

## CHAPTER 8

# PARIHAKA

Though the lions rage still I am for peace . . . Though I be killed I yet shall live; though dead, I shall live in peace which will be the accomplishment of my aim. The future is mine, and little children, when asked hereafter as to the author of peace, shall say 'Te Whiti', and I will bless them.

Te Whiti o Rongomai, 1881

### 8.1 ISSUES AND EVENTS

Parihaka is symbolic of autonomy – of the right of indigenous peoples to maintain their society on their own terms and to develop, from mutual respect, a peaceful relationship and partnership with the Government. That, in our view, is the autonomy and relationship that Te Whiti of Parihaka sought to achieve. Autonomy, under his direction, was synonymous with prosperity and peace.

Autonomy was guaranteed in the Maori text of the Treaty of Waitangi. It is also plain that no Maori would have agreed to the Treaty had Maori autonomy been taken away or Maori status reduced. Nor could anything less have been expected in return for the gift of settlement than that autonomy and partnership were agreed.

At all relevant times, the New Zealand Constitution Act 1852 envisaged districts where Maori authority would prevail. More significant than the provision itself was that the colonial government did not use it. Once the Treaty was signed, concepts of autonomy and partnership disappeared at the colonial frontier, and the colonial government contemplated no other option than that of domination and control.

We have made some study of overseas circumstances, and while it is far from complete, by reference to the history and development of Canada, Australia, and the United States of America, it appears that aboriginal autonomy was more thoroughly suppressed in New Zealand than in those comparable countries. Parihaka provides an illustration of this. Although the destruction of similar Maori enclaves occurred elsewhere in New Zealand, as the *Orakei Report* shows, the events at Parihaka provide a graphic account of the Government's antagonism to any show of independence. The result, which might have no parallel in world colonisation, is that not one acre exists where land is held and matters are managed entirely on Maori terms. In New Zealand, aboriginal autonomy remains suppressed. While it is promoted by certain organs of the United Nations and is, in varying shapes and degrees, applied and practised in Canada, the United States of America, and Australia, in New Zealand it has not been seriously addressed.

The classic Maori position consistently presumed that a partnership of Maori and Pakeha autonomies was required. No serious student of the philosophy of Wiremu Kingi, the Kingitanga, Te Whiti of Parihaka, or numerous other Maori leaders could fail to be struck by the singular Maori position that aboriginal autonomy was not a basis for war but the foundation for peace. Peace, in this world view, requires punctilious recognition of the status of other peoples and dialogue, based on mutual respect, that workable partnerships might be achieved.

In our opinion, that was one of the messages of Te Whiti o Rongomai and Tohu Kakahi. Much the same was to be sought by Mahatma Gandhi in India and, later still, by Martin Luther King junior in the United States of America. It is probably no accident that each of these leaders taught of divine law. Effectively, they were jurists promoting higher constitutional norms.

If evidence of a right is found in the consequences of its denial, Parihaka establishes that the autonomy of peoples must swell in the human breast as a fundamental need. Those who have suffered the repression of social intercourse by an alien power will know how pernicious foreign domination can be – those who have not can only hope to understand. The Government took from Parihaka not only land but the basic ingredients of society: the right to choose one's leaders and to enjoy freedoms of speech and association. A vibrant and productive Maori community was destroyed and total State control of all matters Maori, with full power over the Maori social order, was sought. Indeed, the rights of chiefs were confiscated and vested in petty officials and, in the result, such land as was not directly taken from Maori was, for the most part, leased to Europeans on perpetually renewable terms. It would have caused less anguish for future generations of Maori had the land been given away.

It is not our function to write the history of Parihaka, but because we are required to distil those matters relevant to the claim, we must maintain some overview of events.<sup>1</sup> We see the position broadly as follows.

After the war had ended, the Government had, to all intents and purposes, abandoned the confiscation in central Taranaki for the whole of the district that had Parihaka at its heart, from the Hangatahua River to the Waingongoro River. No European had settled one acre in that entire area.

A movement for Maori peace and development had been established at Parihaka well before the war's end. Under the inspiration of Te Whiti and Tohu, this movement had grown to pre-eminence. It had flourished in a Maori environment, where development could be effected on Maori terms. From there, the leadership of the central district was to become vested in the Parihaka prophets, and they were also to become pre-eminent for Taranaki as a whole. Their word was law for former rebels and loyals alike, and Parihaka became a haven for all dispossessed and a shrine for all hapu. For nearly a decade after the wars, this peaceful situation obtained and Parihaka's reputation for discipline, faith, organisation, and development grew daily.

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1. This chapter draws particularly from H Riseborough, *Days of Darkness: Taranaki, 1878–1884*, Wellington, 1989, and H Riseborough, 'Background Papers for the Taranaki Claim' (doc A2).

## *Parihaka*

In 1878, however, nine years after the war, the Government brought this situation to an end. It began the survey of the central Taranaki district, with a view to enforcing European settlement there. The purpose, in our view, no matter how it may have been disguised, was no more than to repay the war and settlement loans by the sale of land, without the need to pay Maori one further pound. The Government's action, however, did not solicit from Maori the response that such provocation might reasonably have compelled. After an invitation to discuss the matter with Te Whiti had been declined, Maori took no other steps than to peacefully remove the surveyors south of the Waingongoro River. In seeking negotiations, Te Whiti and Tohu were assuming that Maori were not subordinates in the country but partners and were entitled to respect. In ensuring a peaceful response, the prophets were introducing their passive resistance philosophy.

The united leadership of Te Whiti and Tohu may well have caused some upset at the time, for previously governments had capitalised on Maori divisions to keep control. Without the ability to compromise the Maori leadership in this case, a political game was played whereby the Government sought or claimed contact with Te Whiti without talking with him and without formally acknowledging his status as a leader or agreeing to discuss the justice of his case. In response to the Government's refusal to treat with Te Whiti as an equal and its assumption that Maori would settle for limited relief, the prophets launched an army of ploughmen to plough settler land throughout Taranaki. The first intake was a distinguished and disciplined corp of ploughmen, the most notable of the 'loyal and rebel chiefs', who submitted to the inevitable arrests. As arrests were made, more ploughmen appeared, until several hundred swelled the country's gaols. The Government's response – to remove all usual legal formalities for arrests and trials and to legislate for imprisonment at will – merely emphasised how remote that regime had become from the promises made at Waitangi in the Queen's name and how fragile the rule of law was in New Zealand at the time.

The popular belief that Maori were arming had constrained precipitate Government action until the best of the Taranaki fighting men were in prison. It was only thereafter that central Taranaki was re-entered by the Government. By then, a new Native Minister was at the helm. John Bryce was a Taranaki war veteran, who, in our assessment, had clearly retained his relish of warfare and who saw the exercise of power as the solution to problems. On his own admission, he had always desired a march on Parihaka in order to destroy it. It may be noted that the office of Native Minister was crucial at the time. Bryce replaced John Sheehan, who had at least sought to discuss matters with Te Whiti, and was in turn replaced by William Rolleston, who was probably more concerned than anyone with establishing dialogue.

With 600 of the Armed Constabulary, the Native Minister built a road to Parihaka and initiated such further provocative actions as might goad a warlike response and justify his army's retaliation. Instead, the only battle the Minister could create was with an 'army' of pacifist fencers. Without prior discussion with Te Whiti, the constabulary pulled down cultivation fences to allow for roadways, but as they were pulled down, Maori repaired them. The fences were necessary to restrain wandering

cattle and the constabulary's horses, which would otherwise ruin the crops. It was claimed that the troops in fact destroyed crops and also that they looted property, but at least it is clear that Maori responded entirely without aggression.

When the constabulary arrested the Maori fencers, they quietly submitted to apprehension and others took their place. Although the authority of the Armed Constabulary to effect arrests was uncertain, 216 fencers were taken into custody. The constabulary's authority was never put to the test, however, because no fencer was tried. Instead, they were shipped to gaols in the South Island to be confined at the Governor's pleasure without a court hearing.

The fencing problem was resolved when Maori erected slip-rails across the roads to allow passage but prevent stock trespass. The Minister's provocation had failed to achieve its ostensible purpose. If he had hoped for an invasion while the fighting men were in prison, he was unable to pursue such a course at that time.

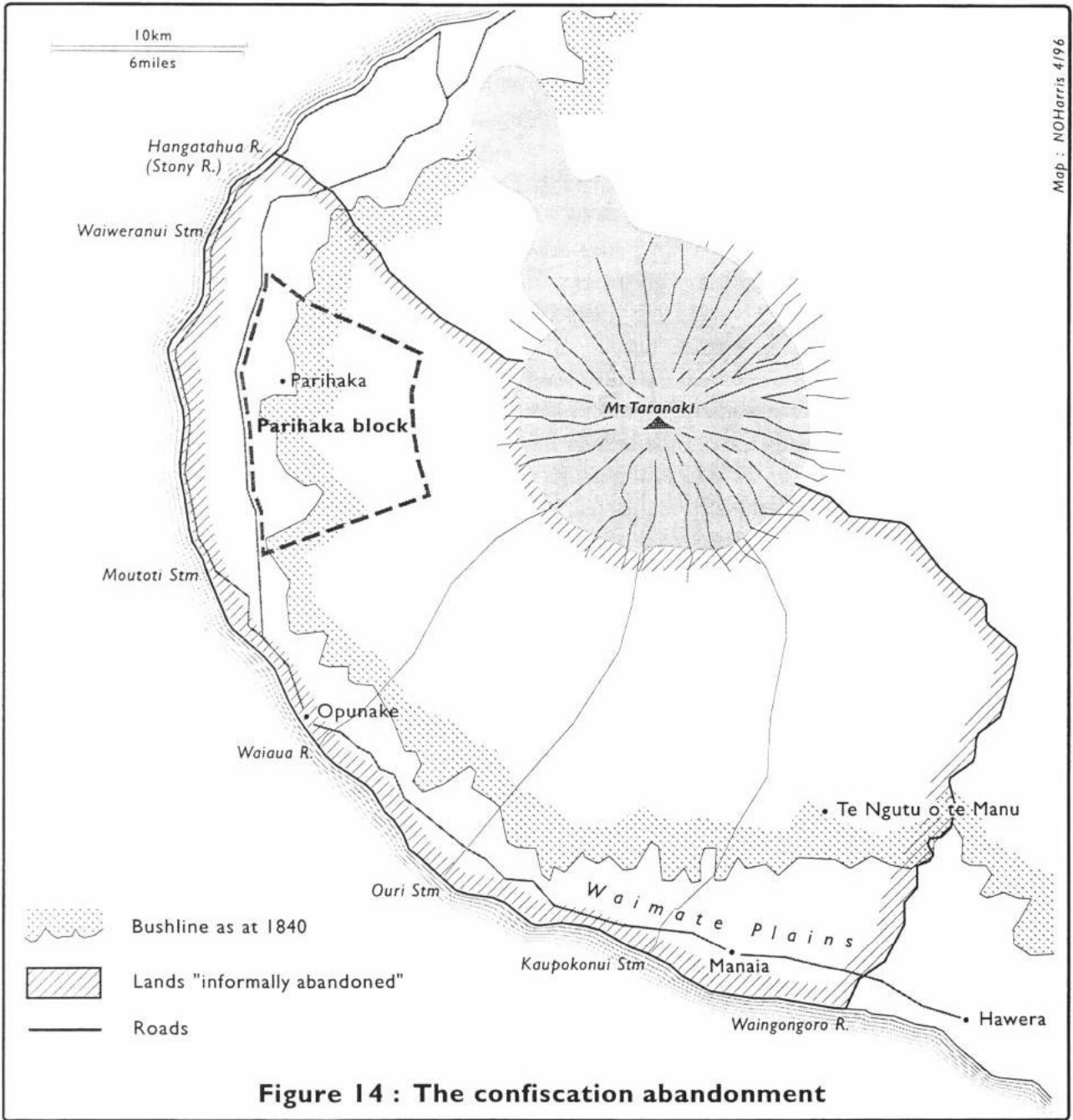
There was a further constraint in that, as a result of the ploughmen's arrests, the West Coast Commission had been appointed to inquire into alleged promises of land that were said not to have been kept. It was difficult for the Minister to take direct action while the inquiry was continuing. Predictably, and though he was barely informed of the record, the Minister had argued that the commission was unnecessary. He thought there could be some justifiable complaints 'of one kind or another' on the west coast but 'probably no grievances to speak of on the Waimate plains'. Despite his protestations, however, the West Coast Commission had been formed.

The commission, comprised of politicians in support of confiscation, went much beyond looking at the many broken promises that it found to exist. It became distracted by its obvious desire to open the remaining Maori lands for settlement. The commission acknowledged takoha was wrong and that confiscated land in the centre had been effectively abandoned, but it was satisfied that Maori would agree to the settlement of the area if adequate reserves were made. This was a remarkable conclusion considering that the leading Maori were not spoken to, even though the opportunity was there. It was also remarkable that the commission could assume the Maori leadership's mind or, alternatively, could presume to know what was best for Maori without talking to them and without considering that the Crown's right to the land may in fact have gone.

At least the commission acknowledged that, after some 16 years, the numerous promises of reserves had never been fulfilled. It observed that broken promises, unfulfilled Compensation Court decisions, and fraud had justified Maori protests. It recommended that there be no further surveys and sales without the prior delineation of expansive Maori reserves and added that 'filling our gaols with prisoners, not for crimes but for political offences in which there is no sign of criminal intent' had done nothing to advance the peace. The report should have been enough to have stopped even an old soldier in his tracks, but it did not.

In light of the report, as well as considerable criticism from England, the retention of the prisoners could no longer be sustained. The Native Minister arranged for their release, albeit unwillingly it seems, but he still endeavoured to profit from the

Parihaka



situation. When the first batch of prisoners was released, the Native Minister sought to impose conditions on their freedom, including the acceptance of reserves.

The Native Minister then resumed the survey and sale of lands in central Taranaki. His actions were so provocative that, in our view, he was also endeavouring to recreate hostilities. More particularly, he proposed the survey and sale of the coastal aspects of the Parihaka block, though those lands were known to be the most fertile part of the block, where Maori had cultivated crops for centuries. This operation was undertaken even though the West Coast Commission had proposed a moratorium on surveys until reserves had been made and even though Parliament had recognised the propriety of that position by reconstituting the commission to ensure that result. Further, the commission had specifically mentioned the need for Parihaka reserves to be made before any action was taken, and the Native Minister's predecessor in office, John Sheehan, had deposed to the commission that, from the hills to the sea, the whole of the Parihaka block should be reserved for the peaceful pursuits of Maori. With that opinion from such a high authority, Maori had good grounds to think they would keep the entire block.

