei tau i tenei tau ki te wakarite ture kia tika ai te wakawakanga kia mau pu te rongo kia mutu te he kia tika te hokohoko. a ka mea hoki ki nga Tauwi o runga kia wakarerea te wawai. kia mahara ai ki te wakaoranga o to matou wenua. a kia uru ratou ki te wakaminenga o Nu Tireni.
4. Ka mea matou kia tuhituhia he pukapuka ki te ritenga o tenei o to matou wakaputanga nei ki te Kingi o Ingarani hei kawe atu i to matou aroha. nana hoki i wakaae ki te Kara mo matou. a no te mea ka atawai matou, ka tiaki i nga pakeha e noho nei i uta e rere mai ana ki te hokohoko, koia ka mea ai matou ki te Kingi kia waiho hei matua ki a matou i to matou Tamarikitanga kei wakakahoretia to matou Rangatiratanga.

Kua wakaetia katoatia e matou i tenei ra i te 28 o opketopa 1835 ki te aroaro o te Reireneti o te Kingi o Ingarani.<sup>1</sup>

Henry Williams was the principal translator. The draft in his handwriting is clear evidence of this, and also lends weight to Busby's assertion that the translation was completed before the 28 October hui. Although Busby was later to say that some of the language in article 4 was the work of the rangatira, that is not consistent with the existence of the draft showing that article in Williams's handwriting. Furthermore, in that 1837 dispatch Busby had an agenda: to persuade Britain to establish a protectorate government in New Zealand. That dispatch also quoted article 4 selectively, apparently in support of Busby's protectorate aims, as will become clear below.

Even if Williams was the principal translator, however, we do not know whether the translation and the corrections were solely his work, nor whether he was advised or

assisted by Pare, or indeed by other missionaries. We also do not know when or how the corrections were made. It is possible that they were made during the hui, as a result of debate. Most of the changes were not substantial, but at least one of them was (see section 4.3.3). In summary, he Whakaputanga was most likely what Busby's initial dispatches implied: a missionary translation of an English text, which Pare then copied out.

That does not diminish its significance as a declaration of the mana of northern leaders. The rangatira who assented to it were not mere passive recipients of a declaration conceived and created by agents of Britain. Rather, they debated it fully, and then agreed to it willingly and for their own purposes. Having been told that an armed foreigner was about to come and usurp both their lands

## Declaration of the Independence of New Zealand

1. We, the hereditary chiefs and heads of the tribes of the Northern parts of New Zealand, being assembled at Waitangi, in the Bay of Islands, on this 28th day of October, 1835, declare the Independence of our country, which is hereby constituted and declared to be an Independent State, under the designation of The United Tribes of New Zealand.

2. All sovereign power and authority within the territories of the United Tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity, who also declare that they will not permit any legislative authority separate from themselves in their collective capacity to exist, nor any function of government to be exercised within the said territories, unless by persons appointed by them, and acting under the authority of laws regularly enacted by them in Congress assembled.

3. The hereditary chiefs and heads of tribes agree to meet in Congress at Waitangi, in the autumn of each year, for the purpose of framing laws for the dispensation of justice, the preservation of peace and good order, and the regulation of trade; and they cordially invite the Southern tribes to lay aside their private animosities, and to consult the safety and welfare of our common country by joining the Confederation of the United Tribes.

4. They also agree to send a copy of this Declaration to His Majesty the King of England, to thank him for his acknowledgement of their flag; and in return for the friendship and protection they have shown, and are prepared to show, to such of his subjects as have settled in their country, or resorted to its shores for the purposes of trade, they entreat that he will continue to be the parent of their infant State, and that he will become its Protector from all attempts upon its independence.

Agreed to unanimously on this 28th day of October, 1835, in the presence of His Britannic Majesty's Resident.

(Here follow the signatures or marks of thirty-five Hereditary chiefs or Heads of tribes, which form a fair representation of the tribes of New Zealand from the North Cape to the latitude of the River Thames.)

English witnesses:

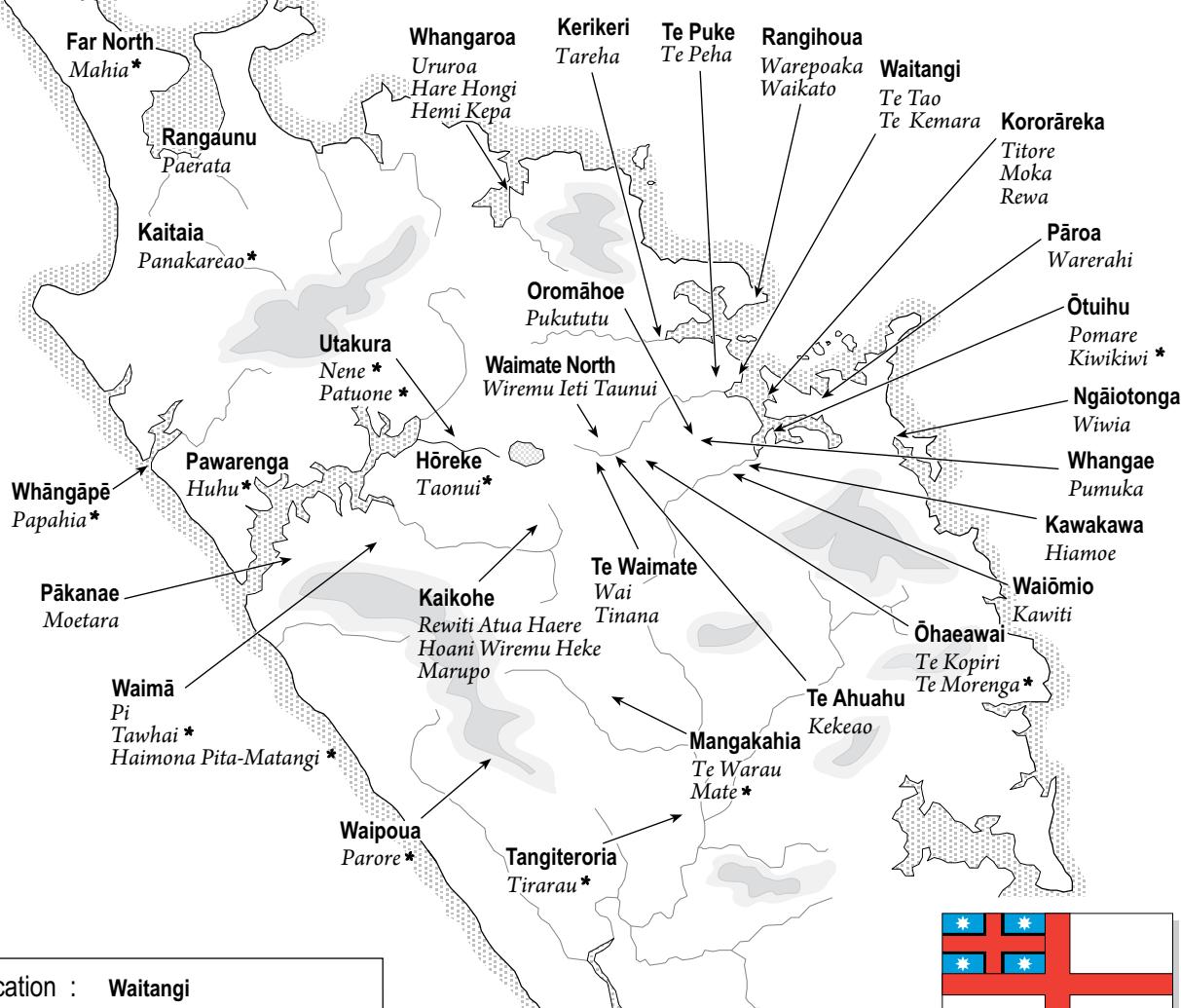
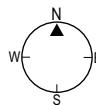
(Signed)      Henry Williams, Missionary, CMS.  
                  George Clarke, CMS.  
                  James C Clendon, Merchant.  
                  Gilbert Mair, Merchant.

I certify that the above is a correct copy of the Declaration of the Chiefs, according to the translation of Missionaries who have resided ten years and upwards in the country; and it is transmitted to His Most Gracious Majesty the King of England, at the unanimous request of the chiefs.

(Signed)      JAMES BUSBY, British Resident at New Zealand.<sup>1</sup>

Waitangi Tribunal, Sep2014, NHarris

0 40 km  
0 20 miles



Principal residences of he Whakaputanga signatories as at the time they signed.

and their mana, they took Busby's advice as the representative of King William – just as they had 18 months earlier when they selected a flag. Everything we have heard about the circumstances in which he Whakaputanga was produced persuades us of this. Just as Busby had his own reasons for seeking an opportunity to establish British-style government and law, including his beliefs about what was good for Māori and for Britain, so were rangatira seeking opportunities to further their alliance with Britain and so to protect and enhance their mana. For both sides, de Thierry's fanciful ambitions provided the direct catalyst for pre-existing aspirations and developments to be formalised and declared.

## 4.4 MANA, RANGATIRATANGA, LAW, AND ALLIANCE: THE DECLARATION'S FOUR ARTICLES

Having considered how the declaration was created, we now turn to the four articles and their meanings, considering each of them in turn. We will consider the declaration's overall meaning and significance in later sections.

### 4.4.1 Interpreting the texts

#### (1) Which text was authoritative?

We heard many views about the language used in the declaration, and about the differences between the Māori and English texts. Claimants saw he Whakaputanga and the Declaration of Independence as separate texts, with different meanings, which therefore 'cannot be used interchangeably'. Many said it was he Whakaputanga – not the Declaration of Independence – that their tūpuna debated and signed, and that he Whakaputanga should therefore be recognised as the authoritative text.<sup>113</sup>

Manuka Henare, in his thesis, said the English text was not even an accurate translation but 'an explanation of what Busby and the missionary translator hoped the rangatira were intending and doing'.<sup>114</sup> In his view, therefore, he Whakaputanga was the only version of the declaration:

Convention suggests it is a two-language declaration. It is not. It is a one-language proclamation in Māori language only

to which Māori signatories have signed as have a small number of English witnesses.<sup>115</sup>

Henare also gave another reason for regarding he Whakaputanga as authoritative. In an oral culture, he said, the written text would have mattered less than the spoken word. The rangatira would have seen the text merely 'as a way of concluding substantive agreements reached orally'. In the absence of any authoritative record, he argued, the best evidence of what was discussed is contained in the Māori text, which would have been read out during the debate.<sup>116</sup>

#### (2) Language and world view

The claimants also gave evidence about the idiom and phrasing used in he Whakaputanga. Hohepa, as noted earlier, said that the text used 'formal Ngāpuhi idiolect, or *Te Reo Tohunga o Te Mita o Te Reo o Ngāpuhi'*'.<sup>117</sup> Nuki Aldridge said, 'He Wakaputanga is more like something written by a Maori person, which is shown, for example, by the use of concepts from the marama taka such as *ngahuru*'.<sup>118</sup> Hōne Sadler shared this view, saying, 'He Whakaputanga was written by someone with some fluency in te reo o Ngāpuhi'.<sup>119</sup>

In a 2004 essay, the Māori studies scholar Professor Margaret Mutu expressed a contrary view, arguing that the language in he Whakaputanga was 'awkward' and poorly crafted, reflecting (in her view) Henry Williams's limits as a translator and the difficulties of conveying western legal concepts in a language to which those concepts were foreign. Whereas Hohepa and Manuka Henare saw Pare's influence in the text, she believed that Henry Williams was the translator.<sup>120</sup>

Others pointed out the use of mihiare Māori (missionary Māori) expressions, particularly in respect of what one claimant counsel described as its 'vocabulary of power'.<sup>121</sup> According to Bishop Waiohau Te Haara, the Bible provided a 'meeting point' between the worlds of Māori and British, and he and many other witnesses turned to theological texts for clues about what Williams and rangatira intended.<sup>122</sup> Aldridge, however, warned that many words and concepts could not be translated directly:

I could only attempt an analysis in the English language if the two languages had something in common. But where is the common ground? In my own understanding, there is none. Some of the words in He Wakaputanga are derived from English, such as 'Kingitanga', but most are He Kupu Maori. There are no cultural links between Maori and the Indo-European languages. You can't translate them directly.<sup>123</sup>

Other claimants also emphasised the importance of understanding he Whakaputanga in its historical and cultural context, and particularly in terms of Māori cosmology.<sup>124</sup> John Klaricich spoke of feeling 'sympathy, aroha' for the translators, given the difficulties they faced in attempting to bridge the 'immense' gulf between Māori and British world views.<sup>125</sup>

### (3) *The meanings of specific words and phrases*

We heard detailed evidence from several witnesses about the meanings of specific phrases in the texts. In table 1, we set out in full the modern-day back-translations (translations of the Māori text back into English) of he Whakaputanga provided to the Tribunal by Hohepa, Aldridge, and Manuka Henare, as well as Mutu's back-translation from her 2004 essay. Henare's version, which he described as 'semantic-historical', was originally produced for his thesis.<sup>126</sup> Hohepa, a linguist, is a former professor of Māori studies, and a former Māori Language Commissioner; he described his translation as 'stilted, but as exact and as literal as the English language would allow'.<sup>127</sup> Others to provide detailed explanations of the text included the claimant Wharetatao King,<sup>128</sup> Parkinson, and Carpenter. Neither Carpenter nor Parkinson claimed to be fluent in te reo Māori, though both offered expertise in the analysis of documentary evidence relating to Māori-language texts.<sup>129</sup>

The claimants submitted that they alone should be acknowledged as the experts in interpreting he Whakaputanga.<sup>130</sup> Some claimant counsel said that we should rely on back-translations by 'claimant witnesses with specialist te reo knowledge', while giving less weight to those non-claimant witnesses who lacked specialist knowledge in te reo Māori or tikanga and who had instead formed

their views based on English texts.<sup>131</sup> Counsel for Rima Edwards and other claimants submitted that 'Ngapuhi are the experts on the Maori understanding of He Whakaputanga'.<sup>132</sup>

As noted earlier, Crown counsel in their closing submissions referred to 'He Whakaputanga / the Declaration', implying that they saw the declaration as a single document in two languages. Counsel argued that the 'evidence of the claimants is that the translation into Māori was a good one' and (notwithstanding the claimant evidence about the role of Pare) expressed the view that this demonstrated Henry Williams's skills as a translator. Counsel did note, however, that Britain's understanding of the declaration in 1835 would have been based on the English-language text.<sup>133</sup>

### 4.4.2 Article 1 – 'wenua rangatira' and 'te Wakaminenga'

The first article of he Whakaputanga was a declaration by signatory rangatira of their 'rangatiratanga' in respect of their territories, and a declaration of the status of those territories as 'wenua rangatira'. It also referred to their gathering as 'Ko te Wakaminenga o nga Hapu o Nu Tireni'. In the English text, the article declared the unification of the tribes to establish an independent state under the name 'United Tribes of New Zealand'.

#### (1) 'Rangatiratanga' and 'wenua rangatira'

Where 'rangatiratanga' and 'wenua rangatira' were used in he Whakaputanga, the Declaration of Independence used the terms 'independence' and 'independent state'. Claimants, however, favoured back-translations that emphasised authority, or absolute or sovereign power, as distinct from independence. Wharetatao King, for example, said 'rangatiratanga o to matou ake wenua' referred to 'sovereignty of our hapu regions'.<sup>134</sup>

Several claimants also gave evidence about the term 'wenua rangatira', suggesting that it was far from a direct translation of 'independent state', and contained nuances that could not easily be explained in English. The most detailed explanation was provided by Klaricich, who described 'wenua rangatira' as being 'about belonging, about land at peace explicit in practice of custom, uniquely



Ngāti Hine and southern alliance leader Kawiti, also known as Te Ruki (the Duke), who signed he Whakaputanga

Maori'.<sup>135</sup> Klaricich also emphasised that 'wenua' referred not to territory or land as a possession but to its nurturing and sustaining qualities.<sup>136</sup> 'Wenua rangatira' also encompassed rangatira authority over their lands, consistent with customary law and their leadership responsibilities – which, in the 1830s, led rangatira to work with others, pursuing both commerce and peace in the interests of the wellbeing and mana of their hapū.<sup>137</sup> Aldridge, similarly, said 'wenua rangatira' in this context was principally a declaration that the land was 'in a state of peace' – in

other words, without diminishing tribal authority, rangatira were declaring that others could have peaceful access to their lands.<sup>138</sup> Other claimants also emphasised this interplay of belonging, nurturing, chiefly responsibilities, mana, and peace.<sup>139</sup>

Some witnesses turned to mihinare Māori for clues as to the meanings of these phrases in the 1830s. Bishop Te Haara referred to the term 'rangatiratanga' in Māori translations of the Bible where it was typically used as a synonym for 'ruler', and in an 1830s translation of the Lord's Prayer where it was used for 'kingdom' (as in 'thy kingdom come').<sup>140</sup> Carpenter argued that 'rangatiratanga' in mihinare Māori also implied 'freedom', and in this context may have referred to freedom or liberty from foreign threat. He translated 'wenua rangatira' as 'a Chief(ly) Land' or 'a Free Country'.<sup>141</sup>

Here, we have considered only evidence relating to he Whakaputanga or to the meaning of 'rangatiratanga' in 1835. In later chapters, we will consider the meaning of 'rangatiratanga' in the context of te Tiriti.

## (2) *Ko te Wakaminenga o nga Hapu o Nu Tireni'*

The final part of article 1 referred to 'Ko te Wakaminenga o nga Hapu o Nu Tireni'. In the English text, the term used was: 'the United Tribes of New Zealand', which was described as the designation of an independent state. The claimant back-translations placed a different emphasis on this phrase, describing 'te Wakaminenga' as a gathering, assembly, or confederation of hapū, rather than unification.<sup>142</sup>

We heard little more from claimants or the Crown about the translation. We heard a great deal, however, about what was meant by the term 'te Wakaminenga'. Aldridge noted that the phrase 'Ko te Wakaminenga o nga Hapu o Nu Tireni' was underlined in the original text, and to him that 'highlighted that this organisation already existed' prior to 1835, although 'No-one has talked about that in history'.<sup>143</sup> As he explained it,

Te Wakaminenga was the gathering together of the rangatira, in response to the changes that the rangatira had seen occurring with the arrival of Europeans. The purpose of Te

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**Patu Hohepa**

[1.] We the very – absolute – highest level – chiefs of the tribes of New Zealand north of Hauraki who have been assembled here at Waitangi (Busby's residence is where the name originated), at Tokerau (the tidal channel close to the foreshore beneath Busby's residence) on the 28th day of October, 1835, declare the Sovereign state of our land and state that a Sovereign Land will be declared by us, to be named Te Wakaminenga a Nga Hapu a Nu Tireni – The Assembly of Hapu of New Zealand.

[2.] The Kingdom, the mana within the land of Te Wakaminenga a Nu Tireni is declared here to be solely and entirely of and with the very – absolute – highest level chiefs of and at our gathering, and we also declare that we will not permit any other person / grouping, and also any other Governing Entity to be empowered within the land of Te Wakaminenga a Nu Tireni, only person chosen by us, in terms of our laws enacted by us in our gathering together.

[3.] We the very absolute highest level chiefs agree to formally meet at Waitangi in the autumn of each year to frame laws to dispense justice that is right, that sustains or to sustain true and proper peace, to end wrongdoing, to ensure true and proper trading and furthermore, to inform strangers from the south (or above) to abandon warfare, and also, to recall the resurrection of our (not your) land, and that they join Te Whakaminenga o Nu Tireni United Aotearoa.

[4.] We state that a report be written concerning the charter of this our declaration to the King of England, to convey our aroha because he agreed to the Flag for us. And furthermore, because we care for and look after the white people living ashore, sailing here to trade, is the reason we say that the King be left as a parent figure to (not for) us during our Childhood or formative period in case our Sovereignty is negated.<sup>1</sup>

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**Nuki Aldridge**

[1] We are the Hereditary Chiefs (Rangatira) of the Maori nation of New Zealand North of Hauraki having passed a resolution in Assembled Congress at Waitangi–Tokerau 28th October 1835 thereat proclaiming Sovereign Authority over all our land and thereafter we proclaimed that estate be in a state of peace to be named 'The General Assembly of the Tribes of New Zealand'.

[2] That sovereignty . . . the authority of the lands of the general assembly of New Zealand . . . will reside solely with the hereditary chiefs (rangatira) resolved in Assembled Congress. Thereafter be it also resolved never to let the creation of any legislation (laws) by foreigners nor any other government be established on any estate of the General Assembly of New Zealand but only persons elected / nominated by us and who are fully conversant with the custom and practice of our tikanga. These we have resolved in Assembled Congress.

[3] We the hereditary chiefs (Rangatira) collectively agree to meet in judicial congress at Waitangi in the autumn of each year to create laws for the administration of justice, peace and security, the end to lawlessness, and fair trade and commerce. An invitation is offered to all Southern Tribes to leave aside all disputes to bear in mind a state of wellbeing now exists over our estate so as they can become part of the general assembly of New Zealand.

[4] We collectively agree that a document be written of the circumstance of this our emergent sovereign nation to the King of England to offer our sincere thanks for his recognition of our sovereign colours (ie, the flag) and that we will foster and watch over Pakeha (ie, a statement on immigration perhaps including both protection and the exercise of law and order) those that settle on our shores and those who come to trade conversely, we ask that the King remain as guardian to us in our developing Statehood against all who wish to deny us our Sovereign Authority.<sup>2</sup>

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Modern-day back-translations of he Whakaputanga

**Manuka Henare**

[1.] We, the absolute leaders of the tribes (*iwi*) of New Zealand (*Nu Tirenī*) to the north of Hauraki (Thames) having assembled in the Bay of Islands (*Tokerau*) on 28th October 1835. [We] declare the authority and leadership of our country and say and declare them to be prosperous economy and chiefly country (*Wenua Rangatira*) under the title of 'Te Wakaminenga o ngā Hapū o Nu Tirenī' (The sacred Confederation of Tribes of New Zealand).

[2.] The sovereignty/kingship (*Kīngitanga*) and the mana from the land of the Confederation of New Zealand are here declared to belong solely to the true leaders (*Tino Rangatira*) of our gathering, and we also declare that we will not allow (*tukua*) any other group to frame laws (*wakarite ture*), nor any Governorship (*Kawanatanga*) to be established in the lands of the Confederation, unless (by persons) appointed by us to carry out (*wakarite*) the laws (*ture*) we have enacted in our assembly (*huihuinga*).

[3.] We, the true leaders have agreed to meet in a formal gathering (*rūnanga*) at Waitangi in the autumn (*Ngahuru*) of each year to enact laws (*wakarite ture*) that justice may be done (*kia tika ai te wakawakanga*), so that peace may prevail and wrong-doing cease and trade (*hokohoko*) be fair. [We] invite the southern tribes to set aside their animosities, consider the well-being of our land and enter into the sacred Confederation of New Zealand.

[4.] We agree that a copy of our declaration should be written and sent to the King of England to express our appreciation (*aroha*) for this approval of our flag. And because we are showing friendship and care for the Pākehā who live on our shores, who have come here to trade (*hokohoko*), we ask the King to remain as a protector (*matua*) for us in our inexperienced statehood (*tamarikitanga*), lest our authority and leadership be ended (*kei whakakahoretia tō mātou Rangatiratanga*).<sup>3</sup>

**Margaret Mutu**

[1.] We, the paramount chiefs of the tribes of New Zealand north of Hauraki met at Waitangi in the North on 28 October 1835 and declared the paramount authority over our land and it is said we declare a state of peacefulness/the land is uncontested/the land is at peace/some land dedicated for this occasion which is to be called The Gathering/Confederation of the Tribal Groups of New Zealand.

[2.] The kingly authority is the ultimate power, authority and control of the land of the Confederation of New Zealand and is said here to lie only with the paramount chiefs at our meeting and we also say that we will never give over law-making power to any other persons or any other governing body to be spoken of in respect the land of the Confederation. The only people who we have said are authorised to set down our laws we have been speaking of at our meeting.

[3.] We the paramount chiefs say here that we will meet at the council at Waitangi in the autumn of each year to set down laws so that judgement will be correct, that peace will prevail, that wrong-doing will end, that trading will be conducted properly and correctly, and we also say to the foreigners of the south to abandon fighting so that they can give thought to saving our land and so that they can join the Confederation of New Zealand.

[4.] We said that a document / letter is to [be] written concerning the compilation of this Declaration of ours to the King of England to convey our warm acknowledgement that he has agreed with the flag for us. And because we look after and protect the Europeans living ashore here who come here to trade, so therefore do we say to the King that he leave a mentor for us in our 'childhood' (ie, as we are learning their ways), lest our paramount authority be denied.<sup>4</sup>

Wakaminenga was for Maori to control their own changes in the ‘new world’.<sup>144</sup>

Aldridge did not give a specific source for his kōrero about Te Whakaminenga, but referred to elders at various times and places giving him ‘their oral history’ which they expected him to ‘transfer on . . . into the future’. In particular, he referred to elders of Whangaroa, which he returned to as an adult after growing up and spending much of his life in Auckland.<sup>145</sup> According to Aldridge, these gatherings had begun after Te Pahi’s return from his second visit to Sydney (see chapter 3), when he sought to bring hapū together, having recognised that separately they could not survive increased European settlement. An initial meeting was held at Te Ngaere (Whangaroa) in 1808. Soon afterwards, Aldridge said, a second gathering was called at Motueka (Flat Island, also Whangaroa), where rangatira ‘pledged their hapu to be part of Te Wakaminenga, and it became tapu as far as they were concerned’. From then on, many more gatherings were held in various places including Mangaiti, Pupuke (both also Whangaroa) and Waitangi. It was not clear from Aldridge’s evidence whether, in his view, the term ‘Te Whakaminenga’ came into use as early as 1808, or whether the gatherings began then and the name came later.<sup>146</sup>

Aldridge referred to Te Whakaminenga as ‘an assembly’ which was ‘more formal than a huihungā’. He also referred to it as a ‘governing organisation’, and said it represented a ‘coming together of the tribes’. Nonetheless, it did not diminish hapū autonomy. Rather, through Te Whakaminenga, hapū worked together in alliance to protect and reinforce their autonomy.<sup>147</sup> As part of this process, Aldridge said, hapū ‘swore an allegiance . . . that all the tribes would protect each other from having their mana trampled on’, while individual rangatira would continue to be responsible for their own areas.<sup>148</sup>

These gatherings could, however, make decisions, with hapū either initiating the discussion or giving their later consent. In this manner, Aldridge said, laws were made covering occupation, trade, peace, and good order.<sup>149</sup> To him, therefore, he Whakaputanga did not create a

new decision-making body; rather, it was the other way around:

The He Wakaputanga document was based on Te Wakaminenga. History has been turned around to say that Maori only came together in 1835. But they had already been having meetings all over the place . . . I believe that He Wakaputanga did not happen over night but came to fruition over a period of time through Te Wakaminenga.<sup>150</sup>

The purpose of he Whakaputanga, he said, was to explain existing political structures to future generations: ‘In short, our people didn’t care about declaring independence . . . They didn’t need it, because they already had Te Wakaminenga’.<sup>151</sup> The document, however, provided ‘a way to transfer information into the future’.<sup>152</sup>

Several other claimants also gave evidence about these gatherings. There was a high degree of consistency about 1808 as a date on which either a unified decision-making body was established or initial discussions took place about that unification, although some witnesses gave later dates. There was also a high degree of consistency about meetings involving senior rangatira having occurred in various places.<sup>153</sup> More than one claimant named Te Pahi, Hongi, Ururoa, Waikato, Te Tupe, Tirarau, Te Manu, and Kawiti as attending these gatherings.<sup>154</sup> These gatherings were said to have been held at various locations around Whangaroa, the Bay of Islands and Hokianga (including the interior), and Whāngārei.<sup>155</sup> There was consistency among claimants about the Te Ngaere origins.<sup>156</sup> Ivy Williams of Ngai Tupango referred to large plantations there, and of hapū being brought together to work on them. Te Ngaere had been known as ‘Nga Here’, and referred ‘to the ties that bound us together as rangatiratanga was exercised’.<sup>157</sup> He said Motueka island was also the site of cultivations, as well as ‘command decisions’, and for those reasons had never been built on.<sup>158</sup> Ani Taniwha told us

the tradition I know is that He Whakaminenga met beginning around 1808 and continued through the signing of Te

Tiriti. People still meet in current times under the name He Whakaminenga.<sup>159</sup>

Taniwha said that after 1808 rangatira met at Te Touwai Bay in the Whangaroa Harbour, where there were then 27 poupou (posts) in the harbour to which visiting rangatira could moor their waka. She had also heard of meetings at Te Ngaere, which was known as ‘Meeting Place of the Chiefs’.<sup>160</sup> Her evidence, however, was that the first meeting was not in response to the arrival of Europeans, but rather to the Ngāpuhi defeat by Ngāti Whātua at the battle of Moremonui in 1807.<sup>161</sup> Only later did the meetings turn their attention to Europeans, with discussions about where they would be allowed to live, and about maintaining ‘social order under tikanga’ during changing times.<sup>162</sup>

Some of the claimants said international trade was a principal motive for the formation of Te Whakaminenga, while others said it was formed to address land losses, European challenges to tikanga, or other matters arising from contact.<sup>163</sup>

It is important to be clear that not all claimants referred to Te Whakaminenga existing prior to he Whakaputanga. Among those who did, it was not always clear to us whether they saw it as a single body with consistent membership, or rather as a series of meetings that were more in the nature of traditional inter-hapū huihuinga (gatherings). Nor was it always clear whether the claimants saw it as representing all Māori within the areas it was said to have met in (Bay of Islands, Hokianga, Whangaroa, and Whāngārei – a territory that broadly corresponds to the 11 maunga of what is today known as Ngāpuhi-tūturu) or specific alliances or groupings within those territories.

Several claimants referred to a deliberate strategy of unification or nation-building, which had either begun in 1808 or in Hongi’s time. Some explicitly linked this to meetings of Te Whakaminenga prior to 1835, while others did not. Pari Walker of Te Parawhau and Ngati Ruamahue told us that ‘From at least as early as 1808, many Maori were discussing concerns they had about the Hapu Hou that had landed on these shores and the impacts they were having.’ Kukupa and his son Tirarau, along with many

other rangatira from Whangaroa and elsewhere, were at the initial discussions at Te Ngaere in 1808 ‘where the authority to pursue a pathway of unity was agreed to by Nga Hapu Rangatira in attendance’. This was subsequently ‘given its green light . . . on Motueka nui by the Tohunga’.

At the completion of this hui Rewarewa Tahi at Mahinepu was identified as the first Pa to be aligned to the Wakaminenga o Nga Hapu o Nu Tireni. From that time the Kaupapa of Unity of Nga Hapu Rangatira i raro mai Hauraki and He Wakaminenga o Nga Hapu o Nu Tireni was debated and discussed in depth by many Rangatira throughout the northern alliance (i raro mai Hauraki) for the next 27 years.<sup>164</sup>

Erima Henare said that Kawiti, Hongi, and others in the 1820s discussed uniting hapū ‘under a single king’ – though there was no agreement on whether that King would be Hongi of the northern alliance or Pōmare I of the southern alliance. Henare also said that further talks were held about unification among Bay of Islands hapū after Hongi’s death in 1828.<sup>165</sup> Hugh te Kiri Rihari told us that cooperation among Māori was nothing new:

Since ancient times those of Tai tama tane and Tai tama wahine have been inextricably bound and interdependent – the tides are linked and all northern Maori lived by the kawa of Rahiri.<sup>166</sup>

Haami Piripi, who gave evidence about he Whakaputanga from a Te Rarawa perspective, saw Te Whakaminenga as arising from a process of alliance-building similar to the one that had created the Te Rarawa confederation and said that it initially met from 1814 under the name Ko hui-a-rau.<sup>167</sup> Some other claimants mentioned Ko hui-a-rau as either being the source of Te Whakaminenga or evolving from it.<sup>168</sup> Some claimants said Te Whakaminenga was responsible for the adoption of the flag of the United Tribes in 1834, as well as for the creation of he Whakaputanga.<sup>169</sup>

We have covered this evidence in some detail, both because it is important to the claimants’ understanding

of he Whakaputanga and because it is new in the historical record. Before we move on, we think it is important to consider other views and evidence about Te Whakaminenga. The Crown did not dispute the evidence that rangatira had been meeting from 1808 onwards, but said this was ‘rather unsurprising’, and that rangatira of various hapū would be expected to meet ‘from time to time and for various purposes’. The Crown’s view, however, was that Te Whakaminenga as described in he Whakaputanga referred to a single entity – a supreme legislature comprising tino rangatira – with powers to make law for all hapū. In the view of Crown counsel, Aldridge’s evidence did not demonstrate that such a body existed at any time before 1835.<sup>170</sup>

It is also relevant to consider what Europeans observed during the 1820s and 1830s. The missionaries had for many years advocated that Māori unite under a single King – Marsden had suggested Hongi take the role, but he refused on the grounds that all hapū were autonomous.<sup>171</sup> This is consistent with Erima Henare’s evidence (above) that discussions were held about unification among Bay of Islands hapū, though it does not suggest that any decision was made to actually unite.

Angela Ballara, in a 1973 master of arts thesis about Bay of Islands Māori political organisation based mainly on missionary records and other documentary sources, described the significance of hahunga (ceremonial stripping and reinterring of bones), hākari (ceremonial feasts), and other inter-hapū meetings which occurred regularly during the 1820s and 1830s in locations such as Waimate, Kawakawa, Taiamai, Waitangi, Wangai, Whangaroa, and the Hokianga. Hākari, she concluded, had political significance since they cemented ties among neighbouring hapū, though they did not generally function as decision-making forums. Hahunga, in contrast, had more overt political functions. Hahunga most often occurred in te ngahuru (autumn) following the kūmara harvest, and often doubled as councils of war or as events that reinforced peace once conflicts had ended. One, for example, occurred shortly before Titore’s expedition to Tauranga in 1832; there were also hahunga at Kawakawa and in the Hokianga following the Girls’ War, though it is not clear

from the evidence we have seen whether these were separate events for the northern and southern alliances.<sup>172</sup> The missionary William Yate described hahunga as meetings where ‘many tribes assemble from a distance; much merriment and feasting goes on; many political matters are settled; and the arrangements for the ensuing year are made for fishing or for war’.<sup>173</sup> It is clear that these were very often regional events, and often crossed the usual alliance boundaries, although it seems that who was invited depended on the circumstances. It is also clear that they did not have any powers over individual rangatira or hapū: as Ballara said, even if a decision was reached, which could only occur by consensus, no one could be forced to follow it. In spite of their political functions, Ballara concluded that hahunga were held for ceremonial purposes first; their ‘secondary’ purposes ‘depended on which chiefs had major political aims to further’.<sup>174</sup> The leaders in the Bay of Islands and Hokianga appear to have abandoned hahunga after May 1835, giving the expense of the associated feasting as their principal reason. Given the political functions of hahunga, it is possible that their abandonment had political significance; it is also possible that rangatira found other ways to meet without the attendant expense (by 1835, vast amounts of food were being consumed at these events), and without offending European sensibilities as hahunga did. We heard little evidence on this from either claimants or the Crown.<sup>175</sup>

The key point is that there is documented evidence of Bay of Islands, Hokianga, Whangaroa, and Whāngārei Māori having systems in place before 1835 for rangatira to come together and deliberate in concert about war, peace and other matters. The evidence suggests that meetings occurred regularly, and involved a wide range of rangatira from the Bay of Islands and surrounding areas, though it does not appear that the same groups and leaders attended each time.

It is also important to consider the claimant evidence about Te Whakaminenga in light of the division that existed between the northern and southern alliances during the period under discussion. The decades since about the 1770s had been turbulent times in the Bay of Islands and surrounding areas, as the northern alliance extended

its influence into Waimate and Kerikeri and the southern alliance moved into Taiamai. That turbulence continued in the 1820s, as the northern alliance defeated Ngāti Pou in Whangaroa, and defeated and absorbed Ngare Raumati in the Bay of Islands.<sup>176</sup> The northern alliance expansion was completed when the southern alliance ceded Kororāreka following the Girls' War in 1830. During the 1830s, tensions between these two rival kin groups remained high: warfare almost broke out again in 1832 and 1834, and did break out 1837 as we will discuss in section 4.8.2.<sup>177</sup>

In the Hokianga, there were also related but competing groups, such as Te Māhurehure under the leadership of Tāwhai, Ngāti Korokoro under the leadership of Moetara, and Ngāti Hao under the leadership of Patuone and Nene. Again, these had close ties not only with each other but with many of the Bay of Islands hapū. Again, there were conflicts – such as the one that occurred in 1833 between Moetara and Te Hikutū, Ngāti Manawa, and Te Rarawa over the plunder of a trading ship under Moetara's protection.<sup>178</sup> Within the wider district covered by this inquiry, there were also many other hapū both to the north and south of the Bay of Islands–Hokianga territories.

In terms of external relations, the various hapū of the Bay of Islands and also the Hokianga sometimes fought together in alliances and sometimes fought separately.<sup>179</sup> Also, as we said in chapter 3, some of the key initiatives identified as evidence of unification – such as Hongi's visit to London, and the 1831 petition to King William IV – were more northern alliance initiatives than southern.

It seems difficult, then, to reconcile the evidence of autonomous action by hapū within these areas, and regular conflict between them, with the idea that they were unifying and were making decisions through a single assembly during much of the period after 1808. On this point, however, we note the views of Hori Temoanaroa Parata, who said Te Whakaminenga began as a unified response to the arrival of Europeans, but was marked by disputes as the northern alliance expanded and the tribal makeup of the Bay of Islands changed. 'Despite these tensions,' he said, 'the rangatira continued to meet to discuss He Whakaputanga.'<sup>180</sup> Erima Henare made a similar point. 'Ngapuhi can still fight over matters,' he said, giving the

example of tensions between Bay of Islands and Hokianga hapū over the deaths of Pōmare I's son Tiki and his cousin Whareumu in 1828.

But . . . at the same time that matters such as this were going on, our people were able to sit down and treat with one another and people who are landing on these shores. And again that goes back to the economic and martial strength of Ngapuhi at that time, that it was then, able to deal with all its internal exigencies as well as its external ones.<sup>181</sup>

It is important to remind readers here that, even though the name Ngāpuhi was not used for all Bay of Islands and Hokianga hapū, and even if those hapū sometimes fought, they nonetheless retained a very acute awareness of their close kinship. The missionary William Williams, for example, observed after the deaths of Tiki and Whareumu that the southern alliance 'did not wish to fight with the other tribes, as they were one people, and nearly related'.<sup>182</sup>

We arrive at this point, then, with 'Te Whakaminenga' potentially having different meanings to different parties. To many claimants, it was a formal assembly of rangatira from autonomous hapū, gathering together to deliberate and act in concert. There was a division among the claimants, however, between those who thought Te Whakaminenga existed prior to 1835, and those who thought it was created by he Whakaputanga. Busby, however, clearly intended it to be a supreme legislature with powers over hapū, who would therefore no longer be fully autonomous. To distinguish between these points of view, from this point we will use the terms 'congress' to describe the legislature with powers over hapū, and 'Te Whakaminenga' for the gatherings referred to by Aldridge and other claimants.

#### 4.4.3 Article 2 – Mana, kīngitanga, law, and government

In the second article of he Whakaputanga, the rangatira not only declared that mana and kīngitanga rested with them but also made it clear they would not permit anyone else to attempt to make laws or govern, except under their authority. The English text said that 'all Sovereign Power and Authority' rested with the rangatira 'in their collective

capacity', and declared that only they 'in Congress' could make law and sanction its enforcement. The claimants raised several points about the meanings of this article and differences between the Māori and English texts.

### (1) *'Ko te Kingitanga ko te mana i te whenua'*

While witnesses back-translated 'ko te Kingitanga ko te mana i te wenua' in various ways, all were consistent in a view of power or authority deriving from the land, as distinct from being simple authority over it.<sup>183</sup> According to Aldridge: 'Maori have always said that without land we're nothing – the mana comes from the land . . . From Rangi and Papa – whatever comes from those is my mana.'<sup>184</sup> Haami Piripi referred to Maori Marsden's explanations of mana, which we discussed in chapter 2. He told us:

The Mana Tūpuna, Whenua and Tangata paradigm can be utilised to explore the issue of sovereign 'type' rights and interests by trying to determine the extent to which the concepts overlap. If Mana contains within it all forms of authority over all things (which it achieves through a genealogical methodology), then it is difficult to accept that the sovereign type authority espoused by western theories is separate or divorced from it.<sup>185</sup>

In Manuka Henare's view, 'Ko te mana i te wenua' refers to

the mana intrinsic and infused in the land, which flows directly from it to the rangatira. The whenua gives to rangatira the mana and is the basis upon which they must act as custodians and defenders of the land and its mana.<sup>186</sup>

The phrase used in the English text, 'all sovereign power and authority', in Henare's view addressed only 'the effects of the mana ie power and authority', and not 'the source of the mana intrinsic in the land'. 'Mana i te whenua' was 'more subtle and extensive' than sovereign power.<sup>187</sup>

The claimants had little to say about the use of 'kingitanga'. However, it is clear that rangatira involved in he Whakaputanga would have had some concept of kingly status and power both through direct contact and through

discussions with Europeans. Among them, Waikato had met King George IV in London in 1820,<sup>188</sup> and nine years earlier Kawiti had visited Port Jackson and complained of his treatment: 'I was a King in New Zealand, but now I am a Cook at Port Jackson.'<sup>189</sup> We also noted above that discussions had occurred about appointing a northern Māori king.<sup>190</sup> The 1831 petition had also demonstrated an understanding of the King's power in both British and global affairs, and that understanding would have been reinforced by Busby's address on his arrival in 1833.

Samuel Carpenter argued that Henry Williams deliberately combined 'kingitanga' and 'mana' in an attempt to convey the English concept of sovereignty. The choice of 'kingitanga' was in his view 'obvious'. Not only was the King the English sovereign, but the visits of rangatira to England would also have conveyed some sense of what 'sovereign power' implied. 'Mana', in Carpenter's view, was also 'a natural choice', implying authority and control, though mana was 'not the Māori equivalent of Kingitanga'. While 'rangatiratanga' might also have provided a useful equivalent for 'sovereign power and authority', it had already been used in article 1 for 'independence'.<sup>191</sup>

### (2) *Wakarite ture or framing laws*

Having declared that mana and kingitanga (or, in the English text, sovereignty) rested only with them, the rangatira then declared in the remainder of article 2 that no one other than them would have powers to 'wakarite ture' – that is, no one else would have the power to frame laws.

Some witnesses said that 'ture' was a mihinare Māori term derived from the word 'Torah' in the Bible, and that this could imply 'God's law' or commandments, as well as regulations or statutes.<sup>192</sup> Carpenter said the use of 'ture' in the context of he Whakaputanga 'would have conveyed to rangatira a notion of law or custom different from Māori tikanga'. In combination with 'kawanatanga' (see section 4.3.1(3)), it would have suggested 'a combination of civil/secular law and Christian morality'.<sup>193</sup>

Aldridge gave a similar view, back-translating 'ture' as 'written law' and also distinguishing it from tikanga.<sup>194</sup> As discussed in chapter 2, he explained that tikanga

enshrined enduring principles underlying human behaviour; from these principles came 'kaupapa' – such as tapu, muru, and mana; and from those kaupapa came 'ritenga' or the application of laws through, for example, a rāhui on fishing. The underlying tikanga could be applied to any situation as required.<sup>195</sup> Ture, he said, was a written form of 'ritenga' – that is, it was subordinate to both tikanga and kaupapa.<sup>196</sup> In Aldridge's view, mana bestowed the right to make law. All that was left for a fully functioning legal system was 'maru' – the power to apply the law. Early Europeans, Aldridge said, 'didn't see courthouses, judges and lawyers, or a police force', and so assumed there was no law enforcement. Māori people, however, 'lived' their kaupapa and ritenga:

They lived the tapu and rahui – they knew what it meant to Manaaki – and they knew what it meant to transgress. The people governed themselves through their long-established social systems.<sup>197</sup>

Aldridge also said that article 2 specifically declared that no laws would be made by 'hunga ke' – a term that in his view meant 'foreigners', as distinct from other tribes, who were described as 'tauiwi'.<sup>198</sup> The English text was less specific, referring only to 'no other Legislative Authority'. In other words, in Aldridge's view, a distinction was being made between foreigners such as de Thierry (who lacked any authority in New Zealand) and Māori who had not signed the Whakaputanga but were recognised as possessing authority within their own territories.

Very few other claimants addressed 'ture' in any level of detail. To most, the Whakaputanga was significant not as an experiment with ture but because it ensured that tikanga would prevail – a point we will address in more detail in section 4.6.1.

### **(3) Kāwanatanga and functions of government**

Having declared that no one except for them would have law-making powers within their territories, the rangatira then declared that no one else would be able to govern, unless appointed by them and acting under the authority of their laws.

To many of the witnesses, the critical point about 'kawanatanga' was that it implied a lesser authority than 'kingitanga' or 'mana', or 'rangatiratanga' as it was used in article 1. Several witnesses referred to 1830s Māori editions of the Bible, in which 'kawanatanga' appeared as a translation for 'province' or for Roman 'governors' – both of which were clearly subordinate to kings and kingdoms (for which the term 'kingitanga' was generally used, though 'rangatiratanga' was also used at times).<sup>199</sup> Rangatira also had some familiarity with 'kawanatanga' through the relationships that Te Pahi and others had formed with Governor King in New South Wales.<sup>200</sup> In Haami Piripi's view, the article made a 'deliberate distinction . . . between the status of the sovereign (ie Kingitanga) and the institution of governance (Kāwanatanga)' – both of which, he pointed out, were English-language terms for English institutions.<sup>201</sup>

Carpenter also saw a hierarchy in which the order of the terms in article 2 reflected their relative weight. First came 'supreme or sovereign authority', then the power to make laws, and lastly the executive powers or 'functions of government'. The 'borrowing' of kāwanatanga from English reflected 'a missionary view that the notion of a national government was a British one and had no Māori equivalent'. Both he and Dame Anne Salmond saw the article as reserving executive powers for the rangatira, unless they collectively agreed to delegate those powers.<sup>202</sup> The significance of this, Dame Anne said, was that 'kawanatanga' could be delegated if the rangatira chose to:

In such an arrangement, however, they would retain intact their *rangatiratanga* or independence and their *mana* and *kingitanga* or sovereign authority or power. The Declaration is unambiguous, and the relationship between these key terms is very clear.<sup>203</sup>

### **(4) . . . in their collective capacity . . .**

In the first sentence of article 2, mana and kingitanga over the territories of Te Whakaminenga were said to reside solely in 'nga Tino Rangatira anake i to matou huihuinga'. In the English text, this phrase was rendered as 'the hereditary Chiefs and Heads of Tribes *in their collective*

*Capacity*' (emphasis added). This implied a transfer of power from hapū to Te Whakaminenga as a new collective body, which no doubt is what Busby intended. For many of the claimants, however, the phrase simply referred to the authority of the rangatira who had gathered at Busby's residence to discuss the declaration, and not to any transfer of that authority to a collective law-making body.<sup>204</sup> It was, in fact, simply inconceivable to most claimants that mana could be transferred in this way. As we said earlier, rangatira did not possess that mana as individuals; they possessed it only to the extent that it derived from the land, hapū, other relationships, and their exercise of tikanga.<sup>205</sup> The vast majority of claimants saw he Whakaputanga not as a way of transferring the mana of each hapū to a collective, but rather as a way of reinforcing and strengthening that mana through joint action. Piripi, for example, said Te Whakaminenga was seen 'as an expansion of whanau, hapu and iwi' through which 'a new national solidarity of Hapu and Iwi' was created. He said his elders had taught him that it was 'a natural law' for hapū and iwi to align into larger groups. Te Whakaminenga was 'such a collective or alliance' which, like all larger collectives in the Māori world, had 'the institution of Hapu as their building block'.<sup>206</sup>

Furthermore, as we saw earlier, the view of many claimants was that he Whakaputanga did not establish a new collective decision-making body at all; it merely recognised the rangatira gatherings that were already taking place, which – according to those claimants – reinforced hapū authority, rather than subordinating or replacing it.

#### 4.4.4 Article 3 – Meetings of Te Whakaminenga

Article 3 of he Whakaputanga set out an agreement for the rangatira to meet in ngahuru (autumn) in a 'runanga' to create 'ture' for specific purposes. Both Hohepa and Manuka Henare agreed that 'runanga' represented a formal gathering; Aldridge used the phrase 'judicial congress'. All three agreed that these ture would be aimed at dispensing justice, ensuring peace, ending wrongdoing or lawlessness, and ensuring fair trade and commerce.<sup>207</sup>

Although these functions seem clear, they raise

a question about the intended jurisdiction of Te Whakaminenga. All of the functions described in he Whakaputanga reflect concerns that had been raised in the 1831 petition, as well as in Busby's instructions and in his 1833 address: they were concerns that arose when the Māori and British worlds collided. An inference might be drawn that the ture made by Te Whakaminenga were intended to cover that colonial frontier, but not necessarily inter-hapū relations, nor hapū and whānau. Aldridge's description of the gatherings held after 1808 clearly implied that they were set up to manage this new sphere of influence – relationships with foreigners – as distinct from inter-hapū relationships, or behaviour within hapū or whānau.<sup>208</sup>

The second part of article 3 is an unambiguous call for hapū and iwi in other parts of New Zealand to abandon intertribal warfare and join Te Whakaminenga. While the sentiment was straightforward, applying it would very likely not have been. Very few years had passed since the most recent taua to Tauranga – Titore had returned only at the end of 1833.<sup>209</sup> Other southern raids had occurred in 1831 and 1832; and only a decade or so had passed since Hongi's great southern excursions which had defeated hapū throughout much of the North Island.<sup>210</sup> According to Aldridge, the invitation to southern tribes to join Te Whakaminenga underlined the importance of declaring Ngāpuhi territories a 'land in a state of peace'. The rangatira were 'asking the southern tribes to join us and remember our whenua rangatira, he taonga mo te manuhiri, don't be afraid of Ngāpuhi anymore that's what they were trying to say'.<sup>211</sup>

We also note here that the commitment to meet during the harvest season (ngahuru) was consistent with the existing tradition of holding hahunga, hākari and other inter-hapū councils during that time.

#### 4.4.5 Article 4 – Friendship and protection

In chapter 3, we explored what Māori saw as a friendship or alliance with Britain, and in particular with British monarchs. Many claimants referred to that alliance, which in their view had begun with the visit of Hongi and

Waikato to Britain, and had endured through the 1820s and the first part of the 1830s.<sup>212</sup> The 1831 petition had been an attempt to rekindle it following the deaths of both Hongi and King George IV, and arising from new challenges associated with increased contact between Māori and Europeans. This was, as we saw, a relationship based on mutual benefit. Britain sought access to New Zealand trade and resources, and to establish order among its unruly subjects. Māori also wanted to trade – to acquire new goods, knowledge, and technology, and establish themselves on the global stage – while also negotiating the challenges that arose from increasing contact with outsiders. The rangatira believed that in Britain they had an ally.

The fourth article of he Whakaputanga addressed this relationship. The first part of the article unambiguously expressed appreciation for the King's recognition of the flag. The second part then set out the terms of the relationship between rangatira and Britain. In return for their friendship towards and care of British settlers and traders in their territories, the rangatira sought something from the King: that he should remain as their 'matua' during their 'tamarikitanga', so that that their rangatiratanga should not be ended or negated. In the Māori text, it was clear that the purpose of seeking a 'matua' was 'kei wakakahoretia to matou Rangatiratanga' (lest rangatiratanga be denied or negated). The English text had a more ambiguous construction, entreating the King 'that He will continue to be the Parent of their Infant State, and that He will become its Protector from all Attempts upon its Independence'. This could be read as implying that the 'Parent' relationship was pre-existing, whereas the 'Protector' status was new; and that the 'Parent' role had a more general purpose than the 'Protector' role which was specifically directed at seeing off 'Attempts upon . . . Independence'.

Consistent with the Māori text, most witnesses saw this as being a request for protection against threats to mana or to sovereignty – especially external dangers such as that purportedly presented by de Thierry.<sup>213</sup> Carpenter's view was that the 'language of alliance and protection' used in this article echoed that of the 1831 petition, which

had asked King William IV to act as a 'friend and guardian', particularly with regard to threats from the tribe of Marion.<sup>214</sup>

During the hearings, Aldridge told us that the meaning of 'matua' in he Whakaputanga had been a matter of debate among his own people. In his view, it applied to Te Whakaminenga as a collective – as a fledgling state – but not to its constituent hapū; if that had been intended, the rangatira would have asked for a matua for 'the hapū', not a matua 'ki a mātou'. The King, in other words, was not being asked to be a rangatira or an ariki. Rather, the use of 'matua' had a specifically international purpose: King William was being asked to see off foreign threats to Māori authority, and at the same time to help Māori deal with new practicalities such as 'documentation, immigration and recognition within the international community'.<sup>215</sup> Hohepa said that the status of 'matua' is based on whakapapa. The King was being asked to be a parent for his own (British) family, not for Māori: 'Not as a parent over everything . . . Things that pertain to us and our lands, we would create those'.<sup>216</sup> Piripi noted that the request for protection immediately followed a reference to the flag, and to him the two were linked. The flag had opened up opportunities for Māori to trade internationally, and the King was being asked to nurture the 'fledgling Māori confederacy'.<sup>217</sup> Busby, as we saw earlier, anticipated a much broader protectorate arrangement.

## 4.5 BRITAIN'S RESPONSE TO THE DECLARATION

Following the declaration, Busby wrote to Bourke and to the Colonial Office in London, advising them of its content as he saw it, and enclosing the English text but not the Māori one.<sup>218</sup> He also wrote to McDonnell, informing him about the declaration, and to de Thierry, dismissing his claims to land and sovereignty, and warning him off entering New Zealand. To attempt such a landing, he said, would be an act of 'madness' and 'criminality', against which de Thierry would face 'the most spirited resistance from the whole population'.<sup>219</sup>

We have already discussed the content of Busby's

dispatches to Bourke immediately after he Whakaputanga was signed. By the end of November, Busby had received no word of response from the Governor about his declaration – the ‘*Magna Charta* of New Zealand Independence’, as he was to describe it to his brother.<sup>220</sup> He had, however, received Bourke’s instructions in respect of the Hokianga spirits ban. As we said earlier, Busby had objected to this ‘law’ on grounds that laws should only be recognised only if made by all rangatira ‘in their collective capacity’, because he lacked faith in Māori capacity to enforce the ban impartially, and because he believed that asking Māori to enforce laws over Europeans might provoke disorder.<sup>221</sup> Bourke, however, had no patience with Busby’s objections, and in fact instructed the Resident to use McDonnell’s local, ad hoc approach as a model for his own conduct. If this was not grievous enough to the Resident, Bourke also accused him of either neglecting or wilfully disregarding these instructions by failing to support the ban.<sup>222</sup> We do not know whether Bourke had received the declaration before he sent his instructions, but it seems unlikely. Regardless, he made it abundantly clear that Busby’s principle of working only with rangatira ‘in their collective capacity’ meant little to him.

Busby responded that asking rangatira to enforce the ban would be ‘a direct infraction of the Fundamental Laws of their country as embodied in the [D]eclaration of Independence’. He told McDonnell not to enforce the ban.<sup>223</sup> Busby also provided Bourke with further explanation of he Whakaputanga and how he saw it operating. He insisted that it did not in itself establish either legislature or government; rather, it settled a ‘foundation’ for both. Even this, Busby said, had come ‘at an earlier period than I had intended’. As he had indicated previously, he had little confidence in Māori law enforcement – indeed, as he saw it, any attempt to use Māori force against British interests would in most cases be ‘little better than authorized outrage’ and a ‘betrayal’ of his duty as Britain’s representative. He hoped, some day, to lead Māori to an understanding of how British law worked and the advantages it would bring to them – but, in the meantime, he recommended that there be no further attempts at lawmaking by Māori.<sup>224</sup> He Whakaputanga, in other words, had declared the

establishment of a legislature on paper, but Busby had no intention of seeing it operating any time soon.

Busby was to wait another two and a half months for an official response to the declaration. On 12 February 1836, Bourke and the New South Wales Legislative Council sent a dispatch in which they appeared to view the declaration as being directed more at the Hokianga liquor ban than at de Thierry. Bourke and the Legislative Council acknowledged the declaration ‘as an approach towards a regular form of Government in New Zealand’ and approved of Busby’s initiative in taking advantage of ‘the excitement apparently created by . . . Baron de Thierry’ to achieve this end. However, they rejected the part of article 2 in which the rangatira claimed exclusive rights to legislate, saying that it had been ‘intended to subvert’ the spirits ban.<sup>225</sup>

According to Bourke, the declaration said that no law was to be passed or function of government exercised by other tribes (that is, those who were not parties to the declaration) ‘without the consent of those Signing the Declaration’, and that, given its limited geographical coverage, this was ‘altogether premature and imprudent’. The declaration of course made no claim to powers anywhere except north of Hauraki. Bourke also told Busby that he should have submitted the content of article 2 for prior approval, and in future was to obtain that approval before proposing anything for the rangatira to adopt.<sup>226</sup>

On 16 March, Bourke wrote to Glenelg making similar points, and in particular claiming that Busby had deliberately sought to undermine the liquor ban in spite of support for it from missionaries, rangatira, British residents in New Zealand, and ‘this Government’.<sup>227</sup>

On 25 May, Glenelg responded to Bourke, acknowledging the declaration:

I have received a Letter from Mr Busby, enclosing a Copy of a Declaration made by the Chiefs of the Northern Parts of New Zealand, setting forth the Independence of their Country, and declaring the Union of their respective Tribes into One State, under the Designation of the Tribes of New Zealand. I perceive that the Chiefs, at the same Time, came to the Resolution to send a Copy of their Declaration to his Majesty, to thank Him for His Acknowledgement of their

Flag; and to entreat that, in return for the Friendship and Protection which they have shown and are prepared to show to such British Subjects as have settled in their Country, or resorted to its Shores for the Purposes of Trade, His Majesty will continue to be the Parent of their infant State, and its Protector from all Attempts on its Independence.

With reference to the Desire which the Chiefs have expressed on this Occasion to maintain a good Understanding with His Majesty's Subjects, it will be proper that they should be assured in His Majesty's Name, that He will not fail to avail Himself of every Opportunity of showing His Goodwill, and of affording to those Chiefs such Support and Protection as may be consistent with a due Regard to the just Rights of others and to the Interests of His Majesty's Subjects.<sup>228</sup>

In Carpenter's view,

Although this despatch noted the substance of the declaration, it did not extend official British endorsement of the declaration as constituting an independent New Zealand state. The emphasis was rather on the relationship of support and protection which Britain could offer the New Zealanders.

Even that, Carpenter argued, might be qualified by Glenelg's reference to the 'Rights of others and to the Interests of His Majesty's Subjects'.<sup>229</sup> He also noted that the Crown 'never formally assented to, or gazetted, the Declaration'.<sup>230</sup> Professor Paul McHugh, however, argued that Britain 'accepted straight-forwardly' the declaration's assertion of Māori sovereignty:

Although the authorities in New South Wales and Britain were not persuaded by Busby's insistence upon confederated sovereignty only, the wider recognition of Maori sovereignty contained in the Declaration was endorsed.<sup>231</sup>

Glenelg's message was eventually passed on to Busby much later. It was sent in November 1836, and reached the Resident in January 1837. No meeting was held to deliver it to rangatira, for reasons we will come to later.<sup>232</sup> Glenelg made further comment in another dispatch to Bourke in August 1836, commending Busby for orchestrating the

declaration in the face of de Thierry's claims, but agreeing with Bourke's assessment of article 2.<sup>233</sup> In Loveridge's view, Busby's 'general course of action was approved, but his specific tactics were condemned'.<sup>234</sup>

Busby rejected Glenelg's criticisms, assuring Bourke that the declaration was aimed solely at defeating de Thierry's attempts to establish a sovereign government. The words of article 2 (which declared in the English text that the rangatira alone held 'All Sovereign Power and Authority' and that no one other than them could make law within their territories or govern except under their authority) 'would have been in no respect different' if the Hokianga liquor law had never existed. Busby also argued that the spirits ban could scarcely be considered a 'Law', because that would imply 'the existence of a Legislature and a Government' when none existed in the Hokianga. He underlined his intention that the confederation would ultimately extend to cover the whole of New Zealand, provided that it received proper British backing. However, he also expressed doubt about the possibility of calling the rangatira together again, either at that time or later, owing to intertribal conflict, which we will consider in section 4.8.1.<sup>235</sup>

Some historians have agreed with Bourke's assessment of article 2. Both Carpenter and Phillipson referred to the views of John Ross, who argued in 1980 that Busby's overriding purpose had been to undermine the spirits ban and settle a personal vendetta with McDonnell.<sup>236</sup> Ross had argued that article 2 was 'totally irrelevant' as a response to de Thierry, and was inserted solely to undermine McDonnell and the Hokianga liquor ban: 'a weapon, in brief, in what had become a ridiculous vendetta with McDonnell'.<sup>237</sup> Parkinson said that although the declaration was 'ostensibly aimed at . . . de Thierry', its real target was 'a different, and indeed personal argument' about the spirits ban.<sup>238</sup>

Other expert witnesses saw links between the liquor law and the declaration, but took the view that these were based more on policy differences than personal rivalry. As Loveridge said, Busby's entire policy was based on dealing with rangatira 'in their collective capacity', and ultimately establishing a single Māori government. The creation of

*'ad hoc* regional councils' would no doubt make that more difficult. The letter from de Thierry, in Loveridge's view, created 'an opportunity to take action before such alternative governments could become entrenched'.<sup>239</sup> In that way, the declaration was 'triggered' by de Thierry, 'insofar as de Thierry's letter gave Busby an excuse or opportunity to implement a plan which he had been nurturing for at least two years'.<sup>240</sup> Carpenter agreed that Busby had been looking for opportunities to establish a congress of rangatira ever since he set foot in New Zealand. Both he and Phillipson rejected Ross's claim that the declaration had little to do with de Thierry.<sup>241</sup>

In our view, Loveridge's explanation of the links between the liquor ban and the declaration is convincing, to the extent that Busby took the opportunity provided by de Thierry's letter to implement his long-held policy of dealing with rangatira in their collective capacity, and also relatedly to derail the Hokianga attempt at local lawmaking. While there was personal rivalry between Busby and McDonnell, we do not think that was his principal motivation for calling the rangatira together. It is clear from Busby's dispatches that he saw article 2 as entirely relevant to the potential threat from de Thierry: as he explained it to rangatira (section 4.3.2), it was their lack of unity that left them vulnerable to foreign influence, and the means to address that was the establishment of a collective decision-making authority.

