PROTECTION OF AUTHOR’S COPYRIGHT

This copy has been supplied by the Library of the University of Otago on the understanding that the following conditions will be observed:

1. To comply with s56 of the Copyright Act 1994 [NZ], this thesis copy must only be used for the purposes of research or private study.

2. The author's permission must be obtained before any material in the thesis is reproduced, unless such reproduction falls within the fair dealing guidelines of the Copyright Act 1994. Due acknowledgement must be made to the author in any citation.

3. No further copies may be made without the permission of the Librarian of the University of Otago.
Dr Edward Shortland
and the politics of ethnography

Marjan Lousberg

A thesis submitted for the degree of
Doctor of Philosophy
at the University of Otago, Dunedin
New Zealand
October 2007
Abstract

In 1840 Captain William Hobson established the colony of New Zealand under an umbrella of humanitarianism and with an agenda for the protection of Maori rights. This thesis examines this project through the work of Dr Edward Shortland (1812-1893). Although Shortland's reports and publications have been frequently cited, there has been no detailed historical analysis of his work.

Shortland arrived in New Zealand in 1841 as the private secretary of Governor Hobson. In 1842 he was appointed Protector of Aborigines for the Eastern Districts. One of his tasks was to study Maori language and customs in order to mediate between Maori and government. He was one of the earliest European experts on Maori traditions, customary practices, religious attitudes and relationships with land. After his return to England in 1846, he lobbied the British government on behalf of Maori and published two books on New Zealand, in which he addressed prospective colonists and disputed some of the propaganda of colonising companies. Shortland came back to New Zealand in the 1860s, 1870s and 1880s, during which periods he worked as Civil Commissioner in the Hauraki area, as Native Secretary, and as adviser to the government on Native affairs.

Shortland was part of a network of concerned Christian humanitarians who were intent on bringing government and law and order to New Zealand in a manner that facilitated peaceful European settlement, without serious injury to the Maori population. Humanitarians were not opposed to colonisation or settlement and in this respect may be seen as part of the imperial enterprise. In the framework of political and philosophical thought in the nineteenth century, humanitarians expected no more than to mitigate the effects of colonisation. This study explores these issues in the context of Shortland's interaction with and ethnography about Maori over a period of forty years.

I begin by placing the concept of aboriginal protection in context. The core of this thesis is an examination of Shortland's work as Protector of Aborigines. He had three tasks: to mediate in disputes between Europeans and Maori; to accustom Maori to English law; and to protect Maori land rights against claims from settlers. The first of these tasks proved the most straightforward. Shortland's attempts to fulfil the second
task highlighted the complex relationship between religion and law and the role of Christianity. The land question proved the most complicated, as a result of the tension between government attempts to protect Maori land rights, the pressure from settlers for land, and European lack of understanding of Maori customs. Maori desire to sell land to attract settlers further complicated relationships. Shortland’s contribution to our understanding of these issues and of Maori traditions of land tenure is considerable. While the course of colonisation may have been inevitable, I suggest that Shortland and likeminded contemporaries laid the foundation for later recognition of Maori rights, as exemplified today by the work of the Waitangi Tribunal.
Preface

Many years ago, when I was immersed in studies far removed from History, a kind friend gave me, a mother of three on a benefit, a temporary job as a typist. This job took me behind the dusty shelves of the old Hocken Library at Otago University, where I typed out the journals of Dr Edward Shortland (1812-1893). There were then as yet no preservation copies of the journals and I had the privilege to hold in my hand the original manuscript journals. It was a magic experience. Shortland described areas of New Zealand that I knew well and where I had lived (the Waikato and the east coast of the South Island). It was surprising to read what the countryside, now lush dairy farms, looked like in the 1840s; I marvelled at the gumption of these Victorian travellers who tramped through the dense bush with heavy leather boots and woollen clothing; and I found it intriguing that Shortland appeared in many ways so ‘modern’, so culturally sensitive and so ‘objective’ about Maori. As an immigrant to New Zealand from the Netherlands I had discovered that most New Zealanders had a very limited and selective knowledge of their own history, at least in the 1970s and 1980s. In particular there seemed to be minimal understanding of the European-Maori relationships and exchanges in the past. As an immigrant, I was fascinated by the concept of cultural exchange and of acculturation. Shortland and his journals stayed in the back of my mind until an opportunity offered to explore his life and writing further while at the same time gaining an understanding of the first decades of New Zealand as a settler immigrant country. This dissertation is the result.

Without the encouragement of Professor Dorothy Page this thesis would never have seen the light of day. I am grateful for her belief in me. My supervisors Tom Brooking and John Stenhouse always kept faith that I would complete the process and patiently waited for me to discover time and again that they were right. The collegial encouragement from my fellow students, in particular James Beattie and Sue Heydon, has been a great support. Through them I learned to trust that this process of researching and writing a thesis unfolds in its own particular way. I am grateful to the Department of History for providing a space for me to work in and to be close to my fellow students.
I am also thankful for the encouragement and patience I have received from my children.

No research is possible without assistance from the staff of libraries and research facilities. I wish to thank in particular the staff of the Hocken Library in Dunedin, the Alexander Turnbull Library, Wellington, the National Archives in Wellington and the Auckland Public Library Grey Collection.

Finally, a particular word of thanks to Angela Wanhalla, who read the draft, gave insightful feedback, and provided stimulating discussions.

The map on page x was drawn by my son, Peter Vlugter.

This thesis is dedicated to my parents.
Contents

Notes on language and terminology ......................................................... vii
Glossary of Maori words ........................................................................ viii
Abbreviations ......................................................................................... ix
Figure 1: Map of the Eastern Districts ...................................................... x
Figure 2: Dr. Edward Shortland ............................................................... xi
Introduction: A ‘scholar and a gentleman’ .............................................. 1
1. ‘a solemn and important duty’: the Protector of Aborigines .............. 40
2. Not every man with a dark skin a savage: Shortland’s first impressions 61
3. ‘what could be done in practice’: Shortland’s work as magistrate ....... 79
4. Murder and cannibalism ..................................................................... 97
5. Keeping the peace ............................................................................. 119
6. Land .................................................................................................... 142
7. Tension and conflict ......................................................................... 165
8. The return Home ................................................................................ 197
9. The politics of ethnography ............................................................... 216
10. ‘a square man in a round hole’: Native Land Acts and Native Affairs .... 249
Concluding remarks ............................................................................... 293
List of sources ......................................................................................... 301
Appendix: Shortland’s report on the Wairau affray ................................. 320

vi
Notes on language and terminology

This thesis does not use macrons for Maori terms for reasons of consistency. It proved impossible to obtain the correct Maori spelling for all names of people and places. I therefore made a conscious choice to leave macrons out altogether, rather than make errors in some places through lack of knowledge.

Again, because it was impossible to be consistently correct, and for the purpose of readability, the names of hapu are not always used if such information is lacking in the sources or too many hapu are involved to enumerate all. For example, the general term ‘Tauranga people’ may be used. Similarly, I may on occasion use general terms such as Maori, Europeans, settlers, or government when exact specification would not add to the informative content.

When writing about nineteenth century ethnography and race relations it is not only impossible but would be artificial to avoid all terms we consider inappropriate today, such as ‘native’ or ‘savage’. Where such terms occur they do not reflect the ideas of the author. Similarly without the use of undefined terms such as ‘civilisation’ or ‘savagery’ it is almost impossible to convey the thoughts and ideas of the people of the time. In the introduction to this thesis these terms are explained in the context of ethnographic theories of the nineteenth century. Thereafter they are used without definition and often without quotation marks.
### Glossary of Maori words

<table>
<thead>
<tr>
<th>Maori Word</th>
<th>English Translation</th>
</tr>
</thead>
<tbody>
<tr>
<td>ariki</td>
<td>chief of noble birth, priest</td>
</tr>
<tr>
<td>atua</td>
<td>god; supernatural being or creature that reveals the spirit world</td>
</tr>
<tr>
<td>hapu</td>
<td>subdivision of a tribe, sub-tribe, family group</td>
</tr>
<tr>
<td>hui</td>
<td>gathering, meeting</td>
</tr>
<tr>
<td>iwi</td>
<td>tribe that traces descent from a common ancestor or ancestors</td>
</tr>
<tr>
<td>kainga</td>
<td>village, residence</td>
</tr>
<tr>
<td>kainga tautohe</td>
<td>disputed land</td>
</tr>
<tr>
<td>kanga</td>
<td>curse</td>
</tr>
<tr>
<td>mahi tupato</td>
<td>precaution</td>
</tr>
<tr>
<td>maminga</td>
<td>hoax (noun), to trick, deceive, beguile (verb)</td>
</tr>
<tr>
<td>mana</td>
<td>authority, prestige, power, psychic force</td>
</tr>
<tr>
<td>mate ngaro</td>
<td>injury forgotten/forgiven</td>
</tr>
<tr>
<td>mere</td>
<td>short weapon of whalebone, greenstone or heavy wood</td>
</tr>
<tr>
<td>muru</td>
<td>plunder, theft as punishment for a misdeed</td>
</tr>
<tr>
<td>pa</td>
<td>village, settlement, fortified place</td>
</tr>
<tr>
<td>Pakeha</td>
<td>European traders, settlers, missionaries, officials, soldiers etc.</td>
</tr>
<tr>
<td>rahui</td>
<td>prohibition, also a marker of a prohibition, e.g. to reserve land</td>
</tr>
<tr>
<td>ritenga</td>
<td>practice, custom, habit</td>
</tr>
<tr>
<td>runanga</td>
<td>tribal or public assembly, conference, council</td>
</tr>
<tr>
<td>tangata whenua</td>
<td>person or people of the land; people belonging to a tribal region</td>
</tr>
<tr>
<td>tangi</td>
<td>to weep, mourn, grieve, cry</td>
</tr>
<tr>
<td>tapu</td>
<td>sacred, ceremonial restriction</td>
</tr>
<tr>
<td>tika</td>
<td>straight, correct, right</td>
</tr>
<tr>
<td>tikanga</td>
<td>rule, custom, habit</td>
</tr>
<tr>
<td>tohunga</td>
<td>healer, priest; expert in traditional lore</td>
</tr>
<tr>
<td>utu</td>
<td>revenge, recompense, reward, price, payment, retribution</td>
</tr>
<tr>
<td>waiata</td>
<td>chant, song; to chant or sing</td>
</tr>
<tr>
<td>whakahe</td>
<td>to disagree, contradict, find fault with, condemn, object, criticise.</td>
</tr>
</tbody>
</table>

Shortland: to put your adversary in the wrong.
Abbreviations

AJHR  Appendices to the Journals of the New Zealand House of Representatives

APL  Auckland Public Libraries

APS  Aborigines Protection Society

CMS  Church Missionary Society

CO  Colonial Office Records

DNZB  Dictionary of New Zealand Biography

GBPPNZ  Great Britain Parliamentary Papers, Colonies, New Zealand

DHL  Dunedin Hocken Library

NZPD  New Zealand Parliamentary Debates
Figure 1
Map of Eastern Districts
Figure 2

Dr Edward Shortland (1812-1893)

Hocken Collections, University of Otago, 507-2546
Introduction

A ‘scholar and a gentleman’

In 1895 Eugenia Shortland, the widow of Dr Edward Shortland, wrote to Sir George Grey for assistance in obtaining a government pension, in honour of the services her late husband had rendered to the government of New Zealand.¹ The ‘many heavy expenses’ her ‘late beloved husband’ had incurred by ‘his many journeys to New Zealand and back’, Eugenia wrote, had completely absorbed ‘all the capital money, Dr Shortland possessed’. His widow and six unmarried daughters were left without an income.² Edward Shortland was eighty-one years old when he died on 20 March 1893. He first came to New Zealand in 1841 aged twenty-nine after finishing his medical degree at Cambridge University, initially to take up the position of private secretary and physician to Governor Hobson. He resigned from this position in June 1842 and in August 1842 he was appointed as Sub-Protector of Aborigines, a position he held until the middle of 1845. In 1846 Shortland returned to England, married and started a family. He supported his family by working as physician in Plymouth. Leaving his family in England, Shortland made three subsequent trips to New Zealand, each time remaining for a number of years before returning Home.³ In total Shortland spent one third of his adult life in New Zealand. While Shortland did not have the vested interest of a permanent settler, it is clear that he felt a deep concern for the country and its people, as evidenced by his frequent returns, his participation in New Zealand’s government, and his writing.

Shortland was part of a network of concerned Christian humanitarians, whose ideas were influential in the Colonial Office in the early nineteenth century and during the first five years of the New Zealand colony. This humanitarian network had strong support both in England and in New Zealand, in particular among the Anglican community and the missionary societies. The humanitarians lobbied the government to bring law and order to New Zealand and to facilitate European settlement in a

¹ Eugenia Shortland to Sir George Grey, 19 January 1895, Grey Collection, Auckland City Libraries, MS S27A.
² Eugenia and Edward had eleven children in total.
³ Shortland was in New Zealand from March 1841 to January 1846; from December 1862 to October 1864; from December 1869 to June 1873; and from June 1880 to 1889.
peaceful manner and without injuring the Maori population or infringing their rights. These ideas were reflected in the instructions that accompanied Captain Hobson to New Zealand in 1839 and expressed in the Treaty of Waitangi, which was concluded with Maori chiefs in 1840. Throughout the nineteenth century Shortland and his humanitarian contemporaries continued to argue that the principles of the Treaty should be upheld. Their work may be considered the forbear of the work by the Waitangi Tribunal today.

Shortland played an important role in the implementation of what was termed a Native Policy of ‘moral suasion’ and left detailed records of his work as Protector of Aborigines. Among the men who worked for the Protectorate Department Shortland was the most educated; he was the only professional man, with a university degree. He was stationed in the Bay of Plenty, an area traditionally of vital importance in Maori history and a district that had experienced fierce intertribal wars for many centuries, up until just a few years before the establishment of the colony. In fact, Shortland’s appointment to the district was the direct result of renewed conflict and the threat of war. Auckland being close and the settlers there dependent on food supplies from Maori in the district, it was of vital importance that the area was peaceful. Shortland’s first task was to mediate such a peace. In the process he learned a great deal about Maori history and customs. Shortland broadened his knowledge of Maori customs as a result of his work in other parts of the country. As government officer he travelled the length of the South Island’s east coast, sometimes staying for weeks in one place. He was the only government official with extensive knowledge of the South Island. Shortland also served for three months in the Wellington area, and for several months as interpreter for Colonel Despard, commander of the troops during the northern war with Hone Heke. After his first return to England in 1846 he lobbied the Colonial Office and presented his ideas on Maori rights. Shortland used his experiences to inform his ethnographic writing. His first newspaper article appeared in 1842, his first book was published in 1852 and the last in 1883.

---

4 See Chapter Eight for more detail.
5 Edward Shortland, The Southern Districts of New Zealand (London: 1851); Traditions and Superstitions of the New Zealanders (London, 1854); A Short Sketch of the Maori Race (Dunedin, 1865); Maori Religion and Mythology (London, 1882); How to Learn Maori (Auckland, 1883). Shortland’s journals and other manuscripts are held at the Hocken Library in Dunedin.
This thesis is a close examination of Shortland’s interaction with and ethnography about Maori over a period of forty years, in the context of colonial politics. As historian Mark Francis has pointed out, New Zealand scholars rarely provide ‘plausible accounts of single individuals and their motivations’ in their contemporary context. This approach carries the danger of giving the impression that the author agrees with the words and deeds of her subject. Against this I would suggest that a more critical approach contains the equal danger of being a-historical. What we may see today as racist, patronising and morally wrong was often considered inevitable, and even humane by those living in the nineteenth century. Nineteenth century humanitarians, including Shortland, were not against empire, colonialism, or settlement. The humanitarian project was deeply embedded in the project of empire. Humanitarians believed that colonisation could be humane and to the advantage of indigenous people as well as of governments, traders and settlers. They believed in the inevitability of progress and development, an idea still highly influential today, and on this belief they based their conviction that it was the duty of those who were more ‘civilised’ to encourage and assist indigenous, ‘primitive’, peoples to be able to share in the ‘blessings of civilisation’. Shortland shared these ideas, but while most saw rapid assimilation and amalgamation of Maori people into European society as essential, Shortland advocated a slow, organic process of development, which left space for Maori to adapt European customs and meld them into their own social system. He further argued that the most rational way to deal with land issues was to see things from a Maori point of view. His understanding of Maori land tenure was incisive.

Shortland appears to have been somewhat less patronising than most of his contemporaries. His views were pragmatic. He believed that as long as Maori people desisted from practices that were considered inhumane by the British, such as slavery and cannibalism, and Maori either accepted English law or the law was adapted to some of their customs, settlers and indigenous people could live in peace and side by side. Shortland also felt that settlers should establish themselves in areas where the Maori population was small, or live among Maori in small groups, rather

---

than in large settlements, such as advocated by the New Zealand Company. Above all he felt that if government could see things more from a Maori point of view, its administration would be more acceptable to Maori.

This thesis presents for the first time a detailed examination of Shortland’s work. One unpublished study, of some vintage, discusses Shortland’s work as Protector of Aborigines. It concentrates largely on Shortland’s activities in the Bay of Plenty in the 1840s. There are concise biographical entries in Scholefield’s Dictionary of New Zealand Biography and in the 1990 Dictionary of New Zealand Biography. Shortland’s books, in particular his book on the New Zealand South Island, have been used empirically by several prominent modern New Zealand authors. Several scholars have also cited Shortland’s journals. Analysis of Shortland’s work at the conceptual level is rare. It is surprising, for example, that Shortland’s work was omitted from George Stocking’s important study of Victorian anthropology published in 1987. Stocking discusses George Grey’s work at some length, but does not mention Shortland. Nor does Shortland receive much attention in the most extensive overview of New Zealand ethnographic and anthropological writing in the nineteenth century, a 1949 Master’s thesis by J. M. Booth. Booth briefly quotes from Edward Shortland’s first two books, Southern Districts and Traditions and Superstitions, but does not devote much space to an analysis of Shortland’s writing. Such omissions are the more surprising, considering that twentieth century
anthropologist Atholl Anderson in the *New Zealand Dictionary of Biography* calls Edward Shortland the first anthropologist of the Maori.¹⁴

Historian Angela Ballara considers Shortland to be one of the ‘best minds and most perceptive observers in the early colonial days’.¹⁵ Shortland was also acknowledged as an authority on Maori customs in his own time. The nineteenth century anthropologist Edward Tylor used Shortland as a source for the formulation of his theory of ‘cultural survivals’, repeatedly referring to Shortland’s books in *Primitive Culture*.¹⁶ In an obituary Edward Tregear and S. Percy Smith, editors for the *Journal of the Polynesian Society*, described Shortland’s works as ‘standard authorities’ and Shortland himself as ‘a ripe scholar’.¹⁷ Sir George Grey made use of Shortland’s expertise in editing the second edition of *Nga Mahi a Nga Tupuna* and called Shortland ‘an eminent Maori scholar’.¹⁸ Shortland deserves more scholarly attention than he has so far received.

**Family connections**

Edward Shortland was born in Plymouth in 1812 into a family whose connection with the Royal Navy went back at least four generations.¹⁹ This background had an important bearing on his later life and work. The Royal Navy was a symbol of British national pride. For an Englishman there was possibly no better way to serve his country than by joining the navy, which played a vital role in the defence of the realm.²⁰ By the nineteenth century the Royal Navy was a powerful force. It ruled supreme in every ocean and was vital to the expansion of British imperialism.²¹

---

¹⁹ Shortland’s great-great-grandfather was a captain in the Royal Navy. His grandfather, father, uncles, brothers, and later his own sons also acquired prominent positions in the navy. Shortland’s grandfather, father and uncle sailed with the First Fleet of convicts to Botany Bay in 1787 (Jonathan King, *Australia’s First Fleet: the voyage and the re-enactment 1788/1988* [Sydney: Fairfax/Robertsbridge, 1987]).
²⁰ Edward’s father and uncle were both involved in the Napoleonic wars; the latter was mortally wounded in an engagement with the French in the West Indies.
Aided by control of the oceans, Britain's overseas trade grew rapidly and its industries expanded. After the end of the Napoleonic wars in 1815 the navy switched from a military to a more civilian role and played an important part in the protection of British markets and sources of raw materials, acting as an 'imperial police force', using smaller ships based at overseas stations.\(^{22}\) The navy also played a crucial policing role in humanitarian projects. The Royal Navy was closely involved in putting down the slave trade. As well as protecting British subjects on distant shores, the officers of the navy increasingly took on the role of protecting indigenous people from those same British subjects.\(^{23}\) As a result, those working for the Royal Navy took on an ethnographic task and engaged in policy advice. Navy officers' reports might include descriptions of the lands they saw and the indigenous people they met, coupled with advice regarding the extent to which the British government might become involved.

For example, in 1837 Captain Hobson, later governor of New Zealand, was sent to the Bay of Islands to investigate an intertribal war that threatened to endanger British subjects. Hobson wrote an extensive report on New Zealand and its indigenous population, with recommendations for the governance of the country. This report would eventually lead to Hobson's appointment as consul to New Zealand. The Shortland family benefited from this appointment. Two of Edward Shortland's brothers, Willoughby and Peter, served under Captain Hobson. It was only natural, therefore, that Captain Hobson should give his former protégé Willoughby a job — as police magistrate — and equally natural that Edward, after he had completed his medical studies, should follow them to New Zealand, where he took up the position of private secretary to Hobson, who was now governor of New Zealand.

The relationship between Hobson and the Shortlands extended beyond professional connections; the Hobsons and Shortlands also mixed socially. On 22 January 1841 Eliza Hobson wrote to her friend Emma Smith in England that 'Edward Shortland ... is hourly expected and from him I shall get every particular of you, depend upon it. I have innumerable questions to ask him'. Eliza also asked Emma to convey her best wishes to Mrs. Shortland, begged her to find out if she had received Eliza's letters


\(^{23}\) For an excellent study of this humanitarian task of the navy in the Pacific area see Jane Samson, *Imperial Benevolence*.
and to tell her that her son Willoughby was well, in case she had not received his letters. This friendly family connection became known in the colony and led to accusations of nepotism in the press. Governor Hobson defended himself to the Colonial Office against these allegations. Hobson pointed out that he had merely appointed Willoughby Shortland to the position of Police Magistrate, for which job he was eminently suitable. When Hobson fell seriously ill and believed himself to be at death’s door, he hurriedly made Willoughby Acting Colonial Secretary. The Colonial Office subsequently ‘unexpectedly’ confirmed Willoughby as Colonial Secretary, wrote Hobson. Edward, the ‘junior brother’ was, in Hobson’s words, a ‘scholar and a gentleman’ who acted as his private secretary, although Edward had resigned from this position at the time of writing.

Education

The designation ‘scholar and a gentleman’ alluded to Shortland’s education at Harrow and Cambridge. The object of a gentleman’s education in those days was not so much to prepare him for work, but rather to give him opportunity to enjoy his leisure and to become a pillar of society. His most likely destination was to join one of the armed forces or the Church. Shortland attended Harrow School from January 1827 until the summer of 1831. The roll of former Harrow students lists many distinguished names, such as Lord Byron the poet, Sir William Jones the philologist, and R. B. Sheridan the wit. One former student dubbed his old school ‘the nursery of almost all the politicians of the day’. Shortland’s attendance at Harrow placed him in an influential old-boys network. The same was true for Cambridge, where Shortland continued his studies in 1831. Edward entered Pembroke College when he was nineteen years old. He received his B.A. in 1835 and in 1839 completed his

24 Mrs Eliza Hobson to Emma Smith, 22 January 1841, Typescript of Letters of William and Eliza Hobson 1835-1844, Alexander Turnbull Library, MS-1910.
26 Former Harrow pupil Morgan Philips Price (1885-1973) quoted from his biography My Three Revolutions (1969) on URL: http://www.spartacus.schoolnet.co.uk/EDharrow.htm
27 The poet Lord Byron quoted by J. G. Cotton Minchin in Our Public Schools: Their Influence on English History (London: Swan Sonnenschein, 1901), 126. Among political figures who attended Harrow were Lord Palmerston, the second Lord Spencer and the third Lord Spencer better known as Lord Althorp, Lord Aberdeen, Lord Goderich, Charles Pepys (later Lord Chancellor Cottenham), and Sir Robert Peel.
M.A. In 1839 Edward Shortland also obtained his licence of the Royal College of Physicians (L.R.C.P). The fact that Edward Shortland did not follow his brother and father into the navy tradition was not strange. It was common for sons to follow different professional directions — apart from the navy (or army), the choices were the clergy, the bar (law), or ‘physic’ (medicine). Although Shortland was a licensed physician, it is important to understand that in the early nineteenth century the medical part of the education of a physician was minimal in comparison with today’s standards. Medical knowledge was still fairly limited. While both Europeans and Maori brought patients to Shortland for examination, he rarely mentioned medical matters or a medical interest in his books or journals. It was only after his return to England and during his later visits to New Zealand that he registered and practiced as a physician.

Cambridge did not provide its undergraduates with a thorough grounding in the sciences, although for those wishing to gain honours, as Shortland did, the study of mathematics was essential. Shortland did not have much interest in botany or zoology. Unlike many of his contemporaries, he was not a collector. He botanised a little and used the appropriate botanical names for plants; he went in search of the remarkable *hotete*, also known as vegetable caterpillar, of which he gave a brief description in his book *Traditions and Superstitions*, he found moa bones by accident and seems to have pointed a collector, Percy Earl, to the site, rather than processing the find himself. He was interested, however, in exploring how the moa bones

---

30 An exception is a trip to Rotorua in 1843. The missionary at Rotorua, Thomas Chapman, asked Shortland to examine a number of patients. Chapman had already done the best he could with his medicine. Shortland could add very little since the majority of these cases were quite severe illnesses, such as consumption, paralysis, and a gangrenous disease (Edward Shortland, ‘Maketu Journals’, 31 March and 1 April 1843 [Notebook comprising Maketu Journal and Commonplace Book B, New Zealand, 29 November 1842 – 8 August 1843, Dunedin Hocken Library, PC-0020]).
31 Edward is listed as 20th senior optime (second class). His younger brother Peter Frederick is listed as 7th wrangler (first class). Personal communication from Pembroke College, Cambridge. Scholarships were few and small. Both brothers entered Cambridge as scholars (Venn, *Alumni Cantabrigienses*, 502). A scholar was exempt from room rent and other emoluments and received a small annual income (Charles Newman, *The Evolution of Medical Education in the Nineteenth Century* [London: Oxford University Press, 1957], 47).
34 Atholl Anderson, ‘Shortland’. 
ended up on the beach at Waikouaiti and shared his thoughts with his readers. Shortland’s contemporaries, Richard Taylor, Ernst Dieffenbach and William Colenso, all devoted varying but considerable space to the geology, natural history, and climate of New Zealand, and to the physical features of the Maori as well as their ‘customs and manners’ in their books. Shortland’s discussion of climate and weather in Southern Districts, and the description of the vegetable caterpillar in Traditions and Superstitions are somewhat perfunctory in comparison. Shortland concentrated on explaining Maori customs to his readers and contextualising these for easy understanding. In his ethnography Shortland followed the instructions he received as Protector of Aborigines and played the informative role his position entailed.

At both Oxford and Cambridge the concept of a liberal, non-professional education was paramount. The core undergraduate curriculum at Cambridge consisted of the collected writings of the philosopher and natural theologian William Paley. Cambridge adhered to rigorous religious restrictions, which included a religious entrance test. The Oxbridge universities were closely linked to the Church of England: degrees were granted only to members of the Established Church. One could not graduate from Cambridge without signing an oath of loyalty to the Church.

Religion

In the eyes of today’s readers and in comparison with the writing of some of his devout contemporaries, Shortland’s writing seems to contain little overt evidence of his Anglican background. This should not be seen as an indication that he was not a religious man. He attended church or chapel whenever possible on his travels. He preferred not to travel on Sunday, although he was willing to do so if circumstances

---

35 Edward Shortland, The Southern Districts of New Zealand (1851; rpt. Christchurch: Capper Press, 1980), 137-140. He included a map of the site.
37 Edward Shortland, Southern Districts, 158-162; Traditions and Superstitions, 292-95.
38 I will discuss this in greater detail in Chapter One.
such as those of weather or tide made this necessary.\textsuperscript{40} On his journey through the South Island Shortland read prayers every morning and evening from the Book of Common Prayer. He entrusted this task to the elder of the two Maori who travelled with him from the Bay of Plenty. This man, elevated to the ‘dignity of a preacher’ added ‘an extemporary effusion of his own’ as was the practice of ‘native teachers’.\textsuperscript{41} At first Shortland did not object, but when the readings became more ‘prolix’ every day and some parts of the additions were ‘very absurd’ Shortland threatened to read the prayers himself unless the man would stick to the ‘old forms’.\textsuperscript{42} It seems that Shortland may have objected more to the prolixity and absurdity than the mere fact of the additions.\textsuperscript{43}

As a Cambridge graduate, Shortland had read and sat a compulsory examination on William Paley’s book \textit{Natural Theology}. The ideas expressed in this work were also propagated widely through popular books published in the 1830s. The terms ‘natural history’ and ‘natural theology’ were often used more or less interchangeably for the study of the natural world in attempts to learn more about ‘the infinite variety of God’s created forms’.\textsuperscript{44} The subtitle of Paley’s \textit{Natural Theology} was ‘Evidences of the Existence and Attributes of the Deity’. Natural theology was especially associated with the Broad Church movement within Anglicanism.\textsuperscript{45} The Broad Church was committed to an inclusive national Church, responsive to developments in contemporary biblical and scientific research, with a liberal theology.\textsuperscript{46} This inclusiveness is best illustrated by comments made by Edward’s brother Willoughby, Colonial Secretary, who presented the second reading of the Church Extension Bill to

\textsuperscript{40} Edward Shortland, \textit{Southern Districts}, 171, 210. Christian Maori tended to be quite strict in keeping the Sabbath and sometimes refused to travel on Sunday. Not travelling on a Sunday was becoming a New Zealand practice by the 1840s.
\textsuperscript{41} Edward Shortland, \textit{Southern Districts}, 212.
\textsuperscript{42} William Williams translated the Book of Common Prayer into Maori, the greater part of which he completed in 1837 (Frances Porter, ‘Williams, William 1800 - 1878’, DNZB, Vol. 1, 598). William Colenso printed 27,000 copies for distribution the following year (David Mackay, ‘Colenso, William 1811 - 1899’, DNZB, Vol. 1, 87-89).
\textsuperscript{43} It may be that Shortland was merely impatient with the lengthy prayer readings by his Maori companion, but Shortland’s remarks require some thought. His opinion seems to echo that of missionary accounts who discredited indigenous inventiveness with Christian texts and rituals. Vanessa Smith argues that these accounts failed to understand that ‘the true convert recontextualises the biblical world’, while ‘false converts hold to the letter’ (Vanessa Smith, \textit{Literary Culture and the Pacific} [Cambridge: Cambridge University Press, 1998], 3). In other circumstances Shortland praised the inventive modification of ritual by Maori converts (see page thirteen below).
the Executive Council in 1842. Willoughby spoke warmly in favour of the bill and suggested that the 'main and most valuable feature of the bill is that all denominations of Christians are put upon an equal footing'.

Although Shortland was tolerant toward other religions, he was intolerant towards blasphemy or disrespect for religion. Among Shortland’s papers is a damning review dated 1878 of Winwood Reade’s book *Martyrdom of Man* (1872). Reade argued that 'the destruction of Christianity is essential to the interests of civilization', because it stood in the way of true science. Reade referred to Christian doctrines as 'conjectures, which have been given out as facts ... and accepted by posterity as “revealed religion”'. The ‘true facts’ as Reade presented them were that humans evolved from ape-like animals. Prominent newspapers like the *Times* and the *Spectator* refused to notice the book in their columns, while others described the book as 'mischievous', 'blasphemous', and 'a thoroughly worthless book'. Shortland was severely critical of Reade’s book not only for its content, which Shortland called 'a fairy-tale and a marvellous fable', but because the author did not have 'the grace to show some respect for the religious sentiments of others'. 'The light and flippant way in which he speaks of Religion', wrote Shortland, ‘saving the new one he preaches, and the irreverent, I may say, blasphemous way in which he mentions names generally held sacred is unpardonable and ought to exclude his book from any private or public library." Shortland practiced what he preached and showed respect for the religious sentiments of others, including those of Maori.

---

47 Supplement to the New Zealand Government Gazette, Vol. II, No. 6, 9 February 1842, 38. A further sign of Willoughby’s religious tolerance is the fact that his name, together with that of other Anglicans, appears among the subscribers for the erection of a Wesleyan chapel (*Auckland Standard*, 25 April 1842).


49 Reade, *The Martyrdom of Man*. The quotation is from page 173. For the ‘origin of our early ancestors’ see pages 413-426.


51 Edward Shortland, various manuscripts, Dunedin Hocken Library, MS0012. The document is signed Edward Shortland and dated 1878. A copy of this review is also in the Grey Collection at the Alexander Turnbull Library, suggesting that Shortland sent it to Sir George Grey.

52 Edward Shortland, various manuscripts, Dunedin Hocken Library, MS0012. In actual fact Reade’s book sold well and was reprinted many times. According to Legge fifteen thousand copies of the book had been sold since its first publication in 1872. This edition has no date, but there are references in footnotes to 1909. It is the twenty-third edition (F. Legge, Introduction to Winwood Reade, *The Martyrdom of Man*, xxxv).
Ethnography and religion

Shortland’s religious beliefs informed his ethnographic imagination. In this I agree with John Stenhouse, who urges New Zealand historians to treat the religious consciousness of their subjects seriously. An investigation of the religious beliefs extant in the nineteenth century can give us deeper understanding in nineteenth century ethnographic writing. The importance of religion has been insufficiently understood and acknowledged by historians, not only in New Zealand but also overseas. For example, Jane Samson complains that many post-colonial historians dismiss ‘Christianity as uniquely illegitimate or inauthentic’. Sara Sohmer, on the other hand, shows in a penetrating study of the Melanesian Mission in the nineteenth century how the religious belief of the missionaries informed their attitudes toward indigenous peoples. Specifically Sohmer shows how the influence of High Anglicanism combined with ideas from the Oxford Movement informed the multiculturalist ideas of the leading missionaries. In a similar manner Shortland’s religious beliefs informed his intellectual assumptions and his ethnographic consciousness, writing and thinking. His ethnographic views were underpinned by three main premises: his liberal Anglicanism, which inspired his religious tolerance; the belief in the unity of mankind; and a sense of duty and obligation.

Religious tolerance

Shortland was able to recognise Maori ‘superstition’ as religion, and to understand the religious significance of their customs. Shortland perceived Maori culture as a

---

56 Liberal Anglicans tended to see humankind as fundamentally religious and were tolerant towards other religions (Duncan Forbes, The Liberal Anglican Idea of History [Cambridge: Cambridge University Press, 1952], 41-49).
57 In Primitive Culture (1873) the anthropologist Edward Tylor defined religion as ‘the belief in Spiritual Beings’. He argued that if one restricted the definition of religion to ‘the belief in a supreme deity or of judgment after death, the adoration of idols or the practice of sacrifice, or other ... doctrines or rites’, one identified religion with particular religious developments, thus narrowing what one could recognise as religion, instead of looking at the ‘deeper motive which underlies’ it, which would
complex whole in which religion formed the basis of most conduct. This insight led him to a number of significant conclusions. The first was that a change in religion would entail a change in culture and in the rules that guided the society. He saw evidence for this premise during his work as Protector. As a result Shortland believed that the introduction of Christianity would play a vital role in effecting wider changes. Shortland’s second realisation was that it was not possible in one generation to completely remove old beliefs, instilled in childhood, with an overlay of new and foreign ideas. When one of the young Maori converts of Reverend Brown, near whose mission Shortland lived, relapsed and returned to the custom of utu (revenge), Shortland found this unsurprising. ‘Can we hope that prejudices and religious superstitions grafted on minds thro many generations can be suddenly destroyed by the labor of missionaries however single hearted enthusiastic and judicious,’ he asked himself.58 Shortland believed that changes in Maori society and culture would be slow but certain, largely because many Maori themselves expressed the desire to change and embrace Christianity. But he was tolerant with regard to the ways in which Maori Christian leaders sometimes adapted and melded Maori customs and Christian ceremonies. In *Maori Religion and Mythology* Shortland told the story of the ceremony a ‘native teacher’ used to remove the tapu from a place, to make it possible for their Christian village to be expanded to include the previously sacred site. The native teacher combined a Christian blessing with breaking Maori tapu, by communally eating food in the sacred place. Shortland thought that the teacher ‘had done wisely in thus adopting so much of old ceremonial as to satisfy the scruples of those of little faith’. Because all those present together ate food on the tapu ground, they ‘equally incurred the risk of offending the atua of the family’.59

Shortland’s third conclusion was that in order to bring about change in the most effective way, it was essential to understand Maori customs. Only by understanding the underlying motives of Maori actions, which were based almost totally on the rules of tapu, would it be possible to bring about change in an effective, lasting and peaceful manner in an atmosphere of tolerance. Shortland’s confidence that such

---

change was both possible and inevitable was based on the second premise of Shortland’s ethnographic imagination, which was his belief in the unity of mankind.

Unity of Mankind

Travellers, traders, diplomats, and missionaries throughout the centuries have described their experience of foreign lands. Their ethnographic accounts provided information for others coming after them or for the people at home. Scholars tried to make sense of the human diversity described by these travellers by compiling and classifying the information, ordering it in usable form and constructing theories. The theorists used ethnographic data to classify known cultures in terms of the classification, to establish generalisations about the nature of each cultural category in the taxonomy, and to explain the differences. One of the most important problems the ethnologists of the Christian era tried to solve was to reconcile the mystery of the diversity of mankind with the Bible and the story of creation. One of the most commonly accepted theories was one of social progress, from primitive to savage to civilised, in a unilinear evolutionary process, based on the unity of mankind.

In the catalogue to the Great Exhibition of 1851, the year in which Shortland’s first book Southern Districts was published, Prince Albert suggested that the principle of ‘the unity of mankind’ was one of the exhibition’s foundations. This principle was based on the belief that, despite indications to the contrary because of cultural and physical diversity, all men were of one species, in accordance with the Bible story of Adam and Eve. Some people believed that human societies always progressed in civilisation, others that some societies had degraded over time from an original civilised state. Shortland believed in the social evolution of societies and that studying those who were less civilised provided a window on the ancient history of civilisations and therefore of ourselves. He first expressed this belief in Traditions and Superstitions, where he referred to the philological work of Wilhelm von Humboldt.

62 George W. Stocking, Jr., Victorian Anthropology, 3.
63 Edward Shortland, Traditions and Superstitions, 99.
Von Humboldt and other German linguists in the nineteenth century (such as Franz Bopp and Max Müller, whom Shortland also read) used the study and comparison of languages to examine the relationships between different peoples, to establish their origin and to contemplate the history of mankind. Philologists tried to trace the movement of peoples across the globe by analysing and comparing languages, often to provide proof for their belief in the unity of mankind. This was the purpose to which Shortland put his own comparative language work. As a branch of the Polynesian ‘family’, whose language and habits Von Humboldt described, Maori seemed ‘to have been preserved’ in an unaltered state because of their isolation, Shortland believed. As a result, Shortland suggested, ‘they are ages behind the major part of the world of the present day’. By studying their manners and beliefs, it was therefore possible to look back ‘in the history of the world’, Shortland wrote, ‘when the different races of mankind’ had not yet multiplied and mingled and when they were still close to ‘the original centre’, so that ‘traces of their primitive identity were still marked’.

Shortland seems to have agreed with the idea expressed by a contributor to the Journal of the Ethnological Society of London in 1848, that the main object of ethnology was to prove ‘the cherished unity of mankind’. He argued the concept of the unity of mankind in all his ethnographic works. In his pamphlet on Maori grammar he used comparative philology, in Maori Religion and Mythology he applied comparative mythology to state his point. Shortland’s main argument was that change in ‘primitive’ societies was not only possible but inevitable in the presence of more civilised peoples. It was the task of the latter to lead by example, to have patience and to allow the inevitable process of change to take place in an atmosphere of ‘good understanding’. Shortland believed that this would ultimately lead to the ‘amalgamation’ of the ‘two races’. To bring this about, he suggested, those who were the more civilised ‘should not hesitate to sacrifice their prejudices, if they oppose those of the less civilized’. They should, moreover, in their dealings with the indigenous New Zealanders ‘be careful to adopt ... that course the justice of which can be made most intelligible to their understanding’.

64 Edward Shortland, Traditions and Superstitions, 100.
67 Edward Shortland, Traditions and Superstitions, 303.
Duty

These last statements point to Shortland’s sense of justice and duty, the third premise of his ethnographic views. It implied an aversion to utilitarianism. Utilitarians believed in laws that served the greatest happiness for the greatest number. William Paley, whose *Natural Theology* was compulsory reading at Cambridge, was a utilitarian. But other Cambridge dons opposed Paley’s utilitarian ideas and considered utilitarianism in general ‘selfish, secular, anti-Christian and impracticable’. There are a number of indications in Shortland’s writing that he felt the same and that his ideas were close to those of William Whewell, who was teaching at Cambridge when Shortland studied there. William Whewell criticised the utilitarianism of Paley’s philosophy, in particular because it separated obligation from what we *ought* to do, making obligation potentially variable and arbitrary. Whewell believed that what we ought to do is dictated by God. Utilitarianism, with its greatest happiness principle, was a morality of expediency, he argued.

Shortland did not refer to Whewell in his books, but he quoted from Cicero’s *De Officiis* in the heading of the last chapter of *Maori Religion and Mythology*, a chapter that dealt with land tenure. *De Officiis* is a discussion on the subject of duty. It extols the cardinal virtues of wisdom, justice, fortitude, and temperance, and suggests that the notion of *utile*, the expedient, cannot be rightly divorced from the honourable (*honestum*). Cicero asserted that these two notions can only *seem* to

---

69 William Whewell (1794-1866) was professor of mineralogy at Cambridge from 1828 to 1832 and professor of moral philosophy from 1838 to 1855. Among his protégés were the scientists Charles Lyell and Charles Darwin. Source: http://plato.standord.edu/entries/whewell/
71 Among Shortland’s papers is a note on an article from the *Contemporary Review*, June 1879 on the subject of ‘The Origin of the Week’ in which, interestingly, both Whewell and Cicero are mentioned. The *Contemporary Review* was founded in 1866 and became known as a forum for open, erudite inquiry into controversial theological and philosophical issues of the day. As such, it served as an important record of the conflicts between Christian belief and modern scientific thought that helped define the Victorian zeitgeist. The fact that Shortland read this magazine is a further indication of his liberal religious beliefs. Source for the information on the *Contemporary Review*: http://www.rossettiaarchive.org/docs/ap4.07.raw.html
72 This is the meaning of the title, and is also reiterated by Cicero in the text (T. E. Page, ed., *Cicero De Officiis*, translated by Walter Miller [London: Heinemann, 1928 (Loeb Classical Library)], paragraph 7). *De Officiis* inspired Voltaire, Hume, and Locke. The latter saw it as an indispensable part of education.
conflict; in reality the honourable action is the expedient and vice-versa, echoing Whewell’s critique of utilitarianism.\textsuperscript{74} Cicero believed that ‘all the labour and pains expended upon problems that are morally right’ would be ‘fully rewarded’.\textsuperscript{75} Shortland repeatedly made the same claim in his various books and pamphlets, suggesting that the government must expend the necessary time and effort to investigate Maori land issues in an adequate and just manner. Shortland believed that colonisation should benefit Maori as well as Europeans. He was critical of the Wakefield system of settlements, which was based on utilitarian principles, and of the influence of Wakefieldians and their utilitarian ideas on the Colonial Office from the mid-1840s.\textsuperscript{76}

The humanitarian network

Shortland was part of a circle of likeminded men. His regular journeys to and from England made him a valuable connection. As Alan Lester shows, colonial groups often felt isolated and strove to fashion circuits of communication with metropolitan interests.\textsuperscript{77} Shortland’s most prominent humanitarian friend in New Zealand was William Martin (1807? – 1880), New Zealand’s first chief justice and a Cambridge man like Shortland, with whom he discussed, either in person or through letters, Maori rights; they also exchanged ethnographic information. Shortland and Martin, who was a deeply devout Anglican, developed a warm friendship. Shortland’s third book is dedicated to Martin.\textsuperscript{78} The Attorney General William Swainson (1809-1884) was another humanitarian defender of Maori rights. William Martin and William Swainson arrived in New Zealand a few months after Shortland. All three men stood at the beginning of their careers.\textsuperscript{79} All three came to New Zealand specifically to work for the government and all three continued to campaign for Maori rights till the end of their lives. They often worked together. Martin and Swainson were primarily concerned with legal matters, but made use of Shortland’s expertise in Maori culture to inform their legal advice to the government. Martin and Shortland collaborated in

\textsuperscript{74} http://www.utm.edu/research/iep/c/cicero.htm#On%20Duties  
\textsuperscript{75} T. E. Page, ed., Cicero De Officis, paragraph 19.  
\textsuperscript{76} I will discuss this in greater detail in chapters eight and nine.  
\textsuperscript{77} Alan Lester, Imperial Networks (London and New York: Routledge, 2001), 7.  
\textsuperscript{78} Edward Shortland, Maori Religion and Mythology, facing vii. The dedication reads: ‘To the Memory of Sir William Martin these pages are dedicated, the affectionate tribute of a friendship of many years.’  
\textsuperscript{79} Martin was five years older than Shortland, Swainson three.
1872 on legal proposals for a just system of Maori land purchase. George Grey, twice governor of New Zealand, was another powerful supporter of humanitarian ideals and of Maori rights. Although Grey and Shortland did not agree on all points, they often worked together during their long careers.

Shortland’s ethnographies are in many ways typical of the time, but his books should also be understood as part of the humanitarian campaign for Maori rights. For example, one of the key chapters in *Southern Districts* is a sustained attack on an article written by a utilitarian supporter of Wakefield’s New Zealand Company, which appeared in the *Edinburgh Review* in 1851. The author argued that Maori were a dying race. Shortland, in contrast, set out to show that Maori were a vibrant and intelligent people unlikely to die out in the near future. In an essay written for the 1865 New Zealand Exhibition Shortland referred to certain political issues of the time in the middle of the genealogy of the Arawa people of New Zealand. In his last book, *Maori Religion and Mythology*, a small book of seven chapters and with little more than one hundred pages, Shortland addressed Maori land tenure, the rules of succession, the rules of conquest and confiscation, the Maori King movement, and the Waitara dispute. It could be said that Shortland’s ethnography was the basket in which he carried his humanitarian politics. His Christian humanitarian ideas formed the lens through which he saw the world and run like threads throughout his work. These ideas will therefore also be recurring themes throughout this thesis.

---

80 Anon, ‘The Polynesians: And New Zealand’, *Edinburgh Review*, XCI:CLXXXIV (1850), 443-71. The article has been identified as having been written by a supporter of the New Zealand Company. Although the publication itself does not state the name of the author, according to the *Wellesley Index to Victorian Periodicals* it was written by Henry Samuel Chapman (*Wellesley Index to Victorian Periodicals*, 1824-1900, Vol. 1, Walter E. Houghton, ed. [London: Routledge & Kegan Paul, 1966], 499). Chapman was editor for the New Zealand Journal (the unofficial newspaper of the New Zealand Company). In 1843 Chapman came to New Zealand to take up the position of Judge of the Supreme Court for the southern district. He remained in New Zealand until 1852, when he was appointed Colonial Secretary of Van Diemen’s Land. After spending more than a decade in Australia between 1852 and 1864, Chapman returned to New Zealand to once more take up a position as Judge of the Supreme Court in New Zealand. He presided over the court in Dunedin, where he died in 1881 (D. G. Edwards, ‘Chapman, Henry Samuel 1803-1881’, *DNZB*, Vol. 1, 78-80).

81 Edward Shortland, *Southern Districts*, Chapter III.

82 Edward Shortland, *A Short Sketch of the Maori Races* (Dunedin: Printed for the Commissioners by Fergusson & Mitchell, 1865).
Historiography

While Shortland’s life has received little scholarly attention, two modern studies discuss his ethnographic work. In *The Oxford History of New Zealand Literature* of 1998 Peter Gibbons, a literary and cultural historian, provides a comprehensive overview of New Zealand non-fiction. The author gives a useful summary of the main New Zealand nineteenth century ethnographic works. Gibbons recognises that an important purpose of these books was political; to better govern the Maori (Grey’s introduction to his book *Polynesian Mythology*); or to promote the process of colonisation (Richard Taylor’s *Te Ika a Maui* contains a section with praise for the country as a place of settlement and advice for potential settlers). Gibbons describes Grey and Taylor as ‘guardedly bicultural’, while he judges Shortland’s sympathies as ‘less calculated’ than either of these. Gibbons perceptively notes that Shortland’s ‘interest is engaged more by the people and their utilization of the land’s resources’ than with geography. Shortland, writes Gibbons, is careful ‘to show that the local culture is complex and complete in itself, not ‘primitive’ or ‘simple’’. But Gibbons criticises Shortland for making accessible to readers experiences that contain the ‘fundamentals of the practices and beliefs of the New Zealanders’, and thus ‘desacralizing’ Maori knowledge. Gibbons seems to undervalue the cultural sensitivity expressed in Shortland’s writing, and to deny agency to the Maori informers, who shared with Shortland certain aspects of their knowledge intending that it be written down and knowing that it would be published. I show that Shortland used this knowledge sensitively with the purpose of protecting Maori rights.

Giselle Byrnes’ analysis of Shortland’s southern journey is steeped in postcolonial discourse. Byrnes discusses both the ethnographic value of his work and his

---

84 Peter Gibbons, ‘Non-Fiction’, 42.
85 Peter Gibbons, ‘Non-Fiction’, 43.
86 Although Shortland himself admitted in a later work that some Maori believed that the sharing of certain tribal knowledge had provoked the wrath of the atua on the head of the chief who told it (*Maori Religion and Mythology*, viii).
participation in the colonial project. Byrnes's account is a deconstruction of the colonial discourses embedded in Shortland's story. Arguing that such texts should be seen as 'a dialogic and collaborative exercise' and a 'product of the negotiation between coloniser and colonised', Byrnes cites examples of Shortland's occasional acculturation to Maori practices as well as of the active appropriation of European knowledge by Maori. While I agree with this analysis, I take issue with Byrnes' suggestion that Shortland's discussion of Maori is 'essentialized' and that it separates 'people from place'. I argue that, on the contrary, Shortland placed Maori firmly in the context of land and land use and believed that they would always be a political force to be reckoned with. While Byrnes recognises and avoids some of the dangers of postcolonial readings of colonial texts, she nevertheless falls into the trap of reading Shortland with a too modern eye, rather than as a man of his time. Byrnes reads Shortland in the context of postmodern scholarship, rather than trying to investigate how he may be understood in relation to his contemporaries and to contemporary political and philosophical issues. This thesis takes the latter approach, by examining Shortland's work as Protector of Aborigines and his ethnography in its colonial context.

The politics of ethnography

The questions Shortland's ethnographies addressed were not only core to theological debates, as discussed above, but also to political and legal philosophical theory; the answers had political implications. The role of information gathering and ethnography in the service of empire has been the focus of a number of international histories over the last ten years. They argue that descriptions and social taxonomies of indigenous peoples influenced policy. As Stoler and Cooper starkly put it: 'How a person was labeled could determine that a certain category of persons could be killed

---

88 G. M. Byrnes, 'The Imperfect Authority of the Eye', 229.
89 G. M. Byrnes, 'The Imperfect Authority of the Eye', 227.
or raped with impunity, but not others. Early ethnography was by its very nature political. The writers were government-sponsored travellers and explorers, missionaries dependent on donations from the home country, or government officials like Shortland. Victorian ethnography served a number of overlapping goals and interests, as Philip Davis shows. The descriptions of exploration and adventure were put in the service of government requirements for administrative information, the commercial search for new markets and sources of supplies, as well as the interest of scientists in factual data. Shortland’s writing was the result of his government work as Protector of Aborigines. It was part of his job to learn about Maori culture, to report on Maori welfare and to provide statistical information.

The anthropologist Christopher Herbert suggests that modern anthropology has largely ignored Victorian ethnographies because of their intense bias and colonialist agenda. He argues, however, that this is the very reason they should be studied, so that we may better understand colonialism and its encounters with indigenous people in its context. Similarly Peter Pels and Oscar Salemink suggest that historians of anthropology have often ‘obscured the way in which ethnography was linked to the construction of colonial ... societies’, by placing too much emphasis on the ‘great thinkers’ and theorists of anthropology, neglecting the context in which their ethnographic data were collected. They suggest we must recognise the contribution to anthropological knowledge and theory by those who collected the data, who were often missionaries or government administrators and therefore part of a particular political or ideological framework. This dissertation recognises this and contributes to the growing international scholarship of early ethnography in the context of the colonial project.

---

94 Peter Pels and Oscar Salemink, ‘Five Theses on Ethnography as Colonial Practice’, 1.
The politics of ethnography in the New Zealand context

Several scholars have explored the political implications of ethnographic statements in the New Zealand context. In a 1975 article M. P. K. Sorrenson looks at different concepts of 'civilisation' and their impact on European views of Maori.66 His article provides useful background material to understanding Shortland's writing. Sorrenson identifies as the main European objective the absorption and assimilation of Maori into European society. He notes that Maori were considered more suited to this process than many other indigenous people, such as for example the Australian Aborigines, who were considered less advanced in civilisation. Sorrenson mentions agricultural activities and skilled arts as marks of higher Maori civilisation. Their relatively advanced state on the ladder of civilisation and their readiness to embrace Christianity and commerce, both seen as civilising agents, showed that Maori were likely to progress further on the ladder of civilisation with the help of Pakeha, it was believed.

Pat Moloney provides further useful background material in an article in which he examines concepts of 'savagery' in a New Zealand context.67 Moloney discusses the 'sophisticated theoretical construct' of the savagery/civilisation dichotomy. Extreme savagery was marked by a nomadic existence, without laws or political structures, little sense of property, without written language. Savage life was considered to be wretched and precarious. Savages were also believed to be lazy, and lacking in fellow-feeling or affection. Some theorists saw savagery as the childhood of a more advanced state of civilisation, others as the degeneration from such a state. Moloney follows the debates and decisions that were influenced by these concepts in the early years of the New Zealand colony. In his 1840 instructions to William Hobson, Lord John Russell, Secretary of State for the Colonies, based his decision that Maori should receive special concern and protection on the fact that they were seen as more advanced in civilisation than mere savages: they were not nomadic, practiced agriculture, had rules resembling laws, and had a system of ranks.

The state of civilisation of Maori and, importantly, how this affected their rights of land ownership, was a frequent subject of parliamentary debates that took place in England, in Australia and later in New Zealand. Speakers would favourably compare Maori with Australian aborigines and North American Indians — the former were nomadic, the latter hunters. Moloney mentions the debate held in Australia in 1840, and those in England in 1838, 1844, and 1845. The subject is best summarised by a statement of Lord Stanley, Secretary of State for the Colonies, who commented in 1844 that "There are many gradations of "uncivilised inhabitants" and practically, according to their state of civilization, must be the extent of rights which they can be allowed to claim." It was, therefore, important to bring proof that Maori were in a relatively high state of civilisation if one wanted to defend their rights, and to deny this if one did not. This, essentially, is the debate in which Edward Shortland participated with his writing. Ethnographers supplied source materials for the debates, and also participated in the debates by arguing a particular case.

Tracing the social history of ideas of encounter and race in New Zealand, historian James Belich identifies a number of archetypal representations of Maori, or 'lenses of preconception' as he calls them, in the New Zealand literature of the nineteenth century. Belich divides the representations of Maori extant in the nineteenth century into roughly three categories of 'Black' (naturally inferior), 'White' (developing and progressing), and 'Grey' (dying out) indigenous people. He describes the conflicting European conceptions of Maori in the longer nineteenth century as a contest mainly between the White and Dying concepts. It is possible to identify this dichotomy in Shortland's first book, *Southern Districts*, in which he devoted forty pages to contesting the idea that Maori were diminishing in number or a 'dying race' and in which he argued instead that there was 'no sufficient reason to anticipate the extinction of the Maori race'.

---

98 Quoted by Pat Moloney, 'Savagery and Civilization', on page 162 from a Dispatch from Lord Stanley to Governor Fitzroy, 13 August 1844, GBPPNZ 1844, dispatch 31, no. 1, 3.
100 Edward Shortland, *Southern Districts*, 77.
Belich recognises, and at the same time diminishes, Maori agency by describing their active embrace of Western ideas and technologies as the 'Whitening Maori', as if this were a continuing process in one direction. He singles out George Grey's *Polynesian Mythology* as example. This work was recorded by an Arawa scholar, Te Rangikaheke, who was paid by Grey to record Maori tradition. Belich suggests that Te Rangikaheke deliberately 'neatened' the legends for a Pakeha audience. Belich appears to represent 'Maori-ness' as if it were a solid that could be diluted or diminished, rather than as a dynamic changing culture capable of absorbing change. The latter is Shortland's approach. He too suggested that Te Rangikaheke added to the traditional legends, but he did not consider this a 'neatening' so much as the 'reflection of the person who wrote the manuscript' and as 'the natural remark[s] of a native instructed in Christianity' — the re-interpretation of tribal history through Christian eyes.\(^{101}\)

Shortland understood Maori culture as a coherent whole, held together by a set of laws. When Maori adopted new laws, their society would inevitably change also, he suggested. The intricate Maori rules of utu had led to centuries of intertribal conflict. The rules of utu and warfare are discussed with great sensitivity and understanding by Angela Ballara in *Taua*. Ballara acknowledges Shortland's percipience in understanding that Maori had their own system of law, even though he may have regarded pre-Christian Maori as savage, and their tikanga and ritenga as 'rough'.\(^{102}\) Anthropologist and historian Anne Salmond has decried that, despite his more understanding approach to Maori culture, Shortland was still an evolutionist, meaning that Shortland saw Maori 'development' as inevitable.\(^{103}\) With this remark she bypasses an opportunity to recognise the unique way in which Shortland depicted Maori agency. Maori welcomed the possibility of change, according to Shortland, because their own system of rules was so 'wonderfully minute and complex' that it must have been 'a grievous burden' from which they would be relieved by adopting Christianity.\(^{104}\) One of Shortland's important arguments was that Maori culture was changing by the absorption of certain European elements.

---

\(^{102}\) Angela Ballara, *Taua*, 72.
Lindsay Head terms this the development of a ‘culture of Christian modernity’. She argues that the Maori response to Europe was ‘a strongly intellectual and modernising one. It did not merely imitate Pakeha models, but absorbed them.’ Rather than adopting the terms ‘modernity’ and ‘modernising’, it may be less Euro-centred to merely suggest that Maori enthusiastically embraced the opportunities that presented themselves when they came into contact with the rest of the world.

**New Zealand historiography**

The fact that Shortland’s career spanned the first fifty years of the New Zealand colony makes it both interesting and difficult to look at his life and work. These years were eventful and turbulent. Selecting from such a rich range of events what to describe and what to exclude must depend on the extent of Shortland’s involvement in them. This study is therefore explicitly not a history of the first half-century of the colony, but relies on other histories to provide the background.

Among the general histories of New Zealand the most useful for my purposes is *The Oxford History of New Zealand*. The chapters by M. P. K. Sorrenson and by Ann Parsonson come closest to my area of study. Sorrenson explores the effects of European colonisation on Maori culture, the exchanges between the two cultures and the project of ‘amalgamation’. Sorrenson’s conclusion is that Maori selectively adopted European practices, incorporating these into a changing and surviving Maori culture. This was also Shortland’s conclusion. Ann Parsonson looks at the challenges posed to Maori political and cultural autonomy as a result of the establishment of a new state by the British. In particular Parsonson explores the effect on Maori and Maori polity of government policies with regard to Maori land. She notes Maori marginalisation as a result of constitutional changes in New Zealand, but emphasises Maori agency, expressed in protests, petitions, and representations to governments. Parsonson remarks on the ‘immense strength of the late nineteenth

---

century Maori political movements', and sees these as evidence that Maori were far from withdrawing into 'demoralized isolation', as some political figures appeared to believe at the time.109 Shortland predicted this in Southern Districts when he argued that Maori were not going to die out and that they 'must always have a political weight in their own country'.110

Three further New Zealand studies have informed my work. A. H. McLintock's 1958 study of the Crown Colony is a powerful work of political history, containing much useful material; but McLintock's lively prose, full of revealing adjectives and expressive verbs, shows a bias toward settler interests and the idea of nationalism. The book does not devote much space to the discussion of Native Policy, which is the area of politics of greatest interest to my study, but on this subject too McLintock shows a strong pro-settler bias. His views are summarised at the conclusion of the first part of his book. McLintock is critical of the first three governors of New Zealand for their 'inability to play an impartial role in the drama of government' and for interpreting the Treaty of Waitangi as if it were 'a charter of native “rights”' to which the demands of colonisation should be subordinate. McLintock is also critical of what he considers to be too close an association of the Native Department with missionary activity and 'essentially a family preserve' for the 'betterment' of the Clarke family.111 McLintock mentions Edward Shortland once in this particular context, hinting at nepotism, as if Shortland was the only other employee of the Protectors' Department apart from the Clarkes.112

Ian Wards' history The Shadow of the Land is subtitled 'A study of British policy and racial conflict in New Zealand 1832-1852'.113 It provides a very thorough study of the subject and contains a great deal of useful material for the period it covers. The limit of the study is that Wards concentrates on the role played by the military resources provided to the early governors. The impermanent nature of the military establishment in New Zealand meant that the colonial government could not demonstrate its military superiority, Wards suggests. As a result, Wards argues, the

---

110 Edward Shortland, Southern Districts, 77, vi.
policy of ‘moral suasion’ became the default policy, because the governors lacked the military resources to take a different approach. Shortland remarked something very similar. He believed that the governor’s lack of military power made the policy of moral suasion a necessity rather than an act of benevolence. Shortland noted that Maori were aware of the situation and ‘shrewdly placed [the governor’s] forbearance to that account’.

One of the most useful studies for my purposes is Alan Ward’s book *A Show of Justice*, which is sub-titled ‘racial “amalgamation” in nineteenth century New Zealand’. Ward’s subject of racial amalgamation and the implementation of English law in New Zealand closely resonates with that of this dissertation. Shortland’s work as Sub-Protector of Aborigines was concerned with these very issues. This thesis, specifically chapters three, four and five, gives a more detailed account of some of the events of the 1840s than Ward in his broader and more comprehensive work has been able to provide. Ward recognises that the colonial policy of ‘amalgamation’ matched Maori aspirations for participation in the European order and its economic benefits. He argues that these aspirations were thwarted by the self-interest and racialism of the European settlers and the settler-led governments. Most settlers and many officials, argues Ward, were impatient of Maori viewpoints and feared that the King movement would entrench these views even further. European settlers were unwilling to be dictated to by Maori ‘magistrates’. Even the clergy and humanitarians in New Zealand were uncomfortable about the King movement, Ward believes, fearing it would delay amalgamation. Shortland saw the King movement as an understandable move by Maori to control and restrict land sales.

James Belich expresses a similar point of view in the last chapter of *The New Zealand Wars*, in which he examines the ‘Victorian Interpretation of Racial Conflict’. Belich argues that the humanitarian optimistic belief in Maori ‘salvageability’, based on Maori willingness to adopt European ways, underwent a reversal as a result of Maori

115 Edward Shortland, *Traditions and Superstitions*, 270. I will discuss this further in Chapter Seven.
resistance. Belich compares this with the Victorian response to the Jamaica Rebellion of 1865.\textsuperscript{120} International scholars have placed the shift in Victorian perceptions of race and the rights of indigenous peoples in the context of the wider British Empire and the communication networks between colonies and metropole. Both Alan Lester in \textit{Imperial Networks} and Catherine Hall in \textit{Civilising Subjects} mention the ‘triad’ of events that had an impact on Victorian perceptions of race, the ‘Indian Mutiny’ of 1857, the New Zealand wars, and the Jamaica Rebellion.\textsuperscript{121} These events were not so much determinant as fuel in the debates over race, and seen as a confirmation for those who held ideas of extreme racism. Shortland saw Maori rebellion as the logical consequence of European conquest, rather than as an indication of the irredeemable savagery of Maori.

**Humanitarians and the protection of aborigines**

By the 1840s humanitarianism played a vital role in the politics of the British empire. Central to the humanitarian approach was the concept of the protection of traditional societies who had come under British control. This is exemplified by the 1837 Committee on Aborigines (British Settlements), which analysed the relations between officials, settlers and indigenous peoples on the frontiers of empire.\textsuperscript{122} Despite opposition from some of its members, the Committee issued a final report that may be considered, in the words of Alan Lester, ‘the definitive humanitarian analysis of the evils of settler-led colonialism and of unreconstructed colonial government’.\textsuperscript{123} The report’s ‘corrective moral vision’ was symptomatic of early nineteenth-century ‘bourgeois reformist discourse’, Lester argues, evident in reform bills, committees of inquiry into prisons and the poor, and in support for the anti-slavery movement. This bourgeois humanitarian moral vision was an ‘intersection between morality and capitalist practice’, according to Lester, and therefore vulnerable to settler appropriation.\textsuperscript{124} Andrew Porter shows that humanitarianism opened itself to abuse by making use of economic discourse to win votes for its

\textsuperscript{120} James Belich, \textit{The New Zealand Wars}, 328.
\textsuperscript{122} I discuss the report of this committee in Chapter One.
\textsuperscript{123} Alan Lester, \textit{Imperial Networks}, 110.
\textsuperscript{124} Ibid.
causes. In the case of slavery, for example, doubt was cast on its economic efficiency compared to free labour. When considering the protection of indigenous peoples from the potential damage wrought by settlement, humanitarians pointed out that peaceful settlement, with the cooperation of indigenes was cheaper and more beneficial to trade than having to fight wars of conquest. Protection was a useful limited form of responsibility for a government mindful of the need to keep expenses to a minimum in an expanding empire, argues Porter.