Without any consultation or discussion, however, the Native Minister gave notice that the whole of the coastal portion, Te Whiti's most arable area, was to be surveyed and sold. In the Native Minister's words, the survey would be done 'under Te Whiti's nose' and 'English homesteads would be established at the very doors of his house'.

The spring planting on the coastal land was complete when the surveyors entered, along with the Armed Constabulary, to break the fences and expose the crops once more. Their purpose in doing this was not to make a road but to lay out the whole area for settlers. The Maori food supply was now threatened, and they again reacted by re-erecting the fences. No arrests were made this time because they were not required: in the Minister's mind, as the commission reported, Maori had obstructed the survey, and on that basis Parihaka could now be invaded.

There remained, however, one impediment to that course – the possibility of intervention from London. The British Parliament had inquired about the suspension of the ordinary course of law in New Zealand and rumours that Maori prisoners had been mistreated. The Native Minister had replied evasively, attributing all fault to the fanatical support for Te Whiti and the unwholesome effect of the latter's 'evil eye', but the British Government was unconvinced and had sent a new Governor to review matters and report. Governor Gordon was more sympathetic to the indigenes.

Parihaka prepared to welcome the new Governor and a 'new and commodious house' was built to receive him.<sup>2</sup> His aide-de-camp visited Parihaka and reported positively on the extensive cultivations and the contented and friendly disposition of the people. Most importantly, the aide was able to scotch the irresponsible media accounts that Parihaka was arming and fortifying. He reported that there were no fortifications or military preparations. The aide urged negotiation, not force – a course which the Native Minister described as 'perfectly preposterous'.<sup>3</sup>

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2. *Taranaki Herald*, 30 May 1891

3. BPP, vol 16, p 477

It happened, however, that the 'British problem' was resolved by the Governor's temporary absence in Fiji. Initially, the Government had been anxious to restore its good name in Britain. It declined the Native Minister's proposals for a march on Parihaka, blamed the Minister for attempting to engage the Government in hostilities, and brought about that Minister's resignation (though he was later reinstated). The Governor none the less completed a report and an embarrassed Government suppressed its presentation in London for more than a year. When the Governor then indicated that he would not sign further proclamations extending the Confiscated Lands Inquiry and Maori Prisoners' Trials Act 1879 for prisoners to be held without trial, the Government was bound to do something. It did; it expedited the release of the remaining prisoners.

In mid-September 1881, however, the Governor left for Fiji. The then chief justice, whose description of Maori as 'savages' and 'barbarians' informs his disposition, became administrator of the Government in the Governor's absence. Almost immediately the Governor had departed, the strength of the west coast Armed Constabulary was increased and £84,000 was voted for 'contingent defence'.

With this obvious preparation for war, there was unease at the Parihaka half-yearly meeting on 17 September. The press attended, and some reporters worked up a scare that Te Whiti's address, given in Maori, had menacing portent. There were even rumours that he was about to invade and burn New Plymouth. These reports were groundless and William Rolleston, the Native Minister at the time, visited the area and confirmed their lack of substance. As the Governor's aide had done, he also reported a total absence of any warlike preparations, noting that the people were 'thoroughly pacific and good tempered' and 'engrossed in agriculture'.

That should have been an end to the matter, but a mood for attack was in the air. Rumours of war and misrepresentations of Te Whiti's intentions continued to be made in the press. No one failed to notice that the prisoners and Titokowaru were again at large. It was further observed that Maori were tending crops on land now sold, that thousands could be expected to gather again for the next monthly meeting at Parihaka, and that trouble would certainly follow.

That was the imaginary scare when it was learnt that the Governor was returning from Fiji earlier than expected. The Government, considering that decisive action was called for, presumably thought it would progress matters if the action were taken before the Governor could intervene. Events followed rapidly. At 8 pm on 19 October, the chief justice, as administrator, issued a proclamation calling upon Te Whiti to submit to such reserves as had been proposed and for the others to disperse or suffer unspecified consequences. At the same time, Bryce, the former Native Minister, was sworn back into office. At 10.30 pm, about an hour after the Executive Council meeting ended, the *Emerald*, conveying the Governor from Fiji, dropped anchor in Wellington Harbour. Next morning, the Governor assembled the Ministers, but one was missing. The Native Minister had left at 4 am to assemble an armed march on Parihaka, as had long been his dream. He had decided to deliver the proclamation at the point of a bayonet and to take punitive action without waiting for a response. The Governor could not recall the decision; by a special arrangement, the proclamation had been published on the same evening it was made in a *Gazette*

*Extraordinary*. In any event, in the Governor's view the Ministers were 'supported in their "vigorous" action by nine tenths of the white population of the colony', and he was obliged to comply with the advice of his Ministers or resign.

The proclamation of the chief justice, as administrator of the Government, berated the people for making themselves poor by their useless expenditure on feasts; for neglecting the cultivation of their own land (though one could not tell whether they legally owned one acre); for listening to the sound of Te Whiti's voice, which had unsettled their minds; for assuming a 'threatening attitude'; and the like. It then exhorted them to leave Parihaka and required that they accept the reserves given and the Queen's law or suffer 'the great evil which must fall on them', whatever that might have meant. There was nothing to indicate that Parihaka was about to be destroyed, or to authorise the destruction that was in fact to occur.

The province assumed the character of a country on the edge of war. Within a week, a call had been made to former soldiers and volunteers throughout the North and South Islands to assemble at Taranaki. When over 1000 answered the call to join the Armed Constabulary already there, it became obvious there was a desire to settle with Maori once and for all.

On 5 November 1881, a military force of 1589 invaded and occupied the unprotected Parihaka. The Native Minister in person was at the head, mounted on a white charger, with sabre and full military uniform.

An information blackout imposed on the Government's actions was indicative of a disturbed conscience. The publication of even the cryptic official reports to the Government was suppressed for over two years. Those reports eventually revealed, however, that Parihaka had been taken without resistance; that it was 'completely broken up'; that about 1500 men, women, and children had been arrested; and that six were imprisoned, including Te Whiti and Tohu, who were held on charges of sedition. Titokowaru, who had recently returned from prison with the ploughmen, was imprisoned again for failing to procure sureties to keep the peace.

Images of a fuller picture escaped later to the public arena; images of assaults; rape; looting; pillage; theft; the destruction of homes; the burning of crops; the forced relocation of 1556 persons without money, food, or shelter; the introduction of passes for Maori to facilitate the military's control of movements in the area; and the suspension of trials and other legal safeguards when it appeared that lawful convictions might not be achieved.

Parihaka provides a damning indictment of a government so freed of constitutional constraints as to be able to ignore with impunity the rule of law, make war on its own people, and turn its back on the principles on which the government of the country had been agreed.

For decades, the shameful history lay largely buried in obscurity. Young Maori were schooled to believe that those of their forebears whose images they should have carved with pride were simply rebels, savages, or fanatics. The Government's criminality was hidden.

New Zealanders were not to know that forced removals, pass laws, and other suspensions of civil liberties, so often criticised of governments elsewhere, had been



applied here. We were not to know, when paying tribute to Gandhi and King, that their policies and practices had first been enunciated by Maori.

The invasion of Parihaka was not the end of the matter. The process for the domination of Maori, which had begun with the war made on them and been furthered by altering the tenure of their land, was still incomplete.

The West Coast Commission was continued, in amended form, to oversee the provision of Maori reserves. Not content with having ensured that some 80 percent of the land had passed to settlers, the commission was then to vest the greater part of the Maori reserves not in Maori but in Government officials to control, that even these might then be settled by Europeans. The Public Trustee was directed to hold the reserves not only for the benefit of Maori but also for European settlement. By regular changes to the law, the settlers' interests were continually advanced, to the detriment of Maori, until most of the reserves had been leased by the trustee on perpetually renewable terms. Many were then to be sold, again through Government policy and not by the voluntary action of Maori.

In the result, although it was regularly claimed that lands had been returned to Maori, most did not return to their possession or control. Taranaki Maori obtained, at best, the right to receive a rent, and then at a rate fixed not by them but for them. Effectively, they had not land but an annuity and, owing to the new tenure of individual entitlements, not one penny passed as of right to a common hapu pool. As the individuals grew in number, fragmented, and dispersed for a living, the money, fragmenting in proportion to their growth, followed after them. There was nothing for the marae. Even the income accruing to the shares of missing owners did not pass back to the hapu. Maori land was made meaningless as a tribal asset, and as a tribal asset, it is largely meaningless to this day.<sup>4</sup>

Aspects of those events more relevant to the claim are now considered.

## **8.2 PAST HISTORY AND CURRENT PERSPECTIVES**

First, it has to be made clear that the Parihaka invasion is not something that can be set aside as a distant event. Few things so capture the identity of Taranaki Maori today as the mountain above and Parihaka at its side. Both meant 'home' for hapu of former years and both are at the bosom of Taranaki culture now.

The destruction of Parihaka in fact wrought the miracle that Tohu and Te Whiti had sought to achieve. From the ashes came the spirit that kept generations of Maori on the land and, from the spirit, their prophecy was maintained. Te Whiti and Tohu live in the people's hearts and minds. Those who set out to destroy them, if their names can be found at all, are recorded on archival shelves.

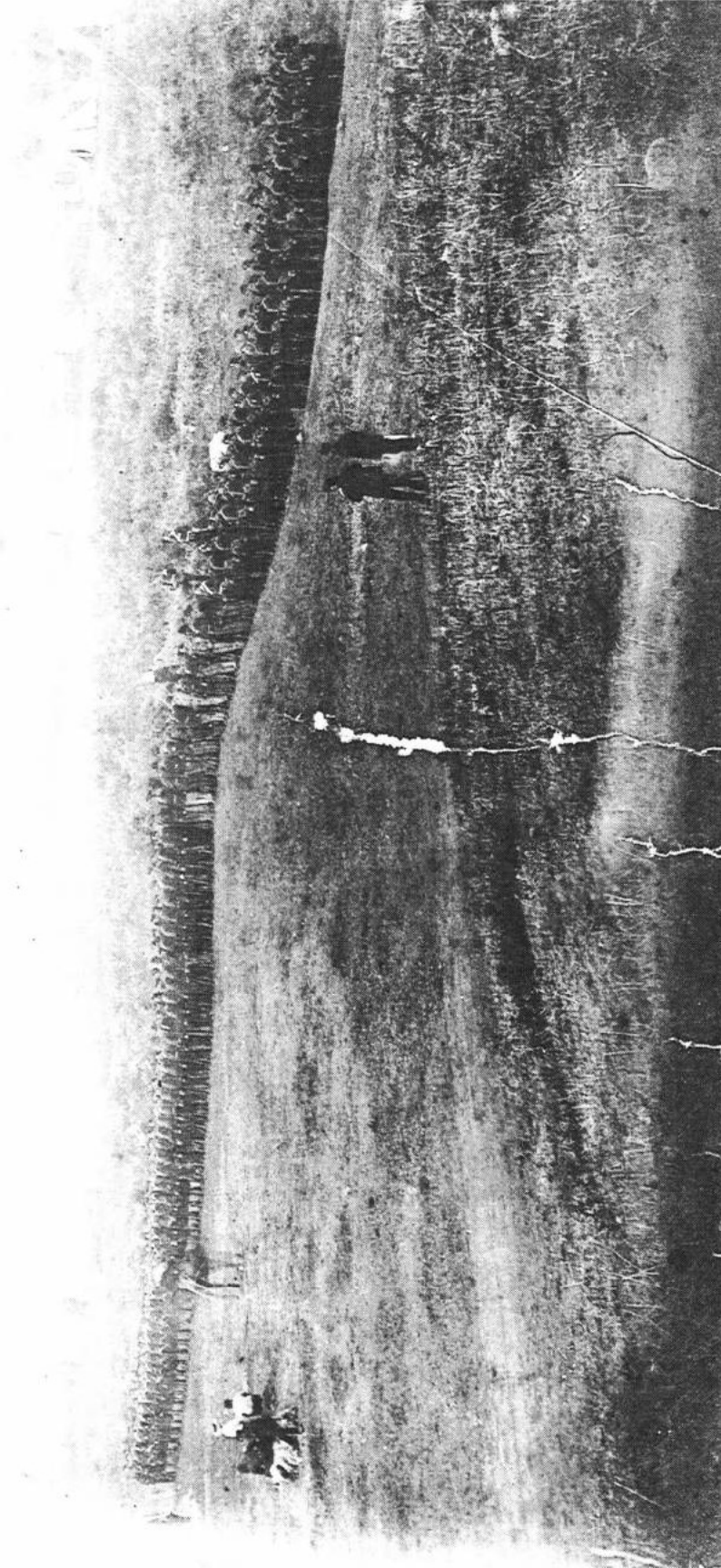
The story of Parihaka is regularly retold. Each building from the reconstruction period is tended with loving care, each cornice a reminder of what happened before. Striking photographs of the old village and invading army are still maintained in the hall on the hill.

