

# **The Taranaki Report - Kaupapa Tuatahi**

## **CHAPTER 11**

### **'REPARATION'**

The Natives were treated as rebels and war declared against them before they had engaged in rebellion of any kind, and in the circumstances they had no alternative but to fight in their own self-defence. In their eyes the fight was not against the Queen's sovereignty, but a struggle for house and home. The Sim commission, 1927

#### **11.1 ATONEMENT**

The process of reconstruction begun by the West Coast Commission and continued by the Native Land Court eventually included a review of the taking of the land. The review was limited but at least it showed the need for reconciliation. In 1926, the Government established a royal commission to inquire into 'confiscated land and other grievances' under Justice Sir William Sim, Vernon Reed, a legislative councillor, and William Cooper, a Maori of Wairoa. In 1927, the commission reported that the confiscation in Taranaki could not be justified and recommended an annual payment of £5000 in perpetuity. Since 1930, payments have been made to the Taranaki Maori Trust Board. This chapter reviews the efficacy of the Sim commission, the Taranaki Maori Trust Board, and the arrangements.

#### **11.2 THE PROTEST**

Of more initial significance than the appointment of the commission was the time it took to agree that an inquiry was needed. No previous investigation had addressed the real grievance: the justice of the confiscations. It took 60 years of agitation to have that topic even touched upon, and as shall be seen, it could be touched on only lightly.

As earlier noted, the first commission, the West Coast Commission of 1880, was meant to do no more than implement such land promises as could be shown to have been made. It was not to consider the justice of the case or even the amount of land that Maori should fairly receive. It had merely to repair broken promises for Maori who had been squatting on land with nothing but promises for more than a decade since the war.

Once the West Coast Commission completed its task, the Maori protest continued just the same. At first, it followed the old form. Despite the cataclysm of Parihaka, Tohu, Te Whiti, and Titokowaru carried on as though nothing had happened. Each was imprisoned yet again, for three months, following a further ploughing protest in 1886. Nor were they alone. The loyal Ngati Rahiri, who were never properly compensated for the loss of their land for a military settlement, staged a ploughmen's protest of their own in 1897. On that occasion, 94 were imprisoned for two months.

The thrust was changing, however, from physical protest to assaults on the Parliamentary Petitions Committee or, later, the Native Affairs Committee. From 1870 to 1930, at least 262 petitions were filed, on average more than four per annum. The focus was also broadening as new concerns arose. Some petitions continued to protest the confiscations but most concerned the administration of the reserves by the Public or Native Trustee and the way in which Maori lands were continually being whittled away. The need to fight for even the 'returned' land was fragmenting the challenge to the confiscations themselves.

In 1909, as earlier noted, Maui Pomare led 72 members of a Maori union in a protest to the Prime Minister complaining of leases in perpetuity and the Public Trustee's control. Later, as the representative for Western Maori and a member of the Reform cabinet, Sir Maui (as he became in 1922) and the union sought payment for the confiscations themselves. To deflect opinion that Maori protestors were intent on dividing the nation, a prejudice that still survives, throughout World War I Pomare also recruited for the Maori Pioneer Battalion. At that time, Maori of the confiscation districts had been so refusing to cooperate in the war effort that in Waikato (but not Taranaki) Maori conscription was introduced and several who refused to cooperate were imprisoned. This Maori opposition challenged the emerging Pakeha idealisation of the nation's race relations, while Pomare's efforts were seen to give it grace. He was none the less insistent that Maori grievances must be inquired into once the war was over. Eventually, the Prime Minister, William Massey, promised the Maori members of the House that an inquiry would be instituted if Maori did not pursue their claims while the war was in progress.

In fact, no inquiry was established until eight years after the war. At the war's end Pomare and Apirana Ngata (later Sir Apirana) of Eastern Maori campaigned for a settlement for the confiscations. There was then widespread support in both Maori and Pakeha communities for action on Maori grievances. A resolution was seen as necessary if the two races were to advance and if Maori from the confiscation districts were to join other tribes in land development schemes. Further impetus came from a new religious and political movement under Tahu Potiki Ratana, which sought the ratification and implementation of the Treaty of Waitangi. Coates, who replaced Herries as Native Minister in 1921 and became Prime Minister in 1925, was more sympathetic to Maori opinions. A native land commission chaired by Judge Robert N Jones was appointed in 1920 to investigate the Ngai Tahu and other grievances, while settlements were reached over Te Arawa claims to the Rotorua lakes in 1922 and with Tuwharetoa over Lake Taupo in 1926. These were all tribes that had not fought against the Government. Those with the largest grievance, arising from the war and the confiscation of the lands of the country's most populous tribes, continued to be avoided until the appointment of the Sim commission in 1926.