Humanitarians promised the double advantage of the ‘civilisation’ of indigenes people and a peaceful and prosperous environment for settlers. Thus the door was open for settlers to claim failure of the humanitarian project if these benefits did not ensue and when settlers’ lives and property were, or appeared to be, in danger. Both Catherine Hall and Alan Lester argue that the rebellions of indigenous peoples in India, New Zealand and Jamaica during the 1850s and 1860s led to a decline in humanitarian enthusiasm. Hall claims that by the 1860s ‘a form of racial thinking which assumed hierarchy and inequality, and lacked the utopian vision... had become commonplace’ and replaced humanitarian idealism. Lester cites the work of James Belich to argue that the New Zealand wars ‘allowed for the construction of a new hostility towards New Zealand’s indigenes’. These arguments de-emphasize the counter-voices that were raised both in the colonies and in the metropole, and paint ‘a blacker and more monolithic picture of settler culture than evidence warrants’, as John Stenhouse has argued with respect to New Zealand. Stenhouse criticises generalisations that overlook the fact that settler culture, at least in New Zealand, contained tremendously diverse racial, religious and political attitudes. Elsewhere he shows that the ideas of scientific racists such as Dr Alfred Kingcome Newman received considerable criticism in 1880s New Zealand. The influence of humanitarianism waxed and waned depending on the success or failure of

126 Catherine Hall, Civilising Subjects, 436.
127 Alan Lester, Imperial Networks, 162 and 163, with reference to James Belich, The New Zealand Wars, Chapter 15.
humanitarian policies. But it is also true that throughout the nineteenth century settler society continued to value the advice and the contribution to New Zealand politics of so-called ‘philo-Maori’ such as William Martin and Edward Shortland, both of whom steadfastly maintained their Christian humanitarian ideals. During the New Zealand wars, from 1862 until late 1864, the settler government employed Shortland as adviser on Maori Affairs. I address these questions in the last chapter of this thesis.

The protection of aborigines in New Zealand

One major government tool for the peaceful and humane settlement of New Zealand in the first five years of the colony was the Chief Protector of Aborigines and his department, for which Shortland worked from 1842 to 1846. This institution has received little attention from historians. The 1960s saw two studies of the Protectors’ Department, one of which concentrates on the work of George Clarke. Neither of these studies gives much attention to the work of Shortland. Peter D. Gibbons provides a reasonable overview of the work of the protectorate. Wake is almost as critical of the Chief Protector as the protector’s contemporaries. He argues that ‘the failure to deal effectively with the problems of native policy’ could be largely attributed to the fact that the governors gave the Chief Protector, who was a former missionary, ‘full freedom to carry out the missionary policy’. The fact that the Colonial Office created the protectorate from motivations of Christian humanitarian zeal makes this statement almost a tautology. I will discuss this issue further in Chapter One.

Keith Sinclair gives a more realistic evaluation of the protectorate in *The Origins of the Maori Wars*. He identifies ‘the greatest weakness of native policy in New Zealand’ as too strong an identification with land policy. Dealing with land issues was certainly an important function and the area in which the protectorate earned most of its criticism from settlers and from New Zealand Company representatives. Sinclair recognises the sheer size of the task of the protectorate and the difficulties this

entailed. Even when the department was increased to six protectors, Chief Protector Clarke still considered this inadequate. The main problem was that the sub-protectors were asked to play a major role in the Land Claims Commission investigations and that the work of the commissioners took longer than expected. Edward Shortland was the only sub-protector who was able to devote a considerable amount of time to other business and to perform all of the tasks assigned to the protector’s office. A study of Shortland’s work as sub-protector therefore makes an important contribution to our understanding of the history of the institution itself.

Of the studies that discuss the Protectors’ Department, Alan Ward’s offers the most comprehensive understanding. References to the work of the protectors and sub-protectors are scattered throughout chapters four and five of *A Show of Justice*. Ward recognises that the objective of the Protectors’ Department was to ‘win Maori acquiescence in British rule’ in a spirit of co-operation and conciliation.\(^{133}\) He also suggests that the work of the Protectors’ Department clearly showed that Maori land tenure was so complex that the purchase of large tracts of land was almost impossible, while any land purchase could only be effected through careful and protracted investigations and negotiations.\(^{134}\) The information collected by the department could have been used as a basis for Maori land policy, Ward believes.\(^{135}\) This was exactly what Shortland suggested and continued to argue throughout his writing career.

John Weaver’s comprehensive study of the ‘history of land taking’ seeks to explain why co-operation and conciliation, such as advocated by the Protectors’ Department, was in essence incompatible with empire and settlement.\(^{136}\) Weaver argues that policies aimed at protecting indigenous peoples’ land rights tended to irritate land hunters. Speculators and settlers continuously plotted how they could shift the boundaries and obtain more land, putting pressure on local governments. The boundaries between native lands and colonies therefore always had a transitory

\(^{133}\) Alan Ward, *A Show of Justice*, 70.
\(^{134}\) Alan Ward, *A Show of Justice*, 88.
\(^{135}\) Alan Ward, *A Show of Justice*, 73.
nature. Weaver suggests that attempts by different governments to prohibit colonisation or to bring land purchases from indigenous peoples under government control were always provisional.\footnote{137} With regard to New Zealand, Weaver points to the connection between military vulnerability and the tactics of land acquisition. In the early years administrators recognised the colony’s reliance on Maori goodwill and took pains to purchase land carefully. By the 1850s, when Europeans were in the majority, government land purchase officers became more reckless and put increasing pressure on Maori to sell land.\footnote{138} This analysis suggests that, realistically, Maori land loss in the nineteenth century was inevitable. W. H. Oliver presents this argument in his critique of some of the reports and conclusions of the Waitangi Tribunal, which he labels ‘a-historical’. This recent New Zealand ‘history war’ deserves some attention.

The role of the Waitangi Tribunal in New Zealand history writing

Over the past twenty years the Tribunal’s historians have been variously praised for their innovative and revisionist contribution to New Zealand history, for providing a more truthful picture of the past, or criticised for being ‘presentist’ and a-historical.\footnote{139} In a recent article Jim McAloon summarises the historiography of this debate and contests the latter view.\footnote{140} In particular, McAloon contests W. H. Oliver’s criticism of the Waitangi Tribunal for having unrealistic expectations of what might and should have happened in the past. McAloon argues that the Tribunal relies on established scholarship and that it ‘tends to rely on views and arguments that were unsuccessfully advanced in the past’. While this may be a politically charged approach, it is not a-historical, McAloon points out.\footnote{141} Shortland was one of the men who throughout the second half of the nineteenth century expressed opinions that are today often reflected in the reports of the Waitangi Tribunal.

\footnote{137} John C. Weaver, *The Great Land Rush*, 143.
\footnote{138} John C. Weaver, *The Great Land Rush*, 144.
\footnote{141} Jim McAloon, ‘By Which Standards?’, 205, 201, 197.
In his reply to McAloon, Oliver points out that ‘these voices of dissent and protest made little if any impact upon policy’. While historians may lament the persistence and impact of illiberal policies, argues Oliver, such is the nature of colonisation.\(^{142}\) If particular humanitarian ideas ultimately proved to lack political weight, historians need to look at more than just the ‘wickedness’ of colonialism, but also develop ‘a clear appreciation of what it was like’, rather than merely regret it was not different, Oliver points out.\(^{143}\) This dissertation contributes to the development of such appreciation.

In a response to McAloon and as a contribution to the debate, Michael Belgrave supports Oliver’s opinion when he argues that colonisation could never have taken place in a manner that was consistent with Lord Normanby’s idealistic and humanitarian instructions, while at the same time answering to the demands of nineteenth-century industrial imperialism.\(^{144}\) Belgrave suggests that even the contemporary critics of colonial policy and practice must be placed in their contexts. They were not necessarily impartial critics of government, who may be considered reliable simply because they echoed Maori complaint. Only by examining their personal and ideological agendas can we make sense of their opinions, Belgrave suggests.\(^{145}\) Belgrave omits to note that the most prominent of these contemporary critics were persons of high standing in the colony. William Martin, the first chief justice and William Swainson, the first attorney general were selected by the Colonial Office to create and implement laws and legal measures to make possible the peaceful and just settlement of New Zealand, while respecting Maori customs and rights. Both men continued to argue that the ideals they came to implement were achievable and to suggest that settler pressure must be resisted. William Martin was one of the most highly regarded men in the colony and recognised as a man of integrity by most.\(^{146}\)

---

143 Ibid.
146 Henry Sewell, a contemporary politician, described Martin as the ‘one man here to consult with confidence about any thing’ and a person ‘who seems to have every body’s good opinion’, adding that ‘It is impossible not to like him greatly’ (The Journal of Henry Sewell 1853-7, ed. W. David McIntyre [Christchurch: Whitcoulls, 1980], Vol. II, 40 [14 June 1854] and 179).
In his reply to McAloon, Oliver further reiterates his argument that the Tribunal reports under discussion 'held the Crown to be in breach of the Treaty for failing to do things which it could not reasonably have been expected to do, because they were beyond its capacity or its awareness or both.' Oliver refers in particular to the Tribunal's suggestion that the government should have undertaken detailed inquiries and investigations before purchasing land from Maori owners. He further points out that the Tribunal's contention that the government should have acknowledged the veto right to sales of tribal authorities would have put the tribes 'in a position to permit or prevent settlement and colonization'. Oliver believes that the colonial government of the 1840s lacked the will and the means to set up such machinery. Oliver omits to examine the Department of the Protector of Aborigines, which provided such machinery. The initial work of the Department largely consisted of examining old land sales, but its officers were also involved in investigating new land purchases on behalf of the Crown. The officers of the Crown of the early 1840s acknowledged the rights of tribal authorities to determine where European settlement could take place. These policies continued even after Governor Grey abolished the Protector's department in 1846 and were only gradually relinquished, but not without warnings and protests from men like Shortland, as I show in the chapters that follow. However, I agree with W. H. Oliver's argument that the Waitangi Tribunal constructs New Zealand history in terms of a particular ideology. I argue that the work of the Waitangi Tribunal may be seen as a continuation of a string of investigations into Maori land issued that commenced with the Land Claims Commission of the 1840s, followed by many similar commissions during the nineteenth century. The Tribunal's work may also be seen as a continuation of the humanitarian project to adhere to the Treaty of Waitangi. The Tribunal's reports show that its perspectives and the attitudes of its researchers have been shaped in part by Shortland's writings, either directly or indirectly.

147 W. H. Oliver, 'A Reply to Jim McAloon', 84.
148 Ibid.
149 Michael Belgrave also argues that the tribunal's writing of history 'cannot be understood in isolation from a very long tradition of judicial investigations of past events in New Zealand' (Historical Frictions: Maori Claims and Reinvented Histories [Auckland: Auckland University Press, 2005], 3).
Methodology

There are two main sets of sources for this study. The first are the journals, letters and official documents written by Edward Shortland. The bulk of these were produced during his work as Sub-Protector of Aborigines. These documents expose some of the processes and difficulties involved in shaping and implementing Native Policy in accordance with the instructions of the Colonial Office, which had to be adapted to local circumstances. Among these papers are also several volumes of texts in Maori, consisting mainly of the tribal histories of the people in Shortland's district. These have not been used to inform this dissertation and remain a future source of research for Maori scholars. Shortland wrote his journals as part of his professional duties. As a result they contain little personal detail or remarks. One must expect some self-censoring in the writing. There are few personal letters among Shortland documents, which Dr Thomas Hocken obtained for his library from Mrs Shortland after Shortland's death. In these few letters we see a more acerbic tone of voice than is evident from Shortland's other writing.

The second set of sources consists of Shortland’s ethnographic published works. His published books were written for the general public and must be understood as such. It is necessary, therefore, not only to interpret what is printed, but also to read between the lines and to note omissions that may shed light on Shortland’s opinions. These works have been important in providing access to Shortland’s political and religious ideas. The books provide further insights in the nature of contact, exchange, adaptation, and resistance. At the same time these texts highlight some of the issues raised in the metropole, for whose readers these books were written.

Paul Atkinson argues that ethnographies may be seen as ‘persuasive fictions’ that use a variety of textual devices and rhetorical forms to convey their ethnographic messages. Before the author can convince the readers of the validity of his argument he must gain a sympathetic reception — he must catch the readers’ eye so to speak. The text must, therefore, connect with public opinion and must to some degree correspond to the expectations or conventions of its genre (people must find in the text subjects they expect to find). The text must also sound real or realistic and must
(paradoxically) use certain literary devices to convey this realism. And, in order to be acceptable and believable to the reading public, authors needed to couch their arguments in terms of current intellectual debates. In analysing a text, we must, therefore, tease out the contemporary intellectual issues to find the underlying opinion of the author.

To a certain extent Shortland’s books may be seen as ‘anti-conquest’ narratives, to use Mary Louise Pratt’s term, strategies of representation ‘whereby European bourgeois subjects seek to secure their innocence in the same moment as they assert European hegemony’. These narratives, Pratt argues, redefined imperialism and conquest in civilising and reciprocal terms. They might take the form of scientific neutrality or, alternatively, of sentimental travel writing. Both formats offered the European observer and writer an opportunity for detachment in order to become what Pratt terms the ‘seeing-man’, and an avenue to legitimise the colonial enterprise. In his books Shortland presented himself as the scientific authority. But, although he did support colonialism, he also criticised colonial policies and settler actions, while at the same time defending Maori rights and justifying their behaviour.

**Authorial and scientific authority**

Shortland at length established his authority as a writer on the subject of the South Island of New Zealand in the Preface to *Southern Districts*. He stated that he personally travelled there as a government officer. He suggested scientific authority by insisting on exactness and accuracy and by specifying the limitations of his study. He explained, for example, that he travelled only part of the years 1843-44 — on the first page of the first chapter he gave the exact date of his arrival at Akaroa (10 August 1843) and on the last page of the last chapter the date and time he arrived back in Wellington (5pm on 26 February 1844). He also stated that he only visited the east coast of the South Island from Banks Peninsula to Foveaux Straits. In his preface Shortland further augmented his authority by claiming the accuracy and authenticity

---

152 Edward Shortland, *Southern Districts*, v-x.
of the map facing the title page of his book. He devoted two whole pages to show that a map published by Arrowsmith was more likely a copy of Shortland’s map than the other way round. Shortland attributed the different portions of his own map to their sources, including Maori informants.

In the preface to his second book, Traditions and Superstitions, Shortland also made the claim of eye witness authority, through several years’ residence among Maori in a district ‘where the influence of the Missionaries had made little or no impression’, providing him with the opportunity to study Maori customs ‘such as they were before they became modified by intercourse with Europeans’.\(^{153}\) Shortland asserted a scientific and ethnographic authority not present in missionary accounts, ‘who came to teach a religion, and not to learn the principles of superstitions’.\(^{154}\) He stressed that the material he presented was the result of personal observations and inquiries, while his comments and considerations were such as could only be obtained through residence among Maori ‘on terms of intimacy’.\(^{155}\) In the preface to the second edition of Traditions and Superstitions Shortland referred to other works published since the first edition appeared, specifically those of Sir George Grey and Reverend Richard Taylor, whose content was not dissimilar to Shortland’s own book.\(^{156}\) This indicated, according to Shortland, the validity of the content of all three, since the materials had been collected independently. Finally, in his preface to his third book, Maori Religion and Mythology, Shortland used the authenticity of his sources (‘men of good birth, and competent authorities’) and his thoroughness in collecting his materials as proof of the scientific value of his work.\(^{157}\) Shortland described in detail how he obtained his records. He asked his informants to tell their stories in exactly the same way as they would do to their own people ‘in a sacred house’. Shortland wrote down word for word what he heard, phonetically representing any words he did not know. At some suitable pause in the story he read back what he had written to correct any errors. The other source was from literate informants who wrote down the stories themselves. In his book he reproduced the stories unaltered in tone and manner,

\(^{153}\) Edward Shortland, Traditions and Superstitions, vi. This latter statement was not quite true, as is apparent from the history of the district. I will outline this history in Chapter One.

\(^{154}\) Edward Shortland, Traditions and Superstitions, v. In fact, one of Shortland’s specific tasks as Protector of Aborigines was to learn about and report on Maori customs.

\(^{155}\) Edward Shortland, Traditions and Superstitions, vi.

\(^{156}\) Sir George Grey, Polynesian Mythology, and Ancient Traditional History of the New Zealand Race, as Furnished by Their Priests and Chiefs (London: John Murray, 1855) and Rev. R. Taylor, Te Ika Maui.

\(^{157}\) Edward Shortland, Maori Religion and Mythology, vii-viii.
although of course translated into English. He gave the original Maori text of the songs and poems in his book in an appendix.

In *A Short Sketch of the Maori Races*, Shortland claimed that about eighteen generations had passed since Maori first arrived in New Zealand. He explained his scientific methodology by remarking that to ‘test the probability of his conclusion’ he ‘carefully collected and compared’ different accounts from different tribal leaders and found that they ‘agreed in reckoning the same number of generations’. Since this ‘remarkable uniformity’ was spontaneous and not contrived, it formed ‘the best proof ... of their correctness’ Shortland claimed.\(^{158}\)

Authorial intention

Much may be learned from the preface or introduction in which the travel writers and ethnographic authors gave the reasons for writing the book and established their authority. Sometimes the introductions are more informative for the modern historian than the main part of the ethnography. The dedications of the books also reveal political undercurrents and the connections and networks of which the authors were a part.

In the preface to *Southern Districts* Shortland clearly stated his objectives. He claimed that because Maori were already a quite civilised people, they would always be a political force to be reckoned with.\(^{159}\) He addressed the subject of settlement and suggested that if any part of New Zealand was suited to the system of colonisation fashionable at the time, namely under the auspices of companies, it might be the South Island of New Zealand. In the North Island there were no continuous and extensive blocks of land available, as required for that system, to which Maori did not make a claim. In the South Island the population was considerably smaller.\(^{160}\) In the rest of the book, however, Shortland seemed to argue the opposite, by describing the extent of Maori land ownership in the South Island, their profitable use of the land, and their relatively high state of ‘civilisation’. He did not write just for entertainment,

\(^{158}\) Edward Shortland, *A Short Sketch of the Maori Races*, 7. See also *Traditions and Superstitions*, 29-30.
\(^{159}\) Edward Shortland, *Southern Districts*, vi.
but hoped to be instructive as well, because he considered it important that the colonists should understand as much as possible of the customs and habits of the people ‘with whom they must be constantly associated’.\textsuperscript{161} Shortland used comparative ethnology to argue that what might seem strange to us, was normal and proper and fitting within the system of Maori rules. He used a comparison with the English past or with English or European customs and habits to gain understanding for those of Maori.

Shortland’s Christian humanitarianism informed the various roles he played as colonial official, demographer, scientist, ethnographer, student of Maori language and customs, protector of Maori rights. This thesis will begin by examining the meaning and history of the concept of ‘protector of aborigines’ and discuss the tasks the protectors of aborigines in New Zealand were assigned, as well as the tasks that were explicitly excluded. A brief look at the reasons for Shortland’s appointment and a description of the district to which he was assigned conclude this chapter. Chapter two describes how Shortland responded to his first encounters with Maori and what bearing these encounters had on his ideas and later actions. The rest of the thesis looks at Shortland’s working life. The centre of the thesis is a detailed examination of Shortland’s work as Protector of Aborigines, how work informed his ideas and vice versa. Chapter three describes the extent and limitations of Shortland’s work as police magistrate and attempts to evaluate how effective it was. In chapters four and five I examine the ways in which Shortland, as servant of the colonial government, responded to serious crimes and how he dealt with the threat of intertribal conflict. The next chapter discusses Maori land issues. This subject is of wide ranging importance in New Zealand history and has created an extensive scholarly literature. In this study I will limit my discussion to Shortland’s views on Maori land tenure, and the ways in which he dealt with land issues that came before him as sub-protector. Chapter seven discusses the mounting tension in the Pakeha-Maori relationship, which led to war in 1845, and Shortland’s analysis of the situation. In chapter eight I describe Shortland’s return to England, his involvement in lobbying the Colonial Office and his recommendations. Shortland’s ethnography is the subject of chapter nine, while the last chapter describes Shortland’s contribution to Native Affairs after the establishment of responsible government in New Zealand.

\textsuperscript{161} Edward Shortland, \textit{Southern Districts}, vi.
In April 1840, a few months after the signing of the Treaty of Waitangi, Governor Hobson established the Department for the Protection of Aborigines in accordance with the instructions of the Colonial Office. Former missionary George Clarke became the first Protector of Aborigines. In August 1842 Edward Shortland joined the department as Sub-Protector of Aborigines for the Eastern Districts. At that time the department already counted two further sub-protectors. Neither the idea of the need to protect the rights of indigenous people, nor that of a dedicated position of ‘protector of aborigines’, was original to New Zealand or unique to that time. The Spanish Crown of the sixteenth century put limitations on the way settlers in South America were allowed to treat the Indians. For example, they were not allowed to take their lands. Inspired by a sermon in which the Dominican priest Antonio de Montesinos denounced the Spanish population of Hispaniola for their treatment of the Indians, Bartolomé de Las Casas, who attended the sermon, devoted the rest of his life to show that Indians were human beings who deserved humane treatment.

In the seventeenth century, the Quaker William Penn was mindful of the rights of the Indians of America. He concluded treaties with them, and purchased their land claims before surveying and settling Pennsylvania. In the eighteenth century in South America a number of government officers bore the title ‘Protector of Indians’. Their main job was to act as magistrates and to mediate in cases involving both Indians and British subjects. At the establishment of the settlement in the Province of South Australia in 1836 the South Australian Colonizing Commissioners, under pressure from the Colonial Office, drew up a plan for the protection of the rights of the Aborigines in the colony. The main concern of the protector of aborigines was to ensure that the land rights of the aboriginal inhabitants were adequately recognised.

Both of these tasks — mediation in disputes between indigenous people and
Europeans, and protection of land rights — were also the two main duties of the protectors of aborigines in New Zealand.

While the protectorate originated in humanitarian ideals, in practice it did a great deal more to protect the Europeans in the early years of the New Zealand colony than it did to protect Maori. It was principally intended as a government instrument to implement colonisation in a humane manner. Without the protectorate and the trust placed in it and in its officers by Maori, many more and greater problems and conflicts would have occurred in New Zealand. Edward Shortland shared the humanitarian outlook of his time but was also intent on doing his duty as a government officer and as such to help effect peaceful settlement. This chapter examines the background to the Department for the Protection of Aborigines, the instructions to its officers and the general objectives it was intended to serve. Insight into each of these is key to understanding the way in which Shortland performed his duties, the motivation behind his decisions, and the background to many of his statements. The second part of the chapter consists of a short historical account of the district to which Shortland was appointed. The area had a long history of contact with Europeans, but an even longer history of intertribal conflict and war. The last major war took place a mere six years before Shortland arrived in the district. In order to understand the underlying causes of Maori conflicts and to be able to assist in solving disputes, Shortland needed to become familiar with this story.

The 1837 Select Committee on Aborigines

In 1837 the Select Committee on Aborigines investigated the state of indigenous peoples in or near British settlements. The instructions to the protector of aborigines in New Zealand were based on its findings and precepts. The 1837 Committee had been preceded by a number of earlier investigations. In 1830 an Aborigines Committee on Van Diemen’s Land found that it was already too late for simple solutions and as a last resort recommended the complete removal of the aborigines to Flinder’s Island to prevent further bloodshed between settlers and aborigines on whose land the settlers squatted. Although the local governor thought this removal an extreme and unjust measure, he saw it as the only one that would prevent the
extermination of the aborigines by violent bands of settlers. Right through the 1820s humanitarians had been alarmed at the treatment of the aboriginal inhabitants of North America, the reduction in their numbers, and their general ‘degradation’ through contact with white people, resulting in a report entitled Papers relating to the Aboriginal Tribes, 1834. Similarly the Papers relating to the Cape of Good Hope, 1835 reported on the state of the aboriginal inhabitants in southern Africa. Humanitarian influence greatly increased in England in the 1830s. Some of the most important office bearers at the Colonial Office, Lord Glenelg, Sir George Grey, and James Stephen, had strong links with the anti-slavery cause and with the mission societies.

In July 1834 the House of Commons of Britain unanimously passed an Address to the King in which it acknowledged ‘the duty of acting upon the principles of justice and humanity’ towards indigenous people in the colonies, settlements and plantations, and the need to afford them ‘protection in the enjoyment of their civil rights’. The House also saw a duty ‘of imparting to them that degree of civilization, and that religion, with which Providence has blessed this nation’. Finally the House urged His Majesty to take such measures as would direct governors and government officers to secure the observance of justice and protect the rights of indigenous people while also promoting ‘the spread of civilization amongst them’. The 1837 Select Committee compared the actions of the British government with these avowed principles. The committee asked whether contact with Britain had become ‘the greatest blessing, or the heaviest scourge’ for the ‘uncivilised’ nations it had come into contact with. It reported on conditions in Newfoundland, North America, South America, the Caribbean, New Holland, Van Diemen’s Land, Islands in the Pacific (including New Zealand), South Africa (Cape of Good Hope) and Sierra Leone. The reports from the different regions confirmed that there were problems in two major areas — the unjust taking of land that belonged to indigenous peoples, and their ‘corruption’ and ‘degradation’ with, as a result of both, such a reported decrease in their numbers that in many cases their ultimate extinction was feared.

---

5 1837 Report, 13-14.
6 1837 Report, 6-10.
7 1837 Report, 4-5.
8 1837 Report, preamble.
9 1837 Report, 3.
The 1837 Committee came to the following conclusions: that it was important to pay compensation for the loss of lands to the indigenous inhabitants who had been dispossessed; that the indigenous people should be able to derive benefits from intercourse with a higher civilisation; and that there was a strong link between Christianity, especially when introduced by missionaries, and the resulting benefits of civilisation and law for the indigenous peoples. These conclusions were not based on purely humanitarian reasoning, but also considered conducive for the preservation of British security and the peace of the colonial borders. The committee suggested that there were only two possible approaches. Either an overwhelming military force with all its attendant expenses needed to be posted in or near every settlement, or a line of temperate conduct and of justice must be followed. The Colonial Office agreed with the committee that an attitude of forbearance would lead to a more peaceful and therefore more successful establishment of settlements. This line of temperance and justice, forbearance and kindness, unsupported by military force, was followed in New Zealand. Even the war with Hone Heke in 1845 did not deter the Colonial Secretary from this stance, although the Secretary did provide the new governor with some military support. In a confidential letter to Governor George Grey, Lord Stanley wrote that in his dealings with the Maori chiefs he should ‘carry forbearance to the utmost length consistent with the maintenance of the authority of the Sovereign.’

The 1837 Committee saw the propagation of Christianity as the best and cheapest way to stop the calamities caused by colonisation, while at the same time ‘imparting the blessings of civilization’. One of these blessings was law and with it the acknowledgement of the civil rights of the indigenous people. The northern part of New Zealand, where Maori had been successfully converted to Christianity, was considered ripe for the introduction of other aspects of civilisation, including British law. Missionary reports suggested that Christian chiefs were reluctant to break the rules of Christianity and inclined to maintain peace, for fear of losing the material benefits of contact with Europeans.

---

10 Lord Stanley letter to Grey, dated 5 December 1845, sent from Downing Street marked confidential. In the Grey Collection, Auckland City Libraries.
11 1837 Report, 44-45.
The 1837 Committee made the following recommendations for the protection of aborigines in the colonies.12 In order to avoid undue influence of settler interests, the right to make decisions regarding indigenous peoples must be vested in the governor of a colony. The Crown should be in charge of all land sales and the sale of indigenous lands to British subjects must be declared illegal and void. Each colony should set aside some money, possibly from the purchase and subsequent sale of land by the Crown, for the provision of religious instruction and education of the indigenous inhabitants. The European law if applied to indigenes should show the 'utmost indulgence compatible with a due regard for the lives and properties of others' to compensate for their 'ignorance and prejudices', since actions which 'they have been taught to regard as praiseworthy we consider as meriting the punishment of death.' This did not mean that 'barbarous ideas' which led to the offence could be sanctioned, but at the same time it was fair and reasonable to give indigenous people ample opportunity to understand the laws before they were punished for a crime. It would be absurd, the Committee believed, to expect from 'ignorant hordes of savages' that they would observe the British law, or that it was just to punish their breach of these by severe penalties. Yet, if indigenes were placed outside the law in cases of their own infringement of it, they would also lose its protection in cases where they were the injured party. Some special measures were likely to be necessary and only thorough knowledge of local customs would make this possible.

The 1837 Committee also recommended the appointment of protectors of aborigines, one of whose duties would be to make appropriate suggestions for such special legal measures to their government.13 The rules needed to be short and simple and only temporary and provisional, until such time as the progress of the indigenes in knowledge and civilisation had made these measures unnecessary. Protectors should act as magistrates and promote the prosecution of all crimes committed against the persons or property of aboriginal people. In cases where the aboriginal person was the accused, the protector or a practitioner of the law instructed and supervised by him, should undertake or superintend their defence. The Committee recommended that the protectors should be required to make periodic reports to the local governor and to make appropriate suggestions with regard to the interests and the security of the people they were protecting. One of the principal objectives of those reports was

12 1837 Report, 76-81.
13 This paragraph is based on pages 83-84 of the 1837 Report.
the collection of accurate statistical information. The committee felt that, had such reports been made in the past, the ‘depopulation and decay’ of the tribes as a result of European encroachments might have been arrested by the government. The protectors should familiarise themselves with the customs and language of the indigenous people. They must claim for these people such lands as they required for their support. If the indigenous people were not inclined to agriculture they must be provided with adequate means to pursue hunting, unhindered by Europeans.

The protectors of aborigines in New Zealand

The British Colonial Office and later Governor Hobson translated every single one of the above recommendations into the instructions for the protectors of aborigines in New Zealand. In the instructions to Captain Hobson on his appointment as consul of New Zealand, Lord Normanby referred to an ‘officer expressly appointed to watch over the interests of the aborigines as their protector’. This officer’s duties included assisting in Crown purchases of ‘waste lards’ from Maori for the benefit of new settlers to New Zealand. Governor Hobson turned to the Church Missionary Society (CMS) to find a suitable candidate — a man of high moral standing, with knowledge of Maori language and customs, and with sympathy for their interests. Henry Williams, who was head of the CMS, put forward George Clarke’s name. Clarke accepted the position and was duly appointed on 6 April 1840. In accordance with Normanby’s instructions, Governor Hobson defined the duties of the protector of aborigines twofold: ‘first as Protector of the Native Race in the literal acceptation of those words, and secondly as a Commissioner for the purchase of such waste Lands as the Natives may alienate without prejudice to their own interests’. Hobson added that although these two offices might appear incongruous, he considered them ‘perfectly reconcilable’ in Clarke’s hands. Clarke disagreed and felt that one

---

14 Instructions from Lord Normanby to Captain Hobson, 14 August 1839, C.O. 209/4.
15 Clarke had been a member of the CMS mission in New Zealand since 1824 and had served as a catechist and lay missionary at Waimate (A. H. McLintock, ed., An Encyclopaedia of New Zealand (Wellington: R. E. Owen, Government Printer, 1966), Vol. I, 354). Williams saw Clarke as ‘being least swayed by fear of man, and having a sound judgment’ (quoted in Roger Evans, Truth and Obedience. The Life and Letters of George Clarke 1798-1875 [Kerikeri: Printed for the Author by Keri Print Ltd., 2004], 58).
16 Instructions for George Clarke, Chief Protector of Aborigines, 22 handwritten manuscript pages. There is no date [April 1841], Item 3 in George Clarke [senior] — Letters & Correspondence, 1840-1843, Vol. II, No. 1-65, Dunedin Hocken Library, Clarke MSS. Hereafter referred to as ‘Instructions for George Clarke’.

45
person could not obtain the lowest price for the Crown, while also safeguarding Maori interests. Secretary of State Lord Stanley agreed with Clarke. In June 1842 Stanley wrote to Hobson that he considered it 'desirable' that the protector should be relieved of the office of negotiating purchases of land from Maori, because it seemed inconsistent with the character of his other duties. After Hobson's death, Acting Governor Willoughby Shortland followed up on this instruction in December 1842. Subsequently the role of the protector was reduced to advising whether Maori were willing to sell land and what reserves the protector considered necessary for their use and benefit.

Because Hobson found it impossible to 'compile a code of instructions calculated to meet every contingency' with regard to the tasks of the protector of aborigines, he confined himself to general principles in his instructions to George Clarke. He outlined these principles as follows:

- to watch over the rights and interests of the Aboriginal Inhabitants and protect them by [his] personal exertions and influence from any encroachment on their property and from acts of cruelty, oppression and injustice and faithfully to report to [Hobson] their wants, wishes or grievances.

Part of the protector's duties consisted of mediation between Maori and Europeans and also the protection of Maori rights against unscrupulous Europeans. As police magistrate the protector was authorised in cases of minor offences to compromise and make adjustments in accordance with Maori custom, using 'common sense and humanity' as the guide. More serious offences needed to be referred to a higher jurisdiction. In such cases the protector would attend Court on behalf of the Maori involved.

Clarke must give Maori the assurance that the government of Great Britain held 'inviolate their rights of property', Hobson wrote, and that their customs and habits would not be impinged except when these were 'opposed to the principles of

---

17 Clarke to Colonial Secretary, 28 July 1840, GBPPNZ 1842 (569), 188, enclosed in Hobson to Secretary of State, 15 December 1841, & encl. 30 September 1841, 190, Secretary of State to Hobson 10 June 1842.
18 Lord Stanley to Governor Hobson, 10 June 1842, GBPPNZ 1835-42, 190.
19 Colonial Secretary Letter Book re Protection of Aborigines, 29 December 1842, Internal Affairs, series 4-271, National Archives Wellington.
20 'Instructions for George Clarke'. The quotations that follow are from the same instructions.
humanity and morals’. Hobson added a proviso that further restrictions of Maori customs might be needed when it was apparent that ‘the general interests of society’ demanded this and when ‘the moral and social condition of the Natives require that alterations should take place’. Such alterations would, it was hoped, ‘eventually qualify this interesting Race for the duties of civilized life’.

This dangerously open-ended condition implied that the protectors of aborigines not only had a duty to protect Maori, but also to ‘civilise’. The Colonial Office considered the civilisation of Maori and their protection as inseparable. Through their civilisation they would be able to take their place as citizens of an ordered society which would protect them with its laws, but whose laws would also restrain them.\(^{21}\) The methods the protectors were told to use implied a prospect of gradual and gentle amalgamation. Hobson admitted that ‘It is not by sudden or violent measures that men can be induced to lay aside prepossessions which early habit and example have instituted and age has matured’. He acknowledged that even in ‘the most refined society’ one could detect the ‘inveteracy of prejudices’. Hobson also made the interesting suggestion that one could not expect from a people ‘just emerging from barbarism’ that they would ‘all at once’ conform to laws and habits ‘that are adapted to so artificial a state as that in which we live’.\(^{22}\) This statement was in compliance with Normanby’s instructions. Lord Normanby had advised Hobson that, rather than immediately and strictly applying the law, its rules and regulations might be introduced in a more gradual manner, through the ‘benignant influence of example, instruction, and encouragement, [rather] than by legal penalties’.\(^{23}\) The British justice system was too ‘fettered with technical forms and strict legal responsibilities’ to be practical for use with ‘uncivilised’ people.\(^{24}\) In his instructions to Clarke, Hobson cautioned, however, that it was equally impolitic to delay the civilizing process too long. If Maori would not willingly concede that crimes such as murder could not be committed with impunity, the governor owed it to his countrymen to teach Maori this rule.\(^{25}\)

\(^{21}\) Instructions from Lord Normanby to Captain Hobson, 262, 280.
\(^{22}\) ‘Instructions for George Clarke’.
\(^{23}\) Instructions from Lord Normanby to Captain Hobson.
\(^{24}\) The word ‘uncivilised’ must here be understood in its literal meaning of ‘untutored in what is civil’, where the word ‘civil’ means ‘relating to what happens within the state or between different citizens or groups of citizens’.
\(^{25}\) ‘Instructions for George Clarke’.
Hobson was less tolerant with regard to 'savage practices' such as human sacrifice, cannibalism and intertribal wars. These the protector must 'interdict promptly', in the first place by 'acts of persuasion and kindness', but if these failed Hobson had orders to 'repress by actual force' crimes that were not only 'abhorrent to the first principles of morality' but also 'calamitous to those by whom they are pursued'. Hobson ordered Clarke to 'use firm and decisive language' to inform Maori that this was a 'positive and unqualified' command from Her Majesty and that 'perseverance in those revolting and disgusting practices will inevitably call forth the most exemplary punishment'. Less than two years later these instructions were put to the test, at which stage it became clear that the governor was in no position to carry through with these threats. Instead, Shortland was appointed as sub-protector of aborigines to prevent intertribal war. I will discuss this in detail in chapters four and five.

When he addressed the Legislative Council of New Zealand at its opening session, Governor Hobson described the task of the colonial government as follows: 'We have a solemn and important duty to perform; by our means conflicting interests are to be reconciled, harmony and tranquillity established, and measures are to be adopted for improving and elevating the character of the aboriginal inhabitants'. It fell to a large extent on the shoulders of the protectors of aborigines to help fulfil this solemn and important duty.

In summary, the tasks of the protectors of aborigines were: the protection of Maori property, specifically land rights mainly by overseeing land sales; protecting Maori against injustice and cruelty both from each other and from Europeans; preventing 'savage' practices such as cannibalism; and finally instructing Maori in the knowledge of English law and guiding them towards accepting its implementation. In order to fulfil these functions it was the duty of the protectors to become familiar with Maori language and customs and to supply the government with information. The protectors were, in fact, government ethnographers. The protector had to send a full report to the governor at the end of each half-year describing 'his administration and proceedings, embracing with the utmost possible exactness every topic

26 'Instructions for George Clarke'.
connected with the increase or decrease of the numbers, the social and political
country, the education, and the intellectual, moral and religious improvement of
the objects of his care’. The reports were forwarded to the Colonial Office. The
British government knew the importance of gathering a broad knowledge of
indigenous peoples for the administration of a colony. Information gathering and
ethnography were important elements in the construction of colonial rule. The
empire relied on a large colonial bureaucracy that increasingly occupied itself with
‘classifying people and their attributes, with censuses, surveys, and ethnographies’.

The protectors of aborigines were part of this project.

The work of the protectors

Over the course of the five year existence of the Department of the Protector of
Aborigines, from its establishment by Governor Hobson to its disestablishment by
Governor Grey in 1846, its work was hindered by three main obstacles: lack of funds,
a lack of capable personnel with knowledge of Maori language and customs and
finally from settler resistance. Maori and settlers appeared to have opposite
expectations of the protectors. Maori looked to the protectors to keep the behaviour
of settlers under control, when settlers encroached on Maori land or appropriated
Maori property. Settlers, on the other hand, seemed to expect the protectors to give
precedence to their rights and to help keep Maori at arm’s length while the settlers
got on with their business.

The protectors had summary jurisdiction to arbitrate in disputes between Europeans
and Maori in cases of petty crime. The protectors tended to investigate cases
thoroughly and tried to be scrupulously fair. Maori generally collaborated and
accepted the final decision. Settlers on the other hand often found it unacceptable
when the protector made a decision in favour of Maori. When George Clarke junior
worked as sub-protector in the Wellington settlement, he found it particularly
difficult to gain respect as a mere nineteen-year-old. He found it not ‘pleasant or

28 Russell to Hobson, 9 December 1840, GBPPNZ 1841 (311), 24.
29 Ann Laura Stoler and Frederick Cooper, ‘Between Metropole and Colony’, in Frederick Cooper and
Ann Laura Stoler, eds., Tensions of Empire: Colonial Cultures in a Bourgeois World (Berkeley / Los
30 Russell to Hobson, 9 December 1840, GBPPNZ 1841 (311), 24. There was a right of appeal to the
ordinary tribunals of the colony in the more weighty cases.
popular work at all'. There were so many disputes between settlers and Maori that he felt like a fire engine that had to rush from place to place to put out the fires of dispute before a conflagration could develop. Shortland’s district was somewhat quieter, but he also dealt with the recurring problems of cultural misunderstanding and conflict. He did, however, have more authority than young Clarke.

After the initial successful appointment of George Clarke as protector of aborigines, Governor Hobson found it difficult to expand the service, because of a shortage of Maori language speakers. Outside the missions, the only people who were fluent in Maori were old settlers, traders and land speculators who were principally interested in personal gain and tended to be opposed to the colonial government, which they saw as an obstruction to their ambitions. The most suitable candidates for the protectorate were the sons of missionaries who were born in New Zealand and grew up among Maori. Although they were too young for the position of chief protector, they were indispensable as clerks and sub-protectors and at first provided the only available suitable candidates. Later in the 1840s other suitable people not related to the missions were appointed to the protectorate department. As the need and demand for more protectors grew, Acting Governor Willoughby Shortland suggested that the Department should look for ‘young gentlemen of education’, who knew Maori or were willing to learn, who could be employed as clerks by the Department and trained up to be district protectors. This system worked and from it came some of the later sub-protectors.

Over the six years of the department’s existence the principal people related to the mission employed by it were George Clarke and his two young sons George junior and Henry as well as young Henry Kemp. George junior and Kemp at first worked mainly as translators and representatives of Maori interests for the land claims commissioners. In total there were more non-missionary people appointed to the

---

31 George Clarke, Notes on Early Life in New Zealand (Hobart: J. Walch & Sons, 1903), 54.
32 George Clarke, Notes on Early Life in New Zealand, 55.
33 Hobson complained of this problem to the Colonial Office (GBPPNZ 1842, 188).
34 Hobson became aware of the opposition during his Treaty signing tour of the North (Hobson to Gipps, 17 February 1840, GBPPNZ 1841 [311], 10). In the Thames area George Clarke heard reports from Maori that European traders had told them not to trust the British government because it would take their land away (Protector of Aborigines’ Report of his Visit to the Thames and Waikato, Enclosure No. 18 in Despatch from Governor Gipps to Lord Russel, 7 March 1841, GBPPNZ 1842 [569], 93-100). The early settlers objected strongly to the New Zealand Land Claims Bill (1840).
department. Most of those who worked for the department of the chief protector of aborigines continued to be employed over the years by later governors and by the New Zealand government, serving in the various offices and departments that followed the demise of the original protectorate. Edward Shortland was the only person who ever worked for the protectorate or the Native Department who had come to New Zealand specifically to work for the government. Although he may not have been able to equal the knowledge acquired by George Clarke over twenty years in New Zealand, he brought to his work a fresh outsider view and was better placed to act as civil servant without the danger of being influenced by other commitments and interests.

Shortland’s appointment

Shortland’s appointment as protector of aborigines for the Eastern Districts was the direct result of a threat of intertribal war, prompted by an attack on Katikati, north of Tauranga. In May 1842, Chief Taraia of Ngati Tamatera in the Thames Valley attacked Ongare pa at Katikati. The war party killed chief Te Whanake and several others, all originally from Tauranga; the taua ate the dead and took others prisoner. The case formed a test of the practicability of Hobson’s instructions to allow Maori the freedom of their own customs, but to forbid such inhumane practices as cannibalism, infanticide and human sacrifice, and also to try and stop tribal wars. The incident led to heated discussions by the Executive Council about the reach of British sovereignty and the question of whether Maori who had not signed the Treaty of Waitangi were nevertheless subject to British law. The situation was complicated by the fact that the slain were Christians and that their hapu had signed the Treaty of Waitangi, while the perpetrators of the murders were neither Christians

---

36 The names of the other appointees were Edmund Halswell, Thomas Forsaith, Edward Shortland, John Symonds, John Campbell, and Donald McLean.
37 Shortland’s appointment drew criticism from settlers who accused the governor of nepotism for appointing two brothers of his close acquaintance to high government positions. Hobson defended himself against this allegation to the Colonial Office in a despatch dated 3 June 1842 (Colonial Office 209/15, DHL, Micro 122/12, Despatch 46).
38 This story is well-known and has been discussed by several authors, see for example Ian Wards, The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852 (Wellington: Historical Publications Branch, Department of Internal Affairs, 1968), 61; A. H. McLintock, Crown Colony Government in New Zealand (Wellington: R. E. Owen, Government Printer, 1958), 146; Claudia Orange, The Treaty of Waitangi (Wellington: Bridget Williams Books, 1987), 109-111.
nor signatories. Chief Protector of Aborigines George Clarke saw no immediate course of action for the government except a show of force. He recommended anchoring a warship within a hundred yards of the shore. According to Clarke, the main issue was that outside European settlements Maori had no way available to them to get redress other than according to their old customs. Clarke believed that if other means of settling disputes were available, Maori would use them. Clarke recommended placing more government officers in remote areas to help settle disputes. The threat of war in Tauranga, so near the Auckland settlement, prompted the appointment of Edward Shortland as protector of aborigines for the Eastern Districts in August 1842.42 The following section contains a brief history of Shortland’s district and the people in it. This information provides an indispensable background to understanding the events.

The Eastern Districts

The Eastern Districts, estimated to contain some 25,000 Maori, were neither a clearly bounded geographical area, nor an area clearly defined in administrative terms, nor an area that, as a whole, Maori recognised as distinctive. Some of the iwi in the district were in conflict with each other; there were also networks of alliances. In his district Shortland would be working with Ngati Paoa, Ngati Maru, Ngati

---

40 Minutes of the Executive Council, 17 June 1842, Colonial Office 209/16, Dunedin Hocken Library, Micro 122/12, 124.
41 George Clarke to the Executive Council, Colonial Office 209/16, 30 June 1842, Dunedin Hocken Library, Micro 122/12.
42 On 4 August 1842 the New Zealand Government Gazette announced the appointment of Dr Edward Shortland as Magistrate and Sub-Protector of Aborigines for the Eastern Districts. The murder and cannibalism at Katikati and the aftermath will be discussed in more detail in chapters four and five.
44 For information about the district the following sources have been particularly useful: Paul Monin, This Is My Place. Hauraki Contested 1769-1875 (Wellington: Bridget Williams Books, 2001); Evelyn Stokes, A History of Tauranga County (Palmerston North: Dunmore Press, 1980); D. M. Stafford, Te Arawa (Wellington, Auckland Sydney: A. H. & A. W. Reed, 1967).
Whanaunga, Ngati Tamatera (collectively known as Marutuahu, after their common ancestor of that name), Ngaiterangi, Te Arawa, Whakatohea, Ngati Awa and Waikato. Although nowhere officially described, the Eastern Districts broadly consisted of the area to the east and south-east of Auckland, including Waiheke Island, the Hauraki Plains (Thames), Coromandel Peninsula, the Bay of Plenty (Shortland travelled as far east as Opotiki), Rotorua and the eastern Waikato area (see map in Figure 1). Shortland often travelled from Auckland to the Firth of Thames, up the Waihou river to Matamata, and from there overland to Tauranga and Maketu; from Tauranga he might travel by sea back to Auckland, or take the overland route, via Matamata to the Waikato River and then down river to its mouth, overland to Manukau and from there to Auckland. He regularly made the shorter journeys from Maketu to Rotorua or to Tauranga and back.

According to traditional history the Maori people arrived in New Zealand many generations ago in a number of canoes, the most celebrated of which were the Tainui and the Arawa. The people of the Tainui canoe were the first to land on the east coast of New Zealand and named and laid claim to Tauranga and a place further north called Katikati. Most of the Tainui, however, travelled on around the Coromandel Peninsula, crossed the isthmus between Tamaki and Manukau, where Auckland is now situated, through to the Manukau harbour and out to the west coast and then south, past the mouth to the Waikato river, to Kawhia Harbour where they settled, claiming and naming all the land they passed. From Kawhia, over generations, groups moved east to the Waikato all the way back to the Hauraki (Thames) area.

The tribe among whom Shortland lived at Maketu were the Arawa, who, on their first arrival in New Zealand in the Arawa canoe, finding Tauranga and Katikati already taken by Tainui, had taken possession of nearby Maunganui, and then sailed further south to land their canoe at Maketu. Over generations various family groups spread west to Rotorua and Taupo, and further all the way to the west coast; also east to the coast and south. A third canoe, Te Mata-atua, landed further east from both Tainui and Arawa and some of their descendants became known as Ngaiterangi. The various groups were embroiled in conflict from the early days of their landing. The eventual result was that Ngaiterangi took over the whole of the area, first occupying Maketu, then conquering Maunganui and finally Tauranga. The Arawa

---

45 Edward Shortland, Traditions and Superstitions, 14.
moved inland to join their relatives at Rotorua. The Waikato and the Arawa of Rotorua eventually made links through marriage.

Over the generations, conflicts over resources increased as sons tried to lay claim to their own land for their family group. By the beginning of the nineteenth century tribal squabbles and wars were a regular occurrence. As Hazel Riseborough and John Hutton point out, the ‘tribal landscape was enormously complicated as a result of ... numerous conflicts and migrations’, and the tremendous value of the region’s resources and assets. 46 Maketu, rich in seafood, was a desirable possession over which many battles were fought.

One of the earliest known European visitors to the district and the most famous was Captain Cook. In November 1769 Captain Cook’s ship Endeavour spent twelve days in Whitianga harbour. 47 Horeta Te Taniwha, an elderly Coromandel chief with whom Shortland had dealings in connection with land claims, was a little boy when the Endeavour circumnavigated New Zealand. He met Captain Cook, who gave him a nail, a treasured possession until Horeta lost it at sea. 48 Cook left behind some potatoes, which were seeded and planted and within a few years not only provided food for Maori feasts but also articles for trade with ships that called in. Once Cook’s descriptions and charts had been published, many other ships visited Hauraki in the 1790s to collect provisions, spars and timber. In fact, according to Anne Salmond, Hauraki ‘was the first densely populated region in New Zealand to experience sustained contact with Europeans’. 49 The ships that called from Sydney sometimes carried escaped convicts who disappeared into the bush and were adopted by local Maori. The first known of these in the Hauraki Gulf escaped from the Hunter in 1799. 50

The musket wars of the 1820s had a great impact on the whole of Shortland’s district and caused a temporary desertion of Hauraki by the Maori living there. They fled to

---

the Waikato district, and did not return to their homes until 1830-1831.\textsuperscript{51} Samuel Marsden, who established the first missionary station in the north of New Zealand in 1814, travelled down the east coast and made a journey into the Hauraki Gulf in 1815.\textsuperscript{52} When he returned in 1820 on board H.M.S. \textit{Coromandel}, they found the area devastated by recent wars; survivors were reduced to a state of poverty and fear, according to Marsden.\textsuperscript{53} During the raids from the north many from the Hauraki and Bay of Plenty were taken prisoner and transported to the Bay of Islands. Around 1830 the northern tribes started to release prisoners taken during the wars. Many of them had meanwhile converted to Christianity and they brought the message of the Gospel home to their tribes.

In the 1830s the district experienced an influx of Europeans. Whaling stations appeared and disappeared, as the number of whales waxed and waned. For a short time there were whaling stations on the Coromandel Peninsula and at Tauranga and possibly one in the Bay of Plenty.\textsuperscript{54} Commercial houses in Australia sent agents to the Hauraki (for timber) and Bay of Plenty (for flax). Generally these agents traded anything else that would make them money, including alcohol, which they distilled locally. There were a dozen or so such settlers in Shortland’s district, mainly in the Firth of Thames and along the Piako River, on Waiheke Island and in Mercury Bay. They were among the most vociferous opponents of the colonial government, such as Auckland businessmen and Thames Valley settlers William Brown and Dr Samuel McDonald Martin.\textsuperscript{55}

Among the European arrivals in the district was Phillip Tapsell, a whaler and trader who was married to a sister of the northern Nga Puhi chief Wharepoaka. He established himself at Maketu as agent for a Sydney flax trader. At that time, after many battles fought in the past over Maketu, the place was considered disputed territory and therefore deserted. Both Ngaiterangi who were established at Tauranga and Arawa at Rotorua had food gathering rights at Maketu. They had cemented

\begin{itemize}
  \item Paul Monin, \textit{This Is My Place}, 72.
  \item Anne Salmond, \textit{Between Worlds}, 481-488.
  \item Paul Monin, \textit{This is My Place}, 49-51.
  \item Harry Morton, \textit{The Whale’s Wake} (Dunedin: University of Otago Press, 1982), 236.
  \item Together with Logan Campbell, Brown owned the Auckland newspaper the \textit{Southern Cross} of which Martin was the editor. The paper was severely critical of Governor Hobson. The three men, Brown, Campbell and Martin, all Scots, belonged to a group that called itself ‘The Radicals’ or also ‘The Senate’. The group consisted of Auckland merchants and of ‘old land claimants’ who had purchased Maori land before 1840 and who were extremely put out by the land regulations introduced by Hobson. Land issues will be discussed in Chapter Six.
\end{itemize}
relationships through peace making and marriage arrangements. Tapsell was the first European to settle at Maketu. Around the same time several traders started trading from Tauranga.\(^56\) Inadvertently their presence created new conflicts. Tribal relationships became more and more muddied, as decisions were no longer prompted only by family honour. Now conflicts also arose out of competition for the new resources offered by the Pakeha. Tapsell traded weapons and ammunition for scraped flax, thus arming warriors who had previously not had access to European weapons. Tapsell’s Ngapuhi brother-in-law Wharepoaka accompanied him to Maketu and returned Arawa slaves to their home at Rotorua. Once the trade station was opened there was a rush to the coast as Arawa and their allies moved there to work and trade. Ngaiterangi gave their former enemies permission to move to the coast since they were unable to supply sufficient labour themselves, but charged a tax for the privilege.\(^57\) Intertribal relationships now became ever more complex.

In 1830 a Ngapuhi war party came south to attack Ngaiterangi of Tauranga, even though they had fought together in the past against the Arawa. This latest raid may have been an attempt to knock out the competition and to get a stronger hold on the flax market for themselves, but the Ngapuhi were defeated. The Ngapuhi returned in 1831 to avenge their dead, but instead of attacking Tauranga they attacked Ngaiterangi relatives at Tuhua and Motiti Islands. Warned of what was happening, Ngaiterangi sent a large force to Motiti and again defeated Ngapuhi, killing nearly every man.\(^58\) Early in 1833 Ngapuhi came south again to avenge the casualties they had suffered in 1831. Most Rotorua chiefs decided to join the Ngapuhi, their former enemies, largely because Tapsell, ‘their’ Pakeha, was related to Ngapuhi and they did not want to lose his trade. Others, however, decided to join their former enemies Ngaiterangi with whom they were now at peace, to revenge the deaths of their relatives at the hands of Ngapuhi in the past. No decisive battles were fought and the conflict continued with skirmishes. The Ngapuhi force settled at Maketu with their Arawa allies and scraped flax. Both sides intensified fortifications; Ngaiterangi at Te Tumu and Arawa with Ngapuhi at Maketu.

\(^{56}\) D. M. Stafford, *Te Arawa*, 201. Stafford mentions Scott, Montefiore, Nicholas and Farrar.
\(^{58}\) D. M. Stafford, *Te Arawa*, 200.
Towards the end of 1831 the Church Missionary Society missionaries Henry Williams and Thomas Chapman travelled to Tauranga, Maketu and inland to Rotorua on an exploratory journey with a view to establishing new mission stations. In 1835 the Church Missionary Society established missions at Rotorua (Chapman), Mamatama (Brown) and Tauranga (King and Wade). They became involved in the intertribal disputes almost immediately when a new conflict erupted, forcing Reverend Brown to flee Matamata and move to Tauranga.

An Arawa chief Huka, or Haerekuka, was absent at Rotorua when the shipload of payment for scraped flax arrived at Maketu and as a result he had been left out of the distribution of goods. To instigate revenge Huka committed what Shortland called whakahe, which he translated as ‘putting your adversary in the wrong’. Instead of punishing his own relatives for the injury done to him, which would be unlawful according to Maori custom, Huka taunted another tribe into punishing his relatives. By committing ‘some act of violence on a neighbouring tribe’, Shortland explained, revenge would be exacted on his own tribe and so ‘punish the whole in order to get at that part of it who did him wrong’. On Christmas Eve 1835 Huka murdered Te Hunga, a Waikato chief and nephew of Te Waharoa of Ngati Haua who was an ally of the Ngaiterangi at Tauranga. The missionaries tried to intercede in the threatening war caused by the murder committed by Huka, but war was inevitable. Revenge came in March 1836 when a strong force from Waikato made a fierce attack on Maketu, killing almost all its inhabitants. Tapsell and his wife were spared, but the warriors burnt his trading station and carried away the stores of flax. The scenes after the battle, witnessed by the Reverend Brown, missionary at Tauranga, were harrowing: ‘a heart stuck on a pointed stick; a head secured to a short pole; baskets of human flesh with bones and hands, etc., obtruding from the tops and sides’.

The district was once again in a state of full-blown war. The Arawa retaliated with an attack on Te Tumu Pa. After this Ngati Haua took revenge with an attack on Rotorua. Chapman’s mission station at Lake Rotorua was destroyed and had to be abandoned. The mission station at Matamata was also abandoned in October 1836 because of the fighting. Chief Te Waharoa of Ngati Haua, from whom the land for

60 ibid.
61 D. M. Stafford, Te Arawa, 233.
the Matamata mission had been purchased, encouraged the missionaries to evacuate and took responsibility for their safety. Nevertheless, when Reverend Brown tried to upbraid Te Waharoa for his violence, Te Waharoa told him that if he did not like what he, Waharoa, was doing he would kill and eat him too. 62 The missionaries Chapman and Stack stationed themselves at Tauranga, while Brown and his family moved back to the Bay of Islands. He did not return until 1838. In that year Chapman re-opened the mission at Lake Rotorua and moved back there. There had been sufficiently reassuring moves towards peace to make this possible. Tapsell did not return after his trade station was sacked in 1836. The Rotorua tribes, however, re-established themselves at Maketu and held ground against the united force of Ngaiterangi and Ngati Haua. They re-conquered large portions of the lands their ancestors had lost. 63 The cloud of war hung over the district during most of 1838. The missionaries made continuous efforts to prevent bloodshed. The gatherings of Maori listened politely, but did not change their mind. Maketu remained the main area of contention. The missionaries believed that the only solution was for the mission to purchase Maketu and turn it into neutral ground.

On the other side of the Coromandel, in the Firth of Thames, the Hauraki tribes had returned to their tribal areas in the early 1830s. In the 1820s Ngapuhi raids had driven them away and they had defensively moved inland. Although the tribes onto whose land they moved had received them hospitably, eventually their presence led to conflict. The Ngati Haua, whose principal pa was at Matamata, pushed the Hauraki tribes back to their own lands. Some battles had been fought but the Ngati Haua and Hauraki people were at peace by the late 1830s, although no official peacemaking meeting had yet been held. The condition of the peace was that the river Waihou should be left open to both parties for the purpose of trade. 64 The chief of the Ngati Haua was Te Waharoa, who was closely allied with the Tauranga tribes and involved in the battles and threats of war around Maketu described above. When George Clarke, Chief Protector of Aborigines, visited Matamata in December 1840, the Ngati Haua told him that they were at peace with the Hauraki Maori, but

62 D. M. Stafford, Te Arawa, 235.
63 Edward Shortland, Traditions and Superstitions, 21.
that there was ‘no prospect of a peace with the Rotorua tribe, unless something could be done respecting Maketu’ which was ‘the bone of contention’.

In 1840, a number of prominent chiefs in Shortland’s district signed the Treaty of Waitangi. Once Auckland was established, the whole district gained in importance as the hinterland to the seat of government. The Maori communities of the Thames area and the Bay of Plenty grew crops specifically for trade and regularly travelled to Auckland to sell their goods. In the early days of the settlement, Aucklanders were mainly dependent on Maori supplies of ‘firewood and for pork, fish, potatoes, pumpkins, fruit, Indian corn and cabbages’. At Auckland a piece of land was set aside for Maori use during visits there, but groups also camped in convenient bays, in the backyards of Chief Justice Martin or Protector Clarke.

Despite many signs of ‘civilisation’ and the adoption of Christianity by many Maori in Shortland’s district, Chief Protector Clarke described the inhabitants of the district as ‘some of the most rude and barbarous tribes in the whole island’. The historical turbulence of the area, with renewed threats of war after the murders at Katikati so near the Auckland settlement, made it politic to place a government officer there as soon as possible. In order to understand the background to the Katikati murders and to fulfil his role as protector and peacemaker, Shortland had to unravel the intricate details of the above history of many generations, of the wars and the reasons for fighting, of the webs of relations and alliances. What prompted Shortland to accept this appointment and what qualities and qualifications did he bring to it? The answers to these questions are explored in the next chapter.

65 Protector of Aborigines’ Report of his Visit to the Thames and Waikato, enclosure No. 18 in Dispatch from Governor Gipps to Lord Russell, 7 March 1841, GBBPPNZ 1842 (569), 93-100.
66 Malcolm McKinnon, ed., New Zealand Historical Atlas (Wellington: David Bateman in association with the Historical Branch, Department of Internal Affairs, 1997), 36a.
Conclusions

Although New Zealand was not the first country to have a 'Protector of Aborigines', the colony was established at a time when humanitarianism was at its peak and Colonial Office personnel were sympathetic to its aims. This resulted in a strong will to pursue these aims. There was a general belief that New Zealand offered a unique opportunity to benefit from past mistakes and to prevent the kind of dire situation for indigenous people European settlement had created elsewhere. While the protectorate was the result of humanitarian concern for Maori welfare, it was also intended to make European settlement in New Zealand possible in a peaceful manner. Shortland's appointment was the direct result of the threat of renewed intertribal war in a district that had seen fierce intertribal wars only a few years earlier. His job was intended as much to protect Europeans, as it was to protect Maori and their rights. Governor Hobson recognised this dual role and considered it the solemn duty of his administration to reconcile conflicting interests and bring harmony and tranquillity to the colony. Hobson did not see this task accomplished. He died in September 1842, not long after Shortland's appointment as sub-protector. Shortland took on the task and adopted the solemn duty to see the vision made reality.
Chapter Two
Not every man with a dark skin a savage: Shortland's first impressions

In October 1842 Shortland visited the site of the old Matamata pa where a mere six years earlier a tremendous battle had been fought against Ngapuhi, who were repulsed. According to Shortland 'the number of slain was so great that they were hung up around the palings of the pa, and a great many more were eaten'. Yet, unlike some other authors, he did not dwell on these gruesome events nor did he transfer them to his published writing. Shortland continued his journal matter-of-factly with the observation that the pa was 'very strongly situated' surrounded by swamp. He also noted the large, well built Maori houses, which had fallen into decay by the time of his visit, because the pa had been deserted. The site was marked with a carved monument devoted to the warrior Te Waharoa. Shortland showed more interest in and appreciation for Maori striving towards modernisation and civilisation than their gruesome past. He admired the new Christian village near the old pa, with its huge and wonderful church, 'the best native building' Shortland had seen in New Zealand: ninety feet long and about forty feet wide, with only two pillars of support in the centre. Such signs of burgeoning Christianity as well as Maori interest in peace and in the assistance of Europeans to help establish peace gave Shortland an optimistic view of the future. His fearless willingness to work and live among Maori in a turbulent district was guided by this optimism and derived from his earliest encounters with Maori.

First encounters

The bustling trade between the settlers in Auckland and Maori living in the outlying districts meant a constant Maori presence in the settlement. Tribal leaders regularly visited Auckland not only to trade but also to consult with the government. The

---

1 For example William Swainson, who contrasted a most gory description of the carnage of Maori war with Maori conversion to Christianity fifteen years later (W. Swainson, Auckland: the Capital of New Zealand [1853; rpt. Wilson & Horton, facsimile edition, 1971], 144-145).
2 Edward Shortland, 'Journey to Matamata, Tauranga and Waikato, 8 October to 10 November 1842', 18 October 1842, Commonplace Book A, Dunedin Hocken Library, PC-0022.
government in turn consulted them when there was trouble in the area. One of these Maori leaders was Wiremu Hoete (William Jowett), a Christian Ngati Paoa chief from Waiheke Island. Hoete was a regular visitor to the home of the chief justice, Sir William Martin, and his wife. Lady Martin described Hoete as 'one of their special friends'.

Shortland met Maori not only in the Auckland streets, but also at the residence of the governor and at the house of the chief justice. Shortland signed the Deed of Purchase of the site of the City of Auckland as witness to the signature of Reweti Tamaki to confirm an additional payment of six pounds. Shortland's first experience of a large Maori gathering was during a peacemaking meeting at Orakei in February 1842. According to his friend Captain Best, Shortland had never seen such a large 'assemblage' of Maori and was 'anxious to see some of their amusements'.

Shortland's first opportunity to travel into the interior came during a journey through Waikato with Governor Hobson in April 1842. This proved an opportunity to witness Maori methods of dispute resolution. Shortland came away from these experiences with some knowledge of Maori language and customs and with the conviction that Maori were not the savages some people might believe them to be. In an article describing the trip with Hobson, Shortland remarked: 'The natural politeness of a well-bred native is perhaps the most striking of the sharp features which present themselves to a European traveller as he has never heard any thing to make him expect it.'