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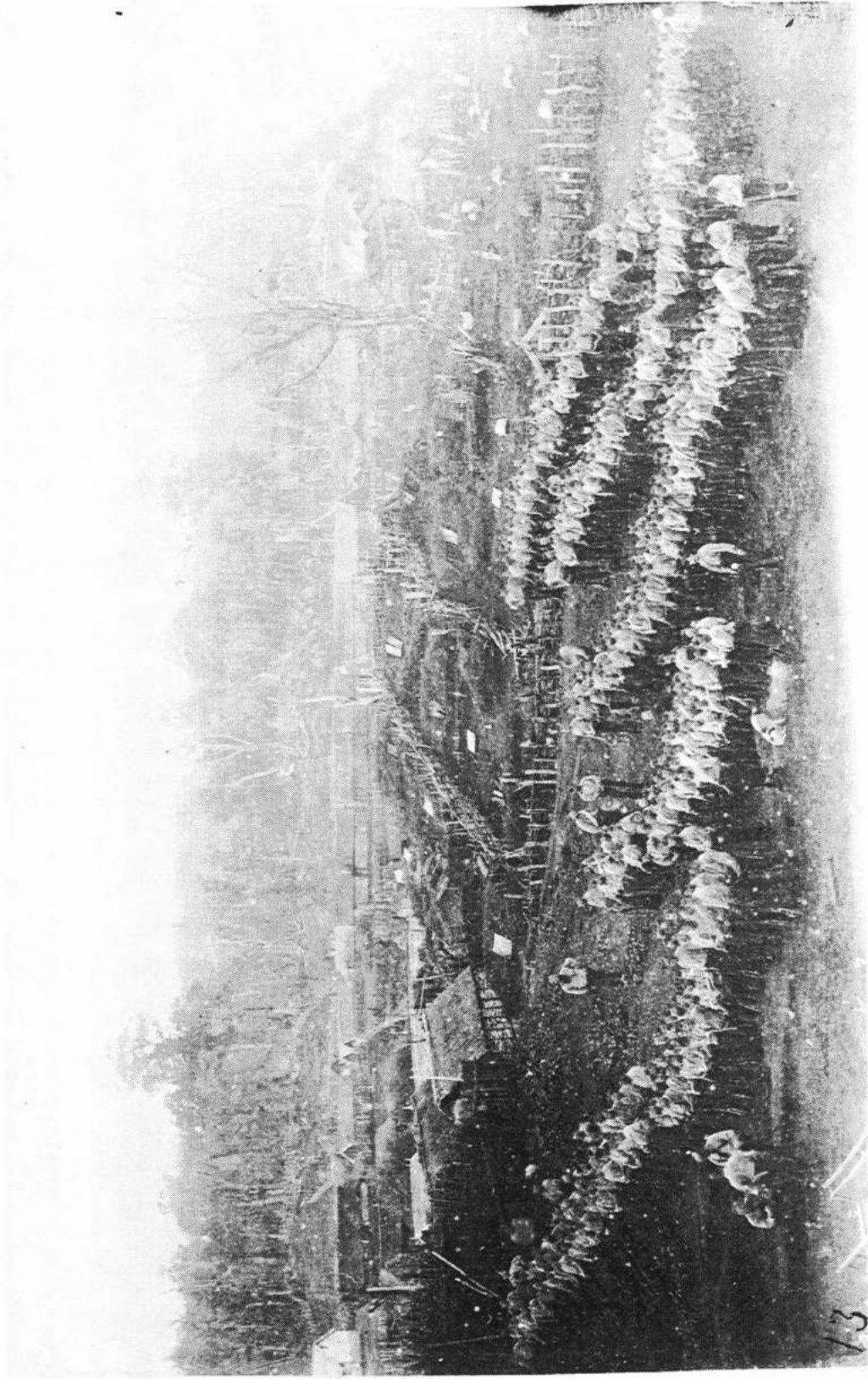
4. The process is discussed further in chapter 9.



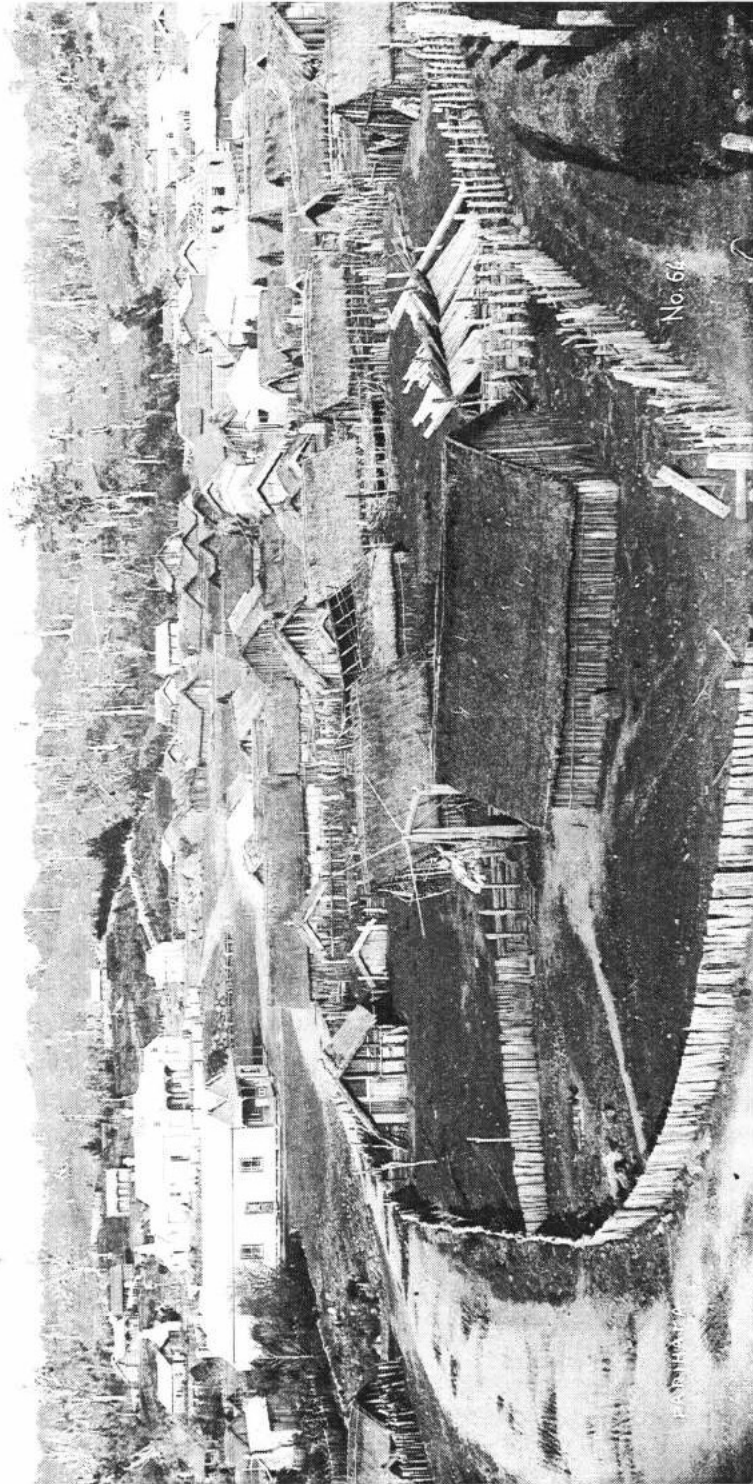
A section of Parihaka prior to the invasion. Photograph courtesy of the Alexander Turnbull Library (G1071).



The Armed Constabulary assembled at Rahotu, 1881. Photograph courtesy of the Alexander Turnbull Library (F31613 1/2).



The Armed Constabulary at Parihaka. Photograph courtesy of the Alexander Turnbull Library (F111058<sup>1/2</sup>).



Parihaka during reconstruction. Photograph courtesy of the Alexander Turnbull Library (G12106/1).

There was much pain and anger in the submissions of many who spoke of Parihaka. They challenged the Pakeha written record as inadequate and culturally biased, and they would offset it with family accounts passed down orally. We have had regard to this evidence. We were constantly aware, from listening to the people, that the story of Parihaka is no past account but part of a living tradition.

### 8.3 TE WHITI AND TOHU

Because their influence was portrayed as malevolent by various officials, some background to Te Whiti and Tohu is required. They were Christian pacifists and promoters of spiritual and economic growth. Throughout their lives they followed similar paths. Both were of Te Atiawa and Taranaki, were born in about 1830 near Ngamotu (New Plymouth), and as youths were seen to have special powers in prophecy and instruction. In fact, it may be conjectured that their names were later acquired, for the name of one denotes 'instruction' and the other suggests 'the light'.

Together they attended mission school at Warea, built and managed a flour mill there, and arranged horticultural and building schemes until Warea's school, homes, mill, and cultivations were destroyed by troops in 1865. Thereafter, their activities were transferred to Parihaka, which was farther inland and removed from the scene of the war.<sup>5</sup> Te Whiti and Tohu supported the Maori King and opposed land sales, but the greater evidence is that they did not participate in the war.<sup>6</sup>

According to tradition, Tohu saw an albatross descending to the village, symbolising the sanction of the Holy Spirit for the Parihaka movement. The raukura, or albatross feather, came to symbolise peace and the Parihaka spirit. It was worn during the events to be described and is still worn today.

Te Whiti's and Tohu's instructions on Christianity, discipline, and development attracted huge numbers. Through their proclamation of Christian study and pacifist doctrine, their mana grew daily. There was barely a rangatira in Taranaki who did not at some stage seek their counsel. They became the most renowned leaders of Taranaki, yet never did they diminish the authority of others. They became known as prophets with both spiritual and temporal powers.

Although Te Whiti is most spoken of in European accounts, this appears to have happened because Te Whiti was the main negotiator and was therefore more visible to Europeans. Tohu was more active as a teacher and spiritual adviser, and those who appeared before us were agreed that one was not in fact more important than the other.

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5. Some traditions consider that Te Whiti, Tohu, and their people moved to Parihaka in the 1840s seeking a more peaceful clime. The more general opinion appears to be that the move followed the sacking of Warea.

Dr D Keenan, a Maori historian from Taranaki, considers that Parihaka was earlier called Repanga. The new name was to recall the lamentations and sufferings caused by the recent past (Keenan, essay on Te Whiti, *Dictionary of New Zealand Biography*, Wellington, Department of Internal Affairs, vol 2, pp 530–532; see also pp 541–542).

6. The West Coast Commission commented that: 'We ought not to forget how our own records show [Te Whiti] never took up arms against us but did his best . . . to restrain from violence his unruly and turbulent tribe' (AJHR, 1880, G-2, p xliv).

#### 8.4 PARIHAKA PROSPERITY

The population of Parihaka grew rapidly. By the end of the 1870s, it was being described as the most populous and prosperous Maori settlement in New Zealand. The permanent population of about 1500 included persons from the local hapu, Te Atiawa, Ngati Tama, Ngati Ruanui, Tangahoe, Pakakohi, Nga Rauru, and Whanganui. Maori throughout Taranaki and from as far away as north Auckland, Rotorua, Wairarapa, the King Country, and the Chatham Islands attended the well-known monthly meetings.<sup>7</sup> It is usual to read in contemporary reports that a certain hapu was 'at Parihaka' at some particular point. Some stayed there for months at a time.

Te Whiti and Tohu rebuilt the mana of Maori war victims from throughout Taranaki and beyond. They gave more than a haven to the many dispossessed; they revitalised their spirit. Governor Gordon, in reporting to the Secretary of State for the Colonies, described Te Whiti as:

Eloquent and subtle, and animated by an unquestionable earnest patriotism, he has for many years exercised a powerful, and, for the most part, beneficial, sway over the hearts and lives, not only of his own tribe, but of a large section of the Maori population. Where his influence extends, drunkenness is unknown, industry is exacted, and peace sedulously inculcated.<sup>8</sup>

Drunkenness and disorder were stamped out, work and enterprise were rewarded,<sup>9</sup> 'Native police' kept order, and the settlement had its own bank.<sup>10</sup> Advanced agricultural machinery – reaping and threshing machines – was in everyday use, and by 1880, a large bakery operated, capable of supplying over 1000 kits of bread for the monthly meetings. Organisation and efficiency abounded; teams worked the coast and bush to harvest sufficient seafood and game to feed the thousands who came to the meetings. Independent observers assessed the visitors at the meetings at about 2000 generally and 'upwards of 3,000' shortly before the invasion, all of whom were fed and housed. Iwi throughout the country sent gifts of food, money, cloaks, and, most especially, that other symbol of peace – greenstone.

European visitors were often loud in their praise of the 'Parihaka experiment', but because they assessed the development in their own terms, they did not generally appreciate the Maori factors involved. For example, Western practices were common, but it was not acknowledged that they were introduced on the back of the traditional value system and the communal ethic still prevailed. At heart was a resistance to the social disintegration that land loss and individualism were causing elsewhere. Despite their cultural bias, the European accounts none the less provide some independent views.

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7. The nineteenth-century historian James Cowan remarked that by 1879 Parihaka had 'grown into a little republic', with Te Whiti as its 'temporal and spiritual president' (Cowan, *The New Zealand Wars*, p 447).

8. Gordon to Kimberley, 26 February 1881, BPP, vol 16, p 466

9. A Ward, *A Show of Justice: Racial 'Amalgamation' in 19th Century New Zealand*, Australian National University Press, 1974, p 202

10. *Taranaki Herald*, 19 November 1880, 14, 19 February 1881; D Scott, *Ask that Mountain: The Story of Parihaka*, Auckland, Heinemann and Southern Cross, 1975, p 159

Robert Parris, the Civil Commissioner, visited there in December 1868 with 200 'friendly natives' to see how the 'disaffected Kingites, under the young chief Te Whiti live'. Even the commissioner was obliged to report that Parihaka was supplied with abundant food and the people were industrious and healthy.<sup>11</sup> In 1871, the Taranaki medical officer wrote that Parihaka was well provisioned and the cleanest, best-kept Maori village he had visited. He noted the absence of drunkenness, which he saw as the scourge of many Maori settlements at that time.<sup>12</sup> In 1879, a correspondent from the *Lyttelton Times* found the community to be 'orderly, sober, good natured and hospitable – in all these respects vastly superior to any European community of a similar size and existing under similar conditions'.<sup>13</sup>

Several journalists visited Parihaka in October 1881, on the eve of the storm. They were highly impressed by the 'square miles of potato, melon and cabbage fields around Parihaka; they stretched on every side, and acres and acres of the land show the results of great industry and care'.<sup>14</sup> A correspondent for the *Taranaki Herald* described it as the:

principal Maori stronghold in New Zealand, an enormous native town of quiet and imposing character . . . there are regular streets of houses . . . I went to the monthly meeting on Wednesday. I never saw such numbers of Maori. It was a most picturesque sight, such gay colours, fine looking men and pretty girls. The young men and boys were having a cricket match; the bats and wickets were home made, but they played just like white men, chucking up the ball when a man was out etc . . .<sup>15</sup>

Gilbert Mair, well-known for his involvement with Bay of Plenty Maori, attended at Parihaka shortly before the invasion. In his diary, he noted that it was 'a tremendous place, about 2400 natives were assembled and a large distribution of food was going on'.<sup>16</sup>

Parihaka was proof of that which governments past and present have sought to avoid admitting: that aboriginal autonomy works and is beneficial for both Maori and the country. It was only at Parihaka and similar enclaves throughout New Zealand that change was being made on Maori terms, and it was at those places that the greater strides in Maori progress were then being achieved. Elsewhere, the Maori population was rapidly declining, as though the will to survive had disappeared.