## **11.3 SIM COMMISSION RESTRICTIONS**

### **11.3.1 Restrictions**

The Government's anxiety over the confiscations, even when it agreed to re-examine them, was apparent in the severe restrictions placed on the inquiry, the commission's terms of reference, and its reporting time. It seems to have been hoped the grievance

would be briefly looked at then buried. The terms of reference were explicit that the commission was not to inquire into questions of lawfulness. On the contrary, it was obliged to accept that the confiscations were justified on account of a rebellion and the need to keep order. Further, the commission was not to consider whether the confiscation laws were *ultra vires* the Parliament. Nor could it consider the Treaty of Waitangi. By the terms of reference, the commission was required to assume that those who did not accept the Crown's authority could not claim the benefit of the Treaty. The Prime Minister was keen to assure Parliament the same: that Maori had repudiated the Treaty by entering into rebellion. Thus, the major planks on which the Maori case was likely to have been made were swept out of the arena. The commission was simply to consider whether in all the circumstances the confiscations 'exceeded in quantity what was fair and just'. In case the commission should answer that question in the affirmative, it was then deterred from any major recommendation. It was required to consider the value of the land at the time of the confiscation and disregard any increment. The expectation was also clear, despite Maori pleas, that only cash could be looked at, not a land return.

The pitch was also queered against a finding in favour of tribal restoration. The focus was to be on individuals, particular groups, or the Maori of New Zealand generally, each class detracting from the primary need to re-establish the main Taranaki tribal groupings. The commission was directed to inquire into whether any particular lands should not have been confiscated because of their special nature, whether any particular persons should have compensation, whether an allocation should be made to any 'special person, tribe or hapu', and whether any general sum in compensation, 'should be appropriated . . . for the benefit of all the natives in the North Island of New Zealand', as though the land taken was really the land of everyone.

Moreover, the size of the task and the time allowed to do it in were unreal. The commission was required to report in eight months, and then not only on the Taranaki confiscations but on every other confiscation too (in Waikato, Tauranga, Whakatane, Opotiki, Urewera, Gisborne, and Hawke's Bay) and, for good measure, on 57 parliamentary petitions as well. These carried the commission yet further afield, to the grievances of north Auckland for example, and all was to be done in eight months. Consequently, the commission sat for just eight days in Taranaki, and the hearings as a whole took no more than three months. Its report was written in a mere six weeks and was submitted on time, on 29 June 1927, the day before it was due. The commission's chairman suffered ill health throughout. He died soon after the report was presented and before it was printed and published.

### **11.3.2 Sim commission findings**

Despite the constraints, the commission achieved a remarkable result. Though it was well supplied with documents, statistics, and maps from the Native and Lands Departments and had the benefit of able counsel, the task was still enormous. It was handled with alacrity. With regard to the Taranaki confiscations, the commission, obviously affected by the clear injustices, slid around the restrictions upon it in one fell swoop. Being obliged to consider whether in all the circumstances the confiscations 'exceeded in quantity what was fair and just', it simply found that in all the circumstances every acre that was taken in Taranaki exceeded in quantity what was fair and just. It was precisely the answer Maori had been seeking, and this was

the first time in the history of the confiscations that a finding of wrongdoing had been made. More particularly, the commission concluded that, 'in the circumstances, [Taranaki Maori] ought not to have been punished by the confiscation of any of their lands'. Of the several confiscations throughout New Zealand, it was only in Taranaki that such a finding was forthcoming. Based largely upon a reading of certain contemporary histories, the commission concluded that the Government wrongly declared war against the Maori in Taranaki in order to establish 'supposed rights' under the Waitara transactions. Then, through the armed occupation of Tataraimaka, the Government effectively declared war against Taranaki Maori once more. At all material times, it considered, Maori were forced into a position from which they could not retreat.