It is also clear that most contemporary European observers in New Zealand saw the declaration as a response to de Thierry, not McDonnell. The views of Captain Robert FitzRoy, who visited the Bay of Islands briefly at the end of 1835, are relevant on this point. FitzRoy had recently been in Tahiti, and when his ship, the HMS *Beagle*, sailed into the Bay, anchoring between Paihia and Kororāreka, it was initially assumed to be de Thierry's. According to FitzRoy, 'one boat only approached reluctantly . . . to reconnoitre; but as soon as it was known that the expected intruder had not arrived, visitors hastened on board'. Had de Thierry indeed come to New Zealand at that time, FitzRoy reckoned, 'he would hardly have escaped with [his] life'.<sup>242</sup>

FitzRoy, who found Busby 'an isolated individual', wrote that the declaration had been stimulated by 'the rumoured

approach of de Thierry', and was intended to prevent such foreign intrusions. This, FitzRoy wrote, would be achieved through the framing of a constitution and the establishment of 'a form of government . . . which should have a steady influence over their unwieldy democracy, and leave them less exposed to foreign intrusion'.<sup>243</sup> The Kororāreka resident Joel Polack also clearly held the view that the declaration was motivated by de Thierry, though by the time he wrote of it in 1837, he regarded it as an overreaction.<sup>244</sup>

The differing approaches of Busby and McDonnell are also interesting for other reasons. Busby had persisted with his ambitious plan to establish a legislature based on the collective authority of all rangatira even as he had begun to understand that Māori had their own ways of doing things, and that while Māori may have been willing to experiment with European ways they were not about to wholly discard their own. McDonnell's approach on this occasion appears to have been more in line with the reality that power was held locally (although we should note here that many of McDonnell's actions as Additional British Resident were directed at advancing his own trading interests, rather than the broader interests of either the British or Māori).<sup>245</sup> FitzRoy also had something to add here. According to him, having established a constitution and 'a form of government' on paper,

the chiefs had departed, each to his perhaps distant home, and the efficiency of their authority, 'in a collective capacity' was yet to be discovered. No 'executive' had been organised; the former authorities – each chief in his own territory – hesitated to act as they had been accustomed, owing to a vague mystification of ideas, and uncertainty as to what had really been agreed upon, while the authority of Busby was absolutely nothing, not even that of a magistrate over his own countrymen; so of course he could have no power over the natives.<sup>246</sup>

FitzRoy formed these views during a nine-day stay, during which he claimed to have received numerous requests to intervene in disputes, both among Europeans and also between Europeans and Māori. He found that Busby had declined to act on these disputes because he lacked formal

authority. In FitzRoy's view, the missionaries were the 'only real... authority' in the Bay of Islands.<sup>247</sup>

Thus, although articles 2 and 3 were important parts of the declaration, it seems that by the end of 1835 nobody saw any prospect of them operating in the manner that Busby had intended – that is, nobody believed that a congress of rangatira with supreme lawmaking authority had actually been established or would be established anytime soon. Busby himself did not. Nor did McDonnell, FitzRoy, Bourke or Glenelg. Nor, indeed, did the rangatira who signed he Whakaputanga.

## 4.6 AN EMERGENCE?

Having discussed the declaration's four articles, and the British reaction to the declaration, we are now ready to consider its overall meaning and significance in 1835. We will first set out the claimant and Crown positions on this question, and then consider other historical evidence, before presenting our own conclusions in the next section.

### 4.6.1 Claimant evidence and submissions

We described earlier how Māori sought to manage their relationships with Britain in ways that harnessed the benefits and minimised the negative effects. We also explained that rangatira sought to retain control of their relationships with Europeans, and by 1835 had been largely successful. Claimants generally saw he Whakaputanga in exactly this context. For the vast majority, the principal purpose of the declaration was to assert mana and rangatiratanga.<sup>248</sup> Various underlying motivations were given, though the dominant themes were control of Europeans, control of territories, and fulfilment of tikanga such as manaakitanga and kaitiakitanga.<sup>249</sup> Aldridge, for example, characterised the process of coming together through Te Whakaminenga as being intended 'to deal with this wave of... te ngaru, te waipuke o te Pākehā', and Pari Walker said its focus was to protect te ao Māori 'given the arrival of this Hapu Hou to our shores'.<sup>250</sup>

The other key purpose, according to the claimants, was to further what they saw as an alliance between their tūpuna and Britain. To some extent this relationship was

seen as providing protection against invaders such as de Thierry, and against less orderly British elements already established in the north; to many claimants, however, a more significant motivation was to secure access to British goods and knowledge, and peaceful working relationships with British people.<sup>251</sup>

Three other major themes also emerged. The first was the development of an inter-hapū alliance or confederation, which some saw as leading to their unification;<sup>252</sup> the second was what several saw as the emergence of 'Ngāpuhi' nationhood;<sup>253</sup> and the third was the emergence of an inter-hapū decision-making structure, either created by or declared by he Whakaputanga.<sup>254</sup>

For most claimants, the focus of he Whakaputanga was solely or principally on relationships with foreigners – that is, with the British monarch and officials, and with settlers, sailors, missionaries, traders, and occasional interlopers such as de Thierry. However, a small number said that he Whakaputanga may also have been aimed at regulating inter-hapū relationships – keeping peace between them so that they could trade with the British, or (in the view of a very small number of claimants) trade and share resources with each other.<sup>255</sup>

We consider these themes in more depth below.

#### (1) Unification and emergence of a nation-state

Aldridge, in his evidence, said the term 'He Whakaputanga' could be translated as 'the emergence' by which he meant 'that we are emerging as a nation, as ourselves, to be ourselves'.<sup>256</sup> This did not mean, however, that a new nation was being created:

the Maori nation that was already there [in Te Whakaminenga], but was just emerging onto the world stage. This was the nation that took hold of He Wakaputanga.<sup>257</sup>

Other claimants also referred to he Whakaputanga as heralding the emergence of a new state, though there was differing evidence about whether that state already existed and was being declared, or he Whakaputanga created it, or he Whakaputanga merely heralded it as an aspiration.<sup>258</sup> Haami Piripi characterised the declaration as

the ‘birthing’ of a new state, and as ‘sow[ing] the seed of national and regional sovereignty’. He also described it as ‘the founding constitutional document of Ngāpuhi-Nui-Tonu’. As he saw it,

By the time discussions began between Rangatira about a national body of representative Rangatira (Te Whakaminenga) Te Rarawa had already begun the transformation from localised Hapū to a region wide confederation of Hapū entities. An extension of this notion to cover the nation was just a logical next step in a process of political survival . . .<sup>259</sup>

The use of ‘Nu Tireni’ rather than a Māori term was significant, Piripi said, since it indicated that the creation of he Whakaputanga was part of a ‘transformational’ process in which Bay of Islands and Hokianga hapū were adopting new political forms. The phrase ‘He Whakaputanga o te Rangatiratanga o Nu Tireni’ could be translated as ‘The Birth of New Zealand’.<sup>260</sup>

The fullest explanation of emerging nationhood, however, was provided by Manuka Henare, who had completed doctoral research on the subject and provided evidence as an expert witness.<sup>261</sup> He described two forces converging during the 1820s and 1830s, together resulting in a Māori nation emerging on to the global stage ‘like an unfolding fern frond’. The first was the emergence of a distinct national identity, shown through both increasing identification as ‘Māori’ and increasing willingness to adopt the transliteration ‘Nu Tireni’ as a descriptor for these islands. This, in itself, provided at least ‘a feeling of a nation’.<sup>262</sup>

The second force was political. Rangatira had from the 1820s begun to recognise that participation in global trade – in fulfilment of their obligation to sustain their communities – might require ‘a new political process . . . perhaps something independent of the existing tribal process’.<sup>263</sup> According to Henare, a series of six events provided the outward expressions of this nation-making process. These events were linked, and reflected deliberate choices by northern rangatira to come together. We addressed the first four events in chapter 3. They were Hongi’s meeting

with King George IV and with the House of Lords; the 1831 petition; Busby’s arrival; and the adoption of a flag. He Whakaputanga was the fifth – and the sixth was to be te Tiriti five years later.<sup>264</sup> When Busby presented his ideas for unification, Henare said, they ‘made sense’ to the rangatira, and allowed them to assert their nascent sense of national identity on an international stage.<sup>265</sup>

By coming together to establish a tribal social compact and declaring to their own people and the world at large the freedom of Maori from any intended political and economic domination, the rangatira were giving birth to a constitutional basis for Māori law making . . . mana Nu Tireni was proclaimed.<sup>266</sup>

It is important to note that Henare’s understanding of nationhood was based on shared cultural and/or political identity, rather than the existence of a single government. His definitions were based on the work of philosophers, sociologists, and geneticists, rather than international or constitutional lawyers.<sup>267</sup> The claim of nationhood, he said, was based on morality and natural justice, rather than legal positivism.<sup>268</sup>

Many claimant counsel, in their closing submissions, argued that there had been a deliberate process of unification or nation-building among Bay of Islands and Hokianga hapū from around 1808 onwards.<sup>269</sup>

## (2) A declaration of mana and sovereignty

For the vast majority of claimants, the main purpose of he Whakaputanga was to assert the mana and sovereignty of the signatories’ hapū. Their territories were declared to be under their authority at a time when that authority remained largely intact but was coming under some pressure. The substance of he Whakaputanga, according to John Klarich, was the chiefs’ ‘Declaration based on their understanding of leadership, of the exercise of their power and authority over their hapu land, from which their authority originated and is sustained’.<sup>270</sup> Patu Hohepa, similarly, gave evidence that ‘The single reason for this [declaration] was to clearly express their mana or

rangatiratanga so that those non-Māori within and outside Nū Tīreni will know.<sup>271</sup> Wiremu Heihei said that, when his tūpuna Tāreha placed his moko on the declaration,

he was essentially affirming that his mana from time immemorial, came from Io Matua Kore down through the Māori gods (Tumatauenga), to his ancestors, which fell on him, and he released it down to all his descendants.<sup>272</sup>

Although mana and sovereignty are far from interchangeable, the claimants submitted that he Whakaputanga amounted to a declaration of both.<sup>273</sup> Annette Sykes, Jason Pou, and Miharo Armstrong, representing claimants from Ngāti Manu, Ngāti Kura, and several other hapū, submitted that, although ‘the concept of “mana” must not be contorted to meet British legal theory’, there was a meeting point in jurist William Blackstone’s definition of sovereignty as ‘a supreme, irresistible, absolute [and] uncontrolled authority’ existing in all forms of government.<sup>274</sup> This, counsel said, ‘renders into English the concepts of mana rangatiratanga, mana taketake, mana motu hake, [and] Ngapuhi haputanga’. Counsel therefore rejected any suggestion that the independence and authority asserted in he Whakaputanga were not equivalent to sovereignty. Rather, he Whakaputanga contained ‘an unambiguous assertion of Maori sovereignty’.<sup>275</sup>

Piripi said his Te Rarawa tūpuna ‘could only have viewed the construct of sovereignty through their own indigenous perspective’, and must have seen he Whakaputanga as a means of ‘expanding and reconfiguring their own Mana and authority paradigm’.<sup>276</sup> According to him, Māori concepts of authority could be understood only in the context of Māori explanations for the birth of the universe and the creation of universal laws. In that context, mana was ‘a much more inclusive and extensive vision than the British explanations of sovereignty’.<sup>277</sup>

Nonetheless, Piripi said, the ‘tenets’ or ‘core elements of sovereignty’ were present in Māori society prior to the arrival of Europeans. This sovereignty was ‘utilised, adapted and modified to meet the wave of Pākehā colonisation’, and ultimately found its expression in he

Whakaputanga. The declaration, in his view, highlighted ‘the fact that these chiefs considered it imperative that they declared sovereignty, and were willing to act in concert with each other as a confederacy in order to do so’.<sup>278</sup>

In Piripi’s view,

the Te Rarawa Signatories acted in a manner consistent with their sovereignty by signing He Whakaputanga in order to protect and emphasise their sovereignty and Mana over their Iwi and Rohe. This authority is alive today . . .<sup>279</sup>

The claimants also provided insights into the purpose of this declaration of mana or sovereignty. Hohepa said the intention was for Māori to control their ‘own country and assets without foreign interference’.<sup>280</sup> Piripi’s view was that the rangatira intended to ensure that their mana could ‘prosper within the melee of a rapidly changing economic and political landscape’.<sup>281</sup> Rima Edwards’s view was that he Whakaputanga confirmed the status of its signatories as ‘ngā tino rangatira . . . ngā tino kairanga i te tira o te waka’ (‘the true chiefs . . . the true navigators of the waka’). He also quoted a karakia, composed by Aperahama Taonui in 1840, which described he Whakaputanga as ‘he whakaaturanga ki te ao, ki te mana o ngā rangatira o ngā hapū ki tēnei whenua ki Aotearoa’ (‘an expression of the chieftiness of Niu Tīreni to show to the world the prestige mana of the hapū’).<sup>282</sup> Erima Henare said that ‘other than trade, what our people hoped for in He Whakaputanga was that the Māori worldview would remain dominant in this country’.<sup>283</sup>

Other claimants also saw he Whakaputanga as an attempt by the signatories to ensure that tikanga continued to apply to all people within their territories. Heihei said that when Tāreha signed he Whakaputanga he was seeking the benefits of trade (as conferred by the flag), but his principal focus was Māori authority and law:

I marama ana . . . ia ehara nā He Whakaputanga e whiwhi ai rātou i to rātou mana-motuhake, i te mea kua tū motuhake noa atu rātou (ngā hapū) me te mea ana, ko a rātou ture, tika hoki, he mea tuku iho no ngā Tikanga o Matua Kore (eg. he

tauria): Whenua tuku, Rahui, Tapu me te Whangai pērā ana i te keehi o Toko i riro nei e Auha raua ko Whakaaria.

I Tareha ki enei Tikanga i a ia i te ora, ko tana ohaki kia i tonu tona iwi me ngai Pakeha ki enei Tikanga. I whakaae ana hoki ia kia noho mai te Pakeha ki te taha o ngā Māori engari ki raro i te Mana Māori Motuhake.

He . . . understood that He Whakaputanga simply affirmed and declared to the world what the current position was to be, which was: "Ko mātou ngā Tino Rangatira." He also understood that He Whakaputanga did not give independence as such because they were already an Independent Nation (Hapū) and that the basis of their laws and rights were a natural progression of the natural laws [of] Io Matua for example Tapu, Rahui, Tuku whenua, Whangai.

. . . His expectation of Pakeha was that they continue to live along side Māori but subject to Māori Mana Motuhake.<sup>284</sup>

Kiharoa Parker told us that the purpose of he Whakaputanga was to assert rangatiratanga so that Māori laws and values would prevail:

The Ariki and Rangatira of the Taiamai had the understanding or intention of kaitiaki of New Zealand. They were the Rangatira of their area; they were not handing over any kind of sovereignty. They were not going to let any other country dictate their laws.<sup>285</sup>

Emma Gibbs-Smith gave evidence about the role of whakapapa as a source of identity, responsibilities, and relationships between people and the environment.<sup>286</sup> In her understanding, it was whakapapa and the Māori 'belief system' that he Whakaputanga guaranteed.<sup>287</sup> She spoke of her great-great-grandfather Kai Te Kēmara signing the declaration because he 'wanted to ensure his chiefly authority was not subject to the authority of any other person' thus fulfilling his responsibilities as a rangatira to manage resources for the benefit of his people.<sup>288</sup>

My matua all said to me, if I was to take more than I needed, eventually there would be nothing for tomorrow. I know this is why my tupuna, Kai Te Kemara was so supportive

of the Whakaputanga in 1835. He experienced and could see exploitation by the pākeha. He understood the importance of retaining his Rangatiratanga so that his people survived.<sup>289</sup>

### (3) *The role of Te Whakaminenga*

Many of the claimants regarded he Whakaputanga as formalising an alliance or confederation between hapū, based around decision-making through Te Whakaminenga.<sup>290</sup> Piripi, for example, said rangatira would have seen it as

a verification of their sovereign status as leaders and chiefs of their Iwi, Hapū and Whānau groups, and an effort to form a strategic political alliance with the other tribes of Ngāpuhi-Nui-Tonu and with other tribes.<sup>291</sup>

Erima Henare and others spoke of hapū unifying around shared whakapapa.<sup>292</sup> In essence, by coming together, hapū saw themselves as better able to respond to the changes occurring around them.

We have already set out much of the claimant evidence about Te Whakaminenga in section 4.4.2(2). In our view, however, some additional questions remain. First, the relationship between confederate and hapū authority needs further consideration. Secondly, we think there is a need to consider Te Whakaminenga's sphere of influence: was its decision-making role to be focused on relationships with foreigners, or was it also to make decisions concerning inter-hapū relationships?

Aldridge's evidence was that Te Whakaminenga could make decisions or create laws with hapū consent, but not override hapū authority.<sup>293</sup> He described different spheres of influence in Māori law, governing whānau, hapū, and inter-hapū relationships – although the underlying tikanga, in his view, remained constant.<sup>294</sup> His description of Te Whakaminenga clearly implied that it existed to manage a new sphere of influence – relationships with foreigners. Most other claimants who addressed these issues had similar views.

Annette Sykes and her co-counsel said that

the notion of a collective exercise of authority by Te Whakaminenga was additional to, and not by way of substitution for

the authority that would continue to operate at hapū and iwi level, as it had done for centuries past.<sup>295</sup>

Counsel further said:

Clearly supreme power, mana remained with the sovereign authority of the iwi and hapu who for agreed upon purposes, would come together as Te Wakaminenga to manage particular spheres of activity and if appropriate to delegate authority to such other bodies as may be required to meet the exigencies of any particular situation but who also retained the power to withdraw from that collective decision making if that was so demanded by any particular situation.<sup>296</sup>

Other claimant counsel submitted that he Whakaputanga did not subordinate the authority of individual chiefs to the collective. Rather,

the whole point of He Whakaputanga was that mana could be exercised on a collective level, without compromising the specific mana held by individual rangatira in respect of their hapū.<sup>297</sup>

Hohepa expressed a similar view when Crown counsel asked him about this matter. He drew an analogy between he Whakaputanga and a wartime alliance:

ko ngā mana kei ngā rangatira o ia hapū. Ka hono haere ngā hapū e ōrite ana ngā mana o tēnā, o tēnā. Mehemea, ka haere ki te pakanga, pērā i te wā o Hongi Hika, ko ngā hapū kāore e whakaāea ana ki tōna whakahaeretanga, ka hoki ki te kāinga ...

mana has resided with each hapū. When the hapū come together their mana was equal. If they went to battle, like the times of Hongi Hika, the hapū who did not agree with those, they went home ...

Hohepa said that this did not change with he Whakaputanga.<sup>298</sup>

Dr Bruce Gregory compared he Whakaputanga to the Swiss confederation:

The essence of a confederation is that power is essentially retained in the constituent members and they only agree to cooperate on certain matters. The Swiss confederation at these times had vastly different laws, different languages, different weights and measures. The confederation did agree to fight against invasion, recognise each other's independence, and ensure that trade through the alps was maintained. This is remarkably similar to Maori aspirations.<sup>299</sup>

In he Whakaputanga, Gregory said:

Each hapu continued to exercise tikanga, the tikanga facilitated safe and secure inter hapu trade, and access to specified resources through other hapu territory. They [Māori] were looking for mechanisms to enable the international leg of their trading operations to be similarly secure.<sup>300</sup>

While they argued that authority remained with hapū, many claimant counsel submitted that Māori of the Bay of Islands, the Hokianga, and neighbouring districts nonetheless had a system of government in place through Te Whakaminenga. According to counsel for te Rūnanga o Ngāti Hine, Busby and other British observers believed that rangatira would 'mimic British modes of governance and assemble in an orderly way at an appointed time each year in a kind of local Parliament'. The rangatira, however, did not believe that they had to establish anything new: 'They already had their own governance arrangements and they regarded He Whakaputanga as an explicit acknowledgement of that fact.'<sup>301</sup> Counsel for Te Riwih Whao Reti and other te Kapotai claimants said that some Crown witnesses

struggle with the evidence . . . that the rangatira were meeting in the decades prior to He Whakaputanga because there is no documentary evidence for this. This is because they would like to believe that Maori had no form of government or forum for decision making to regulate themselves, therefore they were inferior and in need to a greater authority. However, joining allegiance and coming together for a common purpose was not a new concept. Since ancient times their hapu had been forming alliances with other hapu for

war, planting, harvesting, food gathering and other kaupapa. He Whakaputanga was just another example of this.<sup>302</sup>

Moana Jackson, called as an expert witness for the claimants, said that he Whakaputanga created

a constitutionally different site of power where mana could be exercised in a co-operative and collective way that nevertheless still acknowledged the specific mana of its constituent members.

Jackson likened Te Whakaminenga to ‘a new “marae” where polities could exercise interdependent authority while preserving their own independence’.<sup>303</sup>

Manuka Henare had argued in his thesis that Te Whakaminenga was intended to have power to make laws for hapū, and he described this as ‘a radical development’.<sup>304</sup> However, he did not repeat that point in his evidence, which instead emphasised what he saw as the confederate nature of Te Whakaminenga, alongside the point that Te Whakaminenga did not diminish hapū autonomy. Henare drew our attention to the fact that article 1 of he Whakaputanga explicitly recognised the mana of hapū in the phrase ‘Ko te Wakaminenga o nga Hapu o Nu Tireni’ (emphasis added), not merely ‘Ko te Wakaminenga o Nu Tireni’. Furthermore, he noted that the words ‘o nga hapu’ had been inserted as a correction into the Henry Williams draft of he Whakaputanga. In his view, this probably occurred during debate between Busby and the rangatira:

In this way, their individual leadership of whānau-hapū, responsibilities and powers are recognised and when they come together as Te Whakaminenga, the sacred gathering of leaders they act also in a collective capacity. They acquire a collective leadership set of responsibilities, but it does not in any way diminish their individual responsibilities.<sup>305</sup>

John Klaricich sought to explain the motivations behind he Whakaputanga, and the relationships it created, by referring to the 1833 dispute between Moetara and Te Rarawa over access to trade. Following that dispute, which Moetara survived only narrowly, peace was made at

Kawewhitiki Point on the north side of Hokianga Harbour, resulting in Moetara agreeing to confine his trading relationships to the south. That peacemaking, Klaricich said, contained echoes of the much earlier relationship between Nukutāwhiti and Ruānui, whose people had ‘freely used both sides of the harbour’, and intermarried, showing that the harbour was ‘not a barrier to human relationships’. He Whakaputanga, he noted, occurred two years after Kawewhitiki, and once again echoed previous events:

The reasons for both events [Kawewhitiki and he Whakaputanga] was a desire to secure a workable, respectful enduring relationship between two peoples. The reasons for each were not dissimilar nor were the desired outcomes. It can be said Kawewhitiki and He Whakaputanga mirrored each other, or He Whakaputanga reflected Kawewhitiki.

Based on their experiences at Kawewhitiki and at the flag hui, Moetara and other Hokianga rangatira ‘would have understood implicitly what was being sought through He Whakaputanga’:

He (they) would have understood and supported the need for trade and commercial development for Maori and that joint understandings and fair equitable agreements were needed to enable two peoples to respect and work alongside each other in peace. Moetara would have been mindful of the constraints hapu boundaries would always impose on trade and commerce and would have been mindful of his leadership obligations to his hapu, to retain power and authority. For Moetara the mark he placed on He Whakaputanga was as enduring as the verbal agreement he gave at Kawewhitiki.<sup>306</sup>

The inference to be drawn is that he Whakaputanga reinforced the mana of each rangatira within his own territories, enabling him to engage in the wider world – just as the peace secured at Kawewhitiki had.

#### (4) Alliance with Britain

Many claimants referred to the evolution of Māori relationships with Britain, emphasising both the political events and the personal side of the relationship arising

from the meeting between Hongi and King George IV. For many claimants, one of the most significant aspects of he Whakaputanga was its attempt to strengthen and deepen this ongoing bond. Consistent with the text of he Whakaputanga, the claimants saw this alliance as an entirely reciprocal exchange with a largely foreign relations focus, under which they agreed to protect (and trade with) British subjects, while asking Britain for protection from foreign threats to their authority.<sup>307</sup> Counsel for the Wai 249 and Wai 2124 claimants, for example, submitted that he Whakaputanga was a ‘clear statement’ by rangatira of their ‘independence and ability to govern themselves, needing only assistance should they be threatened by any outside parties’.<sup>308</sup> He Whakaputanga also represented another step in the ‘special relationship’ that Māori believed had been forged with Britain since 1820, under which the Crown had made an ‘unambiguous offer of protection’.<sup>309</sup>

The claimants also saw other motives for this relationship. Trade was the obvious one, as discussed above. Others saw the relationship in terms of British guidance of the fledgling Māori state as it began to evolve its international relationships.<sup>310</sup> Annette Sykes and her fellow counsel suggested that rangatira were seeking British protection from ‘the wrongdoings of its citizens who were living amongst them during the period’.<sup>311</sup> In this context, the commitment to ‘explore’ the establishment of ‘formal European style judicial and legal systems’, as set out in article 3, could be seen as an ‘effort . . . to promote cross cultural understandings to minimise conflict arising from a lack of understanding of Tikanga Maori and Maori Law’.<sup>312</sup>

Busby had envisaged the request of the rangatira for protection as a plea for Britain not only to keep the French out of New Zealand but also to establish a government within it, albeit one under nominal Māori authority. In later dispatches to Bourke, he would refer to the example of the Ionian Islands off Greece’s west coast, which in 1815 had been constituted as a state under British protection. The islands were to have their own legislature while a British high commissioner carried out the functions of government. There were many variations on such arrangements within the British Empire at the time. In

Manuka Henare’s view, Busby had probably discussed the Ionian Islands idea with rangatira at the time of he Whakaputanga, and would have believed they were heading for such an arrangement. The principle, Henare said, was based on that set out by the eighteenth-century Swiss jurist Emerich de Vattel, ‘where a new emerging nation wished to be established, the people could ask an existing well-established state to assist them in a protectorate relationship’ without ceding sovereignty or the right to self-government.<sup>313</sup> We should note here that the Ionian Islands did not agree to become a protectorate, and nor did Britain recognise them as having independent sovereignty prior to 1815. Rather, the protectorate arrangement was imposed on them as part of European peace arrangements following the Napoleonic Wars. In these ways, the Ionian example differs from that of New Zealand, where Britain had clearly recognised Māori independence (as discussed in chapter 3).

Most claimants saw he Whakaputanga as establishing a relationship that was more in the nature of an alliance than a protectorate. There was also very wide agreement that article 4 did not in any way limit the mana or sovereignty of hapū, nor devolve any authority to Britain.<sup>314</sup> Sykes and her co-counsel, for example, said that there was

no question of handing any autonomy to Britain . . . Those rangatira who gave their signature to He Whakaputanga were clear in their desire to retain their autonomy and independence.<sup>315</sup>

Counsel for te Rūnanga a Iwi o Ngāti Kahu and Ngāti Kuta ki te Rāwhiti submitted that the King was being asked to provide assistance to Te Whakaminenga ‘as required’ (counsel’s emphasis):

Given that Maori were sovereign and vastly outnumbered the Pakeha population at the time, it is submitted that the rangatira would not have requested an overarching authority from the King.<sup>316</sup>

Wiremu Heihei told us about Tāreha assenting to he Whakaputanga:

I marama ia, ko tana tū hei Rangatira nui o Ngāpuhi e kōrerorero ana ki Te Rangatira nui o Ingariangi.

Rangatira ki te Rangatira, Ariki ki te Ariki ...

Ko tana whakaputanga, kia marama mai ai te Kingi, ko ta rātou Rangatiratanga, ko rātou Kingitanga i whakaaengia, i whakaungia, I whakahonorengia, ma rota i te kara i tohungia ai e ngā Rangatira me te Kingi, i whakaaengia, whakaungia hoki, e te Kīngi.

His understanding was that he as the Rangatira nui o Ngāpuhi was addressing Rangatira nui o Ingariangi.

Rangatira to Rangatira, Paramount to Paramount ...

His declaration to the world was to be honoured, not negotiable.

His declaration was to make clear to the King that their Rangatiratanga, their Kingitanga was acknowledged, accepted and honoured through the flag chosen by the chiefs being acknowledged and endorsed by the King ...<sup>317</sup>

Rima Edwards described a relationship of mutual benefit, bound together by trade and mutual offers to ‘care for each other’. Through he Whakaputanga, Edwards said, ‘the World will know of this relationship that England now has with Aotearoa’.<sup>318</sup>

## 4.6.2 Crown submissions

Crown counsel, in their closing submissions, acknowledged that he Whakaputanga would have been seen in 1835 as ‘a clear assertion of sovereignty and independence by those rangatira who signed it, coupled with a request that Britain protect Māori from foreign powers’.<sup>319</sup> Prior to 1835, the Crown had not claimed to have sovereignty (that is, ‘a prerogative capacity to constitute a local authority or any legislative capacity’) over New Zealand, and he Whakaputanga did nothing to change that.<sup>320</sup> The assertion of Māori sovereignty, counsel submitted, applied only to ‘the part of New Zealand that is north of Hauraki’.<sup>321</sup>

Crown counsel also noted that he Whakaputanga ‘made a request to the Crown for protection’.

The Crown’s [1835] response was to advise rangatira that the Crown would afford “such support and protection as may be

consistent with a due regard to the just rights of others and to the interests of His Majesty’s subjects”. This would have intensified the Crown–Māori relationship.<sup>322</sup>

To this extent, the Crown’s perspective appears to be reasonably consistent with that of the claimants. However, it differed from the claimants in other respects.

As we saw earlier, to many of the claimants ‘Te Whakaminenga’ referred to inter-hapū meetings that were already taking place and reflected a kind of assembly or confederation in which hapū sovereignty was not diminished but was at times exercised jointly. The Crown did not dispute that inter-hapū meetings were occurring ‘to discuss important issues’.<sup>323</sup> Nor did it dispute that, after the declaration, hapū continued to exercise ‘a form of sovereignty and independence that was consistent with hapū autonomy’.<sup>324</sup> However, Crown counsel submitted, Te Whakaminenga was intended to establish something new. Te Whakaminenga, counsel said, was to be a supreme legislature ‘with power to make laws for the hapū of signatory rangatira’. In this way, he Whakaputanga was intended to establish ‘a supreme confederative form of sovereignty’ which would override the authority of individual hapū;<sup>325</sup> and it also ‘expressed the aspiration of rangatira to develop a functioning nation state’ but which under normal circumstances ‘did not alter hapū autonomy’.<sup>326</sup>

Crown counsel submitted that the declaration of rangatira sovereignty was unilateral. That is, the Crown in 1835 did not sign the document or make any commitments in it; the declaration represented only the will of ‘those rangatira who signed it’.<sup>327</sup> Counsel also said that in 1835 British official understandings of the declaration ‘would have been premised on the English text’.<sup>328</sup> However, ‘the translation was a good one’. Crown counsel based this assertion on Hohepa’s evidence about the quality of the language, which we referred to in section 4.3.1. Counsel also submitted that there was ‘in fact, little dispute between the Crown and the claimants about the meaning and effect of He Whakaputanga / the Declaration’.<sup>329</sup>

Counsel emphasised that the declaration needed to be understood in the broader context of events preceding it, including Britain’s steps to control its own subjects in

a country where it had no jurisdiction. Nonetheless, de Thierry's letter provided the 'immediate trigger' for the declaration.<sup>330</sup>

### 4.6.3 Historical interpretations of the declaration

The Declaration of Independence, as it has usually been called, has received little attention in New Zealand scholarship, and even then has usually been dismissed as a failure and of little relevance. Most often it has been seen as an attempt by Busby to establish – with little or no Māori input – the 'settled form of government' his instructions envisaged. Its only relevance, according to this interpretation, was in its confirmation that Māori were not capable of imposing order on New Zealand's colonial frontier, and so (as we explore in chapters 5 and 6) required assistance in the form of British protection or annexation.

Manuka Henare, in his thesis, challenged this interpretation. New Zealand's colonial history, he argued, has generally been told from a colonial perspective in which Britain is the active and superior player, and Māori have the essentially passive role of accepting British sovereignty.<sup>331</sup> This was 'particularly noticeable in the accounts (or lack of accounts)' of the Whakaputanga, which in mainstream history had typically been 'ignored, simply denigrated or dismissed as irrelevant'.<sup>332</sup> Henare gave numerous examples, including those of William Pember Reeves, who in 1898 described the declaration as a 'comical scheme', and Alexander McLintock, who in 1958 described Māori sovereignty as 'fiction', and 'mawkish sentiment'.<sup>333</sup>

Even in more recent times, many historians have focused on Busby's motives for drafting the declaration and given little consideration to what rangatira might have intended. Keith Sinclair's *History of New Zealand* presented the declaration as an over-reaction to a non-existent threat from de Thierry – a 'big diplomatic gun [fired] at a cardboard silhouette'. Sinclair also described the declaration's recognition of indigenous sovereignty as a 'polite fiction'.<sup>334</sup> Michael King, in *The Penguin History of New Zealand*, described Busby as persuading Māori to sign the declaration 'in exchange for a . . . cauldron of porridge'. Furthermore, 'Maori had no input' into the declaration, which 'had no constitutional status' and 'no reality',

and so was dismissed by colonial officials.<sup>335</sup> Paul Moon, in *Fatal Frontiers*, his history of New Zealand in the 1830s, wrote of the declaration as a doomed attempt to 'fabricate a modern nation state where none had existed before'.

Was the declaration an overreaction to de Thierry's capricious desire to be a king? Absolutely, but it was as much a panacea for Busby's defunct residency as it was a deterrent to his French adversary. There was nothing wrong, though, with killing two birds with this particular stone, as Busby reasoned. The trouble was, however, that the declaration was little more than a pebble. Good intentions were one thing, but when it came to enforcing them, the chiefs in the confederation, along with Busby, soon discovered there were no teeth in their agreement.<sup>336</sup>

Other historians have given more consideration to Māori intentions. James Belich, in *Making Peoples*, presented the declaration as Busby's attempt to 'warn off the French and bilk his rival . . . McDonnell', while also acknowledging that 'Maori may have had their own motives in adhering to it'.<sup>337</sup> Claudia Orange's *The Treaty of Waitangi* considered the declaration in more depth than most New Zealand histories. In her view, the establishment (on paper) of a confederation of chiefs was intended to shore up British influence in New Zealand, and was 'similar to tactics being used with other indigenous peoples in the Pacific where foreign powers were vying with each other'. Māori, too, had an eye on the Pacific: they were aware of the 'challenges accompanying European intrusion' in places such as Tahiti, Hawaii and Tonga, and were 'shrewd enough to see the advantages to be gained by forming some alliance' with Britain.<sup>338</sup>

In Manuka Henare's view, the 'extraordinary political event of 28th October 1835 would in the life of any modern nation state be celebrated as a milestone of achievement'.<sup>339</sup> Not only were those events significant in terms of 'mana Māori history' but they were also 'of historical significance for . . . other indigenous peoples in the Pacific and elsewhere around the world'.<sup>340</sup> Mainstream history, he said, had removed Māori 'from the theatre of Pacific Island peoples' histories' and instead made them

'part-time players in European, specifically British, settlement history'.<sup>341</sup>

Many of the claimants agreed with this.<sup>342</sup> In our view, published interpretations of he Whakaputanga have generally been based on English-language texts and British concerns, and have as a result been largely dismissive of the declaration. We also think that many interpretations of he Whakaputanga have made the mistake of viewing it through a retrospective lens. For example, we now know that, when de Thierry finally arrived in New Zealand, he was unable to claim his full allotment of land, let alone assert sovereignty. However, this knowledge was not available to Busby, who considered the possibility that de Thierry was a 'madman' but thought that it was better to take the threat seriously rather than regret it later; nor was it available to the rangatira, who had been informed only that an armed foreigner was coming to be their sovereign. Similarly, the view of he Whakaputanga as an irrelevant failure is based on perceptions of how it (and in particular the legislature functions that Busby sought) subsequently worked in practice. Overall, in our view, he Whakaputanga has been interpreted in a manner that has reflected British justifications for later deciding to set the declaration aside, rather than being judged in its own context.

The claimant evidence presented to this inquiry and the historical research conducted for it perhaps go some way towards redressing this imbalance. Certainly, the research commissioned on behalf of the Crown, claimants, and the Tribunal itself has brought he Whakaputanga into the spotlight to a greater extent than ever before. Some of that research was based on written sources, and sought to explain British understandings and motivations in considerable depth. That research was in many respects consistent with the existing scholarship. Other research, however, focused on Māori actions and motivations to a greater extent than has previously been the case. Within that research, there was one dominant theme: that the rangatira who signed he Whakaputanga were more interested in enhancing their mana and developing their relationship with Britain than they were in experimenting with new, British-style systems of law and government.

Phillipson, for example, saw the declaration as part of

a longer-term relationship between Bay of Islands Māori and the Crown. As well as rejecting de Thierry's claims of sovereignty, the priorities of those who signed were 'thanking the King for accepting their flag, and . . . renewing their alliance with their matua across the seas'.<sup>343</sup> We note, however, that this interpretation reflected the assertion that both the sentiment and language of article 4 had been inserted on the day at the chiefs' insistence; as discussed earlier, we are sceptical about that claim, which Busby made in 1837 when his agenda was to win Crown support for his proposals for British intervention.

Phillipson also commented on the British reaction, noting that the Crown had 'once again assured Bay of Islands Maori in a public and formal way of the Crown's friendship and protection'.<sup>344</sup> He wrote:

The alliance between the British Crown and Maori was . . . taken a further step by King William's acceptance of the Declaration. The governments of New South Wales and Britain had now formally recognised the independence of New Zealand and the right of Maori to govern themselves, both in the reception of the flag in 1834 and now again in the recognition of the Declaration in 1836. These two events were accompanied by protestations of friendship and protection on both sides, and stand squarely in the developing relationship started effectively by Hongi Hika and George IV in 1820, and now renewed on repeated occasions by William IV, governors of New South Wales, Secretaries of State, and Colonial Office officials.<sup>345</sup>

Busby's goal of establishing a government under the authority of a Māori legislature, Phillipson thought, was most likely of less significance to rangatira than this mutual alliance. The rangatira 'did not think the confederation government, which they were apparently signing up to, would actually work', and may have agreed to its inclusion in he Whakaputanga either 'as a matter of form' because Busby wanted them to, or because it was seen 'as an ideal, something that they would like to see created but at the moment thought unworkable'.<sup>346</sup>

Merata Kawharu covered similar themes. She, too, thought that rangatira were less interested in Busby's vision

for ‘a new form of authority, a confederation of chiefs’ and more interested in their alliance with the Crown and enhancing the mana and wellbeing of their people.<sup>347</sup> He Whakaputanga, in her view, provided an opportunity to expand the alliance with the Crown, allowing rangatira to ‘continue asserting their customary authority’ while the Crown provided ‘support and protection’.<sup>348</sup> This could be seen as part of a general direction of taking opportunities to enhance ‘independence, authority, development and well-being’ by engaging in trade and commerce, acquiring new technology and skills, and forming new alliances.<sup>349</sup>

Like Manuka Henare, Kawharu emphasised the oral nature of Māori decision-making. In her view, rather than being concerned with the detailed wording, the rangatira would have seen he Whakaputanga as ‘a beginning of ongoing discussion’, which was likely to take slightly different courses for each rangatira, ‘depending on their needs and those of their hapū’.<sup>350</sup>

Ralph Johnson, too, saw he Whakaputanga in the context of the Māori–Crown alliance. In his view, the Crown’s actions during the early 1830s would have created a clear expectation that it would respect and actively protect Māori independence and authority, and he Whakaputanga would have reinforced that expectation:

Ngapuhi most likely understood He Whakaputanga as further acknowledgement of their mana and their rights as tangata whenua. The document was in keeping with the earlier oral discussions between Hongi and King George. And following on from these earlier actions and statements of the British Crown, Maori who signed saw the document as acknowledging and securing their autonomy, as well as renewing a preferential relationship with the British Crown. The document was a statement of their collective rangatiratanga, though the authority to exercise such dominion . . . did not reside in the document. Chiefly authority and rangatiratanga was theirs to exercise as tangata whenua.<sup>351</sup>

As Johnson saw it, however, several factors combined to give Britain a different impression of the document – not least its reliance on the English text.<sup>352</sup>

Those historians who focused more on documentary

evidence and British motivations, by contrast, were more inclined to see the declaration in terms of its origins in Busby’s attempts to form a congress of rangatira, or a British protectorate government legitimised by a veneer of Māori authority.<sup>353</sup> Professor Paul McHugh saw Busby’s desire to establish this congress as a ‘virtual obsession’, and said that this ‘concern . . . with the collective rather than tribalised sovereignty’ characterised Busby’s entire term as Resident. In this, Busby ‘was not acting in the dark’. He would have been well aware, McHugh said, of British relationships with ‘confederations of indigenous polities’ in India and North America, which

had enjoyed highly ritualised relations with the Anglo-European arriviste, as powerful allies and potentially devastating enemies whose support was to be solicited and the authority of whose leaders was fully recognised.<sup>354</sup>

Professor Alan Ward and Carpenter both explored the possibility that the declaration was intended as a basis for the establishment of some kind of protectorate. According to Ward, Māori had been discussing such an arrangement since the 1820s. His source for this view was Samuel Marsden, who (as discussed earlier) wanted rangatira to unite under a king. We will consider Marsden’s views further in chapter 5.<sup>355</sup> Carpenter saw the declaration as an attempt by Busby to establish ‘informal control’ or ‘indirect rule’ over New Zealand – an approach, he noted, that Britain typically took when it wanted the benefits of trade and the ability to control British subjects without the trouble or expense associated with formal annexation and declaration of sovereignty.<sup>356</sup> ‘There is no doubt,’ Carpenter added, ‘that [the] protectorate language [in article 4] was a prominent code for British control.’<sup>357</sup> In Carpenter’s view, Busby saw each hapū as possessing its own independent sovereignty – a fact he was determined to change by establishing a confederation capable of ‘exercising a collective Sovereignty or Government by means of a national assembly or Parliament’.<sup>358</sup>

Loveridge believed that there was significance in the establishment – on paper – of a commitment to unify and establish a congress:

Busby, it appears, had been talking up the advantages of a central government since his arrival in 1833. At his very first meeting with the chiefs, for example, he told them that a vital step in Britain's rise as a world power began when its people 'ceased to go to war with each other, and all the tribes became one people'. We know that the Protestant missionaries supported the concept of a Maori government, and we of course know that the chiefs were receptive to Busby's proposals on 28 October 1835 . . . In other words, the idea of forming a Maori government of some description had been in the air for some time.<sup>359</sup>

Loveridge noted, however, that the rangatira expressed misgivings about any collective government that required them to submit to majority rule. In his view, they did not expect the proposed congress to have any role in regulating intertribal relationships.<sup>360</sup>

Several historians considered the question of where sovereignty was meant to lie – with the collective or with individual hapū. Ward was certain it was the former. He argued that

A core concept [of the declaration] was the subordination of the autonomy of the individual chiefs to the collective authority of the United Tribes, both in their legislative and executive capacity.

Specifically,

no function of government was to be exercised except under the authority of laws passed by the congress and by persons appointed under that authority.<sup>361</sup>

Ward also argued that he Whakaputanga proposed an 'organisational' form of alliance embracing all hapū whose rangatira had signed it, as distinct from traditional alliances which were most often created for purposes of 'war and heke', were based on whakapapa or marriage, and tended to be transient.<sup>362</sup>

Kawharu's view, in contrast, was that rangatira were interested only in collective authority if it would complement, not compromise, existing hapū leadership.<sup>363</sup> Where

they acted collectively in their relations with Europeans, this was consistent with a tradition of autonomous hapū that would come together for 'important events such as tangi or hahunga or large scale war' but would also fight 'one another in defence of their mana'.<sup>364</sup> 'The Confederation,' she said, 'was not . . . a new system replacing the existing, hapu-centred form of leadership and control.'<sup>365</sup>

In Carpenter's view,

This new confederate state of the United Tribes was not intended to dissolve individual hapū and iwi structures, nor the individual authority of rangatira. Nevertheless, it was meant to unify their authority for the purpose of national government and dealings with foreign nations.<sup>366</sup>

Put another way, the declaration was intended to ensure that 'state sovereignty was only possessed by the rangatira collectively (article two)', but

what the balance of power, or the differing functions, would be within the United Tribes – that is, between iwi and hapū and the collective power of Congress – was not . . . specified.<sup>367</sup>

## 4.7 THE TRIBUNAL'S VIEWS ON HE WHAKAPUTANGA AND THE DECLARATION OF INDEPENDENCE

We now turn to our own views of he Whakaputanga and what it meant to those involved at the time it was declared. We think it is important to see the document as it would have been seen in 1835 (at least to the extent that that is possible now), rather than to interpret it in light of subsequent events, as has tended to be the case in mainstream scholarship.

### 4.7.1 Questions of interpretation

There were significant differences between the English and Māori texts of the declaration, as well as differences between claimants and Crown over how those texts should be interpreted. The claimants argued that the reo Māori text – he Whakaputanga – was the definitive document, and we agree. He Whakaputanga, as the Crown told us, was a unilateral declaration by its signatory rangatira;

it was not an agreement or treaty. Only he Whakaputanga was debated, and only he Whakaputanga was signed.

Busby may have brought the ideas to the table, and indeed drafted the original text. But it was ultimately not his declaration. The English text can therefore provide evidence about the meaning of he Whakaputanga but, where the two texts diverge, the Māori text must be seen as authoritative. In this respect, it is unfortunate that the English text has shaped New Zealanders' understandings of he Whakaputanga for so long.

In arriving at this view, we are not dismissing the English text. First, it provides extremely valuable insights into what Busby thought he had induced rangatira to declare. Secondly, it provides some insight into what the rangatira themselves intended – although, for the reasons set out above, the English text clearly provides less insight on rangatira intentions than the Māori text. Nor are we elevating the texts above the circumstances in which they were produced. All of the witnesses who considered he Whakaputanga in any depth argued that it could not be separated from its context. That was the case even when there were differing views over what that context was – for example, over the nature and extent of Māori cultural change during the 1820s and 1830s, or the extent to which the Māori population was declining.

### 4.7.2 The meaning and effect of he Whakaputanga and the Declaration of Independence in 1835

When rangatira gathered at Busby's house on 28 October 1835, they were responding to both an invitation and a warning. A foreigner, they had been told, wanted to be their King – to assert his mana over their lands. Busby's question had been simple: would they agree to this intruder's plans?

Many had been called to hui with Busby before: in 1833, when he arrived with a message from the King, offering friendship and protection against French threats and British crimes; and in 1834, when he had offered them the King's flag so their ships could carry cargoes of food and kauri to Sydney. They had reason to see him as a friend, and as an adviser on how to negotiate the sometimes murky waters of colonial contact. This hui, though, was

remarkable for the range of leaders who attended. Busby had invited people from further afield than before, and had presented the threat as immediate and genuine. The leading rangatira from both northern and southern alliances were there, along with those who were able to attend from the Hokianga and other districts.

After they had climbed the hill to Busby's house, he offered blankets, pork, and a way of responding to this alleged foreign threat. Having determined that the rangatira rejected de Thierry's claims both to land and to chiefly status, Busby addressed them on the importance of acting in a united manner in response to de Thierry's claims. This notion of putting aside smaller rivalries in order to take on larger challenges would have seemed perfectly reasonable to rangatira in the 1830s. Indeed, as we have seen, the building of inter-hapū alliances to support common goals, such as the pursuit of mana through warfare or economic endeavour, was a key feature of political organisation among the descendants of Rāhiri, and was entirely consistent with his kawa.

Busby then proposed to the rangatira that their unified response to the French threat should take the form of a written declaration. What was required, he advised, was for the rangatira to affix their tohu (signatures) to a document declaring their rangatiratanga (their chiefly status and duties) in relation to their lands, along with their kīngitanga and their mana i te whenua (the highest authority and status within their lands). Their lands were furthermore to be declared 'wenua rangatira' – chiefly lands, or lands at peace – another clear endorsement of their authority and their responsibilities as leaders. Their gathering would be referred to as 'Te Wakaminenga o nga Hapū o Nu Tireni'. To the rangatira, the transliteration 'Nu Tireni' was probably seen as Britain's way of referring to these islands, and it may also have implied an idea that they were a single country in the eyes of the outside world. As we have seen, Māori were already using the term in their dealings with Europeans. We do not think that rangatira saw he Whakaputanga as applying to the country as a whole; on the contrary, each would have seen his signature as applying only to the territories of his own hapū, while agreeing to act in concert when necessary.

Having declared their mana, rangatiratanga and kīngitanga in very clear terms, the rangatira then also declared that no foreigner would be allowed to make ‘ture’ (usually translated as laws) within their territories, and nor would anyone have powers of ‘Kāwanatanga’ except under their authority. On this point, too, Busby’s proposals would have made perfect sense as a way of rejecting foreign authority within their territories, consistent with their clear assertion of their own authority. Through their contact with missionaries and colonial administrators, the rangatira would have had at least a cursory familiarity with the concept of ture and the role of kāwana. They might have understood ture as guidelines or rules for behaviour, reflecting the word’s meaning in a missionary context. They might also have understood ture simply as decisions. In either case, ture would have been seen as a European form of rule or decision, distinct from tikanga or ritenga.

As well as rejecting foreigners’ ability to make ture, Busby proposed that all of the rangatira gather at Waitangi during each year’s harvest season to make their own ture, for the specific purposes of dispensing justice, ensuring peace, ending wrongdoing and ensuring fair trade and commerce. It is not clear from the wording of he Whakaputanga who these ture were to apply to, but it seems most likely that rangatira believed they would apply principally to Europeans and to difficulties arising in Māori-European relationships. The specific context – the threat from de Thierry – implies that ture would be aimed at the contact zones. So, too, do the purposes: peace, trade, justice, and order were all Māori concerns arising from contact with Europeans, as reflected in earlier Māori appeals to the British King. We do not think that rangatira saw the proposed gatherings as being concerned with the exclusively Māori world. That is, they did not see these gatherings as being concerned with intertribal and inter-hapū relations (except to the extent that it was necessary for them to deliberate and act in concert to control Europeans, as some of them had when they adopted the Hokianga liquor ban and as all of them were doing by debating and declaring he Whakaputanga). Nor did they see these gatherings as being concerned with making ture

for whānau and hapū. Within these worlds, for the most part there were existing tikanga and ritenga, and existing systems for making and enforcing decisions.

We know that Busby intended rangatira to give up their separate authority as leaders of their hapū, and instead make themselves subject to the ture they would agree at the proposed autumn gatherings. In this respect, the use of ‘in their collective capacity’ in the English text is significant, whereas the Māori text contains no equivalent phrase. Thirty years later, in his unpublished memoirs, Busby claimed to have told rangatira clearly that they would be giving up their individual authority if they signed he Whakaputanga. However, he made no reference to that point in his dispatches immediately after the signing. What is clear is that the rangatira rejected any suggestion that they could or would give up authority to a collective in the manner Busby intended. Indeed, it would have been inconceivable for them to relinquish mana in this way. As Busby said, they did not see how laws made by an assembly could be enforced against anyone inclined to break them, except through traditional sanctions such as warfare: there was no overarching authority, and no place for one in their world view. It is also clear that Busby agreed entirely with this assessment; as he made clear a month after the signing, he saw the declaration as premature, and had no intention of asking the assembly to make or enforce any law.<sup>368</sup> By contrast, as we saw earlier, Patuone, Nene, Moetara, Taonui, and Mohi Tāwhai had been perfectly comfortable enacting and enforcing a local law, and also appeared to see no contradiction between local initiatives and the joint anti-Thierry action they subsequently signed up to in he Whakaputanga. Bourke, too, explicitly endorsed local lawmaking, so long as enforcement was in Māori hands. No one, in other words, actually believed that he Whakaputanga had created a supreme legislature with power over individual hapū.

We also know that Busby’s underlying reason for trying to establish a Māori legislature was so it could do his bidding and legitimise the establishment of an executive (including a military force) under his control. It seems very unlikely that he was so forthright in his explanations to the rangatira. Rather, he may have stuck more closely

to what was expressed in the text of he Whakaputanga, which suggests only that rangatira held all authority, that no one else could pass laws, and no one else could govern unless authorised by ‘to matou huihuinga’ (our gathering). This was an explicit rejection of foreign authority, not an invitation for its establishment; and it said nothing at all about hapū relinquishing or transferring any authority. Busby’s later claims that rangatira were explicitly asking for a British government to be established under an Ionian-style protectorate arrangement are, in our view, implausible. In summary, then, in assenting to the law-making and government functions of he Whakaputanga, rangatira were simply agreeing to meet and make decisions about the colonial frontier and the novel circumstances it had created.

As we have seen, many of the claimants saw he Whakaputanga as the culmination of a series of deliberate steps towards unification or nationhood among Bay of Islands and Hokianga Māori; and many also told us that Te Whakaminenga had existed for many years before he Whakaputanga was declared. It is clear that there were discussions about unification. It is also clear, both from the oral and written evidence, that rangatira met regularly and made decisions about important matters of the day, including their relationships with each other, with other Māori, and with Europeans. In these meetings, everybody knew the tikanga and ritenga: they knew how the debate would be conducted, how decisions would be made, and the values that would apply. The claimants gave evidence of major hui at Te Ngaere and other places, and we have no reason to doubt this evidence. We also have no doubt that one of those hui took place in 1808, though it may have been concerned with the previous year’s defeat at Moremonui as much or more than the potential challenges and benefits of contact with Europeans. Most of the claimant evidence was consistent with subsequent meetings occurring at various times and places, involving various leaders, and being held for various purposes. We were not sure, for example, whether the meetings described by claimants typically involved participants from throughout the Bay of Islands, Hokianga, Whangaroa and Whāngārei, or rather were restricted to members of particular

alliances or particular hapū. Overall, then, the claimant evidence did not seem to point to the existence of a single body with stable membership, meeting consistently over a period of years. Nor did the written evidence, which did however suggest that large regional hākari and hahunga were reasonably frequent and involved political functions, at least until 1835. It was unclear to us whether most of the claimants believed that the term ‘Te Whakaminenga’ was in use before 1835 as a term for a formal body of rangatira, or rather were saying that the body already existed and acquired a new name in 1835. It seems to us that the name might have been retrospectively applied since 1835 to oral traditions about major inter-hapū hui.

While there was differing evidence on many points concerning Te Whakaminenga, on one point there was unanimity among the claimants. Whatever political structures were in place before he Whakaputanga, and whatever systems he Whakaputanga purported to put in place, none of them diminished the mana of individual hapū, nor the responsibility of individual rangatira to act in accordance with that mana. Hapū remained the principal political unit, and also the principal unit of identification. Sometimes they acted alone, and sometimes through alliances, such as the kin-based northern and southern alliances that had existed for some time in the Bay of Islands. By all agreeing to meet annually and make decisions together, rangatira did not change that. Declaring mana and kingitanga of ‘ngā hapū’ reinforced it. In other words, we do not think that the rangatira who signed he Whakaputanga saw it as heralding any fundamental change to their existing forms of political organisation. On the contrary, he Whakaputanga simply reflected the reality that the signatories’ hapū were wholly autonomous but were capable of deliberating and acting in concert when circumstances required, as reflected in their agreement to all meet annually at Waitangi, as well as in the many inter-hapū gatherings that took place before October 1835.

The final part of he Whakaputanga dealt with the relationship between Māori and Britain. It is clear that this relationship mattered to the rangatira, both on a personal level – in that friendship with the King could be seen as a reflection of their mana – and for other reasons such

as trade, security against foreign threat, and the ongoing hope that Britain would find a way of controlling its own people. In the context of a supposed foreign threat, and Busby's help in responding to it, the rangatira were very willing to renew and deepen this friendship. It is clear in the text in both languages that they saw this as a two-way exchange, even if Busby and other officials saw it mainly in terms of Britain bestowing its protection on a weaker state. The Māori request for British protection specifically referred to threats against their rangatiratanga, and we think the reference to the King acting as 'matua' can be understood in exactly this sense – he was being asked to make sure that no self-proclaimed 'Sovereign Chief' could come in and usurp Māori authority. There is certainly nothing, in either the text itself or the surrounding events, to suggest that rangatira would have seen themselves as asking Britain to administer their territories under some kind of formal protectorate arrangement, as Busby seemingly envisaged.

Rather, to the rangatira, Britain's role in the declaration can only have been seen as explicit recognition of their mana, and as evidence that Britain was willing actively to protect it. Busby – who had already assisted them by providing a flag – was now warning them of a foreign threat, and advising them how to respond in order to assert their independence and authority. Everything about these events would have served to reinforce in the minds of the rangatira the belief that the friendship initially forged between Hongi and King George endured.

Britain saw New Zealand as a useful but minor outpost in its vast empire. It did not see itself as bound by Busby's actions, especially as he had sought no specific authorisation and Bourke quickly rebuked him. Britain's official responses were carefully worded. Glenelg acknowledged receipt of the English text which declared the existence of a single, independent state, acknowledged the request by rangatira for British protection against attempts on their independence, and provided some very conditional assurances on the latter point. Bourke, in his official response to the declaration in February 1836, commended Busby for taking steps to thwart de Thierry, but rejected his

attempts to establish a legislature based on the collective authority of all rangatira.<sup>369</sup> In our view, these responses were consistent with earlier British acknowledgement of Māori independence, but did nothing to extend it. Indeed, Glenelg's response raises the question of how Britain might act if it perceived Māori independence as in any way conflicting with 'the just Rights of others and to the Interests of His Majesty's Subjects'. In later chapters we will see how British policy towards New Zealand evolved as circumstances changed.

One question remains: did the assertion of mana, kīngitanga, and rangatiratanga made by those rangatira who signed he Whakaputanga amount to a declaration of sovereignty as the British would have understood sovereignty at the time? We have saved that question until last because we have sought to understand he Whakaputanga, to the extent that we can, in terms that would have made sense to the rangatira who declared it. The question of what 'sovereignty' meant as an English-language legal term is not one that was likely to have occurred to the rangatira who signed he Whakaputanga, since they debated and signed it in their own language, and their concern was with asserting authority in their own terms. The question of whether Māori concepts of authority can be reconciled in any way with the British concept of sovereignty is a question that has arisen much more recently.

We have discussed British understandings of sovereignty in earlier chapters, and we have also discussed Māori concepts of authority both in chapter 2 and earlier in this chapter. As we have seen, mana and sovereignty are far from interchangeable. Each is a reflection of its own culture, and each carries with it certain assumptions about where authority derives from and how it can be exercised.

Nonetheless, when rangatira asserted their mana i te whenua, there can be no doubt that they intended this as an expression of the highest level of authority within their territories. They furthermore asserted their rangatiratanga – their rights as leaders subordinate to no one else within their territories. And they asserted their kīngitanga, an assertion that their status was equivalent to that of the King, and that there could be no leaders above them.

Taken together, these assertions of mana, rangatiratanga and kingitanga undoubtedly amounted to an assertion of their authority to make and enforce law, and therefore of their sovereignty. Indeed, both the claimants and the Crown recognised he Whakaputanga as a declaration of the sovereignty and independence of those who signed it. We agree that it was.

It is important to be clear that authority remained with hapū after he Whakaputanga as before. On that basis, we do not believe that any collective or confederate northern Māori sovereignty existed in 1835, or before. Nor do we believe that a single state existed in the Bay of Islands and Hokianga area or neighbouring districts prior to 1835, and nor was one created by he Whakaputanga. Indeed, had rangatira intended to make such a significant step as declaring their nationhood on a collective or confederate basis, we think they would have found their own occasion rather than waiting until a letter from Tahiti prompted the British Resident to action.