---

7 The governor's party consisted of: the governor, Chief Justice William Martin, Captain Best, as Aide-de-Camp, and Edward Shortland, Private Secretary and Physician to the governor. Edward Meurant was the official interpreter. Attorney General William Swainson, who was to be of the party, had at the last moment decided not to accompany them. Shortland took copious notes in his journal (Edward Shortland, Journal entitled 'Coromandel and Kawhia 1842', Dunedin Hocken Library, PC-0021); an account of the journey was published in the *Auckland Standard* in May 1842 ('Notes by a Gentleman who accompanied His Excellency on a Journey to Waikato and Kawhia [sic]', Article by Edward Shortland in the *Auckland Standard*, Monday Evening, 9 May 1842).
8 *Auckland Standard*, Monday Evening, 9 May 1842.
Learning the language

From his arrival in New Zealand Shortland set out to learn the Maori language with great diligence and he proved himself a skilled linguist who made rapid progress. According to his colleague George Clarke junior, Shortland badgered him to share his knowledge of Maori language and lore, and young Clarke ‘coached Edward for months of daily teaching’. During his first months as protector, Shortland still had to make use of the services of an interpreter. In less than a year after his appointment he went on circuit without such assistance and after he had been in New Zealand two years he himself served as interpreter at land claims inquiries. He used every opportunity to immerse himself in the language and culture. When accompanying Governor Hobson to the Waikato in April 1842, Shortland preferred to pitch his tent among his ‘new allies’, instead of accepting a bed in a missionary house, because he wanted to use ‘every opportunity’ to increase his knowledge of the language. Snippets of Maori appear in Shortland’s journals from an early date and Maori words sometimes take the place of English, for example ‘kai’ instead of food or dinner. Shortland collected sayings, poetry and songs, by attending Maori meetings or holding a ‘soiree’, as his friend Captain Best called it.

Shortland’s own experience with interpreters taught him the shortcomings of such mediation. During negotiations in Tauranga in 1842, the interpreter Edward Meurant added unauthorised remarks about threatened government action to intimidate his Maori listeners. Shortland discovered this dangerous extemporising some months later. Equally confounding were omissions, especially in translations from Maori to English, when translators might simplify instead of including all subtleties, double

---

9 Governor FitzRoy praised Shortland as follows: ‘an excellent linguist, a good medical man, and extremely kind to the natives, therefore he has much influence with them’ (footnote signed 14 September 1844 by R.F. [Robert FitzRoy] to a letter from Edward Shortland to George Clarke, Chief Protector, dated 7 September 1844, GBPPNZ 1843-45 [247], 102-03).
10 George Clarke (junior) to Dr Thomas Morland Hocken, 10 November 1904, Dr Thomas Morland Hocken Papers, Correspondence, Dunedin Hocken Library, MS-0451/020.
11 Shortland worked with Colonel Godfrey in the Eastern District and in the South Island.
14 A. D. W. Best, Journal of Ensign Best, 333, 369. Captain Best was Aide-de-Camp to the governor during the trip to the Waikato in April 1842. He was also stationed at Tauranga for a short while. Due to their official functions, Shortland and Best were often in the same place at the same time. Best’s journal of his years in New Zealand, covering the period April 1840 to January 1843, is a useful supplement to Shortland’s journals.
meanings, or references to myths and proverbs. For example, Sir George Grey found that to save time interpreters would ‘compress the substance’ of representations made to him, as well as of his own replies. He feared that ‘much that was material’ to his full understanding tended to be unintentionally omitted. This motivated Grey to study the Maori language.\textsuperscript{16} To prevent such loss of deeper meaning, Shortland always wrote down important accounts word for word. He then checked the accuracy of what he had written by reading it back to the narrator, using this opportunity to check the meaning of words he did not understand.\textsuperscript{17} He also took pains to write down names of persons and places as literally as possible, however complicated or long.\textsuperscript{18} Well aware of what could be lost in translation, Shortland generally provided both the Maori text and his own English version of poetry in his books, while excusing himself that he could never ‘convey the spirited energy of the original’.\textsuperscript{19}

Shortland discovered that the casual utterance of swearwords and obscenities by some Europeans could be very upsetting to Maori. It had earned Europeans the epithet of ‘cursing tribe’, according to Shortland.\textsuperscript{20} When he received complaints about cursing, as protector of aborigines, Shortland tended not to take these too seriously at first, even though he realised that in the eyes of Maori these curses were connected ‘in some way with their own superstitious dread of makutu’ (witchcraft) which they believed capable of causing real harm. Shortland told them that English law had no provision to punish abusers of language and that instead ‘their punishment was the contempt of good men and gentlemen’. While his Maori friends agreed that this might satisfy Englishmen, they still insisted on receiving compensatory payment. Shortland predicted that the only payment they were likely to get was ‘more curses’.\textsuperscript{21}

\textsuperscript{16} Sir George Grey, \textit{Polynesian Mythology and Ancient Traditional History of the New Zealand Race, as Furnished by Their Priests and Chiefs} (London: John Murray, 1855), viii.


\textsuperscript{18} See for example Shortland’s Maketu Journal, in which occur such names as ‘Mokonuiarangi’ and ‘Rangitakina’.


\textsuperscript{20} ‘Katahi te Iwi-kanga, Te Pakeha’, which Shortland translated as ‘What a cursing tribe are the whitemen’ (Edward Shortland, \textit{The Southern Districts of New Zealand} [1851; rpt. Christchurch: Capper Press, 1980], 28).

\textsuperscript{21} Edward Shortland, ‘Journey to Matamata’, 8 October 1842.
Later Shortland came to realise more fully that some forms of swearing held wider connotations for Maori, carrying meanings far more serious or ominous than the users might have intended. Maori did not seem to distinguish between words and deeds. To refer casually to doing violence to certain body parts, for example to say ‘I’ll box your ears’, was therefore not that different from committing the act. Shortland devoted five pages of *Southern Districts* to explaining the dire consequences such insults could have since ‘according to ancient usage’ such a “kanga” required ‘to be avenged by blood’.22 The wrong use of language could therefore easily be the cause of severe cultural misunderstandings. What applied to curses also applied to an effigy, which might be used to deliberately insult someone. The Waikato chief Te Wherowhero once complained to Shortland that Ngati Po, with whom he was in dispute over an eel weir, had repeatedly insulted him by setting up a post, naming it after him and shooting at it. Only his promise to late Governor Hobson to live in peace and leave the settlement of this dispute to the government prevented Te Wherowhero from fighting to revenge the insults.23

Learning about customs

The instructions Shortland received on his appointment as protector of aborigines advised him to increase his knowledge of Maori language and also of customs as soon as possible. He would thus gain the confidence and respect of Maori. Not only would he be able to communicate with them, but also to ‘sympathize, advise and direct them in their many complicated difficulties with each other’ and ‘to make due allowance for many of the[ir] prejudices, and practices’.24 Shortland’s own experience soon convinced him that it was not sufficient to learn the language, but that knowledge of language needed to go hand in hand with understanding Maori culture. He came across a striking example early on in his career as protector, during negotiations for the purchase of land at Katikati. After an impassioned speech in favour of the sale, the Matamata chief Pohepohe stretched himself at full length on the ground and desired the interpreter Edward Meurant to seat himself on his belly. Shortland did not entirely understand the meaning of the gesture, and struggled to

---

23 Te Wherowhero made this promise to Hobson during Hobson’s trip through the Waikato in 1842 mentioned above.
24 George Clarke to Edward Shortland, 10 August 1842, George Clarke (1798-1875), Letters and reports, 1842-1847, Dunedin Hocken Library, PC-0160.
grasp its significance. He speculated that it was probably a symbol of consent: 'who
would dare to push the man off who had sat on his belly'.

Shortland saw an important role for himself as ethnographer of Maori culture and
viewed it as a way for the government to increase its influence, in particular in
dealing with land. He felt that missionaries were not well placed in that respect.
Shortland claimed that while missionaries were for many years the only people able
to 'converse freely' in Maori, they seemed 'to have avoided all enquiries' into the
subject of 'superstitions' of the 'native race'. In *Southern Districts* Shortland stressed
that it was important for colonists to gain knowledge of Maori customs, to enable
them to communicate more effectively. He believed that it was 'an important element
of the prosperity of our settlements in New Zealand' that colonists understood as
much as possible of 'the peculiar ideas and prejudices' of the indigenous people
whose neighbours they would be. George Grey had a similar view and felt that as
governor of New Zealand he could not govern effectively if he had no knowledge of
Maori 'language, manners, customs, religion, and modes of thought'. Many Maori
shared this feeling. During George Grey's first governorship, several leading Maori
took the initiative to instruct the governor. Shortland never lacked in Maori guides
and interpreters willing to instruct him. Maori also willingly told him their ancient
histories in order to help him understand their land disputes.

---

27 Edward Shortland, *Traditions and Superstitions*, v. With this remark Shortland not only tried to
increase his authority as ethnographer (see the section on methodology in the introduction to this
thesis), but he also conveniently distanced himself from missionaries. The Protectorate was widely
criticised by settlers for undue missionary influence (see for example C.H. Wake, 'George Clarke and
This particular observation by Shortland seems to have been prompted by Alfred Brown, the
Tauranga missionary, who showed little interest in the 'soirée' of Maori songs organised by Shortland
and his friend Captain Best. Best referred to the superstitions of missionaries, which blinded them to
the interest of Maori myths and poetry as sources of ethnographic interest (A. D. W. Best, *Journal of
Ensign Best*, 369). Shortland knew very well that not all missionaries were the same, as he found by
reading *Polynesian Researches* by the missionary William Ellis. He referred to Ellis' work in *Southern
Districts*, for example on page 35. Shortland also mentioned the work by the New Zealand missionary
Richard Taylor in the preface to the second edition of *Traditions and Superstitions* (vii). Taylor's book *Te
Ika a Maui* contains lengthy discussions of Maori customs and his book is in fact more extensive than
& A. W. Reed, 1974]). The two men met and discussed Maori custom.
30 One of these was Wiremu Maihi te Rangikahake of *Te Arawa*, who wrote to the Queen that he
believed the governor was not able to give as much attention to Maori affairs as was desirable because
he 'did not yet know the language and customs of the Maori'. To help and teach him Te Rangikahake
lived with Governor Grey (quoted by Jenifer Curnow in 'Wiremu Maihi te Rangikahake: His Life and
Work', *Journal of the Polynesian Society*, 94: 2 [1985], 104). Piri Kawau of Ati Awa also acted as cultural
informer and interpreter for the governor.
The journey through the Waikato with the governor in 1842, Shortland’s first experience of the interior, set the tone for his future relationship with Maori. He was ‘well content to take the world as it was’, while Governor Hobson and Chief Justice Martin were impatient to continue travelling, despite the threat of rain and the reluctance of their guides to go on. Shortland willingly respected the directions of their companions, some of whom were highborn chiefs like Te Wherohero who remarked that ‘if we were travelling with you, you would call us fools if we wished to travel otherwise than according to your custom but now you will not be guided by our advice’. Shortland noted that their Maori guides, ‘always fond of a joke [e]ven in their more serious moods’, turned their wit upon the man they deemed responsible for their having to travel in the heavy rain, teasing William Martin in their boat song. Such boat chants embellished with extempore jokes, were often used to ‘cause merriment, and enliven and encourage the crew’, Shortland remarked. When the party finally halted towards the end of the day it was in a ‘most dreary and desolate’ place. Shortland wondered whether they had been ‘brought there for [their] folly as a punishment’. When travelling on his own Shortland was patient, realising that Maori tended to be ‘utterly careless whether they arrived soon or late at the end of their voyage’. He accepted that his guides designed their route so as to make the most of available food sources, even if this meant travelling no more than nine or ten miles on a day. There was no better school to learn the virtue of patience than New Zealand, Shortland suggested.

It required patience to unravel the meaning of Maori accounts. Shortland found that to get to the bottom of a case he sometimes needed to dig deep, because Maori ‘will not scruple, in many cases, to misstate and deceive’, even if they did not derive any advantage from doing so. Shortland therefore tended to be ‘very cautious’ with regard to Maori statements and always looked for possibilities of misrepresentation. Rather than bluntly accusing Maori of lying, he realised that this was partly due to their ‘inventive faculty of a “raconteur”’. But, Shortland discovered, Maori also had a custom of deceit called maminga, in which children were instructed from an early

32 Edward Shortland, Traditions and Superstitions, 167.
33 Edward Shortland, Southern Districts, 119.
34 Edward Shortland, Southern Districts, 234-35.
36 Edward Shortland, Southern Districts, 25.
age, which ranged from simple jokes to the most artful simulation, involving specific and recognised forms of address. In his explanation of maminga Shortland stressed the cultural meaning of the custom, refraining from moral judgement. This contrasts with other writers such as Joel Polack, who wrote about the 'degrading habit' of maminga, which he saw as a 'mischievous vice'. Shortland firmly believed that Maori were incapable of persisting in an untruth for any considerable length of time and would tell the truth if carefully and patiently cross-examined. He found that Maori made allowances for their custom of deceit, for example by ensuring that the 'first meetings of strangers' were held in public, 'lest any suspicion should arise that private or underhand communication took place'.

Shortland combined warmth of feeling and openness towards Maori with a strong sense of justice seasoned with pragmatism. This expressed itself in willingness to go with the flow and not only learn about Maori customs but also to be swayed by them. When he travelled through the Waikato with Governor Hobson, Shortland preferred to camp among his Maori friends, 'very loth indeed to separate from them,' since 'our acquaintance with each other had only strengthened our aroha for each other'. There was a continuous good-humoured banter and exchange between Shortland and his Maori companions. After a thorough soaking in the rain and while drying their clothes by the fire, Shortland and Captain Best wrapped themselves in blankets Maori fashion. This made their 'good humored' Maori friends laugh and congratulate them on being now 'in truth their brethren — tangata Maori'.

Not only did Shortland find it difficult to adequately translate the 'spirited energy' of a haka song (see above), like many of his contemporaries he also had difficulty coping with the intensity of feeling exemplified and stirred up by a tangi. He had to search for appropriate words for a description, as is apparent from the agitated

40 Edward Shortland, Memorandum to Colonel Despard, 30 September 1845, enclosure 16 in despatch No. 69, Governor FitzRoy to Lord Stanley, 25 October 1845, GBPPNZ 1846 (337), 146-147.
handwriting and the many words crossed out and rewritten in his journal.\textsuperscript{43} It produced a ‘strange thrilling sensation’ in him when the ‘united voices swelled into a loud continued roar’.\textsuperscript{44} Other Europeans experienced similar emotions. For example, Lady Martin, the wife of the chief justice, wrote that the cry of the tangi was so moving that Governor Hobson felt quite overcome when he first heard it and had to ‘go aside and hide himself’.\textsuperscript{45} Maori were less bashful regarding displaying their feelings. The first time Te Wherowhero met Shortland after Governor Hobson’s death ‘he saluted me with his native lament, and cried most bitterly for about ten minutes, when he nosed me’, Shortland wrote.\textsuperscript{46} Shortland’s account of the tangi ceremony resembles a scene from a Greek tragedy.\textsuperscript{47} He recognised the chorus of old women, who were ‘stript to the waist, their dishevelled hair hanging about their shoulders’, as the chroniclers of past events, who ‘chanting the names of the dead, and recounted their former deeds of valor or their most esteemed virtues’. They presented a ‘most abject picture of woe and despair’. The experience was still new to Shortland. His friend Captain Best had seen it all before and wrote of the same tangi: ‘They were led as usual by three old crones of hideous aspect’.\textsuperscript{48} Some contemporary authors have tended to ridicule what they considered a lack of dignity in the gestures and facial grimaces and of the nakedness they saw,\textsuperscript{49} while others seem to have felt a little uncomfortable with the display and barely mentioned it.\textsuperscript{50} Shortland observed closely and reported in detail what he saw with admiration and respect. He was struck by the dignity of an old chief who ‘stalked backwards and forwards

\textsuperscript{43} Edward Shortland, Journal entitled ‘Coromandel and Kawhia 1842’, 12 April 1842.
\textsuperscript{44} Edward Shortland, ‘Notes by a Gentleman’, \textit{Auckland Standard}, 9 May 1842.
\textsuperscript{45} Lady Martin, \textit{Our Maoris}, 18. Captain Best described a ‘powerful & choaking [sic]’ effect at the tangi when old friends, now dead, were mentioned. He was glad when the subject changed to something that had no personal connection to him (A. D. W. Best, \textit{Journal of Ensign Best}, 350). Rev. Richard Taylor wrote that ‘Until a person is accustomed to these scenes, he can scarcely refrain from weeping too’ (\textit{Te Ika a Maui}, 102).
\textsuperscript{46} Edward Shortland, ‘Journey to Matamata’, 5 November 1842.
\textsuperscript{47} cf. J. S. Polack, who referred to the story of Perseus and Medusa, but he also mentioned pantomime and Harlequin (J. S. Polack, \textit{Manners and Customs}, Vol. I, 88 and 89).
\textsuperscript{48} A. D. W. Best, \textit{Journal of Ensign Best}, 349. Best went further in his description, calling the ‘flaccid mammae’ and ‘shrunk and tottering knees’ of the old women ‘a spectacle disgusting and revolting to human nature’ (350).
\textsuperscript{49} See for example J. S. Polack, \textit{Manners and Customs}, Vol. I, 86-88.
\textsuperscript{50} Ernst Dieffenbach, \textit{Travels in New Zealand} (1843; rpt. Christchurch: Capper Press, 1974), Vol. 2, 56; Rev. R. Taylor, \textit{Te Ika Maui}, 175. Most Europeans who described the tangi admitted that it had an emotional effect. Henry Tacy Kemp, for example, admitted in his old age of a tangi that ‘the refrains and choruses taken up by the entire audience, and kept in good time, lent a charm which seemed to be almost irresistible’ (Henry Tacy Kemp J.P., \textit{Revised Narrative of Incidents & Events in the Early Colonizing History of New Zealand, from 1840 to 1880} [Auckland: Wilson and Horton, 1901], 14[a]). Kemp was the son of the missionary James Kemp and worked as Protector of Aborigines in the 1840s and 1850s. He was responsible for arranging land purchases in the South Island (see Chapter Eleven of Harry C. Evison, \textit{The Long Dispute} [Christchurch: Canterbury University Press, 1997]).
flourishing a short spear', and by the 'solemn and majestic' attitude of the others who listened attentively to him. When the orator's mat went flying from his shoulders, Shortland did not remark on his nakedness but on 'a superb meri [sic] attached to his girdle'.

Maori diplomacy and peacemaking

Shortland's first encounter with Maori customs of diplomacy and peacemaking took place in February 1842, about six months after his arrival in New Zealand. Together with other Europeans he attended a large, formal peace gathering where representatives from Ngati Paoa, Waikato and Nga Puhi came together at Orakei, a few miles from Auckland. More than three hundred well armed fighting men had come together, among them the Waikato chief Te Wherowhero, and Ngapuhi chief Rewa. In the bay nearby lay dozens of canoes, some of which very large, beautifully carved and ornamented with feathers. The tribes at this meeting either resided in the district in which Shortland later served as protector of aborigines or had close connections with them. It was an occasion for him to learn about the intertwined histories, and the intricate relationships and alliances among Maori — a good introduction to his future work as protector.

Shortland's second experience of Maori negotiations took place during the journey through the Waikato with Governor Hobson a few months later. It would seem that Te Wherowhero used the visit by the governor to place before him a legal test case. The governor's party attended hearings held at Manapouri to deal with a dispute over 'a small island in the Waikato, a kumara garden, and an eel fishery'. Shortland, as the governor's secretary, wrote down the speeches, devoting some twenty-five pages of his journal to the proceedings. It was a marvellous opportunity for Shortland to expand his knowledge of the language. The hearings were also a first-hand opportunity for the governor, chief justice and future protector of

---

53 For an explanation of the purpose of the peace gathering see A. D. W. Best, Journal of Ensign Best, 332 and Appendix 13 on page 421. R. C. J. Stone relates the long history of disputes that preceded this meeting, culminating in peace making in 1841 and 1842 (From Tamaki-Makau-Rau to Auckland [Auckland: Auckland University Press, 2001], 184-191).
54 The previous quotation and the following are all from Shortland's journal entitled 'Coromandel and Kawhia 1842', 14 April 1842.
aborigines to experience the contribution Pakeha could make, by their mere presence, to the peaceful resolution of Maori disputes. The speakers acknowledged the presence of the strangers: 'There are strangers looking on, people from afar' and: 'if it were not for the pakeha I would certainly quarrel with you'. Te Wherowhero made it clear that he wished to solve the dispute in a 'civilised' manner, when he stated: 'It is very good to come here and talk. In our past it was the strength of the hand that did everything. This has taken every strength away from us.'

From these speeches Shortland also received his first knowledge of the intricacies of land tenure based on family connections. The case concerned a dispute between Ananaia, a chief of the Ngati Po, and Te Paki (Kemp), of Ngati Mahuta who was a relative of Te Wherowhero. At the end of the day’s discussions Ananaia offered a compromise by giving up all except half of the kumara garden, but this Paki ‘very obstinately’ refused. The discussions were continued the following day but, wrote Shortland,

as those two gentlemen soon waxed wroth, and began to abuse each other, His Excellency stayed the proceedings and desired that neither party should interfere with the ground in dispute, till he could send a fit person to investigate the matter. To this both consented, and we parted.35

Chief Justice Martin left after this hearing, which suggests that he may have come along specifically to witness the Maori manner of settling disputes. It became Shortland’s duty to look into this case again in November 1842 when he was protector of aborigines for the Eastern Districts.

The most important lessons Shortland took away from the Waikato meeting were the readiness of a leading Maori chief to allow European leaders to participate in a Maori process of conflict resolution and the Maori willingness to allow the European presence to temper their behaviour, their professed desire for ‘civilisation’. The trip imbued in Shortland a lasting respect and affection for his Maori friends: ‘I think I may safely say that there was not one of the party, who did not return impressed

with the fallacy of that truly English prejudice, which teaches us to look on every man with a dark skin as a savage.'  

The dignity of the Crown

Shortland does not seem to have changed the view expressed in the above quotation even after the incidence of cannibalism in May 1842 that led to his appointment as protector of aborigines. In July 1842 Shortland accompanied his brother Willoughby, who was colonial secretary, George Clarke junior and Captain Best on a diplomatic mission to try and keep the peace between the parties involved in the incident. They first went to Taraia’s pa in the Thames area to speak with the perpetrators. Taraia effectively denied the authority of the Crown to punish him for the acts and explained that, according to Maori custom, he had acted entirely within his rights. The area through which the government party travelled was buzzing with rumours of war parties, but there was also evidence of missions of peace by Christian Maori from Matamata. At Tauranga, where the Colonial Secretary and his companions held a large meeting to discuss the murders at Katikati, it became glaringly obvious that the government was in a painful dilemma. The Tauranga people accused the governor of duplicity when they realised that he would take no steps to punish the people who had murdered their relatives. Only a few months earlier the government had executed by hanging the Maori murderer of Europeans. ‘It cannot be right to have one law for crimes against the Europeans, and a different one for the same crimes when the Natives are the sufferers’, they said.

The government was faced with the problem that there were as yet no channels through which to apply that law outside the larger European settlements. There was also no certainty yet whether the law even applied to Maori who had not signed the

57 This was described briefly in the previous chapter.
58 Taraia repeated the explanation he had given George Clarke senior at an earlier meeting (George Clarke, ‘Chief Protector’s Report for the Half Year ending 30 April 1842’, dated 18 June 1842, GPPNZ 1844, Appendices 190-92).
60 This was the young chief Maketu, who was hanged on 7 March 1842 (Ian Wards, The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852 [Wellington: Historical Publications Branch, Department of Internal Affairs, 1968], 54-5).
Treaty. In the first five years of the colony, the only tools available to the government were diplomacy and mediation under the guidance of the protectors of aborigines and with the help of missionaries. The government could only make use of politeness, firmness, fairness, and a belief in the moral superiority of European civilisation and law, supported by the dignity of the Crown and showing the flag. These were the tools Shortland readily made use of and in the effectiveness of which he firmly believed. He believed that the reputation of Europeans among Maori was based on a belief in their ‘superiority in arms’. According to Shortland, Maori assumed that if European ‘carpenters and other workmen used their tools with such wonderful skill’, they would be equally skilled in the use of their ‘warlike implements’. This ‘prestige for valour and prowess’ was of tremendous use to the government, ‘in the absence of real power’, he believed.62

Governor Hobson was well aware of the importance of pomp and circumstance to establish the ‘honour and dignity’ of the Crown, in the absence of adequate military power to back up his authority.63 He impressed this upon his representatives Major Bunbury, when he went to collect signatures for the Treaty of Waitangi, and Willoughby Shortland, on his first visit to Port Nicholson to establish the authority of the Crown.64 The governor himself displayed the dignity of the Crown at every suitable occasion. For example, he insisted on staging an impressive entrance into each village they visited during his tour of the Waikato in 1842. Although Captain Best ridiculed this in the privacy of his journal, he participated with the dignity befitting his position as aide-de-camp to the governor.65 While it may not have been easy to show the flag with appropriate dignity while struggling through bush and swamp, teetering on an old horse borrowed from one of the missionaries, the result was still impressive and an interesting eclectic mixture of European and Maori tradition. When the governor’s party approached a village, the bearers laid down their loads and gathered together. Their guide Kati, who was the brother of the Waikato chief Te Wherowhero, and the Maori party walked ahead, one proudly carrying an old Union Jack flag, while the government party followed behind. In true

62 Edward Shortland, Traditions and Superstitions, 262-63.
63 ‘Deeming it most desirable ... to displace the dignity and importance of government in a more ostensible manner than could be done by private individuals’ (Hobson to the Secretary of State for the Colonies, 25 May 1840, GBPPNZ 1841 [311], 15).
64 Hobson to Bunbury, 25 April 1840, GBPPNZ 1841 (311), 17; Hobson to Shortland, 23 May 1840, Government House, Russell (Willoughby Shortland, Government letters &c. 1840-1848, Dunedin Hocken Library, MS-0052).
Maori fashion those with guns would fire these to announce their arrival. In his description of their entry into Otawhao (Te Awamutu) Shortland clearly shows the connotations of warlike strength implied in the entry:

All those of our party who carried guns now ran forward, and as we descended the slope into the little plain which lay between us, a continual fire was kept up, which to an unmilitary eye produced a very lively idea of an attack by a party of skirmishers ... outside [the pa] a vast crowd thronged to welcome us, waving their mats or blankets, and filling the air with shouts of "haeremai, haeremai, tautimai!" their usual cries of welcome to a stranger.  

Only human

Shortland’s willingness to bow to Maori custom did not extend to the acceptance of a woman — an offer he graciously declined. He was strongly aware that as government officer he needed to set an example. He always maintained decorum and was in no danger of what is sometimes termed ‘going native’. Shortland did not seek to relieve moments of loneliness in the bush with the company of Maori women, even though they flirted with him and he understood that ‘anything might be had for tobacco’. He was charmed, but did not express this in a lustful way as some other travellers have done. ‘The young ladies very fascinating. Their coquetry most amusing, in the shy way of exposing their charms’, he noted in his journal. When Shortland made Maketu his base as protector of aborigines, the local chief Tohi Te Ururangi offered him his niece. His host was much surprised when the offer was refused. ‘To maintain a proper influence over these people I feel it necessary to keep up a show of reserve’, he wrote in his journal.

---

66 Edward Shortland, ‘Notes by a Gentleman’, Auckland Standard, 9 May 1842. The idea of ‘showing the flag’ was a common expression of empire and maintained throughout the centuries. For example Evans-Pritchard was instructed to show the flag during his posting in the Sudan during the Second World War. This he decided to do in the most literal sense when ordered to march into Ethiopia to show English dominion: his column was preceded by a Union Jack at the end of a pole which he planted in all the villages where they camped (Clifford Geertz, Works and Lives [Stanford CA: Stanford University Press, 1988], 57).

67 Edward Shortland, Journal entitled ‘Coromandel and Kawhia 1842’, 12 April 1842. Best got into trouble for his womanising when he and his regiment were stationed in Tauranga in 1843. The missionary Alfred Brown accused Best of having seduced one of his Maori domestic servants (see A.D.W. Best, Journal of Ensign Best, Appendix 21, 435).


Such reserve was not in evidence in March 1842 when Shortland acted as second for his friend Captain Best for a duel that was never fought, but that led to a petty quarrel becoming public property when some of the details of the quarrel appeared in an Auckland newspaper.\textsuperscript{71} The quarrel blew over, but the publicity is likely to have annoyed Governor Hobson, for whom pomp and circumstance and the dignified behaviour of his officials, who were the representatives of the Crown, were of great importance.\textsuperscript{72} The duelling incident and its subsequent publicity may have contributed to a falling out between Hobson and Shortland. There is mention of a quarrel in a letter from Hobson to Edward's brother Willoughby, although Hobson gave no details: 'The case is at present locked up in one or two bosoms'.\textsuperscript{73} Whatever the reason for the quarrel, it led to Shortland's resignation from his position as private secretary in June 1842. This cleared the way for Shortland's appointment as protector of aborigines.

Although Shortland was tolerant toward Maori customs, in the company of friends he was quite happy to make a joke at their expense. He gave his friend Captain Best the following 'precise' definition of Maori: 'a Nation who cultivate War, Pork & Potatoes and chew — each other'.\textsuperscript{74} While Shortland understood cannibalism to be part of the religious rites of war, and also knew that intertribal wars were prompted by the duty to obtain payment (utu) for crimes committed against a tribe, he still felt aversion to these acts. He willingly took up residence at Maketu, where only a few months previously acts of cannibalism had taken place, but he could not avoid feelings of distaste. In one of his notebooks he wrote about Tohi te Ururangi:

\begin{quote}
William Hobson to Willoughby Shortland, 1 June (no year given). Hobson wrote: 'Edward has separated from me it is true. I owe him much acknowledgement for my intemperance to him. Whatever may have been the provocation. The case is at present locked up in one or two bosoms. Don't let our enemies know that a schism ever existed and prevail on your brother to meet me on friendly terms. Let us both forgive as we hope to be forgiven' (Willoughby Shortland, Government letters &c. 1840-1848, Dunedin Hocken Library, MS-0052).
\end{quote}

\begin{quote}
\end{quote}
I own that I never could go thro the ordinary ceremonials of friendship with this man without repugnance; for he was a man of a gloomy visage, and many dark deeds, I cannot imagine it possible that a more truculent savage ever breathed in the most savage days of New Zealand.  

Yet, Shortland kept these thoughts to himself, and did not transfer them to his published books, although the remark was written among the notes for a book. This and the definition given to Best are rare instances of such critical remarks.

Advice to travellers

Shortland did not assume that Maori would automatically treat him with respect because he was European. He was aware that Maori would judge him by their own norms and that the only way they could assess his status was through his Maori companions. On his rounds Shortland travelled through the bush on foot and never staged such a grand entrance as Governor Hobson, but he was always accompanied by prominent Maori. This was of the greatest importance, he advised potential travellers. Travellers ‘should be careful to have among their native attendants, one young man at least, the son or relative of a person of consideration’. Such a guide would act as a possible ‘passport’ because his European companions would share ‘a portion of the respect due to him’. Ignoring this precaution by employing any young man found hanging about town ‘without inquiry as to their rank or character’ was bound to lead to mishap or even robbery. It was also important to take the correct number of Maori attendants on one’s travels. Shortland suggested that four to six ‘native attendants’ was ‘quite enough’ for one person, the higher number being necessary only when travelling through deserted areas where one had to carry additional provisions, since there were no villages to call on for food. Also, in places where the traveller was not known, his importance would be estimated by the number of his attendants. If he travelled with only one or two, the traveller would be seen as ‘a low sort of fellow’ and ‘treated accordingly’. Four, however, were ‘quite enough’ to ‘establish a character for respectability’.

---

75 Edward Shortland, papers 1840s-1880s, Dunedin Hocken Library, MS-0489/001.
76 Shortland devoted several pages of Southern Districts to advice to travellers, specifically what to take and how much (181-85).
77 Shortland pointed out that this was no different from travelling through England or Europe, where the same care should be taken in choice of companions (Southern Districts, 184-85).
78 Edward Shortland, Southern Districts, 184.
Because each item of luggage had to be transported on the backs of native attendants, it was advisable to limit oneself to what was ‘absolutely necessary’. ‘It is really incredible’, Shortland remarked, ‘how, after a little practice, many things before thought indispensable may be abandoned without regret’. Since the attendants had to be paid and other payments might be required on the way, the luggage needed to contain adequate quantities of goods to act as money. Shortland recommended extra blankets ‘to defray extraordinary expenses’. Tobacco served as ‘small money’ in all parts of the country outside town settlements. The traveller should divide his supply of tobacco into several separate parcels, Shortland advised, so that his attendants would not know the exact state of his finances. Otherwise this might lead to ‘incessant and very annoying’ appeals to the traveller’s generosity. One must realise, Shortland warned, that ‘a New Zealander always expects a person to pay according to his means, and not according to the value of what he receives’. This explanation suggests a better cultural understanding than shown by some other travellers, who labelled Maori ‘greedy’. Shortland always took great pains to pay for services in a fair and timely manner. For example, when a large party came to help Shortland and his companions to cross a swamp near Matamata, he noted in his journal: ‘to prevent mistakes I took down the names of 13 persons, who were employed by us and they were afterwards paid with tobacco two sticks to each man’.

Although a doctor, Shortland clearly did not see tobacco as unhealthy. On the contrary, he himself enjoyed a cigar or pipe with great relish. At the end of a long day of walking the traveller should enjoy a blazing fire accompanied by a pipe of tobacco or cigar ‘with advantage’, he suggested. Tobacco was no mere luxury, but also a promoter of health, Shortland claimed. The ‘mild and salutiferous narcotic’ could calm the ‘feverish excitement’ caused by the ‘continuous exertion’ and produce a ‘sound and refreshing sleep’. He believed that the introduction of tobacco to New Zealand had been of benefit to Maori. Shortland disagreed with those who feared that Maori consumed tobacco in immoderate quantities and that therefore its use should be discouraged altogether. It was very likely, Shortland thought, that the ‘occasional abuse’ was ‘merely the force of fashion’ and that in due course it would

give place to ‘a more rational practice’. This belief in Maori capacity for change towards ‘more rational practice’ typifies Shortland’s approach to his work as protector of aborigines.

Conclusions

Shortland brought to his new job a warm interest in Maori culture, a passion for the language and respect for the people, together with the willingness to withhold judgement. Any prejudice he might have felt that ‘every man with a dark skin’ was a ‘savage’ had been expelled by his journey with the governor through the Waikato area and the close encounters Shortland had sought out with their Maori ‘allies’ during that trip. The passionate displays of emotions at large Maori gatherings and the exuberant freedom of the children evoked in Shortland the ‘strange sensation of surprise which one feels on contemplating what is wonderful and new’, feelings that did not wear off with time. Shortland’s government experience as the governor’s private secretary, and the fact that he was also well connected through his brother who was colonial secretary added to his standing in the colony, not only among Europeans but also among Maori.

After he attended a Maori peace gathering and witnessed the Maori method of conflict resolution, Shortland realised that Maori were willing to involve Europeans as mediators. He also realised, however, that Europeans could only play a useful role in the process of Maori change if they had a thorough knowledge of Maori language and customs. Over time Shortland became convinced that the surest way to prevail on Maori was to appeal to their reason. One only needed to convince Maori that a proposition was ‘tika’ or straight, and they would soon consent to it, he wrote later. Any principle established on the basis of reason, Shortland argued, was more likely to endure than if introduced by force. These lessons he would learn during his years as protector of aborigines.

Chapter Three

‘what could be done in practice’: Shortland’s work as police magistrate

In many respects the protectors of aborigines were breaking new ground with their work. New Zealand historian Keith Sinclair has argued that the activities of the protectors’ department ‘were hesitant attempts to discover what could be done in practice’ and in the following chapters we shall see that he was right.¹ Shortland’s contribution to the department was unique because, as George Clarke remarked, for several years he was ‘the only protector who was engaged in the more immediate duties of his appointment’.² Because of the shortage of suitable people who spoke the Maori language, the other employees of the Office for the Protection of Aborigines were either engaged in work as interpreters (generally for the land commissioners) or as clerks in the Auckland office. For this reason a close examination of Shortland’s activities should be of general historical interest and provide an opportunity to evaluate the work of the Protectorate as it was intended to operate.

Shortland was not unaware of what he called the ‘evils’ of contact, but he did not believe that this was a ‘fatal impact’ as some of his contemporaries believed.³ When contemporaries like the physician and traveller Ernst Dieffenbach wrote of the ‘evils which seem to be the necessary companions of civilization’ they tended to refer to ‘fatal’ diseases introduced among Maori by Europeans.⁴ Early in his New Zealand career Bishop Selwyn also came to the view that Maori were in danger of dying out because of the brutal impact of white settlement.⁵ Shortland forcefully denied that Maori might be dying out in Southern Districts. He concentrated on the cultural effects of European settlement, but saw no problems that could not be solved by government intervention and legal structures. He felt he had a significant contribution to make to this project. He believed that it was largely a matter of time,

² Chief Protector of Aborigines to the Colonial Secretary, 31 July 1843, GBPPNZ 1844, Appendices, 350.
³ The term ‘fatal impact’ is best known as the title of a book by Alan Moorehead (The Fatal Impact [Harmondsworth, Middlesex: Penguin, 1968]). Shortland summarised the ‘Evils’ of contact at the end of his notebook titled ‘Commonplace Book B’.
patience, and justice on the part of the government. In due course, Shortland believed, Maori would accept the English law system for the resolution of their conflicts.6 Meanwhile, he proposed pragmatic solutions for the problems he encountered. He carefully described and analysed the disputes he dealt with, summarised their causes and made recommendations for their solution. In particular, he was at pains to understand Maori actions on Maori terms, because, he wrote, 'the [Maori] has many motives of action quite different from [our] own, and ... it is necessary to study these well ... before [we] can hope to be able to refer a native's actions to their right source'.7 Without adequate understanding of the underlying grounds of an action or of a conflict it was impossible to find a remedy. Governor Grey shared this view and felt that without knowledge of Maori language and customs he could 'neither successfully govern, nor hope to conciliate, a numerous and turbulent people'.8

While the district to which Shortland was assigned had a long history of contact with Europeans, it was also a turbulent district that had known and still experienced many conflicts as a result of its ancient history of early Maori settlement and its wealth of resources. To this the influx of European settlers added in various ways. Different Maori groups competed for access to European technology and trade as a new source of wealth. Europeans also added to the potential sources of conflict as a result of their desire for land. The interest in land had increased markedly since the establishment of the Auckland settlement nearby. It was Shortland's task to mediate in the disputes that resulted from these conflicts of interest.

As we saw in Chapter One, the work of the protector of aborigines consisted of a number of overlapping and potentially conflicting tasks. The first task was to protect Maori rights, both land rights and civil rights. To this end the protectors were closely involved in land purchases, land claims hearings and in mediating disputes about land between Maori and Europeans. The protectors also acted as police magistrates by mediating in civil disputes between Maori and Europeans. The third, and possibly most important task may be summarised as a civilising one; in order to mediate

---

7 Edward Shortland, Southern Districts, 24.
8 Sir George Grey, Polynesian Mythology and Ancient Traditional History of the New Zealand Race, as Furnished by Their Priests and Chiefs (London: John Murray, 1855), iii.
between Maori and Pakeha, the protectors needed to convince Maori to accept the application of English law. This proved in some ways to be less difficult than might have been expected. Maori willingly collaborated in applying English law to disputes between them and Europeans, although far less readily, if at all, in Maori disputes. One of the most problematic aspects of English law in the eyes of Maori was the system of punishment used by the British. Maori considered imprisonment a barbaric practice and disapproved of it, but they were familiar and comfortable with payment of compensation for wrongdoings. Nearly all cases Shortland dealt with involving Maori and Pakeha could be settled by payment of compensation by the guilty party. Some misdeeds, however, that were important to Maori were not recognised in English law, such as cursing and adultery. The question of how to deal with these remained a problem and a cause of dissatisfaction for Maori. Apart from this 'civilising' task with regard to Maori, the protectors also had an educational task with regard to Europeans. Shortland saw an important role for himself in teaching Europeans patience with, and understanding of Maori customs, motives and character.

Police magistrate

Police magistrates fulfilled a role similar to that performed in the present time by District Court judges. Although in theory the magistrates’ tasks were limited to declaring, applying, and at most clarifying existing rules to cases coming before them, in practice they also played a creative role. This was certainly the case in the colonial situation where so much had to be improvised. Most of the cases the magistrates encountered consisted of ‘a mass of conflicting factual material’. The judgment depended on the way in which the magistrates perceived and interpreted the ‘facts’ laid before them. Also, in many cases of disputes between Maori and Europeans, the magistrate was dealing with ‘grey’ areas in the law and had to exercise his discretion in the final decision. In many cases of petty crime Shortland made allowances for Maori customs, in accordance with the instructions from the Colonial Office. It was much easier for Shortland to mete out justice in this manner,

---

10 See for example Edward Shortland, Southern Districts, vi and 24.
in a district with a large Maori population and a scattered European one, than it was for the magistrates in the larger settlements, such as Auckland or Wellington where Europeans tended to fiercely resist making allowances for Maori customs.\textsuperscript{12}

During his tours of duty through the district Shortland dealt with many cases of alleged misdemeanour and petty crime. The legal term may be ‘petty’ but the incidents harboured the potential for violent conflict between Maori and Pakeha. Over time, Maori learned that rather than taking their own measures they could make a complaint to the office of the chief protector of aborigines. In this they were strongly encouraged by their missionaries. The most frequent complaints were of Europeans who cut down trees without paying for them, hunted pigs belonging to Maori, or allowed their cattle to stray into Maori cultivations. Other cases involved trespass on sacred places and, frequently, cursing.

In a desire to be on good terms with the government and to preserve the peace, Maori leaders in Shortland’s district readily collaborated with him to resolve disputes jointly. For example, a European settler on Waiheke Island alleged that Maori had stolen goats and sold them to another European. On closer examination this proved to be a misunderstanding. It seems that the European claimant had too readily accused the local Maori of misdemeanour, without thoroughly investigating the case. Shortland received courteous assistance from the local Ngati Paoa chiefs in sorting out the business. They even offered to travel to Auckland to make statements. But once he had heard all sides, Shortland decided that no further action was required.\textsuperscript{13}

Since he had no real power to implement the law, especially not in the more remote areas outside European settlements, Shortland appealed to Maori reason and to their own interests. On several occasions he used the threat of the white man’s displeasure, or the loss of his goods, to get results. For example, in the South Island it had become a lucrative activity to capture runaway sailors and return them to their captains or to the magistrate at Akaroa for a reward. But it sometimes took a lot of

\textsuperscript{12} For the difficulties of making allowances for Maori customs in the larger settlements see George Clarke, Chief Protector of Aborigines, to the Colonial Secretary, 31 July 1843, GBPPNZ 1844, Appendices, 346-350.

\textsuperscript{13} Edward Shortland, Report to Chief Protector of Aborigines, 15 September 1842, Outward Letter Book A, September 1842 - March 1845, Dunedin Hocken Library, MS-0086/001 (PC-0027).
time and trouble to obtain such a reward. As a result, the next expedient had become to conceal the runaways, who were stripped of their clothes and forced into a position of semi-slavery. Shortland investigated a case where the perpetrator was a Christian Maori. It proved easy to convince him that the new religion condemned such treatment of a fellow human being. For good measure Shortland also appealed to the wrongdoers' Maori sensibilities by resorting to a reference to utu: he warned that if they 'took advantage of the white man, when they found him unprotected, they must expect that, when we became numerous, their evil deeds of to-day would be remembered.' This soon led to the return of the sailor's property. At the same time, however, Shortland bowed to expediency and advised the sailor to make a present to his hosts as payment for the food he had eaten. This would 'ensure their good will for the future', because Shortland could not be sure that as soon as he had turned his back the sailor would not be robbed all over again, when 'the spirit of covetousness [returned] in force too powerful to be withstood'.

Elsewhere Shortland appealed to this very sense of 'covetousness'. In Akaroa the agent of the French Nanto Bordelaise Company was regularly harassed by local Maori, who hoped their actions would hurry up the payment for land. Shortland pointed out to the group of Maori land owners that the matter was under investigation and would take time. He urged patience, but if they so wished the Europeans would of course leave. 'But', Shortland asked, 'if the Pakeha left the place, whence would they procure clothes and tobacco?' While Shortland stayed at Akaroa, the French agent was not troubled again.

**Cattle trespass**

Many Europeans were careless about letting their cattle or pigs roam on land that did not belong to them. The protectors of aborigines had to intercede to prevent a serious clash, but could only appeal to mutual goodwill and a sense of public duty, because there was no legal remedy. In a rather pompous tone the chief protector's office cautioned a settler in the Coromandel Peninsula that 'it must be considered an undisputable duty on your part to take such precautionary measures in the care and management of your stock as will prevent the possibility of their committing any

disputations of a similar manner for the future. At the same time the chief protector promised to write to the Maori complainants to urge them to recognise ‘the necessity of pacific and amiable measures in all cases of inadvertent trespassing’.

Governor FitzRoy tried to solve the problem with the 1844 Cattle Trespass Ordinance. The ordinance put the onus on the owner of cattle, rather than the owner of the land to keep cattle out by fencing. Sometimes, however, not even a fence could prevent the trampling of crops. Shortland investigated a case of Pakeha cattle trespassing on Maori land. He found that the plot of land in question had been protected with a ‘very good taiepa fence’. There were clear marks of cattle breaking through the fence in several places, trampling the cultivation. Shortland examined the damage, spoke to both sides in the dispute and finally asked the advice of Mr Preece, the missionary at the Thames mission station, regarding appropriate compensation. The guilty Pakeha, Joshua Thorpe, was of the opinion that ‘the matter was of a very trifling nature, and hardly worth the trouble of an inquiry’; he had already given some calico cloth in compensation. Mr Preece, however suggested ‘the rate of one blanket value 12/- for 20 large baskets of potatoes’. In the South Island Shortland also came across cases of cattle trespass. In one case cattle had destroyed almost an acre of potatoes. And although the police magistrate at Akaroa had awarded compensation and payment had indeed been made, the garden belonged to several people, only some of whom had received payment, leaving others even more dissatisfied. This multiple ownership of land is exactly the same problem that also led to numerous conflicts about land purchases, which I will discuss in chapter seven.

European attitudes

Many settlers in New Zealand had come from other colonies with different attitudes towards indigenous people. Men who had spent years in Australia and whose encounters with Australian Aborigines had formed their racial attitudes often came into conflict with Maori. In Australia aboriginal land rights were not recognised and the settlers and squatters in the border territories held the aboriginal inhabitants in

---

16 Office of the Chief Protector of Aborigines, 8 December 1842, Department of Maori Affairs, Series 4, Outward Letter Books, vol. 1 [MA 4/1], National Archives.
18 Edward Shortland, Southern Districts, 255.
low regard. The belief seemed to prevail there that ‘we are on the border and can do as we like’. Even the shooting of ‘blacks’ was considered justified ‘so long as such killing was confined to the Border-line, or the country abutting on the outskirts of civilization’.\textsuperscript{19} It was exactly these sorts of attitudes and actions the British government wanted to prevent in New Zealand by protecting the rights of Maori.

Without resorting to such extreme violence, some immigrants took a cavalier approach to Maori, convinced that this was no more than their right. Shortland dealt with a request from a European for compensation from a Maori who allegedly ‘wantonly’ destroyed several hundred yards of a ‘stout bullock-fence’. Shortland’s inquiries revealed that the Maori himself, who was a good workman, had built the fence for this European, who was known as a violent man. A dispute arose over payment. During the dispute the European angered the Maori man with curses and a threat to let loose on him a ‘large and savage dog, which lay chained close to his house’. When he was threatened like this the Maori threw off his blanket, rushed at the posts and rails he had just erected and ‘vented his rage in chopping them to pieces with his axe’.\textsuperscript{20} The first thing to note here is that the Maori man did not attack the European. As I discussed in the previous chapter, if a Maori had cursed and threatened like this he would have been killed. The second interesting aspect of this story lies in Shortland’s description, in which he subtly points the finger of guilt. By describing the Maori as ‘a good workman’ and the European as ‘a violent person’, he implied that the first seemed more ‘civilised’ than the second.

Settlers in Shortland’s district sometimes exaggerated the danger of a situation and were not always happy with Shortland’s matter-of-fact and pragmatic approach. For example, in May 1842 a Thames district settler, Allan McCaskill, reported a robbery. McCaskill’s fear was not only of further robberies but also of violence. The robbery appears to have been an act of what we would today label hooliganism. After the murders at Katikati, a group of young men on their return home had stopped at one of McCaskill’s stations and robbed the men who were employed there. McCaskill feared for the life of his men ‘in the exterminating warfare that shall succeed this first

\textsuperscript{19} Henry Reynolds, \textit{Frontier} (St. Leonards, NSW, Australia: Allen & Unwin, 1987), 52. As John Weaver shows, patterns of violence and intimidation were common on the frontiers of every colonial settlement (John C. Weaver, \textit{The Great Land Rush and the Making of the Modern World, 1650-1900} [Montreal & Kingston; London; Ithaca: McGill-Queen’s University Press, 2003]).

outbreak'. This was, moreover, not the first but the third time that the same people had plundered McCaskill and he urgently demanded government action. His business partner, Samuel McDonald Martin, forwarded McCaskill’s letter to the governor in May 1842, and a month later addressed an urgent request to the governor to supply them with firearms if he would not send troops to ‘keep the Natives in order’, so that they would at least have ‘the means of making an effort to protect ourselves’. Another month later Martin complained that he had not yet received an answer to his earlier letters. Finally, on 1 September 1842 Edward Shortland went to investigate. He discovered that this robbery was not committed by the main war party of chief Taraia (who was responsible for the killing at Katikati), but by an over-enthusiastic party of young warriors. Taraia had no wish to be on bad terms with the Europeans and had already made sure that the few stolen items were recovered and returned before Shortland could deal with the case. McCaskill’s alarmist warnings of impending attacks by Maori war parties proved without foundation and Shortland wondered: ‘Are such men to be trusted with the use of firearms to protect themselves as they pretend against the outrages of natives?’

Maori attitudes

When, as in the above case, Maori involved Europeans in their own conflicts their leaders generally hastened to put matters right. An interesting example of the importance of referring ‘a native’s actions to their right source’, as Shortland urged, is that of a group of young Maori in Shortland’s district who burgled a European house in their neighbourhood. Their motive was not related to anything the Europeans had done, but ‘to show their displeasure’ with another group of Maori. This was a case, Shortland explained, of ‘a recognized native usage’ called whakahe: when a relative had committed a wrong, utu (revenge) in the form of bloodshed was inappropriate. Then it was customary to ‘commit some act which will bring an evil jointly on those relatives with themselves’. He received this explanation from the Christian Matamata chief Tarapipipi (William Thompson) who made sure that all the

---

21 S. M. D. Martin, M.D., New Zealand in 1842; or the Effects of a Bad Government on a Good Country in a Letter to the Right Honorable Lord Stanley, Principal Secretary of State for the Colonies (Auckland: John Moore, 1842), 25.
stolen property was duly returned. He also banished the young men who had committed the robbery from the Christian village Te Tapiri and promised Shortland a payment of pigs as compensation. Tarapipipi himself intended to take the payment to the governor. Note that after the return of the stolen goods to the injured party, the proposal of compensation was directed not at him but at the governor.

Maori readily gave and signed statements and were even willing to appear in court in Auckland, should this prove necessary. This acceptance of British law — at least where it concerned disputes between Europeans and Maori — shows that in this respect, at least in this locality, the arrival of the government with the implementation of British law could be considered to be serving its ‘civilising’ purpose. Ward has noted a similar willingness to comply with British law in the case of petty crime in the Port Nicholson area at that time. Once they found out that they could appeal to British justice, many Maori leaders declared themselves ready to do so in disputes with Pakeha. For example, Tararoa of the Coromandel burnt two European houses to compensate himself for the loss of stolen pigs because he did not know of any other way to obtain redress, he claimed. Shortland investigated the case and explained that this was not how things were done among Europeans. In his signed deposition, taken down by Shortland, Tararoa stated that ‘In future I will refer any dispute I may have with Europeans to Mr Clarke’.

He made the following proviso, however: ‘except [when] I am sworn at when I will have immediate satisfaction.’

**Lacunae in the laws**

As I discussed above, until FitzRoy’s 1844 Cattle Trespass ordinance, there was no legal remedy to deal with the frequent cases of cattle trespass, which caused many disputes among Europeans and Maori. The above statement from Tararoa points to another lacuna in English law, namely the frequent use of curses by Europeans. Such curses, if uttered by a Maori instead of a Pakeha, could lead to serious consequences. Shortland was powerless when complaints of this nature were brought to him. In

---

26 Edward Shortland to the Chief Protector of Aborigines, deposition dated 10 April 1844, Outward Letter Book A.
fact, at first he did not seem willing to admit to the seriousness of the insults, as I have discussed in the previous chapter.

Adultery was another offence that could have extremely serious consequences in Maori society, and could even lead to war, but for which British law did not offer a satisfactory solution. Shortland dealt with a case of muru (plunder) as punishment for adultery. The adulterer was an employee of a European trader at Maketu. The affected party found that the muru raid did not deliver as much compensation as they felt the offence warranted. They therefore took a canoe belonging to the European employer of the perpetrator. This European, called Bryan, fired a gun at the raiding party to frighten rather than to injure, for he fired when they were out of range. He hoped, Bryan said, that this would frighten them into restoring his property. But his action had the opposite effect, because the raiding party came back and threatened to rob his house. Finally they went off with two of Bryan’s canoes. According to Shortland, Bryan was highly regarded by both Maori and Europeans. He was married to a Maori woman whose relations took his side. When he investigated the case, Shortland found that the Maori raiders were willing to settle the business amicably and to restore the property. Shortland was ‘content to let it rest’ since ‘both sides had transgressed the law’. A remarkable statement, since adultery was not a legal transgression in English law, although a transgression according to Christian law, while muru was not a transgression in Maori law. In this way Shortland melded the two systems of law.

The above case highlights another aspect of Maori customary law, which Shortland saw as an ‘evil’ or lack, namely the fact that Maori law recognised responsibility for a misdeed in any member of a tribe. The concept of ‘tribe’ was applied also to groups of Europeans, or loose congregations of Europeans and Maori. This could lead, for example, to demanding compensation from the master for the actions of his servants,

---

27 See for example Alan Ward, *A Show of Justice*, 64. In 1860 Chief Justice William Martin made proposals for dealing with this issue in law code but his suggestions were not considered acceptable by Maori, because he proposed that fines be paid to the government instead of to the injured party (Alan Ward, *A Show of Justice*, 116-17). In his book *The Maori King*, John Gorst argued that there was an urgent need for legislation dealing with adultery among Maori. The Matamata leader Wiremu Tamihana tried to introduce a criminal code for adultery, where the offending parties would be charged a fine to be applied for public use, rather than paid to the offended husband, but his suggestion was also not accepted by other chiefs (J. E. Gorst, *The Maori King; or the Story of Our Quarrel with the Natives of New Zealand* [London and Cambridge: Macmillan, 1864], 208-209).

as happened in this particular case of adultery. English law punished only the perpetrator. In due course some Maori leaders came to see this as a better system.\textsuperscript{29}

Shortland also perceived a certain amount of flexibility, creativity and opportunism in the Maori way of dealing with transgressions and their perpetrators. This too he took in his stride. For example, he investigated the case of a Maori woman who, after a quarrel, had been deserted by her Pakeha partner for another. Shortland found that the woman had previously been married to a Maori with whom she had two children. When Shortland reprimanded the complainants for allowing the woman to leave her Maori husband in order to live with a Pakeha, their reply was ‘characteristic’, according to Shortland: ‘How could we refuse when we saw the two barrels, the cask of tobacco etc. which we longed for so much.’\textsuperscript{30}

Another area of creative compromise by Maori was that of tapu, for which English law also had no provision. The government encouraged Europeans to respect burial places and other tapu sites. Yet, Europeans were often careless about Maori tapu, believing it did not apply to them. In many cases this was actually so and Europeans were allowed to tread where it was forbidden and dangerous to do so for Maori. The treatment of the transgressors depended on whether they were respected or not. Shortland encountered a case where a Tauranga chief, Huitao of Otumoetai pa, preferred removing a tapu rather than create a conflict with the government when soldiers stationed at Tauranga cut timber at a tapued place.\textsuperscript{31} In the Coromandel, on the other hand, Shortland handled a complaint against a European who landed his boat on a wahi tapu [sacred place] and from whom local Maori demanded compensation. The Pakeha did not think the matter worth the attention of a magistrate, but the Maori whose burial ground had been disturbed would not relent. Shortland managed to convince them to be content with an adze as payment. But he had little patience with the European and warned him to take care in future not to trespass on a Maori burial ground or sacred place, since ‘the only way of getting out of the scrape is by a payment unless you happen to be living on good terms with the natives which unfortunately does not appear to be your case’.\textsuperscript{32}

\textsuperscript{29} Alan Ward, \textit{A Show of Justice}, 116.
\textsuperscript{30} Edward Shortland, ‘Journey to Matamata’, 8 October 1842.
\textsuperscript{31} Edward Shortland, ‘Maketu Journal’, 29 December 1842.
\textsuperscript{32} Edward Shortland to Mr Hanucken, Outward Lette: Book A, 14 June 1844.
Trade and industry

Shortland’s ‘civilising’ mission was not restricted to the law. He also intervened to promote European habits of trade and industry. At Maketu, near Tauranga, Shortland discovered that the local Pakeha flax trader was still using the trading method instigated a dozen years earlier by Maori, and based on their customs. Maketu had for many years been a vibrant flax station, set up by Phillip Tapsell in 1830.\(^{33}\) Tapsell was married to a Maori woman and had settled at Maketu under Maori patronage, as a Pakeha-Maori.\(^{34}\) Rather than deliver scraped flax against payment, the local Maori would besiege Tapsell as soon as the trade goods arrived and ‘by dint of persuasions and importunity (tohe) obtain the whole in a few days on credit’, Shortland found.\(^{35}\) Sometimes the flax against which credit was obtained was not delivered. The result was a loss of about £1400 for the Sydney company for which Tapsell had been agent. Since that time few Europeans had wanted to trade with Maketu except on a casual basis. Shortland advised the current European trader, who had ‘involuntarily pursued the same plan’, to change the system of payment. The people at Maketu were not pleased and held many komiti [meetings] to discuss the matter with Shortland, but they nevertheless continued to scrape flax under the changed system when Shortland urged them to do so.\(^{36}\)

The people at Maketu sold flax to traders on the spot at the rate of about £4.10.0 per ton. This was paid in blankets and clothing and therefore, Shortland pointed out, ‘the price really paid is considerably less if we consider the high percentage put on the goods by the merchants and secondly by the traders’.\(^{37}\) The flax workers were beginning to realise that they could get a higher price at Auckland and for that reason they were keen to purchase boats in order to trade directly, ‘that they may not be cheated by the Europeans’, as Shortland remarked. The purchase of boats caused a different class of problems, however, and in many cases involved deception by Europeans. Shortland reported several instances of such deception. The cases

---


\(^{34}\) Hazel Petrie gives an excellent account of the ways in which Maori formed alliances with Pakeha for commercial reasons (*Chiefs of Industry* [Auckland: Auckland University Press, 2006], 40-55).


\(^{37}\) Edward Shortland, Commonplace Book B.
showed another lack in the English legal system and its ineffectiveness in protecting Maori from European chicanery.

Deceit

Shortland investigated a case of two brothers who had obtained permission to cut timber in the Thames area. They promised to pay for the timber by building a small boat, but they secretly sailed away without paying. A local settler, William Webster, told Shortland that the brothers, when they passed his station, had boasted 'how they had deceived the natives'. The complainants were contemplating taking the law into their own hands and asked Shortland whether they were 'authorized in seizing [the boat] if she returned'. Shortland told them his department would take care of the matter. He asked Chief Protector Clarke to look into the case and, if necessary, to confiscate the boat of the deceiving brothers until they had fulfilled their contract with the Thames people, before 'more serious consequences' might arise.

It must have taken both ignorance and arrogance, not to mention lack of concern for fellow Europeans in the area, to cheat Maori connected with the prominent chief Taraia. Taraia was a well-known fierce warrior who barely two years earlier had taken revenge on Tauranga Maori for an infringement by killing and eating the perpetrators and their relatives at Katikati. The case raises the question whether these Europeans would have had the same arrogance in the years before the establishment of the government, when Maori law ruled supreme, and whether this false sense of security was one of the negative outcomes of the establishment of government. A similar case of deception to that just described took place in Coromandel harbour a few months later. A European had promised to build a vessel for a consortium of chiefs. According to their verbal contract the Maori would supply provisions and, once the boat was finished, would complete the payment with kauri spars. But the European absconded without completing the boat, leaving his European assistants behind without having paid their wages. Shortland asked Chief Protector Clarke for advice on how to deal with this case, because both Maori and

38 William Webster came to New Zealand in the 1830s and settled on Whanganui Island at the mouth of Coromandel Harbour, from where he ran a timber and trading post (Patricia Adams, 'Webster, William 1815-1897', DNZB, Vol. One, 578-79).
39 Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 10 April 1844.
Europeans had been duped. It seems that at this time there was no law to protect workers or contractors who were defrauded out of moneys owing them. Such legislation was not introduced until the end of the century.

Apart from such cases of open deceit, there were also cases of covert deception by way of huge purchase prices, prolonged credit arrangements, and, as a result, disputes about possession of the vessels involved in the deal. George White, an early settler in the Bay of Plenty, agreed to sell a vessel to Te Puehu, a chief from Maketu. A large payment of pigs, corn, and of land had already been made, but White still refused to give up the vessel. As a result, Te Puehu told Shortland, they had decided to seize the vessel themselves. But Te Puehu was willing to give up this idea when Shortland promised to accompany him to Matata, where White’s boat building business was, to settle this matter between White and him ‘if possible to the satisfaction of both’.

A similar conflict, lasting several years, arose over a vessel called the British Queen. The case is another example of gaps in the English legal system and its inability to give satisfaction in certain cases. The British Queen was sold by William Moores of Coromandel Harbour to the Arawa at Maketu. The vessel plied the coast between Auckland and Maketu on a regular basis. It was one of the first vessels the Arawa owned. The purchase price of five hundred pigs was so high that Shortland feared that ‘they will never be able to complete their purchase — the vessel being clinker built is not likely to last very long’. After almost two years only half the purchase price had been paid. Moores continued to use the vessel but the arrangement stipulated that he would transport the new owners’ trade goods to Auckland. On this promise he regularly reneged. Moores, meanwhile, got himself into debt and the boat was confiscated by the Sheriff in Auckland. The office of the chief protector warned the sheriff that Moores’ vessel was subject to a sale agreement with two

---

40 Ibid.
41 The Contractors and Workmen’s Liens Act 1892 (Peter Spiller et al., A New Zealand Legal History, 89).
42 Edward Shortland to Mr White, Outward Letter Book A, 17 December 1844.
44 See the journal of John Jermyn Symonds, April 1841-February 1850. Transcribed from the originals by T. M. Hocken, Dunedin Hocken Library PC-051.
45 Ibid.
Maketu chiefs and that £200 worth of goods had already been paid for it. If the vessel were sold to settle Moores' debts, anyone purchasing the vessel would 'run a considerable risk', the protector warned.46

When Shortland intervened in this case, he did so to protect not only Maori rights, but also the local flax trade: the Maori purchasers of the boat threatened to go on strike. '[T]hey are distrustful and I have no hope that they will scrape any quantity of flax, till they are assured that the vessel is to be delivered up to them thoroughly repaired and painted and with a new set of sails and ropes', Shortland wrote.47 He arranged a deal by which both parties would fulfil their obligations. Moores would deliver a refitted vessel plus a compensation of tobacco, while the Maori owners would pay the remainder of the purchase price in the form of 'a sufficient quantity of flax in addition to the pigs they are able to collect to satisfy Mr Moore [sic]' . Shortland pointed out that Moores was getting a pretty good deal, considering that each basket of flax was likely to sell for 12/- to 14/- in Auckland.48 By February 1845 this dispute was still not settled. The chief protector wrote an exasperated letter to Moores in which he referred to the correspondence between Moores and Shortland. He ordered Moores to put the schooner in charge of the protector's office 'or take the consequences which must ensue' if the governor declined to mediate further and 'leave the matter to be settled by the natives in their own way'.49 This last statement suggests that the protector's office was effectively powerless against Europeans who were unwilling to settle disputes amicably and that, rather than the British law prevailing, the chief protector had to resort to Maori law as the most effective threat.

The many instances of deceit by Europeans had a bad influence on Maori, Shortland remarked. The treatment led to suspicion of all Europeans, not just traders. Aware that they had often been cheated and not really knowing the real value of their goods or services, Maori were afraid to ask too low a price and in their turn 'use every art to

46 Chief Protector to Sheriff, 28 August 1844, Department of Maori Affairs, Outward Letter Books Vol. 1, MA 4/1, National Archives. Hazel Petrie notes the irony of the fact that Maori purchased vessels to avoid being cheated in the sale of their goods, and to benefit from the full profit themselves, only to be cheated in the purchase of the boats (Chiefs of Industry, 122; chapter six in Petrie's book discusses trading vessels at some length).
48 Ibid.
49 Chief Protector of Aborigines to Mr Moore, 7 February 1845, Maori Affairs, MA 4/1, National Archives.
impose on Europeans’, Shortland suggested. The result was that ‘their naturally suspicious and avaricious feelings are increased’.\textsuperscript{50}

Solutions

Shortland analysed the difficulties Maori experienced in the purchase of vessels and proposed a strategy to prevent such problems. He wrote an extensive letter to the chief protector’s office to that effect.\textsuperscript{51} Because Maori could only pay with pigs, flax or potatoes it took a long time before they had acquired a sufficient amount to pay the full price of a vessel. This arrangement created uncertainties for European vendors about the fulfilment of the contract. To cover themselves they would ask an exorbitant price. Generally Maori purchasers agreed to this, keen to get ‘this new kind of property’, without realising that they could never pay for it in a reasonable time. Out of the contracts Shortland came across he only heard of two that were satisfactorily settled, while many contracts remained uncompleted. Meanwhile the Europeans kept possession of the boat and continued to use it, while the Maori purchasers, paying in instalments, parted with their goods without gaining anything. When they finally realised how difficult it would be to complete the sale, they feared that their boat would be worn out before they got possession of it. At that point they agreed among themselves that they had paid enough and contemplated the forcible possession of the boat. Shortland felt that it was necessary to put some restriction on such transactions because they were ‘sure to lead to very troublesome and dangerous consequences’. He offered the following suggestions:

1. That all credit transactions between Maori and Europeans involving a sum above £20 be discouraged by the government by means of a public notification indicating that no assistance would be given by its officers to recover debts in such cases.