## **8.5 CONFISCATED LAND 'ABANDONED'**

Essential to an appreciation of the Parihaka position was the widespread and justifiable opinion that central Taranaki had become Maori land and the locality an independent Maori district. For almost a decade after the wars, the Government made no claim to the land between the Hangatahua and Waingongoro Rivers by

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11. Document A2, p 65

12. Scott, p 48

13. *Taranaki Herald*, 16 March 1880

14. Scott, p 116

15. *Taranaki Herald*, 18 January 1882

16. Mair papers, MS 92, folder 53, diary 33, ATL



right of confiscation; to all intents and purposes, the confiscated land there had been abandoned.<sup>17</sup> There were no European settlements. Any Government claim to land was on the slender pretence of having effected a purchase, mainly by the discredited process of *takoha*. In the case of *Opunake*, however, acquisition was claimed by cession, but there was no deed to satisfy the Statute of Frauds and the only evidence was the self-serving opinion of a Crown agent, whose own testimony disclosed duress and Maori opposition. Despite their invalidity, however, the attempted purchases and the associated negotiations for roads, telegraph lines, and a lighthouse were all evidence that the confiscation was seen to have been abandoned – and in law, it probably was.

Ministers and Government officials likewise wrote to each other on the basis that the confiscation no longer applied in that district and, occasionally, said so distinctly. The West Coast Commissions were so convinced in 1880 and 1883 that the confiscation had been effectively abandoned that they were sharply critical of the Compensation Court for having made compensatory determinations in this area as early as 1865. In 1881, Governor Gordon reported to the Secretary of State for the Colonies that it was ‘a patent fact’ the confiscation had been ‘practically abandoned’ in this part of Taranaki.<sup>18</sup>

Against the view that confiscation had been abandoned were the Native Minister’s purchase instructions of 1872. These had assumed that purchases were necessarily gratuitous, because a ‘nominal confiscation’ had been effected. That view was apparently relayed to Maori at a meeting at *Whanganui* in 1873, though others insist another view was given at other places, but it hardly deserves serious consideration. If the Minister genuinely believed the land had been confiscated and the Maori interest extinguished, why was he buying and why was he negotiating for roadways and the like? In any event, as Maori observed, Maori law did not regard a conquest as effective when adverse possession was not immediately taken and subsequently maintained. It could only have seemed to them that the Government’s law was the same.

Accordingly, Maori, in continuing in peaceful possession or re-entering into occupations without Government objections and with tacit approval, must be seen as having done so with the legitimate expectation that their efforts and improvements would not later be questioned.

Maori would also have had good grounds for believing, had the question been raised, that the area was a district where peace prevailed under Maori control. It could well have been recognised as a Maori district under the New Zealand Constitution Act 1852. All the necessary structures and controls were there. *Parihaka* had become home to about 1500 permanent residents. The *rangatira* of the district regularly referred matters to the monthly *Parihaka* meetings, where common policy was also resolved. It is clear that a law applied throughout central Taranaki (and beyond), which was formalised by *Te Whiti* and *Tohu* at regular meetings. It is

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17. Our view, as a matter of law, is that no confiscation in central Taranaki had been effected. The land could not be confiscated until it was laid out for settlement, and that had not been done before the Act had lapsed. This is dealt with more fully later in this chapter.

18. Gordon to Kimberley, 26 February 1881, BPP, vol 16, p 472

further clear that the prophets had re-established the Maori spiritual code for the determination and enforcement of appropriate behaviour. The close attention of the ploughmen to the strict rules of passive resistance, despite the pressure they were subjected to, spoke amply of how effective the teaching and instruction had been. Apart from motivation, there was no reason why central Taranaki should not have been declared a Maori district under the New Zealand Constitution Act.

## **8.6 THE DECISION TO SURVEY THE LAND**

The decision to survey central Taranaki for settlement came as a major change in the Government's direction. No basis for doing so was formally given but there were at least two possibilities: part of the land had been acquired by takoha or the land had been confiscated.

The worth of those propositions is examined below. For now, we consider that the motivation for entering upon the land was nothing more than political and economic convenience. It simply suited the Government to do so, and the Government did not seriously examine the likely results.

Elsewhere, rapid progress had been made towards European settlement. Although the central government was responsible for the purchase and confiscation of Maori land, Pakeha settlement of that land was carried out by the provincial governments, which were also charged with the administration of the Government's immigration scheme and established colonists on both purchased and confiscated land. In 1874, the Taranaki provincial government obtained control of some 110,000 acres of bush land to the east of Taranaki mountain and founded Inglewood with English farm labourers recruited under the Government's plans. By 1876, some 800 immigrants had been settled in the area.<sup>19</sup>

Public works were underway on the coast road linking settlements north and south of New Plymouth and on an inland road joining the bush settlements of Inglewood and Stratford with New Plymouth and Waitara to the north and Hawera to the south. A rail link between New Plymouth and Waitara was opened in 1875, and an inland route via Inglewood and Stratford reached Hawera in 1881 (and Wellington in 1886). The Armed Constabulary had replaced military settlers in staffing the strategic military posts and was also able to assist with construction. Local Maori provided labour for these works, including the roadway through central Taranaki.

As settlement proceeded, the provincial government maintained pressure on the Government for more land. The Government responded with the sale of the takoha purchase blocks in the south. In the boom conditions induced by the Government's works and immigration policy, the surveyed allotments sold well above the auction's upset price. Sales in 1874 attracted buyers from throughout the country and prices reached more than £4 per acre.

This advantageous return from the sale of land did not alleviate the problems. More settlers simply created more demands for land, but most of the land had been

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19. Rollo Arnold, *The Farthest Promised Land: English Villagers, New Zealand Immigrants of the 1870s*, Wellington, Victoria University Press, 1981, pp 292–303

taken up and the repayment of the loans made to finance the extensive public works had left the Grey Government considerably strapped for cash. It was in these conditions that, without apparent forethought, the decision was made to open up the plains and, eventually, the whole of central Taranaki for settlement. In brief, the cause of the survey was no more than the settlers' demand for more land and the Government's obligation to repay a large loan, both situations arising from the Government's own policies on immigration and settlement.

## **8.7 THE LEGALITY OF CONFISCATION IN CENTRAL TARANAKI**

As mentioned, no explanation was given for the decision to take and sell the central Taranaki land.

The West Coast Commission considered two possible justifications. It was extremely critical of the first: that part of the land had been acquired by takoha. It likewise rejected the second, that the land had been confiscated, for in its view, the confiscation had been effectively abandoned. None the less, the commission was comprised of politicians whose desire for European settlement was well known, and this desire was obvious in the commission's report. Indeed, the chairman was a member of the House, and as the former Native Minister, he had introduced the confiscation legislation. To achieve the objective of settlement, the commission simply assumed, even though the evidence was against it, that Maori would be content with settlement of the area provided sufficient Maori reserves were given. The commission, however, never asked Maori if they agreed and, like the Ministers, avoided a meeting with Te Whiti. Maori acquiescence was in fact a figment of the commission's imagination.

Nevertheless, there can be no gainsaying the commission's opinion that no purchase on the basis of takoha was sustainable. There was simply no documentary record to meet the basic requirements of a land purchase, and such other evidence as existed was against any purchase having been made. Basically, the takoha scheme had been upset by Te Whiti's adamant refusal to cooperate. The Civil Commissioner simply avoided him as a result, focusing instead on those whom he called the principal chiefs of the plains, ranking Manaia and Titokowaru foremost among them. Though the agents' opinions and vouchers are unreliable, more significant than the record of those who are said to have 'succumbed' to takoha is the record, by omission, of those who did not. Manaia would not accept payment, though the offer to him was increased from £100 to £1000.<sup>20</sup> Nor, in our view, did Titokowaru accept payment. Though the Civil Commissioner claimed that Titokowaru had accepted payment, for the reasons given earlier we do not think he was to be believed.<sup>21</sup>

In fact, the bulk of the people were adherents of Te Whiti and Tohu and they refused to sell land. Te Whiti and Tohu would take no money that might

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20. See AJHR, 1880, G-2, p 73

21. See ch 7, fn 31

compromise their position. Officials, accustomed to dealing with Maori by bribes, found their 'absence of all desire for money' made it difficult, 'if not hopeless', to obtain any help from them 'in facilitating the work of colonisation'.

If any right by virtue of takoha was in fact maintained, it was in any case eventually discarded. The Government assumed that it owned all the land well beyond the takoha areas.

We agree with the West Coast Commission that the confiscation had been effectively abandoned, but we would add that, in any event, any legal right to it had long disappeared. The commission declined to hear lawyers who wished to raise the question of legality – not surprisingly, for, were they right, further settlement could not have been sustained. The commission found that the confiscation had been abandoned, but it still recommended rapid settlement. It gave no reasoned opinion at all on the title question but could have presumed only that, although 'effectively abandoned', the land had been taken in fact and could therefore be settled none the less. We doubt that this was so.

The New Zealand Settlements Act 1863, being confiscatory of rights, had to be strictly construed. Section 4 of the Act, which enabled lands to be taken, did not provide that the land would then be Crown land. It said it would be deemed to be Crown land freed of all claims; that is to say, it was not Crown land freed of all claims except for the purposes of the Act. The Order in Council of 2 September 1865 said as much. It expressly provided for the land to be held for the purposes of the Act. It did not cease to be freed of all Maori interests, however, until it was Crown granted for the purposes of settlement.

The purpose of the Act, according to the preamble, was not to punish Maori. Nor was it to profit the Government or to promote settlement per se. The purpose was no more than to put settlers on the land in order to preserve the peace. Settlement for peace was the fundamental ideology of the Act.

That purpose had, however, ceased to apply. Elsewhere, settlements had been surveyed, and soon after settlers had been settled on Crown grants in order to keep the peace. None of that had happened in central Taranaki. Thirteen years had elapsed since the Order in Council and not one section had been surveyed and settled. It was now no longer necessary to do so – indeed, it was too late to do so – because the war had been over for nine years and peace had reigned throughout. In fact, peace was regularly being preached by the two foremost Maori leaders, Tohu and Te Whiti. Confiscation could therefore no longer be advanced on the ground of securing peace. It is little wonder that officials had been acting as though the land had not been confiscated; no settlements had been surveyed or arranged.

The substratum for the Act had thus gone and could no longer be applied. By section 2 of the New Zealand Settlements Amendment and Continuance Act 1865, the New Zealand Settlements Act had been made perpetual, but with the proviso that no powers of reserving or taking land for settlement were to be exercised after 3 December 1867. This cut-off date for the exercise of powers was 11 years before the power to enter and survey was exercised in this case. While the Act may have continued for the purpose of completing matters already begun, such as the finalisation of surveys and gazettings, we believe that it could not have continued

for matters that had never been started; and though the proclamation declared that the land was taken for settlements, it was not in fact taken until a settlement was surveyed and the land Crown granted for that purpose.

As a matter of law, it appears to us that the Crown could no longer be deemed to be holding the land free of all claims and interests under the Act. It was holding it, without any proclamation or formal abandonment being necessary, subject to the claims and interests of Maori. In other words, the land was Maori customary land (as it had been previously) and was being held by the Crown subject to Maori usage.

We earlier opined that the confiscations as a whole were unlawful because the clear and distinguishable steps of declaring districts, defining eligible sites within them, and then taking such lands as were needed for the purposes of those settlements had not been followed. Instead, the whole of the districts were declared eligible sites and all was taken in one fell swoop, which showed not only neglect of process but the lack of a necessary discretion in selection. We repeat that opinion, and add in this case that, had the proper course been followed in central Taranaki, it would have been clearer that the land could not have been taken at all, because the eligible sites had still to be identified by sketch plan or survey and only after that had been done could the land have been acquired.

We also observed, however, with regard to the illegal confiscation of Taranaki generally, that some things done invalidly may have been validated by an amendment to the Act made in 1866. That cannot apply to this further illegality in central Taranaki (which occurred much later), however, because the taking there was not pursuant to the Act; it was simply a wrongful assumption that the land was the Crown's without restriction.

It thus appears the Government's assumption of the land in central Taranaki was unlawful at the time and remains unlawful to this day. This makes no difference to current titles of course, since presumably they have all been perfected by Crown grants and are now secured under the land transfer system. It is also to be presumed that those lands still held by the Crown are now held under some subsequent statutory provision, and actions are statute barred in any event. The point still needs to be made, however, that the assumption of the land in central Taranaki, the entry of the surveyors, the destruction of Maori crops and fences, and the forced relocations of people were probably all unlawful.

In any case, the assumption was contrary to the principles of the Treaty. Even were it appropriate to set aside the Treaty on account of an emergency, once normality was restored the Treaty must be taken to have been reinstated too, and it was inconsistent with the Treaty to take land when those living on it were at peace with the Government and had been so for more than a decade. In Treaty terms, the Government was obliged to ensure that the whole of the land was secured and protected for the benefit of Te Whiti and other Maori, unless they wished to sell. It should properly have been declared a Maori district. If, however, the land had in fact been taken and was freed of all claims, then, since it had not been used for the purpose for which it was taken and that purpose could no longer apply, the land had properly to be returned in any event.

In our view, the taking of land at that very late stage, when peace reigned, was also immoral. The only moral argument supporting the confiscation of central Taranaki was that advanced by Major Keepa Te Rangihwinui in 1872. He thought that sparing the central district would be unfair to the south, where confiscation had in fact been implemented. We do not, however, consider that the injustice done to the south was grounds for doing the same elsewhere. In any event, we suspect Major Keepa would have later resiled from this position, for soon after he was to emulate Te Whiti's position. Just as Te Whiti had effectively sought an all-Maori district for central Taranaki, and just as the Kingitanga had demanded the same for the King Country, Major Keepa was to propose such a district for the length of the Whanganui River, from its source to the upper tidal reaches. The old Government ally was about to join those many other loyals who came more slowly than others to the view that, unless Maori took a stand, they would have nothing left to stand on.

## **8.8 THE REMOVAL OF THE SURVEYORS**

In our view, the Government's decision to survey the plains was negligent, being made without an honest inquiry into the facts. For that and other reasons, it was also contrary to the principles of the Treaty. There was no prior consultation with Maori, though they were crucially affected. The decision was provocative in conception and implementation. We will now summarise the essential events.

Without prior notice to Maori, entry was effected on 29 July 1878. It was nine years since the wars had ended, during which time the district had been held entirely by Maori and peace had been maintained. The occupants were not all former rebels and included Government allies like Manaia. Parihaka had been in Maori possession throughout the war and had not been the scene of war action.

Maori did not physically oppose the surveyors' entry. Te Whiti gave instructions that nothing should be done until he and the Government had discussed the situation and an arrangement had been agreed upon. The Government had made a unilateral decision, but Te Whiti's only response was to call for a meeting.

