

IX. ISSUES FOR FURTHER RESEARCH

These suggestions for further research are provided at the request of the Chief Historian of TOWPU to assist with issues which the present report does or could not deal with. They cover matters I think necessary to expound, refute or substantiate further the Whakatohea claim, to make good or supplement the gaps in fact or argumentation within the present report. Not all will necessarily be considered equally obligatory or desirable by both TOWPU or Whakatohea. Those with different perspectives, perceptions, needs, agendas and constraints may have other views and add or subtract from the list.

(A) The pre-European period of tribal history needs, I think, a comprehensive study of its own. Lyall's *Whakatohea of Opotiki* gives much material, but lacks the focus demanded by the present application of a claim alleging breaches by the Crown of the Treaty of Waitangi. Such a claim requires the support of tribal history which establishes Whakatohea as the tangata whenua of this rohe. That will involve the type of genealogical material gathered by Lyall.

(B) But this traditional history will also require the linking of Whakatohea with specific lands. This becomes especially important in cases of disputed rights to certain areas. The core area around Opotiki is not in dispute, but others are. The obvious (but not only) example here is of Ohiwa Harbour, claimed by both Whakatohea and Ngatiawa, with a Tuhoe interest also. To the east, there are oral traditions of the boundary near Opape with Ngai Tai being moved by Pakeha, perhaps missionaries, constricting Whakatohea. And Ngai Tai apparently was making claims there when Crown Agent Wilson was allocating confiscated lands. Then there are other southern neighbours, Tuhoe, Nga Ariki and Te Aitanga A Mahaki, to consider. Their claims will not impinge on the confiscated lands, because there was a fringe of Whakatohea lands between the confiscation boundary and the edge of the rohe, but if the claim is expanded beyond the confiscation to include, for example, Naative Land Court decisions, their claims will also have to be dealt with. Incidents from tribal history establish links with certain places, as do whakatauki and waiata. Much of such material will have to be gathered by one or more competent oral historian.

(C) The issue of the extent to which Whakatohea tried to negotiate with or even prove their loyalty to the Government in the six months between Volkner's death and

the invasion could well do with further investigation, since it also bears upon the appropriateness of the sending of the expeditionary force in the first place.

(D) Much more could be said about the confiscation policy in general. Also, with regard to all of the events of 1865-1870, contemporary newspapers and still more personal papers could be consulted (the *Daily Southern Cross* and Thomas McDonnell's personal papers, for example). Despite the length already gone to in this report, it is still not an exhaustive or definitive statement on this period and these events.

However, I think that they have largely been covered adequately for the purposes of this claim. If a fully-fledged book or tribal or regional history were to be written that would be a different matter, but sufficient detail has already established a substantial basis for the claim and consideration of the need for remedy.

(E) Charles Heaphy's 1870 delineation of tribal boundaries seems to have been relied upon heavily for calculation of the extent of the Whakatohea rohe, and thus the impact of the confiscation. This survey needs to be checked for the accuracy of its representation and calculations. Some of the information Heaphy used to fix boundaries will need to be cross-checked against the tribal history to be prepared by oral historians.

(F) The disposal of the confiscated lands is an area upon which much more detail might be gathered, especially concerning Wilson's dealings with Maori to gain his settlements. Many of the obvious sources have already been searched, though, so to gain that more detailed information the law of diminishing returns might operate. Still, as things stand, it is not even apparent just exactly how much land Whakatohea lost.

(G) Compensation Court records, especially the minute books, have not been explored in full. Much more could be done here, especially with a view to ascertaining the full decisions of the Court and the evidence upon which those decisions were based. They would also be useful for the accounts of tribal history given in testimony. These records are readily available, being reproduced in the *Raupatu Document Bank*.

(H) More detail could be filled in on the immediate effects of the confiscation on Whakatohea. Little has been found to include in the present report which goes beyond the cheery and superficial annual reports of the Resident Magistrates. There will be, perhaps in the Whakatane Public Library, personal, newspaper and other official reports on aspects of life there for the following generations - and even thereafter.

(I) More research is necessary on the Opape Block and Whakatohea life there after 1866. For example, how did Wilson get the whole iwi to go there? Did they all actually go, even all of the hapu who were supposed to (Ngati Ira being something of an exception)? Was the effect of being there like a North American reservation? Were Whakatohea well provided for educationally/socially/economically, or able to provide well for themselves? Their situation with Opape and the other land they acquired or were returned might prove to be another source of grievance as in points 7 and 15 of the statement of claim. Sources for this would include reports in a variety of Government departments, newspapers and personal papers. Again, much of use might be held at Whakatane Public Library as well as at Wellington.