2. That any person intending to sell a boat to Maori must indicate this intention to the chief protector, so that persons appointed by the government and

\textsuperscript{50} Edward Shortland, ‘Evils’, final pages of Commonplace Book B.

\textsuperscript{51} Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book B, 14 March 1845, Dunedin Hocken Library, MS-0086/002 (PC-0028).
furnished by the chief protector’s office could make a survey and valuation of
monetary value of the boat.

3. That the chief protector forward this information to the district protector who
would act as agent for Maori in any agreement to be made by them for the
purchase of such a boat.

Shortland concluded: ‘If such regulations as these were made I think a mutual benefit
would be done to both races as a feeling of comparative security would then exist on
either side, whereas the present system will if it continue, I fear, destroy all good
faith and lead to fraud on one side and violence on the other.’52

In 1848, with approval of the Colonial Office, Governor Grey implemented this
system with a useful twist: the government purchased a vessel on behalf of Maori,
using moneys set aside for ‘native purposes’. The money advanced in this manner
was considered a loan, to be repaid as soon as possible. The first person for whom
such an arrangement was made was Hikairo, of Rotorua, on behalf of his tribe who
had been defrauded out of ownership of another vessel. The governor instructed
Harbour-Master Captain Rough to find a suitable vessel and state its value and, with
the governor’s authorisation, purchase it. After six months, Hikairo’s people had
already paid off £60 of the total of £105.53

The reports from New Zealand led the Colonial Office to recognise that for Maori ‘to
be satisfied with our mode of administering justice, and to abandon their own ... our
legislation must be framed in some measure to meet their prejudices’.54 This would
require on the one hand legal provisions for the recognition of misdemeanours
considered serious by Maori, for example the desecration of sacred places, and on the
other hand punishments that Maori considered just (imposing fines rather than
imprisonment). In 1844 governor FitzRoy addressed a number of these issues with
the introduction of special bills, including the Cattle Trespass Ordinance, Fines for
Assaults Ordinance, and the Native Exemption Ordinance.55 The latter was aimed at
preventing the imprisonment of Maori for any crime except rape or murder, by

52 Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book B, 14 March 1845.
53 Governor Grey to Earl Grey, Despatch No. 16, 22 March 1849, GBPPNZ 1849 (1120), 64. For Colonial
Office approval: Earl Grey to Governor Grey Despatch No. 12, 17 October 1849, GBPPNZ 1849 (1120),
238.
54 Alan Ward, A Show of Justice, 63.
55 For a discussion of these enactments see Alan Ward, A Show of Justice, Chapter 5.
setting bail conditions, regulating the payment of compensation and creating other exemptions for civil offences, such as breach of contract. The introduction of the new laws was disseminated to Maori in the Maori language in the government publication *Te Karere o Nui Tireni (The Messenger of New Zealand)*, explaining that ‘traditional Maori practices are superseded by the British judicial system’ and stipulating that ‘these laws must be learnt and abided by’.\(^{56}\) Shortland was one of the editors of *Te Karere o Nui Tireni*.

**Conclusions**

Keith Sinclair’s suggestion that the activities of the protectors’ department and by implication of the government in the early 1840s ‘were hesitant attempts to discover what could be done in practice’ seems apt. Hampered by the limited grasp of English laws by Maori and a lack of manpower, the department had to explore imaginative ways of smoothing the intercourse between the two races. In this the officers were greatly helped by Maori openness to change. Shortland’s reports indicate that Maori willingly turned to the government and its officers for help in settling their disputes with Europeans. Maori agreed to refrain from violence by appealing to the government for justice, rather than taking the law into their own hands. If committed by Maori, similar misdemeanours would in many cases have led to revenge killing and ultimately to war. This conscious decision by Maori to resort to British justice in order to keep the peace with Europeans had a strong economic motivation. Shortland plugged into this economic need in his arguments with Maori, pointing to the benefits a hapu might lose through their actions. In most cases Maori leaders participated in the resolution of a dispute. It was often their capacity for patience and their openness to sound reasoning that kept the peace. Shortland’s main tools were diplomacy, persuasion and reasoning. While this approach of ‘moral suasion’ worked quite well with Maori, it often did not with Europeans. There was, ultimately, little the protectors’ department could do against the intransigence of Europeans who committed misdemeanours against Maori, except as a last resort threaten to leave the case to Maori justice. The powerlessness of the protectorate was even more pronounced in disputes between Maori. This is the subject of the next chapter.

\(^{56}\) *Te Karere o Nui Tireni (The Messenger of New Zealand)*, Abstract Vol. 3, No. 9, 2 September 1844.
Chapter Four
Murder and Cannibalism

The East Coast area near Tauranga has a turbulent ancient history (see Chapter One) and the events of the early 1840s were only a small part of this long story of conflict. The story is complicated by intricate relationships and alliances, further compounded by the presence of European traders and missionaries. The events have received attention from historians firstly because of the incidence of cannibalism close to the seat of government in Auckland; secondly because the situation raised the question of the reach of sovereignty and whether English laws applied only to those Maori who had signed the Treaty of Waitangi or to all Maori. Alan Ward discusses this issue in his analysis of the introduction of English law in New Zealand. He concludes that in the early 1840s, the ‘question of whether the government was capable of imposing rather than negotiating terms’ had not yet been answered. The events described below show that the government was not yet able to impose terms, but that its status gave it strength in negotiations. Protector Shortland played a key role in the negotiations and relied on the status he derived from his role as government agent.

In his analysis of the same events Ian Wards stresses the important role of the government troops as peacekeepers, but he also looks at the difficulties of imposing government authority and of bringing Maori under its rule. Rather than highlighting Maori agency, Wards' analysis comes more from a government point of view. D. M. Stafford's book on Te Arawa contains a short chapter in which he describes the events at Maketu in 1842 and 1843 in some detail. His story is based for the greater part on a report by the Rotorua missionary Thomas Chapman and on some secondary sources. Although Stafford tends to emphasise Maori agency in his book, in this particular chapter he does not.

1 The scale is obvious from Stafford's book Te Arawa, where the story of these events take up one chapter in the total of seventy-two (D. M. Stafford, Te Arawa [Wellington, Auckland, Sydney: A. H. & A. W. Reed, 1967], Chapter Fifty).
2 This question was not settled until the arrival of Governor FitzRoy. He carried with him the decision of the Colonial Office that, since Governor Hobson had declared sovereignty over the whole of New Zealand and since the Queen had acknowledged this declaration, it was now an indisputable fact, whatever one might think of the justice of the case. The corollary of this was that English law applied to all Maori (Stanley to Shortland, 21 June 1843, GBPPNZ 1844 [556], Appendix 19, 475).
4 D. M. Stafford, Te Arawa, 288-98.
Maori agency is most evident in Angela Ballara's *Taua*. Ballara devotes a full chapter to the events around Maketu and Tauranga in the late eighteenth and early nineteenth century. She shows that the conflicts in which the government became involved in 1842 and 1843 were a small part of a much longer history, reaching right back to ancient wars between the Mataatua and Te Arawa canoe groups. Maketu and Tauranga were fiercely contested because of the wealth of resources; Europeans only added to these contested resources, Ballara argues. But she stresses that whether conflicts were over resources or not, and whether they involved the use of muskets or not was always secondary to the main motive for war, namely that 'people of rank had been killed or raped or murdered or insulted or cursed, and the cultural imperatives of their kin groups forced them always to seek utu for these happenings'.

'The successful attainment of utu', Ballara explains, was the prerequisite for group integrity and the group's continued status as people in possession of the spiritual forces of mana and tapu. Without utu they became people who had lost their spiritual strength — their mana — and were relegated in their own estimation to the status of slaves.

This key issue Shortland also came to understand. Shortland's interactions with Maori also showed him, however, that Maori society was in transition and that the government had an important role to play in assisting Maori to make this transition. Ballara concludes that the 1840s were 'the most important decade in the transition of Maori institutions and concepts from their own almost undiluted earlier practices to a new set of practices derived from contact'. The events described below show this process in action. While Ballara's chapter on the events in Maketu is concise and clear and contains considerable detail, it does not show the subtle changes, adaptations and accommodation of Maori actions in response to what the government was willing and able to do. The detail of the events described below highlights the interaction between Maori customs, Christianity and English law. The insights

---

6 Angela Ballara, *Taua*, 277.
7 Angela Ballara, *Taua*, 277. Lindsay Head refers to this as the 'honourific values of the revenge cycle' (Lindsay Head, 'The Pursuit of Modernity in Maori Society', in *Histories Power and Loss*, Andrew Sharp and Paul McHugh, eds. [Wellington: Bridget Williams Books, 2001], 102).
8 Angela Ballara, *Taua*, 442.
Shortland gained here shaped his later actions, formed the basis for his ethnographic understanding and inspired his confidence in Maori desire and ability to adapt their customs to enable peaceful co-existence with Europeans.

**The threat of war**

After the murders at Katikati described in chapter two, the aggrieved relatives of the victims turned to their missionary at Tauranga to ask for advice on how they should act to revenge their relatives. The Reverend Brown told his flock that according to Christian belief revenge was not a human task; the Christian God himself would undertake that duty: 'Vengeance is mine; I will repay, saith the Lord', Brown preached. He also assured them that this was a case for the government to deal with and urged them to write to the protector of aborigines. Chief Protector Clarke travelled to the Thames area to investigate the matter and to explore the possibility of arresting the murderer(s). Chief Taraia, the man accused of the murders, readily admitted all accusations, but argued that it was not a matter for the governor, because only cases in which Europeans were involved were the governor's business. The quarrel concerned Maori and according to Maori custom he had acted entirely within his rights. Clarke replied that the governor could not tolerate cannibalism and war to take place in the country. He was not able to say what particular action the governor would take, however.

Clarke returned to Auckland and reported to the Executive Council. Taraia seemed to feel 'safe', because he believed that the government would not interfere in Maori cases, Clarke suggested. The governor asked whether it would be possible to arrest Taraia without the help of the military. Clarke thought it unlikely and considered it too dangerous for a constable to enter the pa to serve the summons. On the other hand, some decisive action was necessary in order to maintain the confidence of the Christian Maori who were looking to the government for protection. The best course of action, according to Clarke, was to support an arrest with a show of force by

---

anchoring a war ship within a hundred yards of the shore. The government brig was duly prepared and the troops got ready.

Before the troops could leave, two letters arrived in Auckland. One was from the Tauranga relatives of the murdered Christians, urging the governor to arrest Taraia, just as he had arrested and executed the chief Maketu, who murdered several Europeans earlier that year. The second letter was from Taraia himself. Taraia reiterated that the government had no right to interfere in matters that concerned only Maori. Any attempt to arrest him would only make matters worse, he suggested. Ngati Paoa leaders from Waiheke Island travelled to Auckland and gave the chief protector the background to the incident, which turned out to have a long and violent prehistory. Although deeply shocked by the account of events given by the Tauranga Maori, the Executive Council was impressed by Taraia’s arguments. As nineteenth century historian Arthur Thomson put it: ‘The good sense of the cannibal’s letter changed the minds of the Executive Council’. One can only assume that the Council was equally impressed by the fact that Maori addressed them by letter.

Taraia’s letter and the history of the incident convinced George Clarke that it would not be just to take action against Taraia. It was unlikely that the local Maori would give any assistance to the government if it tried to arrest him. On the contrary, an arrest might prompt those who were still favourably disposed towards the government to side with Taraia out of a sense of duty. Any drastic measures might also have devastating effects for the Europeans living in the area. Clarke suggested that it would nevertheless be useful to make a show of force by anchoring a war ship near the shore. Governor Hobson agreed that it was better to ‘show the flag’ than send the troops to ‘punish this outrage and secure the ringleaders’, as military commander Major Bunbury would have preferred. And so, as Arthur Thomson put it, ‘when the brig was ready to sail she was despatched to Taraia’s pa with

---

11 Minutes of the Executive Council, June 17 1842, Colonial Office 209/16, Dunedin Hocken Library, Micro 122/12, 124.
13 Ibid.
14 George Clarke to the Executive Council, 30 June 1842, Colonial Office 209/16, Dunedin Hocken Library, Micro 122/12.
missionaries instead of soldiers'. The governor sent a diplomatic mission consisting of Colonial Secretary Willoughby Shortland, Chief Protector of Aborigines George Clarke, and Captain Best, whose orders were to reconnoitre the Maori pas. Edward Shortland, who had resigned from his position as Hobson’s private secretary, also accompanied the party. It is possible that Edward accompanied his brother out of interest, but it is equally likely that he went along to take notes, and to assist the Colonial Secretary with translations and with letter writing. He may also have wished to take a look around with a view to accepting the position of sub-protector for the district. After this excursion he accepted the appointment as magistrate and sub-protector of aborigines for the Eastern Districts. Shortland took copious notes of all proceedings and may have written the Colonial Secretary’s report of this trip. In many places Willoughby Shortland’s report quotes verbatim from Edward’s journal.

Visit to Hauraki

On 2 July 1842 the government brig left Auckland. They stopped at several Maori villages on the way to gauge opinion. On being questioned regarding Taraia, the Hauraki people said they were not willing to interfere in the matter, nor did they approve of the governor’s interfering otherwise than as a mediator between the contending parties, Shortland wrote. They said that Taraia had been provoked, because his land was occupied by Te Whanake, ‘who had built a Pa and erected two posts’, one for Taraia and one for another chief, and then ‘shot at them saying that he would serve them in the same way if they dared to come there’.

At Taraia’s village the government party was received ‘with every show of respect’. Taraia spoke at length in justification of his actions against Te Whanake. He referred to old conflicts and stated that ‘he had only served them as their ancestors had

18 Willoughby Shortland’s report on this mission in some places uses literally the same text as appears in Edward’s journal (Willoughby Shortland’s report dated 5 August 1842, CO 209/16, 135 and Edward Shortland, Journal entitled ‘Coromandel and Kawhia 1842’, 2 July to 14 July 1842, Dunedin Hocken Library PC-0021).
21 Ibid.
served his'. Taraia strongly objected to any government interference. He had heard rumours that the soldiers would take him to Auckland, but he would never go there: 'if he died it should be in his own Pa, that all his tribes, relations and children might witness it.' In his reply, George Clarke began by denying that the governor would arrest or attack Taraia. The governor had sent Mr Willoughby Shortland and himself on a mission of peace, Clarke explained. He proposed to buy the disputed land, paying part to Taraia for his portion and part to the people of Tauranga. Taraia reiterated his earlier statements that 'the Governor was no Governor for him or his people'. He would not acknowledge the governor's authority, since he had not signed the Treaty. But Taraia also desired peace and was keen to have European settlers in the Waikou area. He was willing to sell his right to Katikati, but warned that if the Tauranga people continued to occupy the land at Katikati he would drive them off. In his journal Shortland noted: 'Taraia as well as most of them have never signed the Treaty and still maintain their independence'. The question whether those who had not signed the Treaty did indeed fall outside government influence was raised again during the events that followed. It would not be answered until two years later.

The Thames area was buzzing with rumours of war parties. From Matamata a group of Christian Maori arrived, claiming to be on a mission of peace and expressing their wish to stay out of conflict. The Christians in the Thames area were fortifying their villages for fear of an attack by Taraia. Although Clarke assured them that they were wasting their time, since Taraia would not attack them, one of the old warriors replied that it was a 'mahi tupato' (a precaution) because he was 'as well to be on his guard'. His fears were not without substance. On their way back from Katikati, Taraia's war party had threatened and taunted the Christians near Thames. One Christian chief saw only two ways out of the danger. He suggested to George Clarke that 'the wars would never cease till they all became Christians, or till they had been well thrashed by the soldiers'. He identified in his own way the dilemma facing the government: whether to apply 'moral suasion' or whether to use force.

---

Welcome in Tauranga

The government party sailed on to their next destination. When the government brig approached Tauranga two large canoes came out to welcome it. On board were representatives from different Tauranga pa, as well as a few survivors from the attack at Katikati. According to Willoughby Shortland this group was ‘exceedingly anxious’ to know how the governor intended to act, and ‘clamorous to proceed at once to the Thames to attack Taraia’. Willoughby explained they were on a mission of peace and wished to hold a general assembly to discuss the best way to effect this. It took two days to gather together all the interested parties from near and far. Edward Shortland’s journal contains no further report on this visit to Tauranga. The rest of his notes are in Maori. For the continuation of the story we have to rely on Willoughby Shortland’s report to the governor and on the journal of Captain Best.

Best and Edward watched the groups of Maori arrive at the beach in their canoes and shook hands with the chiefs. After dinner the official meeting began. The Colonial Secretary repeated that he was on a mission of peace on behalf of the governor. He understood that the present dispute arose from a longstanding quarrel over the land at Katikati. He stated that the governor desired that ‘from this time their wars must cease’ and that he ‘gave them this opportunity of settling their differences through his mediation’. The governor consented to purchase the land that was the subject of the conflict, Willoughby told them. Taraia had already agreed to this arrangement and was also willing to release the captives and pay compensation. The debate over these proposals lasted until deep in the night, with very little result as far as the Colonial Secretary was concerned. Some of the speakers denied the governor’s right to interfere in Maori affairs. Other orators expressed the opinion that ‘either Taraia ought to be hung according to the English laws “like Maketu” or that they themselves should be permitted “to seek a payment according to their own customs”’.

---

25 Shortland examined one of the wounded, who had been shot in the lower thigh. Shortland wrote that he ‘could feel several small shot (slugs probably) beneath the skin on the opposite side’ (‘Coromandel and Kawhia 1842’, 14 July 1842).
26 Willoughby Shortland, report dated 5 August 1842, CO 209/16, 135.
28 Willoughby Shortland, report dated 5 August 1842, CO 209/16, 135.
Reverend Brown elaborated on this:

The natives shrewdly remarked on the different degrees of justice awarded to Europeans & Natives. 'If Taraia goes unpunished', (observed one of them), 'for murdering Wanaki [sic], then the Europeans were guilty of murder in executing the chief Maketu for a similar crime committed against a white woman. It cannot be right to have one law for crimes against the Europeans, and a different one for the same crimes when the Natives are the sufferers.' 29

Willoughby Shortland adjourned the meeting at a late hour. On the following day they met again, but 'to as little purpose as on the previous day'. 30 'At length however', Willoughby wrote, 'they agreed to set down in peace and to leave the settlement of the matter in the hands of the governor'. They added a request that 'a Pakeha Chief might be sent to reside amongst them'. They asked the governor to establish a European settlement at Tauranga for which purpose they offered to sell some land there. They also offered a block of land lying between them and Rotorua. This would put an end to the wars that had so long existed between them, they believed. It would seem, from Willoughby’s report, that the meetings were a success to a certain extent, but in fact quite a few of the Tauranga people refused to attend the second meeting, and according to Brown some felt dissatisfied enough to start painting their faces with oil and red ochre — a sign of preparation for war. 31 The government party returned to Auckland with feelings of dissatisfaction on both sides.

The tools of government

In his report to the governor, Willoughby Shortland made several recommendations. 32 First, the placement of 'gentlemen of intelligence' as protectors of aborigines in more districts, to help settle both Maori-Pakeha and intertribal disputes. Secondly a 'continuance of mild, just, and firm measures' as the best way to obtain the government's objectives, 'namely the colonization of this fertile Island and the civilization of a noble minded and intelligent aboriginal Race'. This goal could

---

30 Willoughby Shortland, report dated 5 August 1842, CO 209/16, 135.
32 Willoughby Shortland, report dated 5 August 1842, CO 209/16, 135.
only be achieved, the Colonial Secretary believed, if the governor had at his disposal a military force 'sufficient to maintain the dignity of the government and to overawe the evil disposed who must be found in every community', in order to add weight to 'a more powerful moral influence'. He believed that a hasty attempt to interfere in intertribal conflict with force 'might totally destroy the great work so happily commenced' and was more likely to draw resentment than respect. Edward Shortland's books show that on the whole he endorsed his brother's views. He believed that 'a principle, once established on the basis of reason is more calculated to endure, than introduced by force'. It is interesting to note, however, that Willoughby Shortland's suggestions belied the belief of the Colonial Office that settlement could take place peacefully and cheaply in New Zealand through moral influence instead of a military presence. Willoughby Shortland argued that the latter was essential to make the former credible. His brother agreed, as I discuss in chapter seven.

The meetings and exchanges described above are typical of the communication between Maori and the government in the first five years of the Crown Colony. Under the guidance of the protectors of aborigines, and with help from missionaries, this communication consisted generally of diplomacy and mediation. It was based on the dignity of the Crown, supported by a display of arms. The military presence was really too small to settle disputes with force, and it was impossible to offer security to all the scattered European communities. The government was effectively unable to enforce the law outside the main settlements. It was even questionable whether the law applied to Maori who had not signed the Treaty, as Taraia and others claimed. But even some Maori who had signed the Treaty were averse to the government applying European law to their disputes. The use of force might therefore endanger Europeans living in isolated areas. For the time being, Christianity seemed to offer the most useful tool, since the Reverend Brown continued to successfully restrain his flock from taking up arms and starting a war by referring to the Bible.

33 Willoughby Shortland, report dated 5 August 1842, CO 209/16, 135.  
35 According to Paul Monin, the colonial forces at this time comprised no more than fifty-three men (This Is My Place: Hauraki Contested 1769-1875 [Wellington: Bridget Williams Books, 2001], 119).  
36 Ian Wards discusses this in more detail in The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852 (Wellington: Historical Publications Branch, Department of Internal Affairs, 1968), Chapter 2. See also Alan Ward, A Show of Justice, Chapter 4.
The Messenger of New Zealand

One of the strongest non-violent resources at the disposal of the government was the written word. 'Print was a powerful force in Maori society', Lachy Paterson points out, because the earliest publications in Maori were religious and 'seen as embodying God's truth'.

Maori adopted literacy with great zeal; initially because they viewed it as a sacred tool of the Europeans, but over time also as a tool for communication. By the mid-1840s Maori had reached a very high level of literacy and, as we saw above, Maori readily made use of letters for communication. From this also follows that Maori accepted the printed word as an appropriate channel for conveying the rules of the Pakeha.

During George Clarke's first tour of duty as chief protector of aborigines through the Waikato and Thames areas several Maori asked him to create a publication to explain the laws of England and the decisions of the governor. The protectorate responded with the publication of a Maori language newspaper Te Karere o Nui Tireni or The Messenger of New Zealand. The first issue of the newspaper was dated 1 January 1842 and the last newspaper appeared in January 1846; there were 49 issues in total. Only 250 copies were distributed of the first few issues. This increased to 500 in June 1842, after the Katikati incident.

The editors of the paper were George Clarke, chief protector of aborigines; Thomas Forsaith, sub-protector of aborigines appointed in January 1842; and Edward Shortland. The paper was

---

37 Lachy Paterson, Colonial Discourses: Niupepa Maori 1855-1863 (Dunedin: Otago University Press, 2006), 45. Chapter Two in Paterson's book gives a concise overview of Maori literacy and education. Vanessa Smith shows that Pacific islanders also regarded the written and printed word as a form of magic, at least during the early days of their conversion to Christianity (Literary Culture and the Pacific [Cambridge: Cambridge University Press, 1998]). In New Zealand, by the early 1840s, Maori literacy was widespread and, as their letter writing described in this chapter shows, they saw writing and reading of letters or newspapers as an equivalent to speech.

38 Michael D. Jackson, 'Literacy, Communications and Social Change', in Sir Hugh Kawharu, ed., Conflict and Compromise (1975; rpt. Auckland: Reed, 2003), 27-54. The quarrel between Tauranga and Taraia was rumoured to have started as the result of a taunting letter written by a Tauranga chief (A. D. W. Best, Journal of Ensign Best, 363, 365, 370, 371, 430-31; Willoughby Shortland, report dated 5 August 1842, CO 209/16, 135; Edward Shortland, 'Coromandel and Kawhia 1842', 16 July 1842). Both the Tauranga people and Taraia sent letters to the government about the Katikati affair, as described above.

39 In due course Maori would see the writing down of their genealogies and histories as the best way to assure their claims to land. I will discuss this further in Chapter Six.

40 Protector of Aborigines' Report of his Visit to the Thames and Waikato. Enclosure No. 18 in Despatch from Governor Gipps to Lord Russel, 7 March 1841, GBPPNZ 1842 (569), 93-100.


42 From the content of the newspaper issues it is not possible to determine what contributions Shortland made, if any. The paper had a strongly missionary flavour. Thomas Forsaith, who was a
published ‘...so that the Maori people would come to know the ways and customs of the Pakeha and the Pakeha would also come to know the customs of the Maori people’. The paper served to explain relevant British laws, and to publish the policies, proclamations and judgements of the governor. Both Maori and Europeans wrote to the paper to explain their actions and motives, or to publish notices, requests and warnings (in particular regarding trespass).

Some of the articles had an educational and ‘civilising’ purpose. For example, in the early issues a story ran in two instalments about the ‘ideal’ Maori family of a husband and wife with four children. They were depicted as having ideal living and working habits, including regular attendance at church and school, solid work ethics, discipline, appropriate gender roles, and correct dress standards. In issue number 7, volume 1, dated 1 July 1842, the paper discussed the murder of Te Whanake by Taraia at Katikati, mentioning the abhorrence in which the government held the practice of cannibalism, and warning of people’s ‘downfall’ because of their disputes over land and money instead of embracing peace and life. The next issue, dated 1 August 1842, continued this theme by suggesting that settling disputes should be handled by the judiciary, not ‘like dogs fighting’. One of the examples given of such ‘uncivilised’ fighting was the dispute between Taraia and Whanake. Clarke had proposed the publication of these articles in the Maori newspaper as a public relations gesture towards the Christian Maori in Tauranga. The articles warned that if Maori tribes should ‘in future rise to fight with each other [the governor] would rise also.’ Clarke seems to have been unaware of the impact this public statement would have on his Maori readers. The people from Tauranga read it as a pledge and expected nothing less than that the governor would honour it, as I will discuss below.

deeply religious man, and Clarke spent more time in the Auckland office than Shortland and must have had more time to devote to the paper.

43 ...kia mohio ai te tangata Maori ki nga tikanga me nga ritenga o te Pakeha, kia mohio ai ano hoki te Pakeha ki nga ritenga o te tangata Maori (Hanurere 1, 1842: 1), text and translation from website http://www.nzdl.org/.

44 Letter From Protector’s Office dated 15 June 1842, Colonial Office 209/16, Dunedin Hocken Library, Micro 122/12, 119-122. Only one issue of this particular paper reached the Tauranga district, which prompted the decision to distribute future issues through the sub-protectors of aborigines (see letter dated 13 December 1842 in Colonial Secretary Letter Book re Protection of Aborigines, Internal Affairs series 4-271, National Archives).

45 Edward Shortland to George Clarke, Chief Protector, Outward Letter Book A, 23 December 1842, Dunedin Hocken Library, MS-0086/001 (PC-0027).
An uneasy peace at Tauranga

The death of Governor Hobson in September 1842 prevented Edward Shortland from commencing his duties and returning to the Tauranga area to deal with the murders at Katikati. When he did so in October 1842, it was largely to negotiate the purchase of the disputed land. During his overland journey to Tauranga, via the Thames valley and Matamata, Shortland learned a great deal about the ancient history of the conflict from the Maori leaders with whom he discussed the murders. He used this knowledge to good effect at Tauranga. One of the leaders most closely related to those slain at Katikati, Huitao, strongly opposed the land sale and warned that ‘we were doing wrong in dipping our hands in the blood of tupapaku’. Another man reminded Shortland that Mr. Williams the missionary had told them that the governor would protect them and that ‘if they suffered injury or death at the hands of other tribes, he would get up as the dispenser of justice’. They could only conclude that the Pakeha laws did not work for them and that they had no option but to return to Maori law. ‘The Christian natives ... had now suffered five times without redress’, reported Shortland, ‘they had therefore abandoned their faith and taken up arms for themselves’.

The missionary in Tauranga, Alfred Brown, told Shortland that after the disappointing visit of the Colonial Secretary in July described above, many of the Tauranga people had started preparations for war. Since the murders at Katikati, the attendance at Brown’s services had diminished considerably. Te Whanake’s ‘own little tribe’ had reverted to Maori ritenga and had gone out to hunt out some members of Taraia’s tribe. They believed that it would be appropriate to kill some of Taraia’s Christian relatives as compensation for their own loss. As an indication of war-like intent Shortland noted several faces with newly applied tattoos. When he asked for the reason, they told Shortland that they ‘feared we had forgotten them, and that their hearts were very dark’. One of the older Maori converts did not think the danger was too great, however. He said to Brown: ‘Let not your heart be dark on...

---

49 A. N. Brown, The Journals of A.N. Brown, 28 August 1842. Te Whanake was the principle Maori chief of the group murdered at Katikati.
that account; do not think that the Church of Christ has fallen because eight boys have gone outside the fence. 51

Brown found it 'sad uphill work', but persisted because he believed that 'the grand instrument for inducing the New Zealanders to beat their spears into pruning hooks will be, not so much civilisation as evangelisation.' Alfred Brown was an Evangelical who adhered strictly to a 'pure and undefiled religion'. 52 He strongly disapproved of all 'heathen' customs and warned his flock against adhering to any traditional customs or rules of tapu, even the less reprehensible ones, because it was essential to make a clear distinction between 'heathenism' and Christianity. 53 His strict rules gave clarity to those Maori who were willing to relinquish their Maori customs for the European system of rules. Brown's evangelising appears to have been successful. When he preached to the Tauranga people 'Vengeance is mine; I will repay, saith the Lord', one of the chiefs stood up and remarked 'that if all parties listened to the instruction of the Missionaries there would be no murderers in any of the tribes'. Several other speakers agreed with him, arguing that it would be better to listen to Brown's advice, although some still urged their listeners to hold to the duty of seeking a payment for the murders at Katikati. 54 Without reaching any conclusive results Shortland went back to Auckland.

Trouble in Tauranga

When Shortland returned a month later he discovered that the Tauranga people had found an excellent way to pull the government into their conflict: they had confiscated a boat belonging to two Europeans and held one hostage. Shortland travelled to Tauranga in December 1842 on board the government brig Victoria with his brother Willoughby, who was acting governor after Hobson's death, Land Commissioner Spain and Sub-Protector of Aborigines George Clarke Jr., and accompanied by Captain Best as aide-de-camp. All except Edward were on their way to Wellington to deal with land claims. When the Victoria sailed past Matakana Island, a group of Maori came alongside in a boat they had confiscated from two European traders, and danced a war dance. The Tauranga people could not have

54 A. N. Brown, The Journals of A.N. Brown, 1 June 1842.
wished for a more distinguished audience. They told the government party that they had seized the boat because the Pakeha had taken potatoes from Katikati, which was tapu after the recent murders. The acting-governor could not ignore the incident and stayed to find out more. The full story follows below.

The two European traders had been on their way to Auckland from Maketu with two Maori chiefs, Aperahama and Tangaroa, and Ngakai, the young son of Tohi te Ururangi, another Maketu chief and brother of Tangaroa. Bad weather had forced them to put in to Katikati. The Pakeha, it seems, used some of the potatoes they found on the spot to feed the pigs they had on board. A party of local Ngai Te Rangi people spotted them and two hours later a canoe with an armed party arrived. The two Maori chiefs and the boy escaped into the bush. The boat and the Pakeha were taken to Matakana Island. The Europeans were stripped and their property confiscated, although one of them, Charles Joy, was later released. Chief Te Mutu took the hostage, Peter Lowrie, and the boat under his protection. Te Mutu was one of the Tauranga chiefs with the largest claim to Katikati. The second European may have been released to allow him to travel to Auckland in order to draw a reaction from the government. Unfortunately, the incident turned badly against the Tauranga community.

When Aperahama and Tangaroa emerged from their hiding place they could not find the boy and believed him killed. The two chiefs had no way of getting safely away from Katikati. A little while later another European trader, this time from Tauranga, was also forced by bad weather to put in at Katikati. The two Maketu chiefs who had been left behind at Katikati hailed the boat and asked for transport. The owner, James Farrar, kindly took them on board, but was then tricked by the two Maori chiefs, who managed to abscond with his boat, leaving the owner and his brother behind. While they were sailing away, Tangaroa shouted to Farrar ‘I am going to Maketu. Bring back the boy we have lost, and you shall have your boat.’

The two chiefs took the boat to Maketu. From there a party including the lost boy’s father, Tohi te Ururangi, immediately sailed in the European boat to Tauranga to demand the boy back. The Reverend Brown told them that the boy had not been found. Tohi and his party assumed that the boy was dead and the war party

---

continued on to Tuhua (Mayor) Island where relatives of the Tauranga and Matakana people lived. The party pretended to be European traders and tricked the Tuhua people into coming out in their canoes. Tohi and his followers killed several people and took the bodies to Maketu in order to eat them.

Some of the Christians at Maketu refused to participate in the war party. Although not against a revenge taua in itself, they were concerned about the theft and use of the European boat for such a mission. They sent for their missionary, Thomas Chapman at Rotorua, but he arrived too late to prevent the war party from leaving. He was also unable to prevent the later cannibalism. When the war party returned, Chapman tried to obtain the release of the prisoners and the bodies of those killed, but he was unsuccessful. He was able to convince the war party not to kill the prisoners, but it was clear that the bodies of the dead would be eaten. Parts of the bodies were sent to Rotorua as presents, according to custom. Chapman was also unsuccessful in arguing for the return of Farrar's boat. The Maori party was only willing to give up the boat against payment, but Chapman considered this objectionable for obvious reasons. In his report of the incident Chapman pointed out that things might have been worse: 'Such scenes as I have now related seem very horrible. A few years ago they would have been the minor circumstances of much larger aggressions.'

Fact finding

The dramatic display at Tauranga impelled the governor and his party to stop for several days to discover the full story. Having heard from the Tauranga people and from Reverend Brown, a group of officials, consisting of Edward Shortland, George Clarke junior and Captain Best, went to Maketu to hear the other side. They had instructions to demand that the boat as well as the Maori prisoners taken at Tuhua be given up, and to 'assure the parties concerned of His Excellency's displeasure and determination to put an end to native wars.' The owner of the boat went with them. Shortland again took copious notes. The party was met by five Maori, unarmed

---

56 D. M. Stafford, Te Arawa, 290-91.
57 Thomas Chapman to the Acting Governor, 20 December 1842, GBPPNZ 1844, Appendices, 464-65.
except for a club, who conducted them to Maketu. George Clarke told the gathering that the governor’s ‘anger was very great’ and demanded that the boat be returned and the prisoners given up. Tohi te Ururangi responded that he had taken the boat as payment for the boat the Tauranga people had stolen from *his* Pakeha and that the Tauranga people had killed his child. The killings at Tuhua Island were ‘just according to their ritenga’. He was not willing to give up the captives, he said, because he had lost his son and who was to fetch water for him now? About the act of cannibalism Tohi defiantly commented:

... that was his delight. There were plenty of pigs for the Governor. But he preferred the flesh of his enemies. If the Governor got up to fight in this quarrel, he would be to blame. They would not begin fighting with the pakeha but if war commenced they would not be behind hand. He would eat them also.60

Another chief, Pango, spoke less aggressively but, like Taraia earlier, also asserted that it would be unjust for the governor to intervene in their wars. They had ‘never invited him or consented that he should be their chief’. What could it matter to the Europeans if Maori killed each other? The governor should let them settle their disputes according to their own customs, and they would remain friends. While they had not all agreed to the war party going out in Farrar’s boat, they were all deeply hurt by the death of the child, who was the ariki of their tribe.61 In *Traditions and Superstitions* Shortland explained that the word ariki meant heir of a family. But ariki also had deeper spiritual meaning: ‘the Ariki is believed to be peculiarly under the protection of the Atua, and therefore, so to say, more sacred and important than any other individual belonging to the family.’62

At the end of a day of discussion the government party were offered a sleeping place in the chapel. Some of the Maketu Maori visited them to continue the discussions into the night. The gist of their argument was that the government had no right to interfere in their quarrels, but that it should take an active role in keeping the peace. They were keen for the government to place some European settlers with soldiers between the disputing parties. This would prevent them fighting. But if fighting did

---

61 Ibid.
break out, the government should not take sides. Turning to George Clarke, they accused him of having forsaken the missionaries and taken up the gun and become a soldier, because he was bearer of an angry message. Just as curses were seen as an attack, so angry words were seen as acts of aggression and a possible preliminary to war. Only a person willing to fight would utter such words. It seems that in the eyes of the Maketu people, the government was siding with Tauranga.

When they resumed the official discussions in the morning, Tohi was more conciliatory. He made a promise to return the boat. Pango asked Clarke to deliver the following message to the governor: ‘That they all but one man wished to give up the vessel, but that he wanted a payment. That they objected to any interference in their own quarrels, but that if a European was injured punishment was just.’ Tohi Te Ururangi also agreed to refrain from further attacks and even promised not to engage in cannibalism. He said ‘we do not like it but do so from revenge as we conceive that it is the greatest insult we can offer an enemy’. This was a very different message from Tohi’s brazen statement that cannibalism was his delight and that he preferred the flesh of his enemies to that of pigs, quoted above. Such ‘jokes’ tended to be misinterpreted by Europeans, who ended up believing that Maori ate human flesh for pleasure. At a later opportunity Shortland asked Tohi whether it was true, as some Europeans believed, that Maori ate human flesh because they did not have sufficient food. ‘The idea was evidently quite new to him,’ Shortland wrote, ‘and not very agreeable.’ Tohi listed all the ‘kai rangatira or gentlemen’s food’ available to his forefathers, to prove they had always had plenty to eat. In fact, Tohi’s vanity was so piqued that he was anxious to convince Shortland and, with the help of those around him, gave a long list of all the different foods. Tohi also explained that cannibalism was an act of revenge and the greatest insult they could offer an enemy. Human flesh was kai tapu wakaharahara (exceedingly sacred), Tohi said, and forbidden to women. If his ancestors ate human flesh out of necessity, Tohi argued, females would be allowed to partake of it. Shortland discussed cannibalism

---

66 Ibid.
at some length in *Southern Districts*, and explained it as a sacred part of the art of war.\(^6^9\)

Tohi was anxious to hear what the governor would decide and asked them to return soon to bring him word. He felt tempted, Tohi said, to keep two dogs the government party had brought with them as hostages for their return, but refrained from doing so, since they belonged not to Clarke but to the soldier Captain Best.\(^7^0\)

This suggestion is not as strange as it might seem. Shortland’s books contain a number of ancient stories of quarrels and even wars started as a result of the loss or killing of a pet animal, a dog or a whale, belonging to a chief. Several warriors asked Captain Best questions about the size of the force the governor could command. Captain Best, at the same time, took the opportunity to acquaint himself with the position and defences of Maketu.

Afraid that fighting might break out, as was rumoured, Willoughby Shortland decided he needed to take some action. He sent Captain Best back to Auckland to ask for the troops to be sent down. He also sent a letter to Major-General Sir M. O’Connell, Commander-in-Chief stationed in New South Wales, to ask for reinforcements. He explained that he had called on Major Bunbury, commanding the detachment of the 80\(^{th}\) regiment to ‘aid in quelling the serious hostilities existing between the tribes of natives’ in the Tauranga district and to occupy Tauranga with the whole of his force, ‘in order to keep the peace, which [he had] been unable to do with the civil power, after every exertion.’ He assured O’Connell that his object was not aggressive, but ‘to overawe the natives, and to avoid, if possible, having recourse to actual violence’. This could only be effected with ‘the show of a considerable and overpowering force’. Moreover, should it become necessary to ‘resort to extreme measures’, the larger force would ensure a British victory, and as a result, ‘impress the natives with the utter hopelessness of withstanding British troops’.\(^7^1\)

---


\(^7^0\) A. D. W. Best, *Journal of Ensign Best*, 384.

\(^7^1\) Willoughby Shortland to Major-General Sir M. O’Connell, Commander-in-Chief New South Wales, 6 December 1842, GBPPNZ 1844, Appendices, 463.
Disagreement among government officers

The call for troops caused a stir in Auckland. Chief Protector Clarke, who had been sorting out trouble in the Bay of Islands, came back to rumours that the government was about to use military force against Maori in the Tauranga area. He protested strongly and sent agitated letters to the Acting Governor Willoughby Shortland and to Sub-Protector Edward Shortland. Both brothers replied with irritation. They expressed surprise that George junior had not fully informed his father, for which purpose he had been expressly sent back to Auckland with Captain Best. They also both assured Clarke that he had misunderstood the acting governor’s intentions, which were to settle the business of the return of Farrar’s boat and the release of the prisoners without the use of force if at all possible. The acting governor ordered Clarke to prepare himself to travel to Tauranga to help settle the matter and pointedly asked him to supply a full report of his visit to the Thames and Tauranga earlier in the year, in particular outlining ‘the course you gave the natives to understand would be adopted by the government in case of renewed disturbance.’

This was a reference to the articles that had appeared in the *Messenger of New Zealand* at the instigation of the chief protector, after the earlier incident at Katikati and the murder of Te Whanake. The articles claimed that if there was further trouble, the government would take firm action. In his letter to the chief protector, Edward Shortland explained that this statement was the reason why the acting governor had decided to bring the troops to Tauranga. Not only to act as a barrier between the contending parties, hoping that it would prevent war, but ‘His Excellency appeared to be further impelled by a notice which has obtained circulation in some of the late

---

72 Best wrote in his journal: ‘Great was the excitement in Auckland when it was known that our little detachment was about to try their Strength with the Murderous Cannibals of Maketu’ (*Journal of Ensign Best*, 385). Best added that the alleged theft of potatoes from Katikati by Lowrie and Joy was taken seriously by the authorities and that an order for Joy’s arrest had been issued. The Auckland Police Magistrate refused to arrest Joy, however, but did convince him to go on board the Brig to return to Tauranga. Joy managed to give them the slip and disappeared (386).
73 Edward Shortland to George Clarke, Chief Protector, Outward Letter Book A, 23 December 1842 and the Colonial Secretary on behalf of the Acting Governor, Colonial Secretary Letter Book re Protection of Aborigines, 29 December 1842, Internal Affairs series 4-271, National Archives.
74 The Colonial Secretary on behalf of the Acting Governor, Colonial Secretary Letter Book re Protection of Aborigines, 29 December 1842.
75 In August and September 1842 articles by George Clarke appeared in the *Maori Gazette* urging Maori to stop fighting. Taraia was not apprehended because he did not know the European laws, the article in August stated. These articles stipulated that ‘if any one after this kills a man, indeed the Governor will get up also’ (August) and ‘if after this you kill each other, the Governor will get up’ (September), *GBPPNZ* 1844, Appendices p. 469.
numbers of the Maori Gazette, informing the natives generally that should they in future rise to fight with each other he would rise also."\(^{76}\)

The Tauranga people believed the government had committed to firm action by that statement. Brown noted that the people in Tauranga ‘steadily refuse to make peace’ with the people from Maketu until the government ‘fulfil their pledge of redressing the late murders’.\(^{77}\) It was indeed very unwise to address such a public statement to Maori, as Shortland came to realise. In his book *Traditions and Superstitions* Shortland explained that ‘having once openly given his opinion, he will seldom retract. It is contrary to the use of his countrymen to do so; and he is therefore, very cautious how he pledges himself openly and unreservedly.’\(^{78}\) Shortland came to realise that the government might make use of this power of the word, reinforced by written records, as a source of authority, specifically in relation to land issues. I will discuss this in chapter six.

### Stalemate

Edward Shortland took depositions of the people involved in the first of the two incidents. The Matakana people accepted Peter Lowrie’s deposition when it was read out to them, but in their defence claimed that the provocation they received was great. If a Maori had committed the same breach of tapu (‘stealing potatoes from Ongare, a Pa at Katikati rendered sacred by the death of Whanake’) he would have been killed. They denied knowing anything about the fate of the boy Ngakai. Shortland told them that ‘the governor would not permit the natives to seize European property on any pretence but that he would always be ready to attend to any complaints that [they] had to offer of injury done to them by Europeans.’\(^{79}\) This remark was not very specific or informative. What did he mean by ‘attend to’? There was no English law that stipulated action against the breach of Maori tapu. On the other hand, as we saw in the previous chapter, Shortland was able to arrange the payment of compensation in such cases. But in the present case Europeans were not

---

\(^{76}\) Edward Shortland to George Clarke, Chief Protector, Outward Letter Book A, 23 December 1842.


\(^{79}\) Edward Shortland to George Clarke, Chief Protector, Outward Letter Book A, 23 December 1842.
the only ones who had trespassed. It was not at all clear how the government could or should act in serious cases where Maori and Pakeha issues were intertwined, as was the case here.

Te Mutu of Matakana decided to release the boat they had confiscated. The other items taken from the boat had already been divided over the members of the tribe, but Te Mutu promised to pay compensation. The second boat, taken by the Maketu Maori, proved harder to get back, despite Tohi's assurance. The different chiefs disagreed and prevaricated. Tohi, whose son was still lost, proposed a meeting of the chiefs of Maketu and their relatives at Rotorua with Ngai Te Rangi of Tauranga and their allies from Waikato 'before the governor and his soldier' to discuss the terms of peace. At that stage they would give up the boat and pay compensation for the loss sustained by James Farrar. The Maketu community had avenged the supposed death of Tohi's son with the raid on Tuhua Island and were therefore inclined to make peace, but wary of their traditional enemies at Tauranga. The Tauranga people were still waiting for the government to take action on their behalf after Katikati and now also wanted revenge for their dead at Tuhua Island. But the government was faced with an impossible dilemma. Before examining what options the governor had at his disposal, the decisions he made and how successful, or otherwise, these were, it may be useful to summarise and discuss the events so far.

Discussion

The first observation to make from the above is that Maori always acted from the point of view of their own customs and the rules of utu, something both Taraia and Tohi Te Ururangi made explicit. The 'heathen' Maori in particular knew exactly how to act, because to them it was clear what was tika according to their own customs. Shortland quickly came to this important understanding. The Christian Maori were less clear on how to act appropriately and turned to their missionary for advice. The Reverend Brown was partly successful by referring to the Bible and advising his Maori friends that God would take care of utu. He may, however, have confused the issue by advising them at the same time to contact the governor because it was his task to act. It is tempting to wonder what would have happened if Brown had not referred his flock to the governor. On the other hand, the recent case of Maketu, the

80 Edward Shortland to George Clarke, Chief Protector, Outward Letter Book A, 23 December 1842.
Maori chief who had been executed for the murder of Europeans, may in any case have supported the belief among the Christian Maori that the governor would see justice done in the case of the murders at Katikati also.

The fact that so many Maori were Christian, that many readily made use of the written word, used sharp reasoning, presented themselves as reasonable persons, despite their sometimes gruesome acts, however, made the situation confusing and difficult to understand for Europeans. Clarke, who had the most extensive knowledge of Maori, initially misinterpreted Taraia’s attitude as an indication that Taraia felt ‘safe’ because he did not think the government would take action, as if Taraia would have acted differently otherwise. Clarke seems not to have realised that, according to his customs, Taraia could not act any other way. Yet, Taraia’s letter subsequently convinced Clarke that the case had a long history and constituted justice from a Maori point of view. Maori willingness to listen to Europeans, consult with them, treat them with politeness and, where possible, avoid crossing them gave the government an opportunity to assist Maori to find a way towards accepting European laws. In this Shortland played a vital role in his district although, as I will discuss in the following chapters, he tended to apply Maori ways of doing things in Maori disputes.

The second important observation is the inability of the governor to act effectively. It was not clear whether he could legally intervene in a case involving Maori who had not signed the Treaty of Waitangi. Also, he did not have sufficient military power. He was well aware that it would be dangerous to take military action without the certain knowledge that his army would have a resounding victory. The governor was not in a position to give justice to the Tauranga Maori. He proposed a ‘softly softly’ approach, which his brother Edward also supported. The fact that the involvement of Europeans and their property in the disputes elicited a much stronger response from the government cannot have reflected well on it. Although the governor could not satisfy the need for utu, he still had an opportunity to redeem some of the Tauranga trust by allying himself with their cause through a show of force and showing the flag on their behalf. The next chapter will discuss whether he was successful in this.
The government had been drawn into a centuries old Maori dispute because each side managed to embroil Europeans. From a legal point of view the government's interest was limited to the theft of the boats belonging to British citizens. The government was, however, also deeply concerned about acts of cannibalism and about the possibility of a full scale Maori war breaking out so close to the government seat and European settlement at Auckland. The Colonial Office instructions ordered the governor to attempt to stop intertribal wars and forbid immoral practices such as infanticide, human sacrifice and cannibalism without the use of force if possible. The Marquis of Normanby of the Colonial Office added, however, that ‘if all the arts of persuasion and kindness should prove unavailing, such practices should be suppressed, if necessary, by actual force, within any part of the Queen's dominion’. The troops arrived at Tauranga on 18 December 1842 and landed at Maunganui near Tauranga. At exactly the same time Bishop Selwyn and Chief Justice Martin, who had travelled overland from Port Nicholson on circuit, also arrived. It was an imposing official party at Reverend Brown's mission station: the acting governor and his wife, the bishop, the chief justice, the commander of the troops Major Bunbury, as well as two sub-protectors of aborigines and the governor's aide-de-camp.

The governor's dilemma

The Tauranga community were impressed and expected nothing less than action against Maketu to avenge the death of their relatives at Katikati and at Tuhua Island. Quite a few who had left the Church were ready to return to it. But the governor's
hands were tied: the Attorney General wrote from Auckland to advise him that there
was some doubt ‘as to the right to interfere in the internal movements of those tribes
which have refused to acknowledge the British authority, when they do not interfere
with Europeans’.\(^5\) Edward Shortland concurred with the Attorney General and also
found his remarks regarding the dangers of: ‘a collision between us and natives ...
very sensible’. Chief Justice William Martin agreed that the issue was not clear and
that the use of force would be very ‘impolitic’.\(^6\) Major Bunbury, on the other hand,
was ‘prepared for an immediate attack’ and did not ‘like the idea of remaining
encamped at Tauranga as a rod of terror placed over the head of all parties’.\(^7\) The
troops themselves appeared to think that ‘it would be prime sport to destroy a pa
and kill a few Maoris’.\(^8\) The Bishop assumed that the governor and the troops were
there ‘to bring the offenders to justice’ but maintained a strictly neutral position, with
the maxim that ‘the governor had one business and the Bishop another, and that we
should both attend to our own’\(^9\).

The *Auckland Times*, clearly no friend of Willoughby Shortland, expressed the hope
that the troops would be employed for a ‘peaceable purpose’ and ‘only in
intimidation’.\(^10\) The article complained of the lack of information about the events
provided to the public by the government. The author of the article was nevertheless
relatively well informed and stated that ‘Tauranga flatly accuse, with bitter
upbraiding, the European authorities of having misled them into a fatal slumber of
security and a departure from warlike self-defence, which has led to the dishonour of
their tribe and the loss of valued relatives.’ In the *Auckland Chronicle and New Zealand
Advocate* of 21 December 1842, a lengthy editorial regretted that the Queen’s troops
had been put in ‘a menacing attitude’ toward ‘the Native population of these
Islands’, largely because it would give a bad impression ‘at Home’ if there were
danger of a collision between the two races. The editor felt it was unnecessary to

\(^{5}\) Edward Shortland, ‘Notebook comprising Maketu journal’, 18 December 1842, Commonplace Book
B, New Zealand, 29 November 1842 - 8 August 1843, Dunedin Hocken Library, PC-0020.
\(^{7}\) Edward Shortland, ‘Maketu journal’, 18 December 1842. According to Best this attitude caused some
coolness between the major and the acting governor (*Journal of Ensign Best*, 387).
\(^{9}\) These words were actually spoken by Mr Stack who accompanied Bishop Selwyn, but Selwyn used
almost identical words a few months earlier when he visited warring tribes in Northland (*Journal of
The Bishop’s visitation tour, from July 1842 to January 1843, extracted from letters to his family in
England*, in George Augustus Selwyn, *New Zealand, Part I: Letters from the Bishop to the Society for the
Propagation of the Gospel Together with Extracts from His Visitation Journal from July 1842 to January 1843
\(^{10}\) *Auckland Times*, 15 December 1842, 1.
intervene in what was, after all, an almost daily occurrence in the ‘interior’ — ‘a Native quarrel according to Native custom’ — in this case involving the inhabitants of Maketu who had never recognised the sovereignty of the Queen. At the same time, however, the article expressed understanding for the difficulty the acting governor might have found himself in if the people of Tauranga, ‘being the weaker party’, had appealed to him for the protection of British authority, especially since he was without the assistance of his ‘responsible advisers’. This was exactly the situation the acting governor found himself in.

Willoughby Shortland returned to Auckland to confer with government advisers, leaving Edward in Tauranga as his representative. He instructed Edward to point out, in his meetings with Maori, the economic advantages of peace, and the nature of British law. Edward needed to assure them that this law only punished the guilty parties, ‘but that those who aid the guilty identify themselves with the crime’. For that reason it would be to the advantage of the Rotorua tribes if they withdrew from Maketu back to their own pa and left Tangaroa, Tohi and their party to themselves at Maketu. These instructions prompted Shortland to write to the chief protector asking to be relieved from his duties as Police Magistrate. He felt that in an emergency such as the recent one it had become apparent that ‘the duties to be performed towards the aborigines on the one hand and to the public on the other’ were incompatible. The depositions taken from the witnesses to the events indicated that it would be appropriate to issue a warrant against Tangaroa, but there was no way to enforce such a warrant. Shortland and Land Claims Commissioner William Spain, who together took the depositions, asked the governor for further instructions. The acting governor turned to the attorney general and to George Clarke for recommendations.

Attorney General William Swainson gave as his official opinion that ‘...those tribes only which have acknowledged the Queen’s sovereignty can be deemed British subjects, and are amenable to our laws.’ Chief Protector Clarke basically agreed, but
felt that ‘the admission that tribes of the New Zealanders are not British subjects, and consequently not amenable to British law, would ... be destructive to the interest of the natives and the prosperity of the colony’. At the same time he did not consider it appropriate to use force to bring the tribes who had refused to cede sovereignty to Great Britain to recognise that sovereignty, but that instead every ‘honourable and humane’ means should be used to convince those who had not already ceded sovereignty to do so. The governor strongly disagreed with this latter suggestion, because doing so was the surest way to publicise the fact, which could only be detrimental.

The opinions of his advisers did not give the governor any indication of how to act in the case of the Tauranga problem. The course he intended to pursue with regard to Native Policy was ‘to establish and maintain a moral influence over them’. To effect this ‘a firm and consistent line of conduct must be preserved, and crimes revolting to human nature must be put an end to’. Nevertheless, he decided not to execute the warrant against the Maketu chiefs who had committed the latest murders, because he considered it a lesser evil to allow Maori to continue their wars a little longer than to try and bring them to justice and fail to convict. The acting governor decided to deputise the chief protector of aborigines to continue negotiations for peace with the warring parties, to leave the troops at Maunganui as a barrier between them, and to continue with his trip to Wellington on official business.

The response from Tauranga and its allies

The government inaction incensed the Tauranga party. Pohepohe from Matamata, whose people were Tauranga’s close allies, arrived to see what the governor intended to do. When he found that nothing would be done except further negotiations, he said that ‘it appeared to him that the governor did not intend to give any satisfaction to his children and that being the case he would return to his place, and denied the validity of Swainson’s claim. This reply did not reach New Zealand until several months later.

16 George Clarke, 29 December 1842, GBPPNZ 1844, Appendices, 465.
17 Ibid.
18 Acting Governor to George Clarke, 29 December 1842, GBPPNZ 1844, Appendices, 465. Willoughby Shortland must have feared a lack of evidence or reliable witnesses to effect a conviction according to the British justice system. Chief Justice William Martin may have given the governor this advice.
raise his people and avenge them himself. The other Maori chief intent on retaliation was Tupaea, of Otumoetai Pa near Tauranga. Edward Shortland surmised that these two prominent chiefs of Matamata and Tauranga, who had not signed the Treaty and neither of whom were baptised, might merely want to use the government as a tool towards revenge, without feeling themselves bound by its laws. But Huitao, who was not only the closest relative of the murdered Te Whanake but also a Christian, promised Sub-Protector Shortland that he would wait until Chief Protector Clarke arrived. Yet he also declared that ‘if our law was not “tika” in his opinion, he would have nothing more to do with it’. 

This remark is a key to understanding Maori statements and actions in this context. The wish to explore and apply the rule system of Europeans was carefully considered and reasoned. Maori ritenga and tikanga were strict and circumscribed. There was a rule for everything and even if it might take days of discussion, the appropriate course of action was in the end decided on the basis of these rules. This became abundantly clear to Shortland during the negotiations. Here he also learned that ‘the most certain method of prevailing with a New Zealander is to apply to his reason’. But, if the European system could not provide an equally tight and just set of rules for the appropriate way to act, there was no point in accepting it. Huitao also pointed out to Edward Shortland that they had already shown considerable restraint: Te Whanake’s was the first death of any consequence for which no satisfaction had been obtained and he blamed the government for this. Shortland in turn pointed out that because Huitao had signed the Treaty of Waitangi, he had consented to subject himself to British law. Huitao did not agree with this, but Shortland himself could also not substantiate this statement. British law did not condone vigilante action, but provided for the arrest and punishment of murderers, which in this case the government was not prepared, or felt unable, to do. The government was powerless and therefore ineffectual in this respect. Despite this, the Tauranga people refrained from war, although it was an uneasy peace.

20 Edward Shortland to George Clarke, Chief Protector, Outward Letter Book A, 23 December 1842.
The troops' presence at Maunganui created occasions for cultural clashes. Rather than risking further conflict, the Tauranga chiefs Tupaea and Huitao decided to remove the tapu from Katikati by uplifting Te Whanake’s bones, to make it possible for soldiers to gather potatoes at that place. There were also further threats of violence. On 24 December there were rumours that four war canoes had left Tauranga for Motiti Island, reputedly to obtain ochre (kokowai) to paint their canoes. In reality they had hoped to surprise some fishing parties. Not meeting any, the warriors had contented themselves with slaughtering a number of pigs that were grazing there. These pigs belonged to the people of Maketu, Tohi te Ururangi among them, and were intended as purchase price for a boat. This turned out to be a clever way to take revenge while satisfying the Christian law not to kill people.

**Shortland as ambassador**

Finally on 3 January 1843 the government brig returned to Tauranga with the acting governor and George Clarke on board. Major Bunbury returned to Auckland, leaving Best in charge of the troops at Tauranga, and the acting governor continued on his way to Port Nicholson. Clarke’s message that the government would not interfere in the disputes except as peacemakers was not well received by the Tauranga people. It appeared that Meurant, when he interpreted for Edward Shortland and William Spain when they took depositions, had ‘spoken rather too freely of the governor’s hostile intentions’. Before Clarke called a meeting at Maketu, Shortland travelled to Rotorua to ask Thomas Chapman to come back and assist in the negotiations. Shortland’s guides suggested that on their way they first visit Hikairo, a Christian Te Arawa chief, leader of the Ngati Rangiwewehi sub-tribe, to ask his opinion on the matter. Hikairo was a Christian and a peacemaker. He had strong connections with both sides in this dispute. Hikairo explained to Shortland that he was in a legal quandary, because ‘according to my new Ritenga I disapprove of the seizure of James Farrow’s [sic] boat but according to our ancient customs they acted right as the boat belonged to Te Mutu’s European, Tupaia’s etc. and Naiterangi had taken their

---

28 Hikairo had been instrumental in making peace between Waikato and Te Arawa in the 1830s sealed through the marriage of his daughter to a son of Te Waharoa. Hikairo had refused Te Arawa hapu the right to cross his land to attack Ngaiterangi in the disputes about Maketu and in 1841 had tried to negotiate peace. After Hikairo’s death his son Te Mete Hikairo continued his father’s work. He acted as assessor for the Native Land Court (Jenifer Curnow, ‘Hikairo’, in *DNZB*, Vol. One, 188-89).
Pakeha's boat. According to this latter view the boats did not belong to Europeans, but to Pakeha-Maori who were considered members of the tribe.

At Rotorua Te Arawa maintained that rumours of their warlike intent were lies spread by the Ngai Te Rangi to incite the government to action and that Tohi and his friends were disposed towards peace. Chapman agreed to come to Maketu. The most influential Christian chiefs from Rotorua accompanied him. Chapman, Clarke, Captain Best and Shortland all attended a meeting at Maketu. At this meeting Clarke's message that the governor had no intention to interfere in their quarrels with his soldiers was, understandably, positively received. Tangaroa, one of the two chiefs who stole the boat, was present this time and spoke to explain and justify his actions in tricking Farrar and stealing his boat. His life had been in danger, he said, and Farrar had refused to take him to Maunganui. It had not been his idea to take potatoes from the tapu place at Katikati, but that of Lowrie and Joy, who had said that Maori tapu had nothing to do with them. Tangaroa was quite sure Tohi's son Ngakai had been killed. The meeting finally agreed to return Farrar's boat and the property stolen from it.

Those at the meeting urged Clarke to send a European to live among them and promised to refer to him all difficult cases and to give up fighting and cannibalism. They begged Clarke to allow Edward Shortland to be that man, to which request both Clarke and Shortland himself consented. Tohi te Ururangi explained why it was so important for Shortland to live there. He saw this as proof of a special alliance with the governor: 'I lost my son the Atua of the Tribe and my heart was very dark but the governor has given us his brother to be our guide and protector I accept him he shall be to me in place of my son and my heart has become light.' As a further pledge to the alliance with the government Tohi promised that his tribe Ngati Whakaue would no longer eat human flesh. One could interpret this voluntary renunciation of cannibalism as a victory for 'civilisation', in that an inhumane practice had been relinquished voluntarily and without the use of force. It was also a sign of the respect in which Maori held the position of governor. Shortland saw it that way when he considered that 'a public meeting of the principal chiefs of this tribe Ngatiwakaue [sic] coming to such a resolution is in itself an acknowledgement

of the weight of our government'. He was not complacent, however, and cautioned that great discretion would be necessary to consolidate this influence and make 'permanent and secure what now exists only in name'.

The Ngati Whakaue chiefs asked Shortland to pick a site for his house near the pa. Although Tohi had designated him a replacement for his son, Shortland chose Pango as his patron, rather than Tohi when the two seemed to vie for this role. Thomas Chapman urged Shortland to obtain an outright purchase of the land for his house. The land on which they invited Shortland to live unconditionally, 'nōho noa iho', belonged to Tohi, his brother Ngamoni and Tangaroa. According to Chapman, they would consider him 'as attached more peculiarly to the party to whom the land belonged, and would style [him] their Pakeha' if he did not pay an appropriate price for the land.

Hikairo, whom Shortland had visited on his way to Rotorua, arrived at Maketu with a large party of his people. Knowing that the Maketu people at that moment held the advantage and were therefore not likely to start hostilities, he looked into the future and led a discussion concerning the question what they would do if Ngai Te Rangi killed Ngati Whakaue to pay for those who had died at Tuhua Island. The meeting agreed not to retaliate in such an event, although Shortland did not put too much faith in this statement and feared that 'their actions would belie their words'. They also agreed that if, on the other hand, Waikato joined Ngai Te Rangi and attacked Maketu, all, including the Christian Maori, would defend the pa. Farrar's boat, together with the goods taken from it plus compensation, was handed over to Shortland. The issue of the prisoners remained unresolved.

---

31 Edward Shortland, 'Maketu Journal', 11 January 1843. Shortland seemed to believe that an important interest in his staying at Maketu was commercial because his presence might bring more Europeans and foster trade, see 'Maketu Journal', 26 January 1843.

32 Edward Shortland, 'Maketu Journal', 12 January 1843. Pango was an important chief and tohunga of the Ngati Whakaue people of Ohinemutu pa, Rotorua. He had been supportive of the establishment of a mission at Rotorua (D. M. Stafford, Te Ararau [Wellington, Auckland, Sydney: A. H. & A. W. Reed, 1967], 204-5). Tohi Te Ururangi was also a prominent chief of Ngati Whakaue and a renowned warrior (Jenifer Curnow, 'Tohi Te Ururangi 7-1864', DNZB, Vol. One, 545). Maybe Shortland was trying to avoid too intimate an association with one of the people most closely involved in the present dispute. Pango was possibly also the more senior of the two men. When Tohi later made another attempt to bind Shortland to him, by offering his niece as a companion, Shortland again refused because he felt that in order to 'maintain a proper influence over these people' it was 'necessary to keep up a show of reserve' ('Maketu Journal', 11 February 1843).

33 Edward Shortland to the Chief Protector, Outward Letter Book A, 2 March 1843.

The troops return to Auckland

The Reverend Brown strongly disapproved of Shortland’s placement at Maketu and foresaw problems in Tauranga. He saw the move as a ‘proceeding which ... seems little short of a premium for murder, and which must necessarily tend to exasperate the Tauranga tribes who have been already so deeply injured’. But Tauranga remained quiet. Towards the end of January 1843 Chief Protector Clarke and Edward Shortland went to Katikati to look at the land where the murder of Te Whanake had taken place with a view to purchase. The rest of the month of January and February Shortland stayed at the camp with the troops, travelling between Tauranga and Maketu to oversee the building of his house and visiting the villages in the neighbourhood. On several occasions people consulted him as a doctor. Shortland continued his discussions with the chiefs of different pa and learned more about the long history of the tribal disputes. All was quiet and at peace, it seemed.

On 12 March 1843 the order came for the troops to return to Auckland. The troops were overjoyed, and Brown was also delighted, although he feared that ‘the abominable example that they have set to the Natives of drunkenness and fornication will long continue its pestilential influence’. But Shortland feared that the removal of the troops would alarm the Tauranga people. It would remove the sense of security they had enjoyed ‘which alone has rendered fruitless the persuasions of the more troublesome spirits to seek redress for themselves after their ancient customs’.