Having reached the conclusion that no lands should have been confiscated, it was unnecessary for the commission to comment on the remaining questions of whether any particular lands should have been excluded, whether any particular Maori were entitled to further compensation, or whether a further allocation should be made to any special person, tribe, or hapu. These questions were rather glossed over on account of the main finding that none of the land should have been taken. There was also no time to do otherwise. In the result, however, Maori requests that particular properties and resources be protected were bypassed. These requests related to particular canoe landing sites, lands associated with sea, lake, and river fishing, the fishing grounds themselves on marine reefs or in certain rivers and lakes, and sacred sites, including Taranaki mountain. It remains a concern today that the opportunity to protect and restore certain essential cultural sites was not taken in 1927, when the chances of doing so were greater. Similarly, 14 associated petitions received scant attention.

### **11.3.3 Sim commission recommendations**

The Sim commission's recommendations were restricted by the directions to consider solely monetary compensation and to have regard only to land values at the time of the taking. The commission was also particularly constrained by the evidence produced by officers of the Native and Lands Departments and the lack of time to challenge or examine it. This evidence was to the effect that 1,275,000 acres had been confiscated, of which the Government had purchased 557,000 acres and returned 256,000 acres, leaving a balance of only 462,000 acres. These figures were received uncritically. There was not the time to go into them. There was not the evidence that has now been put to us to show that those lands were not properly returned or fairly purchased, nor was the commission able to consider that other lands were wrongly acquired as well. The commission appears simply to have accepted that the loss was 462,000 acres.

Then, the figures submitted to the commission for the value of the 462,000 acres at the date of confiscation ranged enormously from £46,200 to £231,000, without taking into account injurious affection, interest, the lack of access to nearby traditional resources, the loss of timber, or the like. An internal Government memorandum of 1863, which was put before the commission to assist with this calculation, if followed would have given a minimum value of £924,000. Not surprisingly, the commission found it 'difficult, if not impossible, to arrive at any satisfactory conclusion as to the value of the land at the date of its confiscation'.

Once more, the commission adroitly obviated the restrictions upon it, while at the same time leaving a large opening for the future. Abandoning the problem of the value of the confiscated lands, it proposed that compensation should be paid for the wrong done and that, by making annual payments forever, the wrong should not be forgotten. More particularly, it considered, 'the wrong done by the confiscations should be compensated for by making a yearly payment of £5,000'.

It has been suggested that the commission concentrated upon the 'wrong done' instead of the compensation for actual loss because of the amounts likely to be involved and because governments were unlikely to accept such findings. It also appears to us, however, that the commission was actually leaving the compensation for the capital loss for another occasion. That is certainly how it appeared to Maori. While the Government came to see the annuity as a settlement for the land confiscation, Maori continued to see it as 'a permanent acknowledgment of a wrong'. Indeed, Maori petitions for the capital loss began arriving at Parliament within a few years.

Of course, as compensation for a capital loss, the annuity was extremely low. Based on an annual interest rate of 5 percent, £5000 per annum implied a capital loss of only £100,000. As Sir Apirana Ngata noted, it was equal to the subsidy approved for the National Museum in 1928. Neither was it considered that the annual payments might need to be backdated with compound interest added.

The commission was unable to consider, or chose not to, certain other matters: the operations of the Compensation Court, the West Coast Commission, and the Native Land Court; the purchases; and the administration of the reserves and perpetual leases. The many petitions on those matters were not referred to the commission. The Government did, however, refer petition number 37 on the sacking of Parihaka. Although only a week was available to Taranaki Maori to present their numerous grievances, and although the confiscations were the main claim, Maori none the less set aside time to go into the Parihaka question, for it has always been a major grievance. Three survivors were called to give evidence, including a son of Te Whiti, but when the Crown admitted that Maori property at Parihaka had been taken or destroyed, the further testimony of other witnesses was not given. Those who gave evidence claimed that the troops 'assaulted and impregnated women', destroyed houses, stole heirlooms, confiscated stock, and destroyed crops. Some documentary evidence was put in, but no inventory was made or value given for the goods stolen or destroyed. Again, no attempt was made to assess the monetary loss. The commission recommended a payment of £300 'as acknowledgment, at least, of the wrong that was done'. Even as acknowledgement of a wrong, Maori rejected it out of hand as inadequate and insulting.

### **11.3.4 Implementation of the Sim commission's recommendations**

There was no conclusive settlement or agreement between the Government and Maori on the relief to be provided from the confiscations, and the Government did not settle upon the regular payments to be made to Maori until 1944, 17 years after the Sim commission had reported.