In summary, then, we do not think that he Whakaputanga heralded a radical change in political organisation among those hapū whose rangatira signed it. It was, rather, a pragmatic response, based on Busby's advice, to a perceived foreign threat. Its principal significance was as a written assertion of the mana, rangatiratanga, and independence of those who signed, supported by a commitment to unify in the face of foreign threat, and to ensure that no foreign law or government could be imposed on them. It was also important as a renewed declaration of friendship with Britain and its King, based on mutual benefit through trade, mutual commitments of protection, and British recognition of rangatiratanga and mana i te whenua. In the remaining parts of he Whakaputanga, the rangatira accepted Busby's invitation to hold further minenga each autumn where they would make decisions or rules for specific purposes. This lawmaking aspect was most likely aimed at managing the colonial frontier but perhaps was also intended as a way of managing relations with other tribes. This was not, however, a legislature with powers to make laws for all. Ultimate authority remained with hapū, whether expressed individually or in concert.

## 4.8 1836–37: THE IMPACT OF THE DECLARATION

Having seen what he Whakaputanga and the Declaration meant in 1835, we now turn to consider how it operated in the following years. As we will see, Busby's position as a host of hui was quickly compromised, in circumstances that left him once again fearing for his safety. He became increasingly despondent, and by the middle of 1837 had effectively given up on any prospect of a government being established under Māori authority. The claimants, however, told us that meetings of a joint decision-making body did occur – they just did not involve the Resident.

### 4.8.1 The residence loses its sacredness

Within months of the declaration being signed, a violent conflict broke out at Busby's residence while he was mediating between two groups. One of those groups was Te Hikutū, led by Wharepoaka and Waikato – both of whom had been among the original signatories of the declaration. The other was led by Noa, a Ngāti Manu rangatira who apparently lived at Kawakawa. The dispute concerned a kauri forest at Whananaki. Waikato, who claimed a recent ancestral connection to the forest, had come to an arrangement with two European traders that allowed them to cut trees there; Noa's people objected, claiming the land was theirs and that Waikato's connection was remote. The CMS became involved, drawing up a deed of trust under which the consent of the missionary trustees was required before any transaction could go ahead. Henry Williams then wrote to the traders to warn them off, and Waikato – angered by this missionary interference in his commercial activities – asked Busby to mediate. 'Mr Williams was not sent here to shew justice done, but you were,' Waikato wrote to Busby, in a letter apparently composed on his behalf by one of the traders. 'Therefore I apply to you as it is my full determination never to give up my claim to my own lawful property'. Waikato delivered the letter in person, also leaving the rifle he had received from King George IV, perhaps as a reminder of his friendship with Britain and Busby's role in maintaining that friendship.<sup>370</sup>

On 12 January 1836, the two rival groups gathered at

Waitangi. Te Hikutū brought between 35 and 40 men; Noa's party comprised about 150 men, women, and children, and was largely unarmed.<sup>371</sup> As Phillipson explained:

In the middle of the hui, when Noa's people were tracing their ancestral rights in the area, a scuffle broke out and the Te Hikutū went for their guns, which they had secreted nearby, as well as a supply of ammunition and rocks for throwing.<sup>372</sup>

Two of Noa's people were killed, and others were injured. Most crowded into Busby's residence, while Busby and the missionaries persuaded Waikato against further violence, partly by telling him that he had offended the King. 'The floors were covered with blood of the wounded men,' the Resident reported.<sup>373</sup>

The incident underlined Busby's lack of power. Having called a hui, he could not then protect those who attended. Noa's party included four rangatira 'whose names are on my list as heads of Tribes', and afterwards Busby urged them against immediate reprisals. He wanted the punishment to fall only on the guilty, but he also agreed with the rangatira that, because they had gathered under his protection, it was 'in some measure' up to Britain to carry out that punishment. He asked for time to seek British intervention, and said he would call the rangatira together as a group once he had heard Britain's answer, for it was up to them collectively and not the injured tribe to see justice done. Remarkably, they agreed to leave any action up to Busby, though they made it clear it would be on his head – as well as theirs – if action was not taken. They also made it clear they would no longer meet at his residence, thus dealing a fatal blow to his ambition of establishing a congress of rangatira under his direct control:

They [said] that they had considered my residence as sacred and they had therefore attended at my summons but they would assemble there no more, that murder was committed under the cover of its sanctity, and they did not know who would be murdered next.<sup>374</sup>

In the days after, Busby was visited by many rangatira, all of them armed. Some, who were connected with Noa

and therefore the southern alliance, now argued for quick reprisals and could not see why utu should be delayed. Others, including Titore, were indifferent to the killings or were prepared to 'justify [them] according to native usages' on grounds that Waikato had been provoked.<sup>375</sup>

On 18 January, Busby wrote to Bourke, describing the incident and asking for military assistance so he could punish those responsible. He argued that if he left Noa's people to respond, all-out war would result. On the other hand, he could not justify counselling Ngāti Manu to hold their peace if that would result in Waikato getting off scot-free. Furthermore, he argued, the incident was an insult to Britain's honour, and it had been provoked by the actions of British traders. The only option, in his view, was for British intervention, in which Te Hikutū should be 'thoroughly humbled' and those who fired brought to justice.

Busby followed this appeal with an explanation of why the congress of rangatira – so recently declared on paper in the Whakaputanga – could not handle the matter. While he assured the Governor that he had not 'lost sight of the duties which fall on the confederated Chiefs, by their late act of union', those duties 'exist as yet only in theory'. Waikato's action had showed once again, he argued, that Māori were not yet capable of legislating, nor governing, since they had no concept of submission to legal authority. They might be led as 'passive instruments' to enact laws that Britain suggested to them, and eventually to establish British-style institutions of government. But until that occurred the 'well disposed' Māori – particularly those who had converted to Christianity, as Noa had – would be left exposed to the aggressive actions of others 'whom the dread of vengeance alone will restrain'. If Busby did have to leave the matter to the congress of rangatira, he said, they might agree to sanction Waikato, but this would simply lead to war – and that war would endanger British subjects as well as Māori.<sup>376</sup>

Over the following weeks, Busby was to write several more times to Bourke about this incident, setting out his fear of escalating conflict and his arguments for intervention. On 26 January, he told Bourke that Titore had offered to support Waikato in any conflict, while Pōmare would support Noa – reflecting the division of the Bay of

Islands between northern and southern alliances. Under the circumstances, Busby said, it would be impossible to call the tino rangatira together. Those who wanted peace would not attend, and the others would fight. British intervention, Busby argued, had now become ‘indispensable’ and ‘cannot be deferred’.<sup>377</sup> To his concerns about conflict, Busby now added a range of other reasons for Britain to get involved: the British population in the north was growing; much of the land around the Bay of Islands and Hokianga had already passed into British hands; and there were ample resources and trading opportunities with which to fund a British government. New Zealand was ‘essentially British in all its interests’, and intervention was needed to protect those interests and British honour, as well as to further ‘justice and humanity’.<sup>378</sup>

Busby also began to reinterpret the three-month-old declaration, turning it from an assertion of mana i te whenua into a request for Britain to establish a government. He wrote:

In their late declaration of Independence, the Chiefs prayed that their Country might be taken under the protection of the British Government. They are perfectly convinced of their incapacity to govern themselves, or to cope unaided with the novel circumstances to which they are constantly exposed by the encroachments of their civilised visitors – They have as yet confidence in the British Government, and if protected in their Landed property, and their personal rights: they would I am sure gladly become the subjects of the King of England; and yield up the Government of their Country to those who are more fitted to conduct it . . .

However, Busby continued, it was not necessary to go that far. A protectorate arrangement would suffice, he said, giving the example (referred to earlier) of the Ionian Islands, and describing an arrangement in which New Zealand remained nominally independent and had ‘a share in the Government of the Country’ while ‘ultimate authority’ was reserved for Britain.<sup>379</sup> According to Parkinson, Busby’s advocacy for a protectorate meant that the ‘short-lived scheme for the “Confederation” was abandoned’.<sup>380</sup>

As an indication of just how high tensions were, Busby revealed that Waikato had threatened to burn down his house with him in it. He also revealed that his Māori servants took the threat seriously, and so were no longer sleeping at his property. He told Bourke he had decided to send his family to Sydney for their protection. He asked for 100 British troops to be sent so that the ‘most guilty’ individuals involved in the ‘late insult upon the British Government’ should be punished. If they could be found, he said, the British response should be ‘complete dispersion and degradation’ of Te Hikutū.<sup>381</sup> In late February, Busby wrote again to Bourke, noting that tensions remained high, with the rival alliances ‘under arms’ and building fortifications. Waikato, Busby said, was determined to press his claims to Whananaki by force and was seeking allies from other parts of the country, while Ngāti Manu and their southern alliance allies were determined to resist. Ultimately, Busby blamed the Pākehā timber traders, one of whom had also threatened to shoot an old Pākehā who was living on part of the Whananaki land. A military force was needed, he said, not only to punish Te Hikutū but also to control Pākehā ‘of such character’. Upon the arrival of troops, he suggested, Māori who ‘remain quiet in their Villages’ should be left untouched, but any who sided with Te Hikutū ‘should be considered as the enemies of the King’, and have their lands confiscated.<sup>382</sup>

Alongside the tensions between Te Hikutū and Ngāti Manu, there were new flare-ups involving Europeans. Early in March, Busby was called to the Hokianga to mediate in a bitter dispute between McDonnell, who was using his official position to further his trading interests, and the Wesleyan missionary William White, who was threatening to draw up his own code of laws if Busby did not intervene. Busby’s response was to request an urgent printing of the declaration, which took place on 8 March. The Resident took the printed document to the Hokianga and showed to White, as a means of counselling against the ‘subversive’ act he had proposed.<sup>383</sup> Busby removed Waikato’s name from the printed copy, while leaving that of his brother-in-law Wharepoaka in place. The names of Te Peha and Höne Heke were also removed from the printings, for reasons unknown.<sup>384</sup>

At around the same time, the missionaries heard again from de Thierry, who protested that he had been misunderstood and meant only to be a friend of both the chiefs and the British in New Zealand.<sup>385</sup> The missionaries passed this on to Busby, who in turn wrote to Bourke, warning him that the smallest spark from de Thierry could provoke war – not only in the Bay of Islands but also now in the Hokianga, since rangatira were taking sides in the dispute between McDonnell and White. Busby asked Bourke for permission to travel southwards to obtain more signatures for the declaration, with the specific intention of preventing de Thierry from gaining a foothold in any other part of the country.<sup>386</sup> As we mentioned earlier, he had continued to gather signatures during 1836. Although little is known about how they were obtained, their timing is intriguing. Kiwikiwi – Pōmare's close ally, and a relative of Noa's – signed a week after the skirmish at Busby's residence, and two more had signed by the end of March.<sup>387</sup> The ship that carried Busby's letter to Bourke also carried Busby's family.<sup>388</sup>

Bourke gave his consent for the trip, though his reply did not arrive before winter rain made travel impossible.<sup>389</sup> However, he declined Busby's request for a British armed force. Sending such a force under these circumstances, he said, would amount 'to an invasion of an independent state'. Bourke indicated that this military interference would be justified if British interests or honour were genuinely at stake, but in his view they were not. Rather, this was a matter between Māori. Under those circumstances, it would be 'wholly unjustifiable to take the lives of those People under colour of British Law to which they owe no obedience'. The Governor suggested that Busby persuade the rangatira to deal with Waikato as they had Rete, by banishing him and confiscating his property.<sup>390</sup> Such a response, Busby argued, would 'occasion a general war', as well as leaving Waikato free to take the disputed Whananaki land by force. Furthermore, leaving Waikato's actions unpunished would send a signal to rangatira that they should pay no attention to British authority. Busby sought Bourke's permission to travel to London to explain his difficulties, and make the case for armed intervention and the establishment of a protectorate. In the meantime,

he considered his office 'in abeyance', for he could fulfil neither the general instruction to establish settled government nor the specific instructions Bourke was now sending him.<sup>391</sup> A few months later, the Colonial Office – which had grown tired of Busby's complaints and regarded his office as a failure – sanctioned his removal. Bourke, for some reason, did not take any steps to remove Busby before his own resignation in 1837.<sup>392</sup>

#### **4.8.2 War between the northern and southern alliances**

Glenelg's response to the Declaration, with its qualified offer of support and protection, finally reached Busby in January 1837.<sup>393</sup> It arrived, according to Busby, at a time when 'the state of affairs here has been more unsettled than at any . . . period since the arrival of the Missionaries'. In the Hokianga, trade and land transactions had almost led to violence, with Moetara on one side, and Nene and Patuone on the other; each side was egged on by the rivals McDonnell and White, leading Nene to threaten McDonnell with deportation. More seriously, Waikato's relative Kaitoke killed two Christian Māori during a church service at Mangamuka; Nene took vengeance, killing a dozen of Kaitoke's kin. This conflict, according to Busby, had its origins in the previous year's dispute over the Whananaki forest, though many observers saw religious overtones as Kaitoke and Waikato were followers of the Papahuriha faith.<sup>394</sup> There were also skirmishes in the Bay of Islands involving Rete and his relatives. Busby claimed that Rete's brother had fired a gun towards one of his servants, and that Rete had threatened the life of the trader Gilbert Mair, holding an axe to the trader's neck and saying 'do not think . . . I am afraid, am I not the man who shot Mr Busby'. Busby also reported several acts of Māori violence towards traders and missionaries in the Bay of Plenty and Thames.<sup>395</sup> Under these circumstances, Busby continued to fear that any attempt to call the rangatira together would result either in them refusing to attend or in further bloodshed.<sup>396</sup> No meeting ever took place to hear Britain's official response to he Whakaputanga. Although 100 copies of he Whakaputanga were printed on 27 April, we are not aware of any direct evidence that Glenelg's letter was also circulated.<sup>397</sup> In particular, the



The Ōtuihu pā that Pōmare II established after his retreat from Kororāreka in 1830. In 1837, Pōmare's forces – including more than 130 Europeans based at Ōtuihu – fought against the forces of the northern alliance in a conflict that some interpret as Pōmare's attempt to retake Kororāreka.

missionary printer William Colenso's books contain no record of Glenelg's letter being printed.<sup>398</sup>

If skirmishes between Māori were a problem, disorder among Europeans was an arguably bigger one, and Busby was similarly helpless to prevent it. In March 1837, some 200 British settlers, apparently under missionary guidance, petitioned the King, calling for a British government to be established. The petitioners highlighted the supposed threat posed by de Thierry, but their real target appeared to be a 'lawless band of Europeans' responsible for 'numberless robberies'. Busby, they complained, had

no authority to respond to 'acts of outrage', and the confederation of rangatira supposedly established by the declaration was not capable of enacting laws to address these problems of European disorder as was 'acknowledged by the chiefs themselves'. Either Britain must intervene, or the law-abiding British settlers and traders – not to mention Māori – would inevitably fall victim to 'murders . . . and every kind of evil'. This petition appears to have been motivated by the robbery and attempted murder of a local trader, Captain John Wright, by four Pākehā men.<sup>399</sup>

The following month, a larger conflict erupted between

the rival northern and southern alliances, led on one side by Titore and on the other by Pōmare II. There are various accounts of the origins of and motivations for the war. According to contemporary observers, it was sparked by the disappearance of a woman relative of Pōmare, who then accused northern alliance rangatira of her murder (when in fact she had gone south to Cloudy Bay on a visiting ship). Some claimants told us an underlying cause was animosity between Te Māhurehure and Ngāti Hine dating back to the death of Whareumu in 1828. Historians have also seen the dispute as an attempt by Pōmare to retake Kororāeka, which the southern alliance had given up seven years earlier. According to Busby, Pōmare had about 200 warriors (of which the most active were members of Ngāti Kahungunu, who were related to Pōmare by marriage), while the northern alliance had about 800. A party of about 200 Te Rarawa arrived in May or June, and Busby feared they would join the conflict on the northern alliance side, though ultimately they did not.<sup>400</sup>

Busby referred to the northern alliance alone as 'Ngapuhi'. His account also gave an insight into his perception of the complexities of inter-hapū alliances. He referred, for example, to divisions between Pōmare and other southern alliance leaders: some were willing to make peace, but Pōmare was not, and as long as he kept fighting they were obliged by kinship to remain with him. Busby also said that kin relationships could draw in people from far and wide, since an attack on any one person could oblige relatives from throughout the north to respond. In this way, he argued, there were 'few persons so insignificant as not to have it in their power at any time to involve the Country in war' – though, in expressing these views, he seems to have missed the fact that kin-based alliances could be a source of peacemaking as well as war.<sup>401</sup>

The fighting resulted in about 30–50 Māori deaths at most, including that of Te Māhurehure rangatira Pi. It was a war between close relatives and much of the fighting was deliberately restrained. Polack described warriors performing furious haka and sending off 'hundreds of thousands' of lead shots over the course of the conflict, but usually at a safe distance from enemy combatants. Busby was initially so fearful of British deaths that he persuaded

Bourke to send a Royal Navy ship. In the event, Europeans were almost entirely left alone, though in a few instances goods were plundered. Indeed, when HMS *Rattlesnake* arrived in June as hostilities were dying down, its commander, William Hobson, reported that Busby had been entirely alone in his fears; 'in one instance,' he reported, 'the two parties, by mutual consent, removed the scene of action to a greater distance from our settlements, lest a white man should by accident be injured.' If there was danger to British subjects, it was from their own 'abandoned ruffians'.<sup>402</sup> Erima Henare related Ngāti Hine's version of events, describing the battle of Waikerepuru at Ōpua as one between Te Māhurehure on the one hand, and Ngāti Hine, Ngāti Manu and te Kapotai on the other, in which Pi was killed by Kawiti.<sup>403</sup>

According to some accounts, the conflict ended in the wake of Titore's death in battle in early June. However, Busby and Polack both suggested that he died from illness rather than battle wounds. Various missionaries tried to broker peace, as did Hobson and McDonnell. But according to Polack, it was Nene and other Hokianga rangatira who ended the conflict: being equally related to both sides, they were reluctant to join the fight. Hobson supported this view, and gave another reason: the death of a southern alliance rangatira had restored balance between the warring factions, allowing them to end the fighting with their mana intact.<sup>404</sup>

For Busby, the significance of this skirmish was that it provided yet another example of the weakness of his role, and the inability (in his view) of the rangatira to establish order or government. As Phillipson put it:

Unable to assemble the chiefs, feeling under-confident in his personal status, and seeing his vision of confederacy collapsing as the war canoes fired at each other on the Bay, Busby became very discouraged and felt that his role was untenable.<sup>405</sup>

In a long dispatch to Bourke on 16 June 1837, the Resident repeated his previous concerns about tribal warfare and control of Europeans, but added a new twist: Māori depopulation. So serious were the events he

described that ‘district after district has become void of its inhabitants’; before very long, he suggested, the entire country would be ‘destitute of a single aboriginal’. The only answer to this miserable state was for Britain to intervene and establish ‘absolute authority’.<sup>406</sup>

Busby then set out an elaborate proposal for the establishment of a protectorate government. In essence, this was consistent with his earlier vision of a British protectorate government in which rangatira would exercise nominal sovereignty, while he, supported by British troops, would run the executive government and decide what laws the rangatira should pass. Busby referred once again to the Ionian Islands example. He also explained how, in his view, the declaration could be used as a basis to establish such a protectorate:

The articles of Confederation having established and declared the basis of a Constitution of Government, it follows, I think, that the rights of a Sovereign power exist in the members of that Confederation, however limited the exercise of those rights has hitherto been.<sup>407</sup>

On that basis, Busby argued,

the Chiefs are competent to become parties to a Treaty with a Foreign Government, and to avail themselves of Foreign assistance in reducing their Country to order.<sup>408</sup>

The remaining details of Busby’s proposals matter little here – Bourke was to quickly dismiss them.<sup>409</sup> What mattered were Busby’s descriptions of the miserable state of affairs in New Zealand, and the influence those descriptions would have on British policy – a matter we will discuss in detail in chapters 5 and 6.

### 4.8.3 A congress that never met?

In 1840, when Busby was called to appear before the New South Wales Legislative Council, he was asked whether Te Whakaminenga had ever met on its own initiative, or ever acted collectively in any way that could be seen as an act of sovereign power. Busby’s answer to both of these questions was that it had not.<sup>410</sup> This view – that the

chiefs never met as a formal assembly – has generally been accepted by European observers. The Crown, in its closing submissions, told us:

We have no evidence of the confederation meeting in congress each October to make laws. This appears to have been because subsequent unrest made it difficult to do so.<sup>411</sup>

The claimants, however, said that gatherings of rangatira took place after 1835, in spite of the conflicts that erupted.<sup>412</sup> Kiharoa Parker, for example, told us that rangatira continued to meet ‘in the harvest season’, but Busby and the missionaries either were not invited or chose not to attend. According to Parker, this was evidence of rangatira continuing to

conduct their business according to their old ways, the way which suited themselves and not the Europeans. . . .

. . . He Whakaputanga did not change the way that Northland Māori lived or the way that they grew, harvested and traded – as before, Māori were in control of their affairs.

. . . . .  
The Ariki and Rangatira were still in control of the country and continued to be in control after the Treaty was signed up, until the British troops came.<sup>413</sup>

Erima Henare told us that ‘the burden of hosting the hui’ was ‘scattered around Ngāpuhi as opposed to . . . falling on Ngāti Rāhiri and Ngāti Kawa’ at Waitangi, who had by then ‘lost almost all of their lands’.<sup>414</sup> Emma Gibbs-Smith said meetings were held at Waitangi, but not at Busby’s residence. She told us that, when he Whakaputanga was signed, Te Kēmara expressed his confidence in it by gifting a half-acre of land south of Busby’s residence, enabling ‘other rangatira of the motu and their hapū to erect a paremata [parliament]’. This was a few hundred metres south of Busby’s residence, and is known today as ‘Te Tou Rangatira’ (which Henare translated as ‘the meeting place of great leaders’<sup>415</sup>). Gibbs-Smith said sacred stone markers were placed around the site, showing where manuhiri should base themselves during hui. ‘The placing of the stone confirmed the kaupapa was set,’ she said. ‘The

kaupapa being, the Whakaputanga.' A stone seat was later built on the site.<sup>416</sup>

We heard little else about the origins of Te Tou Rangatira (as it is commonly spelled). Te Warihi Hetaraka said that rangatira were gathering there by the 1830s, but provided no other details.<sup>417</sup> Gray Theodore told us:

that land of my father's known as Te Tou Rangatira lies in the centre with the battlegrounds of Ohaeawai and Omapere on either side and Ngapuhi would have defended that to the bitter end. Te Tou Rangatira, Seat of the Senate, home and land of our fathers from time immemorial has an honoured place in the hearts, mind, and memories of the Taiamai, Ngapuhi iwi.<sup>418</sup>

Kawharu, however, referred to an account in which Te Tou Rangatira was the location of a series of discussions leading to the signing of te Tiriti o Waitangi in 1840. The venue for these meetings 'was adjacent to the Te Tii Marae [and] became known as Te Nohonga o Nga tou o Nga Rangatira, meaning the place at which the ancestors sat and pondered'.<sup>419</sup>

Counsel for Te Rūnanga o Ngāti Hine submitted that there was 'a large gap' between the Crown and claimant understandings of Te Whakaminenga after 1835:

It appears Busby and the Colonial officials expected the Chiefs to mimic British modes of governance and assemble in an orderly way at an appointed time each year in a kind of local Parliament. From the perspective of the rangatira they did not need to establish 'a new form of government . . .'. They already had their own governance arrangements and they regarded He Whakaputanga as an explicit acknowledgement of that fact. . . .

After the declaration the rangatira and their hapu continued to harvest, trade and fight. They welcomed or expelled foreigners and made peace under their own mana. Busby, the missionaries and other Pakeha had only such influence in any of these matters as the Chiefs allowed or considered appropriate.

On matters involving all of Ngapuhi the Chiefs continued to meet. This was the case before 1835, after 1835, after 1840 and right down to the present day.<sup>420</sup>

The meetings after 1835, counsel submitted, occurred 'at various places in the North'. If Busby did not attend and was not aware of these meetings, 'this shows nothing other than the fact that the rangatira did not wish to consult him on the matters under discussion'.<sup>421</sup> However, if Busby wanted to introduce a policy affecting Māori, the rangatira would expect to be informed and give their consent.<sup>422</sup> Counsel noted that

The fact that the Crown may have been excluded from or ignorant of Ngapuhi political arrangements and discussions in the 1830's and 1840's (and subsequently) does not mean (as the Crown implies) that there was no such political organisational structure. The Crown has difficulty understanding history through Māori eyes. Ngati Hine hope that the Tribunal will be better placed to hear and understand this history and thereby help bridge the misunderstandings and misrepresentations currently entrenched in the so called 'mainstream'.<sup>423</sup>

Counsel for te Rūnanga a Iwi o Ngāti Kahu and claimants from Ngāti Kuta and hapū of Patukeha also challenged the view that Te Whakaminenga did not meet, and indeed questioned the relevance of the matter. In counsel's submission, the belief that Te Whakaminenga did not meet was wholly based on British written evidence, and ignored the fact that Māori were unlikely to have kept written records of meetings.<sup>424</sup> Meetings did occur, it was submitted, though they 'may have taken the form of smaller, area-based hapu collectives' (as distinct from annual hui of all signatory rangatira).<sup>425</sup> Most likely, counsel argued, Busby was not aware of these meetings.<sup>426</sup> More significantly, counsel submitted, 'the frequency of Te Wakaminenga meeting is not indicative of the effectiveness of He Whakaputanga'. The declaration established 'an additional layer of inter-hapu communication and decision-making' but this was not its main purpose:

He Whakaputanga was a declaration by the rangatira of Maori sovereignty and rights to govern Aotearoa in accordance with their tikanga. For Counsels' claimants, this meant hapū were to remain independent and autonomous . . . The main aspect [of he Whakaputanga] was a declaration of a distinct Maori sovereignty, an enhancement of hapū and rangatira mana, and the added protection of the King as and when required.<sup>427</sup>

Manuka Henare said that there were different understandings at the time about what constituted a parliament. It could be seen either as a formally constituted, elected body meeting regularly at a specific place, or it could be understood 'not . . . as a building or a place but anywhere . . . people came together and made decisions for the common good'. Whether Te Whakaminenga actually met, he argued, depended on which definition was used.<sup>428</sup>

Kawharu also discussed hapū and inter-hapū decision-making after 1835.<sup>429</sup> In her view, Busby's ideas for a supreme lawmaking body were not adopted because they were 'foreign' to Māori. After the declaration, the marae continued to be the 'centre for debate and discussion'; the hapū remained the centre of political organisation; and inter-hapū disputes continued to be 'worked out through war, utu or marriage', just as they had been in preceding years.<sup>430</sup> Māori did, however, 'seek advice' from Busby and missionaries, and asked them to mediate in disputes when it 'made sense' to do so.<sup>431</sup>

Kawharu suggested Te Whakaminenga – meaning a meeting of senior rangatira from throughout the Bay of Islands, Hokianga, and neighbouring districts – may have met a handful of times. On other occasions, smaller groups of rangatira would also have met at a local level at places such as the Bay of Islands, Hokianga, and Waimate. If the full Whakaminenga did not meet more often, this was because there was 'no great incentive' for it to do so. After 1835, she suggested, matters continued to be worked out according to tikanga. Although there was inter-hapū conflict, this was 'local and particular', and could be resolved using 'existing forms of authority and control'. Te

Whakaminenga was available if needed, but largely it was not. 'In other words,' she concluded,

rangatiratanga at hapū level, as a process of control, law and order and a system that had penalties and rewards, was very much in the ascendancy. The Confederation recognised this and provided extra means to promote it if required.<sup>432</sup>

The Crown, in its closing submissions, argued that Britain continued to recognise Māori sovereignty after 1835, but that sovereignty was seen as resting with the hapū, not with any confederation. This was because Te Whakaminenga had never met.<sup>433</sup> The claimant evidence, it was submitted, was that he Whakaputanga 'had little effect on the political organisation of rangatira and hapū between 1835 and 1840':

The claimants do not appear to have asserted that He Whakaputanga/the Declaration amounted to a distinct change in tikanga: from hapū autonomy to the location of a supreme confederative form of sovereignty in one new entity, Te Whakaminenga, as proposed by the words of He Whakaputanga/the Declaration. Rather, their evidence is that the way of life for Northland Māori continued to be consistent with their pepeha, 'Ngapuhi Kowhao-rau', whereby hapū autonomy remained intact.

In the Crown's view, therefore, the declaration 'expressed the aspiration of rangatira to develop a functioning nation state' without bringing that state into reality. Both before and after the declaration, northern Māori 'exercised a form of sovereignty and independence that was consistent with hapū autonomy' (emphasis added).<sup>434</sup>

### 4.8.4 A failed experiment?

A few weeks after Busby had sent his 16 June 1837 dispatch, he was obtaining more signatures for he Whakaputanga – those of Parore, Kaha, Te Morenga, and possibly Mahia.<sup>435</sup> He also asked a committee of rangatira, whom he said had been appointed by Te Whakaminenga, to sign a warrant

authorising the arrest and deportation to Sydney of two of the men accused of the attack on Captain Wright.<sup>436</sup> Aside from the declaration itself, this was to become the only act of Te Whakaminenga for which there is written evidence.

The last two signatures – those of Te Hapuku in 1838, and Te Wherowhero in 1839 – had the effect of extending the declaration's reach beyond northern New Zealand. Te Hapuku was a senior rangatira of Te Whatu-i-Apitai from the Hawke's Bay.<sup>437</sup> Te Wherowhero, a senior rangatira of Ngāti Mahuta, had achieved great prominence as a war leader during the 1820s.<sup>438</sup>

Manuka Henare noted that these leaders had kinship and political ties in the north. Te Wherowhero had made a peace pact with the northern alliance and Te Rarawa in the early 1820s, and his relative Kati had married Rewa's daughter Toha. Te Hapuku was similarly aligned with Pōmare and Kawiti, and was a 'frequent visitor to Waitangi'.<sup>439</sup> These connections may have influenced those two rangatira to sign – indeed, it was during one of his visits to the Bay of Islands that Te Hapuku added his tohu.<sup>440</sup>

Very little is known about Busby's motives for gathering further signatures after June 1837. Clearly, by that time he had given up hope of establishing a Māori legislature. He may have been responding to de Thierry, who was to arrive in New Zealand later that year and struggle to assert his land claim, let alone anything resembling sovereign power. Busby may also have been seeking more signatures as the basis for a treaty establishing a British protectorate government, as he had advocated in his 16 June 1837 dispatch to Busby.<sup>441</sup>

Little is known, also, about the reasons Te Hapuku and Te Wherowhero had for signing he Whakaputanga, other than the possible influence of kinship. Te Amohia McQueen, a descendant of Te Wherowhero, said the Waikato leader signed to affirm the mana tangata, mana whenua and mana atua, and to uphold tikanga. It was on this basis that Kingitanga was reaffirmed in He Wakaputanga. Te Wherowhero would also have understood he Whakaputanga as meaning that the Crown would extend a 'hand of friendship' to protect his independence – should it ever need protection.<sup>442</sup>



Te Wherowhero, the last signatory to he Whakaputanga

In spite of Busby's efforts to gather further signatures, by mid-1837 many European observers saw the declaration as a failure, largely on the basis that there was no legislature or national government. When Hobson visited in 1837, he formed the view that,

notwithstanding their formal declaration of independence, they [rangatira] have not, in fact, any government whatsoever; nor could a meeting of the chiefs who profess to be the heads of the united tribes, take place at any time without danger of bloodshed.

There was, then, little prospect of laws being framed or order restored. Hobson recommended that Britain seek consent from Māori (through a treaty) to establish

'factories' – small territories under British jurisdiction – in the Hokianga, in the Bay of Islands, and also at Cloudy Bay in the South Island. These factories would be dependencies of New South Wales, would be led by British magistrates, and would have their own prisons and powers to levy duties on British shipping and trade. We will consider Hobson's proposal again in chapter 6.<sup>443</sup>

In 1838, after Britain had decided on a more active path, the Permanent Under-Secretary of the Colonial Office, James Stephen, wrote that the declaration had 'failed to answer the purposes contemplated in its adoption', which were, he said, the unification of the tribes into an independent state under the designation 'the Tribes of New Zealand'.<sup>444</sup> The 1838 House of Lords select committee on New Zealand heard evidence that the declaration was an 'attempt to establish a national government for New Zealand' which 'utterly failed, in consequence of the incapacity of the native chiefs to act either as a legislature or as an executive'.<sup>445</sup> The New Zealand Company expressed similar views in more scathing terms, describing the declaration as 'a mere mockery of its ostensible purpose', and made by a people 'so utterly destitute of nationality' as to have no name for their country, nor any word for nationhood or sovereignty.<sup>446</sup> The British were not alone in dismissing the declaration. In 1838, a visiting French ship's captain, Abel Du Petit-Thouars, reported – according to a translation provided by Parkinson – that the rangatira 'are not united by any civil or political alliance; they are complete strangers one to another', and the declaration was 'pure fiction'.<sup>447</sup> Petit-Thouars' views may have been influenced by France's political ambitions in the Pacific, in which he was playing an intimate role.<sup>448</sup>

The declaration, in other words, was to be measured not by whether the rangatira who signed it retained authority in their own lands but by whether they had abandoned their own systems of law and government and adopted those of Europe (as Busby had intended). In the absence of those European institutions, and an identifiable nation-state under their authority, the declaration was seen as a failure. The British observers were interpreting the declaration through the English-language text, which

emphasised statehood and the establishment of a legislature in ways that were not reflected in the Māori text. These observers were also interpreting the declaration through their own cultural lens, in which European ideas and institutions represented the pinnacle of civilisation.

The British view of the declaration was essentially influenced by its own colonial motivations. Just as Māori were seeking to control the colonial frontier in the 1830s, so also was Britain. Like Māori, it too sought to control resources and to determine the rules by which people should behave in this land. It had sought to achieve this by sending Busby, in the hope that he could achieve control by working through the indigenous elite – just as Britain had done elsewhere in its empire. But this approach failed, because Māori remained independent, and did not adopt British systems of law and government as readily as Busby had hoped. Britain wanted a single authority to deal with, and an orderly environment to extract resources from. Titore, Pōmare, Waikato, Nene, and others did not oblige. The declaration was a failure in British eyes because it did not meet British imperial ends.

These are the themes that British officials and commentators would return to over and over whenever the declaration was discussed, and that historians have by and large returned to since: the declaration was a failure, because it did not establish a legislature or a government, and did not establish order from a British perspective. By 1840, the declaration's only purpose in British eyes would be to provide a basis for the establishment of British authority: if rangatira could get together and declare their sovereignty, they could also get together to cede it. Hobson, in January 1840, reported to Gipps that the rangatira 'little understood' the declaration and it had become 'an experiment wh[ich] had failed'.<sup>449</sup> Gipps, later that year, famously dismissed the declaration as 'a silly, as well as an unauthorized act . . . a paper pellet fired off at the Baron de Thierry'; it was created entirely by Busby and not even understood by those who signed it. Without a 'settled form of government', Gipps argued, Māori could have only a 'qualified dominion' over New Zealand, or a mere right of occupation.<sup>450</sup>

## 4.9 CONCLUDING REMARKS

James Busby arrived in New Zealand with an ambition to redefine Māori systems of law and government. He hoped to replace hapū authority with what he saw as a sovereignty based on the authority of all rangatira ‘in their collective capacity’. He hoped to establish a legislature made of those rangatira, acting under his influence. And he hoped to establish a government under British control, which would be legitimised by the congress of rangatira and would be able to regulate commerce and impose order on British subjects in New Zealand. In pursuing these plans, he had several motivations. Principally, he believed that Britain’s interests – mainly concerned with trade and the control of British subjects – could best be served by persuading Māori to enact the laws that Britain wanted. Busby was personally ambitious. And he was also on a civilising mission, believing quite sincerely that Māori interests would best be served through the establishment of British systems of law and government based on the collective authority of heads of tribes.

Busby encountered a people who had their own systems of law and government, which derived from whakapapa. His goal of establishing a legislature based on the collective authority of rangatira did not naturally align with existing forms of political organisation, in which ultimate authority resided in hapū rather than any larger grouping, and in which rangatira embodied the mana of their hapū rather than wielding power solely as individuals. Similarly, his notions of law and justice, based as they were on individual rights and responsibilities in relation to the state’s higher authority, did not fit well with the Māori concept of utu or balance in relationships between kin groups.

Nonetheless, in responding to de Thierry’s letter, Busby took an opportunity to press ahead with his vision for British-style legislature and executive government, even though he could see that Māori had little interest in adopting these institutions any time soon. Rangatira apparently told him that his proposed approach would not work, as none of them would (or could) set aside his own mana or rangatiratanga to bow to the majority will. In signing he Whakaputanga, we think that rangatira saw themselves as

agreeing to attend further hui at which they would discuss and make decisions about outsiders who threatened their mana; we do not think they agreed to Busby’s plan for the establishment of a supreme legislature with power over all, even if that is what the English-language text says. Bourke, as we have seen, disagreed with Busby’s approach, and urged him to work with tribal leaders at a local level rather than persisting with his attempts to establish a national collective. In 1835, then, neither Māori nor Britain’s representatives in New South Wales or New Zealand believed that the declaration established a supreme legislature. Yet much of the discussion about the declaration in the 179 years since it was signed has concerned the perceived failure of that legislature to meet. In our view, the focus on that point wrongly elevates the English-language text above the text that was actually signed, as well as ignoring what those involved actually believed was occurring.

When rangatira gathered at Waitangi, they had been told that a foreigner was coming to be their King and to enslave them, and they were asked whether they would agree. Their answer was ‘no’. It was a ‘no’ that has continued to resonate loud and clear throughout the Māori world. In response to the question of whether they would take a foreign King, the rangatira declared their own status. They were the rangatira. Their lands were whenua rangatira. They would unite to see off this foreign threat. They furthermore embodied the kīngitanga, and the mana i te whenua, of their territories. Their territories, in other words, were Māori land, and no foreigner would be permitted to come in to try to pass ture (foreign laws) or govern. The rangatira, and only the rangatira, would make the decisions about trade, peace, and wrong-doing. They would put aside their differences to do so, and invite other tribes, because – as Busby had said – a larger alliance would be needed to repel this foreign threat. Finally, they would appeal to the King to be their friend and guide in international waters and to help them see off threats to their mana – just as they would protect his subjects in their lands.

Having asserted their mana in such clear terms, they continued to act in ways that asserted that mana

– sometimes separately, sometimes through inter-hapū alliances. As they had before, leaders sometimes sought that mana through economic activity, and sometimes through conflict. It is not particularly surprising that there were outbreaks of violence. Warfare (as we saw in previous chapters) was an integral part of Māori society, just as peacemaking was – in fact, it was often through that cycle of making war and peace that larger alliances formed. In our view, neither the January 1836 conflict nor those in 1837 would have prevented a more unified response should it have been needed in response to a direct foreign threat. But such a threat did not exist at that time, and so Māori were free to fight and make peace according to traditional rules and values. By mid-1837, then, the hapū of the Bay of Islands and Hokianga were not politically unified, and nor did they yet all identify as ‘Ngāpuhi’. But lack of unity did not mean lack of mana; nor did it imply any failing on the part of rangatira or he Whakaputanga. It implied, simply, that authority continued to reside with hapū.

British understandings of the declaration were based on the English-language text, their own cultural perspectives, and on British imperial motivations and interests. The British perspective of the declaration as a failed attempt to establish a legislature and government based on British institutions has endured. We do not dismiss this perspective. However, as we have seen, the rangatira who actually signed he Whakaputanga had their own understandings and motivations, which had more to do with the mana of their people and lands than with the adoption of British systems of law and government. He Whakaputanga was a declaration that Māori authority would endure, and that foreigners would not be allowed to make laws. It is time for this perspective on he Whakaputanga to be heard, and its significance understood.

We will leave the final word to Rewa, a principal rangatira of the Bay of Islands, who was a signatory to both he Whakaputanga and the 1831 petition, and was also involved in many of the battles of the 1830s, both within the Bay and elsewhere. During the 1837 conflict, Thomas McDonnell sent letters to him and Pōmare II in an attempt to broker peace. ‘Friend Kapitana,’ Rewa replied,

are the things (letters) which you sent to Pomare to make him a chief over us? Perhaps not – No – we will not have him for our chief . . . We are not like the King of England – we are all chiefs here.<sup>451</sup>

## Notes

1. Manuka Henare (doc A16, p 140) noted the use of the variant ‘Nu Tirenī’ in a letter by Taiwhanga to Marsden in 1825, which presumably suggests earlier oral use. Another variant, ‘Niu Tirenī’, was used in the 1831 petition to King William IV.
2. Document A21, p 37
3. Document A11(a), vol 4, pp 1306–1311; Busby to Bourke, 28 November 1834, qMS 0345, ATL, Wellington; see also doc A18, p 57.
4. Submission 3.1.142(a), p 572
5. Document A17, p 49
6. Submission 3.3.14, pp 6, 17; submission 3.3.2, pp 14, 16, 36, 42, 45, 48–49; submission 3.3.3, pp 7–10; submission 3.3.21, p 17; doc A25(b), p 12; doc A30(a), p 4; doc A32(c), pp 6–7; doc B10, pp 66–68; doc D4, p 42; doc D14(b), p 7
7. Submission 3.3.33, pp 5–13, 23–46
8. Kathleen Shawcross, ‘Maoris of the Bay of Islands, 1769–1840: A Study of Changing Maori Responses to European Contact’ (MA thesis, University of Auckland, 1967), fols 250–251, 332
9. Document A1, pp 68–69; doc A11, pp 136–137
10. Document A11, p 152; doc A36, pp 353, 362–364; doc A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, qMS 0345, ATL, Wellington
11. Shawcross, ‘Maoris of the Bay of Islands’, fols 341–346; doc A1, pp 53–54
12. Document A11, pp 17, 175–176, see also pp 109, 153, 170; Shawcross, ‘Maoris of the Bay of Islands’, fols 335–340; doc A1, pp 58–59, 63; Ron D Crosby, *The Musket Wars: A History of Inter-Iwi Conflict, 1806–45* (Auckland: Reed Publishing (NZ) Ltd, 2001), p 371
13. Shawcross, ‘Maoris of the Bay of Islands’, fols 370–373
14. The European population north of the River Thames was 500 in March 1837 according to a petition from Bay of Islands residents to King William IV: Richard Sherrin, ‘From Earliest Times to 1840’ in *Early History of New Zealand: From Earliest Times to 1840 by RAA Sherrin; From 1840 to 1845 by JH Wallace*, ed Thomson W Leys (Auckland: H Brett, 1890), p 463, <https://archive.org/stream/earlyhistoryofneoosher#page/n3/mode/2up>, accessed 30 January 2014; see also doc A1, pp 55–57; doc A11, pp 14, 116–121; doc A11(a), vol 4, pp 1356–1362; doc A19, pp 19–22; Busby to Bourke, 26 January 1836, qMS 0345, ATL, Wellington; Shawcross, ‘Maoris of the Bay of Islands’, fols 252–255, 350–352; Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830–1847* (Auckland: Auckland University Press, 1977), pp 20–25.

- 15.** Ian Pool, *Te Iwi Maori: A New Zealand Population Past, Present and Projected* (Auckland: Auckland University Press, 1991). Pool estimated the national Māori population at 70,000–90,000 in 1840: p 55. He also reported estimates by Dorothy Urlich suggesting that Ngapuhi/Te Rarawa combined accounted for 18 per cent of the national total: pp 51–52. See also Shawcross, ‘Maoris of the Bay of Islands’, fols 180–247; doc A1, pp 60, 81, 87–89; doc A11, pp 21, 252–257; JMR Owens, ‘New Zealand before Annexation’, in *The Oxford History of New Zealand*, ed William H Oliver (Wellington: Oxford University Press, 1981), pp 49–50; James Cowan, *The New Zealand Wars: A History of the Maori Campaigns and the Pioneering Period*, 2 vols (Wellington: Government Printer, 1983), vol 1, p 5.
- 16.** Document A1, pp 57, 72–73; doc A11, pp 125–28; Shawcross, ‘Maoris of the Bay of Islands’, fols 320, 347, 365; Hazel Petrie, *Chiefs of Industry: Maori Tribal Enterprise in Early Colonial New Zealand* (Auckland: Auckland University Press, 2006), pp 79–82; doc A37, p 671
- 17.** Ruatara had seen the impacts of settlement on indigenous people in New South Wales, as discussed in chapter 3.
- 18.** Shawcross, ‘Maoris of the Bay of Islands’, fols 350–351, 364–365; doc A11, pp 14, 17, 213–225, 235–243; doc A1, pp 48, 72–77). Some claimants gave land losses and challenges to mana and tikanga as direct sources of tension: for example, see doc C2, pp 10–11.
- 19.** Document A1, pp 34–36, 66, 79, 81; Crosby, *The Musket Wars*, pp 267–269; Angela Ballara, *Taua: ‘Musket Wars’, ‘Land Wars’ or ‘Tikanga? Warfare in Maori Society in the Early Nineteenth Century* (Auckland: Penguin Books (NZ) Ltd, 2003), pp 204–205, 431; doc C9, pp 22–24; doc A37, pp 155–159, 363–373; Shawcross, ‘Maoris of the Bay of Islands’, fig 21, fols 365–366; Angela Ballara, ‘Warfare and Government in Ngapuhi Tribal Society, 1814–1833’ (MA thesis, University of Auckland, 1973), fols 197, 248, 274; Henry Williams, *The Early Journals of Henry Williams: Senior Missionary in New Zealand of the Church Missionary Society, 1826–1840*, ed Lawrence M Rogers (Christchurch: Pegasus Press, 1961), pp 408–409. Concerning inter-marriage, see doc A37, p 254; doc B36, p 3.
- 20.** Document A11, pp 140, 152–157, 226–235; doc A1, pp 83–87; doc A36, pp 354–355, 352–368; doc A7, pp 43–44. Many claimants discussed rangatira relationships with their hapū, including Rima Edwards (doc A25, p 59), Erima Henare (doc A30(c), p 7), Dr Bruce Gregory (doc B22(b), p 8), Pita Tipene (transcript 4.1.1, p 78), and Patu Hohepa (transcript 4.1.1, p 114).
- 21.** Document A11, pp 262, 268; doc A1, pp 90–91
- 22.** As discussed in chapter 3, Busby found that rangatira were willing to meet and discuss the Rete affair but were less willing to enforce punishment, especially not the capital punishment he would have preferred—reflecting the tensions between his own notions of justice and those of Māori: see doc A17, pp 20–22; doc A19, p 38; and doc A11, pp 248–249. Busby characterised this as a tension between British ‘abstract’ or ‘impartial’ justice and the Māori understanding of justice as a balance between affected parties. It is notable, however, that the matter was not merely one of principle – it was personal and it was also in his view a matter of British honour.
- 23.** Document A17, pp 9, 36–37, 43–46; doc B3, pp 49–50, 56, 61; see also doc A19, pp 42–43, 57; doc A21, p 44 n 98; doc C1, p 3
- 24.** Document A17, pp 16–17; doc A21, pp 37–38; doc A11, pp 227–229, 235, 246–247; doc A1, p 249
- 25.** Document A17, pp 16–17; doc A18, p 54; doc A11(c), pp 3–4; doc A21, pp 34–36
- 26.** Document A1, pp 240–241
- 27.** Ibid, p 240; doc A17, p 17; doc A21, p 37
- 28.** Document A30(c), p 7; see also doc A25, p 59; doc A11, pp 227–229, 235, 251–252. As we saw in chapter 3, Busby’s attempts to separate rangatira from followers had been a source of tension during the 1834 flag hui. Busby was to recognise this later when he wrote in 1837 that rangatira had ‘neither rank nor authority, but what every person above the condition of a Slave, and indeed most of them, may despise or resist with impunity’: doc A11(a), vol 4, pp 1376–1394; submission 3.1.142(a), pp 440–446; Busby to Bourke, 16 June 1837 (no 112), QMS 0345, ATL, Wellington.
- 29.** Document A11(a), vol 4, pp 1306–1312; Busby to Bourke, 28 November 1834, QMS 0345, ATL, Wellington; doc A17, pp 19, 23–24; doc A18, p 57. Bourke, in response, concluded that Busby was unable to win the confidence of either settlers or rangatira, and was impotent without legal authority and military backup. In December, he recommended Busby’s removal if authority and a ship were not provided: see doc A17, p 23 n 72. On 28 October 1835 (coincidentally the day he Whakaputanga was signed), Glenelg sanctioned Busby’s removal if, in Bourke’s view, the difficulties Busby experienced resulted from his personal failings rather than his lack of legal authority and enforcement power: Glenelg to Bourke, 28 October 1835 (doc A18(g), pp 1194–1196).
- 30.** Church Missionary Society, *The Missionary Register, 1817–1853*, pp 549–551, <http://www.enzb.auckland.ac.nz/document/?wid=3106>, accessed 3 February 2014; Henry Williams, *Early Journals*, pp 358, 391; see also doc A11, pp 178–179; doc A16, p 176; Shawcross, ‘Maoris of the Bay of Islands’, fols 333, 336–337, 350–351, 352; Jack Lee, *Hokianga* (Auckland: Hodder and Stoughton, 1987), p 65
- 31.** Document C10(a), p 9
- 32.** Document C9, p 23
- 33.** Document A18(e), pp 820–825; Busby to Bourke, 10 September 1835, QMS 0344, ATL, Wellington; see also Shawcross, ‘Maoris of the Bay of Islands’, fol 333
- 34.** Several historians and a few claimants provided accounts of these efforts. Among claimants, see doc C9, p 23; doc C10(a), p 9; and doc C38, pp 4–5. Among historians, see doc A18, pp 58–61; doc A17, pp 23–24; doc A21, pp 40–41; doc A20, pp 48–49, 62–65); and doc D1, p 128. Busby’s views can be found in doc A18(e), pp 820–836, and in Busby to Bourke, 10 September, 11 September and 10 October 1835 (no 67), QMS 0344, ATL, Wellington.
- 35.** Document A18(e), pp 820–824; Busby to Bourke, 10 September 1835, QMS 0344, ATL, Wellington; see also doc A17, p 24. Busby was visited on 7 September 1835 by Williams, the trader James Clendon, and a settler named Harvey, who presented resolutions from a public meeting. Williams told Busby that Bay of Islands Māori were also in favour of a ban.

- 36.** Document A21, p 40; doc A20, p 42; doc A18, pp 57–58; doc A19, p 39; doc A17, p 24; Jack Lee, *Hokianga*, pp 59–62; Jack Lee, *An Unholy Trinity: Three Hokianga Characters* (Russell: Northland Historical Publications Society, 1997), pp 43–44, 72, 75–76. Busby was not consulted about McDonnell's appointment as additional British resident, and in the following two years he and McDonnell were to frequently criticise each other in their letters to British colonial authorities. Lee noted that Bourke had not been consulted about Busby's appointment, and that Bourke resented Busby and regarded him as a failure, just as Busby resented McDonnell: Lee, *Hokianga*, p 59.
- 37.** 'New Zealand', *Sydney Herald*, 19 October 1835, p 3, <http://nla.gov.au/nla.news-article12853281>, accessed 3 February 2014
- 38.** Charles Oliver Davis, *The Life and Times of Patuone, the Celebrated Ngapuhi Chief* (Auckland: JH Field, 1876), <http://nzetc.victoria.ac.nz/tm/scholarly/tei-DavLife-t1-body.html>, p 32; Sherrin, 'From Earliest Times to 1840', pp 371–372; Lee, *Hokianga*, pp 79–80; Lee, *An Unholy Trinity*, pp 43–44, 75–76; Eric Ramsden, *Busby of Waitangi: HM's Resident at New Zealand, 1833–40* (Wellington: AH and AW Reed, 1942), p 116
- 39.** Document A18(e), pp 833–836; Busby to Bourke, 10 October 1835 (no 67), QMS 0344, ATL, Wellington
- 40.** Document A20, p 62
- 41.** Document A17, p 24 n 76
- 42.** As discussed in chapter 3, there is convincing evidence that de Thierry supplied arms to Hongi in 1821.
- 43.** Document A18, pp 29–31, 63–64
- 44.** Raeside, *Sovereign Chief*, pp 92–95, 106–107, 110
- 45.** Document A17, p 25
- 46.** Ibid
- 47.** Judith Binney, *The Legacy of Guilt: A Life of Thomas Kendall*, revised (Wellington: Bridget Williams Books, 2005), pp 186–187, 240 n 36
- 48.** Document A1, p 244
- 49.** Document A18(e), pp 837–840; Busby to Bourke, 10 October 1835 (no 68), QMS 0344, ATL, Wellington; doc A1, p 244; doc A18, p 65
- 50.** Document A18(e), pp 837–840; Busby to Bourke, 10 October 1835 (no 68), QMS 0344, ATL, Wellington; see also doc A1, p 244; Claudia Orange, *The Treaty of Waitangi* (Wellington: Bridget Williams Books, 1990), p 21; Raeside, *Sovereign Chief*, pp 19–36, 116–118; Phil Parkinson, 'Our Infant State: The Māori Language, the Mission Presses, the British Crown and the Māori, 1814–1838', 3 vols (PhD thesis, Victoria University of Wellington, 2003), vol 1, p 242
- 51.** Document A18(e), pp 837–840; Busby to Bourke, 10 October 1835 (no 68), QMS 0344, ATL, Wellington
- 52.** Document A18(e), pp 837–840; Busby to Bourke, 10 October 1835 (no 68), QMS 0344, ATL, Wellington
- 53.** Document A1, p 244. Phillipson relied on a translation provided in Ramsden, *Busby of Waitangi*, p 95. Parkinson (doc D1, pp 62–63) argued that a more accurate translation would be 'servants'. According to the Crown (submission 3.3.1, p 26), Parkinson was not fluent in te reo but had 'expertise in the written records that concern contemporary understandings of certain 19th century Maori words, particularly those associated with He Whakaputanga and Te Tiriti', arising from

his study of Māori-language documents for his 2004 co-authored book *Books in Māori 1815–1900: An Annotated Bibliography*, and his PhD thesis 'Our Infant State'.

**54.** Document D1, p 62. Busby covered similar ground in his circular to British settlers, 'The British Resident in New Zealand to His Britannic Majesty's Subjects Who Are Residing or Trading in New Zealand', 10 October 1835, Paihia: doc D1(b), tab 9. See also doc D1, pp 64–65 and doc A18, p 64.

**55.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; doc A17, p 72; doc A18, pp 66 n 199, 70

**56.** 'Declaration of Independence of New Zealand', in *Facsimiles of the Declaration of Independence and the Treaty of Waitangi* (Wellington: Government Printer, 1976)

**57.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; see also doc A1, p 245 and doc A18, p 65. Busby noted that he had 'transmitted Letters to the Chiefs of more distant Tribes, than [he had] on former occasions', presumably referring to his arrival and the flag hui.

**58.** 'Declaration of Independence of New Zealand'; doc A16, p 200

**59.** Document A16, pp 107, 113, 179. As discussed in chapter 3, Henare gave evidence as a technical witness (doc B3); he also supplied his thesis (doc A16) as evidence and contributed to document A37.

**60.** Document A11(a), vol 4, pp 1344–1345; Busby to Bourke, 3 November 1835, QMS 0345, ATL, Wellington; doc A11, pp 21, 251; doc A18, p 70; see also doc A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington. After the declaration was signed, Busby asked for money to build a house of assembly: see doc A11, pp 21, 251; doc A18, p 70.

**61.** Henry Williams's journal for this period is missing: Williams, *Early Journals*, p 7; doc A1, p 245; doc D1(e), p 33. As far as we are aware, neither Clendon nor Mair kept any record of the hui.

**62.** Patuone and Nene had been delayed. Busby said that Nene arrived the next day. Muriwai was dead, as was Hongi.

**63.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; doc A1, p 245

**64.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; doc A1, p 245; doc A18, pp 65–66

**65.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; see also doc A1, p 245; doc A18, p 67. Busby had foreshadowed these three themes in his dispatch of 10 October (no 68).

**66.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; doc A18, p 70

**67.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; doc A18, p 70

**68.** Document A1, p 246; see also doc A18, p 67; doc A19, p 36; doc A20, p 63

**69.** Document A18, p 68. According to Busby's biographer, Eric Ramsden, the manuscript was written in the 1860s: doc A18, p 190 n 536.

- 70.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington
- 71.** Document A17, p 72; doc A18, p 66 n 199
- 72.** Document A18, p 66
- 73.** Document D4, p 25; doc A16, pp 132, 138–139, 197. Pare (also known as Eruera Pare Hongi) had attended a mission school, was responsible for the first known example of Māori letter writing in 1825, and more recently had helped William Yate with the preparation of Māori biblical texts. In chapter 3, we discussed his role in relation to the 1831 petition to King William IV.
- 74.** Submission 3.3.33, pp 10, 31; doc D1, pp 110, 130–131; doc D1(d), pp 3–4, 6
- 75.** Submission 3.1.142(a), p 570
- 76.** For Hohepa's evidence, see doc D4, pp 25, 35–36, 64–65; doc A32, pp 2, 5; transcript 4.1.1, pp 127–128. For Erima Henare's evidence, see transcript 4.1.1, pp 248–249. For Manuka Henare's evidence, see transcript 4.1.2, p 91, and doc A16, pp 137–139, 197, 215.
- 77.** Document D4, p 25
- 78.** Transcript 4.1.1, pp 118–119, 127; see also doc D4, pp 35–36, transcript 4.1.1, pp 244, 248
- 79.** Document B10, p 67
- 80.** Transcript 4.1.1, pp 244, 248
- 81.** Document A30(c), para 145 (translation by Erima Henare); submission 3.3.23, pp 27–28
- 82.** Document A11(a), vol 4, pp 1376–1394; submission 3.1.142(a), pp 440–446; Busby to Bourke, 16 June 1837, QMS 0345, ATL, Wellington
- 83.** Document A18, p 67 n 201
- 84.** Document A17, p 47
- 85.** 'Declaration of Independence of New Zealand', in *Facsimiles of the Declaration of Independence and the Treaty of Waitangi*
- 86.** Document A17, p 72
- 87.** Document D1(e), p 22
- 88.** Photocopy of Henry Williams's Māori draft of he Wakaputanga, translated by Williams from the English text supplied by Busby, October 1835 (doc D1(b), tab 10); see also Parkinson, 'Our Infant State', pp 251–255
- 89.** Document D1(d), p 6; Parkinson, 'Our Infant State', pp 251–252
- 90.** Specifically: (i) in the draft the words 'i te ra' appear before '28 o Oketopa', whereas in the signed text they did not; (ii) the word 'te tahi' was used in the draft whereas the signed text used 'tetahi'; (iii) the phrase 'Ko te Wakaminenga o Nga Hapu Nu Tirenī' was not underlined in the draft, but was underlined in the signed text. In each of these respects, the Williams text was identical to texts of he Whakaputanga that were printed by the missionary William Colenso in 1836 and 1837, but different from Pare's signed text. In addition, in the third paragraph of the Williams draft, 'Ngauru' was used for autumn, whereas the signed text used 'Ngahuru'. 'Ngahuru' was also used in Colenso's 1836 printing.
- 91.** The corrections in article 1 are: (i) 'kei Waitangi' and 'kei Tokerau' have been replaced with 'i Waitangi' and 'i Tokerau'; (ii) the phrase 'Ko te Wakaminenga o Nu Tirenī' has been replaced with 'Ko te Wakaminenga o nga Hapu o Nu Tirenī'. The corrections in article 2

- are: (iii) 'nga wakaminenga o Nu Tirenī' has been replaced with 'te wakaminenga o Nu Tirenī' (though in this case 'o nga hapu' was not inserted); and (iv) 'e noho nei ki uta e rere mai ki te hokohoko' has been corrected to 'e noho nei i uta e rere mai ana ki te hokohoko'. Each of these corrections appears in Pare's handwritten text and in Colenso's 1836 printing.
- 92.** Document D1(d), p 6; Parkinson, 'Our Infant State', pp 251–252
- 93.** Document D1(d), p 6; Parkinson, 'Our Infant State', pp 251–252; doc B3, p 86
- 94.** Document D1(d), p 6; Parkinson, 'Our Infant State', pp 251–252
- 95.** Document B3, pp 83, 86
- 96.** Document B3, pp 55–56; doc A16, pp 113, 187, 215
- 97.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; see also doc A1, p 245 and doc A18, p 67
- 98.** Busby reported '35 leading rangatira' as attending the hui and said they unanimously assented to he Whakaputanga. However, as Pare signed as 'kai tuhuhu' he has generally been excluded from the total number of rangatira considered to have signed. We have followed that convention here.
- 99.** Document D1(b), tab 11 (facsimile of 'He Wakaputanga o te Rangatiratanga o Nu Tirenī', in Eruera Pare's handwriting, with signatures of rangatira). The original document did not record tribal affiliations, but these were later added in printed copies of the Declaration in 1836 (doc D1(b), tab 15) and (with corrections) in 1837 (doc D1(b), tab 16). Here, we have used the corrected names and tribal affiliations as they appeared in the 1837 reprint, but we have also included Waikato, Te Peha, and Heke, whose names appeared on the original signed declaration but were omitted from the printings. See also Parkinson, 'Our Infant State', app 3; doc A16, p 200; doc A20, p 51; and doc A1, p 248.
- 100.** Document D1, pp 130–131
- 101.** Jack Lee, *'I Have Named it the Bay of Islands . . .'* (Auckland: Hodder and Stoughton, 1983), p 184
- 102.** Document A16, pp 199, 201; doc A20, p 53 n 102. According to Henare, this may have been drafted by the missionary George Clark, who was listed as a witness. See also doc D1(b), tab 14 (facsimile of the original codicil with signatures added between 1836 and 1839).
- 103.** Document A16, p 199
- 104.** Photocopy (from 1877 facsimile) of the second version of the codicil to the 'Wakaputanga o te rangatiratanga o Nu Tirenī' (in the script of James Busby), 1836–1839, ATL, Wellington (in doc D1(b), tab 14). Dates, names, tribal affiliations, spelling, capitalisation, and punctuation are all as they appear in that document, but the content has been tabulated for the sake of clarity. See also Parkinson, 'Our Infant State', app 3; and doc A16, pp 200–201.
- 105.** Photocopy of 1836 printing of 'He Wakaputanga o te rangatiratanga o Nu Tirenī (Declaration of Independence of New Zealand)' by James Busby, 1836, MS Papers 0032–1009–01 (McLean Papers), ATL, Wellington (in doc D1(b), tab 15); Photocopy of 'Wakaputanga o te rangatiratanga o Nu Tirenī', 1837 (second, reprinted and corrected edition), ATL, Wellington (in doc D1(b), tab 16). The prefix 'Ko' was added

before the names of Nene, Huhu, Tona, Panakareao, Kiwikiwi, and Te Tirarau in the 1836 and 1837 printings.