For Shortland personally the departure of the troops also meant the loss of companionship. He went to watch the sailing of the brig from the top of a hill and when he saw the boat come around the head and heard music and singing from the deck, he admitted to feeling ‘particularly lonely - as the sun sank gradually behind Maunga Nui’.

Fortunately the departure of the troops did not have any immediate adverse effects. It was mainly the determination of the chiefs themselves that maintained the peace

---

on the Tauranga side, while, according to Shortland, 'the other side' had 'no pretext for commencing fresh hostilities'.⁴⁰ Shortland continued attempts to obtain the return of the prisoners. He wanted them to be handed over to him, but the chiefs were themselves negotiating appropriate payment for their return to their tribe and explained to Shortland that their ritenga was different. Nevertheless they used Shortland if they saw an opportunity. Tupaea, of Otumoetai, who had previously displayed the desire for revenge on Maketu, denied that he had offered to pay sharks' teeth for the prisoners and slyly asked why Maketu detained these prisoners if they really desired peace. Interestingly this happened to be exactly what Shortland had already asked the Maketu chiefs. The latter, when Shortland reported his conversation with Tupaea, said that Tupaea meant evil. They said they were willing to return the prisoners without payment if the other side returned a prisoner they had taken from Tuhua. At this point Shortland gave up, but only for the time being.⁴¹

**Shortland as peacemaker**

Shortland had an opportunity to increase his standing with the people in his district and to apply what he had learned of Maori customs so far, when he acted as peacemaker in a potentially serious conflict on the Tarawera River, east of Maketu. The experience gave him further insight in Maori customs and ceremonies of war and peace. In April 1843 he travelled to Rotorua to see Thomas Chapman and to visit the villages in that area of his district. This time he had no interpreter and sometimes struggled to understand or make himself understood. Shortland was not travelling alone, however, but was accompanied by a brother of the Rotorua chief Pango, under whose protection he had placed himself at Maketu. When he reached Tarawera Shortland found the village deserted apart from a small group of Christians, who told him that a large party of their people was taking three canoes to Matata via Tarawera River. They feared the business might lead to bloodshed because Rangitakina, the chief of Ngati Awa who lived at Matata had refused to allow the party to pass that way.⁴² Shortland decided to travel after them in order to try and avert violence. Pango's brother was unable to accompany him further, he said, but he ordered two younger Christian chiefs to go with Shortland.

---

⁴² Edward Shortland, 'Maketu Journal', 1 April 1843.
By evening they caught up with the others, who were camped on the border of Ngati Awa land. After the customary welcome, Shortland explained that the governor had sent him to live at Maketu, ‘in order that they might turn from war to peace. So that they might appeal to the pakeha in their quarrels’.\(^{43}\) Shortland offered to go to Matata to negotiate the passage of the canoes and to accompany them, manned only by a complement of paddlers, to their destination. His audience responded favourably to this suggestion, but further discussions revealed that there was more to the expedition than the mere delivery of canoes. The party was in fact a well-armed taua of four hundred men. The cause of the problems was multiple, but was generally related to the desire for European trade and access via the river to the sea for that purpose. There was also a case of adultery between one of the wives of a Whakatane chief and Manuka of Waikato for whom the canoes were destined.

The next morning the war party gathered and performed a haka. On the other side of the river a small party of Ngati Awa had come ‘as peacemakers to induce the taua to return to Tarawera’.\(^{44}\) They held some discussions and negotiations, but the principal chief was absent. Because Shortland was not sure the canoes would be allowed to continue unhindered, he decided to travel to Rangitakina’s pa to obtain permission. Rangitakina agreed with Shortland’s proposal but he also explained the grounds for his refusal: the people from Tarawera had for some time been encroaching on his land. Rangitakina said that if peace was established between him and Tarawera he would have no objection to the river being open to anyone.\(^{45}\)

To complicate matters and add to the confusion, that same afternoon a party of twenty warriors with Te Puehu at its head arrived. Te Puehu, whom Shortland knew from Maketu, was of the Ngati Pikiao hapu who had been instrumental in the occupation of Maketu in the late 1830s; an occupation that had led to most of the present troubles in that area. He was allied to the Ngati Awa and owned Otamarora pa at the mouth of the river. He proved less accommodating than Rangitakina. After lengthy deliberations they reached some agreement at last and the canoes with their crew, accompanied by Shortland, were allowed to continue down river. There was a

\(^{43}\) Edward Shortland, ‘Maketu Journal’, 1 April 1843.
\(^{44}\) Ibid.
\(^{45}\) Ngatimaru and Ngatu Haua had a similar arrangement regarding the Waihou River.
tense moment when a red flag was raised at the pa — the crew got their muskets ready — but then the red flag was replaced by a white one and the canoes passed Rangitakina’s pa unhindered. Shortland took care to keep his own canoe between those of the Tarawera and the pa. When they had passed under the pa they were called and officially welcomed with the words: ‘Haere mai he tangata kino kino kino’ which, someone later explained to Shortland, meant ‘welcome here Sir however ill disposed to us you are, welcome.’

Now that the symbolic passing of the canoes was over, further discussions were needed to air Rangitakina’s complaints and to establish the peace he had asked for. The canoe group placed itself symbolically under the protection of the Europeans, by seating themselves near Shortland’s tent, which was pitched near a small settlement of Christian Maori. A young Christian chief of the Rangitakina pa asked Shortland to sit between the two parties to prevent any person from taking ‘advantage of the opportunity to avenge some quarrel of his own’, which was an admissible act according to Maori custom. During the speeches that followed they discussed all the causes of the conflict. Rangitakina listed the encroachments of Tarawera on his land and asked the other party to deny the truth of what he said. The other party did not attempt to do so. They discussed matters the whole day and continued in the evening after the meal. Te Puehu was less peacefully disposed than Rangitakina; he was the person who had raised the red flag. When Te Puehu ‘became very violent and used some evil language’ Shortland, in a low voice, urged him to control himself and tried to get him to sit down. When this had no effect, he simply dragged Te Puehu by his mat to Shortland’s tent. Interestingly Te Puehu did not object to this, but went with him ‘very willingly’, even though he was ‘in a very excited state’. Te Puehu explained that his heart was sore and that ‘he could not help giving vent to his feelings’. He persuaded Shortland to let him return to the meeting because ‘he had a few words more to say and that was all. Not angry words’. And indeed, Te Puehu only spoke for a few more minutes and then retired to his house (as Shortland designated it). Not long after Te Puehu, accompanied by his wife, returned to Shortland and asked for a fig of tobacco.

It is a great pity that Shortland did not write in his journal how he felt about this incident, although his silence is in itself significant. There are some points worth noting in this scene. The first is that Shortland was obviously not yet accustomed to Maori oratory. Later he came to realise that passionate displays of anger did not necessarily mean that a fight was imminent. On the other hand, he did not here, nor later in any of his books, describe the passionate nature of Maori as typical of ‘primitive’ people, unlike the missionary Richard Taylor, for example, who in his book *Te Ika a Maui* specifically referred to ‘the fierce passions of the savage’. Note also that Shortland was mindful of Maori tapu and did not touch Te Puehu’s body, dragging him by his mat instead. Te Puehu, in turn, showed respect for and patience with the Pakeha who obviously did not fully understand the Maori way of doing things. The last part of the incident is curious and its meaning difficult to assess. Did Te Puehu come to claim payment because he had done what Shortland asked him? Or did he come to show there were no hard feelings, by allowing Shortland to make a gift? Or does it signify that Te Puehu acknowledged Shortland’s chiefly status, by begging for a gift? Or was it a combination of all of these?

Before retiring for the night, Shortland announced that the next day he wished to address the chiefs of both sides. The next morning, before breakfast, they all assembled to hear what Shortland had to say. First he stressed that Tarawera should cease encroaching on Ngati Awa land and not attempt to sell that land to Europeans; the governor would never allow it. Then he urged Rangitakina to allow river access to all who wanted to trade with the interior. Rangitakina replied that he would gladly do so if there was peace and Tarawera did not threaten him. The first of Shortland’s injunctions may well have come as a surprise. After all, murder at Katikati and at Tuhua Island had led the government to offer to purchase disputed land at Katikati and at Maketu. The contending parties may have believed that in this case too their quarrels would have a similar result.

After breakfast the three canoes with the Tarawera party left and continued without hindrance down river. Finally on April 8 the canoes arrived safely at Maketu to great acclaim because it had been generally feared that war parties would attack them. The

---

success of Shortland’s negotiations clearly impressed the people at Maketu. It is not unlikely that his efforts to maintain peace also influenced the people at Tauranga to remain peaceful. In his half-yearly report of June 1843 Chief Protector Clarke was pleased to report that Mr Protector Shortland had been ‘indefatigable in reducing some of the most rude and barbarous tribes in the whole island to order and respect for Her Majesty’s Government’ and that the district at that time enjoyed an undisturbed peace. He added that ‘many of the most uncultivated tribes are brought into amiable correspondence with Her Majesty’s Government’.

A delicate balance: Tauranga and Maketu

Clarke’s claim proved somewhat optimistic, however, since after an absence on one of his journeys Shortland heard that Taraia, who had been responsible for the murder of Te Whanake at Katikati, had visited Maketu and had tried to incite the Maketu people to attack Matakana to avenge the death of Tohi’s son. Shortland’s informant was Potene (Bolton), one of Mr Chapman’s converts and teachers, who had attended all the meetings and was convinced that ‘Tohi and the rest had only mamingaed (tricked) Mr Clarke’ to induce Shortland to live at Maketu.

Yet, both parties at Tauranga and Maketu, stuck to the letter of the promises they made and refrained from starting a war. But both sides also tried to taunt the other into striking the first blow. The dispute shifted to Motiti Island, to which both the Tauranga people and the people from Maketu had valid claims. The Maketu people started to cultivate on Motiti Island to assert their claim to the land, in defiance of Tauranga. Shortland, fearing that this would lead to new hostilities, urged them not to do so. He reminded them that his living at Maketu was conditional on their remaining at peace. If the people of Maketu paid no attention to the Pakeha’s advice, he threatened, the governor might send his agent somewhere else. In view of this, it was most unfortunate that the acting governor temporarily removed his brother from the Eastern Districts in order to assist Colonel Godfrey with land claims in the South Island. Shortland was away from his district from July 1843 until March 1844.

50 GBPPNZ 1844, Appendices, 471 and 343.
51 Edward Shortland, ‘Maketu Journal’, 20 June 1843. In Traditions and Superstitions Shortland explained that maminga was an art in which young people were specifically educated. Expressions of maminga varied from a ‘simple covert joke to the most artful simulation’ (160-161).
During his absence John Jermyn Symonds, a clerk at the protectorate department in Auckland, took his place. This seems to have been satisfactory, for it remained peaceful during Shortland’s absence. In December 1843 Clarke wrote: ‘Mr Symonds reports favourably of the state of the district, and I doubt not his residence amongst the tribes has been the means of preventing a renewal of hostilities between Ngatiwakaua and Ngaiterangi.’ Symonds did not remain in the Bay of Plenty, however, and the district was without a protector for about three months. During that time some of the chiefs in the district wrote to the chief protector, assuring the government of their ‘continued good feeling’ and their wish to live in peace, with Europeans as well as with the neighbouring tribes. Despite constant rumblings and rumours of war parties, the Tauranga district remained at peace.

Response to the Wairau affray

The Tauranga people waited with great interest for the government’s response to the Wairau affray, which took place in June 1843 not long before Shortland left for the South Island. During the incident a number of Europeans died at the hands of Ngati Toa warriors. At Otumoetai Pa the Reverend Brown’s flock asked him to talk about

---

53 John Jermyn Symonds (1816-1883). Symonds was well connected. His father was Sir William Symonds, Surveyor General of the Royal Navy. His older brother William Cornwallis Symonds had been an advisor to Governor Hobson, until his tragic accidental death by drowning in November 1841. William Symonds gathered signatures for the treaty of Waitangi, worked as a police magistrate and travelled through the North Island with Ernst Dieffenbach. On their journey they passed through Taupo, Rotorua and Tauranga. William Symonds was much liked by Maori, so the name Symonds may have been known in the Eastern Districts. When John Symonds travelled through the interior with Governor Grey in 1848, a Maori in the Rotorua district told him that he remembered his brother who had travelled that way eight years previously (21 March 1848, The Journal of John Jermyn Symonds, April 1841-February 1850. Transcribed from the originals by T. M. Hocken, Dunedin Hocken Library, PC-051).

54 GBPPNZ 1846 (337), 114-16. FitzRoy found this report and the June report and believed they had not been sent to London. He therefore enclosed them in his despatch of 20 August 1845.

55 Half-yearly report of the Chief Protector of Aborigines, 31 July 1844, GBPPNZ 1843-45 (369), 77. Clarke reported that the district had been without a protector for five out of six months, but this is incorrect. According to Symonds’ journal he was in the district from June 1843 to December 1843 (Journal of Captain John Jermyn Symonds, April 1841-February 1850). Shortland was back in Maketu in March 1844.

56 In June 1843 a conflict arose in the Wairau Plains near present day Blenheim as a result a survey by New Zealand Company men of land which the Maori owners were adamant they had not sold and did not wish to sell. The land claim was still under consideration by Land Commissioner William Spain. To obstruct the surveyors, a group of Maori, under leadership of Te Rauparaha, removed survey pegs, tried to escort the surveyors off the land, and finally burnt a hut the surveyors had built, after first removing their personal possessions. The attempt to arrest the perpetrators of these acts led to an incident in which both Maori and Pakeha were killed. The incident is today generally known as the Wairau Affray, but in the past was more often referred to as the Wairau Massacre. See also Chapter Seven below.

133
‘the battle in Cook’s Straits’ instead of his usual preaching.\textsuperscript{57} When the governor took no retaliatory action for Wairau, the Tauranga people saw this as consistent with the response to the murders at Katikati, and therefore as tika. Many of the people who had left the Church after the murder of Te Whanake returned and many more converted besides. In early 1844 Brown reported some prominent new converts, including the chief Huka, who had been the cause of the 1836 war at Maketu.\textsuperscript{58} In April 1843 Huka expressed himself to Brown ‘heartily tired of the protracted war between Tauranga and Rotorua’, and said that he wished ‘that peace might be concluded in order that Europeans might settle amongst them.’ But he did not then join the Church, although his son was receiving instruction from the missionary. It was not until January 1844 that Huka told Brown that ‘he had long been halting between two opinions, and had at length made up his mind to throw away his Native customs and join the Christian Natives.’\textsuperscript{59} Some historians have suggested that the government response to the Wairau affair diminished the Europeans in the eyes of Maori.\textsuperscript{60} The experience of the eastern districts seems to suggest that there at least it may have helped to bring new converts to Christianity and, implicitly, closer to accepting European laws.

\textbf{An appeal to the governor}

With increased confidence in the government, the Tauranga party turned to the new governor, Robert FitzRoy, for mediation in their dispute over Motiti. In May 1844, Governor FitzRoy was present at a hui at Remuera attended by both parties and their allies. Te Wherowhero of Waikato supported Pohepohe of Matamata and Tupaea of Tauranga as well as several other chiefs in presenting their claim to Motiti Island. Te Wherowhero had the past experience of an appeal to the judgement of Governor Hobson. Te Wherowhero, on behalf of the group, asked that Ngati Whakaue of Maketu, who were still cultivating land on Motiti, would leave the island ‘in a quiet way.’

\textsuperscript{57} Alfred Nesbitt Brown, Transcript of the \textit{Rev. A.N. Brown's Journal}, 30 July 1843.
\textsuperscript{58} See Chapter One above.
\textsuperscript{59} Alfred Nesbitt Brown, Transcript of the \textit{Rev. A.N. Brown's Journal}, 13 April 1843 and 3 January 1844.
He told the governor:

Contrary to our old and acknowledged rules, we have come to be put in possession of this island. See, contrary to our old ways, are we come, that it may be adjusted quietly; not by force of arms to dispossess the present inhabitants; but breaking through those customs we are come, that by the intervention of the Governor, the tribe of Ngatiwakaue may be persuaded to depart in a peaceable and quiet manner.61

Pohepohe also spoke and referred to the many battles fought in the past over Motiti and that these wars would have continued 'had not the English come among us'. Nevertheless he too staked his claim because many of his ancestors had died on Motiti during the wars of Tauranga in which his people the Ngati Haua had fought as allies of Ngai Te Rangi. Ngati Whakaue from Maketu in turn protested that the island was sacred to them also and that they were the original proprietors. They could not possibly let the island go. Governor FitzRoy responded that, although he would like to oblige the great chief Te Wherowhero, he first wanted to hear also from the people not present at the meeting and those who resided on Motiti. He would send a trusted officer to investigate further. He assured those present that he would do all he could to 'fairly and with justice' induce the people at Motiti to 'give it up peaceably' because he understood that so many parties had strong claims on the island.62

The 'trusted officer' the governor sent to investigate the matter was, of course, Edward Shortland in whose district Motiti Island was situated. Shortland reported back to the governor on 7 September 1844.63 The area was generally peaceful, he wrote, although some of the chiefs on either side still refused to conclude a more permanent peace. Tupaea at Tauranga was unwilling to talk to Shortland about the quarrel with Ngati Whakaue at Maketu. Taipari, on the other hand, appeared very anxious to re-establish a peace and was willing to give safe conduct to any willing chief from Maketu to visit Tupaea at Otumoetai to discuss matters.64 In fact, any

61 GBPPNZ 1843-45, 1845 (247), 14.
62 Ibid.
63 Edward Shortland, Outward Letter Book A, 7 September 1844. This report has also been published in GBPPNZ 1843-45, Despatches from the Governor 1845 (369) Vol XXXIII, 102-3. What follows is taken from this report.
64 Taipari was chief of Maunga Tapu pa at Tauranga. He told Captain Best that he had kept the peace for a long time; that the Europeans were right: if they continued fighting the Maori race would 'become extinct', while in peace their numbers would increase. Taipari spoke from personal
Ngati Whakaue not immediately connected to Tohi Te Ururangi were able to move through the area undisturbed. Some Christian Maori from Rotorua even started to live and cultivate outside Maketu pa, along the river at Kaituna. At Maketu itself Shortland found that the main obstacles to peace were Tohi (because of the loss of his son) and Te Amohau (because of his rights to Motiti).

Maori commitment to peace

It is evident that the government's peacemaking efforts at Tauranga were secondary to the negotiations Maori initiated themselves. These stories also make clear that what might seem a small conflict between two contending parties (Tauranga and Maketu), in reality involved a much larger group of allies who had been involved in historical battles. Tohi Te Ururangi from Maketu went to see the Waikato chief William Naylor and told him that he was willing to give up Motiti to Tupaea of Tauranga, but not to the Waikato chiefs. A Waikato delegation visited Rotorua to discuss Motiti and reached an agreement that Ngati Whakaue would leave Motiti alone, if Waikato and Ngati Awa would 'keep quiet'. Neither Tohi nor Te Amohau had been present at that meeting, but when Shortland spoke with them they showed themselves willing to abide by that decision. Tohi was much more intent to complete the sale of the piece of land on which Shortland had built his house. The purchase had been dragging on for over a year. Both chiefs also expressed dissatisfaction with the fact that they had been left so long without a European. As a result Shortland's house had been dubbed 'Whare-tu-noa' (literally the 'Folly' according to Shortland). Tohi Te Ururangi told Shortland that, because of the loss of his son, it was his duty 'to persist in hostility to Tauranga', but that he 'remained quiet in consideration of his promise that he would do so, as long as an officer of the government was stationed at Maketu'. The land was for this officer to reside on, but until the land was paid for, they could never be sure that they would not be deserted. Once payment was made, he said, he would invite the whole Arawa tribe to 'come and see their experience and said that the children of his pa were not murdered in their youth and the boys were growing into men. He boasted that he could raise more fighting men than any chief in Tauranga, but that he would use his strength to preserve peace (A. D. W. Best, Journal of Ensign Best, 14 January 1843, 394). These remarks indicate that some Maori agreed with the governor's belief that a strong military power was a possible means to peace, like the modern concept of deterrent.

Edward Shortland, Outward Letter Book A, 7 September 1844. William Naylor (Wiremu Nera) was a powerful Waikato chief who was related to both Te Waharoa and Te Wherowhero. He was well known as a peacemaker.

riches'. Tohi asked Shortland to deliver a letter to the governor requesting him to finalise the sale of the land and Shortland himself also urged FitzRoy to settle the sale because it would augment the influence of the government officer stationed there. The sale of the land was finally completed at the end of 1844.

Tohi promised Shortland that in the summer he would meet with Tupaeaea to make peace. Shortland cautiously suggested that Hikairo and Thomas Chapman should accompany the Rotorua people and Reverend Brown the Tauranga people. Tohi assured Shortland that there was no need to distrust him. After the meeting Shortland proceeded to Matamata, where Pohepohe, Te Tiwha and others expressed their satisfaction with what Shortland reported. They assured him that they would not be the first to interfere at Motiti and promised to go to Tauranga and discuss matters with Tupaeaea. But Tupaeaea did not trust Ngati Whakaue and later told Shortland that he would only accede if all the Ngati Whakaue chiefs agreed to the peace and if they acknowledged his claim to Motiti. Wiremu Tamihana, the young Matamata chief who had established a Christian village there, was present at this meeting. He was equally suspicious of Tohi’s motives and doubted his sincerity. Tamihana expressed their resolve ‘to be bullied no longer. He did not mean that he would cease to be a missionary nor would he join in any attack on Maketu. But he would resist any farther attempt on Tauranga.’

Back in Maketu Shortland received another valuable lesson in the twists and turns of Maori diplomacy, politics, and the intricacies of what was tika. Tohi told Shortland that he would drag his canoes down from Rotorua to Maketu in a few weeks, when a komiti would be held. Then all the old chiefs who were against an attack on Tauranga would cry ‘he otiano kua puta nga waka ki te moana kua mana tou atua’ (‘enough your canoes have been launched on the ocean, your atua is satisfied’). Shortland believed that the words of these chiefs, together with his own strong entreaties would probably satisfy Tohi’s honour and that he would then go no further. Tohi would not, however, make a promise to that effect.

68 Edward Shortland, Outward Letter Book A, 7 September 1844. The letter said ‘the heart is distressed at the long delay’ and was signed by Tohi, Tongaroa and Ngamoni.
69 A footnote in the official despatch in which a copy of this letter was included reads: ‘This payment will be made immediately’, GBPPNZ 1843-45 (247), 103.
70 Edward Shortland to the Chief Protector, Outward Letter Book B, 26 March 1845, Dunedin Hocken Library, MS-0086/002 (PC-0028).
71 Edward Shortland to the Chief Protector, Outward Letter Book B, 26 March 1845.
Shortland transferred

The peace negotiations in the Tauranga area were not yet concluded when Shortland was transferred to Wellington. He was 'not a little sorry' to leave Maketu before a final peace had been concluded there. Both the Maketu people and those at Tauranga urged him to stay. When the governor did not appoint another protector for the district, Shortland wrote to the chief protector to stress the importance of doing so, pointing out that a government presence had a calming influence and had led the Maori in his district to look upon the government as a mediator in their disputes with Europeans. Tohi also wrote to the governor, begging him to send another officer, preferably a married one because, he believed, such a person was more likely to stay. He assured the governor that

from the constant contact with the pakeha evil thoughts will be abandoned and my enmity to Tauranga will be given up. The pakeha alone can set bounds to my feud with Tauranga. Because he can adjust it. In the absence of a pakeha, it will grow, it will grow, it will grow.

Tohi claimed that without the presence of a government officer he would be bound to listen to the 'jeering' of his tribesmen, who urged him to persist with revenge for the death of his son. But he had listened to Mr Shortland and had left his canoes at Rotorua.

After Shortland left, and when no replacement government officer arrived at Maketu, Tohi Te Ururangi himself went to see Governor FitzRoy in June 1845 and angrily told him that unless he sent another Pakeha to Maketu he, Tohi, would 'rise up and fight' until he had destroyed every one of his enemies, or until he and every one of his own people were destroyed. FitzRoy, who at that time had enough trouble on his hands with Hone Heke in the north, hastily appointed the twenty year old Thomas Henry Smith, a clerk at the protectors' department, to the position of extra interpreter based in Maketu. Smith arrived there in August 1845. In July 1845,

72 Edward Shortland to the Chief Protector, Outward Letter Book B, 26 March 1845.
73 Edward Shortland to the Chief Protector, Outward Letter Book B, 11 April 1845.
74 Tohi Te Ururangi to the Governor, letter enclosed with Edward Shortland’s letter to George Clarke, Chief Protector of Aborigines, Outward Letter Book B, 11 April 1845.
75 D. M. Stafford, Te Arawa, 302.
before Smith arrived at Maketu but after the governor had made a commitment to send Smith down as soon as possible, the Arawa of Maketu and Rotorua held a number of preliminary meetings to discuss making peace with Ngai Te Rangi of Tauranga. Peace was finally officially concluded at two big meetings at the main Tauranga pas in September 1845. There were no speeches or discussions at the peace meetings and the conditions of the peace were not spelled out. The issue of Motiti was left undecided. Reverend Brown interpreted this as meaning that both parties acknowledged that the area was contested. Three years later Brown baptised Tupaea at Otumoetai pa. Hori Kingi Tupaea was the major Ngai Te Rangi leader and one of the principal chiefs of the Tauranga community. In April 1851 Tupaea led a large party of Ngai Te Rangi to the Thames to make peace with Taraia and his people. To secure the Ngai Te Rangi claim to Motiti Island, Tupaea moved there in 1852.

Conclusions

Was the government successful in the Eastern Districts in maintaining the peace? Undoubtedly its actions and decisions contributed to peace. Yet, this success was neither immediate nor unaided. The events and negotiations described in the above two chapters show the driving force of Maori agency and confirm Lindsay Head’s suggestion that a combination of intrinsic and extrinsic factors motivated Maori to search for a value system that would ‘delegitimise inter-group fighting’. The above also shows, as Head argues, that to make sense of the changes in Maori society in the nineteenth century it is necessary to understand the intensely important influence of the Christian faith. Without Reverend Brown’s religious pressure on the Tauranga people war would undoubtedly have broken out. On the other hand, Shortland’s posting at Maketu contributed to peace there.

Most of the Maori actions, arguments, decisions and concessions described above can only be understood in the light of the cultural practice of utu. As the Tauranga people reminded the governor more than once, it was because of him they had not
yet obtained utu. The lack of government action suggested to the Tauranga people that they must return to their old customs in order to exact utu. Only Reverend Brown’s exhortations based on the Gospel held the Tauranga people back from starting a war. Tauranga considered Christianity an acceptable alternative route to mana. According to the Christian belief, it was God’s task to exact payment (utu). It is not unlikely, however, that the Tauranga people killed the son of Tohi Te Ururangi with the intention to provoke the Maketu people into starting a war, in which case they would be entitled to fight in defence. This murder was never proven, but always suspected. Other actions from Tauranga also suggest attempts to incite the Arawa to war. At Maketu Tohi Te Ururangi found a number of different routes to satisfy his honour. He used the alliance with the government, symbolised by the placement of a government officer at Maketu, as a way to maintain the mana of his people. He saw Shortland as the payment for his son.

While Shortland may not initially have understood the spiritual necessity of some Maori actions, his experiences as protector of aborigines made him realise the ‘extraordinary influence ... their superstitious principles of action have had on the social habits of the New Zealanders’. The Maori ‘principle of justice’, he wrote, was ‘an eye for an eye, and a tooth for a tooth’. As a result, he explained, when a person was killed in battle his relatives must kill the victor, or someone related to him, however distantly. If the person killed in battle had also been eaten, it required that his relations kill, cook and eat an enemy of the same rank. If, on the other hand, a person was murdered, further satisfaction was required. The memory of any insult or injury ‘was handed down as an heir-loom’, until the debt was paid with blood. But Maori did not commit ‘even their worst deeds’ without thinking, Shortland argued. On the contrary, every proposed action required detailed discussion, in order to ascertain that the proposed action was ‘in accordance with their rude ideas of justice’.

When George Clarke, Best and Shortland went to Maketu to discuss the killing at Matakana and the cannibalism that followed, Clarke pointed out ‘the injustice and wickedness’ of their actions. Tohi Te Ururangi listened attentively, but remained

---

80 Edward Shortland, Traditions and Superstitions, 104.
81 Edward Shortland, Traditions and Superstitions, 230.
82 Edward Shortland, Traditions and Superstitions, 231.
unconvinced that there was 'any thing wrong in his own mode of thinking'. Tohi replied 'that no doubt the Missionary was right, judging by the law of white men, but that he was right, judging by the law of his country.' He said that 'the subject had been thoroughly discussed by themselves and every knotty point argued according to principles recognized by Maori law, till they had arrived at conclusions which ... were as straight and even as a board planed by a carpenter.' This same capacity for discussion, argument and reasoning would ease the introduction of English law among Maori, Shortland believed. He proposed a limited and gradual introduction and enforcement of the law, starting in townships and from there moving into wider districts. He believed that this approach would 'obtain the ready assent of every intelligent New Zealander [Maori]. His experience in Maketu and elsewhere in New Zealand, convinced him that 'a principle, once established on the basis of reason is more calculated to endure, than introduced by force'. But this would require patience, since ultimately 'time, and altered circumstances will alone avail to eradicate many of those bad habits and practices, which have acquired strength from the instructions and example of ages.' Shortland believed that the government had a moral duty to ease the way towards this change in a peaceful manner, because he saw it as 'the duty of the more civilized' to maintain good understanding between the two races 'by all means in their power'. Shortland's work in the Eastern Districts showed that this was feasible. He made a substantial contribution to this project during his work as protector of aborigines.

83 Edward Shortland, Traditions and Superstitions, 231. Not only did Tohi Te Ururangi still see George Clarke as missionary, but Shortland himself also labelled him 'a gentleman of the Church Mission'.
84 Edward Shortland, Traditions and Superstitions, 231.
85 Edward Shortland, Southern Districts, 135.
86 Edward Shortland, Southern Districts, 135.
87 Edward Shortland, Southern Districts, 60.
88 Edward Shortland, Traditions and Superstitions, 303.
Chapter Six

Land

In the process of his investigations and mediation efforts in the district Shortland gained extensive knowledge of the tribal history of the area. He realised that land lay at the heart of many quarrels. Consequently, Shortland saw land issues and the protection of Maori land rights as by far the most important task for the protectors of aborigines. For the rest of his life Shortland made this the focus of his attention. He used as his guide the initial set of instructions from Lord Normanby to Captain Hobson in 1839. On the first page of his first journal Shortland wrote a succinct three-sentence summary of these instructions:

Her Majesty recognises the Territorial rights of the Aborigines as owners of the soil. No purchases of land from the natives valid unless effected by the Governor on Her majesty's behalf. Native ideas of Right of property in land and their rights of alienating it.

Although each of these three statements raised questions and led to problems in the colony as well as at Home, the first and the last were the most problematic. How could the recognition of Maori as owners of the soil be reconciled with the Crown’s declaration of sovereignty over the whole of New Zealand? What were the ‘Native ideas of right of property’? Where were these rights recorded and what were the sources of knowledge? In 1843 Acting Governor Willoughby Shortland asked the protectors’ department to explain Maori land tenure, because he wished to simplify the resolution of land claims and the purchase of lands without infringing Maori custom. It took Edward Shortland several months to compose a succinct but carefully considered reply, because he felt ‘unable at so short a notice to procure the information desired on a subject which demands a careful investigation’. Chief Protector Clarke wrote his own overview, much longer than Shortland’s but similar in the main points. In his books Shortland expanded on his initial outline and

3 Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 2 March 1843 and 15 August 1843 (enclosure B), Dunedin Hocken Library, VS-0086/001 (PC-0027).
4 George Clarke to Colonial Secretary, reports dated 17 October 1843 and 1 November 1843, GBPPNZ 1844, Appendices, 356-360.
explained the sources for his information. Shortland and Clarke's descriptions of Maori land tenure were the first attempts to do so in a systematic way. Although other contemporary authors made reference to Maori ownership of land, they generally did so in a more summary fashion and in the context of their own purchases of land. Shortland's was the only description that stressed the importance of ancient stories of canoe migrations to explain the origins of certain claims of land ownership.

Shortland applied his knowledge of Maori history when he assisted the land claims commission in its efforts to unravel pre-Treaty European land purchases fairly and justly for all concerned. At the same time, this work added to Shortland's knowledge of Maori land tenure. It proved a complex juggling act to protect Maori rights without seriously disadvantaging settlers, many of whom were in good faith and who might themselves have been duped by wily European land speculators, or who were inadvertently caught in a web of cultural misunderstanding. It was a gargantuan task that often required the wisdom of a Solomon. Shortland suggested a number of pragmatic solutions.

While the oral history of Maori suggested that they were indeed the 'owners of the soil', as Lord Normanby had acknowledged, Normanby's view was not widely accepted. A change in the Home Government in 1846 brought to power those who opposed it. The extent of Maori land ownership was the subject of heated discussion. The injunction of Crown regulated land purchases, or Crown pre-emption, also proved contentious, although it faltered largely for practical reasons, i.e. a lack of government funds to purchase land. Shortland entered into the various debates with passion and conviction and used his ethnographic work as a platform not only to inform but also to lobby. Shortland's views on Maori land tenure, his conviction that land purchases must be government guided, and his views on the extent of Maori land ownership form the subject of this chapter.


The New Zealand literature on Maori land tenure and land issues is large and growing. In the context of this literature and read today, Shortland’s views may not in themselves seem new. They are, however, remarkable or even startling for two reasons. The first reason is that Shortland cut straight to the core of the main issues in a clear and succinct manner and made the first attempts to codify, to some extent, Maori rules of land tenure. The second reason is that, contrary to most of his contemporaries, Shortland believed that it was the Crown’s obligation under the Treaty of Waitangi to maintain Maori land rights under the rules of Maori land tenure. Shortland consistently showed ways in which this might be effected. Significantly, many of the statements of the twentieth century Waitangi Tribunal echo Shortland’s. Several Tribunal reports cite Shortland, in particular those dealing with the Ngai Tahu claims and the Tribunal has recognised Shortland’s insightful record of Maori history.

Maori land tenure

Briefly stated, Maori land tenure was only of interest to Europeans and by implication to the government in view of land purchases. As a result specific questions needed to be answered: who had ownership rights to land? Who had the right to sell or to make that decision? How was ownership of land recorded and marked? In his first essay on Maori land tenure, written at the request of his brother the acting governor, Shortland outlined the history of Maori land ownership with these questions in mind. Shortland believed, however, that Maori land tenure could only be understood with reference to their ancient history of immigration and settlement in New Zealand. He referred to the story of canoe migration, and how ‘the spot where each was finally drawn to land was taken possession of by the crew, who

---


10 Edward Shortland, Report to the Chief Protector, Outward Letter Book A, 14 August 1843, enclosure B. Other quotations in this paragraph have been taken from this essay.
spread themselves from that centre over the more fertile districts, till they became a numerous tribe. As the groups grew, they started to quarrel over land and resources and, ‘although descended from common ancestors’, over time ‘imbibed hatreds to each other, which keep them in continual feuds’, uniting only when faced by a common enemy. Lands on the border of two contending groups tended to be left uncultivated. These ‘kainga tautohe’ or debatable lands were a constant bone of contention, he explained. Shortland realised how easily Europeans might become embroiled in quarrels over land or resources: ‘It is from purchasing lands, the right to which is thus contested by two hostile parties, either of whom is glad to avail himself of an opportunity to sell independently of the other, that Europeans have unwarily fallen into so many difficulties.’

Shortland stated that chiefs, when describing land ownership, made a distinction between lands they had inherited and lands they owned by conquest. Chief Protector Clarke devoted several pages to the effect of conquest on land ownership in his report on Maori land tenure. Clarke specifically referred to the purchase of land in Taranaki from Waikato, who had achieved a right through conquest to the area. However, Clarke emphasized, ‘the principal right to land in the Taranaki district [is] still vested in the original inhabitants’. Shortland’s sources confirmed that while the conquerors might claim rights to the lands they had conquered, as long as a remnant of the conquered tribe remained on the land, their claims also remained valid. The extent to which the different claims were considered valid depended on whether one talked to the conqueror or to the conquered, he surmised. When Europeans bought land from the conquerors, ignoring the surviving members of the original owners of the land, the traditional owners of the land were likely to resist.

---

11 George Clarke to Colonial Secretary, report dated 17 October 1843, GBPPNZ 1844, Appendices, 356, 358-59.
12 George Clarke to Colonial Secretary, report dated 17 October 1843, 359.
14 Edward Shortland, **Traditions and Superstitions**, 276; **Maori Religion and Mythology**, 96. Shortland may have developed this understanding later, after he wrote his early outline of Maori land tenure. The interest of the acting governor in land tenure and specifically in the rights of conquest was prompted by trouble over a land sale in the north, at Mangonui, where two chiefs disputed each other’s right to sell land to the government. This led to armed conflict between Nopera of Te Rarawa who had ancestral claims to the land and Pororua of Ngapuhi who had claims as a result of conquest. For a
Another source of conflict was the purchase of land from a chief without consulting the other members of a tribal group. The chief of this tribal group held the mana over the land, which in this context signified the power of a trustee 'to appropriate the land' among a tribe 'according to a well recognized rule which was considered tika or straight'.

Land allocated to an individual or family group became the 'property' of that family, but the wider group maintained a connection with the land. As Shortland explained, 'whereas a great number of persons have a joint claim to those parts, which have never been resided on, individuals and families have a peculiar claim to those parts, which are in occupation or have at any former time been in possession of an ancestor.'

Land near a village or a pa was always minutely allocated to various families who each had their own cultivation ground. It was almost impossible for Europeans to purchase lands once so occupied, even after a Pa had been deserted for many years. The difficulty was, Shortland explained, that 'every man whose ancestor cultivated there will expect his claim to be satisfied'. In general, Maori parted with their land only under exceptional circumstance. When Maori transferred land rights to Europeans they did so, Shortland argued, in order to attract settlers and to exchange their produce for European goods. These European purchasers formed an 'alliance' with the families who owned the land, specifically by taking a Maori woman as wife. The children of such connections 'were considered as belonging to the tribe of their mother', according to Shortland.

While an intertribal dispute over land was likely to be resolved by war, when a dispute over land arose between family groups within a tribe the issue was more often solved through a process that resembled an English court case. The decision


Edward Shortland, Report to the Chief Protector, Outward Letter Book A, 14 August 1843, enclosure B. These difficulties would often arise in future dealings, most famously in the case of the Waitara purchase, which led to war between Maori and government in Taranaki, see Chapter Ten.


regarding who had the better claim was determined by tracing the 'pedigrees' and ancestors from whom each party derived their right. While this constituted the principal mark of ownership, other proof in the form of an uncontested act of possession (such as cultivating, building a house, setting pitfalls for rats, or erecting eel weirs) even if by an ancestor, was also considered 'sufficient evidence of the right of his descendants to the land', Shortland found. The evidence for this was recorded and maintained through memorised genealogies and oral histories. Shortland pointed out that in New Zealand 'genealogical questions are inseparable from investigations of claims to land'. This powerful insight in a core issue of Maori culture marks Shortland as an exceptionally perceptive ethnographer.

Oral history and genealogy

'We, who have so long trusted to the authority of books,' Shortland wrote, 'are ... too suspicious of the credibility of the traditionary history of a people who have not yet weakened their memories by trusting to a written language.' His own research showed, however, that traditional accounts could be trusted. Shortland admitted that at first he attached no particular value to oral history, until he started to compare different accounts by different persons who lived in different parts of the country and found them to coincide. He published the result of his investigations in the form of extensive genealogical tables in *Southern Districts* and *Traditions and Superstitions*, demonstrating to his readers that if one cared to take the trouble to be thorough, it was possible to transfer Maori traditional knowledge of land ownership and land use, including maps and family trees, to paper. In *Maori Religion and Mythology* Shortland distilled his knowledge into a clear overview of Maori land tenure, based on the many stories he had heard. Shortland's approach belies Giselle Byrnes' assertion that his was an 'essentialized discussion of 'natives' (and settlers)' that had the tendency to separate people from place. On the contrary, Shortland's stories anchored people to places and this was his intention. He showed that every path

---

23 Edward Shortland, *Southern Districts*, genealogical Tables A-G between pages 94 and 95; also appendices in *Traditions and Superstitions*.
ever walked by Maori was infused with stories that indicated who had a claim to certain lands and places, preserved in the genealogies and traditional stories of the tribe.25 While he needed to identify the owners of land for the purpose of land grants and land purchases, through the retelling of the early migration and settlement stories Shortland also showed that Maori were able to lay claim to the whole of New Zealand.

Shortland’s informants did not restrict themselves to remembering a ‘bare collection of names’, but related ‘the most remarkable actions’ relating to the lives of their ancestors: the history of migrations, wars, losses, and triumphs of the tribe, generation after generation, were held in their ‘retentive memories’ and handed down from father to son almost verbatim.26 Among the more important Maori families in a tribe it was the custom to devote one or more of their members to the study of traditional knowledge, as well as of the ‘tikanga’ or laws, and religious rites. Such knowledgeable persons acted as ‘books of reference’ and as ‘lawyers’ to the tribe.27 These oral stories contained the history of the tribe, a travelogue that served to prove claims to land, as well as detailed descriptions of the landscape that could function as maps.28 According to Maori custom, making land sacred would secure the land for later generations. Naming land was one of the most common ways to do so. Mountains acquired sacredness because they were named after an ancestor and subsequent ancestors after them. This sacredness was increased by the frequent mention of such landmarks in speeches.29 Hills or ranges bearing the names of

25 Edward Shortland, *Southern Districts*, 94-95; also much of Shortland’s essay *A Short Sketch of the Maori Races* (Dunedin: Printed for the Commissioners of the New Zealand Exhibition by Fergusson & Mitchell, 1865). In *Maori Religion and Mythology* (Chapter V) Shortland gave the example of the tale of the Arawa canoe, which showed that the crew of this canoe did not settle in one place. The nine chiefs who had sailed on the Awarua dispersed and spread themselves north and south of the place where the canoe was dragged ashore, each in search of land for his family. Shortland explained that three of these chiefs went to Taupo, two to Wanganui, one to Kotorua, one to Mercury Bay, and one to Cape Colville, while others stayed behind at Maketu. In the third generation two divisions of the family who had settled at Cape Colville migrated again: the oldest to Kaipara, the second to the Bay of Islands. These stories also exemplified the intricate interrelationships between hapu and iwi (*Maori Religion and Mythology*, 89).

26 Edward Shortland, *Southern Districts*, 94-95. In his later ethnographic studies Shortland compared Maori oral history with the works of ancient Greek historians, such as Homer, Hesiod and Herodotus. See for example ‘Primitive Religion & Mythology Of Aryans and Polynesians’, signed by Edward Shortland, 6 May 1879, Lipson House, nr. Plymouth (Edward Shortland, ‘Maori manuscript No. 12’, Dunedin Hocken Library, PC-0012, pages 9-29).


28 Alan Ward writes that ‘the history of every bit of ground that had experienced human occupation could be recounted by one or more of the occupiers’ (*An Unsettled History: Treaty Claims in New Zealand Today* (Wellington: Bridget Williams Books, 1999), 111).

ancestors to which tribal history referred indicated the boundaries of land. If an ancestor or relative died on land, this too would make it sacred to descendants. In the previous chapter I noted that Taraia strongly objected to being transported to Auckland and that he swore he would die on his own land.

If naming land made it sacred, writing names down would add considerably to the sacredness. In Maori eyes there was a close relationship between print and truth, as historian Lachy Paterson argues. This was evident from the Tauranga response to the *Messenger of New Zealand*, discussed in chapter four. Maori were able to transfer their knowledge of the land to paper by drawing accurate maps, although such maps lacked the European understanding of distances; Maori measured distance by the act and length of travelling. In *Southern Districts* Shortland reproduced four maps drawn by the Ngai Tahu chief Tuhawaiki of the southern parts of the South Island and a map of the inner lakes drawn by another Ngai Tahu chief called Huruhuru. In all five cases the name of the draughtsman is indicated on the map. Shortland also explicitly acknowledged that he owed the details of the interior drawn on the map of the lower South Island, reproduced in the front of *Southern Districts*, to information provided by Huruhuru. Rather than seeing the creation of such maps as ‘colluding in the exploration of New Zealand’, as Byrnes has suggested, it is more likely that both Shortland and his Maori informers saw this as putting a stake in the ground for Maori land claims.

Proof of ownership or claim to land contained in the genealogical stories was confirmed on the land itself with certain markers. Shortland came across ownership markers consisting of a tuahu — a sacred place where offerings of food for the atua were placed — and also rahui or ri (a sacred mark) in the form of a wooden post. It is not surprising that Maori often protested against surveyors on their land and the

---

30 Lachy Paterson, *Colonial Discourses: Niupepa Maori 1855-1863* (Dunedin: Otago University Press, 2006), 46. For the Tauranga response to the *Messenger of New Zealand* see Chapter Four above.
32 Maps drawn by Shortland’s informant Tuhawaiki were reproduced between pages 80 and 81 of *Southern Districts*. Huruhuru’s map appears facing page 205.
34 G. M. Byrnes, ‘The Imperfect Authority of the Eye’, 213. Shortland was involved in early land claims hearings in the South Island as well as the North Island. He also knew that the government and the New Zealand Company were interested in buying land for a settlement in the South Island.
setting up of survey poles. The Wairau affray in 1843 is an example where this led to bloodshed. Shortland called it a ‘common practice’ to dispute land by setting up a post to claim it. If another tribe claimed the same land they would cut down the post. The contending parties would try to avoid meeting on the disputed ground ‘till the post has been cut down and re-erected several times’. If neither party would yield, the dispute would end in a fight. This practice explained the behaviour of Hone Heke with regard to the flagstaff at Kororareka, according to Shortland. The repeated re-erection of the flagstaff by the orders of the governor confirmed to Heke that the flagstaff represented a land claim.

Because land rights were recorded as part of family histories, Maori could not give a general answer, with rules of proceedings, when Europeans asked about their concepts of land tenure, but only the story of a particular case in which the respondent was personally involved, Shortland explained. Maori would never presume to tell a story from any but their own point of view and knowledge. It was up to others to tell their stories as handed down by their family. If Europeans wished to establish general rules, they needed to derive these from a compilation of genealogies, according to Shortland. The government could play an important role in this process and gain authority among Maori, Shortland believed:

The Government would gain increased influence from thus being the depository of the collective knowledge of different tribes; which knowledge is highly esteemed by the natives, and is one source of influence possessed by their more experienced chiefs. In cases of dispute the Government would hereafter be appealed to as authority.

During peace negotiations over Katikati and Maketu, Shortland found that the knowledge he had acquired of the local history and of the basis for the different

---

37 Edward Shortland, Traditions and Superstitions, 265.
38 Edward Shortland, Traditions and Superstitions, 265.
39 Edward Shortland, Maori Religion and Mythology, 88.
claims by different groups added considerably to his standing.\(^{41}\) Shortland's knowledge of Maori land tenure proved of great value in his work for the land claims commission, while dealing with land claims in turn expanded his knowledge.

**Land Claims**

After the annexation of New Zealand, the Crown set up a Land Claims Committee with two objectives: to avoid 'the acquisition of large tracts of country by mere land-jobbers'; and to replace informal occupation licenses of bona fide settlers with indefeasible Crown grants.\(^{42}\) The 1840 New Zealand Land Claims Act, later replaced by the Land Claims Ordinance (1841), rewarded genuine settlers, but penalised speculators with the ruling that no single grant of land should exceed 2560 acres.\(^{43}\) The Ordinance put an abrupt stop to speculative purchases. The task of land claims commissioners was to look into all early land purchases and assess their validity. Shortland worked as interpreter and adviser to the commissioners during the Hauraki, Tauranga and South Island hearings. The land claims commission Shortland assisted in the early 1840s was only the first of a long series of commissions and investigations into land claims, which have continued well into the twentieth century.\(^{44}\) There are two reasons for the protracted process. The first is the lack of adequate survey data to underpin the Crown's early attempts to 'guarantee secure title to a defined area'.\(^{45}\) The second reason is the complex system of Maori land tenure. It complicated the investigation of purchases of large tracts of land, while smaller land claims tended to pose fewer problems.

A Waitangi Tribunal report on old land claims suggests that the 'Godfrey / Richmond commission did not attempt to investigate all Maori interests affected by each Pakeha

---

42 D. Moore, B. Rigby, and M. Russell, Old Land Claims (Rangahaua Whanui National Theme A) (Wellington: Waitangi Tribunal, July 1997), 14, 15.
43 Alan Ward, An Unsettled History, 75-79.
44 D. Moore et al., Old Land Claims, 3
45 D. Moore et al., Old Land Claims, 4. John Weaver examines the different systems for the registration of documents and title developed in the nineteenth century to minimise fraudulent land transactions on frontiers. For example, in 1840 South Australia created a state guarantee of title known as Torrens title. This system later spread to other regions (John C. Weaver, The Great Land Rush, 239).
claim, and neither did the protectorate.\textsuperscript{46} This is undoubtedly true, since it is impossible to prove that 'all Maori interests' had been presented to the commissioners. But it is also true that the commissioners tended to err on the side of caution. In general they put more credence on Maori testimony than on that of European claimants.\textsuperscript{47} The protectors worked hard at trying to untangle overlapping Maori rights, in particular where tribal wars had created the dual claims of conquerors and conquered, as Alan Ward points out.\textsuperscript{48} Shortland was meticulous in taking into consideration Maori interests. For example, he investigated an alleged sale to a European by Tupaea of Tauranga. This sale was contested. In his usual thorough manner, Shortland recorded the basis of the opposing claim, which was through the same ancestor as the vendors' claim. He mentioned that neither party resided on the land but merely visited it for fishing, adding a number of other explanatory notes that gave the commissioners clear indication of the rights and wrongs of the claim.\textsuperscript{49} The commissioners concluded that the land had not been purchased from the rightful owners.\textsuperscript{50} At other times, however, and in accordance with his orders, Shortland's recommendations favoured settlers, especially those who had been disadvantaged by speculators. For example, where possible he tried to complete the purchase by recommending further payments to individuals, rather than excluding portions of land from the award. As with his work as police magistrate, Shortland tended to display an even-handed pragmatism.

Under pressure from settlers, Governor FitzRoy waived the restriction of 2560 acres. He also intervened in the work of the commission. He appointed another commissioner, Robert Fitzgerald, to revise the commissioners' recommendations and 'should he think it proper, to extend the former award'.\textsuperscript{51} Without further hearings, purely on the basis of the information in the commissioners' reports, Fitzgerald recommended changes to 99 out of 655 cases. In twelve cases he recommended changes to 99 out of 655 cases. In twelve cases he recommended

\begin{itemize}
  \item \textsuperscript{46} D. Moore et al., \textit{Old Land Claims}, 5.
  \item \textsuperscript{47} See for example the testimony of Walter Brodie, an early settler in the northern part of the North Island, in front of the House of Commons Committee on New Zealand (1844) (\textit{GBPPNZ} 1844, 46).
  \item \textsuperscript{48} Alan Ward, \textit{An Unsettled History}, 79.
  \item \textsuperscript{49} Robert Stout, \textit{Webster's Land Claims}, AJHR 1887, Second Session, A-4., 11.
  \item \textsuperscript{50} Testimonies may have been more extensive only when the claim was opposed by some Maori. This is David Armstrong's conclusion as well. A good example is one of Frederick Maning's contested claims. Evidence ran to some sixteen A4 size pages and Commissioner Richmond, who upheld the claim, stipulated that the portion of land claimed by the opposing party was to be excluded from the land grant (David Armstrong, \textit{The Land Claims Commission: Practice and Procedure 1840-1845} [Wellington: Waitangi Tribunal, n.d.], 145-46 and 131). Frederick Maning was a Pakeha-Maori from Hokianga who wrote a popular book titled \textit{Old New Zealand}. In later life he was a land court judge.
  \item \textsuperscript{51} Andrew Sinclair to Colonial Secretary, 23 June 1846, \textit{GBPPNZ} 1847 (837), 36.
\end{itemize}
issuing grants despite the original recommendation of ‘no grant’. In other cases he extended the number of acres for which the grant was issued. The fact that the commissioners reduced some claims because of the 2560 limit and others because they considered the claim invalid may have been confusing. Some of Fitzgerald’s new grants did not merely extend beyond the 2560-acre limit, but sometimes exceeded the extent of land the commissioners deemed to have been legally purchased. Shortland was highly critical of this ‘indiscriminate distribution of Crown grants’. He cautioned the chief protector of aborigines that ‘serious difficulty and responsibility will result to the government’ if the grants it had issued were not valid. He felt so strongly about this matter that he discussed it at some length in *Southern Districts*. Here he pointed out that any title fortified by the authority of the Crown would greatly increase in value and that for that very reason it needed to be flawless and unexceptionable. Shortland also made an interesting distinction between titles considered valid in an English Court of Law, and ‘good’ and ‘bad’ purchases according to Maori law. The light in which Maori viewed purchases would ‘represent their actual, though perhaps not their theoretical value’, Shortland argued. These were prophetic words and another example of Shortland’s pragmatism.

In his attempts to speed up the process of issuing Crown grants, Governor FitzRoy waived survey requirements, after Surveyor Ligar reported that claimants were reluctant to accept the cost and bother of surveying. They believed that their titles to land ‘as derived from the natives’ were just as good. FitzRoy had neither the money nor the men to complete surveys. The governor decided that a mere description of boundaries would be sufficient. The land claims commissioners, on the other hand, had never considered such vague and inaccurate descriptions to be adequate or

---

52 D. Moore et al., *Old Land Claims*, 33.
53 Especially if settlers had put up buildings and invested in the land, for example in the case of the claim of L. A. McCaskill and S. M. D. Martin in the Hauraki district. When Governor Grey tried to void FitzRoy’s extended grants, the Colonial Office gave instructions to give settlers ‘every opportunity to legally purchase any land on which they had made considerable improvements’, as long as all Maori owners were adequately paid. This did not, it seems, leave room for Maori owners who did not want to sell at all (Earl Grey to Governor Grey, 2 December 1847, *GBPPNZ* Vol. 6, 1847-48 [892], 29).
54 Edward Shortland, *Southern Districts*, 88-91. The quotation is from the index to *Southern Districts*, xii.
55 Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 10 June 1844.
58 D. Moore et al., *Old Land Claims*, 33-34.
The commissioners always expected that a survey would precede the issuing of a final grant. As the land claims commissioners pointed out, FitzRoy’s waiver and the resulting lack of clarity over exactly what land had changed hands contained the seeds of future disputes. Shortland suggested ‘a mode of removing these imperfections from titles granted by the Crown and of avoiding endless trouble hereafter’. Before issuing a grant, a protector of aborigines should clearly and physically mark out the boundaries on the actual land sold, with the help of local Maori. With such a clear delineation of the land, a surveyor only had to estimate the content of the area, Shortland wrote. The boundary markers would, of course, also be visible to any other potential Maori claimants, who would undoubtedly quickly intervene if land were included that they had not sold or did not wish to sell.

Some European land claimants tried to manipulate the system by bribing Maori owners. In June 1844 Shortland reported that several European purchasers in the Hauraki district had silenced Maori claimants with promises of future payments, or had promised bribes if they gave favourable testimony. The story came out when the promised payments did not materialise. One of the land owners was a relative of Taraia’s, Te Awhe, who told Shortland that he had promised ‘to conceal from Major Richmond [the commissioner] his discontent at the payment he had received in

59 D. Moore et al., Old Land Claims, 25.
60 Edward L. Godfrey, Commissioner, to the Colonial Secretary, Coromandel Harbour, 8 June 1844, GBPPNZ Vol. 5 1847 (837), 36. George Gipps’ instructions to Hobson regarding the procedures of the land claims commission allowed some flexibility and accepted that it might not always be possible to complete a survey before the commissioners submitted their report. It would be sufficient to set forth ‘the situation, measurement and boundaries of the lands recommended to be granted ... so far as it shall be possible and can conveniently be done’ (quoted by David Armstrong, The Land Claims Commission, 87). The question is, what would result in cases where it was not possible to conveniently do so. The commissioners’ report would have little value, except for an acknowledgement that some land somewhere had been purchased. In his own instructions to the commissioners Hobson stipulated that any ‘actual award’ would be contingent upon a report from the Surveyor-General (David Armstrong, The Land Claims Commission, 101).
61 This was all the more likely since the claimants sometimes exaggerated the size of their claims. If the claimed amount of land was allocated without further investigation, not only would Maori protest, but it was also possible that the allocation encroached on land claimed by other, neighbouring settlers. Commissioner Godfrey pointed this out in his report dated 26 November 1842 (David Armstrong, The Land Claims Commission, 61).
62 Edward Shortland to the Chief Protector, Outward Letterbook A, 10 June 1844.
63 Edward Shortland to the Chief Protector, Outward Letterbook A, 10 June 1844. George Clarke senior complained as early as June 1842 that unscrupulous land claimants were corrupting Maori with offers of bribes (GBPPNZ 1844 [566], 191). The claimants themselves, however, suggested that unless they paid bribes, the Maori witnesses were unwilling to tell ‘the truth’, or to appear at all. Both Walter Brodie and Samuel Martin made public statements to this effect and complained to the Colonial Office (David Armstrong, The Land Claims Commission, 124, 125, 126, 132). See also The Daily Southern Cross, 10 June and 14 October 1843.
consideration' for his land. This practice to deceive the land claims commission had
two very negative effects, according to Shortland. In the first place it encouraged
Maori to subvert the system or to give untrue evidence. The most likely victims
were Maori who did not appear at the hearings at all and those who ‘never have
parted with their rights’. The second negative outcome was that the commissioner
might allocate grants based on defective evidence. This would lead to conflict,
Shortland suggested, when land that included unsold portions or on which rested
unfulfilled promises was subsequently sold to new owners. These unsuspecting
owners would find out that their title was incomplete when they tried to take
possession of the land. In accordance with their customs, Maori often tended to
‘bide quiet till [the Pakeha] came to take possession, and then get up to defend their
right’, Shortland warned.

Again, Shortland offered a solution. He proposed that the government should take
cognisance of all promises of future payments. The protectors of aborigines should
draw up statements of these promises and have them signed by the claimant or the
agent who made the promise, as well as by the Maori land owners to whom the
promise was made, ‘so as to enforce their fulfilment before the land fall in to new
hands’. One must suppose that stories of such promises would surface during the
establishment of the exact boundaries, as indeed they generally did. Shortland made
no mention of what to do if the owners did not want to sell at all. It is probable that
he would recommend leaving any plots or rights which the owners did not want to
sell, or for which they did not consider the price acceptable, should be left out of the

---

64 Edward Shortland, ‘Notebook comprising Maketu journal’, 29 June 1843, Commonplace Book B,
New Zealand, 29 November 1842 - 8 August 1843, Dunedin Hocken Library, PC-0020.
65 Settlers in turn complained that Maori manipulated the system and tried to ‘extort’ more money
from them for the land the settlers claimed to have purchased. See for example the case of Thomas
McDonnell, ex-British Resident at Hokianga, who appeared in front of the 1844 Select Committee on
New Zealand and who petitioned the 1856 House of Representatives on the subject of his land claims
(David Armstrong, The Land Claims Commission, 132-133; 134-135.)
66 Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 10 June 1844.
67 Ibid.
68 Edward Shortland, Southern Districts, 89.
69 In the case of claim 153 by Robert McCleod, Shortland wrote to the claimant and outlined the
further payments the claimant had promised according to the Maori landowners (Edward Shortland
to the Chief Protector, 15 June 1844 re claim Case No. 153 [Te Ruri and Robert McCleod], New Zealand
Government Gazette, April 1844).
70 Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 10 June 1844.
Later correspondence suggests that Governor FitzRoy preferred to negotiate for the inclusion of such lands in the sale.\textsuperscript{71}

In his dealings with the land claims commission or when investigating land disputes Shortland followed his own advice and meticulously applied the measures he had proposed. For example, Shortland investigated a claim to an island at the mouth of Waiau River at Coromandel Harbour.\textsuperscript{73} The claimant had paid a deposit. Later the owners had received further payments but still did not consider the purchase complete. Meanwhile they had allowed Europeans to settle on parts of the place, while maintaining their own cultivations on other parts. The claimant, however, sold the whole island to other Europeans. Shortland made a thorough investigation of all outstanding claims, determined their validity, and enclosed a list of all the places involved, their Maori owners and the names of the Europeans who lived there now, what payments had been made and what was still expected.\textsuperscript{74} Shortland also wrote to claimants, outlining the further payments they were expected to make, according to Maori informants.\textsuperscript{75}

**Crown pre-emption**

The inability for Europeans to purchase land directly from Maori, after the government declared this illegal, disgruntled settlers and speculators alike, who campaigned angrily against the government at every opportunity. One of the fiercest lobbyists was the editor of the *New Zealand Herald*, Samuel Martin, whose tirades in the newspaper so angered Governor Hobson that he closed down the paper.\textsuperscript{76} Martin called on Hobson in person on behalf of the land purchasers in the Thames area, a district he warmly recommended for European settlement.\textsuperscript{77} The fierce protests had an intimidating effect and put great pressure on Governor Hobson. His successor

\textsuperscript{71} This is how he himself handled the government purchase of land at Maketu for the Protector’s residence and how the land claims commission, on Shortland’s advice, handled the claim for Great Barrier Island (see Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 12 June 1844.

\textsuperscript{72} Edward Shortland, Outward Letter Book A, 13 June 1844.

\textsuperscript{73} Described in the *New Zealand Government Gazette* of 5 April 1843, Case No. 29 and Case No. 305A.

\textsuperscript{74} Edward Shortland to Chief Protector of Aborigines, Outward Letter Book A, 13 June 1844. See also 15 June 1844 re claim Case No. 153, *New Zealand Government Gazette*, April 1844.

\textsuperscript{75} See for example Edward Shortland to Robert McCleod, Outward Letter Book A, 15 June 1844.


Governor FitzRoy succumbed in 1844 and tried to appease settlers by waiving Crown pre-emption, as well as taking the other measures mentioned above, making further purchases by individuals possible. Shortland was scathing of FitzRoy's weakness and the fact that he bowed to popular pressure. Shortland pointed out that in 'more civilized countries', where people spoke the same language, no one would consider buying land without the assistance of a legal expert. How then could it be safe to allow uncontrolled land sales in New Zealand, where the purchasers were 'not well versed in the language and customs of the country'? Shortland believed that the sale and purchase of Maori lands must remain under the strict control of government to avoid future disputes. He was also convinced that most of the influential chiefs were more than happy to leave the purchase of lands 'under the superintendence of the government.' Shortland found that Maori were keen to sell small plots of land in order to obtain 'a few Europeans of [their] own with horses and cows'. During his years as sub-protector Maori offered pieces of land for Crown purchase on a number of occasions. The problem was that there was no settler demand for such land, because the areas were isolated or too far from the coast. Also, generally Europeans wanted to buy larger tracts of land than Maori were willing to offer. In the South Island the purchase of large tracts was still a possibility. One such purchase was successfully negotiated with the help of government officers.

Purchase of land at Otakou

Shortland believed that the purchase of land at Otakou in the South Island was a good example of a well-supervised sale. Government officers closely supervised the purchase of land for the Dunedin settlement on behalf of the New Zealand Company in 1844. Although Edward Shortland had just made a tour of the South Island and gained some idea of Maori politics there, Governor FitzRoy did not select him for that

78 Edward Shortland, Traditions and Superstitions, 286-87. Predictably, S. M. D. Martin was full of praise for the 'very prompt, decided and equitable manner' in which Governor FitzRoy dealt with the land claims, and accused Governors Hobson and Willoughby Shortland of a lack of moral courage to come to a decision on the claims (S. M. D. Martin, M.D., New Zealand, in a Series of Letters: Containing an Account of the Country, Both before and since Its Occupation by the British Government [London: Simmonds & Ward, 1845], 196-97). FitzRoy's waivers led to a new rush of purchases. It voided some of the work of the land commissioners and also opened new avenues for deceit. For an overview see Rose Daamen, The Crown's Right of Pre-Emption and Fitzroy's Waiver Purchases (Wellington: Waitangi Tribunal, August 1998).

79 Edward Shortland, Traditions and Superstitions, 286.

80 Edward Shortland, 'Journey to Matamata', Commonplace Book A, 28 October 1842. These words were spoken by Te Tiwha, who wanted to sell land near Matamata.

supervisory task, but instructed John Symonds instead. John Symonds was a
surveyor, and through his father and his brother had connections with the New
Zealand Company, with Scottish settlement schemes, and with the colonial
government. He was employed as clerk at the protectors’ department and took
Shortland’s place at the Bay of Plenty during Shortland’s South Island trip. During
that period he spent much of his time learning the Maori language.

Before Symonds journeyed south he had an opportunity to read Shortland’s report
and to discuss land issues with Shortland. In his report on the South Island Shortland
gave a potted tribal history of its inhabitants. Shortland’s report also contained
‘precautions to be taken by persons engaged in purchasing land from New
Zealanders’ with specific instructions for Symonds, written at the request of
Governor FitzRoy. In his instructions Shortland distinguished two groups: ‘those
who have an especial right to the place (i a ratou te turuturu o te kaika) and those
who are allied to them (nga piringa)’. It was essential to ascertain first of all who had
individual claims. After that, it was relatively easy to determine the general rights of
the principal chiefs and groups, according to Shortland. The next step was to
determine exactly which places they were actually willing to sell and which they
wanted to keep for themselves. Shortland cautioned that Maori were rarely willing to
sell ‘a large district without reservation, unless it be wholly unsuited to their
methods of cultivation and even then there would probably be some favourite eel
fisheries to them of great moment, with which they would not part.’ Shortland
thought that the form of a deed of sale was unimportant provided it was in the Maori
language, in simple terms, and easily understood. It was essential, however, to list
the Maori name of every place to be included in the sale. Shortland himself wrote
down all the Maori place names in the area south from Port Cooper. A map with

82 His father, Sir William Symonds, was a prominent member of the New Zealand Association (1837).
His older brother, William Cornwallis Symonds, had been agent for the New Zealand Manukau and
Waitemata Company. As deputy-surveyor-general William Symonds assisted with the laying out of
Auckland township. John Symonds was working for the survey department in New South Wales
when his brother drowned in the Waitemata harbour. John came to New Zealand and was employed
as clerk for the Department for the Protection of Aborigines (G. H. Scholefield, ed., A Dictionary of New
Zealand Biography [Wellington: Department of Internal Affairs, 1940], Vol. II, 355-56). As an indication
of what a small world it was, it is interesting to note that a third brother, Thomas Symonds, born in
1813, served with Peter Shortland, Edward’s younger brother, under Captain Hobson on the
Rattlesnake (Guy H. Scholefield, Captain William Hobson: First Governor of New Zealand [Oxford: Oxford
University Press, 1934], 47).
these place names was included in *Southern Districts.* In *The Great Land Rush,* John Weaver suggests that the use of indigenous names on surveys or maps helped land hunters, because they could not trust the accuracy of European names. Settlers might give an unofficial name to a place that was not recognised more widely. The local indigenous people would at least know exactly which landmark was indicated by a name. This was exactly Shortland’s point and would, in his opinion, be beneficial to Maori as well as Europeans, because there could be no mistaking exactly which piece of land was involved in a sale.