At first the Government prevaricated with the report. It was not presented to Parliament until 28 September 1928 - over a year after it was written. Little time was

then allowed for public comment, because a mere one week later a Bill was introduced that would take the debate out of the House. This became the Native Land Amendment and Native Land Claims Adjustment Act 1928. This Act left it to the Government to implement the recommendations as it saw fit, with power to modify, vary, or extend them, provided, however, that any annual payment finally agreed upon was not to be paid automatically to Maori but to be appropriated each year by Parliament. This would enable the Government to stop or vary the payments at any time without the need to change any statute. The compensation was to be paid to a board (which became the Taranaki Maori Trust Board). In turn, the board was to apply the funds to general purposes (education, health, farming, and the like) rather than simply distribute moneys to defined beneficiaries.

For their part, however, Maori had clearly expected that any compensation would be apportioned to the various aggrieved hapu. There was a concern that the Sim commission had not determined how compensation should be apportioned to the hapu and a further concern that compensation might pass to some centralist body and not to the hapu, which were the bodies most affected.

The Bill had the support, however, of Maori parliamentarians. It was thought the sum proposed by the Sim commission was the most Maori could expect at that time, and it was also a relief that the Government had not done what it had been doing for years: insisting that everything should be divided out to individuals. The legislation added that a certificate signed by the Native Minister stating that a particular grievance had been settled was to be accepted as conclusive proof of that settlement, and no action was to be maintainable thereafter against the Crown.

Taranaki Maori would not accept the proposed annuity in full satisfaction. They claimed that land, not money, should be returned and that, if it had to be money, it should be more. For other reasons, Treasury was also opposed. It favoured a lump-sum settlement, not annual payments in perpetuity.

A settlement was becoming more difficult to promote, however, because the country was falling into an economic depression. In May 1928, Sir Apirana and Sir Maui took the proposed annuity to a hui at Waitara, pointing out the growing economic difficulties. The hui agreed that £5000 should be accepted, but only as an interim measure until the national economy improved. But the depression reduced the chances of securing the Government's agreement. At the end of 1928, the Reform Government lost the general election and the United Government took office, with Sir Apirana as Native Minister. The situation worsened when Sir Maui died in June 1930. Sir Apirana responded by foreboding that, unless the Government moved on the matter, it would lose the Western Maori by-election. To press his point, he then tendered his own resignation, threatening to force a by-election in Eastern Maori at the same time. The Government then reacted. It agreed to provide £5000 that year and to consider, in the following year, whether that should be an annual payment or whether it should be converted to a lump sum. Soon afterwards, the Government candidate, Taite Te Tomo, won the Western Maori by-election.

The subsequent arrangements were unsatisfactory. The Government did not in fact pay £5000 but only £2000. It did not address the question of whether the payments would be capitalised. It merely carried on as though any payment was at the discretion

of the Government from year to year. For the next three years, while appearing to acknowledge that £5000 per annum was due, Government paid only £1000 per annum, saying that this was on account of the depression. Arrears were never recovered. Further, since payments were not automatic and did not arrive every 1 April as they did for other Maori trust boards, each year the Taranaki board had to press the Government for a payment, and payments were tardy in arriving. The board remained adamant that the Sim commission had never made an appraisal of the property loss. It continued to urge that Maori had never agreed to the annual sum, except as an acknowledgement of wrong, and that it was an interim measure pending economic recovery. The board regularly insisted that Maori sought land returns, not payments. Increasingly, however, the board was in a situation where it had to accept or it would receive nothing. In 1935, the board and others petitioned that the annual award be simply increased to £10,000 per annum and that this amount be paid automatically on a fixed day each year. When the Government rejected the petition on the ground that the Sim commission had already considered the matter, it must have been obvious to the board that it had no choice but to accept what was offered or walk away from any arrangement altogether.

In May 1937 and again in February 1938, the Government revisited the question of the Parihaka award. Taranaki Maori argued that the amount offered was commensurate with neither the wrong done nor the damage suffered. Officials at a meeting with Maori made it clear, however, that £300 was the upper limit of any settlement the Government would consider. Further negotiations were stonewalled by officials, especially those from Treasury, and several conferences ended in a stalemate.

From 1939, all negotiations were suspended on account of World War II. Nevertheless, the Taranaki Maori Trust Board continued to petition the Government. Finally, after protracted negotiations, the Government passed the Taranaki Maori Claims Settlement Act in December 1944 - on the eve of a further by-election for the Western Maori seat. The Act provided simply for an annual payment of £5000 and a one-off payment of £300 for Parihaka. It also described the arrangement, however, as being with the full agreement of the Maori claimants and as 'a full settlement and discharge' of the claims. The evidence is against any such settlement having been freely and fairly agreed.