The surveyors proceeded with their plans, which included the laying off of roads and town and farm allotments. They also made provision for Maori reserves, although those provisions were limited.

Such provisions as the surveyors proposed for Maori were proposed without consultation. The attitude was that Maori would take what they were given. They were even unmindful of past promises. Though the Grey Government had promised a large reserve for Titokowaru, the surveyors thought large reserves would impede 'civilisation' and a peppering of small reserves would be better.

For their record of loyalty, the Government had promised Manaia and his hapu the whole of their lands, but the surveyors gave them only a part, about 1500 acres. In addition, it was 'sectionized' for individual ownership, because in the surveyors' view that was best; but no discussion was had with Manaia as to what he preferred. After his years of service to the Government, Manaia transferred his loyalty to Te

Whiti, and he was among the first of Te Whiti's followers to be arrested. He took a course that other loyalists were to follow.

For five months, Maori offered no resistance. Te Whiti had invited the Native Minister, John Sheehan, to come and see him, and in the interim, he declared that no resistance was to be made.

In December 1878, however, the surveyors were 'turned back' when they cut a line through fences and cultivations of various kainga, including Titokowaru's pa. This reaction was inevitable; 'cutting a line' meant clearing growth and obstructions in a wide path, destroying cultivations, pulling down fences, and exposing crops to wandering stock. In those days, crops were fenced to keep stock out because there were no fenced meadows to keep stock in.

Similar action in January and February 1879 led to survey pegs being pulled out. Eventually, in March, the surveyors put a road through Titokowaru's cultivations and a burial ground. This must have been the last straw, yet Titokowaru took no action other than to leave for Parihaka to consult with Te Whiti.<sup>22</sup>

Eventually, and after earlier refusals, the Native Minister met Te Whiti at Parihaka. The Minister came under the pretext of seeking the surrender of a person suspected of murdering the cook for a survey party south of the Waingongoro River some time before. It was expected that the suspect would seek refuge at Parihaka, which he had done, but Te Whiti had taken the precaution of advising the Government the moment the suspect arrived. At the meeting of the Minister and Te Whiti, the parties could not reach common ground and the Minister brought the proceedings to an abrupt end.

It was only after the negotiations had failed that action was taken. The following morning, 24 March 1879, groups of Maori descended on each survey camp, packed the gear on drays, and, without one blow being exchanged or more force being used than was necessary for an eviction, transported the surveyors and their possessions to the far side of the Waingongoro River. For over a year, they were to remain there.

The action of Maori in removing the surveyors was peacefully conducted and was in our view fully justified. Serious negotiations were needed, and such action as was taken was necessary to draw attention to that obvious fact.

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22. The West Coast Commission was critical of the surveyors' actions. It reported that:

The interruption of the survey meanwhile was increasing. On the 12th March one of the surveyors reported that the section pegs were rapidly disappearing from one of the blocks, and that from station to station for several miles the pegs had all been pulled up. The surveyor to whom this happened would not allow that the changed conduct of the natives was connected with his laying of a road line near Titokowaru's settlement at Okaiawa; but after careful inquiry we ourselves entertain no doubt that this road was a principal cause of the surveyor's being turned off the plains. When the road approached Titokowaru's clearings, his grass paddocks, and his village, the surveyor, for engineering reasons which certainly appeared to us very inadequate, insisted on taking this road line in a direction where it cut a large fenced enclosure, sown with English cocksfoot grass, a yearly source of income. Captain Wilson (at the request of Titokowaru) interfered, but without avail, and the line was taken in the direction to which the chief had objected. It had only just been finished when he left for Parihaka; and within a fortnight the surveyors were all removed. (AJHR, 1880, G-2, p xxvi)

## 8.9 THE LACK OF DIALOGUE

Pride and prejudice appear to have provided the more fertile causes of the Parihaka invasion. Owing to both, the effective dialogue by which such extreme actions could have been avoided was never carried out, and pride prevented further meetings with Te Whiti. The Government had cause to be embarrassed over the surveys, which were made without prior discussion, and over the high tone that was adopted, only to find the surveyors were then promptly removed. It was easier to rely upon the prejudice of the then chief justice that Maori were 'savages' and 'primitive barbarians', which, if true, would have made consultation pointless.

The error in declining dialogue was then compounded by the making of a myth, unsupported by the evidence of Maori opinion, that Maori would freely acquiesce in the settlement of the area if sufficient reserves were made.

More particularly:

- (a) Two days after the removal of the surveyors, the Government demonstrated its resolve by advertising the surveyed sections for sale in both Australia and New Zealand, without any reference to Maori reserves. It was a further provocative act, but sales did not proceed, because wiser counsel prevailed.
- (b) The Government then relied upon the report of a meeting on 2 April 1879 between Te Whiti and a special commissioner, who was appointed to stand in for the Minister. The report contended that Te Whiti was willing or could be induced to share the land, the special commissioner reaching this profound view on the strength of his own perception of Te Whiti's 'eager countenance' when reserves were mentioned. Later, the West Coast Commission was to make much more of the transcript of this meeting and of a parabolical phrase about the sharing of a blanket, concluding that Te Whiti was willing to accept settlement provided there were reserves and that other Maori were prepared to do the same.

The special commissioner and the commission were doing no more than creating the case they wanted to hear. We have studied the transcript of the meeting and clearly it was the opposite position that was directly stated and repeated by Te Whiti: that from the Waingongoro River was Maori land; that the Government had no right to make a survey there; that the Government had been so advised before the survey began; and that, even on the Government's own terms of settlement with reserves, its lack of integrity was apparent because reserves had not been surveyed. At most, Te Whiti considered that Maori and the Government should 'walk together'. This was entirely consistent with Te Whiti's policy of cooperation with the Government on such matters as roads, telegraph lines, and the Cape Egmont Lighthouse; but it was not acquiescence to settlement provided reserves were made. Te Whiti's approach was thus similar to the alliances that had been sought by Ngati Maru and Nga Rauru, those who were said to have 'sold' their lands by deeds of cession, as described in chapter 7.

- (c) In visiting Taranaki further, the Native Minister and special commissioner avoided Te Whiti but spoke 'widely' to others. The tactic is still known to



Maori today: 'if the head will not say what officials are wanting to hear, then observe how they talk to the back'. In brief, the Native Minister was able to satisfy himself that the basis for the 'interruption' of the survey was no more than that promised reserves had not been given. Obeisance to penitence could then be made, with the Native Minister declaring in the House on 23 July 1879 that 'from the White cliffs to . . . [Waitotara] the whole country is strewn with unfulfilled promises'. Significantly, the special commissioner thought the establishment of reserves would not only mollify Maori but lessen the influence of Te Whiti.

- (d) The theme was developed by the West Coast Commission under the chairmanship of a member of the House and the former Premier. The commission was especially of the view that the failure to provide even one reserve in central Taranaki had been the cause of all the trouble. It reported that:

[Maori] would have acquiesced in our occupation if sufficient reserves had been previously made for them. General promises had more than once been given to them that their settlements, fishing stations, burial places and cultivations would be respected, and that 'large reserves' would have been made for them; but no step was ever taken to let them really know what was to be theirs . . . the confidence of the Natives was hardly to be won by [the] prolonged secrecy upon the very question [the location of reserves] of all others on which their anxiety were sure to be the greatest. To them it was the question of whether they would be allowed to keep their homes. No-one with any experience in acquiring Native land ever thought of getting quiet possession of the most ordinary piece of country without previously settling about reserves; and there was nothing to justify the idea that it would be otherwise with the Taranaki Confiscation.<sup>23</sup>

We do not agree. The primary trouble, in our view, was the strong and unconstrained desire for Maori land, held as much by the West Coast Commission as by anyone else. The protection of Maori interests and the provision of Maori land was simply subservient to this overarching objective.

- (e) In terms of the commission's recommendations, later surveys were to be conditional upon the prior identification and disclosure of Maori reserves. In fact, prior identification was not made. Instead, the surveys for settlement took in the Maori cultivations on the coastal margin, Maori resisted the destruction of the fences, and the invasion of Parihaka followed. It was then claimed that, although this action was taken, the Parihaka leaders knew where the reserves were to be made. It was claimed that they were simply intransigent, having been kept fully informed 'through different channels'; through notices that were published in the press; by officials, who 'frequently met natives'; and through the discussions and printed material that 'would have been passed on'.

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23. AJHR, 1880, G-2, p v

At no time, however, could they point to direct notice to, or discussion with, either Tohu or Te Whiti. The prophets made this point during their later trial. They each asked one question only of their accusers – had they ever informed them of the reserves? – to which the answer on both occasions was ‘no’.

#### **8.10 THE PROPHETS’ POSITION**

The most that may confidently be said of the prophets’ position is that it was unlikely to have been that described by the Government, by officials, or by the West Coast Commission. The prophets had such influence among Maori that it was simpler to put words in their mouths than to argue against their opinions, and Te Whiti was so staunch in negotiations that it was easier to presume as to his wishes or best interests than to ask him.

The prophets’ position, so far as it can be ascertained from recorded actions and statements, and setting aside some self-serving officials’ opinions, appears to have been no different from the stand on autonomy of other Maori leaders in such diverse places as north Auckland, Auckland, the King Country, Waikato, Urewera, the Whanganui River, and Hawke’s Bay. While policy develops over time and the predominant thrust may be difficult to determine, we would decipher the main line of Parihaka policy as involving:

- (a) the maintenance of the territory from the Hangatahua River to the Waingongoro River as a Maori district;
- (b) the recognition of the fact of confiscation elsewhere, while its legality or morality and the sufficiency of reserves were denied;
- (c) the provision of a Maori base for all hapu from Mokau to Whanganui;
- (d) economic and social development utilising Maori and Christian philosophies and Maori and European technologies;
- (e) the reformation and re-establishment of the spiritual dimension to Maori existence;
- (f) respect for the Crown (in the sense of the monarch) and dialogue and cordial relationships with the Government;
- (g) the rejection of land sales and takoha;
- (h) non-violent resistance to any political diminution of Maori authority and status; and
- (i) non-participation in all Government activities that gave inadequate weighting to the authority of Maori leaders (and thus the avoidance of Crown agent meetings and sittings of the Compensation Court, Native Land Court, and West Coast Commission and a passive disinterest in court proceedings that could not adequately address Maori grievances).

Records suggesting an alternative position do not indicate a regular deviation from the above policy. They merely indicate some bending in extenuating circumstances and a willingness to negotiate with persons of appropriate status.

Conversely, the Government's regular portrayal of the district and the people as having succumbed to a widespread religious fanaticism and lunacy is evidence only of the Government's inability to assess the situation or to fairly, temperately, and impartially report it. Most apparent was a reluctance to acknowledge a consistent Maori-owned policy that had wide support.

The general policy, as we perceive it, was no more than a restatement of Wiremu Kingi's position and was in harmony with what was being said by the Kingitanga and other significant Maori movements throughout the country.

## 8.11 THE PLOUGHMEN

When Native Minister Sheehan declined to speak further with Te Whiti and officials proposed no more than reserves, the prophets of Parihaka reacted again, sending unarmed ploughmen to plough settlers' land. The protest was to emphasise the need for negotiations and that the issues were not being addressed, but the Minister maintained a studied indifference.

Significant features of the tactic were the training and discipline involved, the extent of support, and the degree of control. It was a dangerous undertaking, given the settlers' meetings, the tension, and threats by the settlers 'to shoot [Maori] horses and the natives also', but Maori continued with the task unarmed and, to a person, they declined to respond to aggression when removed.<sup>24</sup> The ploughing began at Oakura on 25 May 1879 with 20 persons and five ploughs. It spread to Pukearuhe, to Hawera, and finally throughout Taranaki. A widely held and consistent opinion could not therefore be doubted. Nor could discipline be denied. Despite the widespread ploughing, there was a unified control. When the Minister and officials visited the area, the ploughing stopped. When they spoke to others but avoided Te Whiti, the ploughing started again.

On 29 June, the Government brought in the Armed Constabulary to effect arrests. From Parihaka, it was then directed that those of greatest mana should be the first to put their hands to the ploughshares. They were thus no ordinary ploughmen that then took the field. Among the first to be arrested and sentenced were prominent persons such as Te Iki; the leading rebel, Titokowaru; and the leading loyal, Matakatea. The Government was particularly embarrassed about the latter. Matakatea's name had been much vaunted when he stood on the Government's side during the war and when he safely transported to New Plymouth a shipload of Europeans who had been shipwrecked. Attempts were made to have Matakatea

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24. Te Whiti's instructions were in these terms:

Go, put your hands to the plough. Look not back. If any come with guns and swords, be not afraid. If they smite you, smite not in return. If they rend you, be not discouraged. Another will take up the good work. If evil thoughts fill the minds of the settlers and they flee from their farms to the town, as in the war of old, enter not . . . into their houses, touch not their goods nor their cattle. My eye is over all. I will detect the thief, and the punishment shall be like that which fell upon Ananias.

When the ploughmen asked Tohu what they should do if any of their number were shot, he replied, 'Gather up the earth on which the blood is spilt and bring it to Parihaka' (Scott, pp 56-57).

accept bail and acknowledge that he was a bystander, but he declined and went with the others to prison in Dunedin.

As ploughmen were arrested, others replaced them. By August 1879, about 200 had been taken into custody. In all, about 420 were to be imprisoned.

With hindsight, it is plain to see that the Government was faced with widespread, organised, and disciplined passive resistance. The actions were deliberate and laden with meaning. The special commissioner had proposed that reserves were all that were needed. In response, the protest was carried to places where reserves had been made. The special commissioner considered that the problem was limited to central Taranaki, where there were no reserves. In response, the protest was conducted everywhere but in central Taranaki.

The protest began at Oakura, where the second war started, and was a symbolic statement that the land was Maori land at that time. It was then transferred to Pukearuhe, the most northern extremity, and then taken to Hawera in the south. Each site chosen was demonstrative of a grievance. The Oakura ploughmen, for example, included those loyals who were the customary owners in that land, who had been promised land elsewhere but had then not received a title or secure grant for anything. They were ploughing their customary land and demonstrating that they were now without land at all.

Symbolism assists oral societies to explain events memorialised in stories. Here, the symbols were peaceful but serious. The sword had been replaced by the biblical representation of peace, the ploughshare, but the ploughshare was being used to plough lands unjustly obtained. Te Whiti maintained he was not targeting the settlers but 'ploughing the belly of the government'.

The Government either could not see or preferred not to see the extent of organised resistance involved. It maintained instead that it was dealing with people affected by religious fanaticism. That type of description permeates Government reports, which show a refusal to take seriously any Maori point of view.