Shortland’s recommendations went beyond naming place, since he stipulated that the signature of each of the acknowledged claimants must be attached to the deed. He warned Symonds to be careful and that purchasing land was a complex business:

> I mention this that you may perceive how complex a matter it is to traffic with natives for their land, so as to prevent future disputes; and how consequently former European purchasers from an imperfect knowledge of the language and customs of this people have fallen into error.

Symonds did take great care when he supervised the Dunedin land purchase and his meticulousness led to a dispute with the New Zealand Company surveyor, Frederick Tuckett. Tuckett had been surveyor at Nelson and was closely involved in the events leading to the Wairau affray in 1843. Symonds and Tuckett quarrelled repeatedly when the latter insisted on surveying lands that had not yet been purchased or offered for sale. Since unauthorised surveying had led to such a disastrous incident in the Wairau, Symonds’ instructions on this were clear. Symonds insisted on determining the exact extent of the proposed purchase by walking the boundaries of the land with the Maori owners, as Shortland had suggested. Tuckett refused to do so and wilfully cut his survey lines where it suited him, in the process annoying the

---

84 Edward Shortland, *Southern Districts,* facing the title page. The map is titled: ‘The Southern Districts of New Zealand, from the Admiralty Chart of 1838, with Additions and Corrections by Edward Shortland’. On the map Port Cooper is named Wakaraupo with Lyttelton in brackets, so named when the Canterbury settlement was established in 1849-50. This map is reproduced in colour in Malcolm McKinnon, ed., *New Zealand Historical Atlas* (Wellington: David Bateman in association with the Historical Branch, Department of Internal Affairs, 1997), 34a.
85 John C. Weaver, *The Great Land Rush,* 301.
86 Edward Shortland, Notes written for information of Mr J. J. Symonds by direction of Governor FitzRoy, Outward Letter Book A.
local Maori when he cut through their urupa (burial ground).\textsuperscript{87} In protest Symonds travelled to Wellington to complain, as he had threatened to do several times, and returned in the company of William Wakefield, Land Commissioner Spain and George Clarke junior.\textsuperscript{88} Finally they were able to visit the boundaries with the owners of the land.\textsuperscript{89} The purchase of the land at Otago was formalised on 31 July 1844.\textsuperscript{90}

**Squatters and leases**

The lengthy process of land claims investigations implied that settlers could not obtain legal title to their land. Several exasperated settlers decided to move on and some took their family and their stock to the South Island, where there appeared to be more room and where, they had heard, ‘the natives were less numerous and troublesome’.\textsuperscript{91} For example, the Deans brothers moved from Port Nicholson and Nelson in 1843 to settle at Paringamotu, which they renamed Riccarton, with sixty-one cattle, three mares and forty-three sheep.\textsuperscript{92} Shortland reported that the brothers were ‘on good terms with [the] natives’. They paid rent for the land and made sure their cattle did not disturb Maori cultivations. Shortland believed that it also helped that William Deans spoke some Maori, which prevented ‘mutual misunderstandings about trifles’.\textsuperscript{93} At Pigeon Bay a small group of Scottish boat builders had settled. Shortland praised their industry. When he visited they had nearly completed three vessels. They were also on good terms with local Maori, Shortland reported.\textsuperscript{94}

Unfortunately, not all European migrants were on such good terms with their Maori neighbours. On Bank’s Peninsula Shortland was ‘assailed’ by Maori who objected to

\textsuperscript{88} At this point Governor FitzRoy contemplated either sending Edward Shortland to assist in the purchase of land for the New Zealand Company, or to send him to Wellington to replace George Clarke junior, while Clarke joined the negotiations in the south. Shortland warned that this was not a good time to abandon the Bay of Plenty, where intertribal disputes continued to threaten to disturb the peace. See Edward Shortland to George Clarke Senior, Outward Letter book A, 13 June 1844.
\textsuperscript{89} Harry C. Evison, *The Long Dispute*, 148.
\textsuperscript{90} A. H. McLintock, *The History of Otago*, 142.
\textsuperscript{91} Edward Shortland, *Southern Districts*, 254.
\textsuperscript{93} Table of European Population and General Statistics, enclosed with Shortland’s Middle Island Report, *GBPPNZ* 1846-47 (337), 157; Edward Shortland, *Southern Districts*, 262.
\textsuperscript{94} Edward Shortland, *Southern Districts*, 262.
the invasion of uninvited Europeans. Taiao, a prominent Ngai Tahu leader, expressed their anger at a meeting. Taiaroa had sold several tracts of land to Europeans, including parts of Banks Peninsula to the French Nanto Bordelaise Company, but he made a ‘violent harangue’, in which he described Europeans as ‘covetous thieves who wished to surround the land as with a net’ (hao noa i te whenua). Shortland replied that he might be able to force the Europeans to leave, but then the potential for trade would leave with them. Shortland was not fazed by Taiaroa’s angry outburst. His experience in the north had taught him a few things. He interpreted Taiaroa’s speech as a form of ‘wakaputa’, which meant that ‘the words are from the teeth outwards’, intended more for the effect than the content. This was borne out by the fact that Taiaroa also warned his listeners not to do as Te Rauparaha had done at Wairau.

The main Maori complaint was ‘about the mode in which Europeans were spreading themselves over the country with their stock’, and the fact that some Europeans refused to pay the Maori landowners for grazing their cattle, or cutting timber, because, they claimed, ‘all the land belonged to the Queen of England’. One of those Europeans was Mr Hay who steadfastly refused to pay rent when Maori demanded this because he believed that had he done so ‘he would have subjected himself to numerous other extortions’, his son later wrote. The strongest complaint concerned a Mr Greenwood, who moved from Port Nicholson in 1843 with several hundred sheep and cattle to settle at Port Cooper. Shortland felt some sympathy for Greenwood, who was young and inexperienced, and who had already erected a house and stockyard. Shortland offered to help negotiate a lease. The local Maori agreed to let Greenwood stay if he paid rent. They were willing to accept the modest payment of six blankets and some printed calico per year, with a value of about three to four pounds sterling according to Shortland’s estimate. To Shortland’s surprise, Greenwood hesitated and wanted to negotiate for less. At this point Shortland told Greenwood that he took his hands off the matter, since he had already ‘overstepped

---

the limits of [his] duty' by arranging a leasehold contract for Greenwood. Shortland warned him that he would have to complain to the chief protector, and that as a consequence Greenwood would be compelled to move, if he persisted with his intention to stay without paying rent.\textsuperscript{100}

Shortland was worried that his arrangements on behalf of Greenwood had made him assume a responsibility that would lead to later problems, because at that time there was no law authorising leasing land from Maori. Shortland felt so concerned about the issue that he suffered a sleepless night at the time, and later devoted two pages of *Southern Districts* to his reflection on the matter.\textsuperscript{101} He defended his action by stating that he saw no other way to help landless squatters while at the same time acknowledging Maori land ownership and satisfying their demands for payment.\textsuperscript{102} Governor FitzRoy acknowledged the fairness of Shortland's decision by giving his official permission for lease agreements in December 1846. The Greenwoods signed such an agreement, as did the Deans brothers.\textsuperscript{103}

Shortland felt exasperated with people who thought that 'they had a better right than those whose ancestors had lived there, fished there, and hunted there; and had, moreover, long ago given names to every stream, hill, and valley of the neighbourhood'.\textsuperscript{104} Greenwood was one of those people, Shortland wrote, who believed that 'there were large spaces of what they termed waste and unreclaimed land', on which they could graze their livestock at pleasure.\textsuperscript{105} Greenwood and Hay's view 'too generally prevailed in many quarters', Shortland lamented, and 'unfortunately, seemed to be not altogether uncountenanced by authority'.\textsuperscript{106} He added ominously that other, older settlers had discovered that this waste land 'theory' did not work in New Zealand and that if they wished to live 'without

\textsuperscript{100} Shortland also informed Police Magistrate Robinson (Edward Shortland to C. B. Robinson, Outward Letter Book A, 15 February 1844).
\textsuperscript{101} Edward Shortland, *Southern Districts*, 264-266.
\textsuperscript{102} Edward Shortland, *Southern Districts*, 265.
\textsuperscript{103} Harry C. Evison, *The Long Dispute*, 153. Governor Grey, FitzRoy's successor, once again made leasing of land illegal. There was a commonly held view at the time that leasing land would delay Maori 'civilisation' and prevent them becoming 'industrious farmers'. According to this view, it was not good for Maori, who were already considered to be 'indolent', to reap an income from their land without themselves working for it (Alan Ward, *An Unsettled History*, 112).
\textsuperscript{104} Edward Shortland, *Southern Districts*, 259.
\textsuperscript{105} Edward Shortland, *Southern Districts*, 259.
\textsuperscript{106} Edward Shortland, *Southern Districts*, 265. This issue is discussed in Chapter Eight.
molestation' they needed to make some arrangement with the Maori landowners. Shortland warned that, while the Maori owners might be willing to show forbearance for some time, eventually they would undoubtedly take the law into their own hands, and 'eject them by force'. This remark may have been a reference to the Wairau affray. He was right in warning that Maori patience might eventually run out, as I will discuss in the next chapter.

Conclusions

In the short period during which Shortland worked as sub-protector of aborigines he gained a deep understanding of Maori land issues. Over the years he would expand this knowledge and promulgate it to the public at Home and in New Zealand. Shortland neatly encapsulated one of the most vital aspects of Maori land tenure in his statement that 'genealogical questions are inseparable from investigations of claims to land'. Because of the complex nature of Maori land tenure and since each individual or group was only able to tell their own story, the government had a vital role to play, Shortland believed, in the supervision of the sale of land and in the acquisition of more general knowledge of Maori land ownership. Shortland also understood that Maori parted with their land only reluctantly, but would sell small parcels of land to Europeans to attract settlers and to exchange their produce for European goods. This meant, by implication, that large scale or systematic colonisation was not really an option in New Zealand, or at least not in the North Island. This was only the case, of course, if one accepted that Maori were the 'owners of the soil', as Shortland believed. The combination of all of these factors, i.e. the complexity of Maori land tenure, the amount of time and effort required to investigate or supervise sales, and the difficulty of acquiring large tracts of land for settlement culminated in tension, protests, and conflict. Although a minor government officer, Shortland was important in his role as intermediary, and, with his knowledge of Maori language and customs, played a vital role in explaining Maori intentions to the governors and in turn explaining government policies and plans to Maori. However, Shortland's role as mediator and his sympathy for the

---

plight of landless settlers meant that he also became complicit in the illicit expansion of the frontier of settlement. This uncontrolled expansion increased tensions between Maori and Pakeha, as I discuss in the next chapter.

111 John Weaver writes of the 'alacrity and audacity of individualism [which] complicated frontier affairs' (The Great Land Rush, 143).
Chapter Seven
Tension and conflict

The early 1840s in New Zealand, described by Claudia Orange as 'the early years of doubt and debate', are marked by gradual and subtle changes in the relationship between Maori and Pakeha.¹ This thesis is not the place to discuss and analyse in detail the events that contributed to these changes, which ultimately led to war. Other historians have ably done this, in particular with regard to the first New Zealand war in the north.² My purpose here is merely to look at what Shortland contributed and learned, his evaluation of the events and the recommendations he made. Sources for this period of Shortland’s life are less abundant than during the previous one, when he kept a journal as part of his duties as protector of aborigines. The archives contain some letters and reports, which have informed this chapter. Among the most useful sources for information on Shortland’s opinions on the northern war are his ethnographic books.

‘this colony has not been blessed with uninterrupted and uniform peace’

In order to understand the developments that led to the first major conflict between Maori and Pakeha, which took place in the Wairau Valley in the north of the South Island, it is useful to trace the mounting tension between the two races from the point of view of the protectorate. The regular reports of Chief Protector George Clarke give an excellent overview of the relations between Maori and Pakeha during the first five years of the colony. In his first half-yearly report, dated 30 September 1841, Clarke wrote that ‘Hitherto but little has transpired to interrupt the harmony between Her Majesty’s British and Aboriginal subjects, and it is but due to acknowledge the forbearance exercised by both parties.’³ Apart from helping to settle ‘petty disputes’ between Maori and Europeans, much of Clarke’s time had been occupied with land purchases on behalf of the government. These purchases led to

the first signs of Maori dissatisfaction and elicited comments that Clarke appeared more concerned with the interests of the government than with those of the Maori people. Maori concerns were aggravated by 'the great disproportion between the price the government gave for their lands, and the amount they realised when resold'. Overall, however, Clarke was optimistic. He noted that intertribal wars had 'almost completely ceased' and that 'Christian principles were beginning more generally to prevail'. The Christian religion was 'everywhere diffusing its humane principles' among Maori, Clarke claimed. Yet, all was not well. Disputes over land constituted the most serious source of Maori discontent. In March 1842 there was trouble in Kaipara, north of Auckland. In Wanganui, north of Wellington, Maori 'violently' resisted the claims of the New Zealand Company.

In his second six-monthly report, dated 18 June 1842, we can note an important change. While in the first report Clarke acknowledged the 'forbearance exercised by both parties', in the second report he believed that 'we have to attribute our peace with the natives more to the good sense which actuates them than to the prudence and forbearance of Europeans'. The increase in the European population was causing problems in the form of trespassing, spoiling of crops by cattle, stealing pigs, desecration of Maori burial places, cutting kauri, swearing and cursing. Clarke accused the settlers of 'recklessness', and a 'want of decorum and common prudence'. He pointed out that the lack of magistrates and protectors in the outlying districts forced Maori to resort to their own customs, rather than making use of the English legal system in disputes between Maori and Europeans. He recommended that the European settlers be warned not to expect protection from the government while they continued their transgressions. Maori could not be expected to uphold laws of which they had no knowledge, Clarke suggested. 'The law,' wrote Clarke, 'and public opinion will protect the European, but what will it do for the native?'

---

4 Chief Protector, half-yearly report, Auckland 30 September 1841. In response to Clarke's warning that the functions of protector and land purchaser were incompatible, Lord Stanley recommended that the chief protector should be relieved of the latter job (Stanley to Hobson, 10 June 1842, GBPPNZ 1835-42, 190).
5 Chief Protector half-yearly report, Auckland 30 September 1841, 190.
6 Hobson to the Principal Secretary of State for the Colonies, 12 March 1842, GBPPNZ 1835-42, 192-94.
7 Chief Protector's Report for the Half Year ending 30 April 1842, dated 18 June 1842, GBPPNZ 1844, Appendices, 190.
8 Chief Protector's Report for the Half Year ending 30 April 1842, 191.
Clarke's next report is dated 4 January 1843, after the death of Governor Hobson and after Willoughby Shortland took over as governor. Clarke congratulated the governor on 'the pacific dispositions and general good conduct exhibited by Her Majesty's aboriginal subjects towards the European settlers.' Yet, both Clarke's report and the governor's letter that accompanied it to the Colonial Office indicated mounting tensions over land issues. Several times the authorities had needed to intervene to prevent clashes between Maori and Europeans. Land court hearings in the north were interrupted by groups of protesting Maori and in some cases Maori had resorted to 'acts of aggression on British subjects', Willoughby Shortland reported. Clarke wrote that 'The conduct of natives in the investigation of land claims has caused a great alienation of feeling between the parties, and a disposition in some cases has been manifested to get returned to them lands which they formerly sold.' Trouble was not restricted to the north. Clarke asked for an officer to be placed in Taranaki, because the large number of Europeans and the large numbers of Maori returning to their lands led to 'serious complaints' of 'European encroachments' on Maori land. Reports from Wellington were also not satisfactory because of conflicting land claims of the Maori and the New Zealand Company emigrants. An efficient protector was needed there also. In his June report for that same year, 1843, Clarke at length discussed the trouble in the north over land claims.

When Clarke again reported to Acting Governor Shortland in December 1843 his tone was sombre. He deeply deplored that land had been the 'fruitful source' from which 'all the serious evils' and 'all the disturbances which have interrupted the peace and tranquillity of the colony during the year' had sprung. The land question, whether in the form of 'disputed territorial lines' which disturbed the peace among Maori, or 'in its more serious and threatening aspect, that of unjustifiable

---

9 Chief Protector's Report for the Half Year ending December 1842, GBPPNZ 1844, Appendices 121-122.
10 The report is dated 4 January 1843, but was not forwarded to the Colonial Office until 15 June 1843 (Willoughby Shortland to Colonial Office, Despatch No. 8, GBPPNZ 1844, Appendices, 121-122).
11 Chief Protector's Report for the Half Year ending December 1842.
12 Ibid.
13 GBPPNZ 1846-47 (1846) (337), 109-114. Governor FitzRoy found this report and Clarke's December 1843 report and believed they had not been sent to London. He therefore enclosed them in his despatch of 20 August 1845. Clarke's June report was written before the Wairau affray took place.
14 Chief Protector's Report for the Half Year ending December 1843, GBPPNZ 1846-47 (1846) (337), 114-16.
15 Chief Protector's Report for the Half Year ending December 1843, 114.
encroachments, and forcible seizure of lands never alienated' to Europeans was 'the principal, if not only, reason why this colony has not been blessed with uninterrupted and uniform peace'.\textsuperscript{16} By December 1843, however, the situation seemed to have settled down and Clarke stated that all protectors reported that their districts were tranquil, including Shortland's district, looked after by John Symonds during Shortland's absence in the South Island.

**Wairau**

One of the most serious 'unjustifiable encroachments' referred to by Clarke in his December report resulted in the Wairau affray, which took place on 17 June 1843, during which both Maori and Europeans were killed.\textsuperscript{17} Before he could decide on the best course of action, Governor Shortland wished to gather information and advice from as many sources as he possibly could. Meanwhile, the chief protector of aborigines put public notices in Maori in the *Native Government Gazette* and an English translation in the *New Zealand Government Gazette* to the effect that the government reserved judgment until its officials had thoroughly investigated both sides of the affair, but that it seemed that both parties in the affray were in the wrong. Yet, one action was singled out for rebuke as a 'particularly bad feature' and that was that Te Rauparaha and Rangihaeata had killed Europeans after they had laid down their weapons.\textsuperscript{18}

Ten days after the incident, land commissioner William Spain, acting as magistrate, took depositions from European witnesses. Together with the missionary Octavius Hadfield and with Edward Meurant as interpreter, Spain also went to Otaki to speak with Te Rauparaha and others about the affair. George Clarke junior, who was the sub-protector of aborigines, stayed in Wellington because he feared an outbreak of violence. Both Europeans and Maori were quite restless, so that Clarke 'deemed it

---

\textsuperscript{16} Chief Protector's Report for the Half Year ending December 1843, 114.
\textsuperscript{17} The conflict arose out of the fact that the New Zealand Company undertook a survey of land that the Maori owners were adamant they had not sold and did not wish to sell. They had made this very clear long before the affray. When Te Rauparaha and Rangihaeata discussed land claims with George Clarke junior in April 1843, they 'distinctly and repeatedly' said they had not sold Wairau (private letter George Clarke junior to George Clarke, 8 August 1843 [item no. 66 of 'George Clarke Senior and George Clarke Junior, Protector of Aborigines, 1840-1871', Vol. III (MS-0062), items 66 to 140, 1843-1859, PC-0058, Dunedin Hocken Library]).
\textsuperscript{18} *New Zealand Government Gazette*, Vol. III No. 28, 183. The article is dated Wednesday July 12 1843 and signed by George Clarke, Chief Protector of Aborigines. It is two columns long.
prudent to remain in the settlement, and keep up a constant friendly intercourse with
the natives in the vicinity."19 Once the *Victoria* arrived in Wellington with the troops
and the settler militia was disbanded on order of the government, Clarke felt it was
safe to leave town. Edward Shortland, who was on board the *Victoria* on his way to
the South Island, accompanied George Clarke. They travelled to Porirua harbour to
speak with Te Rauparaha and other chiefs who had taken part in the affray, who
were camped there with about a hundred Ngatitoa.20 The instructions from the chief
protector were ‘to institute on behalf of the natives a legal inquiry into the conduct of
the Europeans engaged in that disgraceful action’.21 Shortland’s report of the
interview, and by implication of the incident, is succinct and to the point (See
Appendix 2 for the full text of Shortland’s report).22

Shortland’s report deserves closer analysis. It is important to note that Ngatitoa were
expecting land commissioner Spain and George Clarke junior, with whom they
intended to discuss the New Zealand Company land claims. Instead, a party of
thirty or forty armed Europeans landed and immediately took an aggressive
approach by forcefully detaining Rawiri Puaha. Puaha was an influential man with
rights to the Wairau Valley, married to a cousin of Te Rauparaha. He was also a
Christian. Although the report does not specifically mention this, we must assume
that Puaha, when he got away from the European posse, went to warn Te
Rauparaha, who would therefore not have been as unconcerned and innocently
cultivating his land as the story seems to make him out to be.23 Yet, the story
suggests that Te Rauparaha and his party were welcoming and collaborative towards
the Europeans, giving them assistance to cross the stream. The next important point
is that, according to Shortland, the interpreter Brookes had limited knowledge of the
Maori language. Shortland assumes that Brookes added unauthorised remarks to his
statements to Te Rauparaha’s party. This is something Shortland had recently

---

19 GBPPNZ 1844, Appendices, 336.
20 GBPPNZ 1844, Appendices, 336. Shortland was in Wellington on his way to the South Island to
assist Land Commissioner Godfrey.
21 Chief Protector’s Report for the Half Year ending December 1843, 116.
What follows refers to this report.
23 Indeed, according to George Clarke junior’s report to his father, having been warned by Puaha, Te
Rauparaha gathered his people around him and sat down to wait for the Europeans. Clarke also
stated, significantly, that the Christians among the Maori sat together in a group, and the ‘heathen’
Maori in another group (private letter George Clarke junior to George Clarke, 8 August 1843 [item no.
66 of ‘George Clarke Senior and George Clarke Junior, Protector of Aborigines, 1840-1871’, Vol. III
(MS-0062), items 66 to 140, 1843-1859, PC-0058, Dunedin Hocken Library]).
experienced himself with the interpreter Edward Meurant, who, in his zeal, had added some threats that complicated the government's dealings with Maori at Tauranga.

Most striking about the story is the different behaviour of the two parties. Until the first blood was shed Te Rauparaha was firmly in charge, managing to calm down the passions of Rangihaeata when he jumped up and brandished his tomahawk. The Maori Christians, represented by Puaha, appealed to the Bible as the guide for behaviour, brandishing the Book rather than a weapon. On the European side it is not clear who was in charge. Initially it appears to be Police Magistrate Thompson, but he could only communicate through an interpreter, whose knowledge of the language was limited and who ad-libbed, it seems. Thompson also displayed erratic, passionate and uncontrolled behaviour unbefitting a leader and a 'civilised' man. Once the party retreated, it appears that Captain Wakefield took charge. Certainly there was no discipline among the Europeans, who fired in fear, fled at the first blood and left half their party stranded to be killed by pursuing Maori. Shortland's summary of Te Rauparaha's justification for this last action is particularly pithy: 'Should a man be spared who commences a fight and having found himself in danger of being killed throws down his arms and cries out enough?'

Shortland partly attributed later Maori unrest, in particular the trouble in the north with Hone Heke, to the observation of cowardice this last remark implied. Shortland was of the opinion that '[t]his unfortunate affair ruined the prestige for valour and prowess we before enjoyed, which, in the absence of real power, had availed so much in our dealings with the natives.' Maori had assumed, Shortland suggested, that European 'superiority in arms' matched their technological expertise and skills. The Wairau incident created a dangerous situation for the government and made it much more difficult to act magnanimously, Shortland felt. While the line of conduct the governor adopted was 'no other than justice required', unfortunately the governor's lack of military power meant that he was in no position 'to act otherwise had he desired'. His weakness was obvious to Maori and 'they shrewdly placed his

24 According to Clarke's report Thompson not only pushed Puaha away so that he dropped the Bible, but then also kicked the Bible away (private letter George Clarke junior to George Clarke, 8 August 1843 [item no. 66 of 'George Clarke Senior and George Clarke Junior, Protector of Aborigines, 1840-1871', Vol. III (MS-0062), items 66 to 140, 1843-1859, PC-0058, Dunedin Hocken Library]).

25 According to other reports, the first shot may have been fired purely by accident. Unlike the Maori men, most of the Europeans were untrained in the use of guns.
forbearance to that account’, according Shortland.26 Maori discussed the implications of Wairau up and down the country. About eight months later, early 1844, Shortland heard from Wiremu Hikairo, the Ngati Rangiwhaia chief at Rotorua, who had recently visited the Bay of Islands, that the people in the north ‘meditated evil against the government’. Kawiti, who later joined Hone Heke in his protests, had declared himself ‘anxious to try his strength’ against British soldiers. This was, Shortland believed, the first indication to reach the government authorities of a growing dissatisfaction among Maori.27

The immediate effect of the Wairau incident was an increase in mutual distrust between Maori and Pakeha and increasing unrest in the Wellington area in particular. Sub-Protector Clarke, stationed in Wellington, reported to his father that ‘[t]he feeling against the Maories [sic] is so strong and the mutual enmity of the two races so great that at times I am driven almost to desperation’.28 It seems that the settlers were getting bolder and maybe even deliberately tried to taunt Maori into war, with some success, because, Clarke believed, ‘[t]he Maories are so exasperated by continual insults and quarrels that it must end in a fearful effusion of blood’.29 Young Clarke started to buckle under the stress and wrote to his father that the situation was beginning to affect his health. The chief protector sent Thomas Forsaith, a clerk at his department, down to Wellington on a trial basis.30 But Forsaith also disliked Wellington — according to Clarke junior, they both felt ‘the utmost repugnance to the place and both wish to leave’ — and Forsaith returned to Auckland.31 Finally, at the end of 1844, because his health was deteriorating, George Clarke junior was allowed to go north for a rest and Forsaith reluctantly took his place.

27 Edward Shortland, Traditions and Superstitions, 262-63.
28 George Clarke junior to George Clarke senior, 30 November 1843, item no. 72 of ‘George Clarke Senior and George Clarke Junior, Protector of Aborigines, 1840-1871’, Vol. III (MS-0062), items 66 to 140, 1843-1859, PC-0058, Dunedin Hocken Library.
29 Ibid.
30 Thomas Spencer Forsaith (1814-1898) had been in New Zealand since 1839. He had a fair knowledge of Maori customs and language.
31 George Clarke junior to George Clarke senior, n.d., item no. 74 of ‘George Clarke Senior and George Clarke Junior, Protector of Aborigines, 1840-1871’, Vol. III (MS-0062), items 66 to 140, 1843-1859, PC-0058, Dunedin Hocken Library.
Shortland’s transfer to Wellington

In June 1844 Governor FitzRoy made an oblique reference to Shortland about a possible posting to Wellington as sub-protector. Shortland explained to FitzRoy the circumstances under which he had been placed at Maketu, and that he thought that ‘the peace of Waikato, Hauraki, Tauranga, and Rotorua hinged on the quiet of that place. It being the established fighting ground’. Shortland therefore felt it was important that he stayed where he was. A few days later, after some reflection, Shortland wrote to the chief protector that he feared the governor might send him to Wellington to take over as sub-protector. Shortland stressed that he had ‘particular objection to have anything to do with that place’. He gave three reasons, one of which was financial. The second reason was that Shortland believed that his name alone would place him in a negative light with the settlers in Wellington, who had strongly opposed his brother Willoughby Shortland, not only when he was acting governor, but even earlier when he was still Colonial Secretary. The final reason for his objection to a transfer to Wellington was that he would be involved in the negotiation of land claims that others had begun. He was a stranger to both the claims and the local Maori and would be unable to give an informed opinion if a dispute arose. Nor would he have any influence with the Maori population. In his own district, on the other hand, Shortland knew both Maori and Europeans and could have a much greater influence. These remarks suggest that Shortland believed that the personal status and influence of a government officer like himself had greater weight with Maori than the abstract concept of government. Shortland also realised that his personal connection to the two previous governors, Hobson and his brother Willoughby, greatly increased his status in the Eastern Districts, but not in Wellington, at least not with the Europeans. What added to Shortland’s objections to a posting in Wellington was his growing understanding of Maori land tenure and the circumstances under which Maori were willing to part with land. He knew that the claims of the New Zealand Company were largely unfounded. He declared to the chief protector that he would much rather stay where he was than go to Wellington.

32 Edward Shortland to George Clarke, Outward Letter Book A, 13 June 1844.
33 In a campaign to cut costs, the governor had recently reduced the salaries of the protectors. Shortland’s expenses would be higher in Wellington, and there would be less travel. The travel allowance added considerably to his income in the Eastern Districts.
34 Edward Shortland to George Clarke, Outward Letter Book A, 13 June 1844.
or ‘having anything to do with land questions under examination by Commissioner Spain’.

In his letter to the chief protector, Shortland indicated that he intended to leave the country within the year, since he saw no possibility for professional advancement in New Zealand. Less than a month after he wrote this letter, in July 1844, Hone Heke cut down the flagstaff at Kororareka. This brought the already tense relationship between Maori and Pakeha to a new level of disquiet. In January 1845 Hone Heke cut down the flagstaff several more times after it was re-erected by the authorities. Soon afterwards Shortland wrote to the chief protector of aborigines that, although he had intended to leave the country, he ‘should not think of withdrawing [his] services at a time they might be most wanted’ and that he would ‘remain any reasonable time without consideration of [his] own inclination or interests’. Shortland understood the dilemma the government found itself in and wrote: ‘It seems to me that such a feeling has arisen and if not checked will render the property of the Colonists insecure and therefore valueless. But without considerable and prompt support from Home I am at a loss to conceive what the governor can do.’ Shortland’s reference to the property of settlers shows that he was not without sympathy for their interests. On the contrary, he believed that the peaceful settlement of New Zealand would benefit both Europeans and Maori.

On 11 March 1845 Hone Heke, Kawiti and their allies sacked Kororareka. There were fears that Auckland might become a target and the town was put in a state of defence. Forsaith, now stationed in Wellington, was understandably eager to return to his family in Auckland at this dangerous time. Chief Protector Clarke decided to

---

35 Edward Shortland to George Clarke, Outward Letter Book A, 13 June 1844. Spain had made a number of decisions in favour of the settlers and against Maori claims. George Clarke junior strongly disagreed with these decisions. Shortland was undoubtedly aware of the proceedings and this would explain his reluctance to have anything to do with these land claims.
36 Edward Shortland to George Clarke, Outward Letter Book A, 13 June 1844, Dunedin Hocken Library, MS-0086/001 (PC-0027).
37 Edward Shortland to George Clarke, Outward Letter Book B, 8 February 1845, Dunedin Hocken Library, MS-0086/002 (PC-0028). It was a year before Shortland finally left New Zealand, shortly after the arrival of Governor Grey.
38 Edward Shortland to George Clarke, Outward Letter Book B, 8 February 1845.
39 See for example Edward Shortland, Traditions and Superstitions, 298.
post Shortland to Wellington.\textsuperscript{41} Shortland reluctantly agreed to leave Maketu, but emphasised again the importance of sending a replacement as soon as possible. This was even more urgent now, in view of the current unrest and the fact that the Arawa people had a close connection with the tribes of the north. Shortland pointed out that the ‘mere presence of a government officer’ was likely to inspire confidence and maintain ‘the favourable feeling to the government which now exists’, which was worth fostering in view of the Bay of Plenty connections with Ngapuhi.\textsuperscript{42}

In April 1845, when the date of Shortland’s departure from Maketu neared without the appointment of a replacement, Shortland again wrote to the chief protector and urged him to send someone, again stressing the connections of the people in his district with the tribes in the north as well as with the Cook’s Straits tribes of Te Rauparaha, and the importance of keeping them on the government’s side. In his usual understated style he reported: ‘From their communications with me it does not appear that they are desirous of joining in the sentiments and acts of [Hone] Heke and his party.\textsuperscript{43} The advantage of this feeling is likely to be recognized in a time like this.’\textsuperscript{44} He added that ‘the residence of a government officer would be serviceable to keep them in this mind’.\textsuperscript{45} Yet, it was not until June 1845, after Tohi Te Ururangi went to see the governor in a most angry mood, that the governor sent Thomas Henry Smith to Maketu.\textsuperscript{46}

**A volatile situation**

It is surprising that the governor was not more concerned to maintain a presence in the Tauranga area, considering its proximity to Auckland and the fact that Shortland more than once stressed the intertribal connection of Ngati Whakaue with Nga Puhi, and with Te Rauparaha. FitzRoy may not have had a firm grip on the intricacies of

\textsuperscript{41} ‘With the first news of the fate of Kororarika [sic], I received instructions to go from my station at Maketu overland to Port Nicholson’ (Edward Shortland, *Traditions and Superstitions*, 267). Shortland believed he was sent for security reasons and was angry when he discovered that he was sent to replace Forsaith who wished to return to his family in Auckland.

\textsuperscript{42} Edward Shortland to George Clarke, Outward Letter Book B, 26 March 1845. These connections with the northern tribes were the result of former wars and intermarriage.

\textsuperscript{43} The Reverend Brown reported similar sentiments among his flock (See entries for April 1845 in Alfred Nesbitt Brown, ‘Transcript of the Rev. A.N. Brown’s Journal, 21 March 1835 - 27 October 1846’, qMS-0277, Alexander Turnbull Library.

\textsuperscript{44} Edward Shortland to George Clarke, Outward Letter Book B, 11 April 1845.

\textsuperscript{45} Ibid.

\textsuperscript{46} See Chapter Five above.
Maori alliances. It is also possible that neither FitzRoy nor even the chief protector were able to understand matters from a Maori point of view, as Shortland appeared to do.\textsuperscript{47} Shortland understood that the current situation was particularly volatile because Maori were uncertain how to act. 'In any quarrel among themselves,' Shortland explained, 'it could at once be determined by reference to ancient usage how it became any particular tribe to act'. In the conflict between Hone Heke and the government 'they had no tikanga to guide them'.\textsuperscript{48} It was therefore difficult to predict how Maori would act: whether Christians and those who had signed the Treaty would support the government, or whether they would support their allies and relatives and take up arms against the common enemy, the Europeans.

The second reason why the situation was particularly volatile, Shortland warned the governor, was that the events at Kororareka had 'not tended to elevate the Europeans character for prowess'. On the contrary, they added to the already diminished standing of the Europeans after the cowardly flight at Wairau.\textsuperscript{49} Giving up the town, as the inhabitants had done, Shortland explained, was by Maori considered 'disgraceful'.\textsuperscript{50} Kororareka had thus become 'he papa mahue' (an abandoned place) and a fair target for plunder.\textsuperscript{51} Shortland advised the governor that the only 'safe and prudent course' was not to attack Ngapuhi unless and until he had a sufficient force to ensure success.\textsuperscript{52} Shortland was convinced that every Maori in the country was keenly looking forward to another encounter between Maori and

\footnotesize{\textsuperscript{47} On the other hand, it is also true that the governor was severely restricted by a shortage of suitable personnel and that he needed to keep his senior people in the most troublesome spots. Tauranga was not then in open conflict. George Clarke senior was stationed in Auckland, but needed to be able to go wherever he was needed at short notice. Clarke junior was resting in Waimate but was quickly used as go-between and interpreter in the north, where he had grown up among the Maori who were involved in the conflict. Donald McLean was occupied in New Plymouth. Auckland was without a sub-protector of aborigines and Forsaith's return may therefore not have been prompted purely by his anxiety to be with his family. In view of this it was understandable that Shortland would be sent to Wellington where trouble had been brewing for quite some time and armed conflict threatened over the land in the Hutt Valley.\textsuperscript{48} Edward Shortland, Traditions and Superstitions, 232. James Belich also discusses this in The New Zealand Wars, 30.\textsuperscript{49} When shooting started, there was chaos among the European party at Wairau and many of them fled in panic.\textsuperscript{50} Edward Shortland to Chief Protector, Outward Letter Book B, 21 April 1845.\textsuperscript{51} Reverend Richard Taylor also agreed that Kororareka would have been safe from plunder had it not been deserted by its inhabitants (Te Ika a Maui. New Zealand and Its Inhabitants (1855; rpt. Wellington: A. H. & A. W. Reed, 1974), 345).\textsuperscript{52} Edward Shortland to Chief Protector, Outward Letter Book B, 21 April 1845.}
Europeans. Should Europeans not show a decided superiority, Shortland expected
dire consequences for any European settlement that was unable to defend itself. The
plunder gained at Kororareka was likely to act as an incentive to others, the more so if
the already diminished fear of the British soldiers was further dented by another
failure. The reputation of Europeans among Maori was largely based on a belief in
their ‘superiority in arms’, Shortland pointed out. The absence of ‘real power’ had
been counterbalanced by the European ‘prestige for valour and prowess’. The
events in Kororareka had damaged this esteem.

Shortland feared that Christian Maori might not be sufficiently firm in their belief ‘to
withstand the temptation to gain wealth and a name’. As Angela Ballara repeatedly
points out in her books Iwi and Taua, in the early 1840s Maori still very much did
things ‘the Maori way’ and war and plunder were part of that culture; there were
also many wrongs warranting a war to right them. Shortland’s meetings with
different Maori chiefs in the interior (discussed below) indicated that the subject of
war was contemplated by them and that each tribal leader weighed off the options.

**Hone Heke’s motivations**

Shortland acknowledged that if Maori did take up arms against Europeans, the
motivation would be more than the desire for plunder or honour, but also the
determination to defend their lands. When Shortland looked back on his time in New
Zealand, he stressed the latter. Heke’s protest actions, he thought, were motivated
partly by the desire to make a name for himself — ‘always the grand object of
ambition to a New Zealander’ but, more importantly, by a ‘patriotic desire to

---

53 George Clarke put it more strongly, and wrote that ‘the attention of the whole Island is drawn to
this struggle, and the future state of the Colony depends on the result’ (quoted by James Belich, The
New Zealand Wars, 45).
54 Edward Shortland to Chief Protector, Outward Letter Book B, 21 April 1845. Governor FitzRoy used
this argument to urge Governor Gipps of New South Wales to send reinforcements, because, FitzRoy
wrote, ‘All the Tribes in New Zealand have been watching with the most careful attention the
progress of affairs at the Bay of Islands; and there is no doubt that their conduct will be much
influenced by the result of Heke’s opposition to British authority’ (quoted in Paul Moon, Fitzroy:
Governor in Crisis 1843-1845 [Auckland: David Ling, 2000], 216).
55 Edward Shortland, Traditions and Superstitions, 262-63.
56 Shortland to Chief Protector, Outward Letter Book E, 21 April 1845.
57 According to Shortland, the reason was that in Maori society every man who was not a slave could,
if he were brave and eloquent, obtain influence and become a chief: ‘There is no bar ... to prevent a
tangata-ware (plebeian) from rising to the rank of chief, if nature has endowed him with the
qualifications of chieftain — valour and skill in war, and eloquence’ (Edward Shortland, Traditions and
Superstitions, 226). What Shortland called ‘to make a name for himself’ Ormond Wilson calls ‘a
become the champion of the liberties of his countrymen' — in short, Shortland saw Heke as a freedom fighter. One of Shortland's contemporaries, Henry Tacy Kemp, also saw Heke as a 'liberator and champion' of the rights and liberties of his people. He explained Heke's act as the cutting down of 'an emblem of the Queen's sovereignty'. The twentieth century historians who have analysed these events give two main motivations for the acts of protest by Heke and his followers: the diminished financial gains and the relative loss of status after the government shift to Auckland, which was the domain of Ngati Whatua and Waikato tribes; some authors also acknowledge Heke's 'patriotic' objectives. Claudia Orange perceives Heke's cutting down of the flagstaff as an assertion of Maori sovereignty 'because he believed that the mana of the land should not be vested solely in the government, as the British flag implied'. None of the historians appear to have linked Heke's acts directly to Maori custom, as Shortland did when he explained that cutting down and re-erection of a post constituted a ritual of land claiming. Shortland believed that this was the meaning of Heke's action at Kororareka. In the light of this, Heke was absolutely right to see the

hankering after respect' and an 'opportunity for the expression of their manhood' (Ormond Wilson, From Hongi Hika to Hone Heke (Dunedin: John McIndoe, 1985), 216 and 265). F. E. Maning, who was married to a sister of the chief Hauraki and who was a contemporary of Shortland, claimed that each young man who participated in the northern war was anxious to 'kill the first man and elevate his name' (F. E. Maning, Old New Zealand: a Tale of the Gool Old Times and a History of the War in the North Told by an Old Chief of the Ngapuhi Tribe [1887; rpt. Auckland: Golden Press in association with Whitcombe & Tombs, 1973], 256-57). The warrior who killed the first man gained the highest honours, according to Maori custom.

Edward Shortland, Traditions and Superstitions, 264. Richard Taylor agreed with Shortland, being of the opinion that Heke could 'only be regarded in the light of a patriot' (Rev. R. Taylor, Te Ika Maui, 347). Henry Tacy Kemp, who worked for the government in the Northern District at the time, wrote that 'Heke's real object seems to have been the emancipation of his people from the yoke of a foreign Power and to make for himself the name of liberator and champion of their rights and liberties' (Henry Tacy Kemp, J.P., Revised Narrative of Incidents & Events in the Early Colonizing History of New Zealand, from 1840 to 1880 [Auckland: Wilson & Hortcn, 1901], 4b).

Henry Tacy Kemp, J.P., Revised Narrative of Incidents & Events, 4b and 5b.

See for example Keith Sinclair, The Origins of the Maori Wars, 64-66; Sinclair not only ascribes 'vague aspirations' towards nationalism to Hone Heke, but also republicanism (66); Claudia Orange, The Treaty of Waitangi, 118; James Belich, The New Zealand Wars, 30. Belich mentions Heke's use of 'the rhetoric of a war of liberation' (33).

Claudia Orange, The Treaty of Waitangi, 119. Henry Tacy Kemp believed that Heke's men cut down the flagstaff because they saw it as 'the emblem of the Queen's sovereignty' (Henry Tacy Kemp, J.P., Revised Narrative of Incidents & Events, 5b).

Edward Shortland, Traditions and Superstitions, 265. See also above, Chapter Six. Undoubtedly Angela Ballara would have pointed this out, but her book Taua covers events to 1845 and Maori conflicts only. James Cowan referred to the flagstaff at Kororareka as the 'putake o te riri — the root and fount of the wars' (James Cowan, The New Zealand Wars [1922-23; rpt. Wellington: P. D. Hasselberg, Government Printer, 1983], Vol. 1, 14). Paul Moon in his book on Hone Heke does recognise a ritual meaning, but suggests it is a new, rather than old Maori custom: 'The destruction of the flagstaff was complete, almost as though it was part of some new ritual to symbolically destroy the
repeated re-erection of the flagstaff as the government’s claim to the land: it was an assertion of sovereignty, as Hone Heke knew. Heke had every reason to feel concern, because news of the House of Commons Committee on New Zealand (1844), in particular its recommendations about Maori land, had reached New Zealand.

‘Waste land’ and the House of Commons Committee on New Zealand (1844)

In the previous chapter, Shortland referred to the so-called ‘waste land theory’ as the belief among many Europeans that there were ‘large spaces’ of ‘waste and unreclaimed land’ available to settlers. This ‘theory’ had its basis in the following premises: that the declaration of sovereignty over New Zealand had vested in the Crown ownership of all lands not claimed or used by Maori and secondly that there were large tracts of such unused spaces. In his instructions to Captain Hobson, Lord Russell had effectively distinguished three types of land in New Zealand: land ‘essential to the well being of the natives’, which should be considered as inalienable; other land, not essential, but still part of tribal lands which could only be alienated by selling the land to the Crown; the rest, generally called ‘waste lands’, which automatically became Crown land on the declaration of sovereignty. Russell’s successor at the Colonial Office, Lord Stanley, also initially believed that large areas of New Zealand were unoccupied, unused and not owned by Maori and therefore at the disposal of the Crown under its sovereignty over New Zealand. The investigations into Maori land tenure indicated, however, that there were no lands in the third category, because Maori laid claim to the whole of New Zealand. This was evident from the fact that every place, plain, river, lake, sea or mountain carried a Maori name. By 1844 Lord Stanley had to admit that ‘experience seems to show that much more land in New Zealand than was supposed is owned according to titles well understood, either by some individuals, or at all events by some tribes’.

British presence in the region’ (Paul Moon, Hone Heke, [Auckland: David Ling, 2001], 46). It seems that Governor FitzRoy did understand the connection with land and the Maori perception that the flagstaff was a sign that ‘the land belonged to the sovereign of Great Britain’ (Robert FitzRoy, Remarks on New Zealand [1846; rpt. Dunedin: Hocken Library, University of Otago, Facsimile No. 10, 1969], 10). Robert FitzRoy, Remarks on New Zealand, 10. King George of England had told Hongi Hika, who was Heke’s ancestor, that he need not fear that the English wanted to take possession of his lands, unless they put up the King’s flag.

Russell to Hobson, 28 January 1841, GBPPNZ 1841 (311), 51.

Quoted by Peter Adams from a letter from Lord Stanley to FitzRoy dated 30 Nov 1844 (Fatal Necessity: British Intervention in New Zealand 1830-1847 [Auckland: Auckland University Press, 1977], 178.)
Stanley’s conclusion raised serious questions on how to solve the predicament of the settlers who were waiting for their land. Stanley’s Parliamentary Under-Secretary G. W. Hope felt that the New Zealand governor pushed ‘the doctrine of property in natives ... too far’ when he apparently assumed that even in the South Island there was no land which the Crown could claim as ‘waste’. The apparent lack of ‘waste lands’ put the humanitarian emphasis on Maori land rights, which had dominated New Zealand policy, under increasing pressure from settlers and New Zealand Company lobbyists. Joseph Somes, governor of the New Zealand Company, wrote to Lord Stanley: ‘We did not believe that even the Royal Power of making treaties could establish, in the eye of our courts, such a fiction as a native law of real property in New Zealand,’ under the assumption, it seemed, that Maori were ‘a civilized people, living under regular law’.

The campaigns of the lobbyists culminated in 1844 with the House of Commons Committee on New Zealand. This committee concluded that the Treaty of Waitangi should be considered ‘part of a series of injudicious proceedings’ and that the local authorities had been wrong to acknowledge Maori property rights ‘in all wild lands’ after Her Majesty assumed sovereignty over New Zealand. Such acknowledgement was not ‘essential to the true construction of the Treaty of Waitangi’, the committee suggested. The committee recommended that ‘means ought to be forthwith adopted’ to establish ‘the exclusive title of the Crown to all land not actually occupied and enjoyed by Natives, or held under grants from the Crown’.

185. Charles Buller, as well as the New Zealand Company itself, petitioned Lord Stanley in April 1845 for the establishment of a self-governing southern province, consisting of the whole of the South Island and the southern part of the North Island, under the aegis of the Company.
66 G. W. Hope minute to Stanley, 22 November 1844, quoted by Peter Adams in Fatal Necessity, 185.
67 Letter from Somes to Stanley, 24 February 1843 (Kenneth N. Bell and W. P. Morrell, eds., Select Documents on British Colonial Policy 1830-1860 [1928; rpt. London: Oxford University Press, 1968], 567). This perceived link between land ownership and ‘civilisation’ will be further explored in chapters eight and nine.
68 Kenneth N. Bell, and W. P. Morrell, eds., Select Documents on British Colonial Policy, 569.
69 Ibid.
70 Kenneth N. Bell, and W. P. Morrell, eds. Select Documents on British Colonial Policy, 570. Shortland responded forcefully to these and other statements after his return to England in 1847. I will discuss this in the next chapter.
Maori opinion

News of the committee’s conclusions and recommendations rapidly reached New Zealand and spread among Maori throughout the country. It added fuel to what was already a restless situation, as Shortland found out on his journey to Wellington. After Shortland’s warnings, quoted above, the governor was sufficiently concerned to instruct Shortland to take an overland route to Wellington, in order to gauge the general mood of the various tribes in his district. Those living in the interior welcomed Shortland and his entourage as if they were ‘to-day’s Times’, because they were the bearers of the first ‘authentic’ description of the events in the north.71 In fact, it was more like today’s six o’clock television news, complete with eyewitness accounts and reports from the battlefield. It was literally the stuff of which legends are made and a demonstration of oral history in the making. One of Shortland’s companions ‘got up a very interesting, though somewhat exaggerated version of the facts’ and was the most popular spokesman, often asked for a repeat performance.72 This exaggerated version included a dramatic climax in which Acting-Commander Robertson, the captain of the man-of-war Hazard, after killing five men with his own hand, ran his sword through the body of a chief named Pumuka at the very moment when the latter discharged his gun: they fell together.73 The most interesting aspect of this story is the appreciation and admiration the Maori listeners showed for the valour of the Pakeha: ‘one of the audience was so much enchanted with the tale, that he exclaimed, involuntarily, “Ka ahua-reka au ki te toa o Te Pakeha” (Well! I am charmed at the bravery of the foreigner).’74 The story helped to somewhat lessen the disgrace of the loss of Kororareka, according to Shortland.75

---

71 Edward Shortland, Traditions and Superstitions, 268.
72 Ibid.
74 Edward Shortland, Traditions and Superstitions, 268.
75 Edward Shortland, Traditions and Superstitions, 267. Pakeha, no less adept in creating myths and legends, also embellished the story, but in the shock of their totally unexpected defeat at Kororareka they felt the need to exaggerate the size of the army they had faced, the number of Maori killed and wounded, and to undervalue the tactics used by Heke and Kawiti in order to make the loss seem less dishonourable (James Belich, The New Zealand Wars, 37-39).
Shortland found that even in the interior Maori were aware of the House of Commons Committee on New Zealand (1844) and its recommendations. In the absence of specific instructions on what to communicate to the chiefs, and not knowing the intentions of the governor, Shortland used his own judgement to appease his Maori friends and re-affirmed the government’s good intentions. He positively denied ‘any intention on part of H.M. Government to take forcible possession of any land in New Zealand the right to which had not been fairly acquired from its native owner’. Shortland warned the chief protector that if the measures recommended and the opinions expressed by the House of Commons Committee were implemented it would lead to ‘a union among all the tribes to resist an injustice which they have repeatedly been assured was never contemplated’. It was vital, Shortland suggested, ‘to set their minds at rest as far as possible and to prevent suspicions as to the intentions of government gaining ground, an idea prevailing that the governor will first dispose of Ngapuhi, and then turn against the other tribes.’ He concluded that everything now hinged on ‘the success or otherwise of the next hostile step taken by the government’. In general, the people at Maketu, Whakatane, Opotiki and other places showed no tendency to support Heke, but all were conscious of the arguments he used to justify his actions and why he thought his actions were tika.

The volatility of the situation and the potential for support from the south for Heke’s and Kawiti’s activities became apparent in Rotorua. Here Shortland met with Hikairo, the peaceful Christian chief, and some relatives of a party who had gone to the Bay of Islands some time earlier but who had not yet returned. The Rotorua people wished to remain neutral, but they could not speak for their relatives. During lengthy discussions, which Shortland attended and during which they asked for his advice, the group decided that a few men would travel to Auckland. Their assignment was to ask the governor for permission to travel to the Bay of Islands to bring back those of their relatives who wished to return and to caution those who...
decided to remain that 'they must not expect any assistance from them if any should be killed in fighting with the pakeha'. The decision that those at home would not accept responsibility for utu should deaths occur, is a remarkable outcome, considering that, as Shortland himself pointed out, this tribe was more attached to Ngapuhi than any other as a result of former alliances. Unfortunately Shortland does not explain how they reached this decision, whether it was because of adherence to Christian principles, or because of their alliance with the government (confirmed by the placement of a government officer at Maketu), or both. In any case, it clearly was vital to appoint Shortland's replacement as soon as possible, to keep a finger on the pulse.

At Ohinemutu Shortland visited Korokai, who was 'the oldest and principal chief of all the tribes known under the general name of Ngati Whakaue'. Korokai agreed with the decision made at Rotorua to remain neutral in the conflict between the government and Hone Heke and to bring back the people who had travelled to the Bay of Islands. But he also showed a keen interest in 'the relative loss sustained by either party at Kororarika [sic]' and wished to know what the governor intended to do now. At Taupo, Te Heuheu spoke in a similar manner. But he was also suspicious and asked why Shortland was on his way to Wellington; he suspected that it was 'to obtain assistance from the white population there to avenge our loss in the north'. Te Heuheu was keen to localise the conflict and suggested that 'the white people of the Bay of Islands [should] fight out their quarrel with Nga Puhi, and then the rest of New Zealand will not be troubled by the war'.

While this remark might lessen the fear that Maori would unify against Europeans, Te Heuheu's desire to localise the conflict was rather disingenuous and self-serving. Te Heuheu had recently been on the warpath himself, to settle old scores in the

---

79 Shortland to Chief Protector, Outward Letter Book B, 21 April 1845.
80 There is indication that the former was the case, since the group was largely Christian. The Reverend Brown was also present: He would accompany the delegation that was to leave from Maungatautari (Alfred Nesbitt Brown, 'Transcript of the Rev. A.N. Brown's Journal, 1835-1846', 21 April 1845). According to Brown, the Rotorua people felt no sympathy for Hone Heke, because his anger had no putake [root, foundation] ('Transcript of the Rev. A.N. Brown's Journal, 1835-1846', 19 April 1845).
81 Shortland to Chief Protector, Outward Letter Book B, 19 May 1845. The missionary J. A. Wilson met Korokai in 1836 and then believed him to be about eighty years old (J. A. Wilson, Missionary Life and Work in New Zealand, 1833 to 1862 [Auckland: Printed at the Star office, 1889], 50).
82 Shortland to Chief Protector, Outward Letter Book B, 21 April 1845.
83 Edward Shortland, Traditions and Superstitions, 268-69.
84 Edward Shortland, Traditions and Superstitions, 269.
Wanganui area. The unrest this had caused was part of the reason for Shortland’s transfer to Wellington. Fearing for his Christian flock, Taylor sent for help to Wellington. This led Superintendent Richmond together with Commander Robertson of HMS Hazard, plus a contingent of troops, to travel to Wanganui to threaten Te Heuheu that ‘if he did not immediately disperse his war party, the troops would be landed to force him to do so’. Before this situation could become seriously dangerous (Te Heuheu’s war party numbered more than one thousand men, according to Richard Taylor), luck intervened on behalf of the Europeans by blowing the Hazard, with the troops still on board, south towards Kapiti. The troops’ honour thus remained intact. A group of missionaries and government officers, including sub-protectors Thomas Forsaith and Donald McLean, continued negotiations and the conflict was finally resolved diplomatically, accompanied by Maori rituals for peace making.

While these events might have raised Europeans in Te Heuheu’s estimation, he had not forgotten Wairau. He told Shortland that ‘some people’ were using the expression mate ngaro (injury forgotten) to the Wairau affray, a great insult in Maori language. It was applied when a chief who had lost in battle did not demand satisfaction for his dead. Maori believed that no one would do so unless he was afraid. Te Heuheu vehemently denied that he himself was the author of this epithet, but Shortland felt that he was not as innocent as he claimed. This encounter suggests that not only were Maori conducting their affairs and their disputes in Maori fashion, as Angela Ballara argues in Taua, but that they also viewed European affairs in the light of their own culture, applying Maori judgments to European actions, and viewing European settlements as if they were separate ‘tribes’.

---

85 Ian Wards, The Shadow of the Land, 313. Four months earlier, in January 1845, Te Heuheu nearly had a brush with European military forces. On his warpath to Waitotara, Te Heuheu stopped at Wanganui to ask his old allies to join him, but they refused, being now converted to Christianity. Te Heuheu angrily boasted to the Reverend Richard Taylor that after he had settled his scores at Waitotara he would return to Wanganui ‘to make the Christian tribes give up their faith’.
88 Edward Shortland, Traditions and Superstitions, 269.
90 Alan Ward also makes this point (A Show of Justice, 22-23).
91 At the same time, however, the European influence undeniably altered Maori behaviour, exemplified by the refusal of the Christian Maori at Wanganui to join Te Heuheu.
Te Heuheu recommended that Shortland discuss the events in the north with two prominent chiefs in the Wellington area: Turoa at Wanganui and Te Rauparaha. Te Rauparaha declared himself a neutral party in the dispute, and in favour of keeping the peace with Europeans. To support this declaration, he dictated three letters to Shortland, one to the governor, one to the missionary Octavius Hadfield, and one to Te Wherowhero, one of the most senior Waikato chiefs. Te Rauparaha assured the governor that he wished to keep the peace: ‘If the Maori interfere causelessly with the white man I shall do as Waka [Nene]. My words are constantly for peace. For the Maori to be kind to the white man — for the white man to be kind to the Maori.’ He also referred to his own experience of the unexpectedly large streams of settlers who had arrived on his shores. He suggested that Maori would be mad to stir up a fight with Pakeha, since ultimately they would always be able to outnumber Maori. ‘A rat was surely your ancestor, so numerous are your men and your soldiers’, Te Rauparaha wrote to the governor. In his letter to Te Wherowhero, Te Rauparaha asked him how he intended to act ‘in regard to this mad conduct of the Maori towards the white man’. Te Rauparaha himself had ‘joined the missionaries’ because he wished ‘to die at peace with the white people’. He urged Te Wherowhero to use his authority to overrule those who encouraged war with the Europeans. ‘You know what war is’, wrote Te Rauparaha, suggesting that it was preferable to die of old age, in peace, than to die young in battle. He urged Te Wherowhero: ‘Turn not your thoughts to the customs of old, of your ancestors never forgetful of a quarrel. But subdue them.’ Te Rauparaha confirmed his longstanding relationship with the Waikato chief, acknowledging him as ‘the greatest living chief’. In an interesting precursor to the later elevation of Te Wherowhero to the position of Maori King, Te Rauparaha in his letter acknowledged him as ‘King of New Zealand’ (ki te Kingi o Nui Tireni).

92 This must be a reference to Te Peehi Turoa, of Wanganui, who died in September 1845, a day after he was baptised by Reverend Richard Taylor. Turoa signed the Treaty of Waitangi. In the 1830s he and Te Heuheu combined to make an attack on the East Coast (Steven Oliver, ‘Turoa, Te Peehi, 1815-1845’, in DNZB, Vol. One, 559-560). Shortland met Te Rauparaha in 1843 when he investigated the Wairau affray.
93 Te Rauparaha to Governor FitzRoy, translated by Edward Shortland, Outward Letter Book B, 20 July 1845.
94 Te Rauparaha to Te Wherowhero, translated by Edward Shortland, Outward Letter Book B, 20 July 1845.
95 Te Rauparaha to Te Wherowhero, translated by Edward Shortland, 20 July 1845, Outward Letter Book B. This use of the word Kingi may be related to the use of the word ‘kingitanga’ in the Declaration of Independence of 1835, which Te Wherowhero signed. The Declaration confirms the sovereignty (kingitanga) of the chiefs (http://aotearoa.wellington.net.nz/imp/dec.htm last viewed 29 September 2007). Te Wherowhero did declare himself by writing to the governor that his people were
Conflict in the Wellington district

Te Rauparaha’s professed wish for peace may seem somewhat contradictory in view of his support for Te Rangihaeata over a dispute with settlers in the Hutt Valley. The dispute over the Hutt Valley was the indirect result of defective land purchases and unfounded claims by representatives of the New Zealand Company in the Wellington district. It was exactly these kinds of disputes Shortland had preferred to avoid, but his transfer to Wellington forced him to deal with them.

Soon after his arrival in New Zealand Governor FitzRoy travelled to Wellington and advised Colonel Wakefield, the New Zealand Company agent, that the purchase of land in Wellington could only be settled by further payments to interested Maori parties, among whom Te Rauparaha and Te Rangihaeata. This agreement specifically reserved pa, cultivations and burial places for continued Maori ownership. The first thing Shortland noticed when he looked at this agreement, in particular the Maori version, was the potential for confusion between what the governor understood by ‘nga kainga’ and the Maori interpretation. The question was whether Maori had consented to what the governor thought they had agreed to. Shortland believed that the Maori parties to the agreement expected to retain ‘all lands reclaimed by them from its original state’. This would include lands currently lying fallow, to rest them after cultivation, but to which they intended to return at a future date. If Maori were to retain all lands presently or formerly cultivated, this would lead to a most unsatisfactory situation for Europeans, whose land would, as a consequence, be dotted by pieces of Maori land, Shortland stated. Apart from the inconvenience, this would also decrease the value of their land. If, on the other hand, Maori were to be confined to land currently under cultivation, they would have nowhere to go once the soil of these places was no longer productive. Either case was bound to lead to conflict. Shortland suggested that the solution to this problem was to set aside suitable reserves for future Maori cultivation and to let or even sell the sections they currently used for crops once they became exhausted. To prevent immediate conflict,

willing to die for the flag (Robert FitzRoy, Remarks on New Zealand, 51). FitzRoy received so many letters of support from Maori chiefs at this time that two people were full-time employed copying and translating them (Paul Moon, Fitzroy, 220).

96 Ian Wards, The Shadow of the Land, 225.
97 Edward Shortland, Letters and papers relating to problems at Heretaunga and Port Nicholson, 1844-45, Dunedin Hocken Library, MS-0489/001. What follows in this paragraph is derived from the document.
Shortland recommended that all the Maori cultivations subject to the agreement should be surveyed and the boundaries fixed in the presence of the Maori owners, the protector of aborigines, and the European purchasers of the surrounding sections. These very pragmatic suggestions were not implemented.

The disputes over land in Wellington spilled over into the Hutt Valley, where several enterprising Europeans had started to farm. The Europeans spread themselves further and further, or, as one Maori expressed it to Shortland, ‘this encircling as fish in a net all the land of the Maories’. Since the arrival of the settlers, an increasing number of Maori had started cultivations in the Hutt Valley (or Heretaunga as Shortland called it by its Maori name); their produce provided most of the supplies for the Wellington settlers. The agreement Governor FitzRoy concluded with the New Zealand Company made important exceptions concerning the Hutt Valley and stipulated that Maori who had planted there would have one year in which to harvest their crops before moving out. This agreement had been made on the Maori side with Te Rauparaha and Te Rangihaeata. Although the European negotiators had deemed this sufficient, these two chiefs, although of very high standing, were not really in a position to freely dispose of the rights to the valley. Te Rangihaeata had allocated the upper valley to Kaparatehau and the Ngati Rangatahi people as a reward for their contribution in previous wars and the latter were not willing to give it up.

In July 1845 Shortland attended a large Maori meeting at Porirua, called by the Wesleyan missionaries for religious purposes, but used by attendees to discuss the dispute over the Hutt Valley. Shortland estimated that about one thousand people were present. Significantly, Te Rauparaha was absent, but Te Rangihaeata was there. While some speakers were in favour of abandoning Heretaunga, others, who had a

---

96 Shortland did not actually use the word ‘exhausted’ but wrote ‘when the soil ceases to be fruitful’. Shortland did mention an ‘exhausted state’ of cultivations in Southern Districts (48). Reverend Taylor also used the term, writing of the land becoming exhausted by successive cropping (Te Ika a Maui, 257).
97 Edward Shortland, Commonplace Book A, 15.
100 Ian Wards, The Shadow of the Land, 224.
102 Although not his but his nephew’s signature appeared on the deed. The nephew, a Christian, believed he could convince his uncle to give up the Hutt Valley (Ian Wards, The Shadow of the Land, 225).
103 See Ian Wards for a thorough analysis of this whole conflict and its aftermath (The Shadow of the Land, 223-252).
personal interest in the place, violently opposed the idea. Te Rangihaeata, who had earlier indicated that he was willing to yield, got up and passionately supported the opposing speakers. When he sat down, however, he turned to Shortland and said 'what I have just uttered are not my real sentiments, but an expression of my anger on account of my name having been signed to the pukapuka' (meaning the deed of sale of Heretaunga signed by his nephew on his behalf but without his permission). Even his own people were baffled and discussed Te Rangihaeata's speech until deep into the night. Early the next morning Te Rangihaeata went over to the encampment of Taringa Kuri, who had strongly opposed abandoning the Hutt Valley, to explain his real intention but, as Shortland put it, 'that crafty chief had some intimation of his purpose and had returned to Heretaunga at daybreak'. Te Rangihaeata explained to his own people that he was willing to give up the Hutt Valley, as long as adequate reserves were made for his allies Ngati Rangatahi. These attempts to please all parties, or, more precisely, to fulfil his responsibilities and obligations to all parties, in some ways resemble the attempts of Tohi Te Ururangi of Ngati Whakaue in Maketu to fulfil his obligations towards the government as well as towards his own people, described in Chapter Five above.