During the debate on the Bill, H G R Mason, the Native Minister of the day, noted:

It is important to the Maori, not merely financially but emotionally, as an acknowledgment of wrongs done, and it puts the relationship of the two races, in that respect, on a satisfactory basis. While there is a wrong not acknowledged, there is of necessity a barrier between the two peoples.

Maori have never regarded the 'settlement' as other than an acknowledgement of wrongs done. It was what the Native Minister said at the time. It was also the basis on which the Sim commission reached the sum of £5000 for an annuity, as earlier noted.

From 1944 to 1985, when the Government added historical claims to the Treaty grievance process, Maori continued to petition for a more adequate settlement of the Taranaki claims. The Government consistently replied that the 1944 'settlement' put

the matter at an end. In rejoinder, Maori have stressed shortcomings in the Sim commission's inquiry (for example, the failure to consider the 5000-acre reduction of the continuous reserve), the imprisonment of the Te Whiti adherents, the full story of Parihaka, the dubious purchases, the administration of reserves, the inability to assess Government action against the Treaty of Waitangi, and the failure to consider the pleas for the return and protection of canoe landing places, marine and freshwater fishing grounds, and sacred sites. These petitions caused no change of heart, however, save that the Government eventually considered the most significant of the sacred sites - Taranaki mountain.

Taranaki mountain has extraordinary significance for all Taranaki hapu, and pressure for its return had been maintained since it was taken, unlawfully, last century. By the Mount Egmont Vesting Act 1978, the mountain was returned to the people of Taranaki by vesting it in the Taranaki Maori Trust Board; and then, by the same Act, it was immediately passed back to the Government by the board as a gift to the nation. We are unaware of evidence that the hapu agreed to this arrangement. Many who made submissions to us were adamant that most knew nothing of it. Some named the mountain 'Magic Mountain' - 'now you have it, now you don't'. Mereana Hond submitted:

It appears unusual that the Trust Board should wish to forsake ownership of the mountain by Taranaki Maori for no apparent return. It is submitted . . . that the political climate of 1975 was such that the Board felt it was necessary to perform a gesture of goodwill designed to create a more favourable environment within which a monetary settlement could be negotiated.

In fact, at the time the board was seeking a sum of \$10 million and the return of the mountain. The Government agreed instead to increase the annuity from \$10,000 to \$15,000. We are not surprised that much dissatisfaction remains, the more so since we could find no valid legal basis for the mountain's confiscation in the first instance.

We add for the sake of completeness that the board was given representation on the Egmont National Park Board and that the New Zealand Geographic Board finally recognised that the mountain, officially called Mount Egmont, should also be known as 'Taranaki', its true name for more than a millenium.

### **11.3.5 Sim commission: conclusions**

The constraints on the Sim commission were such that there was never the full inquiry needed for a settlement of the Taranaki grievances. The imposition of those constraints was inconsistent with the Government's Treaty obligations to treat openly and honestly with Maori. Consequently, there could not have been in principle, nor was there in fact, any full and final settlement of the Taranaki claims.

## **11.4 THE TARANAKI MAORI TRUST BOARD**

The Taranaki Maori Trust Board was established to receive and apply the confiscation annuities. This section concerns the board's service delivery. It considers how the Government and Maori had such different expectations that it was difficult for the

board to satisfy either of them. Also, when inflation eroded the value of the annuities and the Government did little about it, the board was forced to change from a distribution agency for the hapu to a centralist tribal authority.

#### **11.4.1 Different expectations**

In terms of the Maori Trust Boards Act 1955 and earlier legislation, the board's primary duty is to fund social and economic projects for the benefit of Taranaki Maori. Of necessity, however, it assumed from the start the wider function of representing Taranaki Maori generally. It became the corporate embodiment of the Taranaki people, the very thing that past governments had not wanted. In arguing the case for particular hapu, or the hapu as a whole, it served as a tribal representative institution, not waiting for the legal authority to undertake that role but, of necessity, assuming it.