**106.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, QMS 0345, ATL, Wellington; see also doc A1, p 245

**107.** Submission 3.1.142(a), p 571 n 24

**108.** Document D11, pp 4–5

**109.** Of those who signed the 1831 petition, Ripi and Hara do not appear to have signed he Whakaputanga (unless they used different names). The southern alliance leader Te Morenga is believed to have died in 1834, so it was probably his son who signed he Whakaputanga under the same name: see Orange, *The Treaty of Waitangi*, pp 23, 271 n 26. Of those who were known to be at the flag hui, Kiwikiwi, Moetara, Waikato, Heke, and Pōmare II signed he Whakaputanga. Te Morenga senior had also been at the flag hui: see doc A37, pp 437–438, 451–3. See chapter 3 for discussions of the 1831 petition and the flag hui.

**110.** We do not know where all of the signatories were from. Of those who are known, at least 18 of the initial 34 signatories were from the Bay of Islands: Wharepoaka, Titore, Moka, Wharerahi, Rewa, Atuaheere, Wiremu Taunui, Waikato, Tāreha, Kawiti, Kekeao, Te Kēmara, Pōmare, Marupō, Kopiri, Hiamoe, Pukututu, and Heke. Awa, Kaua, Wiwia and Ngere may also have been from that district. Ururoa, Hare Hongi, Tupe and Tenana were from Whangaroa but the first three were affiliated to the Bay of Islands northern alliance. Pi, Moetara, and Pumuka were from Hokianga, and Paerata was from the Far North: doc A37, pp 451–452, 761–795. See also doc B1, pl 25.

**111.** Document A37, pp 196, 367–368, 451–452, 761–795; Steven Oliver, ‘Te Tirarau Kukupa’, in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/2t31/te-tirarau-kukupa>, last modified 30 October 2012; see also doc B1, pl 25

**112.** Orange, *The Treaty of Waitangi*, p 23; see also doc A1, pp 247–249

**113.** Submission 3.3.14, pp 6, 17; submission 3.3.2, pp 14, 16, 36, 42, 45, 48–49; submission 3.3.3, pp 7–10; submission 3.3.21, p 17; doc B10, pp 66–68; doc A32(c), p 7; doc D14(b), p 7; doc A30(a), p 4; doc A30(c), pp 6–7; doc D4, p 42; doc A25(b), p 12; doc A16, p 187

**114.** Document A16, p 193

**115.** Ibid

**116.** Document B3, p 56; see also doc A16, pp 187, 193–194; submission 3.3.3, p 9

**117.** Document D4, p 36

**118.** Document B10, p 31

**119.** Document A31, p 2

**120.** Document A23, pp 7–8

**121.** Submission 3.3.6(a), p 9; see also doc A22, throughout; doc B10, p 70; doc A17, throughout, especially pp 77–80; doc D1, throughout; and doc B21(b), pp 3–4

**122.** Document B21(a), p 4

**123.** Document B10, p 67

**124.** Submission 3.3.14, p 6; submission 3.3.2, pp 61–62, 96–97; see also doc B3, pp 5, 8–9, 22–25

**125.** Document C9(b), p 3

**126.** Document D4, pp 36–39; doc B10, pp 68–74; doc A16, pp 197–201; doc B3, pp 57–59; doc A23, app 1

**127.** Document D4, p 36

**128.** Document C33, part 1, pp 12–18

**129.** Submission 3.3.1, p 26; doc D1, pp 5–6; doc A17, pp ii–iii; transcript 4.1.3, pp 226–227

**130.** Submission 3.3.2, pp 16–17, 61–62; submission 3.3.14, p 6

**131.** Submission 3.3.14, p 17; submission 3.3.2, pp 49, 107–108

**132.** Submission 3.3.2, p 49

**133.** Submission 3.3.33, pp 9, 12–13, 32–33

**134.** Document C33, pt 1, p 14. Aldridge rendered ‘rangatiratanga’ as ‘sovereign authority’: doc B10, pp 68–69. Hohepa rendered ‘Rangatiratanga o to matou whenua’ as ‘Sovereign state of our land’: doc D4, pp 36–37. Mutu used the phrase ‘paramount authority’: doc A23, app 1. Manuka Henare used ‘authority and leadership’: doc A16, p 199.

**135.** Document C9(b), para 23

**136.** Ibid, para 17. Klaricich wrote: ‘the land is the placenta for inter-generational hapu survival’.

**137.** Document C9(b), paras 5–11. Klaricich illustrated his point by referring to Kawehitiki Point on the Hokianga Harbour, where his tūpuna Moetara agreed with Te Rarawa in 1833 that he would restrict his own trade to the south side of the harbour, thereby restoring peace while also allowing both parties to pursue commercial interests.

**138.** Document B10, p 69; transcript 4.1.2, p 39

**139.** Document B3, pp 56–57; doc A16, p 115; doc D4, p 39; doc C33, part 1, p 14; doc A23, app 1

**140.** Document B21, pp 5–8, 9. Both Salmond (doc A22, p 25) and Parkinson (doc D1, pp 43, 57, 80–85) also noted ‘rangatiratanga’ as a synonym for ‘kingdom’ in religious texts of the time.

**141.** Document A17, pp 74, 77–79, 82

**142.** Document A16, pp 197–201; doc D4, pp 34–35, 38–39; doc A23, app 1. Both Hohepa (doc D4, pp 3–35) and Aldridge (doc B10, p 46) said that ‘Wakaminenga’ had been derived from root words ‘mine’ and ‘minenga’ (to assemble).

**143.** Document B10, pp 69–70

**144.** Ibid, p 47. Aldridge said that the word ‘Wakaminenga’ was built from the existing term ‘minenga’ and referred to ‘a group of people coming together to meet in an assembly more formal than huihuinga, where command decisions are made to affect the lives of people’.

**145.** Document B10, pp 5–7

**146.** Ibid, pp 46–49; transcript 4.1.2, pp 46, 49

**147.** Document B10, pp 46–48, 50, 67; transcript 4.1.2, p 46. Aldridge likened this alliance to the United Nations and said Waikato had been chosen as taiapuru, an equivalent of ‘general secretary’.

**148.** Document B10, pp 50–51

**149.** Ibid, pp 50–51; transcript 4.1.2, p 51

**150.** Document B10, p 65

**151.** Ibid, p 76

**152.** Ibid, p 67

**153.** Those to mention 1808 as an initial date included Ani Taniwha, Nuki Aldridge, Te Pania Kingi, Hori Temoanaroa Parata, and Pari

Walker: see respectively doc B4(a), p 6; doc B10, p 47; doc B37, p 3; doc C22, p 7; doc C34, p 4. Others mentioned non-specific dates in the first decade of the nineteenth century or earlier: see, for example, doc C7, p 21; doc C14, pp 3–5; doc C33, pt 1, p 13; doc D5, p 24. Haami Piripi mentioned 1814 as a start date, and Te Pania King mentioned 1816: doc B26(a), p 27; doc B37, p 3.

**154.** Document B10, pp 48–49; doc B37, p 4; doc C2, p 19; doc C22, p 10; doc C24, p 9; doc C32, p 12; doc C33, part 1, p 13; doc D11, p 5. Other rangatira mentioned by one witness only as having attended Te Whakaminenga included Hare Hongi, Hōne Heke, and Te Pona; Ruatura; Parore; Patuone; and Te Wherowhero: see respectively doc B4(a), pp 7–8; doc B10, p 47; doc B37, p 4; doc C2, p 19; doc D11, p 5.

**155.** Specifically, whanaminenga were said to have taken place at Whangaroa (Te Ngaere, Te Touwai, Motueka (Flat Island), Mahinepua) (doc B4(a), pp 6–7; doc B10, p 48; doc C34, p 5); Hokianga and inland (Whirinaki, Taheke, Mangatawa, Puhunga Tohora) (doc C14, pp 4–5; doc C33, pt 1, p 13); the Bay of Islands and inland (Waitangi, Taiamai, Waimate North) (doc B4(a), pp 6–8; doc C24, p 13); and at various Whāngārei locations (doc C24, pp 8–10). Others said meetings took place in various locations, but particularly in the Hokianga, Bay of Islands, and Whangaroa (for example, doc C22, p 7).

**156.** Document B10, p 48; doc B4(a), pp 6–8; doc B33, pp 2–3; doc C34, p 4

**157.** Document B33, p 2

**158.** Document B10, p 48

**159.** Document B4(a), p 6

**160.** Ibid, pp 6–8

**161.** Hongi Hika is believed to have lost his brother and sister at Moremonui, as well as his close relative and senior rangatira Pokaia (doc A36, pp 270–271; Ballara, *Taua*, p 185). The defeat was not avenged until 1825 at Te Ika-a-Ranganui.

**162.** Document B4(a), pp 6–8

**163.** *Trade:* doc B19, p 4; doc B26(a), p 27; doc C7, p 23; doc C14, pp 4–5; doc C33, part 1, p 13. *Maintain control of land/resources:* doc C2, p 19; doc C22, p 7; doc B33, pp 2–3. *Tikanga:* doc C2, p 19; doc B37, p 3; doc B4(a), p 7. *Manage international/political relationships:* doc B26(a), pp 14–15, 22–23; doc B10, pp 46–48; doc C2, pp 18–19. *Other/general challenges arising from contact:* doc B10, pp 46–48; doc B37, p 3; doc C2, p 19; doc C22, p 7; doc C7, p 23; doc C14, pp 4–5; doc C22, p 7; doc C34, p 5; doc D5, p 24

**164.** Document C34, p 5

**165.** Document A30(c), para 143; submission 3.3.23, p 27 (translation by Erima Henare); transcript 4.1.2, pp 242, 290–291. He said the discussions took place at Pinia in Whangaroa and gave various dates, including 1816, 1818, and ‘when Hongi returned from England’.

**166.** Document B13(a), pp 13–14

**167.** Document B26(a), pp 13–17, 22, 24, 27

**168.** Document C14, p 4; doc C22, p 7; doc C32, p 12

**169.** Concerning the flag, see doc B4(a), p 8; doc A35, p 3; doc B26(a), p 28. Concerning he Whakaputanga, see doc A34(a), p 6; doc B10, pp 46–47, 65; doc B37, pp 3–4; doc B3, pp 29–55.

**170.** Submission 3.3.33, pp 12, 40–41, 44

**171.** Dorothy Urlich Cloher, *Hongi Hika: Warrior Chief* (Auckland: Viking, 2003), pp 206–208, 296–297, 318 n24. Marsden had also referred to Ruatara as ‘Duaterra King’, as discussed in chapter 3.

**172.** Ballara, ‘Warfare and Government’, fols 110–118; doc A1, p 79; Ormond Wilson, *From Hongi Hika to Hone Heke*, pp 171–174; doc A37, p 307

**173.** William Yate, *An Account of New Zealand and of the Church Missionary Society's Mission in the Northern Island* (London: Seeley and Burnside, 1835), p 138; doc A37, p 310. Dr Manuka Henare, Dr Hazel Petrie, and Dr Adrienne Puckey explained the feasting that accompanied such rites as an opportunity to display wealth and accomplishments, to promote harmonious relations between groups and intensify reciprocal obligations: doc A37, p 307.

**174.** Ballara, ‘Warfare and Government’, fols 30–31, 40–42, 110–119; doc A1, p 79; Ormond Wilson, *From Hongi Hika to Hone Heke*, pp 171–174; doc A37, p 307. Jack Lee also described a meeting in November 1835 involving McDonnell; the northern alliance rangatira Titore, Tāreha, and Rewa; the Hokianga rangatira Taonui, Nene, and Moetara; and Te Tirarau of Kaipara. The meeting concerned a proposal by McDonnell to cut kauri spars in the Kaipara district. McDonnell had entered the transaction directly with Tirarau, but he also involved the Bay of Islands and Hokianga rangatira since he assumed that they had rights through conquest: Lee, *An Unholy Trinity*, pp 76–77.

**175.** Document A1, p 79; Ballara, ‘Warfare and Government’, fol 111. Phillipson quoted accounts of the last of these events, recorded by the missionary William Williams in his journal. Williams presented expense as the main reason for abandoning hahunga and also saw it as evidence of traditional Māori values giving way to Christian ones. Phillipson saw the question more as one of missionary-influenced social change than one with significance for political organisation. Williams reported that the last hahunga, held at Waimate in late May 1835, had a line of food some 300 yards long, including 2000 baskets of kumara and 50 to 60 pigs. Signs were attached asking the Hokianga leaders not to reciprocate.

**176.** Jeffrey Sissons, Wiremu Wi Hongi, and Pat Hohepa, *Ngā Puriri o Taiamai: A Political History of Ngā Puhi in the Inland Bay of Islands* (Auckland: Reed Books, 2001), pp 87–133, summarised on pp 87–89; doc A37, pp 23–30, 170–192, 363–375; doc A37(b), pp 3–7, 10–11, 40–46; doc A1, pp 35–46

**177.** Document A1, pp 41–42, 45, 80–81; Shawcross, ‘Maoris of the Bay of Islands’, fols 334, 346, 366; Lee, ‘I Have Named it’, pp 160–161, 184–186

**178.** Document C9, pp 22–24; doc A37, pp 622–623; doc A37(b), p 17; Patu Hohepa, transcript 4.1.1, p 133

**179.** As an example of separate external campaigns, in 1832 Pukerangi and Te Tirarau (possibly joined by Kawiti and Pōmare) mounted a campaign in the Waikato, while northern alliance rangatira fought in Tauranga. In 1833, Rewa and others refused to join Titore in returning to Tauranga: see Shawcross, ‘Maoris of the Bay of Islands’, fig 21, fols 365–366; Ormond Wilson, *Kororareka and Other Essays* (Dunedin: John McIndoe Ltd, 1990), pp 84–85, 95; Crosby, *Musket Wars*,

pp 232–233, 250–251, 267–268; Ballara, *Taua*, pp 205, 262; Ballara, ‘Warfare and Government’, fols 174–178.

**180.** Document c22, pp 7–10. Much of the other claimant evidence also referred to origins before 1820 but then did not specifically mention any meetings in the 1820s.

**181.** Document A30(c), pp 90–91. Phillipson (doc A1, pp 39–40) also provided evidence of hapū being rivals internally (for example, Bay of Islands and Hokianga) but setting those rivalries aside to fight external battles (for example, taua against Ngāti Whātua), and of these complex relationships persisting right up to Northern Wars. He also noted that internal warfare was generally more restrained.

**182.** William Williams, *Christianity among the New Zealanders* (London: Seeley, Jackson, and Halliday, 1867), p 89

**183.** Hohepa rendered the phrase as ‘The Kingdom, the mana within the land’, and Aldridge rendered it as ‘the authority of the lands’ or ‘the authority that comes from the land’: doc d4, p 37; doc b10, p 70. Manuka Henare said that it meant ‘sovereignty/kingship and the mana from the land’: doc A16, p 198. Both Manuka Henare and Hohepa retained the word ‘mana’ in their translations, implying that there was no adequate English equivalent.

**184.** Document b10, p 70

**185.** Document b26(a), p 20

**186.** Document A16, p 113

**187.** Ibid

**188.** Sherrin, ‘From Earliest Times to 1840’, pp 294–295, <https://archive.org/stream/earlyhistoryofneosher#page/n3/mode/2up>, accessed 11 February 2014. We covered this meeting in chapter 3.

**189.** Anne Salmond, *Between Worlds, Early Exchanges between Maori and Europeans, 1773–1815* (Auckland: Penguin Books, 1997), p 420

**190.** Cloher, *Hongi Hika*, pp 206–208, 296–297, 318 n 24

**191.** Document A17, pp 83–84, see also pp 175–176

**192.** Ibid, pp 84–85, 175–176; doc A22, p 17; doc A16, p 188; doc b10, pp 70–71; doc b21, pp 43, 55, 82, 89, 91

**193.** Document A17, pp 84–85, 175–176

**194.** Document b10, p 71; doc A22, pp 17–18

**195.** Document b10, pp 27–30

**196.** Ibid, p 71

**197.** Ibid, p 28

**198.** Transcript 4.1.2, pp 40–41

**199.** Document A22, p 25; see also doc A17, pp 83–86, 175–176; doc b21, pp 4–9; and doc b26(a), p 23

**200.** Document A1, pp 208–212; doc A17, pp 83, 85–86; doc A22, pp 26–27

**201.** Document b26(a), p 23

**202.** Document A17, pp 83, 85–86. By ‘national’ government, Carpenter appears to have meant a government with power to legislate for hapū within its territories, not a government covering all of the territories of what is now known as New Zealand. He explicitly acknowledged that the rangatira only claimed mana and kingitanga in respect of the territories of Te Whakaminenga.

**203.** Document A22, p 24, see also p 28

**204.** The back-translations by Manuka Henare, Hohepa, and Wharetatao King all clearly referred to mana and kingitanga residing with the rangatira at the gathering, not the gathering itself: doc A16, pp 197–198; doc d4, p 37; doc c33, pt 1, pp 12–18.

**205.** Document A30(c), p 7; doc A25, pp 59–60. Klaricich said that the mana of rangatira derived not only from land and people but also the exercise of their ‘ancient customs and cultural practices’: doc c9, p 28. Bruce Gregory said that the ‘fundamental obligation of a Rangatira is to maintain the mana of the hapū’: doc b22, p 8. Manuka Henare said that the rangatira were stating that their collective mana was ‘located in the land (mana i te whenua) and its people, therefore they reject the English notion that sovereignty is vested in one person or a parliament’: doc A16, pp 114–115.

**206.** Document b26(a), pp 22–23

**207.** Document A16, p 198; doc d4, pp 38–39; doc b10, pp 68–71. Carpenter expressed a similar view: doc A17, p 176.

**208.** Specifically, Aldridge described whānau laws covering rights to carve or karanga, as well as occupations and social roles; hapū laws covering marriage and education; and intertribal laws covering access to land and resources: doc b10, pp 30–31.

**209.** Wilson, *Kororareka*, p 86

**210.** Document A36, pp 322, 361; Crosby, *Musket Wars*, pp 126–132, 155–158, 231–233, 250–251, 267–268; Wilson, *Kororareka*, p 84

**211.** Transcript 4.1.2, pp 39, 41

**212.** Document b3, pp 26, 30–55; doc A16, in particular pp 160–199; see also doc b2(b), pp 7–10; doc b13(a), pp 12–14; doc b27, pp 2–4; doc c7, pp 4–11; doc c21, pp 7–14; doc c33, part 1, pp 11–12, 17–18; doc d4, pp 23–34

**213.** For example, see doc b10, p 107

**214.** Document A17, p 177

**215.** Transcript 4.1.1, p 42; doc b10, pp 62, 68, 72–73; see also doc c33, part 1, p 18; doc A16, pp 198–199

**216.** Transcript 4.1.1, pp 131, 137–138; doc d4, pp 38–39; see also doc A23, app 1

**217.** Document b26(a), pp 23–24

**218.** Document A11(a), vol 4, pp 1338–1343; Busby to Bourke, 31 October 1835, qms 0345, ATL, Wellington. The letter to the Colonial Office was much briefer than Busby’s 31 October dispatch to Bourke. Busby enclosed the English-language text only and reported that it was a declaration by northern chiefs ‘of the independence of their country, and of their having united their tribes into one State’, as well as a request for protection against ‘all attempts upon [the new state’s] independence’: submission 3.1.142(a), p 572; see also doc A18, p 70; doc A1, p 245; doc A18, pp 60–61, 66, 69; doc A11, pp 250–251.

**219.** Robin Hyde, *Check to Your King: The Life History of Charles, Baron de Thierry, King of Nukuhiva, Sovereign Chief of New Zealand* (Wellington: AH and AW Reed, 1960), pp 81–82; John Ross, ‘Busby and the Declaration of Independence’, NZJH, vol 14 (April 1980), p 88; see also doc A18(f), pp 929–931; James Busby to Alexander Busby, 10 December 1835; doc d1(e), p 23; doc A17, pp 39–40

**220.** Document A18(f), pp 929–931; James Busby to Alexander Busby, 10 December 1835 (in doc A18(f), pp 929–931)

- 221.** Document A18(e), pp 833–836; Busby to Bourke, 10 October 1835 (no 67), QMS 0344, ATL, Wellington
- 222.** Document A18(f), pp 854–862; Busby to Bourke, 30 November 1835 (no 73), QMS 0344, ATL, Wellington; doc A18, pp 61–62
- 223.** Document A18(f), pp 854–862; Busby to Bourke, 30 November 1835 (no 73), QMS 0344, ATL, Wellington; Ross, ‘Busby and the Declaration of Independence’, NZJH, vol 14 (April 1980), p 88; see also doc A18(f), pp 929–931; James Busby to Alexander Busby, 10 December 1835; doc A18, pp 61–62
- 224.** Document A18(f), pp 854–862; Busby to Bourke, 30 November 1835, no 73, QMS 0344, ATL, Wellington; doc A18, pp 61–62. Busby once again asked to be given enforcement authority. He also repeated his assertion that there must be only one lawmaking authority in the country, but now also argued that British subjects should be exempted from ‘Native Laws’ unless the British government would agree.
- 225.** Submission 3.1.142(a), pp 575–576
- 226.** Submission 3.1.142(a), pp 575–576; see also submission 3.3.33, p 34; doc A20, p 48
- 227.** Document A18, p 68; submission 3.1.142(a), p 576
- 228.** Document B30, app B, p 13; Glenelg to Bourke, 25 May 1836; see also doc A1, p 249; doc A18, p 78; doc A20, pp 55–56; submission 3.1.142(a), p 573; submission 3.3.33, p 11; Parliament of Great Britain, *Report from the Select Committee of the House of Lords Appointed to Inquire into the Present State of the Islands of New Zealand and the Expediency of Regulating the Settlement of British Subjects therein: With the Minutes of Evidence Taken before the Committee and an Index thereto* (London: House of Commons, 1838), p 159
- 229.** Document A17, pp 49–50
- 230.** Document A17, p 51, see also pp 180–181
- 231.** Document A21, pp 40–41, see also p 94
- 232.** Document A18, p 78 n 233. According to Loveridge, the dispatch was sent on 19 November 1836 and received on 26 January 1837.
- 233.** Glenelg to Bourke, 26 August 1836 (in doc A18(g), p 1197)
- 234.** Submission 3.1.142(a), p 577
- 235.** Document A1, p 249; doc A18, pp 68–69; Busby to Bourke, 16 March 1836, QMS 0345, ATL, Wellington; submission 3.1.142(a), pp 573, 577
- 236.** Document A1, p 243; doc A17, pp 24–25
- 237.** Ross, ‘Busby and the Declaration of Independence’, NZJH, vol 14 (April 1980), pp 86, 88
- 238.** Document D1, p 114; Parkinson, ‘Our Infant State’, pp 243–248. Parkinson did not refer to Ross in his evidence (doc D1) but in his doctoral thesis placed considerable weight on Ross’s analysis of Busby’s motivations.
- 239.** Document A18, p 62
- 240.** Document A18(a), p 51
- 241.** Document A17, pp 24–25, 40; doc A1, pp 243–244
- 242.** Robert FitzRoy, ‘Proceedings of the Second Expedition, 1831–1836’, in Phillip Parker King, *Narrative of the Surveying Voyages of His Majesty’s Ships Adventure and Beagle, between the Years 1826 and 1836, Describing their Examination of the Southern Shores of South America,*
- and the Beagle’s Circumnavigation of the Globe
- 4 vols (London: Henry Coulburn, 1839), vol 2, p 567; doc D1, pp 116–117
- 243.** Document D1, pp 116–117
- 244.** Joel Polack, *New Zealand: Being a Narrative of Travels and Adventures during a Residence in that Country between the Years 1831 and 1837*, 2 vols (London: Richard Bentley, 1838), vol 2, p 224; see also pp 428–429
- 245.** Lee, *Hokianga*, pp 82–92 and elsewhere; Lee, *An Unholy Trinity: Three Hokianga Characters*, pp 72–80; Parkinson, ‘Our Infant State’, pp 275–276; Busby to Bourke, 30 January 1837, QMS 0344, ATL, Wellington (doc A18(f), pp 917–926). According to Busby, McDonnell’s interference in Nene’s trading activities led several Hokianga rangatira to threaten his expulsion from the country. Lee (*Hokianga*, pp 83–84; *An Unholy Trinity*, pp 79–80) and Parkinson (p 276) described how McDonnell threatened to bring a British warship to the Kaipara to take kauri spars by force, against the opposition of the leading rangatira Tirarau. Lee (*An Unholy Trinity*, p 80) accused McDonnell of openly attempting to incite warfare between Tirarau and the northern alliance; and also noted (p 77) that Busby and McDonnell only met once, in November 1835.
- 246.** Document D1, pp 117–118
- 247.** Ibid. The *Beagle* was in the Bay of Islands from December 21–30: FitzRoy, ‘Proceedings’, vol 2, pp 564, 610.
- 248.** Document B26(a), pp 3, 20, 21–23, 26–27; doc B12, p 4; doc B8(a), p 3; doc D7, p 10; doc B39, p 6; doc C2, p 11; doc C9(b), p 3; doc C20(a), p 7; doc C7, pp 10, 11; doc D5, p 24; doc C22, pp 11–12; doc C23, pp 10–11; doc B36, pp 2–3; doc B13(a), p 13; doc A34, pp 10–11; doc A30(c), p 91; doc C34, pp 5–6; doc D4, pp 40–41; doc A28, p 8
- 249.** Document B26(a), p 21; doc C7, p 11; doc B12, p 3; doc D7, p 10; doc C2, p 11; doc C9(b), p 3; doc A34, pp 10–11; doc C34, p 4; doc B18(a), pp 14–15, 23–24, 30–31, 35–39; doc A28, pp 7–8
- 250.** Transcript 4.1.2, p 51; doc C34, p 3
- 251.** Document C7, pp 7, 11; doc B8(a), p 3; doc D7, p 10; doc C9(b), p 2; doc C22, pp 11–12; doc C23, pp 11–12; doc B13(a), pp 13–14; doc A31, p 3; doc A28, pp 7–8; doc B10, pp 65–66
- 252.** Document B26(a), pp 3, 24–25, 27–28; doc B12, p 3; doc B36, pp 2–3; doc B13(a), p 13; doc A30(c), pp 88–89; transcript 4.1.1, p 242; doc C34, p 5; doc D4, pp 40–42; doc D5, p 24; doc B22(b), pp 6–7
- 253.** Document C20(a), pp 7, 9; doc B26(a), pp 14–15, 22–25, 27–28; doc D4, pp 41–42; doc C11(a), p 5; doc B3, pp 6–7, 28–29, 55, 61–62
- 254.** Document B3, pp 26–27, 61–62; doc B12, p 3; doc B10, p 67
- 255.** Document B10, pp 69, 72; doc C34, pp 5–6; doc C23, p 11; doc B36, pp 2–3
- 256.** Document B10, p 68
- 257.** Document B10, pp 8–9; submission 3.3.14, p 23
- 258.** Document B10, p 68; doc B26(a), pp 26–27; doc D4, pp 41–42; submission 3.3.2, pp 99–101, 105; submission 3.3.30, pp 50–51, 70–71, 78; submission 3.3.14, pp 7–15, 23, 91
- 259.** Doc B26(a), p 14
- 260.** Document B26(a), pp 14, 21–22, 26–27
- 261.** Document A16, throughout; doc B3 throughout
- 262.** Document A16, pp 137, 156; doc B3, p 26

- 263.** Document A16, pp 156–157; doc B3, p 26
- 264.** Document A16, pp 159–200, summarised on p 159; doc B3, pp 28–64, summarised on pp 8–9, 29. Te Tiriti o Waitangi was to become the sixth event.
- 265.** Document A16, pp 156, 195; doc B3, pp 26, 61
- 266.** Document B3, p 62; see also doc A16, p 189
- 267.** Document A16, pp 116–121
- 268.** Document A16, pp 187–188; doc B3, pp 61–62
- 269.** For example, see submission 3.3.2, pp 100–106; submission 3.3.30, pp 37–49; submission 3.3.14, pp 9–14; submission 3.3.21, pp 14–16; submission 3.3.3, pp 13–23; and submission 3.3.6, pp 24–25. See also doc B26(a), pp 3, 14–15, 22–25, 27–28; doc B12, p 3; doc B36, pp 2–3; doc B13(a), p 13; doc A30(c), pp 88–89; transcript 4.1.1, p 242; doc C34, p 5; doc D4, pp 40–42; doc D5, p 24; doc B22(b), pp 6–7; C20(a), pp 7, 9; doc B26(a), pp 27–28; and doc C11(a), p 5.
- 270.** Document C9(b), p 3
- 271.** Document D4, p 34
- 272.** Transcript 4.1.4, pp 50–51 (Tribunal's translation)
- 273.** For example, see submission 3.3.2, pp 99, 105–106; submission 3.3.30, pp 50, 61; submission 3.3.14, pp 18–21; submission 3.3.21, p 19; submission 3.3.23, pp 24–25; and submission 3.3.6, p 26. See also doc D4, pp 34–35; and doc B26(a), pp 26–27.
- 274.** William Blackstone, *Commentaries on the Laws of England*, 4 vols (Philadelphia: Robert Bell, 1771), vol 1, p 49; doc A17, p 34
- 275.** Submission 3.3.30, pp 50, 73–74
- 276.** Document B26(a), p 20
- 277.** Ibid, p 26
- 278.** Ibid, p 27
- 279.** Ibid, p 26
- 280.** Document D4, pp 41–42
- 281.** Document B26(a), pp 26–27
- 282.** Transcript 4.1.1, p 310; submission 3.3.2, pp 99, 111–112. Edwards described his evidence as information he learned in Te Wharewananga o te Ngakahi o Ngapuhi, of which he was a teacher, having inherited the position from his father, who passed away in 1982.
- 283.** Transcript 4.1.1, p 310; submission 3.3.2, p 99
- 284.** Transcript 4.1.4, pp 36, 42–43.
- 285.** Document A34(a), p 6; see also doc B37, p 3
- 286.** Document B18, pp 13–14
- 287.** Ibid, p 14
- 288.** Ibid, p 16
- 289.** Ibid
- 290.** Submission 3.3.2, pp 99–102, 105; submission 3.3.14, pp 8–10, 20–21, 34, 37, 91; submission 3.3.21, pp 15–17; submission 3.3.23, pp 24–25; submission 3.3.30, pp 50–51, 61–62, 70–71, 77; transcript 4.1.2, pp 49–51; doc B4(a), p 6; doc B10, pp 46, 48; doc B26(a), pp 3, 24–25, 27–28; doc C22, pp 6–7; doc C34, pp 4–5
- 291.** Document B26(a), p 3
- 292.** Document A30(c), pp 88–89; doc C29(a), pp 7–8, among others.
- 293.** Aldridge reinforced this point under cross-examination by Crown counsel (transcript 4.1.2, pp 49–50).
- 294.** Specifically, Aldridge described whānau laws covering rights to carve or karanga, as well as occupations and social roles; hapū laws covering marriage and education; and intertribal laws covering access to land and resources (doc B10, pp 30–31).
- 295.** Submission 3.3.30, pp 62, 71
- 296.** Ibid, pp 71–72
- 297.** Submission 3.3.14, p 21; see also submission 3.3.21, p 4; submission 3.3.23, p 31.
- 298.** Transcript 4.1.1, pp 136–137. In his written evidence, Hohepa described he Whakaputanga as a 'Rangatira Collective representing hapū': doc D4, p 34.
- 299.** Document B22, pp 6–7
- 300.** Ibid, p 7
- 301.** Submission 3.3.23, pp 30–31
- 302.** Submission 3.3.21, pp 15–16
- 303.** Document D2, p 16
- 304.** Document A16, pp 187–188, 190–191, 224
- 305.** Document B3, p 83
- 306.** Document C9(b), pp 1–2; see also Patu Hohepa, transcript of evidence, 4.1.1, p 133.
- 307.** Submission 3.3.23, pp 21, 23–25; submission 3.3.2, pp 106, 111; submission 3.3.30, pp 6–7, 50–52, 72, 76; submission 3.3.21, pp 3–4, 19; submission 3.3.14, pp 22–24, 33, 92; submission 3.3.49, p 2; doc B26(a), pp 23–24; doc C23, pp 10–11; doc C24, p 12
- 308.** Submission 3.3.2, p 100
- 309.** Ibid, pp 102, 105
- 310.** Submission 3.3.21, p 19; submission 3.3.23, pp 23–24; see also doc D2, pp 15–16
- 311.** Submission 3.3.30, pp 52–53
- 312.** Ibid, p 53
- 313.** Document B3, pp 77–78, see also pp 50, 61, 80–81; doc A16, pp 141, 219, 221–222, app VIII; submission 3.3.23, pp 22–23, 63–64
- 314.** Submission 3.3.21, p 19; submission 3.3.30, p 76; submission 3.3.14, p 21
- 315.** Submission 3.3.30, p 76
- 316.** Submission 3.3.14, pp 21–22
- 317.** Tribunal's translation, transcript 4.1.4, pp 46, 51
- 318.** Document B8(a), p 3
- 319.** Submission 3.3.33, pp 5, 10, 45
- 320.** Ibid, pp 10, 45, see also p 12
- 321.** Ibid, p 38, see also p 10
- 322.** Ibid, p 45
- 323.** Ibid, pp 5, 12, 40–41
- 324.** Ibid, p 5
- 325.** Ibid, pp 12, 40–41
- 326.** Ibid, p 5
- 327.** Ibid, pp 5, 11–12, 45
- 328.** Ibid, p 31
- 329.** Ibid, p 40, see also p 45.
- 330.** Ibid, pp 23–26, 30
- 331.** Document A16, pp 12–17, 23–24, 115, 194, 242
- 332.** Ibid, pp 15, 115, see also pp 118, 194, 242.

- 333.** William Pember Reeves, *The Long White Cloud: Ao Te Roa* (London: Horace Marshall and Son, 1898), p 162; A H McLintock, *Crown Colony Government in New Zealand* (Wellington: Government Printer, 1958), pp 23–25
- 334.** Keith Sinclair, *A History of New Zealand*, rev ed (Auckland: Penguin Books (NZ) Ltd, 1988), p 52
- 335.** Michael King, *The Penguin History of New Zealand* (Auckland: Penguin Books (NZ) Ltd, 2003), pp 154–155
- 336.** Paul Moon, *Fatal Frontiers: A New History of New Zealand in the Decade before the Treaty* (Auckland: Penguin Group (NZ), 2006), pp 112–114; see also Paul Moon, *Te Ara ki te Tiriti: The Path to the Treaty of Waitangi* (Auckland: David Ling Publishing Ltd, 2002), pp 63–66. We are also aware of errors in the historical record, such as general histories of New Zealand which have misreported the date on which he Whakaputanga was first signed and the number of rangatira who signed it.
- 337.** James Belich, *Making Peoples: A History of the New Zealanders – From Polynesian Settlement to the End of the Nineteenth Century* (Auckland: Penguin Books, 1996), p 181
- 338.** Orange, *The Treaty of Waitangi*, pp 21–22; Orange, ‘The Maori and the British Crown (1769–1840)’, in *The Oxford Illustrated History of New Zealand*, ed Keith Sinclair (Auckland: Oxford University Press, 1990), pp 40–42
- 339.** Document A16, p 115
- 340.** Ibid, p 242
- 341.** Ibid, pp 15–16
- 342.** Document C11(a), p 3, app 1; doc A25(a), p 43; doc A35, p 3; submission 3.3.30, p 73; submission 3.3.2, pp 14, 34–36, 49–52, 95–98, 107–108; doc B10, p 68; submission 3.3.23, pp 21, 27; submission 3.3.37, pp 11–12, 18–19; submission 3.3.14, p 36; submission 3.3.21, pp 7–8
- 343.** Document A1, pp 206, 232, 247. Phillipson had considered Henare's evidence on nation-building.
- 344.** Ibid, p 249
- 345.** Ibid
- 346.** Ibid, p 246
- 347.** Document A20, pp 47, 54–56
- 348.** Ibid, p 55
- 349.** Ibid, p 56
- 350.** Ibid, p 57
- 351.** Document A5, pp 34–35, see also pp 30–32, 35–36
- 352.** Ibid, pp 33–35
- 353.** Document A19, p 35; doc A18(a), p 52; doc A21, p 37
- 354.** Document A21, p 37
- 355.** Document A19, pp 20–21
- 356.** Document A17, pp 27–29
- 357.** Ibid, p 48
- 358.** Ibid, pp 16, 26
- 359.** Document D1(b) tab 4; doc A18(g), p 1191; doc A18(a), p 52, quoting Busby's ‘Address delivered to the Chiefs and people of New Zealand, after the reading of the King's letter’, 17 May 1833; copied in *Sydney Gazette*, 2 July 1833, p 2; Lord Viscount Goderich, one of the Principal Secretaries of State to His Majesty the King of Great Britain, to the Chiefs of New Zealand, 14 June 1832, CO 209/1, pp 104–105, Archives New Zealand, Wellington
- 360.** Document A18(a), p 52; Busby to Earl of Haddington (draft), 28 October 1836, QMS 0352, ATL, Wellington
- 361.** Document A19, p 35
- 362.** Ibid, pp 35–36
- 363.** Document A20, p 59
- 364.** Ibid, pp 47, 58
- 365.** Ibid, p 47
- 366.** Document A17, p 42
- 367.** Ibid
- 368.** Document A18(f), pp 854–862; Busby to Bourke, 30 November 1835, no 73, QMS 0344, ATL, Wellington; doc A18, pp 61–62
- 369.** Submission 3.1.142(a), pp 575–576
- 370.** Parkinson, ‘Our Infant State’, p 269. The events are described in doc A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, QMS 0345, ATL, Wellington; Lee, *Bay of Islands*, p 192; doc A1, p 252; doc A19, pp 41–42; doc A17, pp 54–55, 60–61; doc A18, pp 72–73; doc A20, pp 65–66; and Polack, *New Zealand*, vol 2, pp 222–223; Rowan Tautari, ‘Attachment and Belonging: Nineteenth-Century Whananaki’ (MA thesis, Massey University, 2009), pp 20–25. Polack asserted that Whananaki had been unpopulated for many years and characterised the dispute as one between rival northern and southern alliance conquerors. He named Pōmare II, not Noa, as leading opposition to Waikato's actions. Busby, on the other hand, said that those opposing the transaction actually lived in Whananaki but had appealed to their connections in the Bay of Islands.
- 371.** Doc A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, QMS 0345, ATL, Wellington; doc A1, p 252
- 372.** Document A1, p 252
- 373.** Document A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, QMS 0345, ATL, Wellington; doc A1, p 252; doc A17, pp 54–55, 60; doc D1, pp 130–131; doc A11, p 247
- 374.** Document A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, QMS 0345, ATL, Wellington; doc A1, p 252; doc A11, p 247; doc A17, pp 55, 60–61
- 375.** Document A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, QMS 0345, ATL, Wellington; doc A11, p 247
- 376.** Document A11(a), vol 4, pp 1346–1362; Busby to Bourke, 18 January 1836 and 26 January 1836, QMS 0345, ATL, Wellington; doc A17, pp 59–61
- 377.** Document A11(a), vol 4, pp 1356–1362; Busby to Bourke, 26 January 1836, QMS 0345, ATL, Wellington; doc A1, p 252; doc A17, pp 259–261
- 378.** Document A11(a), vol 4, pp 1356–1362; Busby to Bourke, 26 January 1836, QMS 0345, ATL, Wellington
- 379.** Document A11(a), vol 4, pp 1356–1362; Busby to Bourke, 26 January 1836, QMS 0345, ATL, Wellington; doc A19, pp 45–46; doc A17, pp 60–61
- 380.** Document D1, pp 131–132
- 381.** Document A11(a), vol 4, pp 1356–1362; Busby to Bourke, 26 January 1836, QMS 0345, ATL, Wellington

- 382.** Document A11(a), vol 4, pp 1362–1367; Busby to Bourke, 20 February 1836, qms 0345, ATL, Wellington
- 383.** Lee, *Hokianga*, pp 82–85; Lee, *An Unholy Trinity*, pp 80–81; Parkinson, ‘Our Infant State’, pp 277, 496; Jennifer Ashton, “So Strange a Proceeding”: Murder, Justice and Empire in 1830s Hokianga’, NZJH, vol 46, no 2 (2012), pp 147–148. Parkinson based his account in part on Busby to Bourke, 15 March 1836, qms 0345, ATL, Wellington; Parkinson, ‘Our Infant State’, pp 275, 277.
- 384.** Photocopy of 1836 printing of Wakaputanga o te rangatiratanga o Nu Tirenī (Declaration of Independence of New Zealand) by James Busby (doc D1(b), tab 15); Parkinson, ‘Our Infant State’, pp 277, 497–499. Busby crossed Waikato’s name off the copy he gave to Colenso for printing. The names of Heke and Te Peha were on Busby’s list but did not appear on the copy that Colenso printed.
- 385.** Raeside, *Sovereign Chief*, pp 122–123
- 386.** Document A18(f), pp 898–902; Busby to Bourke, 12 March 1836, qms 0344, ATL, Wellington; doc A18, p 75
- 387.** Te Tirarau (Te Parawhau) signed on 9 February and Haimona Pita-Matangi (Te Pōpoto) signed on 29 March. According to Lee (*Hokianga*, pp 83–84), Tirarau had complained to Busby early in 1836 about McDonnell, who had tried to bully the chief into letting him cut kauri spars around Kaipara. This may have at least opened the door for Busby to ask Tirarau to sign, but we cannot know for sure.
- 388.** Document A18(f), pp 898–902; Busby to Bourke, 12 March 1836, qms 0344, ATL, Wellington
- 389.** Document A18(f), pp 913–916; Busby to Bourke, 18 June 1836, qms 0344, ATL, Wellington; doc A18, p 75; doc A18, p 75 n 222
- 390.** Document A17, p 55 n 154. As discussed in chapter 3, Bourke had been willing to send a ship of war to Taranaki the previous year when the lives of British subjects were at stake.
- 391.** Document A18(f), pp 903–912; Busby to Bourke, 18 May 1836, qms 0344, ATL, Wellington; doc A18, p 76; doc A17, p 55 n 154
- 392.** Document D1, p 126; doc A17, p 114 n 350
- 393.** Document A18, p 78; doc A1, p 249
- 394.** Document A18(f), pp 917–926; Busby to Bourke, 30 January 1837, qms 0345, ATL, Wellington; doc A11(a), vol 4, pp 1368–1372; Busby to Bourke, 28 March 1837, qms 0345, ATL, Wellington; Lee, *Hokianga*, pp 88–89; Lee, *An Unholy Trinity*, pp 82–84; Angela Ballara, ‘Eruera Maihi Patuone’, *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1p/12/patuone-eruera-maihi>, last modified 30 October 2012; Judith Binney, ‘Penetana Papahurihiia’, *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1p/4/papahurihiia-penetana>, last modified 30 October 2012; Binney, ‘Warfare and Government’, fols 95–99, 200–201; Binney, ‘Papahurihiia, Pukerunga, Te Atua Wera and Te Nākahi: How Many Prophets?’, *Journal of the Polynesian Society*, vol 116, no 3 (2007), pp 312–313; doc A37, p 670; doc A21, p 42 n 93; Davis, *The Life and Times of Patuone*, pp 27–28
- 395.** Document A18(f), pp 917–926; Busby to Bourke, 30 January 1837, qms 0344, ATL, Wellington; doc A11(a), vol 4, pp 1368–1372; Busby to

- Bourke, 28 March 1837, qms 0345, ATL, Wellington; Lee, *Hokianga*, pp 88–89; doc A37, p 670
- 396.** Document A18, p 78; doc A1, p 249; see also doc A21, p 42 n 93
- 397.** Document A18, p 78, and doc A1, p 249; Parkinson, ‘Our Infant State’, pp 495–496; Orange, *The Treaty of Waitangi*, p 22
- 398.** Parkinson, ‘Our Infant State’, apps I, II, pp 432–497
- 399.** Sherrin, ‘From Earliest Times to 1840’, vol 1, pp 462–463, <https://archive.org/stream/earlyhistoryofneosher#page/n3/mode/2up>, accessed 21 February 2014; see also doc A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840, vol 238, pp 9–11
- 400.** Document A11(a), vol 4, pp 1368–1394; Busby to Bourke, 28 March 1837, 4 May 1837, 16 June 1837 (no 112), and 13 July 1837, qms 0345, ATL, Wellington; Polack, *New Zealand*, vol 2, pp 40–43; Williams, *Christianity among the New Zealanders*, p 249; Hugh Carleton, *The Life of Henry Williams*, rev ed (Wellington: AH and AW Reed, 1948), pp 246–251; Erima Henare, transcript of evidence, 4.1.1, pp 252–3, 261; Patu Hohepa, transcript 4.1.1, p 130; doc D4, pp 33–34; Hobson to Bourke, 8 August 1837, BPP, 1840, vol 238, pp 9–11 (in doc A18(e), pp 630–632); see also doc A17, pp 55–56; doc A20, pp 60–61; doc A19, p 40; doc A1, pp 42, 252; Richard Wolfe, *The Hell-hole of the Pacific* (Auckland: Penguin Books, 2005), pp 69–70; Shawcross, ‘Maoris of the Bay of Islands’, fols 202–203
- 401.** Document A11(a), vol 4, pp 1376–1394; submission 3.1.142(a), pp 440–446; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 402.** Document A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840, vol 238, pp 9–11; doc A11(a), vol 4, pp 1368–1372; Busby to Bourke, 28 March 1837, qms 0345, ATL, Wellington; Williams, *Christianity Among the New Zealanders*, pp 249–250; Polack, *New Zealand*, vol 2, pp 40–43, 204–205
- 403.** Erima Henare, transcript of evidence, 4.1.1, pp 253, 261–262. Henare gives the date as 1838 not 1837, though the latter is confirmed by documentary sources, as is Pi’s death. See also document D5, p 40, which gives the date as 1818.
- 404.** Polack, *New Zealand*, vol 2, pp 40–43; see also doc A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840, vol 238, pp 9–11; doc A11(a), vol 4, pp 1368–1372; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington; Carleton, *The Life of Henry Williams*, pp 247–251; doc A17, pp 55–56; doc A1, p 252; Wolfe, *The Hell-hole of the Pacific*, pp 70–71; Orange, *The Treaty of Waitangi*, pp 24–25
- 405.** Document A1, p 252
- 406.** Document A11(a), vol 4, pp 1368–1372; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 407.** Document A11(a), vol 4, pp 1368–1372; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 408.** Document A11(a), vol 4, pp 1368–1372; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 409.** Document A17, pp 113–114. For detailed descriptions of Busby’s proposals, see doc A18, pp 79–82; doc A17, pp 63–66; doc A19, pp 46–47.
- 410.** Submission 3.1.142(a), p 574. Busby was asked if Te Whakaminenga had ever met at all other than on 28 October 1835, when it was constituted, and said the only occasion was when it met Hobson for the signing of Te Tiriti.

- 411.** Submission 3.3.33, p36
- 412.** Those to express this view included Ani Taniwha, Kiharoa Parker, Nuki Aldridge, and Erima Henare: doc B4(a), p6; doc A34(a), p7; doc B10, pp 65, 77; transcript 4.1.1, p294.
- 413.** Document A34(a), p7
- 414.** Transcript 4.1.1, p294
- 415.** Document A30(a), p1
- 416.** Document B18, pp17–18
- 417.** Document C19, p7
- 418.** Document B34, p30
- 419.** Document A20, p102
- 420.** Submission 3.3.23, pp30–31
- 421.** Ibid, p31
- 422.** Ibid
- 423.** Ibid, pp33–34
- 424.** Submission 3.3.14, pp36–37
- 425.** Ibid, p37
- 426.** Ibid
- 427.** Ibid, p38
- 428.** Document B3, pp83–84. In his doctoral thesis, Henare had written that a ‘Rangatira Executive Council’ was established with Busby as an adviser and that it functioned until 1840, although his source for that statement was unclear. He also said that there was ‘little available evidence, which describes in any way a parliament actually working’: doc A16, pp191, 223–224.
- 429.** Document A20, pp63–64, 66–68
- 430.** Ibid, p63
- 431.** Ibid, pp63–64
- 432.** Ibid, p67
- 433.** Submission 3.3.33, pp38–39
- 434.** Ibid, pp5, 12, 41. The Crown cited evidence given by Manuka Henare, Aldridge, and Hohepa in support of this position.
- 435.** Te Morenga was listed on the declaration as ‘Timorenga’
- 436.** Submission 3.1.142(a), p578; Claudia Orange, ‘The Treaty of Waitangi: A Study in its Making, Interpretation and Role in New Zealand History’ (PhD thesis, University of Auckland, 1984), p89 n42
- 437.** Angela Ballara, ‘Te Hapuku’, *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1t28/te-hapuku>, last modified 30 October 2012
- 438.** Steven Oliver, ‘Potatau Te Wherowhero’, *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1t88/te-herowhero-potatau>, last modified 21 August 2013
- 439.** Document A16, p195; see also doc A36, pp299–303; Crosby, *Musket Wars*, pp112–113; Ballara, *Taua*, p222; Claudia Orange, ‘Rewa: Man of War, Man of Peace’; in *Te Kerikeri, 1770–1850: The Meeting Pool*, ed Judith Binney (Wellington: Bridget Williams Books, 2007), p107. Claimants to give evidence about the Ngapuhi alliance with Te Wherowhero included Shona Morgan, who referred to intermarriage, and Kyle James Hoani and Pairama Tahere, who referred to political alliance: doc c6, p2; doc D10, p7; doc D11, p5.
- 440.** Ballara, ‘Te Hapuku’
- 441.** There is also very little evidence about how these additional signatures were gathered: see doc A18, p80 n237.
- 442.** Document D12, p2
- 443.** Hobson to Bourke, 8 August 1837, BPP, 1840, vol 238, pp9–11 (doc A18(e), pp630–632)
- 444.** Stephen to Backhouse, 12 December 1838, BPP, 1840, vol 238, pp3–4 (doc A18(e), pp621–622)
- 445.** ‘Report of the Select Committee Appointed to Inquire into the Petition of Merchants, Bankers and Shipowners of the City of London respecting the Colonisation of New Zealand’, app1 (doc A18(e), p681)
- 446.** Somes to Lord Viscount Palmerston, 7 November 1839, BPP, 1840, vol 238, pp66–68 (doc A18(e), pp662–664)
- 447.** Abel Du Petit-Thouars, *Voyage autour du Monde sur la Frégate Vénus pendant les Années 1836–1839*, 11 vols (Paris: Gide, 1841), vol 3, pp52–53 (in doc D1, pp121–122)
- 448.** Document A19(a), pp86–87
- 449.** Submission 3.1.142(a), p579
- 450.** Document D1, pp118–119; see also doc A18(e), p713
- 451.** Parkinson, ‘Our Infant State’, app3, fol 500 n10. ‘Kapitana’ refers to McDonnell’s former role as a ship’s captain: see James Belich, ‘Thomas McDonnell’, *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1m33/mcdonnell-thomas>, last modified 30 October 2012.

### Page 167: Signatories added below the codicil

1. Some sources suggest that Te Morenga died in 1834. However, his tūpuna Haami Piripi said that Te Morenga signed he Whakaputanga. Te Morenga had also signed the 1831 petition and attended the flag hui: see doc B26(a), pp 4, 8, 14–15, 19; Bernard Foster, ‘Te Morenga’, in *An Encyclopaedia of New Zealand*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/1966/te-morenga>, last modified 22 April 2009; Henry Williams, *The Early Journals of Henry Williams: Senior Missionary in New Zealand of the Church Missionary Society, 1826–1840*, ed Lawrence M Rogers (Christchurch: Pegasus Press, 1961), p 400; Phil Parkinson, ‘Our Infant State: The Māori Language, the Mission Presses, the British Crown and the Māori, 1814–1838’, 3 vols (PhD thesis, Victoria University of Wellington, 2003), vol 3, app 3, p 502 n 34; Claudia Orange, *The Treaty of Waitangi* (Wellington: Bridget Williams Books, 1990), p 271 n 26; doc A37, pp437–438.
2. Whereas other signatories to the codicil used moko, signatures, or crosses to indicate their assent, Te Wherowhero did not; rather, Kahawai’s name appears beside his as ‘kai tuhuhu’. Parkinson speculated that Te Wherowhero may not have been present during the signing and indeed may not have known that the document was being signed for him: doc D1, p111; see also ‘Our Infant State’, app 3, fol 504 n 53; doc A18(h), p1281. However, Te Wherowhero’s descendant Te Amohia McQueen gave evidence that he intended to sign as a means of declaring kingitanga: doc D12, p2.

## Page 168: He Wakaputanga o te Rangatiratanga o Nu Tireni

1. Transcript of the 1877 facsimile of 'He Wakaputanga o te Rangatiratanga o Nu Tireni'; in the script of Edward Parry (Eruera Pare Hongi), with tohu of chiefs as it was signed by rangatira on 28 October 1835, ATL, Wellington (doc D1(b), tab 11). He Whakaputanga was printed twice, in 1836 (doc D1(b), tab 16) and 1837 (doc D1(b), tab 15). See also doc A1, p 247; doc A18, p 242; and doc A16, pp 199–200.

## Page 169: Declaration of the Independence of New Zealand

1. 'Declaration of Independence of New Zealand', in *Facsimiles of the Declaration of Independence and the Treaty of Waitangi*. This is a transcript of the English text of he Whakaputanga, which Busby sent to the New South Wales Government and the Colonial Office for response: see doc A1, p 248; doc A18, p 243; submission 3.1.142(a), pp 571–572.

## Page 170: Principal residences of he Whakaputanga signatories

The names in the map reflect the 1837 printing of he Whakaputanga, except that the spellings of Te Morenga and Te Kēmara have been corrected. Three rangatira were omitted from the 1837 printing, and their names are spelled as they appeared on the original text signed on 28 October 1835. The map does not show Awa, Kaua, Tona, Kaha, Te Hapuku (Hawke's Bay), or Te Wherowhero (Waikato).

The map is drawn from the following sources: doc B1, pl 25; doc A37, pp 145, 367–368, 451–452, 778, 784, 791; Angela Ballara, 'Warfare and Government in Ngapuhi Tribal Society, 1814–1833' (MA thesis, University of Auckland, 1973), app 1, pp 278–288; Henry Williams, *Early Journals*, pp 87, 93, 95, 107, 256, 382, 403.

## Page 174: Modern-day back-translations of he Whakaputanga

1. Document D4, pp 36–39
2. Document B10, pp 68–74. We have removed Māori text and explanatory asides from the translation.
3. Document A16, pp 197–201; doc B3, pp 57–59
4. Document A23, app 1



## CHAPTER 5

# CONTESTED GROUND

### 5.1 INTRODUCTION

The 1830s was a decade of rapidly growing contact between Māori and Europeans in the Bay of Islands, Hokianga, and other parts of the north. Traders, whalers, missionaries, land speculators and many others arrived in increasing numbers, staying for days, weeks or permanently, whether to seek fortunes for themselves or others, proselytise, get drunk, or run away from the law.

This influx coincided with significant change in Māori life within those areas. The economy continued to be reshaped as Māori sought access to European goods such as muskets, blankets, iron tools, clothing and tobacco, and correspondingly sought to meet European demand for food, timber, flax, sex, and labour. Introduced diseases affected Māori populations. Warfare declined, though muskets continued to be a significant import. Increasing numbers of Māori engaged with European ideas and customs, particularly those concerning religion. Many also embraced European technologies, in particular those concerned with agriculture and literacy. Some traditional practices became less common while others fell away almost completely. Towards the end of the decade there was significant growth in the number and size of land transactions between Māori and Europeans. None of these changes was uniform in terms of timing, location or people affected. In general, however, it is clear that contact with Europeans profoundly influenced Māori lives, and that the effects of contact increased towards the end of the decade.

In this chapter, what concerns us is the impact of these changes on Māori systems of authority. As the 1830s drew to a close, did Māori remain wholly in control of their lives, and did they perceive their existing systems of authority as adequate in light of new circumstances? Or did they perceive those systems as needing adjustment? Or as breaking down in ways that would in 1840 make them willing to consent to some expanded form of British authority within their territories?

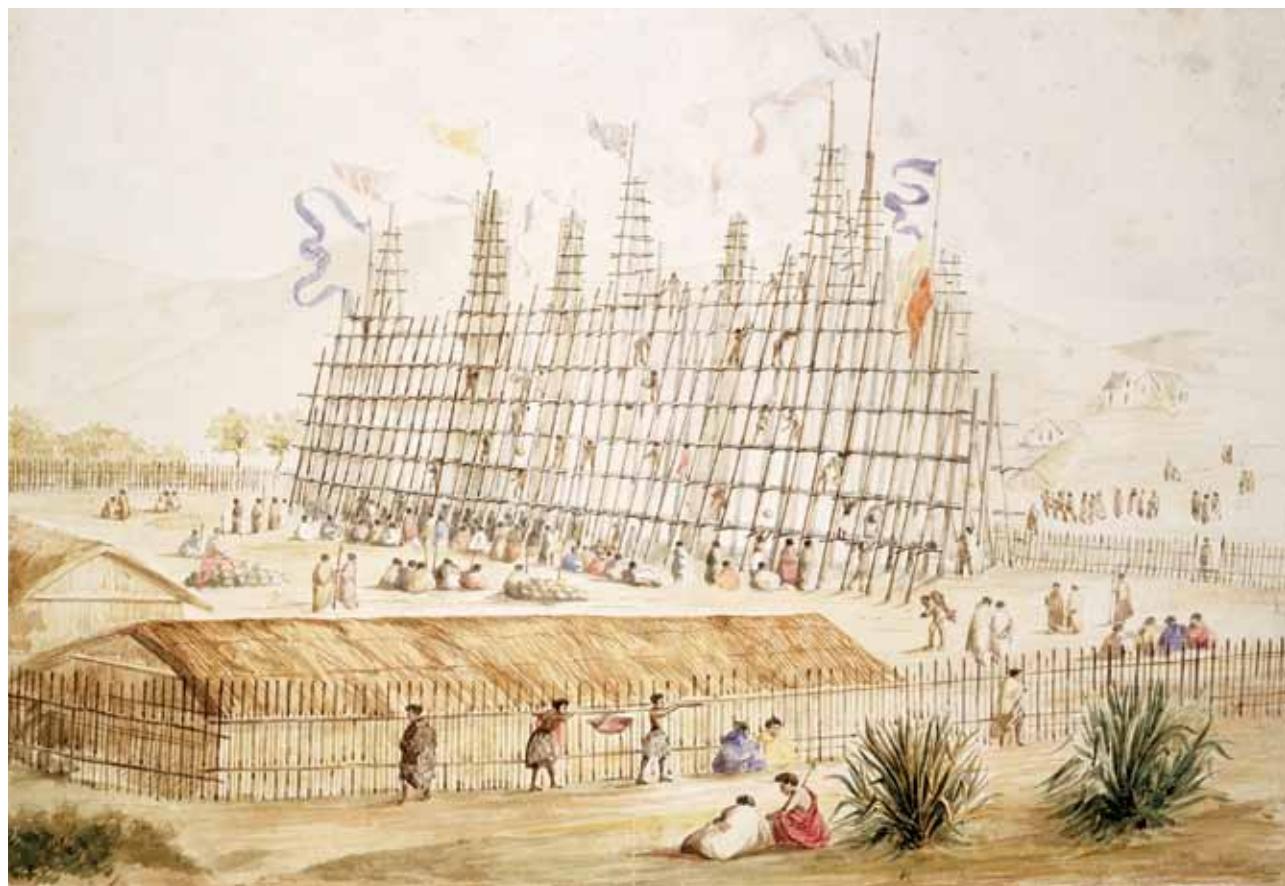
Among European observers in the Bay of Islands and Hokianga, the commonly expressed view was that Māori leaders were losing control to a catastrophic degree. In the last few years of the 1830s, Busby and the missionaries wrote frequently to their masters in New South Wales and Britain, claiming that the Māori population was in terminal decline as a result of intertribal warfare and introduced disease; that Māori were losing control of their lands; and that they were increasingly incapable of rising to the challenge of imposing order on a rapidly growing European population, and therefore the colonial frontier as a whole. The only solution, these observers argued, was for Britain to establish order in ways that (in their view) Māori themselves could not. The Crown, in its



Artist Augustus Earle and another European man offering ribbons to two young women at a kāinga (village) at Pākanae on the southern shores of the Hokianga Harbour, 1838

closing submissions, referred to the ‘increasingly dire situation in New Zealand’ described in these dispatches from Busby and the missionaries – a situation characterised by a ‘rapid rise in immigration’, ‘unconstrained lawlessness’, ‘land-grabbing’, an ‘upsurge in tribal fighting’, and ‘escalating depopulation’ giving rise to a ‘genuine fear . . . that the [Māori] race would disappear’.<sup>1</sup> In chapter 6, we will consider how Busby and the missionaries influenced British policy towards New Zealand. In this chapter, what concerns us is whether their perceptions reflected what was actually occurring.