From Porirua Shortland travelled to Otaki to talk to Te Rauparaha who had not attended the meeting. The old chief assured Shortland that he was anxious 'to see the White people in peaceable possession of Heretaunga'. He disclaimed any involvement in the condition set by Te Rangihaeata to reserve part of the land for Ngati Rangatahi. He had, however, in the past made a similar request of this nature to Major Richmond, but now he left that point to the governor to decide. This was a subtle reference to the obligation he had moved from his own shoulders to those of the governor, but of which the latter seemed unaware. Certainly Major Richmond did not recognise this obligation toward Ngati Rangatahi until it was more or less too late. On the contrary, he initially made no allowance for any rights they might have. In Traditions and Superstitions Shortland pointed out that Maori would sell disputed land encumbered with their disputes, believing that 'he had thus relieved himself, in an honourable and advantageous way' from his duties.

---

104 Edward Shortland to Superintendent Richmond, Outward Letter Book B, 29 July 1845.
105 Edward Shortland to Superintendent Richmond, Outward Letter Book B, 29 July 1845.
106 Ian Wards, The Shadow of the Land, 238.
107 Ian Wards, The Shadow of the Land, 228.
108 Edward Shortland, Traditions and Superstitions, 298.
Te Rauparaha accompanied Shortland back to Porirua, and spent days ‘haranguing’ the people involved to leave the decision regarding Heretaunga to him, but Te Rangihaeata ‘remained firm to his purpose’ to retain a part for Ngati Rangatangahia, time and again stating that he had never signed the deed of sale. When Shortland asked Te Rangihaeata’s nephew Matene about this, Matene confirmed that he had signed on his uncle’s behalf, because his uncle had originally verbally agreed to the sale, but had later withdrawn his consent. Matene said that Te Rangihaeata was often unreliable and that he, Matene, had been sure that under pressure from himself and from Te Rauparaha his uncle would yield, as he usually did. Between the other uncle and nephew, Te Rauparaha and Te Rangihaeata there was also growing mistrust, it seems. While Te Rauparaha wished to give up Heretaunga and showed himself willing to leave the just administering of the issue to the governor, Te Rangihaeata held fast to his obligations to his allies, mistrustful of the intentions of the Europeans. He expressed this by referring to an old Maori legend, of the lizard (ngarara) and the shark (mango) and warned Te Rauparaha that he would end up being ‘served as the shark was’. The older man replied: ‘And your fate will be that of the lizard’. These words proved prophetic, Shortland remarked:

for Rauparaha in an unsuspicious moment believing the white men his friends was seized by an armed party of soldiers at night, and carried prisoner on board a man of wars. While Rangihaeata ... was forced to take refuge like the lizard in the recesses of the mountains and forests.

This is a reference to the arrest of Te Rauparaha by Governor Grey in 1846. Grey’s decision was based on mistrust, he claimed, because Te Rauparaha declared one
thing, but did another.\textsuperscript{112} According to Maori custom, however, Te Rauparaha had little choice but to tacitly support his nephew Te Rangihaeata, however much he professed at the same time his wish for peace with the Europeans. Grey was equally mistrustful of Rangihaeata who also promised not to actively oppose the government, but at the same time refused to discourage his allies in their claims to the Hutt Valley. The real difference was that Rangihaeata was ensconced in a well-defended pa, Te Rauparaha was not.\textsuperscript{113} We can see in this chain of alliances how each chief adhered strictly to what was tika for him to do: Te Rauparaha’s relationship was with Rangihaeata only, while the latter had influence over the hapu in the Hutt Valley, but was obliged to protect the pledge he had made to them.

A recurring theme in the above stories is mistrust and misunderstanding. Not only the mistrust between Europeans and Maori, but between Maori as well. The underlying cause was not so much that some people were less trustworthy than others, but that they adhered to different rules. What Europeans might call lying, Maori called maminga, which included the Machiavellian art of deceit that behooved a Maori statesman, as Shortland described in \textit{Traditions and Superstitions}.\textsuperscript{114} It appears that Christian Maori adopted the European point of view and disapproved of lying and deceit, as is evidenced by the fact that Matene Te Whiwhi called his uncle Te Rangihaeata unreliable, an epithet that stuck.\textsuperscript{115} Shortland learned to investigate Maori statements with great care and to always look for possible misrepresentations. He found that Maori were generally prone to exaggerate and to be inventive as raconteurs, but that, while they might ‘misstate and deceive’ (even when it gave them no advantage), they would always tell the truth when pressed.\textsuperscript{116} What counted in the traditional Maori sense, as we saw here and in the previous chapters, was the strict adherence to a clear set of rules, being able to show that one’s actions were tika (correct) and consistent and that they had a foundation (putake). Shortland gained further valuable lessons in this area during his last months in New Zealand.

\textsuperscript{112} According to Ian Wards, Governor Grey was unable to legally justify his arrest of Te Rauparaha, and Wards suggests that it was mainly a show of power (\textit{The Shadow of the Land}, 280-81).
\textsuperscript{113} Ian Wards, \textit{The Shadow of the Land}, 251-252.
\textsuperscript{114} Edward Shortland, \textit{Traditions and Superstitions}, 160-61.
\textsuperscript{115} Yet Te Rangihaeata was clear and consistent in his statement that, while he would not actively oppose the government, he would also not discourage his allies in the Hutt valley (Ian Wards, \textit{The Shadow of the Land}, 252).
\textsuperscript{116} Edward Shortland, \textit{Southern Districts}, 25.
In August 1845 Shortland sent his letter of resignation to George Clarke. As we saw earlier, Shortland had indicated his intention to leave in the previous year, giving decreased remuneration as one of his reasons. Chief Protector Clarke acknowledged that Shortland had long indicated a wish to return to England and that he had only remained out of a sense of duty, ‘on account of the critical state of the colony’ and because his services ‘were much required’. His Excellency accepted his resignation ‘with much regret’ because he knew that Shortland was ‘one of the most able and valuable officers in the colony’. His Excellency ‘fully appreciated’ Shortland’s ‘skilful intercourse with the Natives’ and his ‘critical knowledge of their language’, as well as his ‘intimate acquaintance with their habits and customs’. Shortland was not able to leave the country just yet, however. His valuable services were required in the north. Shortland was prevailed upon to apply his knowledge of the language and customs of Maori as translator for Colonel Despard, commander of the British troops, during the peace negotiations with Hone Heke and Kawiti.

After the attack on Ohaeawai pa, which James Belich describes as a ‘Maori victory’, but which the government presented as a European victory, since their troops occupied the Pa after Maori deserted it, Governor FitzRoy called Despard back to Auckland to discuss the best way to proceed. Between July and November 1845 active military operations virtually ceased, to make way for a ‘campaign launched, not with the sword, but with the pen’. FitzRoy entered into correspondence with Hone Heke, with the help of the missionaries in the north, who played an important role in the exchanges between Hone Heke and the governor. Historians have referred to the participation in the peace negotiations by the missionaries, in particular Richard Burrows and Henry Williams, but Shortland is not mentioned. The only records consist of a fragment of a diary written on the back of an 1846 Maori Almanac, which contains two brief entries mentioning meetings with Kawiti and Heke without further detail; a memorandum from Shortland to Despard reporting

---

117 In July 1845 Shortland was further financially frustrated when the Treasurer refused to reimburse him for expenses incurred in the erection of a house at Maketu; meanwhile the new government officer stationed there had taken possession of the house.
on a meeting with Waka Nene; and mention by Colonel Despard of the 'many
important services' Shortland rendered as his interpreter. In his books, Shortland
discussed Hone Heke's motivations for the war as well as some of the customs of
war, illustrated with stories he heard from Maori about their history, as well as from
his personal experience.

I noted above that it was difficult to predict how Maori would respond to Hone
Heke's challenges and whether they would side with Heke or with the government,
or stay neutral. Without reference to Maori customs and history, it was unclear what
would be tika, or the correct way to act. This uncertainty disappeared when Waka
Nene declared his support for the government. Shortland was present at a Maori
meeting during which Nene explained his reasons. The meeting was between Waka
Nene, a Ngapuhi leader, and Nopera Panakaraeo, leader of Te Rarawa. Both men
had argued in favour of the Treaty of Waitangi and had signed the Treaty.
Panakarao, a Christian, was the author of the famous saying that 'the shadow of the
land goes to Queen Victoria, but the substance remains to us'.
Panakarao was also
involved in the 'trouble in the Kaipara', mentioned at the beginning of this chapter.
He had come to Nene's pa with about a hundred warriors to discuss the war with
Hone Heke.

After the official welcome and preliminary statements, the first thing Waka Nene
addressed in his speech was his reason for supporting the government. In his
memorandum to Despard, Shortland merely stated that Nene 'set forth how he had
invariably acted in reference to the pakehas (white people), enumerating various
instances of his having interfered to protect them in former times'. In Traditions and
Superstitions Shortland elaborated. He explained that Maori have 'great respect for
precedents'. When their customs gave no indication of what was the right way to act,
it was possible to create a precedent based on sound reasoning. According to
Shortland's story, Waka Nene first acted as protector of Europeans when he was at
Tauranga with a party of Ngapuhi, probably in the early 1830s. A Ngapuhi chief
causd the captain and crew of a European trading vessel to be murdered. As
payment for the death of those Europeans Waka Nene killed the chief who was

121 Ian Wards, The Shadow of the Land, vii and 49.
122 Edward Shortland, Memorandum of Information for Colonel Despard, 27 September 1845,
Despatch No. 69, Enclosure 16, from Governor FitzRoy to Lord Stanley, 25 October 1845, GBPPNZ
1846 (337).
behind the murders. According to Shortland, the majority of those present approved this prompt act of justice. In the years that followed, the precedent he himself set ‘to protect the Pakeha’ consistently determined Nene’s conduct. This consistency justified his actions even in the eyes of those of his countrymen who took a different view, Shortland explained. They called such an impromptu manmade law ‘tana tikanga’. Nene’s influence and standing guaranteed that his decision could be a guide to others. It was no longer a decision about whether to side with the government or with Hone Heke, but whether to support Waka Nene or Hone Heke, depending on past alliances and obligations. Reduced to a Maori conflict, the basis for decision making was clear and depended on Maori customs. Nene's influence and standing guaranteed that his decision could be a guide to others. It was no longer a decision about whether to side with the government or with Hone Heke, but whether to support Waka Nene or Hone Heke, depending on past alliances and obligations. Reduced to a Maori conflict, the basis for decision making was clear and depended on Maori customs. Nene's influence and standing guaranteed that his decision could be a guide to others. It was no longer a decision about whether to side with the government or with Hone Heke, but whether to support Waka Nene or Hone Heke, depending on past alliances and obligations. Reduced to a Maori conflict, the basis for decision making was clear and depended on Maori customs. Nene's influence and standing guaranteed that his decision could be a guide to others. It was no longer a decision about whether to side with the government or with Hone Heke, but whether to support Waka Nene or Hone Heke, depending on past alliances and obligations. Reduced to a Maori conflict, the basis for decision making was clear and depended on Maori customs.

Although there were no instances of cannibalism, other customs did influence the way in which Maori waged the war in the north. This may have had an impact on the relationship between Colonel Despard and Waka Nene and contributed to their misunderstandings. With his willingness to understand Maori actions from a Maori point of view, Shortland played an important role as intermediary. In a discussion of the importance of dreams and omens in Maori life, Shortland described two instances during the northern war in Traditions and Superstitions. At Ruapekapeka Despard and Nene had arranged to make a combined movement at daybreak the next morning, in order to advance to the pa until they reached a position 'suitable for a battery'. During the night Nene woke up with a twitching nose on the right hand

123 See Edward Shortland, Traditions and Superstitions, 233-34 for the full story.
125 Edward Shortland, Traditions and Superstitions, 233.
126 For example Te Rauparaha had in the past been allied with Tamati Waka Nene (Angela Ballara, Taa, 302).
127 Angela Ballara cogently argues that Maori were not culturally demoralised, as other scholars have claimed, but that Maori made decisions, including decisions to fight wars, based on Maori customs well into the nineteenth century. Ballara quotes Shortland in this context (Taa, 72). It must be emphasised that there were no Maori general laws, no overarching set of tikanga or ritenga that applied across tribal boundaries. Each descent group made decisions based on their own whakapapa and their own precedents, against which outside events could be tested. For a discussion of this point see Manuka Arnold Henare, 'The Changing Images of Nineteenth Century Maori Society - from Tribes to Nation', PhD thesis, Victoria University, 2003, 191.
128 It seems that Despard held Maori in the 'most supreme contempt' (T. Lindsay Buick, New Zealand's First War, 150). For example, Despard found it hard to believe that Ohaeawai Pa had been constructed without the help of Europeans (James Belich, The New Zealand Wars, 315-16). Yet, according to Lindsay Buick, Waka Nene impressed Despard with his quick and penetrating mind and his common sense, although Despard shunned Waka Nene’s advice (New Zealand’s First War, 150).
129 Edward Shortland, Traditions and Superstitions, 137-138.
side. He immediately woke the other chiefs. After a short consultation they decided that such a favourable omen must be obeyed. They woke their men and set off by themselves to the pa, taking up a position about three hundred yards in front of it. They then sent a messenger to Despard to inform him of their success. It is unlikely that Colonel Despard appreciated such an initiative. He does not seem to have had a high opinion of Maori, even when they were government allies. According to historian Ormond Wilson, Despard shunned Waka Nene's advice with the words 'When I want the help of savages, I will ask for it'.

The besieged party also adhered to omens. For example, it was a bad omen when Venus was visible near and above the moon when a pa was besieged by a foe. It indicated that the pa would be taken. If Venus was visible beneath the moon, however, the defenders would be successful. At Ruapekapeka Venus appeared under the moon and the government allies admitted that this was a bad omen, while those in the pa would see it as favourable. This explained, according to Shortland, why the people in the pa, probably trusting in the omen, made a sudden sortie. They were successfully repulsed, however.

Even if they adhered to customs that might seem strange, or even repulsive (such as cannibalism), it would be a mistake, Shortland warned, to underestimate Maori skills at war. He believed that if Captain Wakefield had 'known the sort of men he was about to deal with', an officer with his experience would never have taken a group of inexperienced and undisciplined men against Maori warriors at Wairau. While the warlike tendencies of Maori might not be something one could approve of, it was impossible not to admire their expertise. Shortland remarked on the

---

130 Edward Shortland, *Traditions and Superstitions*, 138. Governor Grey, who was at Ruapekapeka, described Nene's action as follows, without mentioning the omen that prompted it: 'on the morning of the 29th [December] a party of our native allies penetrated the wood immediately on our front, in a most praiseworthy manner, and took possession of an open piece of ground on the opposite side, sending me immediate intelligence of what they had done' (quoted by Susannah Grant in 'God's Governor: George Grey and Racial Amalgamation in New Zealand 1845-1853', PhD thesis, University of Otago, 2005, 131).

131 Ormond Wilson, *From Hongi Hika to Hone Heke*, 274.

132 Edward Shortland, *Traditions and Superstitions*, 138. The moon was believed to signify the pa, the wandering venus the attackers. The one uppermost was believed to represent the victor.

133 Edward Shortland, *Traditions and Superstitions*, 139.

134 Colonel Despard seems to have been one of the men who underestimated Maori expertise as warriors. According to historian Lindsay Buick for example, Despard was of the opinion that British troops would not require trenches to defend themselves in 'open country against a barbarian enemy' even if they had twice as many men (T. Lindsay Buick, *New Zealand's First War*, 197).

‘considerable skill’ shown in the selection of advantageous sites for pa, and in the ‘artificial defences’ created to withstand ‘the forces they were likely to meet’. According to Shortland, as soon as firearms came into use ‘the military genius of the people showed itself in the improvements they made on their old plan of fortifications’, as well as in their modes of attack. Maori also rapidly adapted their customary hand-to-hand combat. They developed a kind of guerrilla warfare, using the shelter of trees or rocks, and shifting their position as soon as they had finished firing, in order to reload in the safety of new cover. This method caused some frustration to the British soldiers, whose traditional fighting methods were not suited to counter this tactic. It made them defensive, and led them to compare Maori warriors to ‘vermin’ and ‘rats’. Shortland, in contrast, called Maori warriors ‘valiant and dashing fellows’. Maori had always seen warfare as a science. They considered war strategising an important skill for chiefs. Shortland quoted Te Rauparaha’s son, Tamihana: ‘Our chiefs take much thought about places which are difficult to storm. It is only the most clever who will devise the right method to take the strongest places.’ Te Rauparaha was one of those chiefs: ‘He was both brave and skilful in devising stratagems of war.’ In The New Zealand Wars, Belich investigates and admires the various ways in which Maori strategists adapted their warfare to better deal with English strategies of war.

When Kawiti and Heke abandoned Ruapekapeka, allowing Despard’s troops and his Maori allies to enter the pa on 11 January 1846, Governor Grey used the opportunity to declare a decisive victory. Grey issued a proclamation of peace that was in due course accepted by Heke and Kawiti. Brief diary entries in a Shortland manuscript dated 28 and 29 January 1846 suggest that he was involved in the final peace
negotiations, although there is no further record of his participation.\textsuperscript{143} In February of that year Shortland left New Zealand on board HMS \textit{North Star}.\textsuperscript{144} Not long after his arrival in England he started lobbying for Maori interests and commenced writing his first two books.

\textbf{Conclusions}

One of the main themes in this and the preceding four chapters has been the mounting tension between Maori and Pakeha, some of which might have been avoided if mutual understanding and knowledge of each other's customs had been greater. The Maori newspaper \textit{Maori Messenger}, issued by the government, was intended to inform Maori, but there was no equivalent medium to explain Maori to Pakeha. As I show in the following chapter, one of Shortland's motivations for writing his first book, after he returned to England, was to rectify this shortcoming.

It is clear that what happened in England did not go unnoticed in New Zealand. Maori were well informed and therefore it could be dangerous to discuss Maori rights and interests as if they were children who could (and should) be 'weaned' from their ancient customs, as the 1844 Committee on New Zealand suggested.\textsuperscript{145} This was particularly dangerous after the events at Wairau in 1843 had fractured the delicate balance of power, which had been based largely on the perceived strength of the Europeans. As Shortland pointed out, the colonists 'very generally undervalued' the strength of Maori as 'antagonists in arms', until 'experience forced them to acknowledge it'.\textsuperscript{146} George Clarke was right, when he concluded that peace could be

\begin{footnotesize}
\textsuperscript{143} Edward Shortland, 'Fragment of a diary' (1846), Alexander Turnbull Library, Wellington, MS-Papers-6597-2. On the back in Shortland's handwriting are the following entries: 28th went on shore at Kororarika where Kawiti's natives were assembled. To Pahia in Evening see Heke. 29th visit Kawiti at Ohuihui (this could be Otuhui at the mouth of the Kawakawa river). For a description of the peace proceedings see Ian Wards, \textit{The Shadow of the Land}, 203-205. Wards quotes a letter from Kawiti dated 29 January 1846 in which he declares: 'This is my absolute consenting to making peace with the Europeans on this day' (205).
\textsuperscript{144} http://www.records.nsw.gov.au/indexes. Shortland is listed as passenger on board HMS \textit{North Star}, which arrived in New South Wales, Australia on 10 February 1846 from the Bay of Islands.
\textsuperscript{145} Kenneth N. Bell, and W. P. Morrell, eds., \textit{Select Documents on British Colonial Policy}, 571.
\textsuperscript{146} Edward Shortland, \textit{Traditions and Superstitions}, 262.
\end{footnotesize}
attributed largely to 'the good sense' of Maori, rather than to the forbearance of the settlers.\footnote{147}

It is likely that Shortland communicated to Governor Grey the suggestions he made to Governor FitzRoy in April 1845, after the fall of Kororareka. These were firstly that it was vital to reassure Maori as to the intentions of the government with regard to their lands, and secondly that the next hostile step taken by the government needed to be decisive. Shortland also felt that it was dangerous and counter-productive to be magnanimous from a position of weakness. The policies followed by Governor Grey were very much along these lines. To the Colonial Office Grey recommended the idea of a generous and liberal line of policy after a severe Maori defeat.\footnote{148} It was therefore of vital importance to represent the taking of Ruapekapeka as a great victory. In the eyes of Maori the war in the north confirmed Te Rauparaha's belief that it was foolish to 'stir up a fight with Pakeha' because they would always be able to outnumber Maori. The Home Office's military support for the New Zealand administration was decisive in making an honourable peace possible.

\footnote{147}{Chief Protector's Report for the Half Year ending 30 April 1842, dated 18 June 1842, GBPPNZ 1844, Appendices, 190.}
\footnote{148}{Ian Wards, The Shadow of the Land, 204.}
Chapter Eight
The return Home

Shortland has been generally recognised as a knowledgeable ethnographer, most notably by the anthropologist Atholl Anderson, who called Shortland 'the first anthropologist of Maori'. It is important to remember, however, that Shortland's ethnography was the result of his work as government officer and was part of his job description. It is appropriate, therefore, to see him first and foremost as a government servant, with the task to inform the government on Maori customs and to recommend policies for Native Affairs. Shortland was part of a small group of public servants who came to New Zealand shortly after the Treaty of Waitangi had been concluded. It was their task 'to make it work', to assist the governors in establishing a British colony in a peaceful manner and with respect for rights of the indigenous population. Most of the earliest contingent of government officers (including governors) died, left, or were replaced after the first few years in New Zealand. Among the most enduring of the early public servants were Attorney General William Swainson and Chief Justice William Martin, who served the New Zealand governors, continued to advise governments and remained active in politics for decades. Although Shortland left New Zealand in 1846, he later returned to work again for the government on William Martin's recommendation, and later again to assist William Martin in writing legal proposals for Native Affairs. In this and the following chapters I examine Shortland's continuing involvement in New Zealand affairs and his work on behalf of Maori interests.

It is my contention that Shortland's books should be read not only as ethnographies but also as a continuation of his work as protector and adviser on Maori Affairs. Shortland campaigned for Maori rights by actively lobbying the English government as well as through his books, which carry a strong humanitarian message and have a political slant. Southern Districts describes the proceedings of the land court commission in the South Island, the problems of conflicting land claims at Akaroa, and contains genealogical information on South Island Maori. In an appendix may be

---

found ‘precautions to be adopted in purchasing lands from natives’.\(^2\) *Traditions and Superstitions*, while containing much ethnographic material, also argues for Maori land rights. It contains extensive genealogical tables, a chapter on Maori land tenure, including ‘observations on the purchase of land from natives’, and, in an appendix, a letter to parliamentary under-secretary Benjamin Hawes written in 1847 with the heading: ‘Native Titles to Land’.\(^3\) Shortland kept himself informed by reading books and articles about New Zealand. He monitored government policies and decisions by reading the New Zealand papers presented in Parliament.\(^4\) To these he responded with letters or by referring to the issues in his books.

The humanitarian lobby

The resolutions of the 1844 Committee on New Zealand caused such alarm and raised so many protests among humanitarians in New Zealand as well as England, that the Colonial Secretary, Lord Stanley, delayed implementing the report.\(^5\) Among the protesters was Shortland’s brother Willoughby, who had returned to England. After reading the report he offered ‘a few observations’ to the Colonial Secretary.\(^6\) Willoughby believed that the resolutions adopted by the Committee upheld ‘principles incompatible with those on which the colony was founded’ and constituted a change of policy towards the indigenous population of New Zealand. This change of policy was not only ‘inconsistent with the provisions of a solemn treaty’ and ‘a forfeiture on the part of Her Majesty’s Government of pledges again and again reiterated to the natives’, but would also ‘inevitably plunge the islands into anarchy and bloodshed’. If the recommendations were carried out, it would ‘render useless the successful labours of years’, Willoughby believed.

In 1846 Sir Robert Peel’s government fell and around the same time the Colonial Office lost Lord Stanley, who was one of a succession of evangelical humanitarian


\(^4\) Shortland referred to reading these papers in a letter addressed to Benjamin Hawes, MP in 1850 (Edward Shortland, Outward Letter Book B, 3 April 1850, Dunedin Hocken Library, MS-0086/002 (PC-0028)).


incumbents who had influenced the early New Zealand policies of 'moral suasion' and the protection of Maori rights. Their replacements were sympathetic to the ideas of Colonial Reformers and to the interests of the New Zealand Company. Colonial Reformers traced their policy ideas back to Edward Gibbon Wakefield. Wakefieldian reformers believed that England suffered from 'surpluses' of people and of capital and that the solution was emigration and colonial development through investment. The Reformers were of the opinion that indigenous interests must be subordinate to the needs of the colonisers. Supporters of the New Zealand Company were understandably pleased with the new regime and felt that at last 'a new era was about to dawn for New Zealand'. But the changes at the Colonial Office caused the humanitarians great concern. Robert FitzRoy wrote from England to George Clarke senior lamenting the changes and expressing his anxiety over what might happen.

The concerns were justified. The new Colonial Secretary was Earl Grey, who had chaired the 1844 Committee on New Zealand. Benjamin Hawes, who had served on the Committee, took over as Parliamentary Under-Secretary. Earl Grey instructed Governor Grey to implement the resolutions of the Committee, specifically those dealing with land. Resolution six stated that 'means ought to be forthwith adopted for establishing the exclusive title of the Crown to all land not actually occupied and enjoyed by Natives'. The third resolution stated that 'the acknowledgement ... of a right of property' of Maori 'in all wild lands' in New Zealand was an error, which had resulted in dire consequences and was not 'essential to the true construction of the Treaty of Waitangi', after Her Majesty had assumed sovereignty. The latter was a reference to the question that had vexed Governor Shortland during the Tauranga affair, namely whether British sovereignty extended over the whole of New Zealand.

---

8 The humanitarians at the Colonial Office did not believe, however, that it should be the other way round. In his instructions to George Grey, Lord Stanley expressed the opinion that the ‘zeal’ for aboriginal welfare had ‘rather outrun discretion’ during FitzRoy’s governorship and that some changes were needed (Stanley to Grey, 13 August 1845, GBPPNZ 1846 [337], 85).
10 'Alas I found Lord Grey (late Howick) Messrs Hawes and Buller and A. Ward in office!! What bitter anxiety for New Zealand this has caused me' (FitzRoy to Clarke, London 8 August 1846 [Willoughby Shortland, ‘Government letters &c. 1840-1848’, item 49, Dunedin Hocken Library, MS-0052]).
or only over those Maori communities who had signed the Treaty. When Governor FitzRoy arrived in New Zealand he carried Lord Stanley’s reply. The answer stated that, since Governor Hobson had declared sovereignty over the whole of New Zealand and since the Queen had acknowledged this declaration, it was now an indisputable fact, whatever one might think of the justice of the case.\textsuperscript{13}

In his instructions to Governor Grey, Lord Grey admitted the justice of recognising Maori rights to ‘their patches of potato-ground’ and even to territory that would allow them ‘ample space for shifting, as was their habit, their cultivation from one spot to another’. But there was absolutely no need to acknowledge their ‘right of property in land which remained unsubdued to the uses of man’.\textsuperscript{14} The Colonial Office instructions caused uproar among the missionaries and humanitarians in New Zealand. John Whiteley, a Wesleyan missionary who had gathered signatures for the Treaty of Waitangi in 1840, wrote to Governor Grey to express his concerns. The instructions from Earl Grey to treat unoccupied land as Crown land, and to sell this land to settlers, contravened the letter and spirit of the Treaty, Whiteley pointed out.\textsuperscript{15} Bishop Selwyn submitted a formal protest. He also allowed the College Press to be used for the publication of a petition from prominent Auckland residents and officials, and of a pamphlet written by William Martin, Chief Justice, protesting against Earl Grey’s instructions.\textsuperscript{16}

In his pamphlet William Martin systematically addressed issues similar to those raised by Willoughby Shortland and John Whiteley. Martin argued that Earl Grey’s instructions involved ‘a breach of the National Faith of Britain’. He set out to prove that the instructions constituted a violation of established law. He also protested against the general principles put forth by Earl Grey, which implied that ‘unsubdued’ lands were the property of the Crown. Earl Grey discounted Maori cultivation methods as primitive and therefore as not really constituting agriculture. Against this Martin argued that even Cook and Banks had noted that Maori

\textsuperscript{13} Lord Stanley to Willoughby Shortland, 21 June 1843. GBPPNZ 1844 (556), Appendix 19, 475.
\textsuperscript{14} This was in effect a concession to the humanitarian protests (W. P. Morrell, British Colonial Policy in the Age of Peel and Russell, 315-16, quoting and discussing the instructions from Earl Grey to George Grey dated 23 December 1846).
cultivations were skilfully laid out and tended like European ones. Moreover, it was not the quality of the labour that counted, but the fact of it. From that point of view, Martin added, the reality was that 'a large part of the surface of these Islands — by far the larger part of the surface of this Northern Island — has been cleared and subdued by the labour of the native people.' In Southern Districts Shortland showed that this was true to quite a large extent in the South Island as well.

Not long after his arrival back in England, in February 1847, Shortland had an interview with Benjamin Hawes. It is not altogether clear whether Shortland approached the under-secretary, or whether the latter invited Shortland for an interview. This last seems likely from remarks in a letter from Shortland to Martin. Hawes asked Shortland 'a variety of questions' about Maori land tenure, Shortland wrote. Rather than giving an instant reply, Shortland decided that he needed 'to carefully think about the answers' and therefore proposed giving the reply in writing. Hawes agreed, but urged Shortland to use as few words as possible, since otherwise Earl Grey would not have time to read it. Shortland sent a copy of this letter to William Martin, who responded enthusiastically. This letter was delivered to Shortland by the missionary William Williams who was in England in 1851-1852 to defend his brother's and his own claims to lands purchased from Maori. He called on Shortland in Plymouth and personally delivered Martin's letter. William Martin asked Shortland's permission to print the letter in New Zealand, because he considered it important that the issues of Maori land tenure and the purchase of their lands, described in the letter, were more publicly known. He regretted that the information had not been available in Southern Districts as an appendix. Shortland replied that he was quite happy for his letter to be made public, but wished to elaborate on some of the issues he had raised in his letter to Hawes. At Hawes' request he had kept his original letter very brief, to increase the chances that Earl Grey would take the time to read it. Trying to be brief, Shortland feared he might at times have been obscure. He therefore wished to make some additions to the original

17 William Martin, England and the New Zealanders, 38.
19 William Martin's letter is not among Shortland's papers, but Shortland repeated the gist of Martin's statements in his reply (Edward Shortland to William Martin, Outward Letter Book B).
20 That Williams delivered the letter is mentioned in Shortland's reply to William Martin (Outward Letter Book B). For Williams' visit to England see Frances Porter, 'Williams, William 1800-1878', in DNZB, Vol. One, 597-598. In 1826 William Williams joined his brother Henry, who had been leading the Church Missionary Society mission in the Bay of Islands since 1823, at the Paihia mission station in New Zealand. William was a much-respected Maori language scholar.
letter ‘in order better to explain [his] reasoning’. Shortland suggested putting these additions in italics when the letter was printed.\textsuperscript{21} The letter to Hawes, including the additional information Shortland suggested to Martin, was published as an appendix in \textit{Traditions and Superstitions} with the heading ‘Native Titles to Land’.\textsuperscript{22} Shortland’s knowledge of Maori land tenure proved to be of great value and in eight pages he managed to address all of the contentious issues.

‘Native Titles to Land’\textsuperscript{23}

Shortland began his letter to Hawes by explaining that Maori land ownership was based on ancestral claims. These claims could generally be traced through the names of landscape features. Ranges of hills constituted boundary markers and carried the names of ancestors. Mountains acquired sacredness because they were named after an ancestor and subsequent ancestors after them. Individuals were only allowed to cultivate lands expressly allocated to their family by the tribe, who were the joint overall owners of the land. Maori would never comprehend the justice of disputing their right to the ‘mountains, hills, forests or other lands’ contained within their boundaries, Shortland stated. In concert with the other humanitarian protesters Shortland referred to the Treaty of Waitangi and pointed out that

If Captain Hobson had given the natives to understand that all lands not reclaimed by them were to belong to the Crown, the opposition he would have met with would probably have prevented New Zealand from being proclaimed a British Colony, and he must in that case have remained in his original position of consul.

Shortland showed that Maori did have ‘an idea of the value of land as an exchangeable property’, even before the arrival of Europeans, but land itself was the payment, not something for which they received payment. For example, a piece of land might change hands as compensation in cases of adultery. This was considered acceptable because of the maxim that ‘all other property is perishable but a woman or land’; a woman produced children, while land provided sustenance. Another occasion on which Maori might part with land was ‘in making peace after a long

\\textsuperscript{21}No record has been found of Shortland’s letter having been printed as a pamphlet.
\textsuperscript{22}Edward Shortland, \textit{Traditions and Superstitions}, 295-303.
\textsuperscript{23}Edward Shortland to B. Hawes, MP, Outward Letter Book B, 25 February 1847. The statements and quotations that follow are taken from Shortland’s letter to Hawes.
war'. When many lives were lost, land might be given up by one party 'to compensate for the greater number killed on the other side', according to Shortland. This payment restored the balance.

Shortland stressed that for several important reasons Maori needed and claimed more land than they might require for their immediate use and more 'than would at first seem probable to European ideas'. One reason was that war or the death of a chief made a place sacred and necessitated a change of settlement. This did not mean, however, that the claim to such vacated land had been relinquished. The second reason was that Maori used only the most fertile lands and the choicest spots for their cultivations. The rest of the land was not empty or unsubdued, however, but provided other food resources. Maori made use of all their land, for example for snaring birds, fishing and catching eels, for grazing pigs, or gathering berries. Shortland made clear that these activities involved more than a primitive form of hunting and gathering. Every stream had weirs and every large swamp had embankments and channels to direct eels into the weirs during floods. Catching birds also required skill and expertise. Maori used tame birds as decoys. The excess of the catch was cooked and preserved in calabashes, either for future use or to be used as barter.

Shortland argued that a Maori was 'not naturally willing to part with land, but saw in it the only means of inducing Europeans to settle in his country.' Pakeha were seen as a source of European goods, and as a market for Maori produce. Since Europeans appeared readily willing to buy land 'without inquiry', Maori sold 'bountifully his disputed lands'. These lands came 'encumbered with their disputes'. The seller felt that he had 'relieved himself in an honourable and advantageous way' from his duty to his ancestors and that the purchase price was sufficient as utu. But those who could say 'noku te whenua, no oku tupuna (the land is mine, inherited from my forefathers)' would sell their land more sparingly.

The above explained, according to Shortland, why there were so many problems with land purchases. Even after the land claims commissioners had examined a claim and the Crown had issued a grant, it was still possible for ownership to be disputed at the moment the owner tried to take possession. As an example Shortland enclosed a letter from himself addressed to the chief protector, about promises by Europeans
of future payments if Hauraki Maori concealed their land claims from the commissioners. This showed how difficult it was to obtain an undisputed title to land by direct purchase from Maori, Shortland argued. The only solution was the supervision of all sales by a 'competent person' whose job was devoted to this purpose. According to Shortland, during the time when land purchases formed part of the duties of the chief protector of aborigines, his acquisitions had resulted in 'very few difficulties' when settlers occupied the land they had subsequently purchased from the government at public auction. Shortland accepted, however, that there were valid objections to this procedure, namely that the government had insufficient funds available for land purchases and that it might give an unfavourable impression of government intentions. To Maori it would seem that the government defrauded them of profit, when it purchased at a low price and resold at a high price.

Shortland proposed a system of land purchase to overcome all these problems. He suggested that when the government selected a district for settlement, it should first survey and map the whole district, including Maori settlements and cultivations, and the lines of proposed roads. An officer appointed for that purpose should investigate all Maori land claims within the designated district to establish who were the rightful owners. The officer who investigated the Maori land claims must keep a registry, containing the names of 'the tribes, families, and individuals' who had claims in the district, specifying the lands, by name, to which they had rights, either individually or jointly with others. The boundaries of these claims, with their names, must also be clearly indicated on a separate copy of the district map and kept by the same officer. This officer should indicate to the surveyor which parts of the land the Maori owners wished to sell and which they wished to retain. The latter might be colour coded on the map and would form 'the most appropriate native reserves' in that district. Once a register had been established, an intending purchaser could apply at the surveyor's office to find out which lands were available for purchase. The officer who investigated the land claims in the district should also conduct the land purchase negotiations with the Maori owners. On payment of a fee, the purchaser would receive a Crown grant. These suggestions seemed to Shortland to meet the

---

objections made against the government’s monopoly on land purchases. At the same time the funds necessary for surveys and administration were no longer part of the purchase price, but covered by a separate fee, thus avoiding the accusations that the government was profiteering when selling land for more than the original purchase price to cover costs.

Shortland warned that it might take more than twelve months to investigate land claims in a new district. Of course the information once gathered and registered would apply to all land titles in the same district. For the government a bonus of this system was the fact that the government officer would become familiar with the genealogies of the Maori people in the district, and collect histories of the disputes and wars that had affected the various claims to land and thereby understand how conflicting claims had arisen. As an example, Shortland enclosed the genealogies of the principal persons of some of the tribes in the Bay of Plenty. The government would gain influence by becoming the repository for the collective knowledge of the different tribes — knowledge that was ‘highly esteemed’ by Maori. In cases of future disputes, the government might be appealed to as an authority, he suggested.

Shortland concluded by stating his conviction that it was the duty ‘of the more civilized by all means in their power’ to preserve good understanding between the two races as the only way to successfully amalgamate them. To achieve this, those who were ‘more civilized’ should be willing to give up some of their fixed ideas if they differed from those ‘less civilized’; in their dealings they should adopt that course of action the justice of which could be understood by the latter. This statement referred back to the start of his letter, where he declared that Maori would never comprehend the justice of disputing their right to their lands. From a policy point of view, Shortland warned, such considerations gained weight by the fact that the Maori population was generally increasing, rather than decreasing, as some might claim.

The Aborigines Protection Society

A day after his interview with Hawes, a mutual friend informed Shortland that the Secretary of the Aborigines Protection Society (APS) wished to discuss with him 'the New Zealanders and their lands'. Shortland welcomed the opportunity to share with the APS his knowledge on the subject, and accepted an invitation to breakfast with the Secretary, who also sent him a document. The document was a copy of a letter addressed by the APS to Earl Grey. To Shortland's dismay the letter 'supported the ideas so favourite with the old land-claimants and speculators at Auckland, viz. that it was a great injustice not to allow the New Zealanders to sell their lands to whomsoever they pleased.' Shortland was confident, however, that with a few arguments he could 'disabuse the mind of an unprejudiced and disinterested person of such an idea.'

When he met the Secretary of the APS, Thomas Hodgkin, Shortland argued that 'for the government to do as he [the Secretary] advised would be to inflict the greatest injury on the Aborigines themselves without benefiting the European settlers.' Shortland explained the concepts of Maori land tenure to the Secretary, and how difficult it was, even for someone well versed in Maori language and customs, to discover all the lawful owners of a piece of land. For someone without such knowledge it would be impossible, especially since those who offered the land for sale tended to conceal the claims of others. In the past, Europeans had often paid out large quantities of goods to the people who offered land for sale, while other owners, who might even be more numerous than the first group, knew nothing about the transaction. Shortland pointed out that in 'civilised' countries people would never buy real estate without the assistance of a lawyer. In New Zealand, therefore, trustworthy and neutral persons employed by the government should always supervise land transactions.

31 What follows is derived from the letter Shortland wrote to William Martin in 1852, in which he told the story (Outward Letter Book B). The Secretary of the APS at that time was Thomas Hodgkin, a medical doctor like Shortland.
32 This letter from Thomas Hodgkin to Earl Grey, later published as pamphlet, is dated 8 February 1847. Therefore it was no longer possible for Hodgkin to alter the letter (Colonial Intelligencer or Aborigines' Friend, Vol. I, No. 1, March 1847).
Shortland believed that his arguments would convince the Secretary that if the
government were to allow Maori to sell their lands and Europeans to buy them
without any check, the result would be ‘injustice, confusion, moral degradation and
strife’. He found, however, that he was unable to persuade the APS secretary.
Obviously, he had not ‘justly estimated how difficult it is to disabuse anyone’s mind
of a favourite opinion’. Shortland added: ‘All I said made but little impression on the
Secretary of the Aborigines Protection Society, and I left him as I believed still an
advocate of the opinions which he had so recently expressed in his letter to Earl
Grey.’34

Shortland was particularly disappointed, because Thomas Hodgkin, the Secretary of
the APS, was ‘a Physician of eminence’ who could have ‘no personal interest in the
policy he supported’. Shortland concluded that Hodgkin valued the arguments ‘of
those from whom he had derived his opinions’ more than he did those of Shortland.
He feared that the Society ‘might have influence at the Colonial Office’ and that the
principle expressed in the Society’s letter, namely that Maori should be free to sell
their land ‘to whomsoever they pleased’, might be ‘brought into action’. This would
be ‘ruinous to the Aborigine and to the Colonists ... because of the doubt and
uncertainty which would eventually be attached to the titles of all lands’, Shortland
believed. For this reason he decided to suggest to the Colonial Office the restricted
conditions under which the settlers might be permitted to purchase land from the
Aborigines. This is the registration system described above, which Shortland added
to his letter addressed to Benjamin Hawes.

Colonisation, the New Zealand Company and the Wakefield system

Unlike many of his contemporaries, Shortland was not in favour of sending large
numbers of ‘surplus’ British citizens to the New Zealand colony. Nor did he believe
that Europeans, as the more ‘civilised’, had greater rights to Maori lands than Maori
themselves. In his books Shortland expressed the opinion that colonisation should
benefit Maori as well as Europeans. He had seen situations where the symbiosis
between Maori and Pakeha had worked well and to the advantage of both parties.
Shortland described John Jones’ settlement in Waikouaiti in the South Island as a

successful example 35 Shortland saw no problem in allowing responsible settlers to purchase small plots of rural lands directly from Maori as long as the sale was supervised by the government to assure that it was valid. He believed that a slow process of amalgamation would be advantageous to both parties. The intermingling with small groups of European settlers would give Maori a direct and visible interest in the colonisation of the country and, by implication, lead to further offers of land. Such small European settlements were exactly what Maori desired and were likely to diminish acts of violence by Maori, because reports of such acts would keep settlers away. Thus the ‘peaceable and quiet disposition’ of the Maori population would be guaranteed, Shortland argued. 36 This had certainly worked in the Tauranga area, where the promise of European settlers and the arrival of Edward Shortland had helped to prevent war in 1842 after the murder of Te Whanake at Katikati. 37

Shortland realised that the purchase of small parcels of land was unsuited to the needs of the system of colonisation under the auspices of companies, which seemed to be favoured by the public at the time. This system required large tracts of land for the settlement of large groups and it was only in the South Island that Shortland thought it possible to find a ‘continuous and extensive’ block of land ‘unembarrassed by the claims of native proprietors’. 38 He recommended in particular the southern plains in what we today know as Southland. 39 In an uncharacteristically utilitarian passage Shortland also recommended Canterbury. He grew almost lyrical while imagining what the land we now call the Canterbury Plains might look like in future centuries, ‘when the plains will be grazed on by numerous flocks of sheep, and the streams, now flowing idly through remote valleys, will be compelled to perform their share of labour in manufacturing wool.’ 40

35 Edward Shortland, Southern Districts, Chapter VI.
36 Edward Shortland, Traditions and Superstitions, 288.
37 See above, chapters four and five.
39 Edward Shortland, Southern Districts, 158-64.
40 Edward Shortland, Southern Districts, 207. This statement is so uncharacteristic for Shortland that it is tempting to suspect the hand of an editor. The wording is very much in tune with the advertising and pamphlets appearing in England at the time, in which the proposed settlement of Canterbury was advertised as ‘a second home, almost English in its climate and altogether English in its social appointment and its Church’ (Association for Founding the Settlement of Canterbury, To Intending Colonists [London: The Association, 1850], Hocken pamphlets volume 032, no. 16, Dunedin Hocken Library).
Shortland was clearly no admirer of the Wakefield system or the New Zealand Company. In his letter to William Martin, Shortland made critical comments about the New Zealand Company and the way in which the Colonial Office pandered to it. Shortland thought that his suggestions for the limited circumstances under which settlers might buy directly from Maori ‘would be objectionable to those who calculated on any profit to be derived from the resale of lands purchased from Aborigines’. Writing to Martin in 1852, Shortland reflected that when he made his suggestions to Benjamin Hawes in 1847 he ‘had not then contemplated the possibility that any government would have consented to burden the land of New Zealand with the debts of the New Zealand Company to an amount not yet well understood’. Stipulating a high nominal price for land to colonists gave Maori landholders ‘a very great inducement to insist on a correspondingly high price for his waste lands’. Shortland felt it was better to separate the price of land from the expense of surveys, immigration, and other necessary charges through a form of tax. Shortland defended his own plan as more practicable, which was to allow Maori to sell ‘moderate quantities of land from time to time as settlers come from abroad’. This approach would also have a civilising effect since it would induce Maori to sell their ‘waste lands’ to be colonised. The sale of these lands would, of course, be more difficult if a district were turbulent and accordingly Shortland’s plan provided for ‘the best profitable guarantee for their future peaceable and quiet dispositions’, he believed.

Shortland argued that the Wakefield system of settlement should not have been applied in New Zealand since it relied on there being no ‘native population in possession of the lands to be colonized’. Wakefield’s scheme required the acquisition of large tracts of land at no, or at a ‘trifling cost’. Of course it was also essential that the company could obtain ‘quiet possession’. ‘I believe’, Shortland wrote, that ‘it will

---

41 Edward Shortland to William Martin, Outward Letter Book B, n.d. This is a reference to the 1852 Constitution Act, which threatened to burden the New Zealand government with a debt to the New Zealand Company to be paid out of the proceeds of the sale of ‘waste land’ in order to compensate the Company for lands it might hand over to the government. An 1857 House of Commons Committee on New Zealand investigated the matter (GBPPNZ 1854-60, 1857 [171]).

42 The price of land for settlers had been set artificially high in particular in the Otago and Canterbury settlements, where church endowment schemes had been added to the price of land. Governor Grey issued regulations for the ‘future disposal of waste lands’ in March 1853, whereby he set the price at which rural land could be sold to not more than ten shillings an acre. It appears that rather than enabling poor settlers to obtain land cheaply, speculators became the beneficiaries of the measure (A. H. McLintock, Crown Colony Government in New Zealand, 367-370).

be found generally a difficult matter to purchase large tracts of land in the North Island of New Zealand without causing injustice to many of the Aboriginal proprietors, and insecurity of title to the purchaser. This remark was a reference to a statement by Governor Grey to Earl Grey in 1848, in which the governor claimed that in the North Island, ‘even in the most densely inhabited portions’, there were very large tracts of disputed lands he believed he could purchase.

Shortland explained to William Martin that buying large pieces of land, such as required for ‘colonization conducted under the auspices of companies’, was fraught with problems and required expert understanding. Such purchases depended first of all on the consent of the most prominent chiefs. Problems could then arise because those who had rights inside the land would keep quiet for ‘fear of incurring the displeasure or anger’ of the chiefs. The latter would tend to distribute the payment they received among their most loyal friends. Some persons with a good claim might not receive any portion of the payment, Shortland feared. The consequence was that they would not recognise the sale ‘in their hearts’ and, although afraid to express their dissatisfaction openly, they would nevertheless be prepared to state their claim if any stranger came to take possession of their part of the land. It was essential to be very careful when buying land and to allow sufficient time to discover all claimants. By maintaining government control over land purchases and subsequent resale to settlers, it was always possible to set things right: ‘For when it is discovered that all claims to a purchase and district have not been satisfied [the government] can give the option to the neglected claimants whether to retain the portion of land which belongs to them individually or to receive an equivalent.’ This was an added reason, Shortland believed, why the government should never give large tracts of land to companies for resale, because they were unlikely to honour outstanding claims. He bluntly concluded that: ‘It is to be hoped however that land companies will never more be permitted to meddle with the land of New Zealand.’

44 Edward Shortland to William Martin, Outward Letter Book B, n.d. Shortland made the same or very similar points in his introduction to *Southern Districts*.
45 Governor Grey to Earl Grey, 15 May 1848, GBPPNZ 1847-50 [1120], 24.
49 Edward Shortland to William Martin, Outward Letter Book B, n.d. Once again Shortland was willing to leave open the option for those who were unwilling to sell to keep possession of their land.
Shortland thought that the purchase of land for the Dunedin settlement was a good example of well-conducted procedure. He believed that 'more than ordinary care and precautions were taken in making the first purchase of the district' in order to obtain for the colonists 'as far as possible' undisputed titles to the land and to secure 'friendly relations with the former native proprietors of the soil'. It helped that there were only a relatively small number of the latter.\textsuperscript{51} The Waitangi tribunal agreed that the supervisors of the sale, John Symonds and George Clarke junior, performed their tasks with great diligence and care. If insufficient reserves had been set aside for local Ngai Tahu, according to the Tribunal, the fault lay with Governor FitzRoy whose instructions were deficient.\textsuperscript{52}

In contrast, Shortland foresaw future problems in the settlement of the Canterbury Company. Shortland had provided a list of interested hapu and chiefs in the Banks Peninsula area in his South Island report.\textsuperscript{53} He did not think these had been fully consulted for the purchase of land for the Canterbury settlement. Sub-Protector of Aborigines Henry Tacy Kemp negotiated this purchase in 1848.\textsuperscript{54} The purchase took place with some haste, according to Kemp's own admission, because settlers were already on their way to New Zealand.\textsuperscript{55} Also according to Kemp, he set aside 'liberal native reserves', but these were not yet allocated and surveyed 'by special request of the native sellers' because of bad weather.\textsuperscript{56} Walter Mantell later went to complete the transactions. Walter Mantell harshly negotiated the reserves to be set aside and is quoted as saying that ten acres per head was as much land as needed to be reserved for Maori, because it would prevent them being landed proprietors and living in

\textsuperscript{53}Edward Shortland to the Chief Protector of Aborigines, Outward Letter Book A, 13 March 1844, Dunedin Hocken Library, MS-0086/001 (PC-0027).
\textsuperscript{54}Henry Tacy Kemp was the eldest son of James and Charlotte Kemp, early missionaries at Kerikeri, who arrived in New Zealand in 1819. Like George Clarke junior, Henry Kemp grew up among Maori on a mission station, but Kemp went to England for his education when he was thirteen years old. After his return, he started work as interpreter for Governor Hobson and later for the protectors' department. He continued to work for Native Affairs in various positions, including as Native Secretary (this information is taken from Appendix 1 in David Armstrong, \textit{The Land Claims Commission: Practice and Procedure 1840-1845} [Wellington: Waitangi Tribunal, nd]).
‘their old barbarism on the rents of an uselessly extensive domain’.\(^{57}\) The Waitangi Tribunal concluded that, despite instructions to the contrary, the Crown did not provide ‘ample reserves for their [Ngai Tahu] present and future benefit’ and also that ‘their numerous mahinga kai were not reserved and protected for their use’.\(^{58}\) The tribunal put the blame for this as much on Kemp as on Mantell.

**Implementation**

Several of Shortland’s suggestions regarding Maori land may be recognised in the land policies and policy proposals of the 1850s. Unfortunately some proposals were misunderstood or implemented in ways Shortland himself did not agree with. For example, Donald McLean, who undertook land purchases on behalf of the government in the 1850s, justified the payment for land in annual instalments as a means to prevent some of the problems outlined by Shortland. Before paying out the last instalment McLean put a notice in the *Kahiti* (New Zealand Gazette) to announce when and where the final payment would be handed out, in order to invite any dissenting or outstanding claimants to come forward.\(^{59}\) Shortland considered instalment payments an ‘impolitic and bad custom’, however.\(^{60}\) Unlike Shortland’s suggestion, McLean’s method left no option for the unwilling to keep their land, only to receive payment for it.\(^{61}\)

\(^{57}\) Waitangi Tribunal, *The Ngai Tahu Report*, Vol. 1, 101, paragraph 2.6. Walter Mantell started training as a doctor, but interrupted his studies to come to New Zealand in 1840. He found it hard to find work, however. He found employment as Wellington’s postmaster, but begged Governor FitzRoy and later George Grey for a better job. Grey finally gave him work as supervisor of Maori workers on Grey’s military road out of Wellington. Mantell must have gained Grey’s trust, since he was given the task of negotiating Maori reserves for Kemp’s purchase (Harry Evison, *The Long Dispute*, 143, 169).


\(^{61}\) Grey saw an added advantage in the payments of annual instalments instead of lump sums. He believed it would have ‘a powerful influence on the future advancement of the natives in civilization’. Maori were likely to use each annual payment ‘more judiciously’. The continuing relationship with the government through Grey’s method of annual payments also had the advantage that it would give the government ‘an almost unlimited influence’, Grey believed, even over such a ‘treacherous and dangerous tribe’ as Ngati Toa. Te Rauparaha and Rangihaeata were Ngati Toa chiefs (quotations from Governor Grey to Earl Grey, 26 March 1847, GBPPNZ 1847 [892], Vol. XLIII, 8). Willoughby Shortland tried to attain the same goal by paying for land with livestock and agricultural implements rather than money, arms or ammunition (Letter dated 29 December 1842 in Colonial Secretary Letter Book, Protection of Aborigines, Internal Affairs Series 4, National Archives).
Shortland’s idea of a register of Maori land was not in itself original, but the practical details of the implementation were his. In the early days of the colony Lord John Russell instructed Governor Hobson to map all Maori lands. Lord Stanley instructed Governor Grey to register Maori lands, because he believed that the lack of written records had contributed to conflict between Maori and Pakeha. He added that ‘the limits of those lands should be distinctly recognised and set forth under the sanction of the sovereign authority’. Governor Grey, however, saw great and unnecessary delays in obtaining sufficient land for settlers if he followed either Lord Stanley’s instruction or Shortland’s advice. The former saw a register of all Maori lands as a means to reveal unoccupied lands available to settlers. The latter suggested setting up a register of pieces of land Maori were willing to sell. Governor Grey turned the issue around. On behalf of the Crown he purchased large tracts of land ‘for a trifling consideration’ and extinguished ‘absolutely the Native title to the tract purchased’. Inside the lands he purchased, Grey claimed, he set aside ‘an adequate portion for the future wants of the Natives’ and only those reserves needed to be surveyed and registered as Maori land. This led to abuse. Rather than accepting what Maori offered to sell, the officers who negotiated purchases haggled over the reserves they were willing to concede within a large district, without providing adequately for future needs. In this way almost the whole of the South Island was purchased for a trifling consideration.

Shortland suggested that when the government decided to settle a district, it should first survey it, and that Maori should then indicate to the surveyor which lands they were willing to sell and which they wanted to retain. A government bureau would keep registers of all land. Grey found it more expedient to ‘stay ahead of settlement’ and purchase land for which there appeared to be no European interest yet. Thus he was able to encourage Maori to sell large tracts with promises of future settlers and the economic benefits they would bring. By staying well ahead of European

---

62 Lord Stanley to George Grey, 13 June 1845, GBPPNZ 1846-47, 1846 (337), 68-72.
63 Governor Grey to Earl Grey, 15 May 1848, GBPPNZ 1847-50 (1120), Vol. XXXV, 25. The Waitangi Tribunal disagreed that the reserves were adequate for the future wants of Maori (Hazel Riseborough and John Hutton, The Crown’s Engagement with Customary Tenure, 19-22). This is most glaringly obvious from a map of New Zealand ‘showing approximately the extent of land acquired from the Natives’, included in GBPPNZ 1860 (492), Vol. XLVII, between pages 80 and 81. Practically the whole of the South Island is white (indicating land acquired), with a few pink dots along the east coast to indicate ‘land claimed by the Natives’.
settlement with his land purchases, Grey believed that by the time Europeans started making use of ‘the more distant districts’ of the country, ‘the Natives will have wholly forgotten and have abandoned many invalid claims to tracts of country which would now be urged’.\(^65\) Shortland contradicted this when he described the long memory of Maori whose histories and records of land claims were passed on from generation to generation.\(^66\)

Grey’s government issued to the Maori vendors plans and certified statements for the reserves, which were ‘much esteemed’ by them, Grey believed. He felt that it would accustom them ‘to hold land under the Crown’, which he thought ‘an extremely desirable object to attain’. Grey also felt that this method made the registration of Maori lands a trifling procedure and ‘the act of registration’ itself gave it ‘the appearance of a boon conferred by the Government’.\(^67\) This was not quite what Shortland meant, when he suggested the government maintain a register of all Maori land claims, with ‘the names of tribes, families and individuals having claims within the district’, which would give the government increased influence if it were the ‘depositary of the collective knowledge of different tribes’.\(^68\) Grey’s intention appeared to be to cut Maori off from their histories by separating them from their lands, while Shortland saw the government as a potential preserver of those histories on behalf of Maori.

**Conclusions**

It is clear that after his return to England Shortland kept abreast of what went on in New Zealand. He contributed to the lobbying efforts of the humanitarians by communicating his opinions to the Colonial Office, with the express intention to influence policy. Shortland’s suggestions and recommendations were pragmatic. He believed that they offered the best route for settling New Zealand in a peaceful way and with respect for Maori rights, and the most certain to avoid future conflict. His own admission that the processes for achieving this success required a considerable amount of time more or less doomed his plans, however. Settlers and their lobby

\(^{65}\) Governor Grey to Earl Grey, 15 May 1848, GBPPNZ 1847-50 (1120), 25.  
\(^{67}\) Governor Grey to Earl Grey, 15 May 1848, GBPPNZ 1847-50 (1120), 25.  
\(^{68}\) Edward Shortland to B. Hawes, MP, Outward Letter Book B, 25 February 1847.
groups increasingly put pressure on the Home government and the local administration for more land without delay. Governor Grey believed he found a way to satisfy the needs of both sides. He sent positive and enthusiastic reports to the Colonial Office, extolling his own success with land purchases. He claimed that 'everywhere the people [are] very grateful for what I had done'. The historian Keith Sinclair also believed that during Grey's first governorship the system of negotiating and carrying out land purchases was 'well adjusted to Maori custom, fair, and successful'. The decisions of the Waitangi Tribunal show that this view was too optimistic. Grey's land purchase system lacked the clarity and order of Shortland's proposed system. After Grey's departure his contemporary Henry Sewell, colonial politician and lawyer, wrote in his journal that the question of 'Native title' was 'in an awful mess' and that the land purchase system seemed 'utterly without system or order'.

---

Chapter Nine

The Politics of Ethnography

In the two books Shortland published shortly after his return to England he set out to instruct as well as entertain his readers on the subject of Maori customs. He believed that it was

by no means an unimportant element of the prosperity of our settlements in New Zealand, that the colonists should understand as much as possible of the peculiar ideas and prejudices of the people with whom they must be constantly associated.¹

Shortland saw it as the duty of the ‘more civilized’ to maintain good understanding between the two races, even if this meant sacrificing their own prejudices when these differed from those of the ‘less civilized’.² He believed this was both possible and justifiable, because Maori differed ‘essentially’ from those in ‘all other of our Australian colonies’ in that Maori were both more numerous and more ‘civilised’. As marks of their civilisation Shortland mentioned ‘agricultural pursuits’, the ‘bodily and mental organization’ of the people, which was not ‘inferior to our own’, and finally the fact that Maori were able to learn and ‘readily adopt, the more civilized practices of Europeans’.³ If one added to these advantages the fact that Maori had a ‘natural bravery’ and ‘love of freedom’, it was clear that they were a people who ‘must always have a political weight in their own country’, Shortland suggested.

In his first two books Shortland concentrated on providing information for prospective settlers, on trying to explain Maori customs, and on Maori land issues. Southern Districts was written because ‘the attention of colonists has lately been more particularly directed’ at those areas in the South Island visited by Shortland in 1843-1844.⁴ Several requests for information from prospective emigrants or their friends had induced him to publish his account, he wrote. Shortland’s book was indeed

³ Edward Shortland, Southern Districts, vi.
⁴ Edward Shortland, Southern Districts, v.
timely, since the New Edinburgh Association had formed a Scottish settlement, based on the Wakefield system, at Otakou. The first emigrant ships arrived in 1848. They established the city of Dunedin. Also based on the Wakefield system was an Anglican settlement established by the Canterbury Association in 1850 in the Port Cooper area, at what is now Lyttelton and Christchurch.

An analysis of Shortland’s first two ethnographic works suggests that he had a number of specific objects in mind when writing them. He set out to show that Maori were a vigorous and intelligent race, likely to increase rather than decrease in number. In the third chapter of *Southern Districts* Shortland discussed an article that appeared in the *Edinburgh Review* in 1850, in which the author argued that Maori were a dying race and tried to explain why this might be so. Shortland countered each and every argument. Shortland also argued that Maori were adaptable and open to change. They were already in a relatively high state of ‘civilisation’, Shortland claimed, but Europeans had to accept that change was a slow and gradual process. He warned that Maori society, while changing rapidly, was still largely based on Maori custom, interwoven with aspects of Christianity and English law. In his descriptions of the political systems in Maori society, of the way they worked, and the customs surrounding them Shortland repeatedly showed both the similarities and the differences between English and Maori politics. Some of his contemporaries were too optimistic in their assumptions of the state of civilisation Maori had reached already, Shortland felt. He gave a number of examples that indicated that Maori were in a state of cultural blending, that is to say they had melded together elements of their own customs with those of Europeans. Shortland did not see this as problematic, however. In fact Shortland himself tended to mix elements of English law with Maori customs when, as Police Magistrate, he dealt with Maori cases.

---

5 Anon, ‘The Polynesians and New Zealand’, *Edinburgh Review* XCI, no. CLXXXIV (1850), 443-71. The *Edinburgh Review* was one of the most influential literary and political magazines of the nineteenth century. Although published in Scotland, it was widely read throughout Britain. ‘No genteel family’, wrote Sir Walter Scott, ‘can pretend to be without the *Edinburgh Review*’. (http://www.bartleby.com/222/0604.html). The politics of the review were Whiggish, reformist, liberal and laissez-faire. The great rival of the *Edinburgh Review* was the *Quarterly Review* published in London. Its politics were Tory. The two magazines were considered standard-bearers of their respective political parties. Many intellectuals, such as for example Charles Darwin, read both and also the *Athenaeum* and the *Times* newspaper (Randal Keynes, *Annie’s Box. Charles Darwin, his daughter and human evolution* [London: Fourth Estate/HarperCollins, 2002], 96).
Shortland believed that Maori had abandoned most of the customs considered inhumane by Europeans. He showed that Maori culture revolved around religion and religious rules and regulations. He was therefore convinced that Maori would change if their religion changed. Christianity had already been instrumental in effecting many important changes. Throughout *Southern Districts* Shortland gave examples of the Maori state of 'civilisation', stressing the range of their skills in farming, fishing, in navigation, and the manufacture of objects. Chapter eleven of *Traditions and Superstitions* is devoted to the 'state of civilization of the New Zealanders when first discovered'. In the second chapter of *Southern Districts* Shortland discussed Maori readiness to accept English law and the extent of their understanding. He explained how law and religion were closely connected in Maori life. He returned to this subject in greater detail in *Traditions and Superstitions*.

*Traditions and Superstitions* is largely devoted to explaining Maori customs and beliefs. In the first three chapters Shortland outlined Maori myths of origin, both of mankind and of their own journey from Hawaiki to New Zealand. He also explored the scientific evidence that might confirm or deny these Maori histories. The next six chapters he devoted to explaining various aspects of Maori customs, such as tapu, beliefs regarding disease and healing, charms and spells, and the education of the young. In the final three chapters Shortland linked the ancient history of Maori to their division into waka, iwi and hapu and their claims to land according to this tribal background, the Maori rules of justice and how these were applied, and Maori warfare. In the last chapter Shortland explored Maori land tenure in some detail, including inheritance, and the circumstances under which Maori might be willing to part with land. Shortland’s 1847 letter to Benjamin Hawes, MP (discussed in the previous chapter) appears in an appendix.

**The debate about responsible government**

The structure and content of Shortland’s books make it clear that his ethnography carried an important message. Shortland’s examination of the state of Maori civilisation and of the level of their political sophistication addressed some of the political issues of the time. The issue of the place and role of Maori in New Zealand politics was of increasing importance and a subject of debate, both in New Zealand...
and England. From the establishment of the first New Zealand Company settlement in Wellington, its proponents had campaigned for the establishment of self-government in the colony. One of these men was Henry Samuel Chapman, who was the editor of the *New Zealand Journal*, the unofficial organ of the New Zealand Company published in England, and the same person who appears to have written the article in the *Edinburgh Review*, which Shortland criticised in *Southern Districts*. In New Zealand Alfred Domett, a Nelson settler and editor of the *Nelson Examiner*, also waged a strong campaign for self-government. He sent a petition to Parliament, asking for self-government and an end to the 'despotism' of the Colonial Office, which he considered to be in 'prostration' to the 'mock-philanthropy' of the humanitarians. In 1846 the new Colonial Secretary Earl Grey formulated a constitution for New Zealand, to introduce a form of representative government. This constitution excluded Maori from the franchise, because the Colonial Office believed that Maori were not ready to participate in self-government. It provided for Maori protection by securing for them 'the enjoyment of their own laws and customs' in separate provinces excluded from the proposed municipal districts. The constitution also contained provisions to prevent the representative assemblies from interfering 'unduly with the rights, habits or customs of the aboriginal inhabitants'.

Governor Grey was not, and never had been, in favour of such separatism, which, he feared, would place Maori 'in an inferior position as a race', which in turn could only lead to further separatism by Maori themselves. In Grey's eyes self-government and 'the native problem' were inextricably intertwined. He felt that it was unwise to give

---

6 A. H. McLintock, *Crown Colony Government in New Zealand* (Wellington: R.E. Owen, Government Printer, 1958), 268-70. Although the *Edinburgh Review* itself does not state the name of the author, it appears to have been written by Henry Samuel Chapman (Walter E. Houghton, ed., *Wellesley Index to Victorian Periodicals 1824-1900* (London: Routledge & Kegan Paul, 1966), Vol. 1, 499). Chapman came to New Zealand in 1843 to take up the position of Judge of the Supreme Court for the southern district. He remained in New Zealand until 1852, when he was appointed Colonial Secretary of Van Diemen's Land. After spending more than a decade in Australia between 1852 and 1864, Chapman returned to New Zealand to once more take up a position as Judge of the Supreme Court in New Zealand. He presided over the Court in Dunedin, where he died in 1881 (D. G. Edwards, 'Chapman, Henry Samuel 1803-1881', *DNZB*, Vol. One, 78-80). In what follows, I will assume that Chapman was indeed the author.