(J) Many of the grievances outlined in the statement of claim which relate to the last century or so are only sketched very generally (or generically). Behind these may lie specific problems as yet unarticulated, similar to those which have manifested themselves in other regions, such as difficulties with the operations of the Native Land Court, or the unjustified taking of land under the Public Works Acts. It would appear preferable for any such grievances to be dealt with in the same settlement process as the confiscation, rather than to begin *de novo* with fresh proceedings at some later time. It is, of course, incumbent upon the claimants to make their claim, but they may well need to undertake additional research assistance to focus any such claims.

(K) A comprehensive search of petitions from Whakatohea to Parliament would assist in the identification of specific grievances which the iwi has suffered over the last century. Most of these will relate to the confiscation, but other more recent or closely-focused ones may well appear too. This would require a detailed examination of the lists of the scores, even hundreds, of petitions considered by the Native Affairs Committee every year. Once such petitions are identified, the additional information concerning them, such as evidence and other papers, will often be found in the National Archives Le 1 series.

(L) The twentieth-century Royal Commissions of Inquiry need further investigation as key examples of attempts already made by the Crown to investigate Maori grievances and to propose methods of redress. Were their terms of reference adequate to address the full range of Whakatohea's concerns, or were they doomed to inadequacy before they began? What evidence did they hear, where, when and from whom? Was this evidence and other sources upon which they relied adequate for them to reach an appropriate decision? Once they had reached their conclusions, what action did the Government take to implement them? The evidence before the Sim

Commission, at least, is still retained in the National Archives, as may be that for the others. Also, personal papers of some of the participants are held in the Turnbull Library. These may reveal something beyond the official record.

(M) Concerning the 1946 settlement agreed to and passed into legislation: who were the Whakatohea representatives who, it was claimed had agreed to the £20,000 sum? Did Whakatohea themselves view this as a final settlement? Legislation said so, the present statement of claim says they did not. What was the 1947 settlement, alluded to in the present statement of claim, which excluded Ohiwa harbour from this settlement? Was there a Whakatohea Trust Board or equivalent body in existence at the time to whom the settlement money could have been paid, instead of it going to the Maori Trustee for a period?: Did Whakatohea actually receive the full £20,000, or was some siphoned off e.g. into administrative fees? On what, and by whom, was the money actually spent? How did the Government arrive at the £20,000 figure, since, despite Nash, it doesn't seem to relate directly to Sim's report's recommendations? How did the settlement fit into the programme of Maori grievance investigations and settlements being rushed through by the Labour Government in the immediate post-war period?

17. Further possible research matters identified by this report:
1. Is there a co-relation between the allocation of reserves/awards to Whakatohea individuals and their appearance as Crown witnesses? (para 9.7)
  2. Was the rehearing of the judgement for Wepiha ever held? First set down for 20 June 1867 but two of the necessary three judges failed to arrive. See RDB v122: pp47124-5. (para 9.8)
  3. What was the effect on Compensation Court rulings of the fact that in many cases inquiries were restricted to dealing with only those claimants and witnesses who were available to it. (LA1, NA 67/1321). (para 9.9)
  4. Where claims were found by the court to be proved, awards of land were made but in some cases cash was awarded instead. Claims not proved were dismissed. The Compensation Court completed its hearings in the Bay of Plenty in late December 1867. Some written submissions and correspondence on these matters are in Maori and the Tribunal may wish to consider obtaining a summary of their contents and, where appropriate, full translations. (para 9.10).
  5. During the course of the Compensation Court, Wilson compiled new schedules as old ones became outdated. There is no evidence that these schedules were approved by any court which brings their legality into question. (It is noted that in Taranaki, a late sitting of the Compensation Court in 1874 to authorise schedule changes). (para 9.16)
  6. Was the dispute between various Whakatohea hapu concerning land to be given them resolved? (para 9.17).
  7. In 1878 H W Brabant, Resident Magistrate at Opotiki, submitted a status report to government on revised awards he was offering for hapu of Whakatohea, including a reserve for Ngati Ira. (RDB v123: pp47285-7.) In 1881 the government appears to have received lists from hapu of names for inclusion in grants of Te Rere reserve (RDB v123: pp47282-4). By 1881 Crown grants had still not been issued and the final fate of these reserves has not been ascertained. It is suggested that there could be a parallel with the Te Arawa awards where the Government was actively trying to lease and purchase the