We would not minimise the significance of the board's role in advancing and maintaining a collective hapu voice. Indeed, it may have been the most important function the board has undertaken. It maintained the historical perception that the strength of Taranaki was the people's ability to move as one, a capacity for concerted action that enabled them to sustain a war for nine years. No reader of history can fail to observe that, in the war, hapu under stress moved confidently from one place in the province to another and how, when one part of Taranaki was attacked at Waitara, the rest of Taranaki reacted immediately. Whether it was planning at Taiporohenui, defending at Waitara, attacking with Titokowaru, taking refuge with Ngati Maru, or restructuring at Parihaka, Taranaki became famous for its capacity to act concertedly under stress, even despite internal feuding. Such traditions of common history and purpose create an iwi, and the board was the embodiment of that iwi for most of this century.

Having said that, however, the riddle of Taranaki unity is that it lies in the autonomy of its segments. Traditionally, power has vested not in the centre but in each hapu. The strength of any central leaders has been that they have only that authority the hapu give them, so that such power as they have is well mandated and exercised with total accountability to hapu. The source of power is from neither the outside nor the top but the bottom. Accordingly, there was a tension from the start. While the Government established a central board to grant moneys for projects, Maori expected a distribution agency that would get the money to the hapu and a body that would represent the hapu only when asked to do so.

The Government also created a board with extraordinary responsibilities, then failed to ensure that its funding allowed it to perform to expectations. The governing statute shows how the Government expected the board to do enormous things: install water supplies, sanitation works, and drainage schemes for Maori settlements; provide papakainga housing, with all the attendant costs of subdivision, roading, kerbing, channelling, lighting, and sewerage reticulation; establish power schemes; build health centres and supply doctors, nurses, and dentists; and establish industries, hostels, churches, recreation centres, schools, other educational institutions, and so on. These objectives were all good and necessary, but even before inflation, they were probably not achievable. It says nothing for the Government's honesty of purpose, however, that the annuities were not in fact updated so that those goals could remain

in reach. Today, the annuity is hardly enough to keep two students at university. As a result, the board has been the target of criticism, but the real problem has been not the board as such but the Government's failure to maintain the spirit of its promises by indexing the funding. The Government simply allowed the board to topple over.

Again, in terms of the Maori Trust Boards Act 1955 and earlier legislation, the board's task was, and is, to fund projects; and again, the board was obliged to assume other functions. From the outset, Maori expected the board would be mainly an agency to distribute the money to the hapu. Initially it was, though of necessity its distributions were disguised as grants for marae renovations and hui. This task of distribution presented the board with its first major difficulties.

The Sim commission did not sit long enough to realise how important it was to get funds out to the communities. It failed to say how any compensation might be apportioned to the hapu. Nor did the Government do any better. It required the board to fund projects. Hapu became supplicants for funds, not managers of their own moneys. Whatever the statutory position, however, Maori expected the board would undertake a distribution function; the board was prepared to adopt that role and arguments followed naturally as to how hapu would be represented on the board for the purpose of voting.

The debate was not over which were the appropriate hapu groupings but over the numbers each would have to represent them. Until recently, few appear to have doubted that there were eight main hapu aggregations and that through these eight every hapu of the district could be serviced. These were the northern hapu of the Tokomaru waka: Ngati Tama, Ngati Mutunga, Ngati Maru, and Te Atiawa; the Taranaki hapu of the Kurahaupo waka in the centre; and, in the south, those of the Aotea waka: Nga Ruahine, Ngati Ruanui, and Nga Rauru. Although the initial regulations established a six-member board to represent four groups - Te Atiawa, Taranaki, Ngati Ruanui, and Nga Rauru - it was accepted by all that 'Te Atiawa' included all four of the Tokomaru groups and that the Sim commission's reference to the northern and southern sections of Ngati Ruanui should properly have been a reference to Nga Ruahine and Ngati Ruanui respectively. This understanding was apparent from as early as 1937 at a large tribal hui at Parihaka, although it was not until many years later that the Act was amended to name each of the eight divisions.

Owing to the Maori propensity to connect by whakapapa rather than to stand divided by boundary lines, boundaries for these groups were uncertain, but for administrative purposes they were agreed on, apparently without much argument. They roughly accord with the Compensation Court divisions. It should also be explained that throughout this time the word 'hapu' was used for 'tribe', and in characteristic linguistic style, it could be used to mean any kin group from small families to large aggregations. Modernly, 'iwi' is used for the larger groups. We have avoided that term in this report until now, because in the papers we have perused, 'iwi' was not used for 'tribe' until the early 1980s. Previously, it meant only the 'people' of Taranaki, which included everybody.