## **8.12 THE FENCERS**

It may have seemed Maori had played to the Government's hand, for the Government had no reason to support Maori and had more to gain from upholding settlers' views that Maori were preparing for war and from fulfilling the settlers' desire for more land. With the pick of the Maori fighters in gaol, it was opportune to consider both the survey and sale of land and, if need be, the suppression of such opposition as might then be made. So it was that the Native Minister directed the surveyors to return to the land once the imprisonments had been made.

Not all Europeans were agreed. At the time the Native Minister announced the intention to reinstate the survey, the West Coast Commission had been established to investigate certain concerns, and its chairman was adamant that the survey should not be resumed before the commission had reported.

In October 1879, however, the Government had changed and a new Native Minister, John Bryce, a veteran of the Taranaki wars, was at the helm. He was no

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more inclined than his predecessor to meet with Te Whiti and he was a great deal more impetuous; indeed, it may be said that he could not be controlled by his peers. His predisposition was apparent in his well-known desire to march on Parihaka to destroy 'that headquarters of fanaticism and disaffection'.<sup>25</sup> He was appointed amid rumours that Parihaka was arming and following a report that, despite the number of Maori in gaol, the Parihaka meeting of September 1879 had been attended by upwards of 3000 persons. Though the situation called for cool heads, the Premier appears to have decided that a strong head was required.

Following the remonstrance of the West Coast Commission, the new Native Minister eventually agreed that central Taranaki would not be entered upon until the commission had reported, save for the completion of necessary road repairs. With Shakespearian understanding of 'repair', by April 1880 the Native Minister had 600 of the Armed Constabulary 'repairing' a new road direct to Parihaka, while awaiting the commission's report.

The people of that place offered no resistance. Road-making had earlier been agreed to as beneficial. In the result, when the road works began in February 1880, the Native Minister was informed that 'substantial' presents of food were being made to the commander of the road gangs. It was made clear by those effecting delivery that the gifts were from Tohu and Te Whiti. For his part, the Native Minister was 'not inclined to attach very much importance to the fact of presents being thus repeatedly made'. He was of the view that:

Upon the whole, the indication is in favour of peace. I believe the natives see that the settlement of the country must proceed and that presents are probably the most favourable, if not the last opportunity they will have to make favourable terms for themselves.<sup>26</sup>

The ploughmen were replaced by fencers when the road reached Parihaka in June 1880. On the Native Minister's instructions, the Armed Constabulary broke the fences around the large Parihaka cultivations in several places, exposing crops to the constabulary's horses and to wandering stock. As the fences were broken, fencers appeared to repair them. Thereafter, each day they were destroyed, new fences were made. Te Whiti proposed the simple expedient of putting a gate across the road. The Native Minister would not hear of it and gave instructions that if Maori wished to protect their crops they should fence both sides of the road for its full length, a large and costly task. On 19 July, the constabulary began arresting the fencers.

It was doubtful that the fencers were engaged in criminal activity and likely that the constabulary were offending and had no power to effect arrests. It is also likely that the land was not in fact Crown land and therefore the army, not Maori, were in trespass. Urgency was thus taken in the House to hasten the passage of the Maori Prisoners' Detention Bill to validate the fencers' arrests and indefinitely postpone their trials. The Bill was proposed by the Native Minister. The criticism of other

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25. Confidential dispatch, Robinson, 29 December 1879, G26/1, NA Wellington

26. G26/1, NA Wellington

members was scathing, but surprisingly, the Bill had the support in the House of Sir William Fox, for he was also the chairman of the West Coast Commission.

### **8.13 THE TRIAL OF THE PLOUGHMEN AND THE FENCERS**

Over 420 ploughmen were imprisoned in 1879, but only 40 were sent for trial. These 40 were convicted at New Plymouth of malicious injury to property. They were sentenced to only two months' imprisonment, but were then held for a further 10 months for failure to find sureties to keep the peace of £200 each, or £8000 collectively. For protesting their grievances, the remaining ploughmen were held without trial at the Government's will in prisons in Dunedin, Lyttelton, Hokitika, and Ripapa Island. They were released in batches during 1881.

Although there were protests in Parliament, there appears to have been little public concern with this unusual suspension of the rule of law. The background can be given briefly. The New Plymouth gaol became overcrowded once the arrests were under way, and early in the proceedings it had been necessary to send 170 ploughmen to Mount Cook Prison in Wellington. Special legislation was seen to be needed for trials to be held at any Supreme Court centre and for group hearings to be allowed to expedite the criminal process. Some anxiety grew, however, that the Supreme Court in Wellington might acquit the ploughmen who had been taken there. This, it was thought, would be disastrous for the colony. It would so augment beliefs in Te Whiti's supernatural powers as to promote further disruptions. It was thus deemed best to suspend the trials altogether.

By special legislation, the Government deferred the trials for about six months, leaving those charged in legal limbo and de facto incarceration. Eventually, more legislation from the Native Minister dispensed with the trials altogether for those already arrested as well for any others who might follow. Despite the severity of this law, the Native Minister, presuming the necessary legislation would pass easily through the House, had removed the prisoners to South Island gaols some months previously. He was challenged in the House for having done so surreptitiously. It transpired that the prisoners were taken from Mount Cook Prison at about 4 am, when the streets were deserted, so that the event might pass unnoticed. It was characteristic of the Native Minister that actions against Maori should be taken with a minimum of public attention.

None of the 216 fencers arrested in 1880 was granted a trial. The legislation had been framed to cover future offences and they were sent directly to South Island prisons.

The given ground for this legislation, which was so confiscatory of basic rights, was that acquittals could lead to a further disturbance of the peace. The weakness of this argument merely gives more strength to the need to uphold the rule of law as a bulwark against arbitrary State power. Reactions from England show this appreciation of the law to have been known at the time. In fact, it had a pedigree dating from as early as 1215. The main Acts were:

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- (a) The Maori Prisoners' Trials Act, assented to on 11 August 1879, which enabled the Governor to fix or amend any trial date, to hold group hearings, and to arrange trials at any Supreme Court centre. When this Act expired in October 1879, no trial date had been set and those charged remained in prison.
- (b) The Confiscated Lands Inquiry and Maori Prisoners' Trials Act, assented to on 19 December 1879, re-enacted the earlier Act, which had expired. The Governor fixed a hearing for 5 April 1880 then amended it to 26 July 1880, at which date this second Act was due to expire. It had already been determined, however, that no trial would take place, and in anticipation of the necessary legislation being passed, the prisoners had already been shipped to the South Island early in the year.
- (c) The Maori Prisoners' Trials Act, assented to on 23 July 1880, was not to provide for trials but to dispense with them. The Act:
  - (i) declared 'it is not deemed necessary to try the said natives with a view to the infliction of punishment';
  - (ii) noted 'it would endanger the peace of the colony and might lead to insurrection if the said Natives were released from confinements';
  - (iii) deemed all those committed for and awaiting trial and all others so detained 'to have been lawfully arrested and to be in lawful custody and may be lawfully detained'; and
  - (iv) prevented the liberation of those people without the Governor's order. There were doubts as to the legality of retaining those held for 10 months for failing to find sureties to keep the peace, and accordingly the Act made those detentions legal.
- (d) The Maori Prisoners' Detention Act, assented to on 6 August 1880, provided for the fencers, or those arrested after 19 July 1880, to be dealt with in terms of the Maori Prisoners' Trials Act; that is to say, to be imprisoned without trial.
- (e) The West Coast Settlement (North Island) Act, assented to on 1 September 1880, affirmed that those arrested or thereafter to be arrested were deemed to be in custody under the Maori Prisoners' Trials Act. It then created a number of new offences – for example, endangering the public peace by removing survey pegs or preventing lawful occupation by ploughing the surface of the earth or erecting a fence – for which an offender could be arrested without warrant by any member of the Armed Constabulary, tried before a justice of the peace, imprisoned for up to two years, and then detained in prison for an indefinite period 'to keep the peace'.
- (f) The West Coast Peace Preservation Act, assented to on 1 July 1882, enabled a justice of the peace to direct the dispersal of an assembly of 50 or more Maori and provided for penalties of up to 12 months' imprisonment.

The passage of such legislation, being in several important respects contrary to the normal standards of law, is indicative not of the times, in our opinion, for those outside New Zealand could view these laws with abhorrence, but of the state that Parliament had got into. The opposition in the House was insufficient to constrain

the Native Minister from having his way. The House could receive with relative equanimity the Native Minister's assertion that the Magna Carta and habeus corpus were 'mere legal technicalities', 'mere form[s] of English law' for lawyers, not statesmen, to fall back on, and could be persuaded by the Minister's threat of resignation if the trials proceeded, because he would 'not like to take the responsibility of remaining in office' were that to happen.<sup>27</sup>

In light of the Minister's threats, others felt satisfied that the Bill suspending trials indefinitely should state that such was necessary for the peace of the country and that by having said so it would then be legally true. Accordingly, it was not only the Native Minister who held such low regard for legal process.

William Rolleston, the Minister's temporary replacement in office, took a similar view. When there were doubts about whether the constabulary had the power to effect arrests, they were instructed plainly 'you take the men and the government will find the law'.<sup>28</sup> In other respects, however, Rolleston was more conciliatory, and he regularly promoted full dialogue with Te Whiti. His difficulty was that he came to office during a crisis.

The effect of all these laws was to reinstate the conditions that prevailed in the war. Maori were to be treated not as British subjects but as alien prisoners of war, to be held at will.

The prisoners were also to be treated as political hostages. The Native Minister used the power to release prisoners as a weapon to bargain for Maori acceptance of his reserve conditions. Their acceptance was to be a prerequisite to their freedom. It was probably for this reason that Te Whiti prohibited the first batch of released prisoners from returning to Parihaka either permanently or for the worship on the eighteenth of each month. This seemingly severe prohibition was to stand until those remaining in gaol had also been freed.

#### **8.14 THE TREATMENT OF PRISONERS**

It is part of the claims that the prisoners were subjected to unconscionable prison conditions.<sup>29</sup> The more serious allegations relate not to the ploughmen and fencers, however, but to those taken prisoner during the war and to Pakakohi in particular, who had preceded them to South Island gaols. The greater fear, as raised in the House by the member for Southern Maori, was that the ploughmen and fencers would be treated as Pakakohi were.

It will be recalled that 233 Pakakohi men, women, and children had surrendered in 1869 on the basis of promises they would not be harmed; 96 men had then been taken to Wellington and incarcerated on a hulk in Wellington Harbour for about a month. Maori claimed that two died during that time. Death sentences were imposed on 74 by courts martial, but the sentences were later commuted to imprisonment in

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27. NZPD, 1879, vol 34, pp 621, 796–798

28. June correspondence, LE 1/8/1879/135. See also Grey's telegrams, PM 6/2.

29. See statement of claim, paras 6.8, 17.23, 17.24, 19.7, 20.7



Dunedin for terms of three or seven years.<sup>30</sup> The prisoners were engaged on public works, including the building of roads.

Among several Maori allegations was one that, during the construction of a certain road, the prisoners, or some of them, were housed nearby in a cave or caves or tunnels that had been sealed and that the ventilation was so bad that they took turns in breathing through a pipe under the door. By way of memorial, in 1987 Maori placed a large stone from Taranaki at one cave where it was said the prisoners had been held.

We have found no records to verify or disprove the claimants' allegations. There are some accounts that in gaolers' views the prisoners were well cared for. It is, however, officially recorded that 18 died. Maori put the number higher, but 18, or 24 percent, is a large proportion of the 74 who were held.

The same problem affects the ploughmen and fencers. Certain allegations were passed down orally but cannot be corroborated by independent accounts and the official records are not informative. At most, there is evidence of serious overcrowding at Lyttelton and Hokitika. One historian has uncovered a note in the *Lyttelton Times* declining the publication of an article on the prisoners because 'our correspondent gives details which are really too disgusting for publication and if true, cast the utmost disgrace upon those who had the prisoners in charge', but again, particulars are lacking.<sup>31</sup> Nor is further information available from such questions in the House as related to the prisoners' circumstances or health. The Native Minister gave only vague replies, such as 'the deaths amongst Maoris have been very few in proportion to the numbers of the prisoners'. The only specific figure mentioned came early in the piece, when a member alleged men were dying in prison while Parliament went on passing Bills to defer their trials. The Native Minister assured him 'only two had died' during that time.

There are poignant photographs in the Parihaka Memorial Hall recording the prisoners' return home. Only months later, however, the village was invaded and they were immediately rearrested.

## **8.15 PLOUGHMEN, FENCERS, AND CIVIL DISOBEDIENCE**

Though distanced in space and time, the thoughts of passive resistance leaders have shown singular accord. In the United States of America in 1963, Martin Luther King junior effectively described the path trodden by Tohu and Te Whiti when he detailed the four basic steps in any non-violent campaign: 'collection of the facts to determine whether injustice exists; negotiation; self-purification; and direct action'.<sup>32</sup>

Just like the Parihaka prophets, King experienced shallow negotiations and broken promises. From Birmingham Jail, he wrote:

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30. AJHR, 1870, A-29, p 1

31. Scott, p 85

32. Martin Luther King jnr, 'Letter from Birmingham Jail', 16 April 1963, in M L King, *Why We Can't Wait*, 1964

### *The Taranaki Report: Kaupapa Tuatahi*

As in so many past experiences our hopes had been blasted, and the shadow of deep disappointment settled upon us. We had no alternative except to prepare for direct action, whereby we would present our very bodies as a means of laying our case before the conscience of the local and the national community. Mindful of the difficulties involved, we decided to undertake a process of self-purification. We began a series of workshops on nonviolence, and we repeatedly asked ourselves: 'Are you able to accept blows without retaliating?' 'Are you able to endure the ordeal of jail?'

The words are reminiscent of Te Whiti's instructions to the ploughmen:

Go, put your hands to the plough. Look not back. If any come with guns and swords, be not afraid. If they smite you, smite not in return. If they rend you, be not discouraged. Another will take up the good work. If evil thoughts fill the minds of the settlers and they flee from their farms to the town, as in the war of old, enter not . . . into their houses, touch not their goods nor their cattle. My eye is over all. I will detect the thief, and the punishment shall be like that which fell upon Ananias.<sup>33</sup>

Likewise, when the ploughmen asked Tohu what they should do if any of their number were shot, Tohu replied they should do no more than:

Gather up the earth on which the blood is spilt and bring it to Parihaka.<sup>34</sup>

The objective for Tohu and Te Whiti, as for King, was to secure resolution by meaningful negotiation. King put it this way:

You may well ask: 'Why direct action? Why sit-ins, marches and so forth? Isn't negotiation a better path?' You are quite right in calling for negotiation. Indeed, this is the very purpose of direct action. Nonviolent direct action seeks to create such a crisis and foster such a tension that a community which has constantly refused to negotiate is forced to confront the issue. It seeks so to dramatize the issue that it can no longer be ignored . . .