Among the claimants, many acknowledged that contact with Europeans wrought dramatic changes to the lives of their tūpuna, and that contact also brought challenges arising from Pākehā disorder and violations of tikanga (including tikanga concerning land), and Pākehā challenges to Māori authority. The claimants also acknowledged that the pace of change accelerated during the 1830s. What was strongly contested, however, was the view – which Busby and the missionaries had presented to Britain – that the Māori population and Māori systems of authority had collapsed to such an extent that they would



A stage erected to contain the food at a hākari in the Bay of Islands, 1849. According to some claimants, the scale of hākari held in the Bay of Islands and Hokianga during the 1830s was evidence of Māori economic strength.

be willing to relinquish authority to Britain. These claimants emphasised the comparative dominance of Māori over Europeans in terms of population and military capability, and argued that their tūpuna remained in control of their territories at the end of the 1830s just as they had when the decade began. Erima Henare argued that Pākehā remained 'hopelessly outnumbered' by Māori in 1840 and noted that Māori leaders were hardened in battle.<sup>2</sup> He also argued that the scale of tribal hākari (ceremonial feasts) and Māori food exports to Australian settlements were evidence of Māori economic strength.<sup>3</sup> Hirini Henare,

Hōne Sadler, and others stressed, too, the experiences of northern rangatira through trade and travel, arguing that Māori decision-making of the time was both informed and considered.<sup>4</sup>

Among historians and other technical witnesses in this inquiry, most saw clear evidence of profound change in Māori society in the districts we are concerned with, but few saw this as threatening Māori systems of authority. Dr Grant Phillipson, for example, emphasised the resilience of Māori culture up to and indeed well beyond 1840, and suggested that 'modifications were deliberate and

Maori-controlled' and occurred in a context where Māori retained 'political control of Pakeha and their ways'.<sup>5</sup> Dr Vincent O'Malley and John Hutton also saw Māori in the 1830s as embracing change willingly, for their own purposes (in particular, the enhancement of mana), in an environment of overall Māori dominance.<sup>6</sup> Dr Manuka Henare described rangatira as 'agents of change' who deliberately adapted as 'new technologies and methods of commerce and governance presented themselves'.<sup>7</sup> Moana Jackson said that contact did indeed challenge the certainties of tikanga and mana but did not fundamentally alter Māori legal and political life.<sup>8</sup> Alan Ward warned against the trap of 'read[ing] history backwards', and expecting people in the 1830s 'to have understandings . . . that are only available to us with hindsight'. He said that British observers in the 1830s genuinely believed that Māori had sold most of their land, were dying out, and were incapable of resisting British settlement.<sup>9</sup> Nonetheless, Ward referred to 'economic penetration' by European interests, social dislocation caused by war, experimentation with Christianity, and the land rush of the late 1830s, concluding: 'It is not mere hindsight to argue that by the late 1830s New Zealand was already caught in a vast tide of expanding European empire'.<sup>10</sup>

In Dr Donald Loveridge's view:

The missionaries arrived at the beginning of, and contributed to, a period of rapid and extensive change for Maori. European weapons and pathogens brought war and disease, and other European goods and technologies brought changes in lifestyles, while European ideas, notably to do with religion and government, posed major challenges to the traditional Maori world-view. The sheer pace and magnitude of European intrusion left little time for coming to terms with these new developments, a difficulty compounded by the turmoil which they generated.<sup>11</sup>

In the following sections, we will consider these issues in more depth. Specifically, we will consider changes in Māori population, economy, religious and cultural practices, literacy, warfare, systems of law and leadership, and

finally relationships with land – all with a focus on how these changes affected Māori systems of authority.

## 5.2 THE QUESTION OF DEPOPULATION

On 16 June 1837, while the northern and southern alliances were fighting in the Bay of Islands, James Busby wrote to Governor Bourke in New South Wales, referring to Māori warfare leaving 'district after district . . . void of its inhabitants' and the Māori population 'only a remnant of what it was in the memory of some European Residents'. Māori approaches to conflict, the Resident argued, meant that even the most trivial of disputes could escalate into open warfare by drawing in relatives; once begun, every conflict had the potential to inflame the whole country. However, warfare alone was not enough to explain the 'rapid disappearance' of the Māori people. Rather, he said, depopulation was also caused by contact with Europeans and the various vices they had introduced. These vices included muskets, liquor, tobacco, the sex trade with its consequent venereal diseases and infanticide, and numerous other diseases through which Māori were being 'swept off in a ratio which promises at no very distinct day to leave the country destitute of a single aboriginal inhabitant'. The only answer, in Busby's view, was for Britain to take control and impose order, albeit under the nominal authority of Māori rangatira. Indeed, as Busby reported it, this was not only his opinion but also that of Māori. They were, he said, 'perfectly sensible' of the decline in their population, and had contrasted their own relatively low birth rates with those of British families, leading them to 'conclude that the God of the English is removing the aboriginal inhabitants to make way for them'.<sup>12</sup>

The view that Māori were dying out also pervaded many other dispatches from European observers in the late 1830s. The Royal Navy Captain William Hobson, who visited the Bay of Islands during the 1837 war, reported that intertribal wars were 'fast depopulating this beautiful country' and that without government there could be no permanent peace – though he also indicated that the establishment of order among Britain's 'abandoned ruffians'

was a greater concern.<sup>13</sup> Missionaries in 1838 and 1839 wrote in similar terms about catastrophic depopulation, though they were equally concerned about land-grabbing and French influence. In May 1838, the Waimate missionary Richard Davis reported to the Church Missionary Society (CMS) that the Māori population of the Bay of Islands was half of what it had been 14 years earlier.<sup>14</sup> In the Hokianga, the Wesleyan missionary Nathaniel Turner wrote that nothing but a ‘new & special interference of divine providence’ could prevent the ‘entire extinction of the Aboriginal race’.<sup>15</sup> The following year, the CMS missionary John King reported that ‘The Maori population is greatly reduced by disease & death, war and bloodshed, and ‘The most promising young men & women who were brought up and instructed in the [mission] school I am sorry to say are dead.’<sup>16</sup>

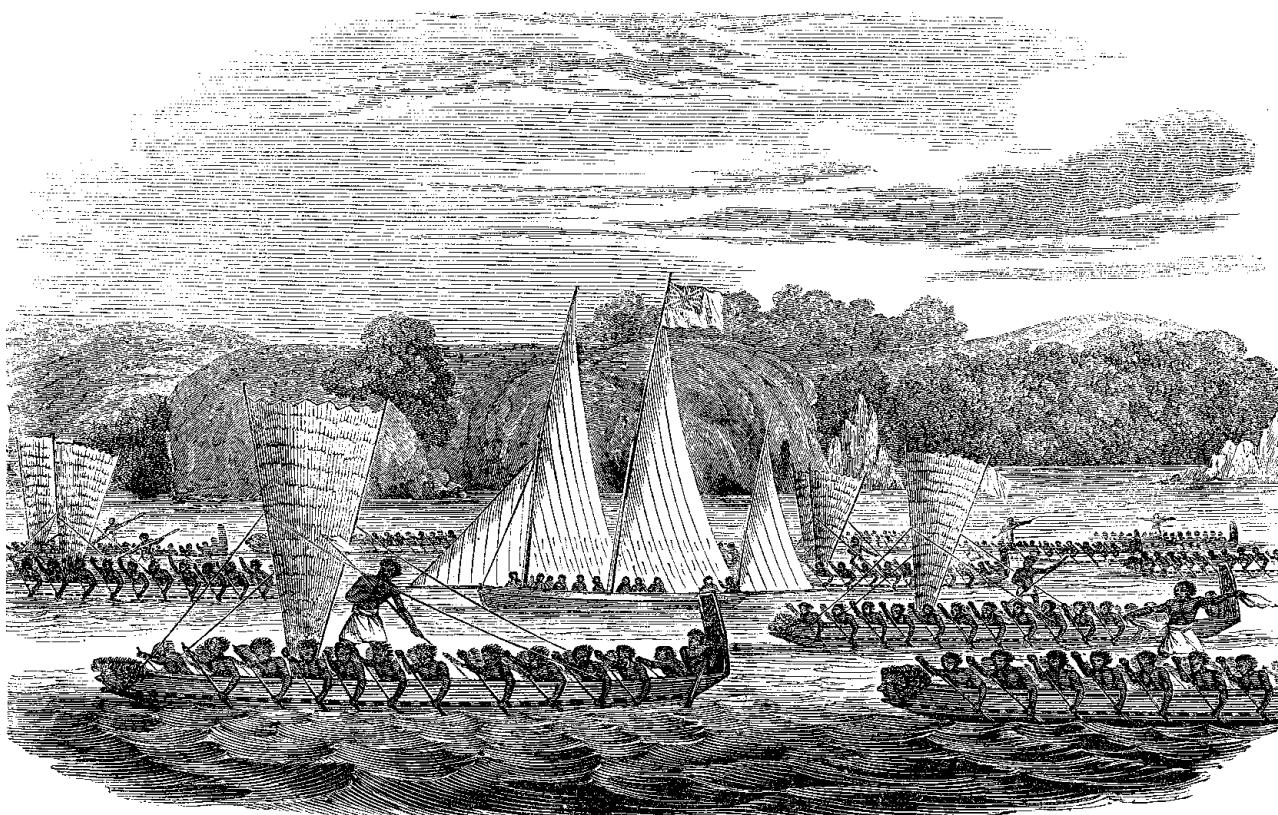
In recent decades, many scholars have challenged these accounts of catastrophic Māori depopulation. Peter Adams wrote in 1977 that missionary accounts of the impact of warfare were exaggerated, and indeed ‘the missionaries generally mentioned war as the major reason for population decline, even when the Bay of Islands was at peace’.<sup>17</sup> John Owens in 1981 questioned whether the overall Māori population declined at all in the decades from 1769 to 1840, though he conceded that there were localised reductions resulting from disease and war, especially in areas of most significant European contact. Owens also noted that missionaries were reporting a recovery in Māori health by 1839.<sup>18</sup> The demographer Ian Pool noted in 1991 the unreliability of many nineteenth-century Māori population estimates, and sought to address this by working backwards from the first reliable count, Francis Dart Fenton’s 1858 census. Pool estimated that the overall Māori population of New Zealand declined by about 0.3 percent annually between 1769 and 1840, and attributed that almost entirely to introduced disease. Tribal warfare, in contrast, ‘was a dramatic element of the socio-political life of the period, but its impact demographically may have been more in terms of internal migration than of deaths’.<sup>19</sup> James Belich, writing in 1996, argued that overall Māori population decline in the decades up to 1840 ‘was

not huge’, though he acknowledged that some communities had indeed been devastated by war and disease.<sup>20</sup> The question for us is what the local population impacts were in the Bay of Islands and Hokianga.

### 5.2.1 The population impacts of warfare

Undoubtedly, the wars of the 1820s had a marked impact on the Māori population throughout New Zealand. The decade was one of brutal violence and dislocation, embroiling many tribal groups. Belich estimated the total number of Māori killed during this period at ‘perhaps about 20,000’ – more than the number of New Zealanders killed in the First World War.<sup>21</sup> In the north, whole communities were displaced from parts of Kaipara and Whangārei, and much of Mahurangi, driven out either by the southward raids of Bay of Islands and Hokianga Māori or by retaliatory attacks from Ngāti Whātua and Waikato. Some of these areas remained sparsely populated until the 1830s or 1840s.<sup>22</sup> There were also local conflicts in the Bay of Islands and Whangaroa as northern alliance hapū extended their influence in those areas in the latter part of the decade.<sup>23</sup> However, according to Drs Manuka Henare, Hazel Petrie, and Adrienne Puckey, ‘kinship discouraged killing in large numbers in local feuds’. Indeed, they argued, the northern alliance did not so much conquer as absorb Ngare Raumati during its 1826 push into the eastern Bay of Islands.<sup>24</sup> By far the most significant 1820s conflicts involving Bay of Islands and Hokianga Māori occurred during their long-range taua against rivals from Ngāti Whātua, Ngāti Paoa, Waikato, and other tribes further south. In these, superior firepower generally resulted in the northern invaders losing far fewer warriors than the southern tribes.<sup>25</sup> As Henare, Petrie and Puckey put it, ‘population losses from muskets were far greater outside the north than within it’.<sup>26</sup>

The northern alliance’s last major external taua took place in 1833 and resulted in comparatively few casualties.<sup>27</sup> Five years later, Pōmare II of the southern alliance led some 120 warriors in an unsuccessful campaign against Ngāti Manu on Great Barrier Island.<sup>28</sup> Among internal conflicts, the Girls’ War claimed about 30 lives,



**Titore's Tauranga-bound war party passes a missionary vessel, 1833**

while casualty estimates vary widely for the 1833 Hokianga conflict involving Moetara and Ngāti Manawa, Te Hikutū, and Te Rarawa.<sup>29</sup> The 1837 conflict, which prompted Busby's dispatch, appears to have resulted in no more than 50 deaths among the 1,000 or more warriors taking part.<sup>30</sup> As was generally the case for conflicts among kin, it was a controlled affair. The account given by Polack and others (section 4.8.2) suggests that the competing parties went to some lengths to display their military strength, but generally avoided direct engagement. It was Busby's first direct experience of Māori warfare, and from the outset he expected the worst and was consistently surprised when it did not occur. In May, he predicted that Europeans would inevitably become victims in the conflict; in fact,

the combatants took very deliberate steps to keep Pākehā safe. In June, Busby could see no end to the conflict, and predicted it would escalate to involve the whole of the north, ultimately wiping everyone out; in fact, there had been few significant engagements in the weeks before his dispatch. Furthermore, peace was only a month away, and was concluded soon after the arrival of Patuone and Nene.<sup>31</sup>

Henare, Petrie and Puckey argued that overall 'the impact of the Musket Wars on the northern population is likely to have been slight', and other historians also viewed 1830s missionary accounts as exaggerated or as failing to take account of the declining incidence of warfare.<sup>32</sup> In our view, while there were some deaths from warfare

among Bay of Islands Māori during the late 1830s, their numbers in no way justified the claims made by Busby and others that warfare was leaving whole districts without inhabitants and leading Māori rapidly towards extinction. Indeed, as Phillipson has pointed out, the late 1830s was in fact the most peaceable period for Māori within those districts in several decades.<sup>33</sup>

### 5.2.2 The population impacts of introduced diseases

If war was not a major source of fatalities in the Bay of Islands and Hokianga at this time, could disease have been responsible for the accounts of catastrophic population decline and potential extinction? Certainly, these areas were affected by introduced diseases. Samuel Marsden, on his second visit to the Bay of Islands in 1814, was told of an illness that ‘slew a great many’ Māori,<sup>34</sup> and 16 years later Henry Williams wrote of the ‘great mortality which has long prevailed in the land’.<sup>35</sup> In the late 1820s, there were epidemics of whooping cough and influenza in the Bay.<sup>36</sup> There were further influenza epidemics in the Hokianga in 1836, 1837, and 1838; in the Bay in 1837.<sup>37</sup> According to missionary accounts in the late 1830s, the most common diseases afflicting Māori in these areas were scrofula (a form of tuberculosis causing swollen lymph nodes) and influenza, along with measles and erysipelas. (We note that such diagnoses were not always reliable.)<sup>38</sup> In the Bay of Islands, venereal diseases had been known since the arrival of Cook (see chapter 3), and according to some accounts were common among Māori women by the late 1830s (see section 5.2.3).<sup>39</sup>

It is generally acknowledged that the overall Māori population declined as a result of these diseases. What is less clear is the scale of the decline, the local effects in the areas that concern us, and the extent to which the decline was continuing during the late 1830s. Some historians have pointed out that the epidemics of the late 1830s appear to have afflicted many but killed few: the 1837 influenza epidemic, for example, was reported to have affected 800 Māori in the Bay of Islands but killed only 19.<sup>40</sup> Similarly, 200 Māori contracted the illness in Kaitaia in 1838 but only three or four died.<sup>41</sup> Harrison Wright, Adams, and Phillipson all referred to growing immunity among Bay of

Islands Māori to influenza and other introduced diseases, with influenza by the late 1830s tending to weaken rather than kill.<sup>42</sup>

Polack, who lived in the Bay of Islands for six years up to 1837, witnessed a single case of scrofula, and overall reported that ‘the constitution of the native is the healthiest in nature’ – so healthy, he claimed, that Māori showed a remarkable ability to recover from gunshot wounds.<sup>43</sup> The ship’s doctor John Watkins, who visited the Bay of Islands from 1833 to 1834, later told the House of Lords select committee on New Zealand that sores were common among Māori, scrofula was ‘perhaps more abundant’ than in Britain, and almost all of the Māori women in Kororāreka had venereal diseases. Smallpox and measles, however, were unknown, and in general northern Māori were otherwise ‘very fine stout healthy Men’.<sup>44</sup> Another doctor who visited the Hokianga in 1837 reported seeing only five or six cases of venereal disease.<sup>45</sup> The CMS’s lay secretary Dandeson Coates meanwhile told the committee that the scale of depopulation was ‘probably not so considerable as has been lately represented’.<sup>46</sup> Rather, he thought that the extent of internal migration had probably been underestimated, explaining that villages might be populated at one time and then unpopulated at another time solely for this reason.

Henare, Petrie, and Puckey argued that in the late 1830s some northern Māori had left behind lands they had previously taken by conquest and returned to ancestral territories, perhaps creating a false impression of depopulation.<sup>47</sup>

Some witnesses also argued that Busby and the missionaries had failed to account for the large-scale release of war captives which occurred in the later part of the decade as Māori adopted Christian values and made peace with former enemies (see section 5.6).<sup>48</sup> According to Angela Ballara, Bay of Islands Māori had returned from their southern raids in the early 1820s with some 2,000 captives.<sup>49</sup> These captives played a range of social roles: most would have been taurekareka (people without tapu who did menial tasks such as cooking and gathering food), some would have been pononga (personal servants); some high-ranking captives were treated well and

integrated into their captors' hapū. How captives were treated, and the roles they played, might depend on their status within their own tribe, the manner of their capture, their usefulness to their captors (for example through acquisition of skills), and other factors.<sup>50</sup>

It is helpful to put the number of captives brought back to the Bay of Islands in context of that district's overall Māori population at the time. While there is no definitive figure, Ian Pool's estimates suggest that the entire Māori population north of Tāmaki-makau-rau well exceeded 12,000 in 1840. Some missionaries estimated much higher numbers, and referred to the population being concentrated in the Bay of Islands, in the Hokianga, and further north. William Williams in 1835 said that the Bay of Islands alone had a Māori population of 12,000, with another 6,000 in Hokianga and 4,000 in Kaitaia.<sup>51</sup> Based on Pool's work, we think these are most likely overestimates. Nonetheless, the arrival of 2,000 war captives must have increased the Bay population very significantly during the 1820s, and the departure of many of them in the late 1830s must have also made a significant difference. According to O'Malley and Hutton, the release of captives was the main cause of apparent depopulation in the Bay of Islands during the 1830s, whereas

the apocalyptic levels of population loss by other means described by the missionaries simply do not appear capable of being substantiated on the basis of the meagre (and tendentious) evidence available.<sup>52</sup>

### 5.2.3 The population impacts of tobacco, alcohol, sex, and changing labour patterns

Along with disease and warfare, Busby's 1837 dispatch cited alcohol, tobacco, and the sex trade as possible sources of depopulation. The Resident conceded that the direct influence of tobacco and alcohol 'cannot be stated as at all remarkable', but he nevertheless claimed that 'they are in all probability the original cause of diseases with which their immediate connection is not apparent'. The sex trade gave him more concern, both because of venereal diseases 'undermining the constitution' of those affected and so

reducing childbearing rates and because of the infanticide of children born as a result of the trade – a practice that in Busby's view was 'of very frequent occurrence'.<sup>53</sup>

As we noted in chapter 4, Māori showed very little enthusiasm for alcohol in the first decades following contact. During the 1830s, however, missionaries and others were noting instances of drunkenness among Māori in Kororāreka and the Hokianga. In January 1834, for example, Henry Williams wrote in his journal that it 'is grievous to see their growing propensity for spirits, and the pains our countrymen take to shew them their delight in this intoxicating draught'. Around the same time, the CMS's *Missionary Register* reported that a church service in Kororāreka had been disturbed by the intoxicated sons of Rewa and Wharerahi.<sup>54</sup> In general, however, drunkenness was seen as a European problem.<sup>55</sup> Busby's own dispatches confirmed this. In September 1835 he had referred to frequent scenes of 'riot and disorder' among drunken Europeans, whereas use of liquor among Māori was – aside from some isolated instances – 'far from' widespread.<sup>56</sup>

The use of tobacco was much more extensive. By the mid-1830s it was in such strong demand among Māori that it became a form of currency and was used along with other goods as payment in land transactions.<sup>57</sup> But while Busby was probably right in saying that it had an impact on Māori health, its effect on mortality rates would not have been immediate.

There are various accounts of how the sex trade evolved in the decades after the crews of both Captain James Cook and Marion du Fresne were offered liaisons with Māori women. Some European observers in the 1820s and 1830s reported that unmarried Māori women willingly took part in sexual liaisons with sailors and other visitors in return for material benefits (especially muskets and blankets) far greater than any they could obtain from missionaries. These liaisons often lasted for the entire time a ship was ashore, and might be seen more as temporary relationships than simple prostitution. Married women were almost never involved (breaches of the marital bond being punishable by death), and the involvement of higher-ranking women was also uncommon. However, in the Bay

of Islands, especially, Māori men commonly prostituted female war captives (and occasionally their own sisters and daughters) and kept the proceeds for themselves. Some of these were girls as young as 10 or 11.<sup>58</sup> As Belich has noted, those women who were involved in this trade ‘were being exploited as much by their menfolk or masters as by Europeans’<sup>59</sup>

Venereal diseases as a result of these encounters appear to have been relatively commonplace at Kororāreka, and may have both increased vulnerability to other diseases and decreased fertility, though this alone would not support a claim of catastrophic population decline.<sup>60</sup> Busby also cited ‘very frequent’ infanticide of children fathered by sailors as a possible source of depopulation, though for this the evidence is far from conclusive.<sup>61</sup> Some Europeans during the late 1830s claimed that infanticide was widespread;<sup>62</sup> some argued that it did not occur at all, at least in the Hokianga.<sup>63</sup> There is also evidence that it was declining during the 1830s, at least partly because girls (who had been victims more than boys) were now seen as having greater economic value since they could work in the sex trade.<sup>64</sup> Overall, we see no evidence that infanticide was common enough to have been a major cause of population decline.

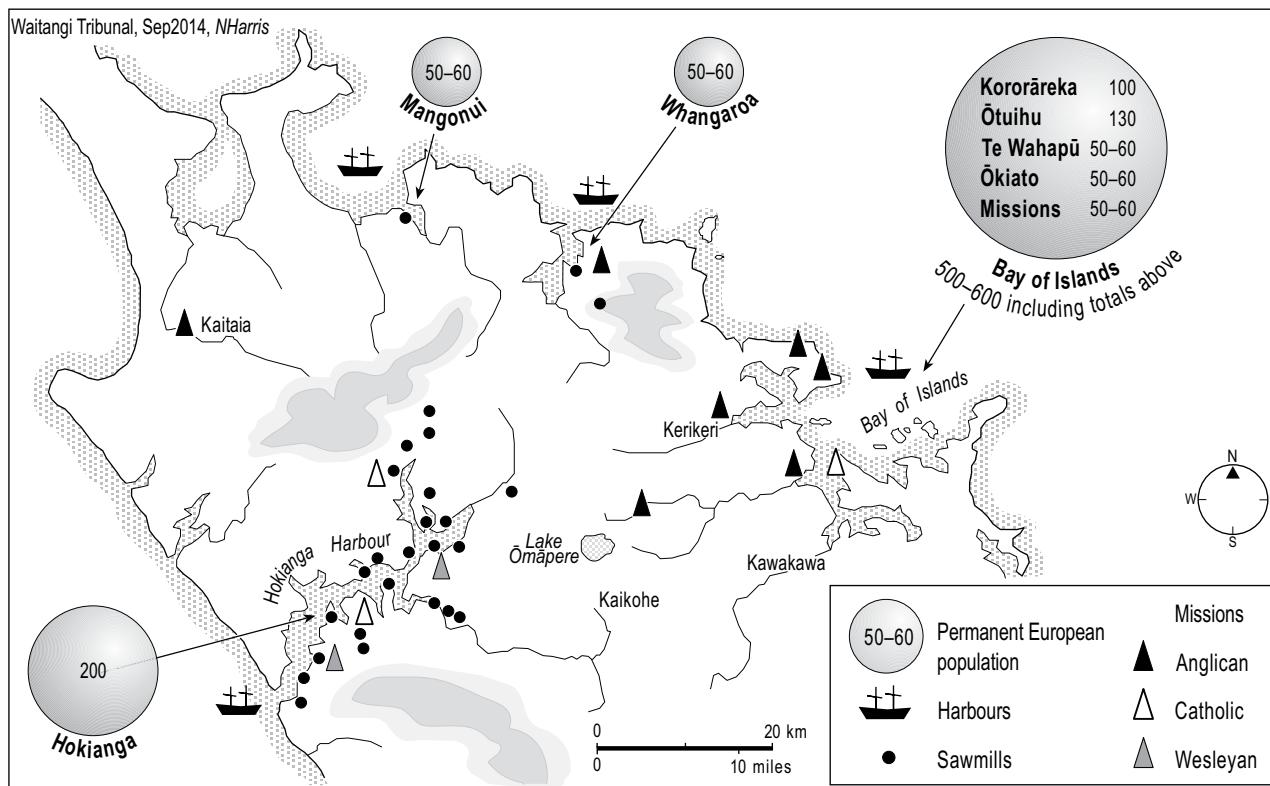
There is another possible source of population decline. During the 1830s, many of the whalers who left the Bay of Islands took with them as crew a handful of young Māori men, who travelled as far afield as London and New York, gaining adventure and experience as well as wages. Polack estimated that, by 1837, ‘some hundreds’ of Māori men were employed in this way. One, known as Baily, had risen to the rank of first officer on the whaler *Earl Stanhope* and according to Polack could have been made captain if he had been British. Some of those who travelled returned home with gifts and a wealth of new experiences; others, however, did not return.<sup>65</sup> The American historian David Chappell has suggested that young men ‘shipping out’ in this manner exacerbated depopulation in some Pacific Islands during the nineteenth century, and this seems an intriguing possibility for the Bay of Islands and possibly neighbouring areas. Certainly, if Polack’s estimate was correct, a substantial proportion of the young men of

the Bay of Islands were labouring on whalers instead of remaining at home.<sup>66</sup>

#### **5.2.4 Conclusions on Māori population decline**

Overall, we think there was a great deal of exaggeration or misreading in European accounts of population decline in the Bay of Islands and the Hokianga during the late 1830s. The introduction of muskets had a clear impact on Māori methods of warfare and contributed to population decline in some parts of the country, but those effects were mainly felt elsewhere, and earlier. Undoubtedly, the arrival of Europeans had a significant impact on Māori health. The effects of influenza, scrofula, venereal diseases, and other introduced ailments cannot be dismissed as trivial, but neither should they be exaggerated beyond what the evidence can bear. The major effects of disease also appear to have been felt earlier, and by the late 1830s introduced diseases appear to have debilitated Bay of Islands and Hokianga Māori rather than killing them. We accept that the Māori population in the Bay of Islands, and possibly the Hokianga, probably did decline in the 1830s, but not nearly to the extent that Busby and the missionaries claimed and not solely for the reasons they gave. Rather, while much of the evidence is anecdotal or speculative, it seems that disease continued to play some role, but internal migration and the release of war captives were at least equally significant factors. The departure of young men to labour on ships may also have played a part.

Why, then, did Busby and the missionaries refer to Māori depopulation in such catastrophic terms? Ward referred to a widespread assumption by Europeans in the 1830s that any contact with indigenous peoples would result in ‘decline and ultimate destruction’. The colonial experience in North America and elsewhere, he pointed out, ‘seemed to lead to no other conclusion’.<sup>67</sup> Other historians have argued that there were political reasons. Both Busby and the missionaries were trying to harness British humanitarian concerns and encourage British intervention because it suited their own purposes: Busby wanted Britain to support his plan for the establishment of a government under nominal Māori authority but his own effective control; and the missionaries wanted



European population and the location of sawmills and missions in the late 1830s

protection from unfettered private settlement and growing French influence which would tend to dilute their own influence.<sup>68</sup> Belich in 1996 argued that ‘fatal impact’ mythology was a factor: Europeans saw it as an ‘immutable Law . . . of Nature’ that indigenous people would either die out altogether or decline, thereby making way for the expansion of empire. In Belich’s view, this ‘powerful myth made European observers see what they expected to see, exaggerating both the pre-contact indigenous population and the scale of decline.<sup>69</sup> The other possibility, referred to above, is simply that Europeans failed to accurately observe and account for all factors leading to local population change, such as migration. All of these explanations have merit.

There is one further issue to address, which concerns

the balance between Māori and non-Māori populations. Was a shrinking Māori population being replaced or threatened by a growing British one? Or did Māori remain in a clear majority?

Based on the accounts given above, the Māori population of the Bay of Islands and Hokianga appears to have numbered many thousands. The non-Māori population grew rapidly during the 1830s, especially in the second half of the decade, but from a very small base. According to Peter Adams, who considered the evidence in some detail, the resident European population of the Bay of Islands totalled between 100 and 130 in the early years of the 1830s, while the Hokianga population was probably just over 50. Missionaries and their families made up the majority of these, though they were joined by others such

as escaped convicts, traders, ship repairers and builders, sawyers and blacksmiths. Together, these Bay of Islands and Hokianga residents comprised the majority of a total New Zealand resident European population of around 300 to 330. In addition, Adams noted, in the first few months of each year visiting whalers would have brought a ‘floating’ population perhaps numbering as much as 1,000, of whom some 200 to 300 might visit shore on Sundays.<sup>70</sup> By 1839, Adams estimated, New Zealand’s total European population had probably grown to about 2,000, of whom some 500 to 600 lived in the Bay of Islands, and some 200 lived in Hokianga. Much of the Bay of Islands’ European population, he noted, was scattered among various small trading and mission enclaves around the Bay of Islands coast.<sup>71</sup> Kathleen Shawcross gave figures of 600 adult resident Europeans in the Bay of Islands in 1839, comprising about 30 to 35 missionaries, 400 ‘respectable’ settlers such as merchants and traders, and 150 or so runaways.<sup>72</sup> According to the Muriwhenua Land Tribunal, James Busby in 1839 recorded a count of 494 people of European or mixed Māori–European extraction in the Bay of Islands, 185 in Hokianga, 63 in Whangaroa, and 37 in Mangonui.<sup>73</sup> The numerical supremacy of Māori was not under threat in any of these territories.

### 5.3 ECONOMY AND MATERIAL CULTURE

Trade had been the crux of the relationship between northern Māori and Europeans from the time of earliest contact, and by the 1830s had already contributed to significant changes in Māori life. What had once been a subsistence economy had, by the turn of the decade, become focused on the production of pork, potatoes, and corn, which were traded for muskets and the iron tools needed to run an agricultural economy.<sup>74</sup> Along the way, many Māori and Europeans had adapted their behaviour in contact situations to ensure that trading relationships were smooth and peaceful.

The pace of change accelerated during the 1830s as contact intensified. The focus of Māori activity turned increasingly from warfare to economic activity, leading to growing levels of prosperity which allowed Māori

to support enormous hākari and the adoption of new European goods.<sup>75</sup> Of those, the musket was the dominant import throughout the 1820s and up to the mid-1830s, and remained a significant import for some years after that. Axes and other iron tools were also adopted during the 1820s. In the Bay of Islands, from the late 1820s blankets began to replace woven mats as the garment of choice, and western clothing also became more common during the 1830s. Tobacco was also in growing demand during the 1830s, as were iron pots for cooking.<sup>76</sup>

In Phillipson’s view, the growth in demand for goods other than muskets after the late 1820s simply reflected the very large number already in Māori hands. By 1830, according to one missionary source, Bay of Islands Māori were already in possession of several thousand muskets.<sup>77</sup> Ballara, however, said that muskets were often of poor quality and needed regular replacement. She estimated that, prior to the 1840s, the number of muskets in the Bay of Islands most likely ‘never rose much higher than one musket for two out of three fighting men’ – hence the ongoing demand even as Māori also became more interested in other goods.<sup>78</sup>

Agriculture during the 1830s remained a mainstay of the new economy, with existing cultivations being enlarged and new areas being opened up. While pigs and potatoes remained predominant, there was also limited experimentation, under missionary influence, with beef and dairy farming and with chickens and various new fruit and vegetable crops. In 1839, according to Phillipson, 34 cargoes of food were exported to New South Wales.<sup>79</sup> But there were other exports. From the early 1830s, timber became the principal export as shipbuilders sought kauri spars for use as masts. Dressed flax, which had been a major export in the 1820s, continued to flourish only briefly during the first few years of the following decade.<sup>80</sup> Rangatira such as Titore, Patuone, and Pi formed close relationships with traders, often exploiting lands that their hapū had taken by conquest a decade or two earlier. By 1839, exports of timber, flax, and kauri gum were worth more than £72,000, much of it leaving from the Bay.<sup>81</sup> The goods that rangatira received in return for their trade in kauri spars give some indication of their priorities, and



Flax stores in an unnamed Northland village, with a kauri forest in the background

the continued importance of warfare as a source of mana. In 1834, Titore received the following from the Royal Navy ship HMS *Buffalo* as payment for kauri spars from Whangaroa:

two blankets, two muskets, a bayonet, a scabbard, a cartouche box, 20 pounds of powder, eighteen musket balls, along with some fish hooks, pipes and four pounds worth of tobacco for each spar supplied.<sup>82</sup>

The arrival of increasing numbers of whalers and other ships in the Bay of Islands – more than 170 in total in 1839 – brought demand for other goods and services.<sup>83</sup> As we saw above, sex and labour were in high demand. So, too, were liquor and gambling, both available in liberal quantities at Pōmare II's pā at Ōtuihu and from Pākehā traders at Kororāreka.<sup>84</sup>

There is no doubt that these changes in the Māori economy were significant. Indeed, as Phillipson has said, what had already occurred in agriculture between 1810 and 1830 amounted to 'something of a revolution' – albeit in his

view a revolution in the scale of cultivation, the adoption of some European tools, and the introduction of pigs and potatoes, rather than in Māori social structures.<sup>85</sup> During the 1830s, as trade increased, this economic and material 'revolution' reached further into northern Māori culture. We turn now to explore the extent to which Māori drove economic transformation for their own purposes and in accordance with their own systems of law and authority, and the extent to which change was imposed on them as an inevitable by-product of British expansion.

### 5.3.1 Rules of exchange

As discussed in chapter 3, early trading exchanges between Māori and Europeans were fraught with misunderstanding, some of which led to conflict. Europeans did not understand the Māori system of reciprocal gift exchange, let alone its foundation in the law of *utu*. Māori, for their part, did not initially grasp the European notion of market exchange. More or less from first contact with Cook's crew, however, northern Māori began to make accommodations. What quickly emerged, at least in some

circumstances, was a form of barter, in which there was explicit negotiation over price, followed by immediate exchange of goods or services.<sup>86</sup>

Whether these were fundamental changes to Māori ways of doing things is open to debate. Many of the historians who gave evidence to this inquiry suggested that they were not; rather, they were outward modifications of behaviour that did not disturb the underlying values and social structures. Relying on the work of Raymond Firth, O’Malley and Hutton suggested that Māori had always distinguished between pragmatic economic exchanges (such as trade in food) and political or ceremonial exchanges aimed at cementing long-term relationships. In the case of economic transactions, there were pragmatic reasons for adopting the Pākehā system of immediate exchange, at least when dealing with ships that might leave at any time and not return. Furthermore, as discussed in chapter 3, Māori had also learned in Cook’s time that failure to make an immediate exchange could lead to violence. The adoption of direct haggling over price was ‘perhaps a more significant change’, but again there was precedent in the pre-contact practice of rangatira admiring goods ‘as a broad hint that they might like to receive these as a present’.<sup>87</sup> The Muriwhenua Land Tribunal also addressed this issue, noting that immediate exchange was not unknown before contact with Europeans and indeed was typical in cases where people were meeting for the first time or fleetingly.<sup>88</sup>

From the mid-1830s, a further modification occurred in the form of economic exchange. In the Bay of Islands and some other locations, it became relatively common for Māori to take cash payments in preference to payment in muskets, blankets, or other goods.<sup>89</sup> As the missionary William Yate noted in 1835:

Barter, of every description, is now gradually giving way, to the introduction of British coin and dollars. The natives are aware that they can, for money, procure almost anything they want.<sup>90</sup>

The use of cash marked a new approach to economic exchange, though it is important not to overstate how

widespread it was during this decade. According to Philipson, the most common medium of exchange in the 1830s was not money but tobacco.<sup>91</sup> To the Muriwhenua Land Tribunal, the important point was that even as Māori began to use currency they continued to see themselves as retaining control of trading relationships, both with resident traders and with visiting ships.<sup>92</sup>

It is also important to recognise that the adoption first of a barter system and then of a cash economy did not replace traditional gift-giving, but rather existed alongside it in ways that suggest the two systems were closely related. Missionaries and other Europeans gave numerous accounts of Māori drawing them into cycles of giving and receiving gifts, a practice that Māori used both to obtain material benefits and to reinforce relationships.<sup>93</sup> For example, when HMS *Buffalo* visited the north during the 1830s to gather kauri spars for the Royal Navy, its officers engaged in commercial transactions with Māori (hiring labour and purchasing spars) but also gave and received gifts ‘as an important symbol of . . . friendship’.<sup>94</sup> When the *Buffalo* sailed for Britain in 1834, Titore and Patuone sent mere pounamu and kahuwai (feather cloaks) to King William IV, and received suits of armour in return – an exchange that would have symbolised to the rangatira commercial, political and possibly also military alliance.<sup>95</sup> Busby also gave out blankets at important hui. In this way, Europeans adapted to Māori ways of doing things, just as Māori adapted by adopting barter and then cash for commercial exchanges. Significantly, as far as we are aware, these adaptations were confined to contact situations. Within their own world, Māori continued to live by their own rules.

It is also notable that Europeans continued to be drawn into this cycle of reciprocal giving during the 1830s and beyond, even when they clearly preferred not to be. As they had quickly discovered, any gift they received carried with it an obligation to give something of greater value in return at some future date. Though Europeans were generally resistant to this system, they were often powerless to avoid it without making themselves victims of taua muru.<sup>96</sup> Even Henry Williams, whose mission had achieved a reasonable degree of economic self-sufficiency,





◀ ▲ Patu from the Royal Collection in the United Kingdom and a suit of armour. These may be the patu sent by Titore and Patuone as gifts to King William IV in 1834 and the suit of armour that Titore received in return. In an accompanying letter to William, Titore noted that the spars would be useful to Britain in times of military conflict. In reply, Lord Aberdeen, the Secretary of State for War and the Colonies, noted: 'King William will not forget this proof of your Friendship and he trusts that such mutual good offices will continue to be interchanged between His Majesty's Subjects and the Chiefs and People of New Zealand as may cement the Friendship already so happily existing between the two countries, and advance the commercial interests and wealth of Both.'

and who declared in 1831 that the practice of giving axes to visiting rangatira was 'now abolished', found it necessary to keep giving gifts when circumstances demanded.<sup>97</sup> 'As time went by,' Phillipson concluded,

both sides modified their customs and behaviour . . . in order to keep the relationship a successful and mutually beneficial one. The values of each, however . . . persisted.<sup>98</sup>

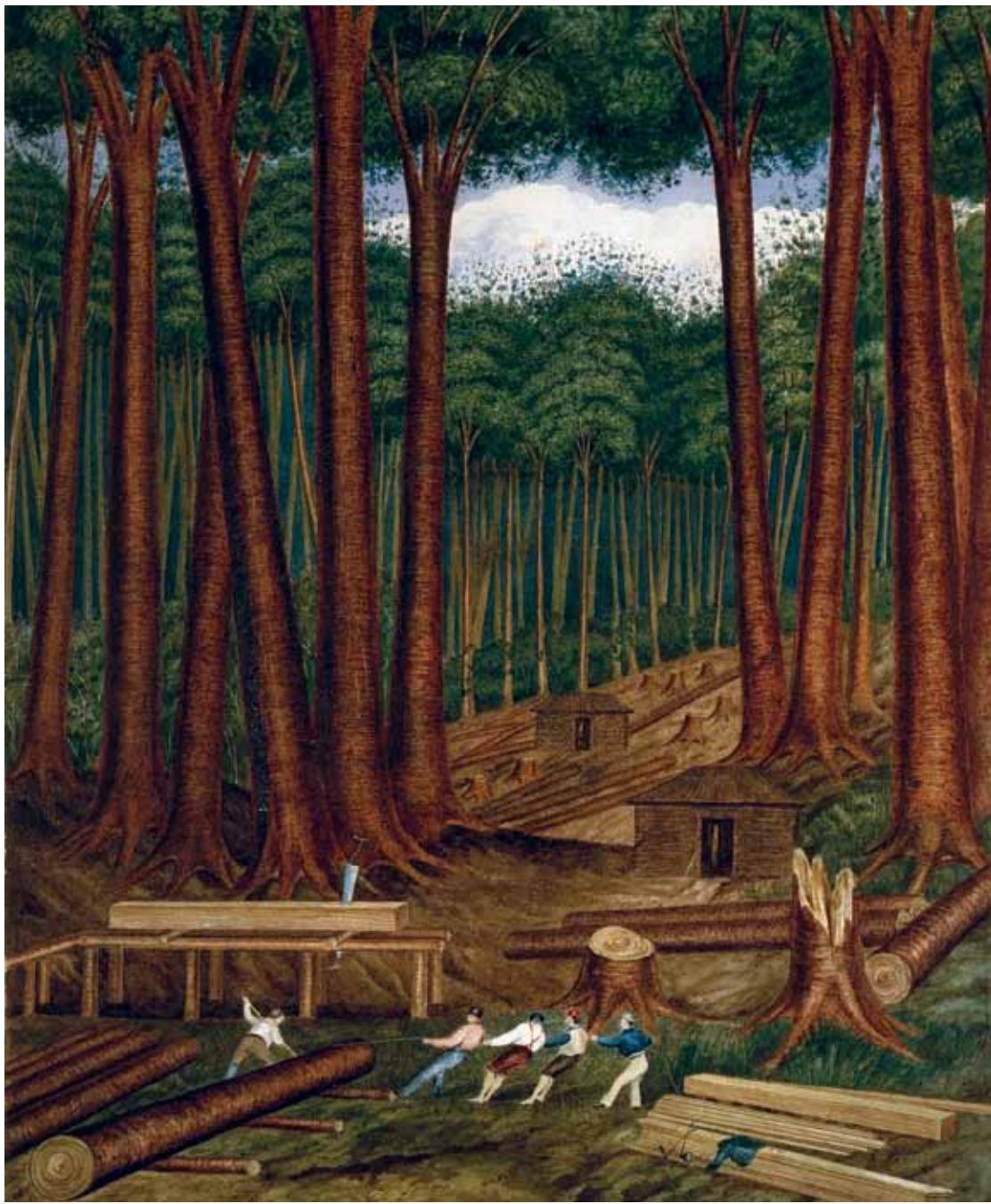
### 5.3.2 Rangatira as entrepreneurs

It is important to remember that these mutual accommodations occurred at a time of continued Māori numerical and military dominance. From early contact, northern Māori leaders had welcomed Europeans as potential sources of goods and technology, and so had competed to have Europeans living among them. That continued during the 1830s, even as contact increased. Since Te Pahi's visit to New South Wales in 1805 and 1806 (see chapter 3), they had also looked outward, seeking to forge direct relationships with traders from New South Wales and even

London. To a significant degree their entrepreneurial activities centred on the felling of timber, a trade that was dominated by leading Bay of Islands and Hokianga rangatira who had tasted military success during the 1820s and so were able to assert their authority over resources outside their traditional home territories.

Hokianga rangatira Te Taonui, Moetara, and the brothers Patuone and Nene were among the leading examples of this entrepreneurial spirit. In 1826 and again in 1830, Patuone travelled to Sydney to establish relationships with traders. These relationships, along with the establishment of the Wesleyan mission at Mangungu under the brothers' protection, allowed timber and shipbuilding trades to open up in the Hokianga.<sup>99</sup>

The Bay of Islands rangatira Titore meanwhile controlled trading activities at Whangaroa, and at Kororāreka where he had lived since 1830.<sup>100</sup> As well as his arrangement with the *Buffalo* allowing timber to be taken from Whangaroa, in 1834 he joined Patuone in a partnership which provided for the exploitation of timber resources



A kauri felling camp near the Wairoa River in the Kaipara district, 1839

in Mahurangi.<sup>101</sup> Te Māhurehure rangatira Pī meanwhile entered a contract to buy the schooner *Emma* in 1831. The vessel then became one of the few trading ships that Titore allowed to move freely into Whangaroa Harbour, until its former owner – who had claimed not to have been paid, and who had retained the registration papers – then sold it to another European. Titore and Pōmare II took more direct approaches to ship ownership by seizing Pākehā boats as they were needed.<sup>102</sup>

Entrepreneurial rangatira were able to accumulate considerable wealth or quantities of goods. We have already mentioned Titore's payment in goods for the Whangaroa timber.<sup>103</sup> Titore, Rangatira (Moetara's brother), and other leaders were also reported to have shared the extraordinary sum of £3000 between them for an arrangement over kauri at Waihou.<sup>104</sup> Returns such as these prompted the missionary George Clarke to note in 1835 that several chiefs were 'turning Merchants [and] have a good deal of Money and other description of property'.<sup>105</sup>

Rangatira who did not involve themselves in timber trading and shipbuilding found other ways to acquire prosperity. As noted above, Pōmare II's pā at Ōtuihu rivalled Kororāreka as a haven for drunken sailors and runaway convicts, leaving Pōmare to profit from their demands for alcohol, sex, food, and gambling, as well as from the levies he extracted on their ships.<sup>106</sup> Polack in 1838 described a meeting of rangatira in Hokianga held 'some time back' to debate the question of anchorage fees there. The result, he reported, was that they instead charged visiting ships a highly inflated price for water.<sup>107</sup> Other rangatira such as Te Ripi and Taiwhanga sought prosperity by taking up farming, as we will discuss further below.

It is clear that rangatira embraced new economic realities with considerable enthusiasm. However, as many witnesses to this inquiry pointed out, they did so for reasons that were essentially Māori. According to Manuka Henare, one of the principal responsibilities of rangatira was to manage relationships with others in order to enhance the material wellbeing of their hapū. Trade with Europeans provided an unprecedented opportunity to fulfil this duty and, for that reason, in the 1830s 'the emphasis on a

performing economy . . . was the fundamental preoccupation of the rangatira and tohunga'.<sup>108</sup> John Klaricich was another who referred to this role, describing how Moetara 'seized upon' opportunities to trade in kauri spars and supply the visiting ships.<sup>109</sup>

As Manuka Henare's views suggest, economic success obtained through trade could be a considerable source of mana for rangatira and their hapū. The huge hākari that emerged during the 1830s were examples of this. In 1831 at Ōhaeawai, for example, some 5,000 bushels of kūmara (about 17 cubic metres) and 290 pigs were either consumed or distributed among the 5,000 assembled.<sup>110</sup>

### 5.3.3 Implications for political structures

While Māori entrepreneurship may have occurred for traditional reasons, it does not necessarily follow that the culture was left untouched. The expansion of agriculture, the cutting and dressed of flax, and the cutting of kauri spars all required a substantial labour force, high levels of organisation, and an ability to secure interests in the land.

Both Ballara and Phillipson referred to the role of war captives as a source of labour allowing Bay of Islands and Hokianga Māori to expand their agricultural output from the 1820s onwards. Both also detected a cycle in which the introduction of muskets brought military success which in turn brought economic success and opportunities to purchase more muskets. Phillipson argued that the large-scale taking of captives was not new in Māori society, giving the example that in Hauraki in the late eighteenth century there were 'enough displaced people and slaves to form their own hapū'. He acknowledged, however, that the scale of capture in the 1820s was 'unprecedented'.<sup>111</sup> The Bay of Islands captives, he said, were mainly women and children, who provided a labour force working in gardens alongside women and children from the Bay hapū. In Phillipson's view, even when the significant step was taken of allowing captives to return to their home territories, there would have been a corresponding increase in available labour provided by men who were no longer required for major external campaigns.<sup>112</sup>

Nor, in Phillipson's view, were significant technological changes required for the adoption of larger-scale



Patuone's kāinga on a tributary to the Waihou River, with a kauri forest in the background, 1827. The artist, Augustus Earle, described the village as Patuone's 'country residence' and remarked on the gardens in which potatoes, kumara, and corn 'arrive at a perfection never before witnessed'.

horticulture. Rather, potatoes were grown using similar methods to those used for kūmara. Certainly, the keeping of pigs was new, but again, Māori did not usually follow the European practice of keeping stock in fenced enclosures; rather, they were watched constantly. A few Māori under missionary influence tried cattle farming, but this was not widespread during the 1830s. Perhaps most significantly, both livestock and produce 'were communally farmed and harvested by whanau and hapū', the traditional units of economic and political organisation.<sup>113</sup>

Like agriculture, the timber trade created major demands on Māori labour. The work of cutting the spars

and transporting them to waiting ships was back-breaking and took place in all kinds of weather. The missionary Nathaniel Turner thought it was a major source of illness and had 'been the cause of the death of not a few in Hokianga'; he reported that some rangatira agreed.<sup>114</sup> But while the work was gruelling, it does not appear to have caused any change in traditional political structures. On the contrary, labour was provided by hapū or larger groups working under the guidance of their rangatira. Generally, the extraction of spars was one aspect of a larger arrangement which included the supply of food and other services to European traders and sawyers, and

often also the marriage of sawyers into the community.<sup>115</sup> Rangatira appear to have seen these timber arrangements in terms of ongoing relationships, rather than mere commercial transactions.

If neither food production nor the timber trade directly challenged pre-existing political structures, the practice of Māori labouring on ships arguably did – at least in some circumstances. As O’Malley and Hutton saw it, Māori who joined ships’ crews were engaging in ‘a purer form of capitalism – the sale of individual labour beyond the control of the hapu or chiefs’.<sup>116</sup> While some may initially have been sent by rangatira, others made their own choice to seek money and adventure, and in this way tensions were created between ‘the individual ethic which underpinned the capitalist order and the communal nature of much Maori economic enterprise’. However, those tensions were ‘not unmanageable or significantly destabilising ones in the period to 1840’.<sup>117</sup>

The new economic order did not substantially alter existing political structures, but it did create new grounds for dispute between competing groups. Pigs (or sometimes cows) wandering into the cultivations of neighbouring hapū, or their wāhi tapu, could provoke tensions and sometimes lead to violence. In the absence of rules to manage such occurrences, some rangatira developed an interest in Pākehā approaches to dispute resolution, as we will discuss in section 5.7.<sup>118</sup>

As far as we are aware, the disputes caused by pigs were relatively minor. The same cannot be said for a number of conflicts over the extraction of timber. In section 4.8.1, we discussed the clash over Te Hikutū’s attempt to allow traders to remove kauri spars at Whananaki early in 1836, which the following year (according to Busby’s interpretation) spread into the Hokianga and led to more deaths.<sup>119</sup> There were also disputes in the Hokianga when neighbouring groups either competed for trade or became embroiled in the conflicts of their Pākehā clients.<sup>120</sup> Minor skirmishes occurred as well over the extraction of spars from Mahurangi, where rangatira asserting rights as a result of 1820s conquests clashed with others who had formerly occupied the land or had whakapapa to it.<sup>121</sup>

### 5.3.4 Economic change and the question of control

Direct bargaining, the adoption of cash, and the other changes we referred to above suggest that by the end of the 1830s Māori in the Bay of Islands and Hokianga had joined a market economy geared towards the production or extraction of goods for profit. The question, therefore, is not whether there was cultural change, but how significant it was, and whether it reflected voluntary adaptation or any loss of Māori authority over their lives or territories.

Raymond Firth, in his seminal study of Māori economics, said that the acquisition of new goods – muskets, blankets, European clothing – ‘to some extent’ caused change in Māori society, ‘but on the whole the organisation of economic activity remained singularly unimpaired’. Firth argued that commodities such as flax and timber had not traditionally been exploited on a major scale, and so the amount of labour required for their extraction tended to ‘throw the economic machinery out of gear’. On the other hand, these commodities were ‘still produced by ordinary native methods’ using traditional technology; the organisation of activity was ‘carried out on the usual lines’ (that is, by whānau or hapū under the direction of their rangatira, who then distributed the proceeds); and, furthermore, Māori systems for determining the ownership of resources remained untouched. ‘In brief,’ Firth concluded, ‘the normal economic structure of the people was preserved’ and would not begin to fundamentally change until after 1840.<sup>122</sup>

Belich argued that there was ‘no doubting the length and breadth of Maori economic engagement with Europe, nor that it substantially changed traditional society’. In his view, in most respects these changes were voluntary as Māori selected what they wanted of European material culture.<sup>123</sup> Angela Ballara saw trade as ‘the first lever that forced actual differences in [Māori] behaviour’, since it was quickly discovered that violent responses to breaches of tapu would lead to retaliation and loss of trade. This was significant because it opened up the possibility of there being ‘one set of rules for Maori and another for dealing with Europeans’. However, the changes in Māori material culture were ‘accretions, added on to Maori culture rather

than displacing it. She made the particular point that, in themselves, these changes ‘were not sufficient to disrupt the Maori lifestyle, nor to replace their system of tikanga and ritenga’.<sup>124</sup>

Phillipson’s view was that Māori economic changes were ‘large and significant, but not necessarily of the type that led to a major reorganisation of society or revision of its values’.<sup>125</sup> While the scale of production was new, it continued to be a communal effort under the direction of chiefs. Crops and other resources were protected by tapu and planted with karakia, and traditional motivations remained at play. Furthermore, the developments of the 1830s merely intensified what was already happening: ‘More ships, more acres planted, more pigs herded, more food exchanged for goods, but no revolutionary changes.’<sup>126</sup>

In general terms, we agree with these views. The enthusiasm with which Māori embraced this new economy, the uses that goods were put to, the way in which effort was organised – all suggest that economic change was voluntary, occurred for Māori purposes and in accordance with Māori laws, and occurred in ways that were consistent with the traditional system of political authority based on autonomous hapū represented and guided by rangatira. As contact increased throughout the 1830s, Māori enthusiasm for Europe and its goods persisted, and in most areas Māori continued to encourage Pākehā to settle among them in the hope of gaining greater access to goods.

#### 5.4 MĀORI ENGAGEMENT WITH CHRISTIANITY

During the late 1820s significant numbers of Māori children had begun to attend mission schools in the Bay of Islands and Hokianga, apparently attracted by opportunities to learn European skills (carpentry, tailoring, farming, medicine, and above all literacy) and also by gifts of fish hooks, food, and other items.<sup>127</sup> The first Christian baptisms also occurred in the 1820s, though they were very few in number and for most Māori the Christian message was not a significant attraction.<sup>128</sup> In the 1830s, that would change.<sup>129</sup> Early in 1830, the Ngāti Tautahi

rangatira Taiwhanga was baptised into the Church of England, and a handful of others followed throughout the year.<sup>130</sup> What began as a trickle eventually became a river. In 1832, after 18 years of CMS activity, fewer than 50 Māori had been baptised. Three years later, according to CMS missionaries, the number had jumped to 300. By 1838, the number of Māori baptised into the Church of England was said to exceed 800, and by 1840 the number was said to be ‘not fewer than 2000’. Many more Māori were going to missionary services or incorporating Christian karakia into their own ceremonies.<sup>131</sup> In Kathleen Shawcross’s view, ‘Perhaps about half of the total Bay [of Islands] Maori population had gone mihanere [missionary] by 1840.’ By ‘gone mihanere’, she meant ‘converted’, though she did not say whether conversion referred to baptism or some lesser level of commitment.<sup>132</sup> The Wesleyan mission (which began in 1822) and the Catholic mission (which began in 1838) were less methodical in their record-keeping; however, they too reported rapid increases in the number of baptisms, albeit on a smaller scale than the CMS. Throughout the island, the Wesleyan missionary James Buller wrote in 1839, there had been ‘a great and mighty change’ in which recently heathen Māori, in great numbers, were now bringing themselves ‘under the saving influence of this blessed Gospel’.<sup>133</sup>

There are many varying accounts of the reasons for this apparent rush towards Christianity and of its overall significance to Māori.<sup>134</sup> To some historians, Māori interest in and adoption of Christianity was both symptom and symbol of a ‘cultural confusion’ or malaise. As Harrison Wright argued in 1959, Māori turned to the Christian God in a state of bewilderment: the impact of disease and the loss of military superiority over southern tribes as access to muskets spread during the 1830s having left them with a ‘dawning realization of their inability to regulate their own lives’.<sup>135</sup> One of the significant factors in this ‘conversion’, Wright suggested, was the Māori perception of disease as a spiritual condition which reflected ‘some evil-doing on the part of the sufferer’. Noticing that they were falling ill at a greater rate than Europeans, and that tohunga seemed powerless to cure them, Māori concluded that they were

victims of a stronger and more punitive European atua. This, at least, is what the missionaries reported during the 1820s and 1830s, and it is also what the missionaries wanted Māori to believe.<sup>136</sup>

Judith Binney, writing a decade after Wright, attributed the adoption of Christianity to ‘a new mood of despair’ as a result of disease, the loss of their decisive military advantage, and (late in the 1830s) to uncertainty about land transactions. This mood, she suggested, was a dramatic turnaround from the previous decade when Christian ideas had seemed ‘totally irrelevant’ to most Māori. Like Wright, Binney argued that Māori had *initially* been in control of their contact with Europeans to a point where Christianity seemed ‘totally irrelevant’ to them, but by the 1830s the balance had tipped.<sup>137</sup> More recently, Lyndsay Head also viewed the loss of military superiority as a catalyst for Māori embracing missionary ideas of law and government, as we will discuss below.<sup>138</sup>

Many historians have partially or wholly rejected this ‘cultural confusion’ argument for Māori engagement with Christianity, viewing the idea of a sudden shift from Māori dominance in the 1820s to Māori bewilderment in the 1830s as unconvincing.<sup>139</sup> John Owens in 1968 argued that changing missionary methods – including a focus on literacy, and greater use of the Māori language and Māori teachers – were more plausible explanations for Māori interest in Christianity. More significantly, he rejected the view that there was any mass ‘Maori conversion’ at all during the 1830s, arguing that the number of genuine converts – those who had been ‘made over in mind and spirit’, as he put it – remained very small prior to 1840.<sup>140</sup> Kerry Howe, in 1973, questioned the legitimacy of linking the acceptance of new beliefs with either social dislocation or cultural dissatisfaction, instancing the enthusiastic response to Christianity in areas largely untouched by European contact.<sup>141</sup>

Belich argued that Māori were not passive recipients of European culture, but rather ‘actively engaged with it’, choosing those aspects that suited them and making adjustments as needed. The view that Māori culture collapsed in the 1830s, he said, was as suspect as the theories

of catastrophic population decline.<sup>142</sup> Both he and Ballara pointed to the open nature of the Māori religious system, and its inherent capacity to add new deities and beliefs in response to changing circumstances, just as had occurred in the period between the arrival of their tūpuna on these shores and first contact with Europeans.<sup>143</sup> As Belich put it, Māori ‘conversion’ to Christianity was ‘better defined as the Maori incorporation of Christianity’ – the new, evidently powerful and certainly useful Pākehā God taking his place among the existing pantheon of atua.<sup>144</sup> Belich suggested that the salient question was not why Māori in the Bay and neighbouring areas turned towards the Christian God, but why it took nearly 20 years for significant numbers to do so. Belich also questioned the reliability of the figures, noting that missionaries had to satisfy their masters in London, and suggesting that from the late 1830s the different denominations engaged in a ‘soul race’ in which they ‘were not inclined to be excessively rigorous about their own scores, though they constantly criticised the laxity of their rivals’<sup>145</sup>

This, then, is a general picture of Māori ‘conversion’ as historians have seen it. It is important in this inquiry to consider the north specifically. Was there a wholesale conversion to Christianity among Bay of Islands and Hokianga Māori, as Wright alleged? Was Owens right that Māori adoption of Christianity occurred on a much smaller scale and in a more superficial way? Did Māori in effect colonise the Pākehā religion for their own purposes, as Belich argued? It is to these questions we turn now.