At the time, however, the problem was not the identification of appropriate groupings but agreement on the number of representatives that each of the agreed eight groups

would have, for this would determine the vote when the annuities were allocated. The total grants to tribal districts as at 1951 were summarised by the board as follows:

Population (1936 census)	District	Total (£)
441	Nga Rauru	9074
563	Ngati Ruanui	9168
905	Nga Ruahine	9684
830	Taranaki	8115
577	Te Atiawa	16,498
74	Ngati Maru	2619
165	Ngati Tama-Ngati Mutunga	1479

The board explained the higher figure for Te Atiawa in terms of the costs of a new carved house and the associated opening celebrations, noting 'The Manukorihi Pa, although in the Te Atiawa district, is the national marae of the tribe and any expenditure on that marae should be debited against all the tribes'. Ngati Tama and Ngati Mutunga figured, however, that the low allocation to them was simply because they had only one representative between them on the board at the relevant times. As well, Ngati Maru had previously been bracketed with Ngati Mutunga. These hapu felt that their interests were not protected and urged that each should have full representation. An acrimonious debate continued from 1937 to 1969. If the groups of the Tokomaru waka had one representative each, it was thought, this would throw the voting weight to the north. If parity were to be maintained, the Kurahaupo hapu of Taranaki in the centre would need more representatives and had good grounds to argue for voting on waka lines. The problem was compounded by the erroneous view of some board members that payments could not be made to groups without a full representative on the board. Thus, Ngati Tama claimed to have been told by the board's chairman that they were entitled to nothing, because 'No member, no grant'. The position was not in fact resolved until 1969, by which time the annuities were so devalued that the issue was no longer important. It was then agreed, and arranged by statutory amendment, that each of the eight groups would have one representative.

It also needs noting that the debate was not entirely about the representation of hapu on the board; it was also about the basis on which allocations should be made. In a letter to the Native Minister in 1941, Ngati Tama and Ngati Mutunga suggested that allocations should be adjusted not by populations but by comparative confiscations. It was said that data before the Sim commission gave the figures in the middle column of the following table.

Hapu	Area confiscated	Area confiscated
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	(data before the Sim commission) (acres)	(discounting lands 'returned') (acres)
Ngati Tama	71,000	74,000
Ngati Mutunga	24,000	42,000
Ngati Maru	93,000	96,000
Te Atiawa	38,000	76,000
Taranaki	114,000	217,000
Ngati Ruanui	73,000	138,000
Nga Rauru	49,000	10,000

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As Ngati Ruanui claimed, however, if lands 'returned' were discounted, because they had not been returned to the hapu, the comparative confiscations would be those given in the last column.

Yet a further result would follow if the purchase lands were also brought into the calculations.

This correspondence does not, however, settle the issue. Should distribution be based on population, as the board had generally assumed, or on the extent of property loss or some other criteria? This has been a long outstanding concern, and accordingly, when the claims were before us, the claimants argued that each group's losses should be separately assessed. It was, however, also argued that it was the impact of loss that mainly had to be calculated and this required consideration of many factors, in which land loss and population were only part of the equation.

#### **11.4.2 The impact of inadequate funding**

In recent years, there have been fears that traditional power structures may be reversed through the continued funding and maintenance of a central organisation wielding power over the hapu at the baseline. There is concern that any board should act only as a voluntary federation of hapu. In other words, it should not be a separate bureaucracy and should draw its power not from Government funding but only from the hapu themselves. In the minds of most Maori, the rationale for the board's existence was that it would service the hapu, but increasingly, some felt it was failing to do so.

The board itself can hardly be blamed. It simply did not have sufficient money, since at least the 1950s, to deliver to hapu the funds they needed. The eroding value of the annuities was making distributions meaningless, and the board was compelled to find ways to develop a capital base of its own as a hedge against inflation. Under the statute, however, Maori trust boards were at all times under the direct control of the Minister of Maori Affairs. As with most things relating to Maori affairs at the time,

the board could barely sneeze without asking permission. To build up a capital base, the board sought from the early 1950s to buy a farm, but the Minister would not allow it until 1959. In the interim, the board switched from making payments to districts to giving individual assistance in the form of education grants. District committees continued to receive annual grants but they were quite nominal, being set at about £200 each. Meanwhile, education grants rose from £2000 in the 1960s to \$12,000 in the late 1970s, \$18,000 in 1989, and \$46,650 in 1991.