The purpose of our direct-action program is to create a situation so crisis-packed that it will inevitably open the door to negotiation.

He could equally have been writing for Taranaki Maori.

Those who break the law are bound to suffer the legal penalty, but even they are entitled to the law's protection. In Taranaki, the normal standards of protection were denied. For the prophets of Parihaka, there must also have been a larger question, since their objective was not the overthrow of the State. Is there a circumstance where civil disobedience is justified? The pacifist's answer is given by King in his letter from Birmingham Jail to his critical fellow clergymen. Like Tohu, Te Whiti, and Gandhi, King based his case on the laws of divinity:

You express a great deal of anxiety over our willingness to break laws. This is certainly a legitimate concern. Since we so diligently urge people to obey the Supreme Court's decision of 1954 . . . at first glance it may seem rather paradoxical for us

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33. Scott, p 52

34. Ibid, p 56

consciously to break laws. One may well ask: 'How can you advocate breaking some laws and obeying others?' The answer lies in the fact that there are two types of laws: just and unjust. I would be the first to advocate obeying just laws. One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws. I would agree with St Augustine that 'an unjust law is no law at all.'

Now, what is the difference between the two? How does one determine whether a law is just or unjust? A just law is a man made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St Thomas Aquinas: An unjust law is a human law that is not rooted in eternal and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust . . .

I hope you are able to see the distinction I am trying to point out. In no sense do I advocate evading or defying the law . . . That would lead to anarchy. One who breaks an unjust law must do so openly, lovingly, and with a willingness to accept the penalty. I submit that an individual who breaks a law that conscience tells him is unjust, and who willingly accepts the penalty of imprisonment in order to arouse the conscience of the community over its injustice, is in reality expressing the highest respect for law.

Of course, there is nothing new about this kind of civil disobedience. It was evidenced sublimely in the refusal of Shadrach, Meshach and Abednego to obey the laws of Nebuchadnezzar, on the ground that a higher moral law was at stake. It was practised superbly by the early Christians, who were willing to face hungry lions and the excruciating pain of chopping blocks rather than submit to certain unjust laws of the Roman Empire. To a degree, academic freedom is a reality today because Socrates practised civil disobedience. In our own nation, the Boston Tea Party represented a massive act of civil disobedience.

We should never forget that everything Adolf Hitler did in Germany was 'legal' and everything the Hungarian freedom fighters did in Hungary was 'illegal.' It was 'illegal' to aid and comfort a Jew in Hitler's Germany. Even so, I am sure that, had I lived in Germany at the time, I would have aided and comforted my Jewish brothers. If today I lived in a Communist country where certain principles dear to the Christian faith are suppressed, I would openly advocate disobeying that country's antireligious laws.

I must make two honest confessions to you, my Christian and Jewish brothers. First, I must confess that over the past few years I have been gravely disappointed with the white moderate. I have almost reached the regrettable conclusion that the negro's great stumbling block in his stride toward freedom is not the White Citizen's Council or the Ku Klux Klan, but the white moderate, who is more devoted to 'order' than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says: 'I agree with you in the goal you seek, but I cannot agree with your methods of direct action'; who paternalistically believes he can set the timetable for another man's freedom; who lives by a mythical concept of time and who constantly advises the Negro to wait for a 'more convenient season.' Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

I had hoped that the white moderate would understand that law and order exist for the purpose of establishing justice and that when they fail in this purpose they become the dangerously structured dams that block the flow of social progress . . .

In your statement you assert that our actions, even though peaceful, must be condemned because they precipitate violence. But is this a logical assertion? Isn't this

like condemning a robbed man because his possession of money precipitated the evil act of robbery? Isn't this like condemning Socrates because his unswerving commitment to truth and his philosophical inquiries precipitated the act by the misguided populace in which they made him drink hemlock? Isn't this like condemning Jesus because his unique God-consciousness and never-ceasing devotion to God's will precipitated the evil act of crucifixion? We must come to see that, as the federal courts have consistently affirmed, it is wrong to urge an individual to cease his efforts to gain his basic constitutional rights because the quest may precipitate violence. Society must protect the robbed and punish the robber.

That, in our view, is the case the ploughmen and fencers would have preferred. It is also the case for the Taranaki claims.

### **8.16 THE WEST COAST COMMISSION**

In response to the protests and arrests, the West Coast Commission was established in 1879 to investigate the numerous complaints of broken promises, which it was wrongly assumed were the only cause of trouble. It was not a commission in the ordinary sense of being independent of Parliament but was tied into the political arena, being constituted to comprise Sir William Fox, the former member for Wanganui, Sir Francis Dillon Bell, a member of the Legislative Council, and Hone Mohi Tawhai, the member for Northern Maori. Tawhai resigned his appointment, claiming that his fellow commissioners were not impartial and had been 'the very men who had created the trouble on the West Coast'. He had good reason to say so. Fox and Bell had both been Native Minister and had supported the confiscation legislation and policy. Fox, a former Premier, had previously supported the enforcement of confiscation in central Taranaki, subject to adequate reserves.

Our view of the commission is that it deprecated the Maori position, focused less on Maori concerns than on the Government's objectives, rationalised the Government's desire to take central Taranaki for settlement, and obfuscated the issue of autonomy.

To the extent that the commission determined what was best for Maori, as it paternalistically did, it was belittling of the right of Maori to determine that for themselves and to resolve matters by direct negotiation. Perhaps predicting this outcome, the prophets forbade attendance at the hearings but invited the commission to discuss matters at Parihaka.

The commission, as a commission, had the facility to accept the Maori offer but, after consulting with the Government, declined it. The commission joins the many who presumed to know what Maori wanted or needed without asking the leadership. The commission carefully tabulated the many Maori who gave evidence contrary to the prophets' instructions, but as Te Whiti said in reply, the commission was talking to the chaff because Te Whiti had already bagged the wheat.

While the commission's brief was to consider the whole of Taranaki, its clear focus was on the centre; not because it was there that most promises were made but because the centre had the most land for further European settlement. Accordingly,

the commission ignored promises to retain land in Maori control and ownership and concentrated on securing the unsettled lands.

It was helpful that the commission tabulated the Compensation Court's determinations and the Government's proposals for reserves. In considering what should be done, however, it was constrained by its cultural blinkers and its predetermined political opinion. It encouraged the process of social conversion, assuming that awards in individual tenure must eventually prevail and equating tribalism with 'barbarism'. In assessing the Maori 'estate', which it thought was generous, it made no allowance for the fact that most of it was in mere entitlements or awards that had already been sold, and it gave no weighting to the fact that some entitlements could never be given legal effect. Maori objectives and social needs were given no thought at all. The parameters for long-term Maori planning, such as they were, were all European oriented and assessed, and none had regard for Maori goals. The commission, like many others, labelled Te Whiti a fanatic and excluded the opinion of his followers because of their perceived irrational turn of mind.

Most seriously, the West Coast Commission assumed its task with a commitment to secure central Taranaki for British settlement, a commitment baldly stated in its report as though that objective had to be assumed. The thought of the centre being set aside for Maori, under Maori control and on Maori terms, so that at least there might be one part of the globe where Maori culture prevailed, did not enter the realms of possibility.

Nor was it considered that the Crown's right to the centre had become tenuous. The Crown's right was simply assumed. Takoha was rejected, the confiscation was seen as abandoned, but the right to take the land for settlement was assumed none the less simply on the fabricated position that most Maori would acquiesce if sufficient reserves were provided. This position was untenable at law. It was also reached without talking to the Maori most concerned and without putting any options to such Maori as appeared.

The promises allegedly made in other parts of Taranaki were not fully investigated, and this was later evidenced by the stream of petitions that continued to flow after the commission had reported.

The commission reported promptly on 15 March 1880, as was necessary in view of the tensions at that time. Its second and third reports did not alter the broad thrust of its first. The commission's substantive finding was that promises had been made but not fulfilled, and its main recommendation was that the survey and settlement of the centre should proceed, provided that the reserves that the commission then proposed were first set aside.

In our view, the prophets were right to boycott the commission and reject its conclusions, because it was belittling of the recognition to which Maori were entitled. Similarly, it may be noted that Native Minister Bryce was never enamoured of the commission's approach. He considered that the question of reserves was 'a small matter in Te Whiti's eyes' and that the confiscations 'held a very subordinate place in his mind'. This is a rare occasion when we would consider that the Native Minister was probably right, but not necessarily for such reasons as the Minister may have given, had he been asked.

## 8.17 THE INVASION

On 1 November 1881, Te Whiti called to the village the scattered working parties attending to the cultivations and other work. He explained the coming assault and directed how Maori were to behave:

If any man thinks of his gun or his horse, and goes to fetch it, he will die by it . . . place your trust in forbearance and peace . . . let the booted feet come when they like, the land shall remain firm forever . . .

I stand for peace. Though the lions rage still I am for peace . . . I am here to be taken. Though I be killed I yet shall live; though dead, I shall live in peace which will be the accomplishment of my aim. The future is mine, and little children, when asked hereafter as to the author of peace, shall say 'Te Whiti', and I will bless them.<sup>35</sup>

On 5 November 1881, the militia and volunteers arrived at the gates of the undefended settlement. Although a colonel was nominally in command, the force was led by the Native Minister, mounted on a white charger. The troops were equipped with artillery and had been ordered to shoot at the slightest hint of resistance. Mounted on a nearby hill and trained on the village was a six-pounder Armstrong gun.

The diary of Gilbert Mair, who acted as aide-de-camp to the commander, and the account given to historian James Cowan by Captain W B Messenger, who was in command of a detachment of 120 Armed Constabulary, provide eyewitness accounts. At 9.30 am, according to Mair, the force 'marched but slowly and surely on Parihaka'. The troops were first confronted by 'about 200 little boys' who 'danced splendidly'. A second line of defence was then formed by '60 girls with skipping ropes'.

Messenger recalled that he was struck by the 'extraordinary attitude of passive resistance and patient obedience to Te Whiti' and added:

There was a line of children across the entrance to the big village, a kind of singing class directed by an old man with a stick. The children sat there unmoving . . . and even when a mounted officer galloped up and pulled his horse up so short that the dirt from its forefeet spattered the children they still went on chanting, perfectly oblivious, apparently, to the pakeha, and the old man calmly continued his monotonous drone.<sup>36</sup>

Among the children was one who was to become the first Maori medical practitioner and Minister of Health, Sir Maui Pomare. For his life, he carried a limp from having been trampled by a cavalry horse. The girls' 'skipping parties', Messenger added, were forceably removed, to the amusement of the watching soldiers.

A hand-picked force led by the Native Minister then approached the marae, where approximately 2500 adults were seated with Te Whiti and Tohu in their midst. When Te Whiti heard the proclamation read out, he said 'Let Mr Bryce come in to the marae, he will only hear good words from me and from my people'. The Native

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35. *Wanganui Chronicle*, 3 November 1881

36. Cowan, vol 2, p 517

## Parihaka

Minister had wanted to approach Te Whiti on horseback, in a grand gesture, but was prohibited from doing so by the closely packed people, and at this he was much discomfited. When the Native Minister approached on foot, Te Whiti said, 'I have done nothing but peaceful work'. Te Whiti then sought to 'parley' with him, but the Native Minister commanded that he be arrested. Te Whiti, Tohu, and several others were then taken. Mair was greatly impressed with the dignity and bearing of the chiefs. According to other accounts, Te Whiti counselled his people not to resist as he was being led away:

Even if the bayonet be put to your breasts do not resist . . . be not sorry but turn away the sorrowful heart this day . . . we looked for peace and we find war. Be forbearing, patient and steadfast, keep to peaceful works. Be not dismayed, and have no fear for the ultimate result.

Pillage is said to have followed. Mair noted simply that there was 'no end of taonga in the pa'.<sup>37</sup> Messenger, however, recorded:

a good deal of looting – in fact robbery. Many of our government men stole greenstone and other treasures from the native houses, among them were some fine meres.<sup>38</sup>

After Te Whiti, Tohu, and the others had been taken away, the people remained sitting on the marae, refusing to leave even in the face of threats that they would be fired upon by artillery. Forced removals began two days later by a mass arrest of those who had come there from Whanganui. 'It was just like drafting sheep,' a constabulary officer later recounted. As the men were removed, their houses were torn down and there is evidence that women were raped and otherwise molested.<sup>39</sup> The exercise was then repeated with the other groups, as far as they could be identified. 'Many of us felt sorry for the poor beggars,' a constable recalled in later life.<sup>40</sup>

By 22 November, it was thought that 1600 persons had been forcibly dispersed. They were transported from Parihaka under arrest. About 600 were allowed to remain, and they required passes; thereafter, only persons with passes signed by 'friendly' chiefs and constabulary officers could approach Parihaka. More houses were then destroyed and material from the destroyed houses was used in the construction of an Armed Constabulary camp nearby.

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37. Mair papers, MS 92, folder 53, diary 33, ATL

38. Cowan, vol 2, p 518

39. RDB, vol 48, pp 18,825–18,826, 18,834; Scott, p 127; R S Hill, *The Colonial Frontier Tamed: New Zealand Policing in Transition, 1867–1886*, Wellington, GP Books, 1989, p 329. Te Rangi Matotoru Watene gave evidence to the Sim commission in 1927 that 'The soldiers went on the cultivations, and went there to get food. The women folk were gathering food for the people in the pa, for us, and the soldiers were assaulting the women folk. Some of the women got children through the soldiers. Some of the soldiers gave children to the women and then went away'. Before us, witnesses contended that there were several children born of soldiers and they spoke of the prejudice from other Maori that they and their descendants endured. We were also advised of a rock in a fast-flowing stream that, according to local tradition, was clung to by the women to cleanse and purify their bodies.