#### 5.4.1 Which Māori became Christian?

Most historians have seen Christianity as a phenomenon that first took off among less powerful northern Māori – war captives, the ill, younger people, and women. Rangatira and tohunga, on the other hand, were seen as either resisting Christianity (since missionary influence threatened their own power) or using missionaries for their own ends while allowing captives and children to acquire literacy and other skills at mission schools.<sup>146</sup> Ballara, for example, said that rangatira resisted Christianity – at least initially – because it threatened

their mana. She quoted a missionary account in 1832 of the Bay of Islands rangatira and tohunga Tohitapu refusing to go to a church service in the Bay of Islands ‘because he would have to mix with the Slaves and he is of great consequence’<sup>147</sup> Shawcross, however, argued that the

commonly voiced notion that slaves were often the first persons to be converted to Christianity and chiefs and tohungas usually the last could not be more contrary to the actual facts.<sup>148</sup>

Rather, Shawcross argued, in the most densely populated parts of the Bay of Islands,

the missionaries very soon after 1830 established a particularly strong influence over a number of leading chiefs who quickly joined the ranks of pioneer Maori converts.<sup>149</sup>

This occurred, in particular, in inland regions which were closer to mission stations and further from the influence of ruffian sailors who laughed at the missionaries and spent their Sundays drinking.<sup>150</sup>

Taiwhanga, a rangatira who was baptised early in 1830, was a renowned warrior who had fought in several of the northern alliance’s major external campaigns. From the early 1820s, he had also been interested in missionary ways, in particular their agricultural methods. In 1825, he returned from Te Ika-a-Ranganui (the famous battle avenging the 1807 defeat to Ngāti Whatua at Moremonui) set on peace, and thereafter refused many invitations to join military campaigns. A rangatira of Ngāti Tautahi and Te Uri o te Ahu, Taiwhanga lived with the missionaries at Paihia during the late 1820s, and his children were baptised there in 1829, preceding his baptism by six months. Taiwhanga’s decision to adopt Christianity, William Williams wrote, had been made ‘after long deliberation and in the face of much opposition’ and his baptism was an occasion that would ‘call for joy among the angels in heaven’.<sup>151</sup>

Two years later, Te Ripi, principal rangatira of Te Mawhe (Pukututu), was baptised and took the name Paratene after William Broughton, the head of the Anglican Church

in New South Wales.<sup>152</sup> According to Williams, Te Ripi, a signatory to the 1831 letter to King William, was ‘the first person of high rank who had ventured to stand forth on the side of Christianity’, Taiwhanga being a rangatira of lesser standing.<sup>153</sup> Other leading rangatira mentioned by Shawcross as early Bay of Islands converts included Te Kekeao, of Pukenui, who also took the name Paratene; and Atuahaere, of Kaikohe, who was baptised as an old man in 1834 and took the name Te Reweti (Davis).<sup>154</sup> Taiwhanga, Te Ripi, Te Kekeao, and Atuahaere were all from the Bay of Islands interior. So, too, were two other rangatira of (in Shawcross’s view) lesser standing, who were baptised in the early 1830s: Hōne Heke of Kaikohe,<sup>155</sup> and Wiremu Hau of Waimate.<sup>156</sup>

Closer to the Bay of Islands coast, the young rangatira Matiu (his only known name) and Tamati Pukututu, both of Kawakawa, were also baptised in the early 1830s; as was Hemi Tautahi of Paihia.<sup>157</sup> In Hokianga, Aperahama, the son of Te Taonui, was baptised in 1833.<sup>158</sup> Judging by the transliterated English names they used when they signed he Whakaputanga, Hemi Kepa Tupe, Wiremu Taunui, and Haimona Pita Matangi would also appear to have been under missionary influence.

During the second half of the decade, more rangatira were baptised and the rate at which they adopted Christianity increased. In 1836, the leading Te Rarawa rangatira Panakareao was baptised, taking the name Nopera (Noble), and several other Te Rarawa leaders appear to have followed him.<sup>159</sup> The Ngāti Korokoro rangatira Moetara was baptised in 1838 as he was dying of influenza.<sup>160</sup> The following year, the Hokianga leader Nene was baptised into the Wesleyan Church, with which he had long-standing ties, taking the name Tamati Waka (Thomas Walker, a patron of the CMS). On 26 January 1840, his brother Patuone was baptised into the Anglican Church at Paihia, taking the names Eruera Maihi (Edward Marsh, the name of one of Henry Williams’s sons).<sup>161</sup>

Perhaps equally remarkable is the number of leading rangatira who did not formally enter Christian churches during the 1830s, at a time when mass ‘conversion’ was allegedly occurring. Titore, Tāreha, and Rewa – leading northern alliance rangatira after Hongi’s death – are



Stylised depiction of the foreshore at Paihia, showing the Church Missionary Society mission station and the residence of the missionary Henry Williams and his family, circa 1827

notable absentees, as are the southern alliance leaders Pōmare II and Kawiti. In the Hokianga, the leading rangatira Te Taonui never converted.<sup>162</sup> Waikato, after his experiences over Whananaki, became an implacable opponent of the CMS.<sup>163</sup> Te Morenga was regarded as friendly towards the missionaries but does not appear to have converted before his death in 1834.<sup>164</sup> Overall, of the 52 leaders who signed the Whakaputanga, fewer than one-third had been baptised by 1840.<sup>165</sup>

Furthermore, the motives of the rangatira who did engage with Christianity during the 1830s were often complex. From the beginning, rangatira had supported

missions in order to gain access to trade: that had clearly been the case for Ruatura and Hongi at the Bay of Islands, and also for Patuone and Nene when they sponsored the Wesleyan mission at Mangungu from 1828, though what prompted their specific decision to be baptised is less clear.<sup>166</sup> Trade was also a motivation for Panakareao, who enticed the CMS to establish a mission in Kaitaia in 1834 before his baptism two years later. The Muriwhenua Land Tribunal in 1997 described Christianity as being ‘associated with good business’, adding ‘While traders gave goods, missionaries gave the means of production’.<sup>167</sup>

Taiwhanga, Wiremu Hau, Te Ripi, and Te Kekeao were

all interested in missionary farming techniques, and this interest may have played as significant a part in their engagement with Christianity as the Christian message itself – especially as they lived in the interior and so had fewer opportunities to engage in trade. While they played active roles in spreading Christianity and literacy within the Bay of Islands and elsewhere, they also pioneered cattle farming in the interior.<sup>168</sup> Indeed, Claudia Orange described Taiwhanga, who sold butter to Bay of Islands merchants, as New Zealand's first commercial dairy farmer.<sup>169</sup>

### 5.4.2 The Christian challenge to Māori values

'Conversion', as Owens and others suggested, can have a multitude of meanings.<sup>170</sup> It can refer to changes in outward behaviour; and it can also refer to changes in belief or spiritual experience. Assessing changes of fundamental belief is difficult. Though there are some accounts of some Māori, such as Te Ripi, debating their beliefs with others, there is no record of what conversion really meant to most Māori. Such records as there are were written by missionaries and so clouded by their perspectives.<sup>171</sup>

The missionaries themselves relied on outward actions as a sign of inner change. For the CMS, candidates for baptism were expected to abandon warfare, violent dispute resolution, cannibalism, and polygamy – as well as to sincerely profess their faith in the Christian God.<sup>172</sup> They were told that Sunday was to be a day of rest;<sup>173</sup> that 'killing and even owning slaves was cruel'; and that customs such as hahunga, hākari, tā moko, and haka were wrong, 'wasteful', or both.<sup>174</sup> Adoption of Christianity furthermore implied the abandonment of traditional Māori methods and rules for governing behaviour, in favour of the ture (law) of the Christian God: tapu, utu, and muru would give way to the Ten Commandments and the threat of hell-fire; and rongoā (medicine) and karakia would give way to European medicine and prayer.<sup>175</sup> As Ballara put it, the aim was to turn a person's 'whole personality away from his "ngākau Māori" to a new personality informed and infused by Christian (and nineteenth-century European) values'.<sup>176</sup> These would include not only Gospel values but also British mercantile ones, since from the beginning the

missionaries had taught trade and farming skills as part of their conversion strategy (as discussed in chapter 3).<sup>177</sup>

The Catholics, by contrast, were apparently more open to traditional practices such as tā moko and haka. They allowed Māori to wear traditional garments and carry guns in church, and were willing to respect the personal tapu of rangatira, though they did condemn 'unjust wars, cannibalism, and all breaches of the Ten Commandments'. O'Malley and Hutton saw this 'more relaxed' approach as reflecting a 'basic need to compete with the Protestant missionaries for converts, and to do so after entering the field more than 20 years after their rivals'. In this, the ritual of the Catholic Church and the 'aristocratic bearings' of the Catholic Bishop Jean Baptiste Pompallier also added to the church's appeal. Overall, O'Malley and Hutton said, the Catholics mainly won followers among those who wanted to show opposition to the British, and were 'never really in the game in terms of . . . total numbers of converts'.<sup>178</sup>

There is no doubt that many of the changes that missionaries (in particular the Protestant ones) demanded did in fact occur during the 1830s. There is also considerable evidence of old customs either declining or being abandoned during the 1830s, including cannibalism, tā moko, polygamy (at least among Christians), the keeping of war captives, hahunga, and more. However, such changes cannot be attributed solely to Māori adoption of Christian values.

Cannibalism, for example, was more or less abandoned during the 1830s. However, it was pointed out to us that both Christians and non-Christians gave up the practice, and this may have been motivated largely by a desire to maintain valued relationships with Europeans, who were close to unanimous in condemning the practice.<sup>179</sup> Another possible factor in the decline of cannibalism was the decline in warfare during the 1830s (which we discussed in chapter 4 and consider in more detail below).<sup>180</sup> That, too, was a significant development; however, once again, the reasons cannot be simply attributed to missionary influence. Furthermore, warfare declined but did not end. While some Christian rangatira did indeed turn their backs on it, others with close ties to the missionaries



A Church Missionary Society missionary, possibly James Kemp, preaching to Māori around a campfire, circa 1837

continued to fight when their mana was at stake. We will return to this subject below.

Another significant change was the release of war captives, many of whom went on to play important roles in spreading both Christianity and literacy into their own districts after their release. Again, the missionaries were not slow to claim credit for this development, but there are other explanations which we will also consider below.

Many other changes also occurred:

- Sunday was often observed from relatively early times as a day of rest, ‘at least when Europeans were present’ – though it appears that one reason this

occurred was because Māori wished to avoid offending valued European missionaries.<sup>181</sup>

- Tā moko became less common (although it enjoyed a revival during the 1840s).<sup>182</sup>
- Hahunga were abandoned in the Bay of Islands and Hokianga from 1835, as discussed in chapter 4.<sup>183</sup> Likewise, European burial rites became more common, and the traditional practice of newly widowed women slashing or killing themselves declined significantly, as did the practice of killing war captives.<sup>184</sup>
- Rangatira who were baptised gave up polygamy, though this caused considerable anguish when it

required them to abandon their existing wives. Among those who were not baptised, polygamy remained the norm.<sup>185</sup>

Another significant change concerned the enforcement of tapu. As discussed in chapter 3, early violations of tapu by Cook's crew and by Marion du Fresne met with violent responses, in accordance with Māori law. But over time accommodations occurred on both sides. In European contexts, such as aboard ship, Māori became willing to suspend enforcement of personal tapu. Richard Cruise in 1824 wrote that,

Though all their superstitions were inviolably respected by themselves, when on shore, the moment a New Zealander came on board, he considered himself absolved from them, and he at once conformed to our manners and customs.<sup>186</sup>

Nonetheless, even shipboard violations of tapu could still lead to tension. In 1834, when the young daughter of the trader Ralph Dacre pulled Patuone's hair, this caused considerable disquiet among his followers, who 'debated the issue for three days and were all for cutting Dacre off completely'. Patuone, however, argued that the incident could be dismissed on grounds that the girl was 'porangi' (crazy), so allowing a lucrative trade to continue.<sup>187</sup> In Māori contexts, Europeans were generally expected to respect personal as well as environmental tapu, or suffer consequences.<sup>188</sup> For example, in 1829, Waikato informed missionaries who passed too close to a tapu fishing ground that Māori had a right to enforce what they saw as sacred, just as the missionaries attempted to enforce observation of the Sabbath.<sup>189</sup>

Over time, then, the trend was for Māori to become increasingly tolerant of European breaches while still enforcing the law within their own communities.<sup>190</sup> There were several factors at play. Some missionaries such as Henry Williams made a point of challenging tapu if they felt they could get away with it, and this may have had some effect, though it probably just reinforced the notion that Europe's atua followed different rules. Similarly, Māori who spent time on ships might have found their belief in the spiritual power of tapu undermined, since breaches

could occur without consequence.<sup>191</sup> But the most convincing explanation for this accommodation is that modified enforcement of tapu occurred pragmatically, to avoid conflict or offence, and to maintain relationships that were valued for other reasons such as access to trade. In a sense, one source of mana was being traded against another.

It is important, however, not to overstate the degree to which enforcement of tapu was relaxed, nor to confuse changes in enforcement with changes in underlying tikanga. For every example of tapu being enforced more leniently, there are others showing that it continued to hold considerable power in Māori minds, and continued to be enforced against Pākehā as well as Māori up to and well beyond the end of the decade. What sometimes changed during the 1830s was not the law of tapu itself, but the circumstances in which it was applied and enforced. As we will see below, even those who were baptised did not give up their adherence to tapu, but rather transferred it to a new context in which new atua were involved.<sup>192</sup>

#### 5.4.3 The creation of a Māori Christianity

Continued application of tapu during the 1830s suggested that underlying Māori laws were enduring in a time of 'supposed missionary triumph'<sup>193</sup> and that Māori were incorporating Christianity into their own belief systems at least as much as they were being converted by it. Not only was it the nature of Māori religious system to adopt new atua, as Belich suggested, but Christianity was also presented in a way that (presumably unintentionally) encouraged that to occur. As several witnesses pointed out, the missionary use of 'atua' for 'god', 'tapu' for holiness, and 'karakia' for prayer led Māori to understand the new religion on their own terms.<sup>194</sup>

While there is considerable debate about the underlying reasons for Māori interest in Christianity during the 1830s, there is near consensus that what emerged was substantially new. Even those who embraced Christianity regarded the Christian God as 'merely another atua' and Christian rules as a new form of tapu, Wright wrote in 1959; and what emerged was 'not Christianity as the missionaries understood it, but as the Maoris misunderstood it'.<sup>195</sup> Binney referred to the 'partial ... and uniquely

modified' adoption of Christianity, even among those who converted.<sup>196</sup> Ballara concluded that Māori adoption of Christianity was 'not so much a cultural change as the inclusion of the new god in the existing Māori spiritual order'.<sup>197</sup> In this inquiry, Phillipson noted that at least some Māori adopted 'belief in the Christian heaven and hell, and the need for a new "heart" and forms of behaviour'; however, overall, 'the new Christian religion was adopted in ways that served Maori needs in the 1830s and afterwards, and modified or discarded where it did not, resulting in the creation of 'an indigenised religion that remained Maori in many of its customs and values'.<sup>198</sup>

As we related in chapter 3, Hongi's death in 1828 was a catalyst for the spread of missionary influence within the north and ultimately to the rest of the island: according to Belich, as long as Hongi lived, he controlled missionary activity for his own purposes and prevented its influence from spreading. What occurred after 1828, Belich said, was competition among various hapū for missionaries and for the knowledge (including literacy) and material advantages they might bring. As a result, more missions could open, and rangatira were generally more accommodating towards the missionaries.<sup>199</sup> This meant, among other things, that

More slaves and young people were allowed freer access to the mission schools and services, to keep the missionaries happy as well as to gain new knowledge for their hapu.<sup>200</sup>

In terms of timing, this is far more plausible than 'cultural confusion' as an explanation for the sudden interest in Christianity among Māori from the late 1820s onwards. Tellingly, it is a theory that places responsibility for the spread of Christianity in the hands of rangatira and their quest for mana through economic advantage. It is, in other words, a theory that relies on Māori values and power structures remaining in force.

Historians have noted the importance of Māori teachers in spreading both Christianity and literacy throughout the North Island during the 1830s. Whether they were Christian rangatira operating within the north, or freed war captives returning to their homelands, these

teachers explained the new religion in ways that made sense to Māori.<sup>201</sup> As a result, both literacy and Christian rituals began to appear in settlements that no European missionary had set foot in.<sup>202</sup> For example, both gained their first foothold on the East Coast through the agency of Taumata-a-kura, a former war captive returned from the Bay of Islands, who had attended a mission school but never shown any interest in baptism. He joined a taua in 1836 only on condition that the party did not eat their victims, then 'led the attack, with his book [Bible] in one hand and his musket in the other'. When he emerged without a scar, his fellow warriors credited the European atua and its pukapuka. This was not Christianity as the missionaries were preaching it, but Christianity as Māori interpreted it.<sup>203</sup>

Many other Māori who either had been baptised or were sympathetic to Christianity continued to fight or take part in taua muru. As discussed in chapter 4, Patuone and Nene – not yet baptised but certainly friends of the Wesleyans – sought utu when Kaitoke killed two of their Christian kin in 1837. Panakareao was still taking part in taua muru and warfare years after his conversion. Likewise, many Christian Māori joined the 1837 Bay of Islands conflict – a fact that, according to Ward, 'particularly disheartened the missionaries'.<sup>204</sup>

Christian Māori acted in other ways that were more consistent with Māori laws and values than with the missionary message. The missionaries' usually inflexible views on sexual propriety were challenged, for example, when baptised rangatira returned to polygamy or engaged in extramarital sex. The missionaries were particularly anguished when, following the death of his wife, the pioneering convert Taiwhanga got one of his war captives pregnant. 'They were married directly,' wrote William Williams. 'But it has brought great disgrace upon our infant church'.<sup>205</sup> Taiwhanga seems to have spent more time farming and less time preaching after that.

Even Māori experience of illness, cited by Wright as the main reason for Māori adoption of Christianity, provides evidence that fundamental Māori values endured. We have seen that the missionaries often told sick Māori that conversion would save them. When Māori then expressed

interest in baptism, the missionaries assumed that they had been believed. But in fact Māori beliefs about illness endured beyond the 1830s,<sup>206</sup> and remain influential to this day. The claimant Emma Gibbs-Smith told us how she learned about rongoā as she was growing up at Waitangi: ‘they believe a lot of the ailments suffered by Māori were as a result of spiritual imbalances and thus the healing process had to be spiritually based’.<sup>207</sup> Mason Durie has set out to show how breaches of tapu can contribute to mental or physical suffering, and how, in customary Māori healing, an illness may be treated by identifying and remedying the breach of tapu that was perceived to have caused it.<sup>208</sup> For Māori to acknowledge a new atua in response to new illnesses, therefore, was not necessarily evidence of fundamental change, but rather that the law of tapu endured and was applied to new events and circumstances. Indeed, Wright came close to recognising this when he wrote of Māori turning towards Christianity so as to appease atua.<sup>209</sup>

It is hardly surprising, then, that for all of their trumpeting of success, the missionaries themselves sometimes expressed considerable misgivings about what Christianity really meant to Māori. John King, the longest-serving CMS missionary, lamented in 1836 that ‘even . . . those who are baptized have [not] taken up all the customs & manners of the english’.<sup>210</sup> Three years later, he added:

The number of Natives under Christian Instruction, and favoured with the means of grace, is very large; but the number of those only who are, in my opinion, decidedly Christian, is small.<sup>211</sup>

Another CMS missionary, Benjamin Ashwell, accused the Wesleyans of baptising Māori ‘who are ignorant of the first principles’ of Christianity – a charge that missionaries of all denominations commonly levelled at each other.<sup>212</sup> According to Wright, the missionaries saw that Māori ‘often progressed enthusiastically until they were baptized and then stopped, satisfied’, believing they had freed themselves from the anger of the Christian atua while gaining themselves some mana along the way. ‘The

difficulty’, Wright concluded, ‘was that the Maoris thought of the Christian religion in terms of their own’.<sup>213</sup> The Muriwhenua Land Tribunal in 1997 similarly concluded: ‘Christianity had been made indigenous, just as, presumably, it had earlier been Romanised or Anglicised’.<sup>214</sup> We see no reason to differ from its view.

#### 5.4.4 The emergence of Papahurihiia

John Klaricich told us that Moetara, who sponsored the Wesleyan mission at Pākanae from 1836, was the only Ngāti Korokoro rangatira who favoured Christianity. After his death in December 1838, his younger brother Rangatira took over both the mantle of leadership and his brother’s name. He asked his people whether he should adopt the new religion, and the answer was that he should not. As Klaricich put it, the principal Te Wahapū rangatira declared ‘there would be no more Sabbath at Pakanae’.<sup>215</sup>

There was other evidence of communities rejecting Christianity outright.<sup>216</sup> In 1833, for example, both Titore and Tāreha banned preaching from Kororāreka, though they later relented. Some of their anger concerned missionary interference in their planned taua to Tauranga; some, apparently, concerned fears about land (see section 5.9). Claimants also told us about the dislike that rangatira such as Te Kēmara and Pororua had for the missionaries.<sup>217</sup> Instead of adopting Christianity, these rangatira and others such as Waikato became followers of the syncretic Christian faith developed by the prophet Papahurihiia.<sup>218</sup>

Papahurihiia emerged around 1833 with a teaching that brought together aspects of Māori and Christian beliefs. He regarded the Scriptures as true but claimed that the Anglican missionaries had corrupted their meaning. There was a Heaven, but it was one that spoke to 1830s Māori concerns, offering ‘flour, sugar, guns [and] ships’ in plentiful quantities, while Hell was reserved for the missionaries and other opponents of the new faith. Papahurihiia was the first to identify Māori as ‘Hūrae’ (Jews), and his faith also identified with the Nakahi, the serpent from Genesis. While many features were Biblical adaptations – Papahurihiia was literate and may have attended CMS services – others were ‘identifiably Maori in origin’.<sup>219</sup>

The legacy of Papahurihia among Ngāpuhi is enduring, not least because the wānanga he established, Te Wharewānanga o Te Ngākahi o Ngāpuhi, has ensured the preservation of tribal knowledge, including the prophecies of the spiritual leader himself.<sup>220</sup> According to Rima Edwards, after the Northern War of 1845 to 1846 many leading rangatira from both sides entered this wānanga, and at Te Raupo, Hokianga, Aperahama Te Taonui inherited Papahurihia's prophetic powers. On that occasion, Aperahama is said to have bound Jesus Christ to Tangaroa through prayer: 'Na tenei karakia i herea ai nga whakapono o Te Ao ki Hokianga / By this prayer the beliefs of the World were bound together in Hokianga.' This was done, Edwards maintained,

Kia u ki nga tikanga whakapono a o tatou Matua Tupuna whakapiria ki nga karaipiture kia tu kotahi ai / to uphold the custom faith of our Ancestors [and] Bind them with the Holy Scriptures so that they stand together.<sup>221</sup>

Nuki Aldridge also rejected the notion that Christian influences undermined 1830s Māori society:

now historians talk about the introduced religion in terms of a loss of our people's culture and social structures. I don't recall any of the elders talking about a conflict in the power of the tribe.

Nor, Aldridge argued, did biblical teachings replace existing beliefs. He argued that there were many parallels between Christianity and Māori belief systems: both, for example, believed that all of life had a single, divine source even if they used different names, and missionary rules for behaviour also had parallels in the Māori world. 'Maoridom was very religious', he pointed out, 'and Maori already knew about all these things.'<sup>222</sup>

The great conversion of the 1830s, in other words, was not as complete as some accounts have made it seem. Māori interest in Christianity and its ways certainly grew tremendously during the decade. But, if the CMS figures are reliable, only a minority of Māori in the Bay of

Islands and Hokianga were attending church services by the end of the decade, and still fewer had been baptised.<sup>223</sup> Even among those who did profess themselves mihinare Māori, the 'conversion' seems often to have been incomplete. Māori continued to live according to the requirements of mana, tapu and utu even as the European atua took its place among others in Māori whakapapa. There was also backsliding, as Christian Māori – either as individuals or as communities – experimented with and then rejected Christian ways. Overall, Christianity was adapted to Māori purposes. As Belich suggested, Māori converted it as much as it converted Māori.<sup>224</sup>

### 5.5 MANA PUKAPUKA: THE PURSUIT OF LITERACY

To 'learn the book' was a phenomenon of the 1830s at least as much as Christianity.<sup>225</sup> The two went hand in hand, since – initially at least – it was the missionaries who spread this new form of communication through their schools and then through translations of their books. In the second half of the 1820s, according to the missionary accounts, some hundreds of northern Māori children went through mission schools in the Bay and Hokianga, learning to read and write along the way.<sup>226</sup> The first letter known to have been written by a Māori was from one of these students, Eruera Pare, to 'te tini rangatira o ropi' ('the many chiefs of Europe'), asking for writing paper and an invitation to visit.<sup>227</sup> As noted in previous chapters, Pare would go on to become the kai tuhuhu (scribe) for the 1831 petition to King William IV, and he Whakaputanga. For many Māori during the 1820s, literacy was initially seen as 'more of a novelty than a benefit'.<sup>228</sup>

Late in that decade, however, attitudes began to change. There is debate about exactly what caused this shift, and indeed about how genuine it was. Missionary accounts tended to suggest that Māori had suddenly acquired a hunger for the words of the European God, reflecting the missionaries' perception of themselves as messengers of a superior culture.<sup>229</sup> To many historians, however, the situation was the opposite: it was the hunger for literacy, seen as the 'magical keys to European knowledge', that created

interest in Christianity, or at least provided the vehicle for its spread.<sup>230</sup> Whatever the underlying reason, it is clear that interest in literacy was growing during the late 1820s, and that growth continued throughout the following decade.<sup>231</sup>

The first CMS translation of Scripture into Māori appeared in 1827, comprising excerpts from the books of Genesis and Exodus, and the gospels of Matthew and John.<sup>232</sup> Further translations of hymns, prayers, and excerpts from Scripture appeared in 1830 and 1833;<sup>233</sup> and missionary accounts are filled with references to Māori asking for these books and reading them.<sup>234</sup> The missionaries claimed also that children attending mission schools learned to read and write (in Māori) with considerable ease, often with minimal instruction.<sup>235</sup> One visitor to the Paihia school in 1833 commented that 'The writing of the senior classes was really better than that of most schoolboys in England', while missionaries also noted that books were considered so valuable that Māori would pay for them with pigs or – in one case – a hoe and axe.<sup>236</sup>

According to William Colenso, so enthusiastic were Bay of Islands Māori for 'the book' that in 1834 when he arrived with his printing press, they 'danced, shouted and capered about . . . giving vent to the wildest effusions of joy'.<sup>237</sup> He set to work on what has been called 'the first great book printed in New Zealand', a Māori translation of the New Testament, 5,000 copies of which became available early in 1838.<sup>238</sup> Demand, Colenso later recalled, was 'great beyond expression, from all parts of New Zealand'; Panakareao sent a messenger from Kaitaia asking for a single copy and offering a gold sovereign as payment.<sup>239</sup> By 1845, after further printings, it was said that one copy of the New Testament existed for every two Māori in the country.<sup>240</sup>

Estimates of how many Māori actually learned to read and write vary widely. William Yate, in 1833, estimated 'some hundreds' in the north; the following year, the adventurer Edward Markham rather fancifully put the number as 'not less than ten Thousand'.<sup>241</sup> The Anglican missionary George Clarke in 1833 wrote that 'in every village' there were Māori who could read and write, and in many villages there were schools run entirely by Māori

who showed 'considerable proficiency'.<sup>242</sup> By 1839, however, the Wesleyan James Buller was still counting literate Māori in the hundreds.<sup>243</sup>

There is no doubt that some Māori could indeed read and write, but Donald McKenzie argued that many others achieved only 'minimal competence' or simply repeated from memory what had been read to them.<sup>244</sup> McKenzie gave examples of Māori demanding new reading material because they had 'committed to memory' or knew 'by heart' all that had been printed.<sup>245</sup> There is compelling evidence of this memorisation process in the experience of Kuri, a close relative of Te Morenga, who was fully blind and yet was able to repeat the Gospel of Matthew word for word.<sup>246</sup>

McKenzie also questioned whether Māori may have been interested in books as objects at least as much as in literacy itself. Taumata-a-kura's decision to take a copy of the Bible into battle is one example. McKenzie referred to other instances in which books were credited with the power to protect against either enemies or 'evil spirits'.<sup>247</sup> Overall, in McKenzie's view, the missionary accounts of Māori literacy during the 1830s amounted to little more than 'expressions . . . of wishful thinking', or perhaps of politics: 'Victims of their own myths, the missionaries found what they wanted to find, and reported what they believed their London committee wished to hear'.<sup>248</sup>

McKenzie's intention was not to dismiss the achievements of those Māori who did become literate. Rather, he was responding to the perception, suggested by missionary accounts, that northern Māori within a single generation had made the transition from oral to literate culture. As he put it, this implied not only a widespread ability to read and write fluently but also

a readiness to shift from memory to written record, to accept a signature as a sign of full comprehension and legal commitment, to surrender the relativities of time, place and person in an oral culture to the presumed fixities of the written or printed word.<sup>249</sup>

McKenzie was referring here to binding contracts or treaties, and so his point is of obvious significance to this

inquiry. In chapter 4, we recorded Manuka Henare's view that Māori culture remained an oral culture in 1835, and that signing texts such as he Whakaputanga was merely 'a way of concluding substantive agreements reached orally'.<sup>250</sup> Similar arguments were made in respect of te Tiriti, as we will discuss in chapter 8.

There are some writers, however, who saw significance in one aspect of this new form of communication: that of letter writing. Following Pare's example, other Māori either wrote or dictated letters during the 1830s, sometimes requesting baptism, sometimes for political purposes. Some of these letters referred to 'Nu Tirenī' or similar variants, and to 'tangata Maori', suggesting to Manuka Henare a growing sense of shared identity and national consciousness.<sup>251</sup> At least one letter writer in the later 1830s made reference to ideas about law or government, as we will discuss in section 5.7.<sup>252</sup> To Ballara, as well as to many other historians, the use of letters for political purposes was significant:

To a chief . . . [it] meant that his words, even long messages, could be sent accurately and unaltered to a recipient hundreds of miles away; this was a spatial extension of his mana.

Ballara noted, however, that these letters were most often written on behalf of rangatira by missionaries or Māori who were mission-educated. As she put it, even by 1840 'literacy and chieftainship were not always combined in the same person' and letters sent on behalf of rangatira were furthermore 'still rare enough to cause comment by observers each time they encountered evidence that it had happened'.<sup>253</sup> In McKenzie's view, rangatira saw letters as extending their mana to whichever part of the country they were sent to, but not as binding for all time. He also questioned the extent to which letter writing provided evidence of literacy, noting that even among the younger generation of Māori who had been educated at mission schools and wrote their own letters, there was considerable diffidence and insecurity in the language and tone they adopted.<sup>254</sup>

Some later writers have challenged aspects of McKenzie's analysis;<sup>255</sup> few, however, have questioned his

overall conclusion that Māori culture by 1840 was 'still primarily oral'.<sup>256</sup> Belich, in *Making Peoples*, saw considerable evidence of Māori interest in reading, writing, and books themselves, but concluded that 'Maori literacy in the 1830s has been exaggerated somewhat by writers overeager to praise the Maori for being like "Us"'<sup>257</sup> Both Ballara and Owens argued that the true expansion of Māori literacy occurred in the 1840s and 1850s, rather than earlier.<sup>258</sup>

Those who gave evidence to this inquiry similarly emphasised the continued dominance of the spoken word in 1830s Māori society. Merata Kawharu commented that 'literacy was still in its infancy at 1840 and oral communication was . . . primary'.<sup>259</sup> Phillipson said that the use of written deeds for land transactions (discussed in section 5.9), growing attendance at mission schools, the 'craze for having bibles and public readings of them', and the growing use of letters were all evidence of Māori recognition of written documents as important:

This did not necessarily mean lots of Maori could read and write, but that the written word had assumed significance in the Bay of Islands by 1840, especially for those hapu who had become Christians.<sup>260</sup>

Henare, Petrie, and Puckey also concluded that 'the spoken word and art forms' remained the principal forms of communication among Māori in the 1830s, although there was 'willingness to utilise new means and tools of communications when it suited Māori purposes'.<sup>261</sup>

In our view, there can be no doubt that the spoken word retained primacy among Bay of Islands and Hokianga Māori throughout the 1830s. Relatively few rangatira could read and write fluently, and for those who could there is no evidence that the written word suddenly assumed greater weight or importance than what was said face to face. Indeed, the emphasis placed on oral tradition by many of the claimants in this inquiry is an indication of the extent to which the power of the spoken word, handed down from generation to generation, remains a central feature of the culture. According to Haami Piripi, what continues to matter to the claimants is not what is written down, but 'the orally transmitted stories about

expectations, deeds, aspirations and strategic objectives of our Tupuna.<sup>262</sup>

It remains only to add one final perspective, that of Nuki Aldridge, whose detailed evidence about he Whakaputanga we discussed in chapter 4. In Aldridge's view, although their communication was principally oral, Māori were interested in writing as a means to 'transfer their own culture into the future', and also because it allowed them to bind Pākehā. Māori, he said, 'were of the opinion that the English couldn't keep the spoken word, they could only keep the written word. The written word was a new thing to Maori.'<sup>263</sup>

## 5.6 WARFARE AND PEACEMAKING

The 1830s, as we have seen, were years of relative but not absolute peace for Bay of Islands and Hokianga Māori. Of the conflicts that occurred, the most significant internally were those between the northern and southern alliances over Kororāreka in 1830 and 1837; and the 1833 sparring between Moetara and Ngāti Manawa, Te Hikutū, and Te Rarawa. All of these conflicts were to a considerable extent motivated by the desire to acquire mana by controlling trade (concerning the 1830 and 1837 conflicts, see chapters 3 and 4). There were also external taua: Titore and others went to Tauranga in 1832 and again in 1833;<sup>264</sup> and Pukerangi and Te Tirarau, as well as Kawiti and Pōmare II, mounted campaigns in the Waikato in 1832.<sup>265</sup> The last external taua was Pōmare II's expedition to Great Barrier Island in 1838.<sup>266</sup>

The relative peace of the 1830s emerged around the same time as Māori were experimenting with western economic systems, and with Christianity and literacy. This concurrence of timing has given rise to various theories in which western influence has been credited as bringing peace to a society that had no effective indigenous methods for conflict resolution, and so was mired in cycles of virtually endless warfare. Initially, the missionaries cast themselves in this role: their dispatches and journals contain numerous stories of their feats of peacemaking, both as individuals and as heralds of the Christian God and law. Their stories won some converts among earlier generations of

historians, including Wright, who concluded that, having lost their military superiority around the end of the 1820s, Bay of Islands Māori 'no longer wanted to keep fighting wars, but knew of no obvious formula for stopping them' and so turned to Christianity.<sup>267</sup> More recently, Lyndsay Head has argued that, as a result of the one-sided and catastrophic (for the victims) external taua of the 1820s, warfare began to lose its meaning in the Māori world, prompting a search for new values which she argued were to be found in the possession of material wealth and the adoption of missionary ideas of law and government. She put it that

God's law was efficacious in the area where traditional society had nothing to say: it dispensed utu without war. Christianity offered a model of governance where peace was protected by law, and where revenge was the responsibility of the state.<sup>268</sup>

The most detailed analysis of Māori warfare and peacemaking during the early nineteenth century is Angela Ballara's *Taua*, in which she dissected not only the military campaigns of the period but also the social changes that occurred around them. To Ballara, the introduction of muskets affected military tactics as well as, briefly, the scale of killing. However, throughout these decades warfare occurred for customary Māori reasons – to repair or neutralise damage to tapu or mana. It occurred, furthermore, only where other traditional methods of dispute resolution were inadequate or had failed, and it continued to be governed by tikanga, including the use of ritual to constrain conflict, especially between kin. While she acknowledged changes such as the decline of cannibalism and the release of captives, in Ballara's view 'the nature of Maori warfare remained essentially the same in 1845 as it had been in 1800'.<sup>269</sup>

Ballara's interpretations were consistent with those of Belich, who had argued in *The New Zealand Wars* that Māori systems of warfare remained 'essentially indigenous' even after 1840.<sup>270</sup> Phillipson also emphasised the continuity of Māori motivations and tikanga. He noted also that the main period of conflict around the Bay of

Islands had been towards the end of the eighteenth century – far too early for the musket or any other form of European intervention to have brought about significant social change.<sup>271</sup>

If warfare continued during the 1830s to be conducted for Māori purposes and using Māori methods, what of peace and peacemaking? There are many theories about why there was less conflict during this decade. It is undeniable that the missionaries contributed, both through their ideas and through their direct interventions as mediators. Peace was certainly recognised as an integral part of the Christian message, and there is clear evidence of Christians sometimes refusing to fight or join taua muru.<sup>272</sup> Indeed, as already noted, the association was so close that it deterred some rangatira from conversion – either because they wanted to keep fighting or because they feared conversion would leave them unable to defend themselves against aggression.<sup>273</sup> ‘There are many,’ wrote the Paihia missionary Charles Baker, ‘who are exceedingly desirous to live a life of industry & quietude’ but in doing so would ‘render themselves liable to every encroachment & insult their heathen neighbours may be disposed to occasion them’<sup>274</sup> As discussed above, there were also Māori who adopted Christianity – or at least showed considerable sympathy towards missionary ideas – but still engaged in warfare or taua muru. There were others who converted but remained unsure about when they should fight, as the example of Wiremu Hau shows (see section 5.7).

The role that missionaries such as Henry Williams played as mediators was also significant. Sometimes, as Ballara noted, missionaries ‘risked bullets in attempts to make peace’, and in doing so won respect among Māori leaders and a willingness to seek their counsel.<sup>275</sup> But there is also an element of myth-making in stories of missionary peacemaking. Long before the missionaries had appeared, Māori had a tradition of using neutral peacemakers – men or women of rank who were related to both warring parties.<sup>276</sup> What occurred from the late 1820s was that missionaries were co-opted into this role, allowing warring parties to achieve peace without loss of mana. Most often, the missionaries were not so much

peacemakers themselves as assistants to the Māori peacemakers.<sup>277</sup> There is clear evidence of this in the Bay of Islands and Hokianga conflicts of the 1830s which were all resolved through the mediation of senior rangatira. In 1830, according to Ballara, it was the leading rangatira of the warring parties who arranged peace, with missionary assistance.<sup>278</sup> In 1833, conflict between Moetara and Ngāti Manawa, Te Hikutū, and Te Rarawa eased when reinforcements joined both sides, before lasting peace was negotiated by Tāwhai.<sup>279</sup> In 1837, the second Bay of Islands conflict was, according to both Hobson and Polack, resolved partly because utu was achieved and partly through the intervention of Patuone and Nene (see section 4.8.2). One of the most telling comments about that conflict was made by Busby himself: ‘No influence had any effect with the contending parties,’ he wrote to Governor Bourke, ‘until it suited their purpose’.<sup>280</sup>

Peacemaking during the 1830s was also achieved using other Māori methods. Intermarriage, gifts, land, feasts, and the return of war captives were all traditional methods of securing peace that remained in use during this period.<sup>281</sup> The 1837 conflict, for example, was resolved when Pōmare II, having accused the northern alliance of murdering a missing female relative, promised to give land as reparation should she turn up alive.<sup>282</sup> Patuone’s 1833 marriage to a high-ranking Ngāti Paoa woman concluded peace with that tribe and also extended Patuone’s influence into the Hauraki.<sup>283</sup> Earlier, as we described in chapter 4, peace with Waikato had been secured through marriage between Rewa’s daughter and Te Wherowhero’s son.

Furthermore, as historians as diverse as Wright and Belich have said, the idea of the missionary peacemaker faces a problem of timing: declining warfare came first; large-scale interest in Christianity followed. To Wright, it was ‘quite clear’ that Christianity did not cause the decline.<sup>284</sup> To Belich, ‘peace . . . made Christianity more than Christianity . . . made peace’.<sup>285</sup>

Clearly, then, missionary influence was not the main reason for the relative peace of the 1830s, even if the missionaries made some contribution. Another explanation is that warfare no longer served its former purposes: that

is, it no longer provided Māori with a means of acquiring mana or extracting utu for past events. This, it has been suggested, occurred largely because the spread of muskets had made military victories harder to achieve; in particular, there was much less prospect of success for long-distance taua, since they were more frequently encountering opponents with firearms. According to some historians, weariness with war following the intense campaigns of the 1820s was also a factor.<sup>286</sup>

Another possible reason for Bay of Islands Māori undertaking fewer external campaigns in the 1830s is that the victories of the previous decade may have already achieved the balance that they had been seeking. Te Ika-a-Ranganui, for example, had avenged long-standing grievances against Ngāti Whātua. After that and other victories, there may simply have been less need for major external taua. Indeed, the claimants told us how Te Ika-a-Ranganui extended the mana of Ngāpuhi, and how deliberate efforts followed to achieve peace between the neighbouring tribes.<sup>287</sup> Where there were outstanding take, such as in 1832 and 1833, when Titore and others were seeking utu for the previous battle deaths of high-ranking people, fighting continued.<sup>288</sup>

Yet another explanation for declining warfare, put forward by Ballara, was that increasing European settlement in the Bay in the 1830s acted as a brake on conflict between neighbouring Māori. This was not through any civilising effect, but because European settlements provided a buffer between rival groups, and because as more Europeans settled among them Māori tended to migrate less often – in particular, she said, they left some of their coastal settlements and remained on ancestral lands in the interior. Increasing contact and settlement may also have meant there was less competition and conflict over access to Pākehā and their goods.<sup>289</sup> It is important to remember, too, that warfare did not stop all at once as the result of a single, region-wide decision; it declined slowly over a period of time, with some individuals and communities continuing to fight while others made deliberate decisions to stop.

We return now to the argument that declining warfare was motivated by Māori adoption of European economic

values and that it was achieved through Māori turning towards Western ideas of law and government and away from the imperatives that had traditionally underpinned intertribal warfare.<sup>290</sup> We have already said that the focus of Māori activity during the 1830s was turning towards economic gain, which would suggest that warfare may have declined in relative importance as a source of mana. We also agree that there was interest among *some* Māori in experimenting with ture as a means of resolving conflicts, as we will discuss below; however, we are not convinced that the second of these developments was general among Māori in the Bay of Islands and Hokianga or in other parts of the north. Nor do we believe Head's assertion that the taua of the 1820s were mere 'predatory larks' conducted for non-traditional reasons; rather, we are convinced by Ballara's view that they were fought for traditional reasons concerned with utu and mana, albeit using new technology.<sup>291</sup>

We furthermore cannot see that there was a clear chain of cause and effect, from the growing desire for material goods to the desire for peace through to the adoption of European ideas of law and government, as Head appeared to suggest. First, as discussed above, the decline in warfare began before there was significant engagement with missionary ideas. Secondly, the relationship between declining warfare and trading relationships was not a simple one. Undoubtedly, there were times when warfare disrupted trade.<sup>292</sup> There were also times when warfare occurred precisely because of trade, as in the battles over Kororāreka in the 1830s. Often, trade happened because of warfare: that is, Māori sold produce to gain weapons, which were then used to enhance mana and achieve utu.<sup>293</sup> As noted above, the musket remained the dominant import up to the mid-1830s and a significant import for some years after that.<sup>294</sup> Under these circumstances, a simple cause-and-effect link cannot be drawn between trade and peacemaking. Finally, as we have discussed extensively in this report, senior rangatira such as Titore, Patuone, Moetara, Pī, Pōmare II, and many others were engaging intensively in trading relationships, and in political relationships with Britain, while at the same time applying distinctly Māori values to warfare and peacemaking.

Just as traditional motivations for warfare endured during the 1830s, so did traditional political structures: wars were still conducted by autonomous but related hapū, who could act in concert or separately. Ballara gives some very clear examples from the 1832 campaign to Tauranga. The decision to go to war, she said, followed a ‘series of long debates held between the chiefs of different communities and hapū at Kororāreka and elsewhere before each decided for himself whether to go or stay’. Pressure was brought to bear on those who did not want to go, but they could not be compelled to. Once each rangatira had committed to join, ‘he led his group separately’, each leaving on different dates and travelling by different routes. Even in battle, hapū acted independently and made ‘independent moves’ without consulting each other. Ballara reported that Henry Williams asked Rewa why the parties did not travel together, and ‘Rewa replied that it was their usual way for each party to go where they liked, that everyone was his own chief’.<sup>295</sup> Overall, Ballara concluded that there was no ‘central war command’, nor even a common plan:

It was regarded as Titore’s taua, at least by the missionaries, because he had initiated it and because he had stayed out the longest and brought back the most heads, but in reality it was as much Ururoa’s . . . or Te Wharerahi’s or Tohitapu’s.<sup>296</sup>

Busby gave a contrasting example of the complex interplay of autonomy and kinship in his account of the 1837 conflict between the northern and southern alliances. Describing missionary efforts to mediate in the dispute, he reported that there were rangatira fighting with Pōmare who were ‘unfriendly’ to his actions and were willing to negotiate with the northern alliance with the intention of concluding peace. They were, however, ‘constrained to take part with him [Pōmare]’ so long as he was unwilling to listen to the peace overtures.<sup>297</sup> This brief dispatch, we think, shows that southern alliance rangatira, like their northern alliance counterparts, were autonomous (they were able to take part in talks with the missionaries against Pōmare’s will) but nonetheless in a time of war they had obligations, owing to kinship or some other imperative, which they could not ignore.

One final aspect of warfare and peacemaking that deserves consideration is the release of war captives in the late 1830s. Both Ballara and Phillipson thought that Christian influence was probably a factor in this,<sup>298</sup> though both also saw evidence that the releases took place as part of traditional peace-making techniques.<sup>299</sup> Ballara said that some high-ranking captives had been taken for the specific purpose, giving the example of Kawepō of Ngāti Kahungungu, who was captured and taken to the Bay of Islands in the early 1820s, but ‘was always treated as a person of rank, was tattooed as a chief while in the north, and was later released and restored with honour to his people’.<sup>300</sup>

### 5.7 TIKANGA AND TURE

In chapter 2, we described the Māori system of law, based on tapu and utu, enforced through well understood mechanisms such as rāhui and muru. During the 1830s, as British involvement in New Zealand intensified, the missionaries and Busby made concerted efforts to persuade Māori to adopt British or missionary approaches to law and its enforcement, at least in contexts where Māori and Europeans were in conflict. It became increasingly common for Māori to approach the missionaries or Busby to intervene in disputes with Europeans, in circumstances where they might previously have sought satisfaction through taua muru. Busby and the missionaries encouraged this, casting themselves as kaiwhakarite (variously translated as mediators or judges). However, we suspect that rangatira did not see them as impartial intermediaries, but rather as people they could task with sorting out wayward Europeans. Certainly, when the Europeans complained to Busby about the actions of rangatira, the rangatira saw little need to respond, let alone submit to his intervention.<sup>301</sup>

Another example of missionary intervention was the ‘kooti whakawā’ or ‘court of enquiry’, which came into use in the early 1830s at CMS mission stations in the Bay of Islands to deal with disputes or breaches of mission rules. In one case, a kooti was held to determine punishment for a man who had inadvertently cursed a young relative; in

another, one was convened over an accusation of theft. By 1835, kooti were occasionally held outside of the mission to resolve disputes between Māori and Europeans, such as when two Māori were accused of burning down a European's house. It was not until after 1840 that these kooti spread beyond the Bay of Islands, and even within the Bay they only occasionally replaced more traditional forms of dispute resolution such as taua muru.<sup>302</sup>

A related development was the use of 'komiti' – another initiative that took place within mission stations and involved kōrero to solve a problem or dispute. According to O'Malley and Hutton, these meetings were modelled on committees the missionaries themselves held to manage their affairs, though there was also strong Māori precedent in the gatherings that hapū held to discuss matters of significance. As with kooti, komiti were relatively rare before 1840.<sup>303</sup> One example of the limits of these initiatives was provided by the missionary Charles Baker, who described a komiti concerning an attempted abduction in 1833:

The natives had much to say in committee but to little purpose nor was it necessary to examine the propriety of their proceeding inasmuch as they have all law in their own hands & where that is the case it is but of little use to hold a Committee.<sup>304</sup>

Clearly, Māori were taking part in these initiatives voluntarily, on their own terms, and only in very limited circumstances. The significance of kooti and komiti was not that they had replaced traditional forms of dispute resolution, but simply that some Māori were willing to entertain the *idea* that there were different ways of doing things. The best-known example of this was a letter from the Christian convert Wiremu Hau to Samuel Marsden in 1837. We have only an English translation, which was made by a CMS missionary in 1837:

Sir, – Will you give us a Law? This is the Purport of my Address to you. 1st, If we say let the Cultivations be fenced, and a Man through Laziness does not fence, should Pigs get into his Plantation, is it right for him to kill them? Do you give us a Law in this Matter. 2d, Again, – should Pigs get into

fenced Land, is it right to kill or rather to tie them till the Damage they have done is paid for? Will you give us a Law in this? 3rd, Again – should the Husband of a Woman die, and she afterwards wishes to be married to another, should the Natives of unchanged Heart bring a Fight against us, would it be right for us to stand up to resist them on account of their wrongful Interference? Will you give us a Law in this also? 4th, Again, – in our Wickedness, One Man has Two Wives, but after he has listened to Christ he puts away one of them, and gives her to another Man to Wife. Now, should a Fight be brought against us, and are we, in this Case, to stand up to fight? Give us a Law in this. 5th, Again, – should Two Men strive one with the other. Give me a Law in this. My (Ritenga) Law is, to collect all the People together and judge them for their unlawful fighting, and also for wrongfully killing Pigs. Therefore I say, that the Man who kills Pigs for trespassing on the Plantation, having neglected to fence, had rather pay for the Pigs so killed. Will you give us a Law in this? Fenced Cultivations, when trespassed on, should be paid for. These only are the Things which cause us to err; Women, Pigs, and fighting one with another. 6th, But here is another, – should a Man who is in the Church come in a Fight against us? Give us a Law in this. Another Thing which we are afraid of, and which also degrades us, is this, Slaves exalting themselves above their Masters. Will you give us a Law in this also?<sup>305</sup>

The following year, according to one account, Hau told Bishop Broughton that all rangatira wanted a code of laws, and would willingly submit to them.<sup>306</sup> The CMS used Hau's letter in an attempt to persuade the 1838 House of Lords select committee that Māori lacked any government of their own and wanted Britain to provide one.<sup>307</sup> To historians in this inquiry, however, the letter's significance was less clear. Certainly, they told us, it showed evidence of change in Māori society: first, new farming methods were giving rise to new sources of conflict, for which new rules were sought; second, and more significantly, Christianity was challenging social hierarchies by giving slaves confidence to challenge their rangatira (a matter we will return to below); third, Hau's request for a law had been made using a new form of technology: writing. On the other hand, a careful reading of the letter also

showed considerable evidence of continuity. It confirmed that taua muru were still a dominant form of dispute resolution, and that the use of force had not been set aside even among Christian Māori. It confirmed the traditional principle that balance should be restored through direct compensation of the wronged parties, rather than through recourse to a higher authority. It also made clear Hau's position as rangatira and therefore as leader and mediator within his community.<sup>308</sup> Most significantly, a careful reading of Hau's letter confirms that he was not proposing that anyone else should make decisions for him. Rather, he was seeking advice: for each of the issues Hau raised, he simply stated what his own approach would be and asked if Europeans would handle the matter differently.<sup>309</sup>

We also note that, because we have only a missionary translation of this letter, we have no way of knowing the extent to which it genuinely reflects the content of the original. Marsden, in forwarding it to the CMS Committee in London, was clearly seeking British intervention: he remarked that it was evidence of Māori wanting a King, when the letter did not say anything like that; and he also sought to elevate Hau's status by saying that he 'succeeds the late Shungee' (Hongi).<sup>310</sup>

If missionary attempts to influence Māori approaches to law and its enforcement met with only limited success, much the same could be said for Busby's efforts. We discussed the Whakaputanga in chapter 4, and there set out our reasons for believing that the adoption of ture was not the prime motivating factor for rangatira who signed that declaration. Rather, rangatira were concerned with seeing off the foreigner who had claimed he was coming to be their King. Aside from the Whakaputanga, Busby's efforts to guide Māori towards the practical use of ture came to relatively little. In 1837, he persuaded a committee of rangatira to sign a warrant authorising the arrest and deportation of two of the men accused of attempting to murder of the trader Captain John Wright (as mentioned in chapter 4). According to Busby, this committee was appointed by te Whakaminenga and comprised Heke, Wharerahi and Te Kēmara, possibly also joined by Pumuka and Marupō.<sup>311</sup> All except Pumuka (Te Roroa) were northern alliance rangatira.<sup>312</sup>

Then, in 1838, a 'slave' named Kite was tried (for want of a better term) and executed for the murder of a British sawyer named Henry Biddle. There are various versions of what occurred, but it seems that Biddle asked Kite and his young master, the son of a rangatira, to take him in their waka to Whirinaki where they all lived. During the journey, Biddle was assaulted, apparently for refusing to pay, and either was killed outright or stumbled into the water and drowned. When Biddle's body was found, Busby was sent for. He asked for both Kite and his master to be given up for trial, the settlers having threatened a violent response if the offenders were not brought to account. Patuone, Nene, and the missionary Nathaniel Turner arranged with the Whirinaki leaders for Kite to be handed over, but – according to Busby's account – they refused to give up the boy. The trial went ahead at Mangungu, apparently with an all-Pākehā jury, and Kite was convicted. Two days later he was taken to a nearby island and shot by a Māori executioner, with the consent of the Hokianga rangatira.<sup>313</sup>

In Busby's eyes, the trial had been conducted as fairly as possible under the circumstances, and had 'perhaps for the first time' introduced Māori to the possibility of justice administered dispassionately, with punishment inflicted only on the guilty and not their kin. The New South Wales Attorney General however suggested that Kite had been shot not for his guilt but because he was a 'slave', and said that approving the Resident's actions would dishonour the British government.<sup>314</sup> Many who have written on the subject have agreed. Jack Lee, for example, suggested that Māori law alone should have applied, instead of Busby's attempt at 'half-baked justice'.<sup>315</sup>

It is not clear from the accounts available that Patuone, Nene and the Whirinaki leaders were greatly interested in British justice. It seems more likely that they were interested in pacifying settlers and so preserving valued relationships. Giving someone of low status as utu for a sawyer must have seemed a relatively simple and pragmatic way of achieving this, and was entirely consistent with Māori values at the time. Another significant feature of this case is that real authority remained with the rangatira: it was they alone who determined the circumstances

in which Busby's justice system was to be used, and who would be sent for trial and execution. As Busby conceded, the trial and sentence were possible only because 'the guilty party [was] . . . a slave, over whom his master held the power of life and death.' Any attempt to pursue the boy over Biddle's death, he wrote, would have met with armed resistance from his whole tribe. Other than a 'slave', he said, there was

not the least ground to expect that . . . any New Zealander would be given up by his tribe for the purpose of being brought to trial and punished for any offence he might commit.<sup>316</sup>

This suggests that there were very real limits on Māori experimentation with ture. The Pākehā rules might be accepted if doing so was consistent with Māori laws and values, but otherwise not. We are reminded of Nuki Aldridge's explanation of the Māori system of law, which we have discussed in previous chapters. According to Aldridge, ritenga (rules) could be adapted to different circumstances, whereas underlying tikanga did not change. In his view, ture were simply European ritenga, which Māori could adopt as necessary, but only if they were consistent with tikanga.<sup>317</sup>

The evidence of limited Māori experimentation with ture needs also to be viewed alongside the considerable evidence that Māori law continued to be enforced, not only against Māori but also against Europeans.<sup>318</sup> Just as Māori had adapted their enforcement of tapu in order to sustain relationships and trading opportunities, early European settlers had learned to adapt their own behaviour to fit into their host communities. Even in the 1830s, most Europeans in the Bay of Islands and Hokianga (as well as other parts of the north) continued to live under the protection and authority of patron rangatira, and to a significant extent depended on them for survival. Though enforcement had become more lenient, they were expected to respect rāhui and wāhi tapu or face consequences. The consequences could be particularly severe for those who married into hapū and then strayed.

Europeans were also expected to meet obligations to their patron communities: many resented the cycle of reciprocal gift exchange, from which they generally emerged worse off but were powerless to stop. Furthermore, they could engage in trade only with the permission of their patron rangatira, who often expected a cut and some degree of control over their property.<sup>319</sup> In Phillipson's view, this package of reciprocal obligations 'demonstrates, in effect . . . that resident Europeans, and their "property" were in fact subject to Maori law' right up to the end of the 1830s and beyond.<sup>320</sup>

Many claimants emphasised the extent to which Ngāpuhi looked after newcomers, while also noting the mutual obligations this involved. Hirini Henare stated that 'our tupuna protected the foreigners that lived here at that time'.<sup>321</sup> O'Malley and Hutton argued that 'few of the Pakeha resident in Northland prior to 1840 could have survived for any length of time without the active protection and assistance of local Maori', even as they resented being 'subjected to Maori law and domination as the price for being permitted to remain'.<sup>322</sup>

On the vast majority of occasions, the price for breaching obligations to hapū or rangatira was not recourse to Busby or Henry Williams, but the direct sanction of taua muru. Described by Europeans as 'stripping parties', taua muru were in fact the most commonly used method for peacefully resolving disputes between kin. Typically, the group to be subjected to a taua muru would receive a warning a day or two in advance, giving them time to prepare a hākari. When the taua muru arrived, there would be a ceremonial challenge, which could be followed by a discussion, during which appropriate utu might be agreed. Property would then be removed, often in large amounts, and the feast would be eaten. Sometimes, for smaller grievances, gift-giving or the feast itself would serve as appropriate utu, rather than full-scale plunder. Europeans, who generally misunderstood their purpose, saw them as little more than legitimised theft. Nonetheless, Europeans were frequent targets. Mission stations were frequently subjected to taua muru during the 1820s, and violence sometimes erupted when the missionaries resisted.