After the purchase of the farm in 1959, when it borrowed just under half of the purchase price, the board gradually expanded its investments. To better service its beneficiaries, however, it also undertook the management of such Government social service programmes as MACCESS and matua whangai. In the result, the board's administration fees became a more significant source of income than its compensation annuity. Thus, while the compensation grant remained at £5000 (or its dollar equivalent) until 1977, and \$15,000 thereafter, the board's income for 1991, mainly as a result of Government programmes and returns on investments, was \$343,000. It was reduced to \$257,000 in 1992, when certain Government programmes were discontinued.

With the burden of running numerous programmes and maintaining property, administration and maintenance costs increased proportionately. During the 1930s and 1940s, approximately 12 percent of the board's income, between £523 and £653 per annum, was spent on administration and maintenance. The figure was £708 in 1952, £1141 in 1961, \$4600 in 1972, \$18,000 in 1982, and \$184,000 in 1992.

Accordingly, owing to both the reducing value of the compensation annuities and its statutory responsibilities, the board has been less and less a distribution agency for hapu and increasingly a centralist organisation, generating its own income to fund particular persons and projects on merit and having to maintain its own bureaucracy.

In addition, the board has continued to support or represent particular tribal concerns. For example, it makes submissions on the laws affecting Maori, such as those on the administration of Maori land. It has continued to voice its concerns about the inadequacy of the compensation and it has assisted with the funding of the current claims. On occasion, its authority to undertake such roles has been questioned by the Minister of Maori Affairs, but the board has persisted none the less.

Most especially, the board has maintained pressure for the indexation of the annuities, which have been seriously affected by post-war inflation. Until 1978, the annuity remained as set by the Sim commission in 1927. Following a petition in 1974, the annual payment was increased in 1977 to \$15,000. In an estimate by Dr J L Robinson in 1990 (updated in 1992), based on the consumer price index, a £5000 payment in 1931 should have risen to \$56,858 in 1975. There have been no other increases beyond that of 1977.

### **11.4.3 Conclusions on the board's role**

The question of how funds should be distributed was not settled by the Sim commission or by anyone subsequently. Past board records suggest that, up until 1969, Ngati Tama, Ngati Mutunga, and also, it seems, Ngati Maru did not fare as well

as others in funding distributions. There has never been agreement on the basis for distributions, be it by population, asset loss, or some other criteria. It certainly appears that basing matters on population alone has caused hardship, especially for Ngati Tama. Their land loss was so great, and such lands as were given were awarded to so few, that Ngati Tama were simply unable to become re-established. Population growth was impossible, and to measure their damages by reference to population would be to penalise them for the very thing they complain of. The basis for allocation now returns to the agenda in the context of the current claims settlement. In addition, there are now other groups claiming to have been wrongly omitted altogether.

The Maori Trust Boards Act envisaged, and still envisages, that the Taranaki Maori Trust Board will fund projects by merit and will not act as a mere distribution agency. There is a question, however, of whether it should be mainly an allocation agency and whether any further settlements should be made directly with each of the main hapu aggregations. A further question is whether the Government should continue to control the board's direction or whether it should impose no more conditions than those necessary to ensure accountability or to protect the interests of minorities.

The board has fulfilled an important function in the past in representing the interests of all Maori in Taranaki, but there is now a question of whether the board should drive the hapu or whether the hapu should drive themselves. Much current criticism of the board reflects this tension, but criticism of the board for not servicing the hapu is unjustified. The problem has been not with the board but with the failure of the Government to provide the necessary legislation and, most of all, to index the compensation annuities. The Government's failures have been inconsistent with the standard expected of an honest and honourable partner in terms of the Treaty of Waitangi. The board thus had no option but to develop as a central agency, funding persons and projects on merit and competing for the delivery of services as a tribal bureaucracy. The resulting criticism from hapu fails to consider that the board really had no choice. It was bound to follow this course as a result of Government parsimony.

In so far as section 24 of the Maori Trust Boards Act describes the Government's expectations of the board in delivering relief to the sufferers of confiscation, it may be said that the Government's past settlement was based not on a fixed sum but on an expectation that the sum provided would be sufficient for the given statutory objectives. In a very short time, that amount was clearly insufficient. In our view, the Government had a duty to ensure that those objectives were reasonably capable of being met, but it did not do so. Instead, it allowed the board to fail and to founder under criticism from its own constituents.

The record shows that the board has made sound inquiries and submissions over many years on Maori land law, perpetual leases, indexation, resource management, and the like and has faithfully represented the people. The proper nature of any central agency and its accountability, control, structure, and function, however, are still live items to be determined in any settlement arrangement.