40. Scott, p 127

Thereafter, the surrounding crop lands were systematically destroyed and more looting it said to have taken place. Livestock were driven away or slaughtered on the spot. Houses in the vicinity of the marae were pulled down in such a way that the remains would fall within its precincts. In this way, the Native Minister hoped to deprive the ground of 'its sacred character, and break the magic spell'.<sup>41</sup>

By then, Parihaka presented 'a most melancholy appearance', according to reports, and Maori could be seen 'searching among the ruins for such of their household goods as have not been ruthlessly destroyed or stolen'.<sup>42</sup>

In mid-December, it was reported that the dispersed Maori were 'in want of food'<sup>43</sup> and many had suffered great privations. Unless they were allowed back to Parihaka, a Government officer reported, 'their prospects during the winter, and until the next season's crops are ready for use, will be very serious'. In response, the Native Minister offered them road work.

After the cultivations in the vicinity of Parihaka had been systematically destroyed, the constabulary fanned out over the countryside to wreak more extensive damage. The purpose, according to the *Taranaki Herald*, was to ensure that Parihaka 'shall not again become a place of assembly for dangerous and discontented natives, a place of shelter for murderers, and a cause of dread and fear over a wide district'.<sup>44</sup>

It was then decided that 5000 acres of such Parihaka reserves as may have been proposed should be withheld as 'an indemnity for the loss sustained by the government in suppressing the . . . Parihaka sedition'. The areas were chosen 'without regard for the convenience of the natives, but are so taken as to include in the re-confiscated land that most likely to fetch a high price from its contiguity to centres of population'.<sup>45</sup>

In April 1882, the Parihaka residents held a meeting, though meetings were banned, and the Armed Constabulary destroyed more homes as a punishment.

## **8.18 THE TRIAL OF TE WHITI AND TOHU**

Te Whiti, Tohu, Titokowaru, and Hiroki were subsequently transferred to New Plymouth and charged with various crimes; Titokowaru with using threatening language. He was ordered to find two sureties of £500 each and to be kept in gaol until he did. Previously, he had spent one week handcuffed in solitary confinement. Hiroki was tried, convicted of murder, and hanged.

Te Whiti and Tohu were held for sedition. They first appeared before a magistrate and several justices of the peace at New Plymouth on 12 November 1881. Te Whiti was charged with:

wickedly, maliciously and seditiously contriving and intending to disturb the peace, inciting insurrections, riots, tumults, and breaches of the peace, and, to prevent by force

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41. Riseborough, *Days of Darkness*, p 170

42. *Ibid*, pp 169–170

43. Maori Affairs Department, 1 1881/4237 (register entry), NA

44. *Taranaki Herald*, 13 January 1882, see also 1 February 1882

45. *Taranaki Herald*, 5 April 1882



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and arms the execution of the law did wickedly declare false, wicked, seditious and inflammatory words.

The 'inflammatory words' alleged were 'naku te whenua' (the land belongs to me), 'naku nga tangata' (the people belong to me), 'ko te tino pakanga tenei o tenei whakatupuranga' (this is the main quarrel – war? – of this generation). He briefly responded to the charges: 'It is not my wish that evil should come to the two races. My wish is for the whole of us to live peacefully and happily on the land . . . that is all I have to say.' He and Tohu had only one question of their accusers: had the promised reserves ever been shown to them? The answer was 'no'.<sup>46</sup>

The Crown prosecutor advised the Government that the Crown's case was weak, that the reports on what Te Whiti was alleged to have said were 'garbled', and that the prophets had 'carefully kept themselves out of the reach' of other charges. After four days' hearing, the trial was postponed. Tohu and Te Whiti were retained in prison both because the destruction of Parihaka was continuing and to allow for reserves to be awarded to grantees under individual title without their interference. As the Premier put it, measures were required to make a trial 'unnecessary' and to prevent the two chiefs from returning to Parihaka until settlement was 'so far advanced as to make their continued resistance futile'.<sup>47</sup>

In April 1882, Te Whiti and Tohu were transferred to Addington gaol in Christchurch. In May, the Native Minister introduced two Bills. The first, enacted as the West Coast Peace Preservation Act 1882, allowed for the indefinite incarceration of Te Whiti and Tohu and rendered their trial 'unnecessary'.<sup>48</sup> It also made any group of more than 50 Maori assembling on the west coast liable to arrest and imprisonment. The second measure was the Indemnity Act 1882, which indemnified those who, in the action taken to 'preserve the peace', might have exceeded their legal powers. The Act particularly applied to the Armed Constabulary. In addition, the Governor could declare any action as coming within the provisions of that Act, thereby making it legal. The only discussion on the Bill came at the third reading, when it was suggested that some provision be made to compensate Parihaka Maori whose property had been destroyed. The Native Minister argued against that course, because the lands on which property had been damaged were 'lands of the Crown'. It is not apparent to us that the land had such status, but at least it verifies the Minister's view that, so far, reserves for Maori had not been made.

The Government later offered the prophets an early release if they would promise to hold no further meetings. They refused. The Native Minister subsequently advised the Government, in a private memorandum of 15 June 1882, that Te Whiti and Tohu could be released 'with safety' in February 1883. By then, food supplies in the neighbourhood of Parihaka would have 'disappeared' through the work of the Armed Constabulary, which was still stationed there. In public, however, the Native

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46. Document A2, p 163; Scott, pp 136–137; Riseborough, *Days of Darkness*, p 174

47. Riseborough, *Days of Darkness*, p 183

48. Though the Government described the Bill as empowering the Governor to release 'certain native chiefs' awaiting trial for sedition, in fact it enabled them to be held at the Governor's pleasure.

Minister, no doubt with an eye to the British Parliament, was disingenuous in justifying their imprisonment without trial. 'There was no wish on the part of the government,' he said, 'or indeed any Europeans to inflict punishment on them.' They were simply being kept in centres of European population, 'in the hope that their minds would be disabused of the idea of greatness as regards their district and themselves, which their long isolation at Parihaka has encouraged'.

The Minister thought they might be freed the following summer, while in their absence, 'matters on the West Coast are being effectively arranged'. The arrangements to which he referred were the provision of Maori reserves, the subdivision of those reserves into individual holdings, and the subsequent vesting of the titles in an administrator to lease them for European settlement.

In the meantime, the Governor finally filed his report with the British Parliament, containing its criticism of events in New Zealand. Ministers learnt of this to their dismay early in 1883, when they received a copy of the 1882 *Blue Book* containing 'Correspondence Respecting Native Affairs in New Zealand and the Imprisonment of Certain Maoris'.<sup>49</sup> It had a dramatic effect. Within three weeks, the Government approved, and had the Governor proclaim, an amnesty for 'all offences and to all Maoris' without exception.<sup>50</sup>

Three days later, Te Whiti and Tohu were released, but to guard against further difficulties the Government passed the West Coast Peace Preservation Act 1882 Continuance Act 1883. By this Act, the prophets remained subject to rearrest without warrant, charge, or trial. The prohibition on Maori gatherings stayed in force and no Maori could travel to or in Parihaka without a special pass. The Armed Constabulary remained stationed there.

## 8.19 THE RESTORATION

Upon their return from the South Island, Te Whiti and Tohu began rebuilding. Although the allocation of reserves in individual title removed much of the communal basis for their support, Parihaka was rebuilt in grand style. Support came from Maori outside Parihaka by way of gifts of money and food. By 1884, solid houses stood about the marae where the old had been destroyed. In 1889, Te Whiti and Tohu began the construction of the vast and majestic buildings 'Raukura' and 'Rangi Kapuia', which were used, among other things, as venues for large meetings.

Te Rangi Hiroa, better known as Sir Peter Buck, was a prominent member of Te Atiawa and Ngati Mutunga and a well-known anthropologist and politician. He visited Parihaka many times and once helped Te Whiti translate international news from local newspapers. At the time of his visit around 1896, Parihaka was traversed with finely constructed roads and contained a bakehouse, slaughter yards, butchery, two small stores, and two dining rooms.<sup>51</sup> Te Whiti and Tohu had reaffirmed their tradition for excellence in religious, agricultural, and industrial instruction. The

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49. The 1882 *Blue Book* is reprinted in BPP, vol 16, pp 349–639

50. *Gazette Extraordinary*, 13 February 1883

51. J B Condliffe, *Te Rangi Hiroa*, Christchurch, Whitcombe and Tombs Ltd, 1971, p 41

sense of innovation had been maintained. Under the prophets' guidance, advanced systems of water supply and electric lighting had been introduced to Parihaka at a time when even the city of Wellington was without electricity.<sup>52</sup>

From time to time, they returned to their old forms of protest. In 1886, ploughmen again operated on lands farmed by settlers near Patea. Te Whiti, Tohu, and Titokowaru were again among those arrested, the latter for the third time. They were found guilty of forcible entry and gaoled for three months.

The people of Parihaka were unwilling to cooperate with the Public Trustee and the Native Land Court. They did not accept the lease rentals that were accumulating with the Public Trustee, and when the Native Land Court sat to grant individual titles for the last of the Parihaka tribal land, the area was immediately fenced off to demonstrate that it was held in common.<sup>53</sup> Later, they concentrated their protests on the leasing of reserves with perpetual rights of renewal. They were, however, powerless to prevent the Native Land Court's operations or the granting of leases by the Public Trustee.

Te Whiti and Tohu both died in 1907, but the faith they established and the spirit they engendered has survived them to this day. Whenever the raukura is worn, the spirit is maintained.

## **8.20 CENTRAL TARANAKI AND THE TREATY**

Nine years had elapsed since the war had ended and 13 years had passed since the confiscation was proclaimed, but at no time had European occupation been effected in any part of the district. Though the Government's right to the land was known to be doubtful, no legal opinion was sought as to the land's legal status, no consideration was given to the Government's moral right in view of its prior disclaimer, and no account was taken of the fact that the land was no longer needed for the only purpose for which it could have been acquired under the statute. Honesty of purpose and good faith toward Maori were therefore lacking when the Government, without any prior warning or consultation, sought to survey the land for settlement. In the circumstances, the Government's action was provocative, likely to cause a breach of the peace, and prone to incite disharmony.

Ulterior motive, wrong purpose, and improper practice applied in the same way to everything done thereafter with regard to seizing the land and dispossessing the people: the breaking of Maori cultivation fences, the construction of roads through crops and sacred sites, and, eventually, the invasion and destruction of Parihaka. Because in our view the Government had no legal right to the land, these actions were unlawful. Lawful or not, for lack of good faith and honesty of purpose, they were contrary to the principles of the Treaty of Waitangi.

In looking to the circumstances of the Treaty's formulation, it was obviously presumed that Maori would be guaranteed their rights to the land before settlement could begin. So important was this presumption that the British Government would

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52. F Irvine and O T J Alpers, *The Progress of New Zealand in the Century*, p 411; see also Scott, p 189

53. Document A19, p 158

not assume the sovereignty of the land without first assuring Maori that their land interests were safeguarded. It must have been obvious that no peaceful settlement could be achieved without such an undertaking. The principle was wholly applicable to the circumstances in central Taranaki. Even were it assumed that the Government was fully and justly entitled to the land, its right was still subject to its duty to provide Maori reserves. If it were not to repeat the mistakes in north Taranaki, where there was not enough land left for Maori reserves, and if it were to avoid unnecessary anxiety, then the Government had obviously to follow the Treaty principle of settling first with Maori, leaving them with no doubt that they would have lands and where those lands would be, before bringing in settlers. Instead, the Government merely engaged in double talk; for example, accusing Te Whiti of farming other than his own lands while at the same time ensuring that 'his own lands' were not defined.

In this case, however, the right of Maori to land in central Taranaki was much larger than the right to some reserves. It was the Government's right to the land that was tenuous, for the reasons given earlier. The purpose of the New Zealand Settlements Act had long expired when the Government presumed to exercise rights under it. If there were ever a time when the Treaty's land guarantee to Maori could have been suspended, that time had passed, and the Treaty guarantee had necessarily to be reinstated. In all the circumstances, we cannot see that the Crown's assumption of the lands in central Taranaki was consistent with the principles of the Treaty of Waitangi.

The military invasion of Parihaka; the assaults on persons; the arrests; the forced removals; the theft; the destruction of homes, crops, and food supplies; and the restrictions on freedoms of association, speech, movement, and religion were unlawful abuses of State power – gross and flagrant breaches of civil rights, which offended all civilised senses of decency. For those same reasons, they were also contrary to the principles of the Treaty of Waitangi, protection under the law being integral to the Treaty's preamble.

While some judges have contended from at least 1848 that in free and democratic countries the right to a fair trial cannot be suspended in any circumstances, even in war,<sup>54</sup> at the least it is obvious that no circumstances could have existed in Taranaki, nine years after the wars, to justify the removal of the ordinary legal standards. Expressed in terms of article 4 of the International Covenant on Civil and Political Rights, there was neither the state of public emergency threatening the life of the nation nor the official proclamation of such a state of emergency as might justify the derogations from principle that were made. As recited in the preamble, the Treaty of Waitangi had for its purpose the maintenance of the necessary laws and institutions for peace and good order. The imprisonments without trial of several hundred Maori; the arrests and imprisonments of Tohu, Te Whiti, and Titokowaru; the retrospective validation of illegal actions against Maori; the creation of political crimes; and the privative legislation denying access to the courts were all contrary to the principles of the Treaty. The same applies to the relevant provisions in the

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54. See Justice Woodbury in *Luther v Borden* 48 US (7 Howell) 1, 29

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Maori Prisoners' Trials Act 1879, the Confiscated Lands Inquiry and Maori Prisoners' Trials Act 1879, the Maori Prisoners' Trials Act 1880, the Maori Prisoners' Detention Act 1880, the West Coast Settlement (North Island) Act 1880, the West Coast Peace Preservation Act 1882, and the Indemnity Act 1882.

The failure to engage in fair and equal discussions with Te Whiti, who patently represented the contemporary leadership, was a failure to have serious regard for Maori rights of autonomy and was thus contrary to the principles of the Treaty, where rangatiratanga was guaranteed. In historical terms, this was the more serious Treaty breach, because it was, and has been, ongoing. It was serious at the time, too, for it went to the root of the trouble: the Government mind-set that Maori were to be spoken to, not to be spoken with.

In our view, that was the nub of the problem. Te Whiti was willing to respect the Government but the Government was not willing to respect or recognise him, or the Maori authority that he stood for, and studiously avoided doing so. The partnership expected from the Treaty of Waitangi had become subservient to the politics of power and greed for Maori land.

Parihaka was symbolic of Maori unity and autonomy. Its gratuitous and deliberate destruction by Government forces and the forcible dispersion of its numerous peaceful and defenceless inhabitants affected every hapu. The action of the Government was without any lawful justification and constituted a grave breach of the Treaty, the effects of which still persist. The need to assuage this deep-seated affront to all the hapu of Taranaki must play a prominent part in any settlement proposals.