During the 1830s, taua muru against Europeans became less common as Māori often ignored minor breaches of their laws. TAUa muru against Europeans also became less intimidating, and victims could more often negotiate the utu to be paid, rather than simply watching as their goods were carried off. For reasonably serious breaches of tapu or other laws, however, taua muru against Europeans continued. Furthermore, unconverted Māori and Christians alike took part, providing further evidence that conversion to missionary values was often incomplete.<sup>323</sup>

If Māori law and hapū control of resident Europeans was the general rule, there were at least partial exceptions in the Bay of Islands. Through the establishment of their own farms, and through competition between rangatira for European books, ideas, and technology, the mission stations had established some degree of economic independence, and so were free to operate according to their own cultural rules, at least within their own boundaries.<sup>324</sup> Charles Darwin, when he visited in 1835, described Waimate as 'an English farm house & its well dressed fields, placed there as if by an enchanter's wand'.<sup>325</sup> By that time, it had become a small village with three large houses and several cottages, as well as a flour mill, stables, stores, large gardens, and almost 80 acres under cultivation or grazing. Its European population was fairly small: even within the mission Europeans were probably outnumbered by Māori, who did much of the building work; they were certainly outnumbered by the surrounding Māori population of perhaps 500 or so, who were engaged in cultivation of their own. Nonetheless, according to Shawcross, taua muru against the missionaries at Waimate and elsewhere became much less common from about 1830 – presumably as a result of the increased competition among rangatira to host mission settlements.<sup>326</sup>

Traders such as Gilbert Mair, James Clendon, and Captain Wright had also established themselves on substantial tracts of land, with both Māori and Pākehā employees. Mair and Clendon each had about 50 or 60 people living on their properties and came to be seen, according to Belich, as 'junior rangatira', responsible for their own people and able to operate with a greater degree

of autonomy than most Europeans in the Bay. They did not marry into their host hapū, and so were not subject to the rules of whanaungatanga to the same degree as those who had.<sup>327</sup>

In neither case, however, was there complete freedom from Māori rules or authority. In Belich's view, 'it is an exaggeration to say that missionaries became economically or politically independent of their Maori sponsors' during this period; they did, however, become 'less dependent'.<sup>328</sup> Indeed, Phillipson referred to examples of taua muru against missionaries throughout the 1830s and afterwards (even if they were more restrained than previously), which suggests that Māori continued to see missionaries as subject to their system of authority and law.<sup>329</sup>

Similarly, traders were able to live according to British cultural rules within their own settlements, though rangatira exerted some control over their economic activities. Mair and Clendon lived within Pōmare II's sphere of influence, to the extent that in 1833 Pōmare was able to seize a vessel Mair and another trader were in the process of buying (because he had a claim against the existing owner) and not return it until he received compensation. In that case, Busby expressed a desire to teach Pōmare 'a useful lesson' but conceded he was in fact powerless to do anything.<sup>330</sup> Likewise, as we have seen, Titore not only controlled the activities of timber traders at Whangaroa and elsewhere but was also able to seize their vessels. Patuone, Nene, and Moetara similarly shared control of trading activities and settler communities in the Hokianga. The Pākehā traders' Māori employees, furthermore, were often provided by rangatira, and stayed only so long as they wanted to.<sup>331</sup>

According to Peter Adams, the resident Bay of Islands European population was scattered among various settlements located along the coast, including Kororāreka, Te Wahapū (Mair's station), Ōtuihu (Pōmare's pā), Ōkiato (Clendon's station), and Waikare. Marsden reported that 131 Europeans were living at Ōtuihu during the 1837 conflict – all of them under Pōmare's patronage to such a degree that they were obliged to fight for him against the northern alliance.<sup>332</sup>

Adams estimated that the permanent population of Kororāreka in 1839 was probably not much more than 100, and that they remained well outnumbered by Māori, basing his view on estimates given by Busby and the ex-convict and grog shop owner Benjamin Turner.<sup>333</sup> Others have given higher estimates: a visiting surgeon in 1837 reported that Kororāreka had 300 Europeans, though it is not clear whether he included visiting sailors.<sup>334</sup> In 1838, Bishop Pompallier recorded that the town had 15 or 20 European houses (which would tend to support Adams's estimate) and a Māori population of about 400.<sup>335</sup> Robert FitzRoy, who visited in 1835, said that the town had 500 to 1,000 Māori residents, and 'a few Shopkeepers, who sell Spirits, and do much Harm'.<sup>336</sup> There are other accounts, recorded decades later, which appear to inflate the European population of the town, placing it in the hundreds or over 1,000, and correspondingly diminish the Māori population.<sup>337</sup> Shawcross said that as the 'respectable' European population grew towards the end of the decade, the number of 'runaways' in Kororāreka diminished, and – contrary to reputation – it became 'a quiet little seaport town busily concerned with commerce'.<sup>338</sup>

There are differing views on who was in control of the town. CMS missionary, Frederick Wilkinson, who visited with Marsden in 1837, gave evidence to the 1838 House of Lords committee on New Zealand that 'the Chiefs have kept possession of Kororāreka' but exerted no authority over Europeans in the town, who were therefore 'under no Law whatever'.<sup>339</sup> However, another missionary, Richard Davis, in 1838 claimed that

the white people are already so numerous, that the Natives may be considered to be comparatively in a subdued state. Kororāreka is already in the possession of the Europeans and, from their superior judgement and combined strength, the Natives can no longer be considered as possessors or Governors of that place.<sup>340</sup>

We do not think that European influence was anywhere near as complete as Davis said. Nonetheless, as the 1830s progressed Kororāreka's permanent European residents became more assertive, and in particular looked for ways

to control disorder among their own, largely for commercial reasons. The first, short-lived attempt occurred in 1833 and included an attempt to prevent excessive drunkenness by reducing price competition between grog sellers.<sup>341</sup> We described in chapter 4 how in 1837 some 200 settlers petitioned the King, calling for protection against a 'lawless band of Europeans' and their 'acts of outrage' and 'evil', and alleging that neither Busby nor Māori were capable of establishing order.<sup>342</sup> The petition appears to have been prompted by the assault on Captain Wright, though if that were the case the cooperation of rangatira in catching two of the offenders and dispatching them to Sydney would seem to undermine the argument that Māori lacked the capacity to exert authority. The following year, the residents of Kororāreka took matters into their own hands, forming the Kororāreka Association, purportedly to protect its members from theft, violence, and unpaid bills, and to deal with runaway sailors. The association's influence was limited to the town as far as Matawhi Bay, and it claimed the authority to frame laws applying to Māori as well as to Europeans. According to Lee, its brand of vigilante justice – which included horse-whipping, locking offenders against its ordinances in sea chests, and tarring and feathering with raupō fluff – may have reduced disorder in the town, but the association's powers were used to further the business interests of its members, and ultimately it amounted to little more than 'a private army controlled by men who were not all scrupulous'.<sup>343</sup> Adams, similarly, said that it 'smacked more of a frontier vigilante group than an embryonic government'.<sup>344</sup>

Control of drunken or runaway sailors, as well as convicts and other 'abandoned ruffians' had long been an issue for Māori and for the British, both of whom wanted to avoid any disruption of their economic activities. In general, rangatira were not greatly interested in disorder among Europeans if it did not directly affect their interests. Where conflict between the two peoples occurred, it often arose from what Māori perceived as unfair European trading practices; or from Europeans (often drunkenly) threatening or insulting Māori, or molesting Māori women; or from breaches of tapu.<sup>345</sup> The 1831 petition, though mainly targeted at a perceived French threat,

also asked the King to show his anger towards runaway sailors who were ‘troublesome or vicious towards us’ (see section 3.8.3). The short-lived 1835 liquor law in the Hokianga (section 4.2.2) had been a more direct attempt to impose order on unruly Europeans at the frontier. In the Whakaputanga, rangatira agreed to meet and frame laws for the purposes of peace and good order – indicating that disorder remained an issue, though their request for British involvement was focused explicitly on threats to their authority. The Kororāreka Association experiment, limited and illegitimate as it was, provided another example of settler assertiveness. As Belich noted, ‘the community was beginning to control its own “crime” rather than leaving it to chiefly overlords’.<sup>346</sup>

This, in turn, reflected what Belich saw as a slight and somewhat tentative loosening of Māori control over European settlements in the Bay of Islands generally, and perhaps also in the Hokianga. Many factors combined to produce this effect, including the increase in the European population, growth in the value of Europeans as providers of goods and technology, decreasing intermarriage as more European women arrived, and greater competition among hapū. In Kororāreka, another factor may have been the death in mid-1837 of Titore, whom Busby described as ‘the most influential of the Ngapuhi chiefs in preserving order in the town . . . where the natives and the British mingled in the greatest numbers’.<sup>347</sup> According to Belich, the result was that by the end of the decade at least some Europeans were no longer responsible to a single rangatira who could both control and account for their actions. To the extent that this was occurring, it represented a threat to rangatira and hapū control over the European population.<sup>348</sup>

Nonetheless, Belich was careful not to overstate this case. ‘This new autonomy in the larger European clusters was fragile and embryonic’, he wrote. We were reminded by claimants and technical witnesses alike that Māori retained clear demographic and military superiority at the end of the decade, just as they had at its beginning.<sup>349</sup> Belich was of the same view, commenting that the few hundred Europeans in the Bay of Islands ‘however rough and tough, were no great military threat to the heirs of

Hongi Hika’. Bay of Islands Māori in his view could easily have destroyed the British settlements if they had chosen to, though ‘killing the gaggles of geese that laid the largest golden eggs was the last thing they wanted’.<sup>350</sup> We agree that Bay of Islands Māori had greater fighting capacity than the Europeans of the Bay of Islands, and were restrained by their own economic motivations. They were also constrained by their awareness of Britain’s military power. Ships of war had been sent to the Bay of Islands when Busby’s Residence was attacked in 1834, and again during the Bay of Islands war in 1837 (see section 4.8.2). What occurred in Taranaki during the *Harriet* affair in 1834 (section 3.9.4) would furthermore not have been lost on rangatira. They might have been capable of forcing the residents of Kororāreka into the sea if they had felt the need, but they would also have been aware that such an action would have severe consequences.<sup>351</sup>

It is also important not to overstate the magnitude of disorder and conflict in the Bay of Islands and neighbouring areas during the 1830s. In Kororāreka and in Ōtuihu, drunken rabble-rousing, prostitution, gambling, desertion from ships, and disputes over property and payment of bills were standard daily activities among Europeans, but serious violent crimes such as the attack on Captain Wright were much less common. Likewise, violence between Europeans and Māori was relatively rare. This is remarkable, given the ready access that both had to liquor and firearms and the fact that each had their own distinct rules of conduct. There were isolated incidents, such as the murder of Biddle and the 1837 killing of an American sailor, but these were exceptions to a general rule.<sup>352</sup> According to Adams, the principal concern of those living in the Bay of Islands was with protection of property rather than personal security: ‘Livelihood, rather than life itself, needed protection’.<sup>353</sup>

Phillipson argued that the establishment of the British Residency rested on an assumption that ‘well-disposed’ settlers had nothing to fear from Māori, and in his view this generally proved to be the case.<sup>354</sup> While Busby became anxious for his family’s safety during the 1837 Bay of Islands conflict, Henry Williams felt able to leave his family for weeks at a time throughout the 1830s and

always returned to find them safe.<sup>355</sup> Overall, Māori went out of their way to avoid conflict with Europeans, not only because they wanted trade but also because most Europeans continued to live under the protection of one or more rangatira.<sup>356</sup> According to Belich, the level of violence between Māori and Europeans in this period was ‘dwarfed by the sum total of contact’.<sup>357</sup>

Overall, then, what was occurring by 1840 was far from the wide-scale disorder and loss of Māori control that some contemporary accounts – such as those of Busby and the 1837 Kororāreka petition – suggested. There was, rather, some disorder and some loosening of Māori control in Kororāreka, while in much of the north the status quo remained: Europeans lived under hapū protection, and were expected – albeit with considerable flexibility – to comply with Māori laws. Within Māori communities, Māori law remained the norm and ture an exception sometimes used in Christian contexts. As Ballara therefore concluded: ‘Maori tikanga continued in force, little changed’.<sup>358</sup>

## 5.8 RANGATIRA AND RANGATIRATANGA

We have already discussed the roles that rangatira played in leading their people into a new economic era in the 1830s. We have also discussed the resistance of many rangatira – even those on friendly terms with the missionaries – to Christianity. Some scholars have argued that Christianity and other cultural changes of the period undermined, or threatened to undermine, the status of rangatira.<sup>359</sup> Wright, for example, wrote that the 1830s was a decade of ‘fading prestige’ for both rangatira and tohunga, as missionaries attacked Māori beliefs in tapu and rongoā, preached against polygamy and warfare, told ‘slaves’ that all were equal in God’s eyes, and elevated their status by teaching them literacy and other skills.<sup>360</sup>

There is certainly evidence of disquiet among both Christian and non-Christian rangatira over these missionary actions. Wiremu Hau’s closing query about the degrading new practice of ‘Slaves exalting themselves above their Masters’, is a case in point. The same concern

was also said to be behind rangatira Moetara’s decision to remain a ‘devil’.<sup>361</sup> Henry Williams described Tāreha ‘roaring like an infuriated bull’ about a sermon in which the missionary said that ‘all men, without distinction of rank’ were condemned if they did not believe in Christ. Tāreha’s view, according to Williams, was that ‘This doctrine . . . may do for Slaves and Europeans but not for a free and noble people like the Ngapuhi, therefore they will not receive it’.<sup>362</sup>

Improved treatment of war captives during the 1830s (they were much less likely to be killed for displeasing their rangatira or in the event of their rangatira’s death) could be seen as evidence that rangatira were losing authority. Equally, these changes may have occurred for pragmatic reasons. First, the changing economy, coupled with captives’ newly acquired skills, increased their value to their rangatira. Second, the practice of killing captives was, like cannibalism, abhorred by Europeans and so threatened to disrupt trade.<sup>363</sup>

Several witnesses to this inquiry argued that European observers in the 1830s did not fully understand Māori social roles and hierarchies, and so overstated the changes that occurred during the decade.<sup>364</sup> O’Malley and Hutton reminded us that 1830s British observers came from a ‘highly class-bound’ society, and interpreted changes in rangatira roles through that lens:

Many early observers, assuming that the authority of the chiefs had earlier been more or less absolute, could not fail to conclude that this [authority] had subsequently suffered a serious and almost crippling decline. But if a more realistic starting point is adopted then the consequences of the early contact period on chieftainship appear more mixed.<sup>365</sup>

As we have explained in previous chapters, rangatira authority was far from absolute. Within their hapū, claimants told us, rangatira led by persuasion and effective management, rather than outright command. In 1823, Marsden reported that Hongi Hika was ‘feared and respected’ during wartime, but at home his followers ‘would not hearken to anything he might say’.<sup>366</sup> Though

he presumably had political motives, Busby in his 16 June 1837 dispatch observed that rangatira had ‘neither rank nor authority, but what every person above the condition of a Slave, and indeed most of them, may despise or resist with impunity’.<sup>367</sup>

As Marsden’s comment about Hongi suggests, the exception was warfare, during which rangatira could expect to command warriors from their own hapū if not any other. Wartime conquests were a considerable source of mana. As a result, some historians have argued, declining warfare and the reluctance of some Christian Māori to go into battle probably did lead to a decline in rangatira influence during the 1830s.<sup>368</sup> Ballara noted that one of the main reasons for northern alliance rangatira opposing Christianity was that they were ‘beginning to fear that the popular new doctrine was undermining not only their authority in general, but specifically their capacity to make war’. In 1835, missionary interference in Rewa’s war plans caused him to fly into a rage and strike two of his taurekareka on the head with a piece of wood so hard it was initially feared they had died. Missionary interference, along with missionary views about slavery, influenced Titore and Tāreha to resist conversion. Rangatira, in Ballara’s view, saw that interference as an attack on their mana and tapu.<sup>369</sup> She gave the further example of Mohi Tāwhai, whose conversion led one European observer to comment:

Mohi was greatly feared, but now they said to him: “How is this? When in days gone by we heard of your coming, we all took to our arms. Your name was Tawhai, but now you are called Mohi; and we have no fear in your presence.”<sup>370</sup>

Tāwhai’s experience after conversion might be contrasted with the experiences of Titore and Rewa, who did not convert, continued to wage war during the 1830s (even if they did not always meet with great success), and remained greatly feared throughout much of the north.<sup>371</sup>

If prowess in warfare remained important during the 1830s, it was far from the only source of mana for rangatira. Many witnesses referred to the roles played

by rangatira in caring for both their hapū and visitors through the advancement of economic and material prosperity and the distribution of food and goods.<sup>372</sup> As we have seen, the great economic expansion for Bay of Islands and Hokianga Māori in the 1830s was led by rangatira who were taking on roles as traders and farmers, and harnessing large workforces for these purposes. The massive scale of some of the hākari, the rapidly growing interest in British goods, and the acquisition of new skills and technology all suggest that the Māori economy was buoyant, and that the roles of rangatira as representatives of their hapū in trade negotiations, as leaders of their labour efforts, and as distributors of the goods they received can only have been enhanced during this period.<sup>373</sup> In this respect it is notable that rangatira in the Bay of Islands interior enhanced their economic status by aligning with the missionaries and acquiring their skills, and became early converts. Those in coastal areas, who had access to economic opportunities that did not involve missionaries, were in general very willing to engage with missionaries where it suited their commercial interests, but much less willing to convert.<sup>374</sup>

Politics was another sphere through which leading rangatira sought to advance their mana during the 1830s. Within their own hapū, they had traditionally acted as mediators in disputes and as leaders when their people gathered to discuss issues of the day. Externally, they also played diplomatic roles, representing their hapū in discussions with other leaders over war and peace, access to resources, or other matters.<sup>375</sup> We have seen in previous chapters that as contact with Europeans increased, these roles took on new significance: rangatira travelled overseas, wrote letters and petitions to kings and governors, negotiated with Busby, and deliberated with each other about the economic and political implications of European trade and settlement. He Whakaputanga had marked the high-water mark of European attempts to mould northern rangatira into a single, unified government with authority to enforce laws over individual hapū. Such ideas had been doing the rounds since the early 1820s. The visit of Hongi and Waikato to England had included a visit to the House

of Lords, though (as already noted in chapter 3) it probably did not give much insight into the workings of that institution. Hongi's biographer Dorothy Urlich Cloher quoted two accounts of the visit written by peers. One of those accounts reported that Hongi and Waikato 'surveyed the scene of the House with great attention'. The peers, however, were only interested in the moko and physical attributes of the 'King of New Zealand and his . . . Minister'.<sup>376</sup> The many visits that rangatira had made to Sydney would have given them somewhat more insight into the roles of governors and colonial administrators. Marsden had long advised rangatira that Māori would benefit from the establishment of 'a protecting Government', and seems to have formed the view that many were sympathetic to that goal, while also acknowledging that no rangatira would give up his own authority or that of his hapū in order to establish such a body. A careful reading of Marsden's accounts suggests that what mainly interested rangatira was the prospect of harnessing British power for their own purposes: either to subjugate weaker tribes or to defend themselves from stronger ones. Nonetheless, he and other missionaries continued to advocate – both to rangatira and to Britain – for the establishment of 'regular government', and it is clear that they played a crucial role in introducing such ideas to Māori.<sup>377</sup>

Busby, too, had from the time of his arrival in New Zealand advocated for the establishment of a government based on the collective authority of all rangatira. While he told Māori that unification and peace were needed to bring prosperity and see off foreign threats, his dispatches revealed that his principal motivation was to establish British control under nominal Māori authority. As we saw in chapter 4, his attempt to create a ruling class of 'tino rangatira' willing to act independently of their followers was destined to fail: rangatira could not see how such a system would work, and continued to act according to the interests of their hapū. He Whakaputanga was for them an unambiguous declaration of the mana and authority of rangatira in relation to their territories – an authority that remained intact in 1835 and beyond throughout almost all of the north. More specifically, as both claimant and

Crown witnesses reminded us, it was a declaration of their authority not as individuals but as representatives of their hapū.

The other significant aspects of he Whakaputanga were its agreement to meet annually to frame laws or ture, and its emphasis on alliance with Britain. Bay of Islands and Hokianga Māori leaders had been visiting New South Wales and London since early in the century, and had taken several steps that in their view would have constituted a form of alliance-building. Hongi's meeting with King George IV took on particular significance to them, and continued to be seen years later as the source of an enduring bond which was further strengthened by various events in the 1830s – the petition to King William; the appointment of Busby; he Whakaputanga – as well as in more personal ways, such as when Patuone and Nene provided kauri spars to the Royal Navy in the early 1830s, and then exchanged gifts and letters with the King (as described in section 5.3.1).

From a Māori perspective, he Whakaputanga would have been seen as strengthening that alliance, with a particular focus on trade and on seeking British protection against foreign threats. There were other times when Māori sought to enlist British power in their intertribal battles, including the examples from Marsden which we referred to above. In 1837, as the northern and southern alliances were battling in the Bay of Islands, there was a further apparent attempt to enlist British power. Panakareao, the prominent leader of Te Rarawa and a signatory to he Whakaputanga, wrote to Marsden:

Tenei ano ahau ko Nopera Pana te wakapai ana ki te tahi Kawana mo tatou, hei tiaki i a tatou. Mau ano e wakaae ki tetahi kaitiaki mo tatou. Ko ahau i tino wakaae i tou taenga mai ki konei i hua e roa iho koe. He tuhituhi noa ra taku ki a koe mau ano e wakaae ki tetahi hoia mo tatou. Mehemea e wai hoia ana te tangata Maori e kore kea e wawai me Ngapuhi e wawai nei. Me i konei te Puhipi e kore kea matou ko te 'Rarawa' a pena me Ngapuhi, e wawai ana ki te aroaro o te tangata i meingatia hei kaitiaki mo te tangata Maori. Heoi ano taku kupu ki a koe.<sup>378</sup>

A missionary translation was provided:

Here am I Nopera Pana, [?]ing a Governor to defend us. Will you consent for a person to take care of us? On your arrival here, I fully consented; and thought you would have remained here longer ...

Mine, is a familiar letter to you. Will you consent to some Soldiers for us? If the Natives possessed Soldiers, they would not perhaps be fighting as Ngapuhi are now fighting.

If Mr Busby were here, we the 'Rarawa' would not be fighting perhaps as Ngapuhi are now combating in the presence of the man who they asked for, to be a defender of the Natives.

Enough of my words to you.<sup>379</sup>

In most respects, we think that this is a fair translation, except for the use of 'defend' where Panakareao had written 'tiaki' (to care for). Our own literal translation is:

This is me Nopera Pana requesting a Governor for us, to protect/care for us. Will you agree to a kaitiaki (carer/protector) for us? I certainly agreed on your arriving here and thought you would have remained here for a long time.

My letter to you seeks your approval for some soldiers for us. If Māori have soldiers then perhaps there would not be fighting with Ngāpuhi who are fighting.

If Busby was here, perhaps we of Rarawa just like Ngāpuhi would not be fighting in the presence of the person who we asked to be the kaitiaki (carer/protector) for the Māori.

Enough of my words to you.

Panakareao wrote this letter from Kaitaia on 9 May 1837, as Te Rarawa were deliberating whether to join the northern alliance against Pōmare's forces in the Bay of Islands. It seems to have reached Marsden during his visit to New Zealand, when he briefly attempted to mediate in the war.<sup>380</sup> Manuka Henare in his thesis interpreted this letter as meaning that Panakareao was 'concerned about Ngapuhi and their ... fighting' and 'worried about Busby's inability to protect Te Rarawa'. In response to these fears, Henare said, 'Panakareao requests of the British a protectorate relationship and assistance from the King in

building a united Māori nation'. As we noted in chapter 4, Henare believed that Busby had discussed Ionian-style protectorate arrangements with rangatira who signed he Whakaputanga.<sup>381</sup> Haami Piripi, of Te Rarawa, also saw the letter as a request for a 'protectorate relationship', and as asking for assistance to build 'a united Māori nation' in a manner that was consistent with ongoing Māori mana and sovereignty.

He Whakaputanga and Panakareao's 1837 letter, express a consistent stance on the position of Maori rangatira within Aotearoa at that point in time; that they considered they were sovereign. Any efforts or imposition by the British Kawana in the governance of New Zealand was secondary and inferior to the overriding Mana, and leadership of the Rangatira ... never is there a request to override the leaders' chiefly Mana or rights.<sup>382</sup>

Within his territories, Panakareao was regarded as a very powerful leader. The CMS missionary William Puckey described him as 'kingly' and said that few other northern tribes would dare to act without his consent; another missionary source said he had unrivalled command of 1,400 to 1,600 fighting men.<sup>383</sup> In 1834, Panakareao had brought the CMS to Kaitaia – a step that was motivated largely by the potential economic and technological benefits for his people. He saw himself as being in competition with his Bay of Islands kin for missionaries, and more generally for Europeans, since he believed that 'the future of the people lay in having Pakeha dwell amongst them'.<sup>384</sup>

On 4 May 1837, Busby had written to Bourke about the situation in the Bay of Islands. The Resident described Te Rarawa as 'very powerful' and reported that they were planning to join Titore's side in a bid 'to drive Pomare's party from the Bay of Islands, and to obtain a footing for themselves'. Busby's report said that 200 Te Rarawa had camped at Waitangi in late April but remained neutral. They then 'returned home to make preparation for the movement of the whole tribe'.<sup>385</sup> Five days later, Panakareao sent his letter to Marsden.

If Panakareao was indeed asking for the establishment

of some form of protectorate (as Marsden and other British observers might have understood that term), that would have been a very significant step for a rangatira of such great mana. However, it is not clear that was what Panakareao intended. Rather, his use of ‘kaitiaki’ for both the proposed kāwana and Busby implies that he saw both in similar terms. Likewise, his request for troops ‘mo tatou’ (‘for us’) can be read as a request for troops to serve Te Rarawa interests. On that point, we note the views of the Kororāreka trader Joel Polack that Māori ‘often express their wish that soldiers might be landed for the protection of British interests, and to preserve peace among themselves’, but ‘nevertheless, with their usual fickleness, or perhaps maturer reflection of their present absolute power, which would depart from them, desire the contrary’.<sup>386</sup>

A month or after Panakareao’s letter to Marsden, Busby wrote his 16 June 1837 dispatch to Bourke, claiming that warfare and depopulation would soon result in Māori extinction, and proposing the establishment of a government, supported by British troops, which would ‘[i]n theory and ostensibly . . . be that of the Confederate Chiefs, but in reality . . . be that of the Representative of the British Government’. He justified this course with the argument that rangatira were incapable of setting aside personal interest in order to govern impartially. His protectorate proposal, he argued, was exactly what had been anticipated by he Whakaputanga (though of course that was not what the text in Māori said).<sup>387</sup> Six months after Busby’s dispatch, a CMS committee headed by Henry Williams and George Clarke would make a similar proposal, claiming that Māori were seeking a protectorate government (see section 5.9).<sup>388</sup> A year or so later, Davis claimed that some northern alliance rangatira were holding discussions about electing a king. Busby claimed that Tāreha’s eldest son Hakiro asked him to take up that role.<sup>389</sup> Both Hakiro and his father subsequently spoke against te Tiriti.

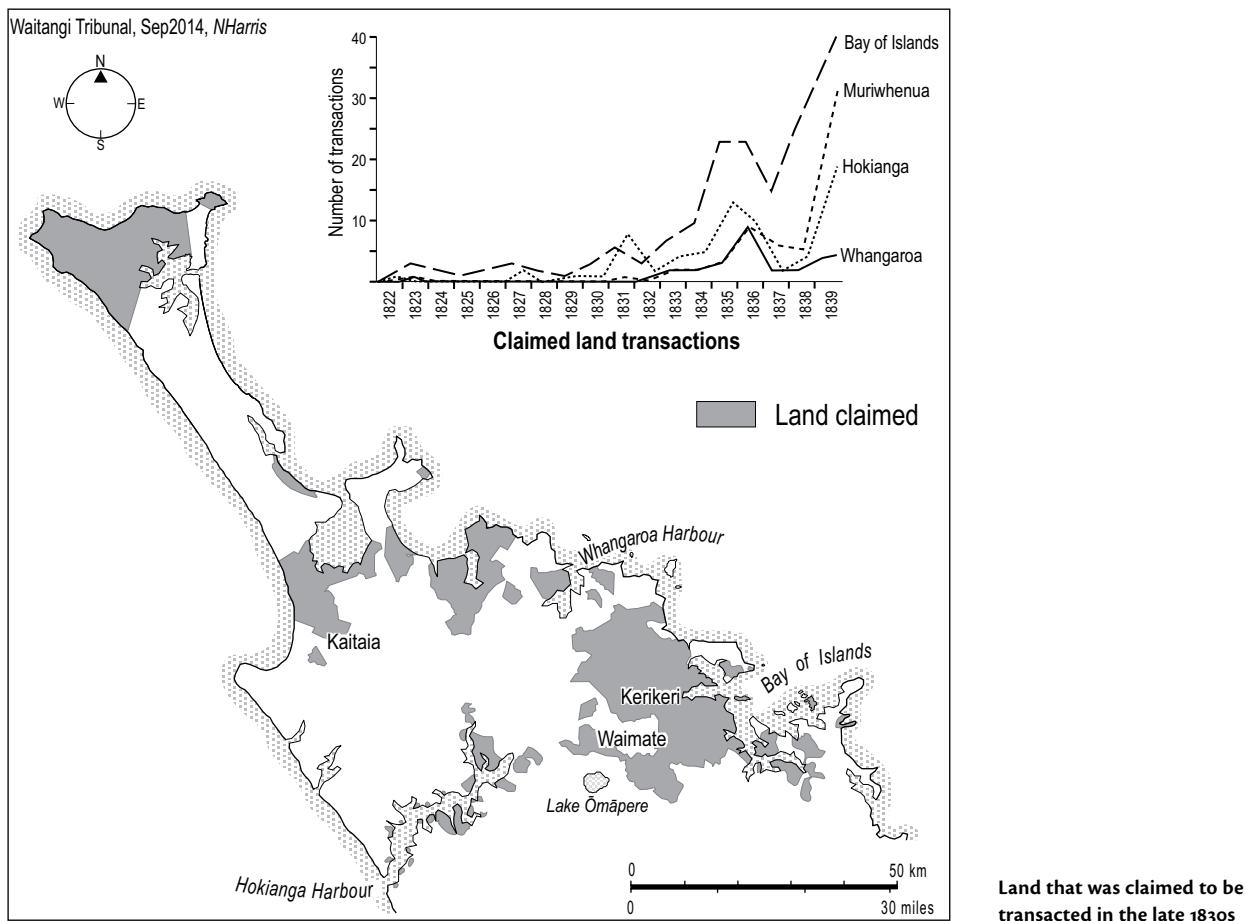
Overall, we do not doubt that there was interest among rangatira in discussing British and missionary ideas about law and government, just as there was interest in other British ideas about intertribal peace, new atua, farming, trade, medicine, carpentry, and ‘learning the book’. But we

do not think that rangatira were willing to submit to any arrangement that undermined their mana or hapū interests. Rather, as the letter from Panakareao suggests, they continued to seek ways to serve hapū interests by co-opting British wealth and power. The view of Busby and the missionaries that Māori wanted a government, we think, reflected their own motivations and interests rather more than those of Māori.

## 5.9 THE IMPACT OF LAND TRANSACTIONS

Busby concluded his 16 June 1837 dispatch with the claim that the entire coastline from Cape Brett to Whangaroa, including the whole of the Bay of Islands, had ‘with trivial exceptions’ already passed from Māori ownership. So, too, had ‘most of the valuable Forests in the interior’ and extensive areas on the Hokianga harbour. The need to determine the legitimacy of these purchases, in Busby’s view, provided yet another reason for the establishment of a protectorate government. The Resident suggested that an independent land commission be appointed for this purpose.<sup>390</sup> In the end, the post-treaty Land Claims Commission would consider hundreds of claimed land transactions in the north, spanning more than a quarter of a century of European residence up to 1840. More than half of those transactions (244) were in Bay of Islands locations such as Kororāreka, Waitangi, Kerikeri, and Te Puna. Others were in the Hokianga (105 transactions), Ōruru/Mangonui (50), Whangaroa (42), Kaipara (41), and Mahurangi (6).<sup>391</sup>

We heard many views about land transactions – about their volume and scale, what motivated them, how they might have been understood by the parties involved, their impact on Māori leaders and communities during the 1830s, and their influence on both Māori and British thinking about ideas of law and government. During stage 2 of our inquiry, we will consider specific transactions, including the question of how the parties understood them, and how the Crown subsequently dealt with them. Here, we are concerned with more general issues. Were Māori concerned about land transactions during the 1830s? Were they losing control?



As with many aspects of Māori–Pākehā relations in the north, it was the CMS which led the way in respect of land. As we saw in chapter 3, in 1815 the society established its first mission station on 200 acres at Rangihoua under the protection of Te Hikutū, the proceedings being formalised in European eyes in a deed written by Samuel Marsden. Four years later, when a second mission opened at Kerikeri under Hongi's patronage, a similar deed was prepared. For many years afterwards, land transactions in the north would remain relatively rare. Overall, the Land Commission recorded fewer than 20 transactions during the 1820s, more than half of them involving the missions.

The other handful involved traders and shipbuilders in the Hokianga, along with a few small arrangements in Kororāreka and Paihia.<sup>392</sup>

During the 1830s, the number of transactions grew, and there were changes in the purposes of the Europeans involved. The CMS established its Waimate farm in 1830 under Tohitapu's patronage, and also expanded at Paihia, intending to secure economic independence and promote farming among Māori. The Waimate site was chosen for its distance from the European ‘riff-raff’ at the Bay of Islands. Three years later, Panakareao allowed the CMS to establish its large mission at Kaitaia. Also in the 1830s, traders such

as James Clendon, Gilbert Mair, and Captain Wright set up sizeable trading stations in the Bay to meet the needs of the fast-growing number of visiting whalers. The rapid development of Kororāreka is also reflected in the number of small land transactions involving merchants.<sup>393</sup>

Such growth intensified in the second half of the decade as new settlers flooded in and longer-term European residents sought to formalise existing arrangements or enter new ones. As well as seeking land on which to establish missions, the missionaries began to cater for themselves and their families: Henry Williams was involved in several transactions around the Bay as he sought to establish his sons on farms.<sup>394</sup> Busby sought land at Waitangi as he developed speculative plans for a town to be called Victoria. By 1840, according to Shawcross, he and the CMS missionaries had the largest European land interests in the Bay of Islands (though exactly what those interests amounted to is a matter to be determined in stage 2 of our inquiry). There were also many transactions in the Hokianga as the timber trade took off; late in the decade a significant number also occurred around Whangaroa and the Kaipara.<sup>395</sup>

The growth was interrupted briefly during the war in 1837 but recovered during 1838. By the end of that year, news of the New Zealand Association's plans for systematic colonisation had reached the antipodes (see chapter 6), sparking a rush of migration from across the Tasman. In 1839, according to Shawcross, in the Bay of Islands alone there were well over 100 land transactions covering more than 160,000 acres – almost as much as all previous Bay transactions combined. In Shawcross's view, this was

a reflection to some extent of the influx of land-hunters from New South Wales but to an even greater extent of speculative fever among those Europeans . . . already residing in the north.<sup>396</sup>

Phillipson also noted that the majority of transactions at the end of the decade involved people already known to Māori. Although some concerned blocks of 1,000 acres or more, the majority, he pointed out, concerned relatively

small amounts of land – 50 or fewer acres. In many of these transactions, he noted, Māori continued to occupy at least parts of the land. In his view, 'An impression that strangers were buying large quantities of land [in the district] would be quite misleading.'<sup>397</sup>

We heard a range of views about what the various land transactions meant to both Māori and non-Māori. There were questions about differing concepts of ownership or relationships to land and questions about the extent to which Māori and Europeans understood each other when they entered into transactions. Did Māori understand these transactions as involving permanent alienation? Or did they understand the transactions as *tuku whenua* – that is, were rangatira granting 'their' Pākehā temporary rights to occupy and use the land as a practical means of bringing them into the hapū, so creating ties of mutual obligation? That is how Tribunal characterised land transactions in Kaitaia, Mangonui, and other parts of the Muriwhenua district in its *Muriwhenua Land Report*.<sup>398</sup> If that was also how Māori understood land transactions within our inquiry district, it might explain what occurred at Kororāreka, where Europeans were forced to negotiate new agreements after the town changed hands in 1830 as a result of the Girls' War. It might also explain why it was common for Māori to enter into a transaction over land and then continue to occupy it, or reoccupy it at a later date (especially if their Pākehā left), or continue to cultivate it or use its resources, or expect ongoing access to European goods or knowledge in return; and why Europeans often felt they had to live on and cultivate land continuously in order to keep it in their possession.

We also have other questions. In the later 1830s, when Europeans began to enter into transactions directly with other Europeans, did this occur with or without rangatira consent? As the decade drew to a close, were there changes in how Māori understood European intentions towards land? Were Māori concerned about conflicting or overlapping rights and, if so, how did they expect to address those concerns? We heard a range of views on these issues from claimants and technical witnesses, both in general terms and in relation to specific transactions and relationships.



Kororāreka, 1836. The pā is at the centre, along with gardens, European houses, and waka and rowboats along the foreshore.

The answers to these questions depend on the specific circumstances of each transaction and so must wait for stage 2 of our inquiry.<sup>399</sup> What is apparent, however, is that land was a subject of increasing concern for the missionaries and for many rangatira during the 1830s. As we will see in chapter 6, the missionaries' views influenced both Britain's decision to intervene in New Zealand and the nature of that intervention; and those concerns also appear to have influenced Māori attitudes towards British involvement, judging by the speeches made by a number of rangatira at Waitangi and Mangungu (see chapter 7).

Busby, responding to the failed mediation over Whananaki in 1836 (see chapter 4), had predicted that disputes over land would become more common as European

traders attempted deals in situations where Māori rights were disputed. In the Whananaki case, the Resident wrote, the traders not only had encouraged Waikato to assert his position with force but had also threatened Europeans installed on the land by competing Whananaki hapū. Māori had not known such difficulties until 'the apples of discord were scattered among them by their British visitors'. The Whananaki dispute, Busby added, 'will be but the first of a series of such outrages, unless our unprincipled Countrymen can be speedily restrained by the strong arm of legal Authority'.<sup>400</sup> These incidents, furthermore, would threaten not only the lives of Māori but also those of the British, who Māori would identify as the source of the trouble.<sup>401</sup>

That was the beginning of a series of dispatches in which Busby would argue that Māori wanted Britain to establish a government, either by establishing a protectorate under nominal Māori authority or by going further and making them British subjects. Māori were, he said,

perfectly convinced of their incapacity to govern themselves, or to cope unaided with the novel circumstances to which they are constantly exposed by the encroachments of their civilised visitors.<sup>402</sup>

Māori who had visited Port Jackson were alive to the potential dangers arising from increased European settlement (see chapter 3).<sup>403</sup> Rangatira sought to control where Europeans settled, and to incorporate them into hapū, and objected when Europeans did not comply. As early as 1826, Henry Williams wrote of Māori ‘jealousy’ about missionary land transactions:

it has been generally thought by them that we come here on account of the goodness of their land . . . In all the efforts to civilise, they do not perceive that we have any views beyond that of benefiting ourselves.<sup>404</sup>

Seven years later, Williams reported on a visit from Tohitapu, who had allowed him to establish the farm at Waimate:

He had much to say as to what he had learnt at the Shipping, relative to the intention of the Missionaries to take the land, and make slaves of the Chiefs, and that we were to receive a number of dollars for each person who became a believer.<sup>405</sup>

In 1837, Tāwhai set out to form a committee of rangatira to keep land at Waimā in Māori hands.<sup>406</sup> The following year, according to the Waimate missionary Richard Davis, Māori communities at Mawhe and Kaikohe, under Te Ripi’s influence, ‘formed themselves into a kind of confederacy, not to part with their land’. By mid-1839, this confederacy had held three hui.<sup>407</sup> It was clear, however, that Davis himself was playing a significant role. Late in

1839, he wrote of a meeting in which he warned them of the potential for difficulties over land:

They seem to be aware of the danger to which they are exposed but they are at a loss to know what means to adopt for their security. Such is their want of order that if one person wishes to sell land, he sells a tract of country which in many instances would rob others of their patrimonial inheritance. This may be the case in the splendid District of Kaikohe. A Chief, one of the principal proprietors, lives still at Kororareka and they are very jealous least he should effect a sale in that part where he has a share without giving them notice, and should this prove the case, the whites will get a footing and the country will be sold piecemeal.<sup>408</sup>

We note here that Davis’s understanding of what ‘selling’ meant may have differed significantly from that of Māori. Exactly what was meant in each transaction is, of course, a matter for stage 2 of our inquiry. What matters to us is that, if this account is to be believed, Mawhe and Kaikohe Māori were concerned about loss of authority. If so, their concerns may have arisen from Europeans entering a situation in which there were overlapping rights, as Davis argued, but equally may have arisen from Europeans failing to comply with Māori understandings of what the transactions meant.<sup>409</sup>

We saw in chapter 4 that from 1835 the CMS had begun to establish trusts for the stated purpose of protecting Māori land from alienation. The first of these arrangements concerned land at Kawakawa and Whananaki, the latter of which was the subject of Waikato’s dispute with Noa and his subsequent deep mistrust of the CMS. The Kawakawa deed was said to have been signed by Turi, Pukututu, and more than 80 others, and was written in Māori. A missionary translation, presented to the 1838 House of Lords committee, stated:

To all Men let it be known. No Part of our Land at the Kawakawa or any of the Places around shall be sold to the Europeans; but let it continue for us and for our Children for ever. The Missionaries at Paihia shall fix Marks, and make

sacred the Boundaries, and hold in Trust that no one may sell any Part without the Consent of the Missionaries.<sup>410</sup>

Henry Williams, forwarding the Kawakawa trust deed to the cms in London, had said:

Owing to the numerous Arrivals of Europeans in the Country, and the Desire on the Part of some not the real Proprietors and on the Part of Europeans to purchase, we have been under serious Apprehension that the Natives may in a short Time be bought up and ruined, unless some paternal Care be exercised towards them . . . I have communicated with the British Resident upon the Subject; but he does not feel himself at liberty to act beyond giving a Caution to any Parties who may be disposed [to enter land transactions] without satisfying the Claims of the real Proprietors. The Natives about whom we are interested are those not desiring to dispose of the Lands, but who are under Apprehension of having them forced out of their Possession.<sup>411</sup>

Altogether, some 17 similarly worded deeds were created, covering land in the Bay of Islands and other parts of the country. As a result of these arrangements, the cms in early 1839 reported that “immense tracts of good land . . . remain in [the] possession of the natives”, who otherwise were “continually parting with their land”<sup>412</sup>. It is tempting to see irony in the fact that the European organisation with more land interests than any other should be so vocal in opposing the transactions of others. At the time, the missionaries argued that their involvement in land – whether through the establishment of trusts or the work of turning Māori into Christian farmers – was ultimately for Māori benefit.

At least some of the land referred to in the trust deeds later ended up in claims before the Lands Commission, which will be considered in stage 2 of our inquiry. For now, it is notable that Māori – or at least Christian Māori – were willing to enlist missionary assistance and to sign written deeds in order to control land arrangements. With the trust deeds, and indeed also with deeds that purported to alienate land, there are also many unanswered

questions. We cannot say here whether those Māori who signed deeds could read them and so knew the intentions of the Europeans involved; nor can we say whether the deeds accurately reflected verbal agreements, or reflected what was happening on the ground: again, those are questions that can only be answered case by case, if at all. The important point for this stage of our inquiry is that written documents – pukapuka – appear to have carried some weight with rangatira at least as symbols of the existence of a relationship, and were being used with increasing frequency during the 1830s in relation to politics (the 1831 petition and *he Whakaputanga*) and trade (Titore’s letter to King William) as well as land.

During 1838 and 1839, as the land rush escalated, cms missionaries would write of their concerns to London in ever more urgent terms. The theme in many of these dispatches was simple enough: Māori were losing control, and British authority was needed.<sup>413</sup> Early in 1838, Henry Williams wrote on behalf of the cms northern subcommittee:

unless some protection be given by the British Government, the Country will be bought up and the people pass into a kind of slavery, or be utterly extirpated. The European Settlers are making rapid advances, and are beginning to hold out threats. Should any encouragement be given to the [New Zealand] Association, thousands would immediately come and overrun the country and the natives must give way.<sup>414</sup>

The only response, he argued, was

that the English Government should take charge of the Country, as the Guardians of New Zealand and that the Chiefs should be incorporated into a general assembly, under the guidance of certain officers, with an English Governor at their head, and protected by a Military Force, which would be the only means of giving weight to any laws which might be established and preserve that order and peace so much desired. The natives have many years since proposed that this should have been done, and have repeated their desire from time to time.<sup>415</sup>

This was more or less the Ionian-style protectorate arrangement that Busby had proposed. A few months later, Williams referred to Māori alarm over the inflow of migrants, and said they were asking the missionaries what to do.<sup>416</sup> Later the same year, Baker wrote that if the New Zealand Company's immigration schemes went ahead 'New Zealand would at once fall as a nation' – a predicament that could be solved only by 'some effectual steps' on the part of the British Government.<sup>417</sup>

During 1839, missionary concerns became even more heightened. In March, Davis wrote that the residents of Kaikohe had 'sold themselves out and do not, I believe, possess at present a spot of ground on which to build a house, except with the consent of European inhabitants'.<sup>418</sup> As noted above, he may have understood transactions differently from Māori and so exaggerated their impact. In July, the CMS northern subcommittee reported that 'Settlers are fast buying up the Country and every vessel is bringing New Settlers down.' Whereas the previous year the subcommittee had advocated for a government to be established under Māori authority, it now suggested that this was not possible: 'we fear that before any thing in the form of Native power could be made to bear upon Foreigners the Country is gone, at least its Sovereignty'.<sup>419</sup> In August, William Williams wrote:

The tide of emigration to New Zealand has already set in. Every fortnight or week brings a new arrival. Many are here whose object is to buy up the country . . . unless purchases are made as a reserve for the natives they will soon have no place to call their own.<sup>420</sup>

Māori welfare may have been one of the factors behind this tone of missionary alarm. Undoubtedly, there were others. Missionary dispatches also warned of French political ambitions, and of unruly behaviour by Europeans which left the missions vulnerable 'at any time to the depredation of any lawless hand, who might fearlessly destroy stock and property to a considerable amount'.<sup>421</sup> The missionaries wanted Māori to be under their influence, not that of British riff-raff or Catholics. Phillipson has argued that missionary concerns were also based on their own

cultural belief that land transactions invariably involved permanent alienation, whereas Māori may have held different views.<sup>422</sup>

Nonetheless, the anxiety about settlement and land is palpable in the missionary dispatches, and there is no doubt that their views were influential in Britain. Indeed, Alan Ward identified concern about land as a significant factor influencing both Māori and British views during this period.<sup>423</sup> In his view, the missionary claims 'that by the late 1830s many Māori communities had sold most of their land and were well-nigh landless' could not be supported by evidence. There was, however, 'a good deal of evidence of confusion and conflicting understandings about who had better customary right in the first place' and about what exactly the land transactions amounted to, along with 'a growing tendency among the Pakeha transactors to press their claims . . . strongly'.<sup>424</sup> The Crown, in their closing submissions, maintained that British decision-making had, at its heart, the 'restoration of Māori control over their key economic resource: the land'.<sup>425</sup>

We heard, as well, from many of the claimants that relationships with land were a significant source of concern in some places, as were different understandings of land transactions. Emma Gibbs-Smith, for example, told us of tensions between Te Kēmara and Henry Williams over the Paihia land on which the mission had been established, and over access to pipi beds there.<sup>426</sup> Hugh Te Kiri Rihari of Ngāti Torehina ki Mataki said a relationship of 'trust and confidence' had initially been established with CMS missionaries at Rangihoua, but these had broken down as a result of land transactions.<sup>427</sup> Nuki Aldridge spoke of missionaries and other Europeans being self-interested and 'not very honest' in their transactions with Māori over land.<sup>428</sup>

Even if the accounts from Busby and the missionaries were exaggerated, then, there is no doubt that land transactions were causing many rangatira concern. Different Māori and European understandings, disputed or overlapping Māori rights, and rapidly increasing interest in land from new and existing European settlers were all likely reasons for this. It is important to be clear that such effects were not uniformly felt. Land was more of



Waimate North, with two whare in the foreground and the Church Missionary Society mission station behind, circa 1835

a concern in the Bay of Islands and Hokianga than elsewhere, and within those districts it was more of a concern in locations such as Waitangi, Paihia, and Kororāreka, where the number of transactions had been greatest and where Europeans were attempting to establish their own systems of authority and to claim greater levels of economic independence from their rangatira patrons.

It is also important to recognise that in some locations Māori retained their enthusiasm for European settlement right up to the end of the decade. As trade had increased, land transactions had become an easy way to obtain European goods. It was not just the proceeds from the transactions that appealed, but the ongoing benefits of settlement itself, which created markets for

Māori agriculture and in return offered steady supplies of European goods. Belich characterised Māori willingness to support larger-scale settlement as a process of 'Planting Pakeha instead of potatoes'.<sup>429</sup> In places such as Waitangi and Kororāreka, Europeans may have begun to exceed their welcome, but in other locations where Pākehā were fewer, demand seems to have remained high. As the CMS missionary Robert Maunsell observed at the end of 1839, securing a Pākehā remained 'the grand object of their desire' for those hapū who were still without.<sup>430</sup>

Where land was a concern, the question that remains is: how might Māori have expected those concerns to be addressed? To the extent that rangatira had concerns about different Māori and European ways of relating

to land and understanding land transactions, we think that Māori retained the capacity to enforce their understandings. Right up to the end of the decade, they had the numbers and the on-the-ground military power. The main factor constraining them was their own desire for the economic and other benefits that Europeans brought, and more generally their desire to maintain relationships, bearing in mind that the largest land transactions involved people who had lived among them for years. They were also aware of British military power, but this in itself was not necessarily a constraint on their continued occupation, cultivation or other use of land that had been subject to transactions.

The other question about authority over land concerns overlapping or disputed rights. This was not a new issue for Māori, who had clear legal rules for determining whether possession was tika, and clear processes (ranging from inter-hapū discussion to taua) for dealing with conflicts. The fact that Busby and other Europeans did not always like their methods is no reason to regard those methods as illegitimate or to regard Māori as incapable of dealing with such situations. The involvement of Europeans seeking land (or access to timber) clearly increased the likelihood that territorial disputes would occur between hapū, but was otherwise not necessarily a complicating factor: in these cases the Europeans were simply clients to the patron rangatira involved in the transactions, and traditional means of resolving disputes between hapū could still apply.

There was nothing new in rival hapū discussing their take, nor in them resorting to force when the discussions broke down. The involvement of Busby and the missionaries added new dimensions: however, it seems to us that they were being co-opted into traditional roles. That, it seems to us, is what occurred in the dispute between Noa's people of Ngāti Manu and Waikato's Te Hikutū over land at Whananaki, which we discussed in section 4.8.1. Noa's people turned to the missionaries as allies, seeking to harness their perceived authority to serve hapū interests. They appear to have seen Busby as a neutral peacemaker, a senior British rangatira on whose marae they could safely gather. Waikato also appears to have viewed

Busby as a British rangatira whose role was to control Europeans, and in this particular case to stop what he saw as unjustified missionary interference in his affairs. When Waikato asked Busby to become involved in the dispute, he left Busby the musket that King George had given him 17 years earlier – a sign, we think, of the alliance that Waikato believed he had with Busby's royal āriki.

Two things were novel about this dispute. The first was that Noa's people, under missionary advice, had used a written deed in a bid to secure their interests. However this, in itself, did not suggest that their systems of authority had changed, merely that rangatira were using a new tool to assert that authority. The second novel aspect was that Noa's people arrived at the hui unarmed, and by doing so had given up – for the moment at least – any ability to enforce their interests according to Māori law. In doing so, they were placing their trust in the advice of Busby and the missionaries, who lacked capacity to enforce law of any kind. A vacuum was created, which Waikato filled by taking action that (at least according to Titore) was consistent with Māori law. Though Busby initially persuaded Ngāti Manu to defer utu (while he sought the King's permission to take utu against Waikato himself) we do not know how long their restraint lasted.

Ultimately, if we accept Busby's accounts, hapū with interests in the dispute (either directly or through kinship) continued to seek utu against each other for some time, while no longer involving Europeans. We do not know if Noa took up arms again, but in 1837 other, more senior Ngāti Manu rangatira certainly did.

## 5.10 CONCLUSION

'It cannot be said too often,' wrote Angela Ballara in *Taua*, 'that changes came in different areas at different times.'<sup>431</sup> Ballara was referring to cultural change in the 1830s across New Zealand as a whole, but the principle applies equally to the parts of the north that concern us. What occurred in Kororāreka during this decade was not the same as what occurred in Paihia, Waimate, Kerikeri, Ōtuihu, Pākanae, Waimā, Ōmapere, or Whangaroa. In many of these areas, contact with Europeans was ongoing and intense; in

others, it was less so. In some, that contact was dominated by missionaries seeking to spread their word; in others, it was dominated by traders seeking flax or spars, or by the drunken crews of whaling ships, or by runaway convicts, or by small-time merchants.

Māori responses differed too. Most turned with great enthusiasm towards European goods; most adopted pukapuka; some also adopted the Christian God, while others showed indifference or turned away. Some experimented with or accommodated British ideas of law, government, and dispute resolution where those suited their purposes; others did not. Some turned towards farming as a means of ensuring prosperity; others sold spars or flax, or grog and sex. Some turned away from war, while others – including Christians – continued to fight. There was, in other words, no homogeneous Māori response to the considerable inflow of European people, goods, and ideas that occurred during the 1830s.

That is not to say that general trends cannot be discerned. It is obvious that the 1830s was a time of tremendous change for Māori in the Bay of Islands and Hokianga, a time when the pull of trade and British ideas were posing significant challenges to traditional ways of life. Some of the changes that occurred were undeniably significant. But those changes occurred in ways that were consistent with Māori laws and values, and in an environment where Māori authority remained – with limited exceptions – intact. The new religion, for example, was to a significant degree incorporated into the old, providing new atua and new forms of karakia to add to existing whakapapa. Literacy was pursued in Māori ways, which relied on prodigious feats of memory as well as on actual reading, and embraced the symbolic power of pukapuka as well as their practical uses. The sphere in which Busby and the missionaries were most despairing of Māori ways – that of warfare and peacemaking – continued largely to be conducted according to tikanga. The fact that senior Europeans were brought into the Māori peacemaking system as mediators, and were respected in that role, does not diminish the fact that Māori remained in control, nor that the ultimate purpose was the distinctly Māori one of resolving conflict without diminution of mana. Economic

changes, while significant, also occurred within existing frameworks: the pursuit of mana; fulfilment of the obligations of rangatiratanga, manaakitanga, and whanaungatanga; and the use of a system of exchange that had both economic and relationship dimensions. The hapū of the Bay of Islands and Hokianga competed just as vigorously in this new sphere as they had once competed in warfare. The modified enforcement of tapu, too, can be seen through this lens – as an adaptation that was consistent with the pursuit of mana.<sup>432</sup>

We do not therefore see evidence that Bay or Hokianga Māori during the 1830s were dying out or confused or demoralised in the face of increased contact with Europeans. It must be remembered that the evidence for such a view comes almost entirely from the dispatches of Busby, and from British missionaries, whose business it was, in one way or another, to convert. They arrived on these shores to deliver Māori from the bonds of tapu and utu, and deliver them instead into the arms of Jesus Christ and British law. Belich saw missionary dispatches to London as ‘advertising campaigns’ aimed at demonstrating the benefits of Christian salvation; McKenzie saw the missionaries as fantasists.<sup>433</sup>

We do not, however, claim that Māori maintained absolute control of their contact with Europeans towards the end of the 1830s. The general picture, in our view, is as follows. Within Māori communities themselves, Māori control remained more or less complete. Māori laws, values, and social and political structures endured. Where changes occurred – for example when individuals or communities adopted Christianity or farming – these changes occurred voluntarily, and in ways that accorded with Māori values. Pākehā could suggest that Māori make changes – adopt new religion, laws, clothing, and so on – but there was no possibility of Europeans requiring or compelling such change. This was true within whānau and hapū, and it was also true of inter-hapū relationships, where Busby and the missionaries, and their ideas of kāwanatanga and ture, had acquired some influence but nothing at all in the way of real control.

Where the Māori and Pākehā worlds met, the situation was more complex. To a very great extent, Pākehā in the

north continued to live under Māori patronage throughout the 1830s. They were expected to comply with rāhui and other mechanisms of Māori law, to give gifts, often to marry into their host communities. The extent of this patronage is shown by the fact that they could be killed by Māori, and nothing at all would happen to the perpetrators unless their own rangatira consented. Any limits on Māori control were voluntary and self-imposed: they were willing to accommodate Pākehā ways because Pākehā had things they wanted.

There were, however, small enclaves where the European populations had grown large enough or valuable enough to assert some degree of localised autonomy from their Māori masters, such as the missions, the larger trading stations, and Kororāreka. None of these communities was able in any way to assert themselves over neighbouring Māori communities, or even Māori in their midst. Nor were they free of economic obligations to their host hapū. So long as they met those obligations and complied with Māori laws in their relationships with Māori, they were able to live their domestic lives and manage their trade with Europeans according to their own values and rules, most often without fear of Māori interference.

Land was also a concern for many Māori, especially in the coastal Bay of Islands. We do not think that Māori lacked either the authority or the systems for addressing these concerns. There was, however, a trade-off involved, since any attempt to control European activities created risks. We also acknowledge that Māori had little capacity to exert any power in the international sphere, and were aware not only of Europe's material wealth but also of its martial strength. They appear to have feared France, and held Britain's power in awe – a perspective that can only have been reinforced by the *Harriet* affair and the occasional appearance of ships of war in the Bay of Islands. We do not think Māori were greatly cowed by this power; rather, they sought to engage with it preemptively and constructively. At least since Hongi's time they had sought to build an alliance with Britain, using European mechanisms such as petitions and declarations, and Māori mechanisms such as exchanges of gifts. They did so in full awareness of British power, and in the hope that by

All of these were limited exceptions to a general rule of Māori control, and of willing adaptation to the wider world and to the huge material and technological benefits it was bringing. New Pākehā, in most areas, remained welcome, and so too did new ideas. By 1840, Māori continued to outnumber Europeans, and British settlement depended on Māori goodwill. The Bay of Islands and Hokianga remained Māori territories. They remained, furthermore, the territories of independent hapū, each meeting the opportunities and challenges arising from contact with Europe in its own way, each led by rangatira charged with representing and building its distinct mana, yet all closely related, and all capable of acting in concert should circumstances demand it.

#### Notes

1. Submission 3.3.33, pp 46, 58, 63–65
2. Document A30(c), pp 7–8; see also doc A30(c), pp 90–91; transcript 4.1.1, pp 120, 128, 196, 200; doc C10, p 7; doc D7, p 8; doc B13, p 13; doc A11, pp 17, 119–121, 262
3. Transcript 4.1.1, pp 252, 260, 289
4. See, for example, transcript 4.1.1, pp 31, 195, 199, 236; transcript 4.1.2, p 186
5. Document A1, p 91
6. Document A11, p 269
7. Transcript 4.1.2, p 73
8. Document D2, pp 14–15
9. Document A19(a), pp 43–44, 89; see also doc A19, pp 70–71
10. Document A19, pp 13–14, 116
11. Document A18, p 227
12. Document A11(a) vol 4, pp 1376–1394; Busby to Bourke, 16 June 1837, QMS 0345, ATL, Wellington
13. Document A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840 [238], pp 9–11; Joel Polack, *New Zealand: Being a Narrative of Travels and Adventures during a Residence in that Country between the Years 1831 and 1837*, 2 vols (London: Richard Bentley, 1838), vol 1, p 205. The petition from Bay of Islands residents to King William IV in 1837 did not mention the war: R.A.A. Sherrin, 'From Earliest Times to 1840', in *Early History of New Zealand*, ed R Sherrin, JH Wallace, and TW Leys (Auckland: Brett, 1890), pp 462–463.
14. Kathleen Shawcross, 'Maoris of the Bay of Islands, 1769–1840: A Study in Changing Maori Attitudes towards Europeans' (MA thesis, University of Auckland, 1966), fol 368; see also doc A11, p 256; doc A1, p 88

- 15.** Document A11, p 255; Nathaniel Turner to WMS, 1 November 1838, QMS 2065, ATL, Wellington
- 16.** Document A19(a), p 93; see also doc A19(a), pp 18, 90
- 17.** Peter Adams, *Fatal Necessity: British Intervention in New Zealand, 1830–1847* (Auckland: Auckland University Press, 1977), p 39
- 18.** JMR Owens, ‘New Zealand before Annexation’, in *The Oxford History of New Zealand*, ed William H Oliver (Wellington: Oxford University Press, 1981), pp 49–50
- 19.** Ian Pool, *Te Iwi Maori: A New Zealand Population Past, Present and Projected* (Auckland: Auckland University Press, 1991), pp 53–58
- 20.** James Belich, *Making Peoples: A History of the New Zealanders: From Polynesian Settlement to the End of the Nineteenth Century* (Auckland: Allen Lane, 1996), pp 126, 173–178; Adams, *Fatal Necessity*, p 39
- 21.** Belich, *Making Peoples*, p 157; see also Owens, ‘New Zealand before Annexation’, p 45
- 22.** Document A37, p 395; doc A36, pp 355, 362–363, 366, 462–463; Angela Ballara, *Taua: ‘Musket Wars’, ‘Land Wars’ or Tikanga? Warfare in Maori Society in the Early Nineteenth Century* (Auckland: Penguin, 2003), pp 443–444; Harrison Wright, *New Zealand, 1769–1840: Early Years of Western Contact* (Cambridge: Harvard University Press, 1959), pp 147–148
- 23.** Document A1, pp 39–40
- 24.** Document A37, pp 384, 391
- 25.** Document A11, pp 253–254; Kerry R Howe, ‘The Maori Response to Christianity in the Thames–Waikato Area, 1833–1840’, NZJH, vol 7, no 1 (1973), p 30
- 26.** Document A37, p 391
- 27.** Document A1, pp 66, 79, 81; RD Crosby, *The Musket Wars: A History of Inter-Iwi Conflict, 1806–1845* (Auckland: Reed Books, 1999), pp 267–269; Ballara, *Taua*, pp 204–205; Henry Williams, *Early Journals*, ed Lawrence Rogers (Christchurch: Pegasus Press, 1961), pp 408–409
- 28.** Crosby, *Musket Wars*, pp 335–336; S Percy Smith, ‘Wars of the Northern Against the Southern Tribes of New Zealand in the Nineteenth Century’, *Journal of the Polynesian Society*, vol 13, no 1 (1904), p 53
- 29.** Regarding the Girls’ War: Ormond Wilson, *From Hongi Hika to Hone Heke: A Quarter Century of Upheaval* (Dunedin: John McIndoe, 1985), pp 96–98; Ballara, *Taua*, pp 201–203; doc A1, pp 41–42; doc A37, p 389. Regarding the conflict involving Moetara: doc A37, pp 622–630; CO Davis, *Life and Times of Patuone: The Celebrated Ngapuhi Chief* (Auckland: JH Field, 1876), pp 35–36; doc C9, p 22; transcript 4.1.1, pp 133, 135.
- 30.** Polack, *New Zealand*, vol 2, p 42; doc A11(a) vol 4, pp 1376–1377; Busby to Bourke, 16 June 1837, QMS 0345, ATL, Wellington; Angela Ballara, ‘Pōmare II’, in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, [http://www.teara.govt.nz/en/biographies/ip\\_20/pomare-ii](http://www.teara.govt.nz/en/biographies/ip_20/pomare-ii), last modified 30 October 2012. For casualty estimates, see William Williams, *Christianity among the New Zealanders* (London: Seeley, Jackson and Halliday, 1867), p 249; Jack Lee, *The Bay of Islands* (Auckland: Reed, 2006), p 198.
- 31.** Document A11(a), vol 4; pp 1373–1377; Busby to Bourke, 4 May 1837 and 16 June 1837, QMS 0345, ATL, Wellington; doc A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840 [238], pp 9–11; Polack, *New Zealand*, vol 1, p 205
- 32.** Document A11, p 253; doc A37, p 391; doc A1, pp 60–61, 87–89, 91; doc A19, pp 19–20
- 33.** Document A1, p 251
- 34.** John Elder, ed, *The Letters and Journals of Samuel Marsden, 1765–1838: Senior Chaplain in the Colony of New South Wales and Superintendent of the Mission of the Church Missionary Society in New Zealand* (Dunedin: Coulls Somerville Wilkie, 1932), p 211
- 35.** Henry Williams, *Early Journals*, p 261
- 36.** Pool, *Te Iwi Maori*, p 45
- 37.** Document A11, p 256; doc C9, pp 25–26; see also Pool, *Te Iwi Maori*, p 45; doc A37, p 394
- 38.** Document A19(a), p 84; Pool, *Te Iwi Maori*, p 45
- 39.** Document A37, pp 393–394; doc A11, p 167; doc A1, p 88
- 40.** Adams, *Fatal Necessity*, pp 40–41; Wright, *New Zealand, 1769–1840*, p 64; doc A11, p 256
- 41.** Wright, *New Zealand, 1769–1840*, p 64; doc A11, p 256
- 42.** Adams, *Fatal Necessity*, pp 40–41; Wright, *New Zealand, 1769–1840*, p 64; doc A1, p 88; see also doc A11, p 256
- 43.** Polack, *New Zealand*, vol 2, p 271, see also pp 271–275
- 44.** Report from the Select Committee of the House of Lords, Appointed to Inquire into the Present State of the Islands of New Zealand, and the Expediency of Regulating the Settlement of British Subjects therein with Minutes of Evidence, Taken before the Committee and an Index thereto (London: House of Commons, 1838), pp 13, 19–20
- 45.** Ibid, p 121
- 46.** Ibid, pp 180–181
- 47.** Document A37, pp 391, 395–396; see also doc A36, pp 325–326
- 48.** Document A1, p 131; doc A11, p 257
- 49.** Ballara, *Taua*, p 219
- 50.** Document A11, pp 232–233; Ballara, *Taua*, pp 100–101, 133–134; doc A37, pp 515–518
- 51.** Pool, *Te Iwi Maori*, pp 51–52, 56; William Yate, *An Account of New Zealand and of the Formation and Progress of the Church Missionary Society’s Mission in the Northern Island* (London: Seeley and Burnside, 1835), p 164; Report from the Select Committee of the House of Lords, p 180 (for population estimates provided by William Williams in 1835); James Cowan, *The New Zealand Wars and the Pioneering Period*, 2 vols (Wellington: Government Printer, 1983), vol 1, p 5; see also Shawcross, ‘Maoris of the Bay of Islands’, fol 257; Owens, ‘New Zealand before Annexation’, pp 49–50; Judith Binney, ‘Christianity and the Maoris before 1840: A Comment’, NZJH, vol 3, no 2 (1969), p 149 n 30.
- 52.** Document A11, p 257
- 53.** Document A11(a), vol 4, p 1380; Busby to Bourke, 16 June 1837, QMS 0345, ATL, Wellington
- 54.** Williams, *Early Journals*, p 358; Church Missionary Society, *The Missionary Register, 1817–1853*, p 550; see also Shawcross ‘Maoris of the Bay of Islands’, fol 333, 336–337; doc A11, pp 178–179; Jack Lee, *Hokianga* (Auckland: Hodder and Stoughton, 1987), p 65.

- 55. Document A11, p 179
- 56. Document A18(e), pp 820–825; Busby to Bourke, 10 September 1835, QMS 0345, ATL, Wellington; see also Shawcross ‘Maoris of the Bay of Islands’, fol 333.
- 57. Document A1, pp 58–59, 66; doc A11, pp 137, 153, 155, 178; see also Polack, *New Zealand*, vol 2, p 272
- 58. Document A1, pp 67–68, 85; doc A11, pp 162–168
- 59. Belich, *Making Peoples*, p 154
- 60. Document A1, pp 88–89
- 61. Document A11(a), vol 4, p 1380; Busby to Bourke, 16 June 1837, QMS 0345, ATL, Wellington. The claimant Emma Gibbs-Smith also provided some support for this view, telling us that at the time ‘children born with Māori and Pākehā blood were usually killed at birth for fear of loss of land’: transcript 4.1.2, p 217. The English traveller Edward Markham also claimed that infanticide increased as a result of ship visits. Markham, however, spent only nine months in New Zealand so was scarcely in a position to gauge trends. As his estimate of Māori literacy shows, his observations were not altogether reliable: Edward Markham, *New Zealand, or Recollections of It* (Wellington: Government Printer, 1963), pp 54–55; doc A11, p 162.
- 62. Document A11(a), vol 4, p 1380; Busby to Bourke, 16 June 1837, QMS 0345 ATL, Wellington; *Report from the Select Committee of the House of Lords*, pp 84–85; Wright, *New Zealand, 1769–1840*, pp 74–75
- 63. *Report from the Select Committee of the House of Lords*, pp 104, 122
- 64. Ibid, pp 84–85; doc A11, p 161; see also Pool, *Te Iwi Maori*, pp 47–49
- 65. Document A11, pp 156–157; Polack, *New Zealand*, vol 2, pp 330–331
- 66. David Chappell, *Double Ghosts: Oceanian Voyagers on Euroamerican Ships* (New York: ME Sharpe, 1997), pp 159–161
- 67. Document A19, p 18
- 68. Document A18, p 79; doc A11, pp 252–253; doc A1, p 138; Claudia Orange, *The Treaty of Waitangi* (Wellington: Bridget Williams Books, 1987), p 24. Concerning missionary concerns about French influence, see doc A19(a), pp 19, 22, 59–60, 86–88, 91–96.
- 69. Belich, *Making Peoples*, pp 126, 174
- 70. Adams, *Fatal Necessity*, pp 20–25
- 71. Ibid, pp 26–27; see also doc A11, pp 14, 119–121; doc A1, pp 55–57; Shawcross, ‘Maoris of the Bay of Islands’, fol 252–254, 350–352, 350, fig xix; Belich, *Making Peoples*, pp 198–199; doc A37, p 619 (referring to the Hokianga population); Richard Wolfe, *Hell-Hole of the Pacific* (Auckland: Penguin Books, 2005), pp 76, 84, 91, 99, 101 (referring to the Kororāreka population); doc A11(a), vol 4, pp 1356–1362; Busby to Bourke, 26 January 1836, QMS 0345, ATL, Wellington; James Busby, ‘The Occupation of New Zealand, 1833–1843’, vol 1, p 28, MS copy micro 0067, ATL, Wellington
- 72. Shawcross, ‘Maoris of the Bay of Islands’, fol 350, fig xix
- 73. Waitangi Tribunal, *Muriwhenua Land Report* (Wellington: GP Publications, 1997), p 47
- 74. Document A1, p 69
- 75. Ibid, pp 59, 63; Shawcross, ‘Maoris of the Bay of Islands’, fol 266, 268, fig xv, 336, 339–340; doc A11, p 176
- 76. Document A1, pp 58–59, 63; doc A11, pp 17, 175–176, see also pp 109, 153, 170; Shawcross, ‘Maoris of the Bay of Islands’, fol 335–340
- 77. Document A1, p 63
- 78. Ballara, *Taua*, p 402
- 79. Document A1, p 54; Shawcross, ‘Maoris of the Bay of Islands’, fol 343–345
- 80. Document A11, p 152; doc A1, pp 53–54; Shawcross, ‘Maoris of the Bay of Islands’, fol 189; doc A37, pp 616–618; Judith Binney, ‘Tuki’s Universe’, NZJH, vol 38, no 2 (2004), p 223
- 81. Belich, *Making Peoples*, p 134
- 82. Document A11, p 153; doc A36, p 364; Roger Wigglesworth, ‘The New Zealand Timber and Flax Trade 1769–1840’ (PhD thesis, Massey University, 1981), p 384
- 83. Rhys Richards and Jocelyn Chisholm, *Bay of Islands Shipping Arrivals and Departures 1803–1840* (Wellington: The Paremata Press, 1992), summary tables 1, 2; see also Shawcross, ‘Maoris of the Bay of Islands’, fol 331–333; Binney, ‘Tuki’s Universe’, p 224
- 84. Lee, *Bay of Islands*, p 185; Shawcross, ‘Maoris of the Bay of Islands’, fol 350, fig xix
- 85. Document A1, pp 54, 64
- 86. Ibid, pp 49, 67–68; doc A11, pp 131–137
- 87. Document A11, pp 132–134
- 88. Waitangi Tribunal, *Muriwhenua Land Report*, pp 28, 41
- 89. Document A11, pp 136–137; Shawcross, ‘Maoris of the Bay of Islands’, fol 338
- 90. Yate, *An Account of New Zealand*, pp 31–32
- 91. Document A1, p 66; see also doc A11, pp 136–137
- 92. Waitangi Tribunal, *Muriwhenua Land Report*, p 44
- 93. Document A1, pp 69–70; doc A11, pp 141–143
- 94. Document A11, p 140
- 95. Document D1, pp 65–67; doc A37, p 670; doc A20, pp 45–46; doc A22, pp 27–28; doc A1, pp 245–246; doc D1(b) tab 6; Phil Parkinson, ‘Tuku: Gifts for a King and the Panoplies of Titore and Patuone’, *Tuhinga: Records of the Museum of New Zealand Te Papa Tongarewa*, vol 23 (2012), pp 53–68
- 96. Document A11, pp 140–141; doc A1, pp 69–70. The claimant Erimana Taniora explained (doc C2, p 14): ‘Muru is the taking of property. When we refer to a muru being conducted against a person, the muru was to take away their belongings. This would include gardens and livestock. Muru . . . is about restoring balance . . . it is a way of righting the wrong.’
- 97. Document A11, pp 142–143
- 98. Document A1, p 70
- 99. Document A37, p 668; doc A36, pp 354, 361–362; Angela Ballara, ‘Eruera Maihi Patuone’, in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1p/12/patuone-eruera-maihi>, last modified 30 October 2012; Davis, *Life and Times of Patuone*, p 20; Lee, *Hokianga*, pp 48–53; Ruth Ross, ‘Makoare Taonui’, in *An Encyclopedia of New Zealand*, ed A H McLintock, <http://www.teara.govt.nz/en/1966/taonui-makoare>, last modified 22 April 2009; Angela Ballara, ‘Moetara Motu Tongaporutu’, in *The Dictionary of New Zealand Biography*,

- Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1m45/moetara-motu-tongaporutu>, last modified 30 October 2012; Binney, 'Tuki's Universe', pp 221–222
- 100.** Document A37, p 671
- 101.** Document A36, pp 354, 357, 361
- 102.** Document A37, pp 671–672
- 103.** Document A11, p 153
- 104.** Document A37, p 631
- 105.** Document A11(a), vol 5, p 1621
- 106.** Lee, *Bay of Islands*, pp 185–186; Shawcross, 'Maoris of the Bay of Islands', fols 350–351; doc A36, pp 353, 382
- 107.** Polack, *New Zealand*, vol 2, p 216
- 108.** Document A16, p 190; see also doc A11, pp 229–230
- 109.** Document c9, p 22
- 110.** Raymond Firth, *Economics of New Zealand Maori*, 2nd ed (1959; repr Wellington: Government Printer, 1973), p 328. Note that Firth incorrectly dated the last Waimate hahunga at May 1836; discussed also in doc A1, p 79.
- 111.** Document A1, pp 62–66; Ballara, *Taua*, p 12
- 112.** Document A1, pp 64–66
- 113.** Ibid; doc A11, p 155
- 114.** Document A11(a), vol 5, p 1826; Turner to John Beecham, 1 November 1838, Nathaniel Turner, papers, 1836–49, qms 2065, ATL, Wellington
- 115.** Document A11, pp 16, 153–155; doc A37, pp 619–623, 630–631; doc A1, p 67; doc A36, pp 354–359, 412–413; Lee, *Hokianga*, pp 53–54
- 116.** Document A11, p 156
- 117.** Ibid, pp 156–157
- 118.** Ibid, p 184
- 119.** Busby to Bourke, 18 January 1836, qms 0345, ATL, Wellington; Philip Parkinson, 'Our Infant State: The Maori Language, the Mission Presses, the British Crown and the Maori, 1814–1838' (PhD thesis, Victoria University of Wellington, 2003), p 269
- 120.** Davis, *Life and Times of Patuone*, pp 35–36; doc A37, pp 389, 622–630; doc c9, p 22; transcript 4.1.1, pp 133, 135; see also Angela Ballara, 'Warfare and Government in Ngapuhi Tribal Society, 1814–1833' (MA thesis, University of Auckland, 1973), pp 240–241, 244
- 121.** Document A36, pp 352–355
- 122.** Firth, *Economics of the New Zealand Maori*, pp 444–445
- 123.** Belich, *Making Peoples*, pp 148, 154; see also James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Auckland: Auckland University Press, 1986), p 20
- 124.** Ballara, *Taua*, pp 412, 415–416
- 125.** Document A1, p 66
- 126.** Ibid; see also doc A11, p 137
- 127.** Document A2, pp 14–17; doc A11, pp 196–197; Wilson, *From Hongi Hika to Hone Heke*, pp 115–116; Shawcross, 'Maoris of the Bay of Islands', fols 306–310, 327
- 128.** William Williams referred to the baptism of a Bay of Islands rangatira called Rangi in 1824: Williams, *Christianity among the New Zealanders*, pp 61–63. See also doc A1, p 77; Shawcross, 'Maoris of the Bay of Islands', fols 224, 226–227, 235, 325–327, 357–359; Wright,

- New Zealand*, 1769–1840, pp 151, 153, 159; Ballara, *Taua*, p 419; Owens, 'Christianity and the Maoris to 1840', p 18.
- 129.** Document A1, p 77; Shawcross, 'Maoris of the Bay of Islands', fols 325–328, 357–359; Wright, *New Zealand*, 1769–1840, pp 141, 157, 162–163; doc A19(a), pp 84–85; Ballara, *Taua*, p 424
- 130.** Williams, *Christianity among the New Zealanders*, pp 103, 116, 118, 121; Shawcross, 'Maoris of the Bay of Islands', fols 224, 325–326
- 131.** Wright, *New Zealand*, 1769–1840, pp 162–163; Williams, *Christianity among the New Zealanders*, p 149; Binney, 'Christianity and the Maoris to 1840: A Comment', p 158 tbl 1
- 132.** Shawcross, 'Maoris of the Bay of Islands', fols 357–359
- 133.** Document A1(a), vol 1, p 383; Wright, *New Zealand*, 1769–1840, pp 162–163
- 134.** For overviews of historians' views on this debate, see doc A11, pp 186–193; doc A19, pp 21–22.
- 135.** Wright, *New Zealand*, 1769–1840, pp 146–147, 180–183
- 136.** Ibid, pp 144, 147–148; see also Ballara, *Taua*, p 419; doc A37, p 394; Shawcross, 'Maoris of the Bay of Islands', fols 354–355
- 137.** Binney, 'Christianity and the Maoris to 1840: A Comment', pp 148–149, 153–154; Wright, *New Zealand*, 1769–1840, pp 144, 147–148
- 138.** Lyndsay Head, 'The Pursuit of Modernity in Māori Society: The Conceptual Bases of Citizenship in the Early Colonial Period', in *Histories, Power and Loss: Uses of the Past – A New Zealand Commentary*, ed Andrew Sharp and Paul McHugh (Wellington: Bridget Williams Books, 2002), pp 100–103
- 139.** For example, see Belich, *Making Peoples*, pp 165–169; Owens, 'Christianity and the Maoris to 1840', pp 21, 24; Ballara, *Taua*, pp 412–435
- 140.** Owens, 'Christianity and the Maoris to 1840', pp 21–23, 29, 33–35; Belich also saw Māori teachers as significant: *Making Peoples*, pp 165–169. For an example of the effectiveness of Māori preachers, see William Williams, *Christianity among the New Zealanders*, pp 151–152. As discussed in the section on literacy, Owens and other historians have also argued that Christianity followed literacy, rather than the other way around.
- 141.** KR Howe, 'The Maori Response to Christianity', p 46
- 142.** Belich, *Making Peoples*, pp 154, 178
- 143.** Ibid, pp 165–166; Ballara, *Taua*, p 419
- 144.** Belich, *Making Peoples*, p 168
- 145.** Ibid, p 219
- 146.** Document A1, p 80; Wright, *New Zealand*, 1769–1840, pp 155–156; Ballara, *Taua*, pp 425–6; Belich, *Making Peoples*, pp 168–169
- 147.** Ballara, *Taua*, p 79
- 148.** Shawcross, 'Maoris of the Bay of Islands', fol 357
- 149.** Ibid
- 150.** Ibid, fols 357–359 (for regions, see fol 204, fig vii); see also Owens, 'Christianity and the Maoris to 1840', p 32; and Head, 'The Pursuit of Modernity', pp 102–103. Head was not specifically concerned with this question, but nonetheless emphasised the adoption of missionary ideas among Māori leaders as distinct from their followers. William Williams noted that by 1833 'The number of Christian baptisms up to this period was confined for the most part to a few of the natives'

connected with the different mission stations': Williams, *Christianity among the New Zealanders*, p 148.

**151.** William Williams, *Christianity among the New Zealanders*, pp 99–101, 103–104; doc A37, pp 684–685; doc B34, p 10; Shawcross, 'Maoris of the Bay of Islands', fols 224, 226; Claudia Orange, 'Rawiri Taiwhanga', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1t4/taiwhanga-rawiri>, last modified 30 October 2012; Williams, *Early Journals*, p 68 n 65. Taiwhanga's younger brother Toe was baptised in 1833: see Williams, *Early Journals*, p 329; Wilson, *From Hongi Hika to Hone Heke*, pp 111–115.

**152.** Shawcross, 'Maoris of the Bay of Islands', fols 226–227, 357; Williams, *Early Journals*, p 208 n 55; Williams, *Christianity among the New Zealanders*, pp 115, 150; Ballara, *Taua*, p 425

**153.** Williams, *Christianity among the New Zealanders*, p 209; Ballara, *Taua*, p 425

**154.** Shawcross, 'Maoris of the Bay of Islands', fol 357. See also Yate, *An Account of New Zealand*, pp 234–235; Williams, *Christianity among the New Zealanders*, p 148.

**155.** Shawcross, 'Maoris of the Bay of Islands', fols 356–357; see also Freda Rankin Kawharu, 'Hōne Wiremu Heke Pokai', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/ih16/heke-pokai-hone-wiremu>, last modified 30 October 2012

**156.** Shawcross, 'Maoris of the Bay of Islands', fol 357

**157.** Ibid, fol 235; Steven Oliver, 'Hemi Tautari and Mary Tautari', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/2t12/tautari-hemi>, last modified 30 October 2012

**158.** Judith Binney, 'Aperahama Taonui', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/2t7/taonui-aperahama>, last modified 30 October 2012; Wilson, *From Hongi Hika to Hone Heke*, p 119

**159.** Angela Ballara, 'Nopepa Pana-kareao', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1p3/pana-kareao-nopepa>, last modified 30 October 2012

**160.** Document c9, pp 24–27; Ballara, 'Moetara Motu Tongaporutu'

**161.** Ballara, 'Eruera Maihi Patuone'; Angela Ballara, 'Tamat Waka Nene', in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1n2/nene-tamati-waka>, last modified 30 October 2012; see also doc A22, pp 50–52

**162.** Wilson, *From Hongi Hika to Hone Heke*, pp 135, 167–168

**163.** Document A11(a), vol 4, p 1370; Busby to Bourke, 28 March 1837, qms 0345, ATL, Wellington

**164.** Document A1, p 229; Bernard Foster, 'Te Morenga', in *An Encyclopedia of New Zealand*, AH McLintock, ed, <http://www.teara.govt.nz/en/1966/te-morenga>, last modified 22 April 2009

**165.** Those who had converted at the time they signed he Whakaputanga included Te Kekeao, Atuahaere, Moetara, Heke, Tamati

Pukututu, Hemi Kepa Tupe, Wiremu Taunui, and Haimona Pita-Matangi. By February 1840, Panakareao, Nene, Patuone, Te Morenga, Te Wharerahi, and Mohi Tāwhai had joined them.

**166.** Document A37, p 671; doc A11, p 195; Owens, 'Christianity and the Maoris to 1840', p 32; Binney, 'Christianity and the Maoris to 1840: A Comment', pp 145–145; Belich, *Making Peoples*, pp 167–168

**167.** Waitangi Tribunal, *Muriwhenua Land Report*, p 48; Ballara, 'Nopepa Pana-kareao'

**168.** Document B34, p 10; Shawcross, 'Maoris of the Bay of Islands', fols 226–227, 345; Wilson, *From Hongi Hika to Hone Heke*, pp 114–115; Williams, *Christianity among the New Zealanders*, pp 115–116, 151–152; John Noble Coleman, *A Memoir of the Rev Richard Davis: For Thirty Nine Years a Missionary in New Zealand* (London: James Nisbet and Co, 1865), p 136

**169.** Orange, 'Rawiri Taiwhanga'

**170.** Owens, 'Christianity Among the Maoris to 1840', p 21; Binney, 'Christianity and the Maoris to 1840: A Comment', p 157; doc A11, p 186

**171.** For examples, see Williams, *Christianity among the New Zealanders*, pp 115, 150–152, 198–199, 210–211

**172.** Document A1, p 78; doc A11, p 197; Williams, *Christianity among the New Zealanders*, pp 63–64, 117, 156–157, 210–211; Ballara, *Taua*, pp 421–422, 431–432

**173.** Document A11, pp 192–193; Ballara, *Taua*, p 421

**174.** Ballara, *Taua*, p 421; doc A11, p 201

**175.** Ballara, *Taua*, p 423; doc A11, pp 192, 218

**176.** Ballara, *Taua*, pp 421–422. O'Malley and Hutton noted that the Catholic bishop Pompallier was less concerned with the abandonment of customs such as moko and haka, and that all of the missions accused others of having laxer standards than their own: doc A11, p 210.

**177.** Document A19, p 71

**178.** Document A11, pp 210–212

**179.** Document A1, p 81; doc A11, p 201

**180.** Document A1, pp 40, 42–43, 81–82; doc A11, pp 197–198. Regarding missionaries claiming credit, see Belich, *Making Peoples*, p 164.

**181.** Ballara, *Taua*, pp 422–423; doc A11, pp 201–203, 209

**182.** Document A1, p 79

**183.** Ibid; doc A37, pp 307, 310; Wilson, *From Hongi Hika to Hone Heke*, p 171

**184.** Document A37, p 615; doc A11, pp 203–204; Wright, *New Zealand, 1769–1840*, p 168

**185.** Document A11, p 201; doc A1, pp 79, 86; Williams, *Christianity among the New Zealanders*, pp 156–157; James Buller, *Forty Years in New Zealand: Including a Personal Narrative, an Account of Maoridom, and of the Christianization and Colonization of the Country* (London: Hodder and Stoughton, 1878), p 35

**186.** Document A11, p 218

**187.** Document A36, p 354. For other examples of breaches of tapu being tolerated, see: doc A11, pp 219, 221; Ballara, *Taua*, p 418; Shawcross, 'Maoris of the Bay of Islands', fols 292–293.

- 188.** Document A11, pp 214–221; doc A1, p 70; Ballara, *Taua*, p 418
- 189.** Document A11(a), vol 2, pp 517–518; doc A11, p 216
- 190.** Document A11, pp 219, 221; Ballara, *Taua*, p 418
- 191.** Document A11, pp 218, 221; Williams, *Christianity among the New Zealanders*, pp 262–263; Ballara, *Taua*, p 418
- 192.** Document A11, pp 204, 206, 215, 221–224; doc A1, pp 70, 80, 94–95; doc A37, pp 678–682; doc B18(a), pp 21, 30–32; Wright, *New Zealand, 1769–1840*, pp 182–183, 191; Shawcross, ‘Maoris of the Bay of Islands’, fols 292–293. For examples of claimant views on the application of tapu in modern times, see doc B18(a), pp 21, 30–32; doc A25(a), p 16.
- 193.** Document A11, p 225; doc A1, pp 80–82
- 194.** Document A11, p 192; doc B10, p 24; doc A1, p 78; Wright, *New Zealand, 1769–1840*, pp 172–173, 182–183; Wilson, *From Hongi Hika to Hone Heke*, pp 142–143
- 195.** Wright, *New Zealand, 1769–1840*, pp 171–174, 182–183
- 196.** Binney, ‘Christianity and the Maoris Before 1840: A Comment’, p 164, see also p 144
- 197.** Ballara, *Taua*, p 419
- 198.** Document A1, pp 81–82; see also doc A11, pp 192–193
- 199.** Belich, *Making Peoples*, pp 164, 167; Owens, ‘Christianity and the Maoris to 1840’, p 32; Binney, ‘Christianity and the Maoris to 1840: A Comment’, pp 145–146
- 200.** Belich, *Making Peoples*, pp 167–168, 217; doc A11, pp 14, 18, 190–195
- 201.** Wright, *New Zealand, 1769–1840*, pp 159–161; Owens, ‘Christianity and the Maoris to 1840’, pp 29, 36–37; Belich, *Making Peoples*, pp 168–169; Ballara, *Taua*, pp 426–427; doc A1, p 78; doc A11, p 197; see also Williams, *Christianity among the New Zealanders*, pp 151–152.
- 202.** Wilson, *From Hongi Hika to Hone Heke*, p 143; Williams, *Christianity among the New Zealanders*, pp 255–256
- 203.** Williams, *Christianity among the New Zealanders*, pp 255–256; Belich, *Making Peoples*, p 108. For similar instances of Māori seeking the Christian atua’s protection or support during fighting, see doc A11, pp 198–199.
- 204.** Concerning Patuone and Nene, see chapter 4. Concerning Panakareao, see Ballara, *Taua*, p 441; Waitangi Tribunal, *Muriwhenua Land Report*, pp 37–40, 79–80, 135–136; and Ballara, ‘Nopera Panakareao’. Concerning Christian involvement in the 1837 conflict, see doc A19, p 50; doc A1, p 88; Wilson, *From Hongi Hika to Hone Heke*, pp 212–214.
- 205.** Wilson, *From Hongi Hika to Hone Heke*, p 139
- 206.** Document A1, pp 77, 80–81, 87, 90; doc A11, p 220; doc A37, pp 393–394; Belich, *Making Peoples*, p 177; Wright, *New Zealand, 1769–1840*, pp 144, 148, 151–152; Ballara, *Taua*, p 419; Shawcross, ‘Maoris of the Bay of Islands’, fols 355–357
- 207.** Document B18(a), p 33
- 208.** Waitangi Tribunal, *Ko Aotearoa Tēnei: A Report into Claims Concerning New Zealand Law and Policy Affecting Māori Culture and Identity*, Te Taumata Tuarua, 2 vols (Wellington: Legislation Direct, 2011), vol 2, pp 603–604
- 209.** Wright, *New Zealand, 1769–1840*, pp 151–154, see also pp 59–61, 144, 147, 149
- 210.** Document A11(a), vol 2, p 838; King to CMS, 9 September 1836, Church Missionary Society, archives relating to the Australian and New Zealand Missions, 1808–84, micro MS coll 053, ATL, Wellington; doc A11, p 203
- 211.** Wright, *New Zealand, 1769–1840*, p 170
- 212.** Document A11(a), vol 1, pp 176–177
- 213.** Wright, *New Zealand, 1769–1840*, pp 170–174, in particular pp 171, 174; see also doc A11, pp 202–203.
- 214.** Waitangi Tribunal, *Muriwhenua Land Report*, p 51
- 215.** Document C9, pp 24–27; doc A37, p 227
- 216.** Wright, *New Zealand, 1769–1840*, p 156; Ballara, *Taua*, pp 425–427, 430–433; Williams, *Christianity among the New Zealanders*, pp 213–214; Ballara, ‘Warfare and Government’, pp 97–99
- 217.** Document B18, pp 14–15; doc D11, p 5
- 218.** Williams, *Early Journals*, p 397. Wilson referred to heated debates between Kiwikiwi and missionaries, which sometimes seemed close to violence: Wilson, *From Hongi Hika to Hone Heke*, p 137.
- 219.** Document A11, p 200; Judith Binney, ‘Penetana Papahurihiia’, in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, [http://www.teara.govt.nz/en/biographies/1p\\_4/papahurihiia-penetana](http://www.teara.govt.nz/en/biographies/1p_4/papahurihiia-penetana), last modified 30 October 2012; Williams, *Early Journals*, pp 378 n 19, 388; Wilson, *From Hongi Hika to Hone Heke*, pp 192–196; Owens, ‘New Zealand before Annexation’, pp 38–39; doc A11(a) vol 4, pp 1369–1370; Busby to Bourke, 30 January 1837 and 28 March 1837, QMS 0345, ATL, Wellington; Ballara, ‘Warfare and Government’, pp 95–99, 200–201; Judith Binney, ‘Papahurihiia, Pukerunga, Te Atua Wera and Te Nakahi: How Many Prophets?’, *Journal of the Polynesian Society*, vol 116, no 3 (2007), pp 309–320
- 220.** Document A25, pp 3–4; Waitangi Tribunal, *Muriwhenua Land Report*, p 52. Rima Edwards explained that the ‘Ngakahi’ in the title of the wānanga referred to a star visible from Easter Island, within which Papahurihiia is said to reside: doc A25, pp 3–4.
- 221.** Document A25, pp 84–86
- 222.** Document B10, pp 59–60
- 223.** Document A1, p 77; Shawcross, ‘Maoris of the Bay of Islands’, fols 357–358; Claudia Orange, ‘The Māori and the Crown’, in *The Oxford Illustrated History of New Zealand*, ed Keith Sinclair, 2nd ed (Auckland: Oxford University Press, 1996), p 32; Ballara, *Taua*, p 425
- 224.** Belich, *Making Peoples*, p 223
- 225.** This phrase was used in Coleman, *A Memoir of the Rev Richard Davis*, pp 446–447. See also doc A11, pp 195–196; doc A19, p 17; doc A1, p 78; Wright, *New Zealand, 1769–1840*, pp 174–175.
- 226.** Shawcross, ‘Maoris of the Bay of Islands’, fol 327, fig xvii; doc A2, pp 14–18
- 227.** Document A26, pp 21–22; doc A37, p 427
- 228.** Document A11, p 196; see also Williams, *Early Journals*, p 133
- 229.** DF McKenzie, *Oral Culture, Literacy and Print in Early New Zealand: The Treaty of Waitangi* (Wellington: Victoria University Press, 1985), pp 12–13. For an example of missionary views, see William

- Colenso, *Fifty Years Ago in New Zealand* (Napier: RC Harding, 1888), pp 20–21.
- 230.** Belich, *Making Peoples*, p 165; see also doc A1, p 78; doc A11, pp 14, 190–191, 195–196; Wright, *New Zealand, 1769–1840*, pp 174–175; Ballara, *Taua*, pp 420–421; Owens, ‘Christianity and the Maoris to 1840’, pp 34–35
- 231.** McKenzie, *Oral Culture, Literacy and Print*, pp 30–31; doc D1, pp 41–44; Parkinson, ‘Our Infant State’, pp 38, 439–441; Owens, ‘Christianity and the Maoris to 1840’, pp 34–35; doc A11, p 196; Wright, *New Zealand, 1769–1840*, pp 174–175; Williams, *Christianity among the New Zealanders*, pp 85, 127
- 232.** Williams, *Christianity among the New Zealanders*, p 85, see also p 127; see also doc D1, pp 41–44; Parkinson, ‘Our Infant State’, pp 38, 439–441; Owens, ‘Christianity and the Maoris to 1840’, pp 34–35; doc A11, p 196; Wright, *New Zealand, 1769–1840*, pp 174–175
- 233.** McKenzie, *Oral Culture, Literacy and Print*, pp 21–22; Williams, *Christianity among the New Zealanders*, pp 117–118, 164; doc D1, pp 44–47; Parkinson, ‘Our Infant State’, pp 147, 441–445; doc A19(a), p 101
- 234.** For example, see Williams, *Early Journals*, pp 326, 345, 386, 395, 400, 449–450, 461–467, 472; Church Missionary Society, *Visit of the Bishop of Australia to the Church Missionary Society's Mission in New Zealand and Notices of Its State and Progress* (London, 1840), pp 130–131, 142; Williams, *Christianity among the New Zealanders*, pp 85, 118, 119, 164–165, 171, 202, 211, 248–249, see also pp 257, 260
- 235.** McKenzie, *Oral Culture, Literacy and Print*, p 15
- 236.** Church Missionary Society, *The Missionary Register, 1834*, pp 61, 119; McKenzie, *Oral Culture, Literacy and Print*, p 14; doc A11, p 197; Williams, *Early Journals*, pp 326, 386. Williams also referred to Heke paying with ‘a canoe of good firewood’.
- 237.** McKenzie, *Oral Culture, Literacy and Print*, p 23
- 238.** Ibid, pp 12, 26–27; Parkinson, ‘Our Infant State’, pp 469–471; see also Williams, *Christianity among the New Zealanders*, pp 248–249; doc A19(a), p 85. Parkinson also listed numerous other printings of bible excerpts, prayers, and hymns by both Wesleyan and Anglican missions from 1835 to 1840: Parkinson, ‘Our Infant State’, pp 448–476.
- 239.** Colenso, *Fifty Years Ago in New Zealand*, p 20; see also McKenzie, *Oral Culture, Literacy and Print*, p 27
- 240.** Document A11, p 190
- 241.** Yate, *An Account of New Zealand*, p 239; Markham, *New Zealand or Recollections of It*, p 55
- 242.** Church Missionary Society, *The Missionary Register, 1833*, pp 468, 550. Similar claims were made by William Williams and Marsden: see Williams, *Christianity among the New Zealanders*, pp 248–249; Church Missionary Society, *The Missionary Register, 1838*, p 137.
- 243.** Document A11(a), vol 1, p 383
- 244.** McKenzie, *Oral Culture, Literacy and Print*, p 17; see also Wright, *New Zealand, 1769–1840*, p 177
- 245.** Church Missionary Society, *The Missionary Register, 1832*, p 406 and 1833, p 243; see also Church Missionary Society, *The Missionary Register, 1893*, p 348

- 246.** Williams, *Christianity among the New Zealanders*, p 202; Williams, *Early Journals*, pp 386–387
- 247.** McKenzie, *Oral Culture, Literacy and Print*, p 30
- 248.** Ibid, pp 15–16
- 249.** Ibid, p 10
- 250.** Document A16, p 187
- 251.** Ibid, pp 136–137, 139–142
- 252.** Ballara, *Taua*, pp 420–421
- 253.** Ibid; doc A11, pp 191, 197; doc A20, pp 56, 60–61
- 254.** McKenzie, *Oral Culture, Literacy and Print*, pp 19–20
- 255.** Document A11, p 191; Head, ‘The Pursuit of Modernity’, pp 109–110
- 256.** McKenzie, *Oral Culture, Literacy and Print*, p 32
- 257.** Belich, *Making Peoples*, p 165
- 258.** Owens, ‘New Zealand before Annexation’, p 39; Ballara, *Taua*, pp 420–421; doc A1, p 78
- 259.** Document A20, p 15, see also pp 33, 56
- 260.** Document A1, p 272
- 261.** Document A37, pp 430–431
- 262.** Document B26(a), p 35, see also pp 5, 10, 22, 27, 32
- 263.** Document B10, pp 65–67
- 264.** Crosby, *The Musket Wars*, pp 250–251, 267–269; Ballara, *Taua*, pp 148–152, 204–205; Ormond Wilson, *Kororareka and Other Essays* (Dunedin: John McIndoe, 1990), pp 84–85, 92; Shawcross, ‘Maoris of the Bay of Islands’, fol 365, fig 21
- 265.** Crosby, *Musket Wars*, pp 252–254; Shawcross, ‘Maoris of the Bay of Islands’, fol 365, fig 21
- 266.** Crosby, *Musket Wars*, pp 335–336; Ballara, ‘Warfare and Government’, pp 177, 198, 274; Shawcross, ‘Maoris of the Bay of Islands’, fol 375–376, fig 21; Percy Smith, ‘Wars of the Northern against the Southern Tribes of New Zealand in the Nineteenth Century’, p 53
- 267.** Wright, *New Zealand, 1769–1840*, p 147
- 268.** Head, ‘The Pursuit of Modernity’, pp 102–103. Manuka Henare expressed a similar view in his doctoral thesis, though not in his brief of evidence: doc A16, p 191; doc B3.
- 269.** Ballara, *Taua*, p 163
- 270.** Belich, *The New Zealand Wars*, p 25
- 271.** Document A1, pp 60–61, 81–82
- 272.** Ibid, pp 80–83; doc A11, p 234; doc A19, pp 21–22, 71, 82; doc A19(a), pp 69–71, 85, 88, 91–92; Ballara, *Taua*, pp 421, 423, 431–432; Belich, *Making Peoples*, p 164. For specific examples, see the experiences of Taiwhanga and Te Ripi, recounted in Williams, *Christianity among the New Zealanders*, pp 99–100, 116.
- 273.** Concerning those who wanted to keep fighting, see Ballara, *Taua*, pp 425–426, 430–433. Concerning those who feared aggression if they converted, see doc A19, p 47; doc A19(a), p 85.
- 274.** Document A19(a), p 91; see also doc A19(a), p 92; doc A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, qms 0345, ATL, Wellington
- 275.** Ballara, *Taua*, pp 431–432; see also Wright, *New Zealand, 1769–1840*, pp 154–155; doc A11, p 198
- 276.** Ballara, *Taua*, pp 158–160

- 277.** Ibid, pp 431–432; doc A11, pp 18, 198; Shawcross, ‘Maoris of the Bay of Islands’, fol 354; Ballara, ‘Warfare and Government’, pp 188–192, 196–198; Belich, *Making Peoples*, p 164; Williams, *Early Journals*, pp 81, 105, 116, 435–439. Belich concluded: ‘most missionary peacemaking feats, on close examination, have Maori peacemakers behind them’. Many of the senior northern rangatira had reputations as peacemakers. For example: Wharerahi: doc A1, pp 338, 347; doc A36, pp 174, 321, 502 n 1059, 596; Ballara, *Taua*, p 159; Patuone: doc A5, p 42; doc A36, pp 347, 365; Ballara, *Taua*, p 159; Pōmare II: doc A5, p 218; Kawiti: doc A1, p 319; Ballara, *Taua*, p 159; Rewa and Titore: Ballara, *Taua*, p 159.
- 278.** Ballara, *Taua*, pp 159, 204, 432
- 279.** Document c9, p 22; doc A37, pp 623–624; Davis, *Life and Times of Patuone*, p 37
- 280.** Eric Ramsden, *Busby of Waitangi: HM's Resident at New Zealand, 1833–40* (Wellington: AH and AW Reed, 1942), p 178
- 281.** Ballara, *Taua*, pp 155–158; doc A1, p 88
- 282.** Busby to Bourke, 13 July 1837, qms 0345, ATL, Wellington
- 283.** Document A36, p 354; doc C6, p 3
- 284.** Wright, *New Zealand, 1769–1840*, pp 180–181
- 285.** Belich, *Making Peoples*, p 168
- 286.** For explanations of the reasons for declining warfare, see Ballara, *Taua*, pp 103, 114, 153–163, 431–432, 443; Crosby, *Musket Wars*, p 335; doc A1, p 81; doc A37, p 388; doc A11, p 198; Shawcross, ‘Maoris of the Bay of Islands’, fol 365–366; Wright, *New Zealand, 1769–1840*, pp 146–147, 159, 180–181.
- 287.** Document B22(b), p 26; doc B21(a), p 17; doc B36(a), pp 2–3; doc C9, p 21; doc C23, p 7; doc D14, p 11; see also doc A30(c), pp 28, 38–39; doc A36(a), pp 25, 565, 569 (which refers to Te Ika-a-Ranganui as the ‘last great battle’), 572 (which refers to Te Ika-a-Ranganui extending the mana of Ngāpuhi over other Te Raki tribes); Ballara, ‘Hongi Hika’, in *The Dictionary of New Zealand Biography*, Ministry for Culture and Heritage, <http://www.teara.govt.nz/en/biographies/1h32/hongi-hika>, last modified 30 October 2012; doc A25(a), pp 58–59; doc A29(a), p 9. In *Taua*, Ballara said that one reason for declining warfare was ‘the resolution of inter-Maori *take* in the different districts’, and another was that accommodations were reached and marriages occurred between formerly competing groups: Ballara, *Taua*, p 443. Phillipson saw warfare declining partly because Ngāpuhi already had enough slaves: doc A1, p 81.
- 288.** Ballara, *Taua*, pp 147, 152
- 289.** Ibid, pp 455–456; Ballara, ‘Warfare and Government’, p 249
- 290.** Head, ‘The Pursuit of Modernity in Māori Society’, p 102. Alan Ward also argued that economic progress, along with concerns about ‘declining numbers and strength, relative to that of the Pakeha’, were factors encouraging Māori to seek peace: doc A19, p 22.
- 291.** Ballara, *Taua*, pp 63–64
- 292.** Document A36, pp 352–354; Shawcross, ‘Maoris of the Bay of Islands’, fol 346, 366; doc A1, pp 81–82
- 293.** Document A1, p 82; doc A36, pp 354, 357, 361; doc A11, p 153
- 294.** Document A1, pp 58–59, 63; doc A11, pp 17, 175–176; Shawcross, ‘Maoris of the Bay of Islands’, fol 339
- 295.** Ballara, *Taua*, pp 147–148, 152

- 296.** Ibid, p 152
- 297.** Document A11(a), vol 4, pp 1376–1394; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 298.** Document A1, pp 62, 64, 67, 81, 85–86, 90; Ballara, *Taua*, p 426; see also doc A11, pp 16, 147–148, 233–234; Ballara, ‘Warfare and Government’, p 93
- 299.** Document A1, p 91; Ballara, *Taua*, p 100
- 300.** Ballara, *Taua*, p 100; see also doc A37, p 268; Belich, *Making Peoples*, pp 167–168; Wright, *New Zealand, 1769–1840*, p 160; doc A37, pp 267–268; doc A1, pp 85–86; Williams, *Christianity among the New Zealanders*, pp 39–40, 163, 173, 203–204; Yate, *An Account of New Zealand*, p 121
- 301.** One obvious example was Busby’s failed intervention in the dispute over Whananaki. On other occasions, rangatira such as Pōmare II, Nene, Taonui, Papahia, and Te Tupe approached the Resident about disputes with Europeans regarding theft, property damage, trade, or land. The missionaries were called on for similar reasons: see doc A1, pp 124, 240, 249–252; doc A19, pp 40–42; doc A19(a), p 85; Orange, *The Treaty of Waitangi*, pp 14–18; Binney, ‘Tuki’s Universe’, p 228; Jennifer Ashton, “So Strange a Proceeding”: Murder, Justice and Empire in 1830s Hokianga, NZJH, vol 46, no 2 (2012), p 150. For examples of rangatira ignoring Busby’s responses to trader complaints, see doc A37, pp 671–672.
- 302.** Ballara, *Taua*, pp 436–437; doc A11, pp 240–241; doc A1, p 94
- 303.** Document A11, pp 240–242; doc A1, p 94; Ballara, *Taua*, pp 439–440
- 304.** Document A11(a), vol 1, p 199; Charles Baker, Journal, 20 November 1833, qms 0109, ATL, Wellington
- 305.** Report from the Select Committee of the House of Lords, p 272
- 306.** Document A11, p 231
- 307.** Report from the Select Committee of the House of Lords, pp 271–272
- 308.** Document A11, pp 230–232; doc A1, p 84; see also Ballara, *Taua*, pp 428–429
- 309.** Document A11, p 231; see also doc A1, p 84
- 310.** Report from the Select Committee of the House of Lords, p 271
- 311.** Submission 3.1.142(a), p 578; Report from the Select Committee of the House of Lords, pp 270–271; doc A18(e), pp 630–632; Claudia Orange, ‘The Treaty of Waitangi: A Study in its Making, Interpretation and Role in New Zealand History’ (PhD thesis, University of Auckland, 1984), p 89 n 42. Judith Binney said there had also been ‘three attempts to bring Maori before the New South Wales Supreme Court for crimes against Europeans’ prior to 1840, though all failed: Binney, ‘Tuki’s Universe’, p 228. These appear to have referred to crimes committed while on ships or otherwise outside New Zealand and therefore rangatira jurisdiction. On one of those occasions, she said, a Māori sailor was imprisoned on a ship for the alleged murder of a European crew member, but was released as he was awaiting trial.
- 312.** Jeffrey Sissons, Wiremu Wi Hongi and Patu Hohepa, *Nga Puriri o Taiamai: A Political History of Nga Puhi in the Inland Bay of Islands* (Auckland: Reed, 2001), pp 37, 86, 134. According to Henry Williams,

Pumuka was of Te Roroa but lived at Whangae in the Bay of Islands interior: Williams, *Early Journals*, p 107 n 6

**313.** Document A11(a) vol 4, pp 1395–1398; Busby to Bourke, 9 November 1838, qms 0345, ATL, Wellington; Busby to Bourke 28 May 1838, qms 0345, ATL, Wellington; Lee, *Hokianga*, pp 97–99; Ashton, ‘So Strange a Proceeding’, pp 148–153; Ballara, ‘Tamatī Waka Nene’

**314.** Document A11(a), vol 4, pp 1395–1398; Busby to Bourke, 9 November 1838, qms 0345, ATL, Wellington; Busby to Bourke, 28 May 1838, qms 0345, ATL, Wellington; Ramsden, *Busby of Waitangi*, pp 185–188; Ashton, ‘So Strange a Proceeding’, p 152

**315.** Document A11, p 249; Lee, *Hokianga*, pp 98–99

**316.** Busby to Bourke, 28 May 1838, qms 0345, ATL, Wellington; Ashton, ‘So Strange a Proceeding’, pp 149–153

**317.** Document B10, pp 27–31, 60, 71

**318.** Document A1, pp 84–85; Ballara, *Taua*, p 428

**319.** Document A1, pp 69–73, 91, 161–162; doc A11, pp 125–128, 207–208; doc A37, pp 668, 671–672, 678–689; Shawcross, ‘Maoris of the Bay of Islands’, fols 295–304, 316–317, 321, 328–330, 363–364. Patu Hohepa referred to his own convict tūpuna, Thomas Cassidy, who married into Te Māhurehure at Waima and who was later killed for adulterous behaviour: transcript 4.1.1, pp 121, 129.

**320.** Document A1, pp 72–74, 93–94

**321.** Transcript 4.1.1, p 33; see also transcript 4.1.1, p 201; doc A30(c), p 6

**322.** Document A11, p 128

**323.** Ibid, pp 20, 105, 235–239; doc A1, pp 48, 57, 74, 81–82, 84–85, 88, 90, 93–94; Shawcross, ‘Maoris of the Bay of Islands’, fols 363–364

**324.** Document A1, p 57; Ballara, *Taua*, p 418

**325.** Nora Barlow, ed, *Charles Darwin's Diary of the Voyage of the HMS 'Beagle'* (Cambridge: Cambridge University Press, 1933), p 368

**326.** Shawcross, ‘Maoris of the Bay of Islands’, fols 225, 350, fig xix, 353–354; see also Lee, *Bay of Islands*, pp 151–153; Belich, *Making Peoples*, p 167

**327.** Document A1, p 57; doc A37, p 668; Belich, *Making Peoples*, p 199; Adams, *Fatal Necessity*, p 27

**328.** Belich, *Making Peoples*, p 167

**329.** Document A1, pp 73–74, 93–95; doc A11, pp 235–239

**330.** Document A11(a), vol 4, pp 1277–1278; Busby to Bourke, 13 May 1833, qms 0345, ATL, Wellington

**331.** Document A1, pp 57, 67; doc A37, pp 669–672, 675–676; doc A36, pp 352–368; doc A11, pp 154–155; Belich, *Making Peoples*, p 199. The seizing of Mair’s trading boat is discussed in Williams, *Early Journals*, pp 360, 363.

**332.** Document A1, pp 42–43; doc A37, pp 675–676; Belich, *Making Peoples*, p 199; Lee, *Bay of Islands*, pp 185–187

**333.** Adams, *Fatal Necessity*, p 27

**334.** Wolfe, *Hell-Hole of the Pacific*, p 84

**335.** Ibid, p 91

**336.** *Report from the Select Committee of the House of Lords*, p 164

**337.** Wolfe, *Hell-Hole of the Pacific*, pp 76, 99

**338.** Shawcross, ‘Maoris of the Bay of Islands’, fol 350, fig xix

**339.** *Report from the Select Committee of the House of Lords*, p 101

- 340.** Document A1, p 141; Davis to CMS, 6 December 1838, MS 1211/1 ATL, Wellington
- 341.** Richard Hill, *Policing the Colonial Frontier: The Theory and Practice of Coercive Social and Racial Control in New Zealand*, Part One (Historical Publications Branch, Department of Internal Affairs, Wellington, 1986), p 85
- 342.** Sherrin, ‘From Earliest Times to 1840’, pp 463–464; see also doc A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840 [238], pp 9–11
- 343.** Belich, *Making Peoples*, pp 198–199; Lee, *Bay of Islands*, pp 208–209, 306–308; Wolfe, *Hell-Hole of the Pacific*, pp 80–83; Owens, ‘New Zealand before Annexation’, p 48
- 344.** Adams, *Fatal Necessity*, p 20
- 345.** Shawcross, ‘Maoris of the Bay of Islands’, fols 292–293, 350–351, 364–365; doc A19, pp 39–40
- 346.** Belich, *Making Peoples*, pp 198–199; Lee, *Bay of Islands*, pp 208–209, 306–308; Wolfe, *Hell-Hole of the Pacific*, pp 82–83; Owens, ‘New Zealand before Annexation’, p 48
- 347.** Document A11(a), vol 4, p 1378; Busby to Secretary of State for War and the Colonies, 16 June 1837, qms 0345, ATL, Wellington
- 348.** Belich, *Making Peoples*, p 200
- 349.** Document A30(a), pp 3, 5; doc A30(c), pp 8, 90–91; transcript 4.1.1, pp 34, 120, 128, 196, 200; doc A10, p 7; doc D7, p 8; doc A31, p 3; doc A11, pp 17, 119–121, 262; see also Belich, *Making Peoples*, pp 198–200; Wright, *New Zealand, 1769–1840*, pp 188–199. For a contrary view, see doc A19, p 16.
- 350.** Belich, *Making Peoples*, p 200
- 351.** Document A11, p 248; doc A17, p 21; doc A11(a), vol 4, pp 1376–1378; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington; doc A18(e), p 630; Hobson to Bourke, 8 August 1837, BPP, 1840 [238], pp 9–11; Lawrence M Rogers, *Te Wiremu: A Biography of Henry Williams* (Christchurch: Pegasus, 1973), p 108
- 352.** Shawcross, ‘Maoris of the Bay of Islands’, fols 350–351, 364–365; doc A11, p 14; doc A1, pp 72–74; Owens, ‘New Zealand before Annexation’, p 48; Lee, *Bay of Islands*, pp 178–179, 196–197, 209–210, 222; doc A19(a), p 92; doc A19, pp 39–42; Sherrin, ‘From Earliest Times to 1840’, pp 462–463; doc A18(e), pp 630–632; Hobson to Bourke, 8 August 1837, BPP, 1840 [238], pp 9–11; doc A11(a), vol 4, p 1371; Busby to Bourke, 28 March 1837, qms 0345, ATL, Wellington; doc A18(f), p 921; Busby to Bourke, 30 January 1837, qms 0344, ATL, Wellington
- 353.** Adams, *Fatal Necessity*, p 20
- 354.** Document A1, p 235
- 355.** Williams, *Early Journals*, pp 306, 475
- 356.** Shawcross, ‘Maoris of the Bay of Islands’, fols 350, 364–365
- 357.** Belich, *Making Peoples*, p 171
- 358.** Ballara, *Taua*, p 425
- 359.** Document A11, pp 229–230; doc A1, p 87; Ballara, *Taua*, pp 423, 425–428, 431
- 360.** Wright, *New Zealand, 1769–1840*, pp 152, 156–157, see also pp 190–191, 193, 195, 197
- 361.** Document A37, p 517
- 362.** Williams, *Early Journals*, p 278.

- 363.** Ballara, *Taua*, p 426; doc A1, p 85; doc A11, pp 18, 191, 202, 233–234; Wright, *New Zealand, 1769–1840*, pp 168, 179–181
- 364.** Document A1, p 86; doc A11, pp 226–229; doc A37, pp 515–518
- 365.** Document A11, p 229, see also p 19; doc A1, p 86
- 366.** Elder, ed, *The Letters and Journals of Samuel Marsden*, p 383
- 367.** Document A11(a), vol 4, p 1385; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 368.** Document A11, pp 234–235; doc A1, pp 83, 86, 90–91; Ballara, *Taua*, pp 423, 425–427, 430–431. Wright also saw declining control over warfare as a significant source of Māori ‘cultural confusion’: *New Zealand, 1769–1840*, pp 146–147.
- 369.** Ballara, *Taua*, pp 430–431; Williams, *Early Journals*, p 408
- 370.** Ballara, *Taua*, pp 426–427
- 371.** See doc A36, pp 357, 361; Williams, *Early Journals*, pp 433–435
- 372.** Document A16, pp 114–115, 211–215; doc A37, pp 225–232; doc A1, pp 86, 90–91; doc A11, p 229; doc C9(b), p 2; doc A30(c), p 7
- 373.** Document A11, pp 229–230; doc A37, pp 665–674
- 374.** Shawcross, ‘Maoris of the Bay of Islands’, fols 356–357
- 375.** Document A16, pp 114–115, 211–215; doc A37, pp 225–232; doc A1, p 86; doc A11, pp 229–230; doc C9(b), p 2; doc A30(c), p 7
- 376.** Dorothy Urlich Cloher, *Hongi Hika: Warrior Chief* (Auckland: Viking, 2003), pp 137–138
- 377.** Robert McNab, *Historical Records of New Zealand*, 2 vols (Wellington: Government Printer, 1908), vol 1, pp 627–629; Elder, *The Letters and Journals of Samuel Marsden*, p 335; doc A19, pp 17–21; doc A19(a), pp 18, 55, 78, 88, 91, 102–103
- 378.** Document A16, pp 140–141; doc A37, pp 428–429; doc B26(a), pp 25–26; Panakareao to Marsden, 9 June 1837, Samuel Marsden papers, vol 3; ‘New Zealand Missions, Letters to Marsden, 1816–1837’, micro ms 0743, ATL, Wellington, p 964
- 379.** Document A16, pp 140–141; doc A37, pp 428–429; doc B26(a), pp 25–26; Missionary translation of Panakareao to Marsden, 9 June 1837, Samuel Marsden papers, vol 3; ‘New Zealand Missions, Letters to Marsden, 1816–1837’, micro ms 0743, ATL, Wellington, pp 961–962
- 380.** Document A16, pp 140–141; doc A37, pp 428–429; doc B26(a), pp 25–26; Panakareao to Marsden, 9 June 1837, Samuel Marsden papers, vol 3; ‘New Zealand Missions, Letters to Marsden, 1816–1837’, micro ms 0743, ATL, Wellington, pp 964–965; doc A11(a), pp 1373–1378; Busby to Bourke, 4 May, qms 0345, ATL, Wellington; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 381.** Document A16, pp 140–141
- 382.** Document B26(a), pp 25–26
- 383.** Waitangi Tribunal, *Muriwhenua Land Report*, pp 37–38
- 384.** Document A19(a), p 93; Ballara, ‘Nopera Pana-kareao’; Waitangi Tribunal, *Muriwhenua Land Report*, pp 37–38, 40, 48–49, 53, 58
- 385.** Document A11(a), vol 4, pp 1373–1376; Busby to Bourke, 4 May 1837, qms 0345, ATL, Wellington
- 386.** Polack, *New Zealand*, vol 2, p 219
- 387.** Document A11(a), vol 4, pp 1382–1383, 1394; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 388.** Document A19(a), pp 17–18, 55, 88
- 389.** Document A1, p 253
- 390.** Document A11(a), vol 4, pp 1391, 1393; Busby to Bourke, 16 June 1837, qms 0345, ATL, Wellington
- 391.** Rose Daamen, Paul Hamer, and Barry Rigby, *Auckland*, Waitangi Tribunal Rangahaua Whanui Series (Wellington: Waitangi Tribunal, 1996), pp 74, 146–152, 215; see also Duncan Moore, Barry Rigby, and Matthew Russell, *Old Land Claims*, Waitangi Tribunal Rangahaua Whanui Series (Wellington: Waitangi Tribunal, 1997), pp 281–324; doc A1, p 99
- 392.** Moore, Rigby, and Russell, *Old Land Claims*, pp 282, 285, 289, 299, 305–307, 310, 311, 317, 318
- 393.** Ibid, pp 285–286, 306–307; Shawcross, ‘Maoris of the Bay of Islands’, fols 350–351, fig xix; Lee, *Bay of Islands*, pp 162–164; Ballara, ‘Warfare and Government in Ngapuhi Tribal Society’, p 97. Concerning Waimate, see Williams, *Early Journals*, pp 166, 168–169.
- 394.** Williams, *Early Journals*, p 358; Hugh Carleton, *The Life of Henry Williams, Archdeacon of Waimate*, 2 vols (Auckland: Upton and Wilsons and Horton, 1874–77), vol 1, p 136; Caroline Fitzgerald, ed, *Te Wiremu – Henry Williams: Early Years in the North* (Wellington: Huia, 2011), pp 230, 275
- 395.** Shawcross, ‘Maoris of the Bay of Islands’, fols 352–353, 370–372; doc A19, pp 23–28; doc A1, pp 136–139; Moore, Rigby, and Russell, *Old Land Claims*, pp 281–324
- 396.** Shawcross, ‘Maoris of the Bay of Islands’, fols 352–353, 370–372; doc A19, pp 23–28; doc A1, pp 99, 136–139; Moore, Rigby, and Russell, *Old Land Claims*, pp 281–324; see also Wilson, *From Hongi Hika to Hone Heke*, pp 200, 206–207; Lee, *Hokianga*, pp 111–112
- 397.** Document A1, pp 136–139. Concerning continued occupation, see doc A1, pp 106, 108, 116, 121, 124–130, 148, 150–153.
- 398.** Waitangi Tribunal, *Muriwhenua Land Report*, pp 64, 73–75, 87, 106
- 399.** Document A1, pp 99–158; doc A11, pp 180–185; doc A19, pp 26–28; doc A19(a), p 63; doc A20, p 66; Wright, *New Zealand, 1769–1840*, pp 195–196. These issues were also extensively canvassed in claimant evidence.
- 400.** Document A11(a), vol 4, pp 1356–1362; Busby to Bourke, 26 January 1836, qms 0345, ATL, Wellington
- 401.** Ibid; see also doc A11(a), vol 4, pp 1346–1356; Busby to Bourke, 18 January 1836, qms 0345, ATL, Wellington; doc A11(a), vol 4, pp 1362–1367; Busby to Bourke, 20 February 1836, qms 0345, ATL, Wellington
- 402.** Document A11(a), vol 4, p 1361; Busby to Bourke, 26 January 1836, qms 0345, ATL, Wellington
- 403.** Document B13(a), p 9
- 404.** Document A11(a), vol 2, pp 626–627; Henry Williams to CMS, 13 May 1826, qms 2230, ATL, Wellington
- 405.** Williams, *Early Journals*, p 306
- 406.** Document A19, p 57 n 100
- 407.** Document A1, p 141; Davis to CMS, 1 June 1839, MS 1211/2, ATL, Wellington
- 408.** Document A1, p 141; Davis to CMS, 19 November 1839, MS 1211/2, ATL, Wellington
- 409.** Document A1, p 141; Davis to CMS, 6 December 1838, MS 1211/1, ATL, Wellington

- 410.** *Report from the Select Committee of the House of Lords*, pp 260–261
- 411.** Ibid; see also doc A19(a), p 94
- 412.** Moore, Rigby, and Russell, *Old Land Claims*, pp 64–65
- 413.** Document A19(a), pp 17–22, 55, 78, 86–88, 90–99, 101–105; doc A19(c), pp 10, 38; doc A22(d), p 12; doc A18(a), p 25; doc D1(e), pp 27–28
- 414.** Document A11(a), vol 2, p 687
- 415.** Ibid
- 416.** Document A19(a), p 103
- 417.** Ibid, p 91
- 418.** Document A1, p 131; Davis to CMS, 1 March 1839, Richard Davis, letters and journals, vol 2, MS 1211/2, ATL, Wellington
- 419.** Document A18, p 128 n 362
- 420.** Document A19(a), p 94
- 421.** Ibid, p 92; see also doc A19(a), pp 18–20, 55, 84–89, 90–106
- 422.** Document A1, pp 140–141
- 423.** Document A19, pp 3, 14, 52–53; doc A19(a), pp 18–20
- 424.** Document A19, p 27
- 425.** Submission 3.3.33, p 80
- 426.** Document B18(a), pp 15–17
- 427.** Document B13(a), pp 8–12; see also doc D5, p 29
- 428.** Document B10, pp 56, 59, 78, 80
- 429.** Shawcross, ‘Maoris of the Bay of Islands’, fol 370; doc A1, pp 68, 107; Belich, *Making Peoples*, p 201
- 430.** Document A1, p 135
- 431.** Ballara, *Taua*, p 417
- 432.** On the significance of mana as a motivating force, see doc A11, p 269. On the survival of Māori social systems, see Owens, ‘New Zealand before Annexation’, p 39.
- 433.** Belich, *The New Zealand Wars*, p 327; McKenzie, *Oral Culture, Literacy and Print*, p 35