9 Governor Grey to Earl Grey, 3 May 1847, GBPPNZ 1847 (892), 44. In 1839 Grey argued that separate development was the main reason why the civilisation process of Australian aborigines had failed (George Grey, 'Report Upon the Best Means of Promoting the Civilization of the Aboriginal Inhabitants of Australia [1839]', GBPPNZ 1841 [311], 43).
the European minority the power to rule the Maori majority.\textsuperscript{10} The proposed constitution did not meet the requirements of the moment, Grey felt. On the strength of such protestations, Earl Grey decided to suspend the constitution for five years.\textsuperscript{11}

In 1852, when Shortland was writing his first two books, the five year period of suspension was over and Earl Grey turned to framing a new constitution for New Zealand largely based on the provisions of the 1846 constitution. In May 1852 his successor, Sir John Pakington, introduced the Bill into the Commons.\textsuperscript{12} In England and New Zealand there was much debate regarding the participation of Maori in the democratic processes of the Europeans. In an 1853 pamphlet on Auckland, the humanitarian William Swainson, Attorney General, wrote that he did not think Maori were ready to exercise ‘the elective franchise with advantage either to themselves or to the country at large.’ Yet Swainson did not think it desirable to create a line of demarcation between the two races, which would happen if the jurisdiction of the colonial legislature were confined to the European colonists alone. The solution he proposed was that Maori should be governed directly by the Crown.\textsuperscript{13} Governor Grey believed that the time was ripe to gradually introduce the proposed governing institutions, ‘in such a manner that not the slightest shock or change in the condition of the colony would be experienced’.\textsuperscript{14} But in the meantime he also favoured leaving native affairs in the hands of the Governor. It is in the context of these issues that we should examine Shortland’s writing during the 1850s

A dying race?

In the late 1840s and early 1850s supporters of the New Zealand Company put forward the notion that Maori were close to extinction. Angry that the resolutions of the 1844 House of Commons Committee on New Zealand had not been implemented, Charles Buller led a debate on New Zealand in the House of


\textsuperscript{11} A. H. McLintock, \textit{Crown Colony Government in New Zealand}, 291. The Suspending Bill was introduced into Parliament on 13 December 1847 by Henry Labouchere, Parliamentary Under-Secretary.


\textsuperscript{13} W. Swainson, \textit{Auckland, the Capital of New Zealand} (1853; rpt. Auckland: Wilson & Horton, facsimile edition, 1971), 148-149.

Commons in 1845 with a focus on land and in particular on the meaning to be attached to the land guarantee in the Treaty of Waitangi.\textsuperscript{15} While Buller recognised a duty to ‘raise [Maori] to a higher state of civilization’, no one, whether lawyer or moralist, would expect to allow to ‘savages rights of which they themselves had no conception’.\textsuperscript{16} Only the ‘amalgamation’ of the races could save Maori from ‘degradation and annihilation’, Buller claimed, thus neatly linking Maori civilisation and their survival to land issues.\textsuperscript{17} Edward Gibbon Wakefield wrote to Parliamentary Under-Secretary W.E. Gladstone in 1846 that ‘the native race as such would slowly but inexorably disappear’.\textsuperscript{18} William Fox, agent for the Company in New Zealand, lamented in a pamphlet published in 1851 that ‘It is too late ... his days are surely numbered’.\textsuperscript{19} Fox confidently claimed that ‘The answer which statistics compel us to give is, that [Maori] are rapidly decreasing — that their extermination is to be looked for almost within our own lifetime — that in forty or fifty years there will scarcely be in existence an aboriginal New Zealander.’\textsuperscript{20} An article in the \textit{Edinburgh Review} boldly claimed that ‘The constantly diminishing number of the New Zealanders is a fact of which every resident in the country becomes sensible; yet it is one which has not yet been verified by any sufficient census.’\textsuperscript{21} Shortland disputed this ‘fact’ in \textit{Southern Districts}: 

\begin{quote}
a notion prevails that the native population has been gradually on the decrease, since the Islands were first discovered by Captain Cook. The same opinion has latterly been more widely circulated, and the ultimate extinction of the Aboriginal race is now contemplated by many as a matter of certainty. I believe this to be a fallacy likely to mislead the intending colonist.\textsuperscript{22}
\end{quote}

Shortland based his claim that Maori extinction was a fallacy on close consideration of the facts and on his own reasoning. As Protector of Aborigines, he had the task of reporting on the health and size of the Maori population. During his South Island

\begin{footnotes}
\textsuperscript{17} Ibid.  
\textsuperscript{18} W. P. Morrell, \textit{British Colonial Policy}, 125.  
\textsuperscript{19} William Fox, \textit{The Six Colonies of New Zealand} (1851; rpt. Dunedin: Hocken Library, University of Otago, Facsimile No. 12, 1971), 64.  
\textsuperscript{20} William Fox, \textit{The Six Colonies of New Zealand}, 52.  
\textsuperscript{21} Anon [H. S. Chapman], ‘The Polynesians and New Zealand,’ 447.  
\textsuperscript{22} Edward Shortland, \textit{Southern Districts}, 40-41.
\end{footnotes}
trip he was responsible for taking the first census there in 1843. The Governor, Willoughby Shortland, wished to have an indication of the size of the Maori population and, by implication, of the amount of land potentially available for settlement in the South Island. In his report Shortland provided tables of the number of men women and children in the villages through which he travelled. Some of these were reproduced in *Southern Districts*.\(^2\) Such statistics were routinely collected by governors in so-called Blue Books and sent to the Colonial Office. The information was also made available to Parliament and to the wider public.\(^2\) The Blue Books were one of the sources of information Shortland consulted after his return to England.

The experience of gathering population information taught Shortland that obtaining an accurate Maori census was extremely difficult for a number of reasons. Because Maori travelled to different places in different seasons for food gathering, the number of people in villages varied over time.\(^2\) The main settlements, such as whaling stations or places like Wellington and Auckland, contained a disproportionate number of men, who came there to seek work, while some of the women might be invisible because they had been ‘appropriated’ by Europeans.\(^2\) At other places a census by name might be almost impossible, because of ‘a great disinclination ... to mention the names of persons’ whose ‘right to part of the soil’ was not acknowledged.\(^2\) It was also fairly impossible to divide the population into men, women and children, because the latter category was ‘so indefinite a term’ and because Maori could rarely tell you their exact age, Shortland pointed out.\(^2\)

Shortland believed that the main mistake with Maori population numbers was an initial over-estimation by Captain Cook, with whose numbers Shortland’s contemporaries compared the Maori population in the 1840s. Shortland contended


\(^2\) This method was formalised in 1822. From 1826 governors were asked to accompany the annual Blue Book with a descriptive report on the colony’s progress plus copies of speeches he had made to executive or legislative councils. The descriptive reports were meant to be in a narrative format, to give the Colonial Office a broad overview of the state of the colony (Zoe Laidlaw, *Colonial Connections*, 1815-45 [Manchester: Manchester University Press, 2005], 171, 173).


that 'no argument can be founded on the supposed correctness of these imaginary numbers' provided by Cook.\(^29\) He went on to point out that estimating numbers of people is a notoriously difficult task even for a practiced eye; it was presumptuous to estimate the real amount of a population spread over a country larger than Great Britain by travelling though only small portions of it as Cook had done.\(^30\) The Reverend Richard Taylor was one of the few who agreed with Shortland that the Maori population was increasing rather than decreasing. Taylor believed that the Maori population had never been very numerous and, like Shortland, believed the error to have been the result of initial overestimation.\(^31\)

Shortland may have contributed to the idea that the Maori population was diminishing, at least in the South Island. In his report to the Chief Protector of Aborigines Shortland mentioned that the oldest settlers all agreed that the Maori population had been much larger in the past. They attributed this decrease to the introduction of measles in the late 1830s and to the wars with Te Rauparaha. Shortland added 'other constant causes still in action', such as the lack of marriageable women (who tended to cohabit with white men), indulgence in alcohol in particular at the whaling stations (although he believed this to be diminishing), and a prevalence of lung disease for which he blamed 'the alternate use of and then discarding of European clothing'.\(^32\) Dr David Monro, a Nelson settler who travelled with the New Zealand Company surveyor to look at land in the South Island in 1844, also mentioned that 'everyone to whom we spoke agreed as to the most unaccountable fact of [the] rapidly diminishing numbers [of Maori].'\(^33\) Yet, to Parliamentary Under-Secretary Benjamin Hawes Shortland suggested that rather than decreasing, the Maori population was on the increase, adding that this should give greater weight to policy considerations.\(^34\)

---

\(^29\) Edward Shortland, *Southern Districts*, 44.


\(^32\) Edward Shortland to George Clarke, Outward Letter book A, 18 March 1844. Ernst Dieffenbach also mentioned clothing as one of the causes of Maori ill health. He believed that the European blankets irritated the skin and harboured vermin and dirt much more than their native mats (Ernst Dieffenbach, *Travels in New Zealand* [1843; rpt. Christchurch: Capper Press, 1974], Vol. 2, 18-20).

\(^33\) Quoted by Harry Evison in *The Long Dispute* (Christchurch: Canterbury University Press, 1997), 146.

\(^34\) Edward Shortland to B. Hawes, MP, Outward Letter Book B, 25 February 1847.
Shortland was aware of the political significance of the issue. He pointed out that Maori depopulation would be a 'favourable circumstance' for settlers. As the historian Patrick Wolfe remarks, it is hard to avoid the realisation that a dying race was a very useful concept in a settler colony because the indigenes would not require the land that settlers so strongly desired.

Cultural misunderstanding

Shortland believed that cultural misunderstanding contributed to the belief in a decrease in the Maori population. The writer of the article in the Edinburgh Review had 'fallen into a very natural and prevalent error', Shortland stated, because he did not understand the habits of Maori. For example, signs of a deserted pa did not indicate extinction. The inhabitants of pa were never a stationary group. When war broke out associated family members would build a fortification that was readily abandoned when circumstances changed, Shortland explained. A shift to another location could be prompted by what 'to us' would appear 'trivial reasons'. The death of a chief or some of his family might necessitate a move. An example of this in the South Island was the partial desertion of Akaroa after the death of Tamaiharanui. Shortland pointed out that deserted pa, although abandoned, remained the property of the group that once lived there. Many of their dead would be buried in the vicinity. No other person, even of the same tribe, would live there without an invitation or the consent of the former occupants. The disappearance of the name of a tribe or hapu also did not necessarily indicate the dying out of a group. It was more likely that two hapu had merged and that the smaller or conquered group had taken

---

35 Edward Shortland, Southern Districts, 41.
36 Patrick Wolfe, Settler Colonialism and the Transformation of Anthropology (London and New York: Cassell, 1999), 2. Wolfe contrasted this with a plantation colony where indigenous people provided much needed labour.
37 Edward Shortland, Southern Districts, 47-48. Richard Taylor also suggested that the custom of deserting pa might explain why some people believed that the population had died out in that area (Te Ika a Maui, 256-257).
38 Edward Shortland, Southern Districts, 4. Tamaiharanui was killed during the so-called Elizabeth affair, described by Shortland on pages 4 to 6 of Southern Districts. Shortland heard an account of this affair from Maori sources. The story suggests that the captain and crew of the ship 'were obliged to do their [Maori] bidding' and that the captain was 'of fear for his life' (Southern Districts, 5). The Encyclopaedia of New Zealand contains a fuller account of the incident (A. H. McLintock, ed., An Encyclopaedia of New Zealand [Wellington: R. E. Owen, Government Printer, 1966], Vol. I, 568).
39 Edward Shortland, Southern Districts, 48. Shortland explained to Benjamin Hawes that after a battle, when deaths had occurred at a pa, sacredness of the place necessitated shifting a settlement (Edward Shortland to B. Hawes, MP, Outward Letter Book B, 25 February 1847; also Traditions and Superstitions, 296).
on the name of the larger. Shortland gave an example of this in the South Island, where Ngati Mamoe were absorbed into the Kai Tahu name.40

The presence of Europeans also had an impact on the spread of the Maori population. When the first ships arrived at Wellington, Maori flocked to that place, but as the Europeans spread out over various locations, so did the Maori, Shortland noted.41 Of the Wellington Pa, specifically mentioned by the Edinburgh Review, Shortland pointed out that if the writer had made more thorough investigations, he would have found that a large group had moved to Wairarapa, while others had returned to their lands at Taranaki.

Some of Shortland's contemporaries claimed that Maori themselves believed they were on the verge of dying out. Shortland protested that it was easy to say that 'the natives are themselves well aware of the falling off of the population', but Maori accounts of the former numerical force of their tribes could not be trusted, he believed. When relating stories of the past, Maori would describe the size of a war party as 'he mano' (a thousand) or 'he tini noa iho' (a great many). Such statements, suggested Shortland, 'always appeared to be the exaggeration of ignorance or vanity: much the same as the vague idea that our ancestors were larger and stronger men than ourselves'.42 Anthropologist Atholl Anderson suggests that Shortland's contemporaries most probably misunderstood what was being said. He stresses that there is really only one reported reference to a 'devastating depopulation', which is a speech attributed to Tuhawaiki on the occasion of the sale of the Otakou block in 1844.43 Tuhawaiki is reported to have said: 'We are a poor remnant now, and the Pakeha will soon see us all die out'. The source of this quote was George Clarke junior.44

40 Edward Shortland, Southern Districts, 98-102. Richard Taylor pointed out the same thing in Te Ika a Maui (258).
41 Edward Shortland, Southern Districts, 51-52.
42 Edward Shortland, Southern Districts, 52.
44 George Clarke, Notes on Early Life in New Zealand (Hobart: J. Walch & Sons, 1903), 62-63. Harry Evison gives a second example of an aged Waikouaiti tohunga called Koroko, who told James Watkins, the missionary, that 'Before we were visited by ships, disease was rare amongst us. Few died young. Now few live to be old' (The Long Dispute, 71).
Nature or Nurture?

The debate concerning possible Maori depopulation raised the question, among some of Shortland's contemporaries, whether, as Ernst Dieffenbach phrased it, it was one of Nature's eternal laws that some races of men, like the different kinds of organic beings, plants, and animals, stand in opposition to each other; that is to say, where one race begins to spread and increase, the other, which is perhaps less vigorous and less durable, dies off.\textsuperscript{45}

Such statements had political significance. If Maori were doomed to die because this was a law of nature, white colonials need not feel responsible or guilty for their demise. If, however, the reasons for the seeming demise lay in Maori culture and customs, then it could be seen as a Christian duty to guide them out of this quagmire, towards a more civilised existence and to amalgamate them into the more civilised and robust society of the colonials. This was the argument put forward by the Aborigines Protection Society in an issue of the \textit{Colonial Intelligencer} in 1847, stating that it was 'not only to be feared, but ... almost demonstrable' that unless 'efficient measures' were adopted to avoid it, 'this interesting people [Maori], now so full of promise, shall, ere long, have passed away from the face of the earth'.\textsuperscript{46} On the other hand, the author of the \textit{Edinburgh Review} article wondered whether it was possible to effect change in 'the evils of their condition' or whether these evils were 'so deeply seated in their social constitution' that the process of Maori extinction was inevitable and any remedial measures of no avail other than 'to have smoothed the downward path of a doomed race'.\textsuperscript{47}

Shortland believed in the first option. Contrary to the gloomy prognosis of the \textit{Edinburgh Review}, Shortland painted a more vibrant picture. The introduction of Christianity and more extensive trading operations with Europeans had 'given new direction to their thoughts and energies', Shortland believed. Tribal warfare had diminished so much that it was no longer necessary for large groups to live together in pa. Now small groups or single families could live wherever the soil was richest,

\textsuperscript{46} The \textit{Colonial Intelligencer or Aborigines' Friend}, 1847-1348, Comprising the Transactions of the Aborigines' Protection Society, Volume I, Number VII, September 1847 (London: Aborigines Protection Society), 99.
\textsuperscript{47} Anon [H. S. Chapman], 'The Polynesians and New Zealand,' 446.
or near a stream, or ‘other natural circumstance’ that was ‘most attractive’. Rather than diminished, the population was scattered, Shortland suggested. He concluded that ‘[t]here is ... no sufficient reason to anticipate the extinction of the Maori race’ unless in the form of racial blending with Europeans, but he saw even this as a ‘very remote’ possibility.

New Zealand Company man William Fox did not share Shortland’s optimistic view of the future of Maori. He did not believe it possible to ‘work changes in his moral and physical condition’ and believed extinction unavoidable. Fox told his readers that only in a very few individual cases had Maori (specifically some chiefs) managed to reach a certain degree of civilisation. But, Fox claimed, ‘[t]he superior advancement of a few more energetic minds, individually isolated, will not rescue the race. It might if you had time for it, but you have not.’ Moreover, Fox wrote, the ‘degree of civilization attained even by the most advanced’ was ‘very superficial and limited’. Shortland agreed with this last statement to a certain extent. In both of his early books, *Southern Districts* and *Traditions and Superstitions*, he made clear that Maori still very strongly adhered to their own customs. Shortland also warned that it was easy to over-estimate the extent to which Maori had understood and accepted English law. In *Southern Districts* he described a case, which the local missionary believed to be an example of Maori embracing English law, while Shortland’s investigations revealed that instead Maori had bent the law to suit their purpose.

A case of murder

The case concerned a murder that allegedly took place at Otakou. The complaint was made by a relative of the deceased, who, he claimed, had been killed by another chief, whom he named. Shortland, who had ‘learnt to be cautious in believing the whole of a native’s tale’, went to the accused to hear his side of the story. This he readily told, in the presence of his accusers and all parties concerned, except for one chief, Taiaroa. It was a strange tale. A group of local men had contributed to purchase a boat together. Subsequently, one of the men, Kohi, fell so seriously ill that

---

50 William Fox, *Six Colonies*, 64, 60.
51 Shortland related this story in great detail in *Southern Districts*, 18-25. What follows is derived from these pages.
he thought he might die. Afraid that his young son might never have any benefit from the boat, he decided to burn it. When the co-owners discovered that their precious boat had been set fire to, they ‘assailed Kohi with threats and curses’. One of the men, Te Matahara, kicked Kohi and ‘struck the ground repeatedly, naming different parts of his body at each blow’; then he set fire to Kohi’s house and ‘stript him of everything but his shirt’. A few days later the Otakou chief Taiaroa arrived and took the sick man away to his home village. When Kohi continued to linger on, Taiaroa warned him that if he did not die soon people would say that Te Matahara was not responsible for his death and he would then not obtain utu. Taiaroa advised Kohi to consent to be strangled, which Kohi readily did. In the presence of a slave, who kept guard at the door, and his wife, Kohi helped Taiaroa to tie a slipknot and put it around his own neck. Taiaroa pulled the rope tight until Kohi was dead. It was Kohi’s wife who told this story, ‘with the greatest coolness, and without a symptom of remorse’, Shortland recorded.

The next step was for Taiaroa to tie crepe around his hat and visit James Watkin, the Wesleyan missionary at Waikouaiti, to report that Kohi had been killed ‘in a very barbarous manner by Te Matahara’, who had jumped on his belly and chest and back, so that he died. Mr Watkin wrote to the resident police magistrate at Akaroa with the request to send constables to arrest Te Matahara for the murder and another chief as an accomplice. Taiaroa himself carried this letter to the police magistrate, who immediately applied to the Government for assistance to arrest the accused. When Shortland asked Taiaroa whether the above story was true, he readily admitted that it was. He felt that he had acted ‘very discreetly’. Kohi was a close relative and it was Taiaroa’s duty to obtain satisfaction for his death. In this case he hoped to obtain it ‘by the assistance of the laws of the Pakeha’. He did not seem to care in the least that his ‘most extraordinary attempt to practice on the credulity of a missionary and a police magistrate’ had been found out.  

Maori acceptance of English law

Shortland used the story of the murder case to illustrate a number of Maori traits that Europeans should be aware of. The first thing Shortland pointed out was how

---

readily Taiaroa appeared to have adopted English laws. In reality he was only trying to make use of them to serve his own ideas of what was right. Yet, the Wesleyan missionary and police magistrate ‘no doubt’ saw his conduct as an example of ‘the rapid march of European civilization’, and a proof of how readily Maori would in future appeal to British law, Shortland thought. The reality was different, he claimed. By living among Maori, Shortland had learned to be ‘very cautious’ to accept any of their statements as true if he suspected a possible reason for ‘misrepresentation’. To get to the truth of the matter it was therefore essential to make thorough investigations and carefully cross-examine all witnesses. Maori were incapable of persisting in a lie for any length of time and would soon tell the truth when questioned; nor were they able to keep a secret, Shortland assured his readers. The question was, how to induce Maori to accept English law in all cases and follow its rules.

The best way to introduce English law in New Zealand was through a gradual and reasonable approach, Shortland believed. Maori were very open to reasonable argument: ‘get him to assent that your proposition is ‘tika’ or straight, and you will soon obtain his consent to it’. But threats and force were certain to raise Maori hackles, because he was ‘as great a lover of liberty as any in the world’, Shortland cautioned. In the North Island, as Shortland himself had experienced, Maori had ‘universally’ recognised the right of the Government to apply English law in disputes between Maori and Europeans. In one case of murder they had even consented to the execution of the death sentence, despite the murderer’s chiefly status. But they had never consented to apply English law to Maori cases, unless the consenting party was the victim. But in such cases Maori simply used the English law to obtain satisfaction for their loss, as happened in the story above. Shortland was convinced that if one day it were the other way round, they ‘would have denied the authority before so anxiously invoked’. He was optimistic, however, that in due course English law would ‘reach all Her Majesty’s subjects’, including Maori.

Shortland suggested that it was best to enforce the law within certain limits at first, starting in townships, then to gradually expand to a wider district and so on. This

54 Edward Shortland, Southern Districts, 25.
56 Edward Shortland, Southern Districts, 135.
approach was ‘likely to obtain the ready assent of every intelligent New Zealander’. But before this goal had been attained, there was no sense in implementing the law piecemeal whenever a suitable occasion arose. Shortland explained why and gave an example. He was called to a case of child murder, an atrocious instance of child abuse. The murderer was the mother of a twelve-year-old girl. The girl was the offspring from a union between the mother and a Maori partner. The mother rejected and abused her daughter and finally killed her after the mother started living with a white man, with whom she had two younger children. The body was discovered by the girl’s relatives in a water hole, her hands and feet tied with flax, with several large stones weighing down the body. The local European community insisted that the perpetrator, the mother of the child, should be tried and executed by English law. The local Maori would not have objected, Shortland believed, because the woman was ‘a person of no importance’. But would it have been wise to do so? Shortland asked. It would establish a precedent that would prove difficult, ‘perhaps impossible’ to carry through into the next case that might occur. Shortland was of the opinion that it would have been ‘most impolitic’ to apply English law to cases that did not involve Europeans, unless the Government was prepared and able to do so in every subsequent case: ‘The law, which applied only to the weak, and not to the strong, would surely be little respected’, Shortland pointed out.

Law enforcement

Through sheer inability to cover the whole country the government maintained a laissez-faire attitude to law infringements during George Grey’s first governorship, although Grey in principle believed that Maori should be assimilated into European society as quickly as possible, and that it was essential that the law be applied equally to both races. The system of Resident Magistrates, introduced by Grey, had some success, but it relied on the presence of a strong police detachment, backed up by military power in the background, for its implementation. Under Governor Grey, colonial law enforcement was strengthened by the recruitment of Maori into

---

60 Alan Ward, *A Show of Justice*, 82-83.
the police force, under Pakeha officers. Grey expressed his intention in 1845 to expand this to a native military corps. He did not go through with this idea, however, possibly as a result of settler aversion to the idea and Grey's own realisation of the 'volatile and independent character of the New Zealanders'. The Auckland settler Samuel Martin thought it laughable to appoint Maori as police magistrates. He did not think Maori 'fit to be entrusted' with such responsibility in their 'present transition state', he wrote in 1845. Shortland had reason to agree. He deemed it not only unwise but also dangerous to entrust policing responsibilities to Maori in the present time and 'in the present generation'.

He gave an example from the South Island, where captains of ships, encouraged by the police magistrate at Akaroa, offered a reward for capturing runaway sailors. At first Maori returned such sailors to obtain payment. Soon, however, they realised that it was far less troublesome to hide the sailors and get them to pay a reward for having sheltered them. Finally, Maori realised that the sailors were not in a position to lay a complaint and that the very best deal was simply to strip the sailors of all their possessions and keep them in a state of semi slavery. The Maori had 'little scruple ... to turn to his own profit any circumstance in his power', Shortland observed. Shortland found out about the above practice from an American sailor who had run away from his ship and whose clothes and goods had been thus confiscated. The sailor applied to Shortland to help him reclaim his possessions. Shortland solved the issue by mixing Christian reasoning with Maori custom, adding a pinch of common sense. It proved easy to convince the perpetrators, who were professing Christians, that their new religion 'condemned such a mode of proceeding'. But Shortland also warned them that if they took advantage of 'the white man' now, when he was unprotected, they should expect the same treatment from Europeans once these became more numerous and 'their evil deeds of to-day would be remembered'. In a flash the sailor's kit and other possessions were returned, piece by piece, and put in a heap in front of him, until the sailor confirmed that his property was all there. Shortland was wise enough however to give the sailor some sound advice for the future. Since the sailor had lived at the expense of his

63 Alan Ward, *A Show of Justice*, 75.
‘hosts’ and was likely to continue to be dependent on them for food, it would be wise to ‘ensure their good will’ by giving them some payment, since Shortland could not guarantee that ‘the spirit of covetousness’ might not return once he was gone, leading to a second plunder. To everyone’s satisfaction the clothes were then divided into two heaps: one for the sailor, the other for his kaiwhangai, or hosts.67

By thus leaving room for Maori custom while at the same time implementing European rules Shortland kept the peace. This was the very reason why he deemed it ‘very important for the European colonist to understand’ Maori ways of thinking. By tracing Maori actions to their true source, the settler would realise that Maori often acted from motives very different from his own.68 This was particularly evident in the murder tale told above and the reason why Shortland told his readers, who might be prospective settlers, this story in Southern Districts.

Insults and tapu

One of the ‘strange’ Maori customs Shortland wished his readers to take note of in the murder story he told in Southern Districts was the custom of proxy beatings or insults, because it might have a direct bearing on their own behaviour toward Maori. When Shortland first heard the above murder story he believed that the victim, Kohi, had been very thoroughly beaten by his assailants. The truth was that most of the blows had been delivered to the ground, while Te Matahara named body parts and cursed Kohi. In Maori eyes such proxy blows amounted to the same as the real thing. It was similar to shooting a person in effigy (mentioned in chapter three), or the use of ‘kanga’. This term was often translated as ‘curse’, but it had a more specific meaning. Shortland explained that a kanga was the use of any combination of words that related a person, or part of a person, to the verb to cook or to eat. Reference to any part of the body, but especially to the head or back, in a way that might be

67 Edward Shortland, Southern Districts, 269. The spirit of ‘covetousness’ was noted by many other authors. See for example Rev. James Buller, Forty Years in New Zealand (London: Hodder & Stoughton, 1878), 67, 103; Ernst Dieffenbach, Travels in New Zealand, Vol. II, 110 (Dieffenbach blamed contact with Europeans. Maori had become ‘covetous, suspicious, and importunate’ while losing their customary ‘hospitality and politeness’); A. H. McLintock, The History of Otago (Dunedin: Otago Centennial Historical Publications, 1949), 120, quoting James Watkin, the Waikouaiti missionary; S. M. D. Martin, M.D., New Zealand, in a Series of Letters, 299. Martin found that covetousness was mixed with benevolence. Governor Grey readily admitted that Maori were ‘extremely covetous’ (Taranaki Herald, 20 October 1852).
construed as insulting was also considered a kanga. In all these cases the insult must be 'avenged by blood' according to custom. This explained, Shortland warned, why Maori would react so vehemently when Europeans used the words "I'll break your head", or "I'll box your ears". As a magistrate he had dealt with cases where the immediate Maori response was violent rage.  

It was not that Maori were not willing to make allowances, Shortland explained. For example, in their sermons missionaries sometimes unintentionally used words that Maori found insulting. Generally the congregations would take no notice or point out the error after the service. But under certain circumstances an inadvertent insult could cause a serious predicament. The Ngati Tuwharetoa leader Te Heuheu told Shortland about such a case when a clergyman 'of great influence' had unwittingly insulted another chief. The latter knocked off the clergyman's hat and brandished his tomahawk as if demanding more satisfaction. The matter ended there, but Te Heuheu was most upset that a fellow Maori had insulted an honoured guest (not, it would appear, the other way round, although it was the cause). Among Maori, however, such an incident could lead to war, in this case with Te Heuheu in the middle of the conflict because he had obligations both to his countryman and to his guests. If a slave committed such a transgression, he or she would be killed instantly. This was not out of malice or cruelty, Shortland assured his readers; it was part of the religious customs and obligations of the chiefs. It is doubtful, however, that this remark would have reassured those of his readers who were less liberal than Shortland himself.

**Tapu and atua**

Shortland's insights in Maori culture combined with his religious tolerance enabled to translate the religious customs of Maori into terms his readers might understand or even be able to identify with. According to the 'dogmas of his religion', which were 'instilled into his mind from youth', Maori chiefs were extremely tapu or sacred, he explained. A Maori believed that if he transgressed any of the rules of his religion the spirits of his ancestors, who were the guardians of the laws or ritenga,

---

70 Edward Shortland, *Southern Districts*, 29. The clergyman of great influence was probably Bishop Selwyn.
would punish him immediately and in this world. If he broke any rule, the guardians, or atua, would enter his body, make him ill or even kill him. It followed then that if a chief did not avenge an insult or breach of a rule or tapu, he was in danger himself of incurring the wrath of the atua. To a Maori who had converted to Christianity, however, this was of less moment, according to Shortland. Not so much because he had abandoned his Maori religion, but because he believed that the Pakeha God 'had power over the malignant spirits of the dead, and would protect him.' Shortland had ample opportunity to explore how these elements of Maori religion and Christianity were melded together when he worked as Protector of Aborigines in the Eastern Districts. On one occasion Shortland had an opportunity to 'meet' an atua. He devoted a chapter of Traditions and Superstitions to telling the story. It is clear that for Shortland this story contained two of the most important elements of his own beliefs: that of unity of mankind and the possibility of social evolution.

As Protector of Aborigines in the Eastern districts, Shortland became well acquainted with the young Christian chief Wiremu Tamihana Te Waharoa, also known as Wiremu Tamihana Tarapipipi, sometimes called by his English name William Thompson, who was one of the early notable converts of the Reverend Alfred Brown. Tamihana was the son of the great warrior Te Waharoa. After the death of his father in 1838, Tamihana helped establish a Christian village, called Te Tapiri, not far from the old Matamata pa. In this village he upheld a version of British law, or rather of the Ten Commandments. In disputes between Maori and Pakeha Tamihana collaborated with government officers to see justice done. Tamihana also played an important role in attempts to establish a more permanent peace in the region and was willing to work with any European who could help further this goal. Tamihana sometimes accompanied Shortland on his rounds as Protector, in particular when he dealt with the Katikati affair. Where possible, Tamihana supported Shortland in his work as magistrate. Tamihana also discussed cultural matters with Shortland, told him the history of his tribe, and discussed religion with him. It was the custom among learned Maori experts to debate ancient knowledge and cosmological

---

73 Edward Shortland, Southern Districts, 32.
74 Edward Shortland, Traditions and Superstitions, 84-95.
accounts and this story shows that knowledgeable Maori also extended this to learned Europeans.76

During one of these discussions Tamihana told Shortland about the power of atua, who were believed to be able to appear on earth and hold a conversation with those present. Tamihana asked Shortland if he would come with him to the house of an old woman ‘at whose bidding the Atua of the tribe were in the habit of appearing’ and ask her to ‘invite their presence’.77 Tamihana was eager to find out what Shortland thought of ‘the Atua of the New Zealander’. Shortland was very interested in this phenomenon and had already tried to witness a visitation by an atua more than once, but had always been brushed off.78 Shortland’s interest was not unusual and his story was likely to appeal to his readers because of a growing interest in spiritualism in England and America at the time of the publication of his book.79

Although Tamihana was a Christian and ‘native teacher’, Shortland explained, it seemed that he had not been able ‘entirely to subdue the force of early impressions’. While he would not acknowledge that he still believed in the gods of his forefathers, Tamihana did still have a ‘lingering dread of their power’, according to Shortland.80 This lingering dread may have been the result of an earlier experience, retold by Lady Martin in her book Our Maori. Not long after his conversion to Christianity, according to this story, an old chief and priest had upbraided Tamihana for giving up his ancient religion and challenged him to face his ancestors. Tamihana agreed but decided to test the atua. When he heard a sound of rustling and whistling on the roof of the hut in which they were seated, Tamihana rushed outside to see who made the sound. To his dismay he could detect no one near. Inside the hut he challenged the atua and cried out: ‘You are a false or lying spirit, perhaps’. A low voice coming from the roof replied: ‘No, no! I am a true god!’ The old priest who had invited

77 Edward Shortland, Traditions and Superstitions, 84.
78 Edward Shortland, Traditions and Superstitions, 86.
80 Edward Shortland, Traditions and Superstitions, 85.
Tamihana to the session warned him that the Atua Maori would destroy him. Tamihana, however, believed that the voice he heard was that of Satan.  

Shortland suggested to Tamihana that they should conduct their experiment without delay, in order to leave no opportunity for anyone to give warning and prepare a deception. Together they set out immediately to visit the old woman who would be instrumental in calling up the atua. On their way they were joined by one of Tamihana’s cousins, Tuakaraina, who was not a Christian. When they arrived at the woman’s hut Tuakaraina entered, but Tamihana stayed outside and out of sight. He may have done so to keep an eye on the outside of the hut and the roof, but he may also have wished to remove himself from the tapu of the occasion. Tuakaraina asked the old woman to invoke the atua to appear. He was eager to convince the unbelieving Pakeha of their power, he said. The old woman at first refused to cooperate because of her recent conversion to Christianity. She thought that Tamihana would be angry if she indulged in ‘heathen’ activities. Her fear was understandable, since Tamihana adhered to very strict Christian rules in his village. Tamihana then showed himself and assured her that in this case there would be no punishment. Once Shortland and Tuakaraina were seated in the dark, by the dying fire, the old woman put a blanket over her head and sat quite still. Waiting for the appearance of the atua, Shortland wondered whether he was going to witness ‘a mere juggle’ or whether there might not be ‘more things in heaven and earth than were dreamt of in man’s philosophy’.  

Nothing happened for a very long time. Finally, Tuakaraina became impatient. He stretched himself full-length face down on the ground of the hut and called on the atua to appear. ‘Why are you so long in coming?’ he shouted angrily. The fire had gone out by then, but Shortland could still see by the light of the embers. Tuakaraina continued to call on his gods ‘with great energy’, while rolling on his belly on the floor. At length they heard a rustling noise on the thatched roof and then the voice of Te Waharoa, Tamihana’s father. Tamihana, although outside, was sitting close  

\[82\] The following story is derived from *Traditions and Superstitions*, 84-99.  
\[83\] Edward Shortland, *Traditions and Superstitions*, 91. The missionary Richard Taylor, however, had no doubts. During his few months’ service in Wellington in 1844 Shortland met Taylor and told him the story. Taylor described the incident in his book *Te Ika a Maui* (43). Taylor was persuaded that all seers were ventriloquists.  
enough to the entrance and to Shortland to be able to whisper in his ear: ‘Put your hand over the old woman’s mouth quickly’, something the young man himself could never have done without breaching tapu. When Shortland did as he was asked the voice of the atua exclaimed, ‘Who has put his hand to touch me?’ This confirmed that the voice came from the mouth of the old woman. Shortland also noticed that the strange whistling noise they heard from time to time seemed to affect the woman’s breathing.

Playing along to prolong the experiment Shortland spoke to the atua, asking some trick questions. He also asked the spirit to appear so that they might see, as well as hear him. But the atua refused for fear that he might injure the Pakeha visitor; no argument or challenge could bring the spirit to show himself. Two other atua also appeared, speaking with different voices, but they too refused to show themselves giving the same reason of not wanting to injure the Pakeha. Tuakaraina made every possible attempt to get the atua to appear so that the Pakeha would be convinced and therefore not be able to ridicule his beliefs. He even tried to trick the atua into injuring the Pakeha for his disbelief by lying that Shortland had dropped a chiefly comb in a cookhouse, a terrible breach of tapu. The atua, with the voice of a child, simply laughed and said ‘tou rokeroke’, which Shortland thought too indelicate for translation.85 After this the atua disappeared and the old woman removed the blanket she had put over her face, raised her head as if she was waking from a trance and asked Shortland whether he was satisfied.

Shortland perceived Tuakaraina’s attempt to induce the atua to punish Shortland for his disbelief as an indication of Tuakaraina’s ‘firm faith in the superstitions of his ancestors, and how far he would go in defence of them’. But the atua knew better, Shortland mused metaphysically, because he was a spirit and therefore knew the tale Tuakaraina spun to be false; something Tuakaraina ‘in his simplicity’ had overlooked.86 Further analysing what he had witnessed, Shortland could easily explain the whistling noises and the voice of the atua as a form of ventriloquism.87

86 Edward Shortland, Traditions and Superstitions, 96-67.
87 Europeans in New Zealand generally believed this to be the case. For example, Judge and Lady Martin were of this opinion, as were the missionaries James Buller and Richard Taylor. According to Lady Martin, Charles Davis, who had been working as missionary in New Zealand since 1831, was
But he could not explain the rustling noise, which appeared to 'creep along the thatch of the roof and the side of the hut'. He did not think that Tamihana, who kept watch outside, would deceive him. Moreover, they had arrived unexpectedly and had seen no other persons than those in the hut, the old woman with her two female slaves, who all stayed in the hut and did not move. So the rustling noise remained a mystery. A further suggestion that the old woman had not merely practiced deceit was the fact that in accordance with Maori sacred law the hut in which the 'adventure' had taken place was deserted the next day, Shortland noticed. Because an atua had appeared there, the hut and everything in it became tapu. This was a great inconvenience to the old lady, who kept a large store of potatoes in the hut 'which it would now be sacrilege to eat'. Shortland likened the eating of such tapu food to swallowing a dose of deadly poison.

Shortland concluded that, 'whatever my own opinion as to the evidence of a cheat, I had not detected it in a way to shake a New Zealander's faith. It was still possible, he contemplated, for a person to believe that the voice that came out of the woman's mouth could be explained as a form of possession, the atua having entered her body to speak through her. This was, he suggested, as easy to believe as it was to believe in the miracle of St. Januarius, which was repeated (and is to this day) two or three times a year in Naples 'in the presence of a wondering and believing multitude'. The historian Peter Gibbons has criticised Shortland for this comparison. Gibbons refers to and quotes some lines from this story and comments that 'Ultimately the writer places the episode in a sceptical European perspective; the “supernatural agency” is as “easily credible” as the miracle of Saint Januarius regularly repeated at Naples, and thus he belittles the presence of the atua'. I disagree with Gibbons and am of the opinion that Shortland tried to show that the belief in atua was not as strange as it might seem, since even European religions contained supernatural

\[\text{not so sure (Lady Martin, Our Maoris, 35; Rev. James Buller, Forty Years in New Zealand [London: Hodder & Stoughton, 1878], 39; Rev. R. Taylor, Te Ika a Maui, 43).}\]

\[\text{88 The anthropologist E. B. Tylor, who attended a number of séances in 1872, decided to hold his ‘judgment ... in abeyance’. He could not deny ‘that there may be a psychic force causing raps, movements, levitations’ (George W. Stocking, Jr., ‘Animism in Theory and Practice’, 100).}\]

\[\text{89 Edward Shortland, Traditions and Superstitions, 98.}\]

\[\text{90 Edward Shortland, Traditions and Superstitions, 99.}\]

\[\text{91 Edward Shortland, Traditions and Superstitions, 99. The miracle of St Januarius is the liquefaction of the saint’s dried blood. This may occur several times a year, when the vial of the liquefied blood is carried through the streets of Naples.}\]

elements. Shortland was particularly struck by the behaviour of Tuakaraina, which he compared with that of the priests of Baal who unsuccessfully tried to pit their gods against God. In this way he made a connection with the ancient stories of the Bible, suggested that traditional Maori were still 'ages behind the major part of the world of the present day', as he expressed it in *Traditions and Superstitions*, while at the same time indicating that Christian Maori were moving towards civilisation with the help of their European friends.

'Superstitious practices'

The resemblance 'in some of their superstitious practices' between those of Maori and of 'so ancient a people as the heathen worshippers of Baal', implied, for Shortland, that Maori society was capable of change and development, just as Britons had developed to become the people of the nineteenth century. It also meant that Maori people could be convinced to relinquish their old gods and embrace the Christian God, just like the worshippers of Baal, and just like Britons themselves. Shortland saw religion as the key to Maori change because the rules of their social life were based on religious beliefs. He tried to convince his readers of this in *Traditions and Superstitions*, where he explained that Maori 'superstitious observances' were religious in nature. Travellers were likely to form 'erroneous ... opinions' about the customs of a people with whom they were unfamiliar, because they judged only from what they could see, Shortland remarked. Those who tried to describe Maori character 'too often' overlooked the 'extraordinary influence' of 'superstitious principles of action' on the social behaviour of Maori, thought Shortland. For example, one 'fundamental law' was that anything that was tapu was not permitted to come into contact with food. Those who noted females carrying heavy loads of potatoes on their backs believed that this was a sign of laziness or inhumanity of Maori males. But Shortland showed that it was the tapu of food that prevented men of chiefly rank to carry such loads. If they carried the food

---

94 Edward Shortland, *Traditions and Superstitions*, 100
95 Ibid.
on their backs, no one but they would have been allowed to eat it. If he broke such tapu, the wrath of the atua of the hapu would descend upon the chief who committed the breach.

Despite the ‘very general adoption of a new religion and new manners’, the rules of tapu were still strong. This explained why a Maori chief would remove any food he had touched when leaving a place he had visited. Unaware of this custom, some Europeans were baffled when a visiting Maori chief walked off with the roast offered him at the table of his European host. Shortland saw the need to explain because the colonial press misinterpreted similar behaviour by a Maori leader as rude and covetous, and a sign of the lack of civilisation among Maori. An article published in the Taranaki Herald in 1852, expressed contempt for Wiremu Kingi, a leader of Te Ati Awa. Kingi dressed like an Englishman and behaved well at dinner, but before he left his European host he went to the kitchen where he ‘seized all the servants would permit’, then ‘doffed his coat and white trousers, put on a filthy old blanket’ and joined the ‘mob’ of Maori outside. That Kingi, by taking away the food he had touched, was protecting himself and his host from a serious breach of tapu and from the utu it would incur, probably not only did not enter the head of the author of the article, but was also of little concern to him.

Shortland gave a dramatic example of the potentially dire effects of breaking tapu. The narration of the origin of life, which he reproduced in Traditions and Superstitions and Maori Religion and Mythology, was based on the translation of a story told him by a Maori chief. This story was so sacred that the narrator, who had been trained as a tohunga (a person educated in Maori knowledge), told it in secret at night. Despite these precautions, Shortland later heard, the man had died not long after Shortland left the country. His people believed that his death was the result of the anger of the atua of his family because he had made noa, or public, things sacred. While the fear of tapu had grown weaker, and the observance of ‘ancient superstitions’ had ‘generally fallen into disuse’, the elder Maori still retained the old beliefs, according

99 Edward Shortland, Traditions and Superstitions, 105.
100 Shortland told of such an occurrence in Traditions and Superstitions, 106-107.
101 Taranaki Herald, 20 October 1852.
to Shortland, although many had lost their reputation because of repeated failure of
the old charms and omens. Older chiefs blamed this deterioration on the
introduction of Christianity. In the past charms were capable of achieving anything,
but now many no longer seemed to work, they told Shortland.

Shortland believed that Maori themselves saw the many restrictions and rules of
tapu as 'a hardship to be endured of necessity, and not of will' and that this
encouraged them to change. In many places Shortland noted the changes that were
affecting Maori society in the most diverse ways, as a result of the adoption of
Christianity. He observed, for example, that children no longer played warlike
games. He also noted that the custom of painting sacred places with red ochre, like
the hut where a sacred chief was staying, was practiced less. Shortland firmly
believed that most of the rites customarily performed in the past would disappear
and that the spread of Christianity would result in revolutionary changes in Maori
customs and habits. It would take time, however, and changed circumstances,
Shortland believed, before the 'bad habits and practices' that had been inculcated
through 'the instructions and examples of ages' would disappear. Even among the
nations of Europe, who had professed Christianity for many centuries, many old
habits 'of their heathen ancestors' were still practiced, Shortland reminded his
readers.

William Swainson neatly paraphrased Shortland's views of Maori society in his 1859
pamphlet New Zealand and its Colonization. With reference to Traditions and
Superstitions, Swainson wrote that 'From ignorance of the nature of their religious
belief, the character of the New Zealanders has frequently been misunderstood'.
While Maori may not have believed in one supreme being, they did have 'a strong
belief in a spiritual state of existence', Swainson wrote. We should not be surprised,
he continued, that Maori, who believed in the existence of powerful atua, were
'jealous of the maintenance of the ancient Ritenga', which they observed with 'the

103 Edward Shortland, Traditions and Superstitions, 111.
104 Edward Shortland, Traditions and Superstitions, 130.
105 Edward Shortland, Traditions and Superstitions, 109. The above story in which the old woman lost
her hut and food stores as a result of the séance is an excellent example.
106 Edward Shortland, Traditions and Superstitions, 158.
107 Edward Shortland, Traditions and Superstitions, 112.
most punctilious reverence’. George Grey, in contrast, put the emphasis slightly differently. He also strongly believed in the beneficial influence of Christianity, but described the customs of indigenous people in more severe terms as ‘the innumerable terrible sins born of idol worship’ and ‘giant systems of vice’. It was the harshness of such judgements Shortland attempted to soften with his more empathic description of Maori customs.

Politics and law

In Southern Districts Shortland claimed that Maori ‘must always have a political weight in their country’, but to what extent were Maori ready to take a place in European society and politics in Shortland’s opinion? Shortland saw the Maori justice system, which he discussed at some length, as in some ways similar to the English system. He also saw the structure of Maori society as suitable for adaptation to a democratic system. Unlike George Grey, who seemed to believe that Maori meetings and debates were borrowed from or based on the missionary system of committees, Shortland, believed it to be the other way round. Because Maori traditionally made use of debates and deliberations in tribal meetings to resolve issues, they were very open to the way missionaries worked. The influence of a chief was not like that of a king of prince, although they were often seen as such by early ethnographers of Polynesia. Shortland saw Maori society as a kind of meritocracy,

---

114 Edward Shortland, *Traditions and Superstitions*, 226. Shortland took issue with William Ellis (a missionary who wrote about Tahiti and the Society Islands) who suggested that the term arii (ariki in Maori) denoted king. Shortland argued that an arii was as unlikely to be king as the principal chief of any New Zealand tribe was king of that tribe. An ariki was ‘more sacred and important’ than any other member of that family, but the word meant no more than ‘heir’ (male or female). This was the reason why the son of an ariki immediately became ariki himself, not because his father abdicated, as Ellis suggested (*Traditions and Superstitions*, 227-228). Shortland also used this argument to emphasise the close relationship between the language of New Zealand and of Tahiti and the fact that most words were therefore likely to denote the same or very similar things. As a result, Shortland assumed that if an ariki was not a king in New Zealand, he or she was unlikely to be king or queen in Tahiti. Shortland’s argument is probably vindicated by the fact that when a larger group of Maori chose an overall leader, they did not use the word ariki, but the English word king. In New Zealand Europeans sometimes used the word king to denote a powerful chief, see for example Captain Symonds’ report of his journey to collect signatures for the Treaty in 1840. Interestingly Symonds described Te Wherowhero, who was later elected king by Maori, as ‘the leading chief or king of Waikato’ (quoted in ‘Copy of the Treaty of Waitangi, in English and Maori; and Mr Baker’s annotations thereon’ [Wellington: Legislative Council, 1869], Dunedin Hocken Library, Hocken Variæ Pamphlets, vol. 08 no. 01).
where the sons of chiefs did not automatically inherit their father's leadership role. This had to be earned and it was possible for a qualified commoner — the qualifications entailed 'valour and skill in war, and eloquence' — to become chief. The role of a chief was generally confined to his own particular hapu or iwi, Shortland explained, except in times of war. The power of any individual chief depended to a great extent on public opinion. Matters of importance were always first submitted to public discussion. The best description of the political structure of Maori society was therefore as 'a democracy, limited by a certain amount of patriarchal influence', Shortland believed.

Maori society was subject to strict rules of conduct, which were sanctioned by custom, called tikanga or ritenga. Shortland translated this as 'making straight or even'. These rules were applied as strictly as the English applied their laws. Even 'in their more savage days' and even when committing their 'worst deeds', Maori never did so without thinking or deliberation, or discussing at length whether the proposed action was in accordance with their 'rude ideas of justice' Shortland noted. Shortland gave the example of the last known acts of cannibalism, committed at Maketu in 1842. When the local missionaries and the government officials (including Shortland) tried to convince the Maori chief and his people that what they had done was unjust and 'wicked', the chief replied that 'judging by the law of white men [the Europeans were right], but he was right judging by the law of his country'. They had discussed the subject at length among themselves and argued every point according to the principles of Maori law, and they had concluded that the decision was as straight as a plank, the chief said. The chief in question was not a Christian and therefore adhered to his own customs and laws. Christian chiefs, on the other hand, as we saw in chapter five above, were willing to act according to the European laws. For example Huitao, who was a close relative of chief Te Whanake, who was murdered at Katikati, was willing to abide by English law. But he also declared that 'if our law was not “tika” in his opinion, he would have nothing more

116 Edward Shortland, Traditions and Superstitions, 231.
117 See Chapter Four above.
118 Edward Shortland, Traditions and Superstitions, 231.
to do with it'. The most certain method of prevailing with a New Zealander is to apply to his reason', Shortland believed.

Language and politics

The issue of the place and role of Maori in New Zealand politics was of increasing importance and subject of debate, as settlers put pressure on the Colonial Office to grant self-government to the colony. In 1846 they nearly succeeded when Colonial Secretary Earl Grey tried to introduce a constitution for New Zealand allowing for self-government. As a result of fierce lobbying by humanitarians, including Shortland, the Act was postponed for five years. The 1846 Constitution Act raised the question whether Maori should be able to send representatives to the General Assembly, or whether they were even able to understand what that meant. When a revised Constitution Act, and with it self-government, was finally implemented in New Zealand in 1854 the question of Maori representation and participation again became relevant. Shortland’s discussion of Maori oratory in *Traditions and Superstitions* must therefore be read in the context of these political issues of the time. His description is quite different from some earlier accounts, in which, more often than not, the writer ridiculed the passion and drama of Maori oratory. Shortland’s emphasis is on the process of discussion, the sophistication of the Maori language, and the intricacies of Maori oratory that were not always understood by European listeners.

---

122 For a history of this 1846 constitution and the immediate aftermath see A. H. McLintock, *Crown Colony Government*, Chapters XIII and XIV.
124 Edward Shortland, *Traditions and Superstitions*, Chapter X.
125 For example J. S. Polack, *Manners and Customs of the New Zealanders* (1840; rpt. Christchurch: Capper Press, 1976), 116-120. Polack tended to make his descriptions humorous and slightly mocking, although his appreciation of Maori intelligence and ability also shines through.
Maori held eloquence in high esteem, Shortland wrote, and they showed remarkable ability as orators. Shortland’s explanation of the structure of Maori oratorical tradition in some ways resembles the proceedings of a court case. The difference was the use of song and action to emphasise meaning and intent, similar to Greek drama with its chorus. The first part of a session devoted to dispute resolution consisted of a chant or song that alluded to the subject under discussion. This was followed by the first part of the speech in which the speaker set forth the grievance of the case and stated by what principles he had acted. He would follow this with another song in which the subject was further illustrated, and then the concluding part of the speech. The elders in the audience always understood exactly what the speaker meant and what his intentions were by the songs he introduced. But, although every person in the audience always listened intently, ‘large portions’ of the proceedings remained a mystery to the younger men, as well as to foreigners. The elders would give whispered interpretations of obscure passages to those who sat near them, without disturbing the speaker.

On the basis of his experience of such Maori ‘parliaments’ Shortland compared Maori society to a democracy. The basis of argumentation, however, was different. The laws, as the standard of right and wrong, against which Maori arguments were weighed were not those of the Europeans and would not always ‘have most weight with a European audience’, Shortland emphasised. This was a matter of religion and customs, and Shortland was cautiously optimistic that these would change as a result of Christian influence, as I indicated above. But without a doubt Maori did have ‘a certain native eloquence, enforced by readiness of speech and grace of action, which cannot but strike the listener with astonishment and admiration.’

---

126 Edward Shortland, Traditions and Superstitions, 186. See also Anne Salmond, ‘Maori Epistemologies’, 249.
127 Edward Shortland, Traditions and Superstitions, 186-88.
129 Edward Shortland, Traditions and Superstitions, 227. Most Europeans tended to be impressed by the capacity for reasoned debate among Maori. See for example Ernst Dieffenbach, Travels in New Zealand, Vol. I, 92; J. S. Polack, New Zealand: Being a Narrative of Travels and Adventures During a Residence in That Country between the Years 1831 and 1837 (1838; rpt. Christchurch: Capper Press, 1974), Vol. 1, 172-180. Yet, Polack’s experience of Maori society also led him to describe their ‘internal government’ as ‘patriarchal and despotic’ (Manners and Customs of the New Zealanders, Vol. 2, 60).
130 Edward Shortland, Traditions and Superstitions, 186.
Maori literature

Shortland expanded on this statement in *Traditions and Superstitions*, where he set out to show that the Maori language did not lack sophistication, implying a relatively high level of civilisation. With the publication of Maori poems, chants, sayings and songs he showed that Maori culture also had forms of literature. Not only were Maori fluent public speakers, Shortland argued, but they also had a taste for poetical composition and possessed a plethora of proverbs, which had been handed down from distant times. To excel in their native language appears to have been one of their chief objects of ambition, according to Shortland. In the many examples Shortland quoted he gave both the Maori and the English translation as literally as possible, but he excused himself for the fact that the translation could never ‘convey the spirited energy of the original’. He gave examples of songs and action songs, oratory and proverbs and explained the literary qualities of each.

Maori poetry and songs (waiata) had no rhyme at the termination of verses, but made use of metric arrangements, Shortland explained. To preserve the metre, a word might be divided over two lines, or the vowels could be drawn out or repeated. Singing a waiata, Shortland observed, was much like chanting in a cathedral. Action songs came in a variety of metric forms to suit the occasion. For example toto-waka, chants for hauling heavy things (like logs of wood or canoes), although simple compositions, varied depending on whether the weight to be pulled was light or heavy: when hauling something heavy uphill a chant was used with long syllables, but when the pulling became lighter, another metre, with short syllables was used instead. Other Europeans also remarked on the sophistication of Maori poetry.

William Colenso, who devoted a lengthy article to Maori myths, proverbs and

---

134 Edward Shortland, *Traditions and Superstitions*, 177-178. The reader could form some idea of this because Shortland provided the Maori original. These subtleties were lost in Baker’s article on Maori poetry because he only provided the English. Richard Taylor, clearly not a musical man, found the metre of Maori poetry and songs difficult to describe because there was no regular measure. He recognised that the principal object was ‘to make the lines suit their tunes’. He mentioned a ‘musical gentleman’ who said that Maori singing reminded him of Gregorian chants. That gentleman may well have been Shortland (*Te Ika a Maui*, 138).
poetry, saw such refinements as the signs of the superior mind of Maori, 'of their fine perception of the beautiful, the regular, and symmetrical'. Reverend Richard Taylor admired the 'very beautiful ideas' contained in Maori songs. Edward Tregear, who had a keen interest in philology and Maori language, myth, and origins, wrote of the 'rhythmic flow and exquisitely delicate time beat' of Maori action songs. Tregear also admired the 'highly refined passions and sensitivities' and the spiritual and metaphysical qualities of Polynesian chants.

Shortland devoted a section of Traditions and Superstitions to whakatauki, or 'witty or sage remarks', many of which had been handed down over time from ancestors. A number of the sayings listed by Shortland deal with industry and laziness. In the eyes of Victorians, work fostered habits of self-discipline and self-control, qualities they saw the pillars of civilisation. Such sayings could therefore be interpreted as further indicators of the relatively high level of Maori civilisation. Some of the proverbs were 'remarkably pointed and elegant', but others, although greatly enjoyed by Maori, appeared to be 'devoid of all wit' to a European understanding, Shortland noted, suggesting a different sense of humour.

Understanding Maori oratory did not require knowledge of a special 'sacred language' as had sometimes been suggested, according to Shortland, nor did chiefs use a language that was different from that used by the 'multitude', although they did sometimes use archaic terms. The difficulty was the high level of sophistication, the 'ambiguity of the meaning' and the 'obscureness' of the allusions made to ancient historic events, of which not only Europeans, but also the younger generation had

---

136 W. Colenso, Contributions Towards a Better Knowledge of the Maori Race, 6; Rev. R. Taylor, Te Ika a Maui, 138.
138 Edward Shortland, Traditions and Superstitions, 193-201. Several of the same sayings relating to industry were also quoted almost identically by William Colenso, while there is little or no similarity between other sayings the two writers listed. Shortland listed thirty proverbs. In Contributions towards a better Knowledge of the Maori Race Colenso listed 235 on pages 34 to 64. In Te Ika a Maui Rev Richard Taylor listed eighty-five proverbs (pages 126 to 134). All three authors first gave the Maori text, followed by a fairly literal translation with explanations where necessary. The many proverbs about work and industry as their subject in Colenso's list have a simple structure and use straightforward images. Taylor has five or six sayings about work, all dealing with harvest and food. These have a very authentic ring to them.
little knowledge, he explained.\textsuperscript{140} Shortland gave an example that was, interestingly, not of a speech he recorded but of a letter written by a Christian chief from Tauranga addressed to Tohi Te Ururangi at Maketu, 'who had not given up his old belief and warlike habits', Shortland noted.\textsuperscript{141} This letter is a good example of the way in which Maori smoothly wove together European technology and their own customs. The letter followed the format of oratory. Shortland's explication shows the intricate poetic allusions it contained, which Shortland likened to the poetry of Robert Burns, the meaning of which would escape the uninitiated European reader, even if he were able to translate the Maori into English. The example suggests what difficulties were likely to arise when Maori and Europeans conducted joint discussions.

\section*{Conclusions}

The above analysis of Shortland's first two books shows his continuing and committed involvement in Maori issues after his return to England. Although the books consist of valuable ethnographic descriptions of Maori society in the early 1840s, on another level they contain arguments in support of the notion that Maori were 'a class who must always have a political weight in their own country', as Shortland himself put it.\textsuperscript{142} Rather than considering Maori a dying race, as did many of his contemporaries, Shortland saw them as 'highly intellectual human beings, who will eventually take their place side by side with the white man, as equals in civilization'.\textsuperscript{143} While Shortland acknowledged that this might take a long time, he felt that it was an objective the colonist must endeavour to bring about, both out of duty, and also in his own interest. Shortland further believed that to reach this goal, and to live in peace with each other, it was essential for the 'more civilized' to gain a thorough understanding of the customs and beliefs of the 'less civilized', so that they might understand the motives behind certain actions and thus be better able to avoid conflict and dispute. His books were a contribution to this end.

\textsuperscript{140} Edward Shortland, \textit{Traditions and Superstitions}, 189. In \textit{The Story of New Zealand} (Vol. 1, 80) published in 1859, several years after \textit{Traditions and Superstitions}, Thomson still claimed that there was a special language 'among the priesthood' which was unintelligible to other people.

\textsuperscript{141} Edward Shortland, \textit{Traditions and Superstitions}, 189-193.

\textsuperscript{142} Edward Shortland, \textit{Southern Districts}, vi.

\textsuperscript{143} Edward Shortland, \textit{Southern Districts}, 41.
Chapter Ten

‘a square man in a round hole’: Native Land Acts and Native Affairs

Shortland continued to be involved in New Zealand politics after the publication of his first two books. He returned to New Zealand three times in the twenty years that followed, either to work for or advise the government. Maori continued to see Shortland as their representative. There is correspondence with or on behalf of Maori among the Shortland papers from the 1860s, 1870s and 1880s. During these years Shortland also produced three more publications on the subject of Maori culture, emphasising Maori land rights above all other matters. In these later publications Shortland built on his earlier work, but always responded to the political issues of the time. In this chapter the weight historical events may at times seem to overshadow Shortland’s work, but the latter can only be fully understood in the context of the former.

Native Affairs and Maori land under responsible government

After the delay of the 1846 Constitution Act, a new Act and with it self-government was finally implemented in 1854, after George Grey’s first term as governor had ended.¹ New Zealand Company men took on most of the prominent government roles, although the new governor, Gore Browne, maintained ultimate control over Maori policy.² There was some early tension between the colonial government and the governor about who should be responsible for this area. They reached a compromise in which Native Affairs came under the general oversight of the responsible minister, while final decisions rested with the governor and financial decisions with the General Assembly.³ Governor Browne did not speak the Maori language nor did he feel comfortable in their company. As a result he relied heavily

¹ The first representative parliament met in May 1854 (Hazel Riseborough and John Hutton, The Crown’s Engagement with Customary Tenure in the Nineteenth Century, Rangahaua Whanui National Theme C [Wellington: Waitangi Tribunal, July 1997], 34).
² Most of the early premiers and many of the early ministers were (former) company officials (Hazel Riseborough and John Hutton, The Crown’s Engagement with Customary Tenure, 33).
on Donald McLean who held the combined offices of Land Purchase Commissioner and Native Secretary.⁴

Both the colonial government and some of the humanitarians complained of the lack of a clear policy regarding Maori land, and that the system constructed for land purchase was too opaque.⁵ The missionary Octavius Hadfield wrote a lengthy epistle to the governor and suggested that ‘until some clearly defined principle of ownership [of Maori land] is laid down’ the difficulties of dealing with the issue would continue.⁶ Feeling he needed to better inform himself first, Governor Browne set up a committee of enquiry on the subject. In his instructions to the committee Browne outlined most of the questions raised by Hadfield. The main brief of the committee was ‘to consider the present system of purchasing land from the natives and to give [the governor] their advice on the subject generally.’⁷ The 1856 Committee on Native Lands was a paragon of fairness and thoroughness, at least for its day. Its report is lucid, with excellent summaries of the responses to the committee’s inquiries. The conclusions and recommendations of 1856 Committee closely resemble some of Shortland’s suggestions, which he outlined in his letter to William Martin and later published in Traditions and Superstitions, the first edition of which appeared in June 1854.⁸

---

⁵ Hazel Riseborough and John Hutton, The Crown’s Engagement with Customary Tenure, 35.
⁶ O. Hadfield to Governor T. G. Browne, 15 April 1856. GBPPNZ 1854-60 (1860) (2719), Vol. XLVI, 233-34.
⁷ Report of Board of Inquiry into Native Affairs and into the System of Purchasing Land from Natives, GBPPNZ 1854-60, 1860 (2719), Vol. XLVI, 23 July 1856, 235. The board consisted of Charles Ligar, Surveyor General; Major Nugent, Native Secretary under George Grey; H. T. Smith, Resident Magistrate at Rotorua; Mr Daldy, an M.P. and Auckland settler. They heard thirty-four official witnesses. The body of witnesses was relatively balanced, although with a slight bias towards settlers (12 out of 34). There were six representatives of religious groups, including the Anglican and Catholic bishops; seven government officers, including the land purchasing officers; and eight Maori representatives. The latter tended to be what might be labelled Maori-Pakeha, that is to say Christian, generally literate Maori who had close connections with missionaries and/or government officers. Geographically the witnesses were spread fairly widely over the North Island. The glaring omission was the complete lack of representation from the South Island. The governor may have felt that, since the ‘native title’ appeared to have been ‘extinguished’ in most of the South Island, there was no need.
⁸ Compare Edward Shortland, Traditions and Superstitions, 300-302 and the Report of Board of Inquiry into Native Affairs and into the System of Purchasing Land from Natives, 240-241. One of the four committee members, Charles Ligar, had travelled with Shortland and been involved in negotiations for Maori land purchases in the Eastern Districts. Henry Smith, another committee member, was a former employee of the Aborigines’ Protection Department. William Martin, although not a member or witness of the committee, was a trusted adviser to a succession of governors.
It is clear from the questions that the committee’s ultimate aim was to find ways to get access to more land for settlers. The question whether Maori were willing to sell their land could not be answered with a simple yes or no, most committee members felt. In some places they were willing to sell, in others not. Most of the committee members agreed that Maori would prefer to sell their land to the government rather than to individuals. They also believed that Maori did not have a ‘strictly individual right’ to land independent from the tribe. Only half of the respondents believed that Maori were able to mark out the land they might wish to sell, others believed they could not. To the question whether the Crown should nevertheless issue individual grants, after proof of ownership, nearly all respondents replied ‘yes’. Two replied, however, that Maori land claims were too intricate, or that Maori could not define their individual rights. When asked whether the issue of individual grants would tempt Maori to sell more land than was healthy for their own survival, the majority replied ‘no’.

In his letter to Benjamin Hawes, MP, which was reprinted in Traditions and Superstitions, Shortland suggested that, although it was preferable that the government should be responsible for, or at least oversee all land purchases, individual purchases of smaller pieces of land directly from Maori might be possible, if there were a register of land with details of all Maori owners, outlining both tribal and individual rights and maintained by an experienced government officer.\* As Shortland stated, and witnesses heard by the 1856 Committee agreed, no individual could sell land without tribal consent. The 1856 Committee concluded that there was no such thing as an individual right to Maori land, although there was a system of individual usage rights.

Despite this consensus, government attempts to set up a system for the individualisation of Maori land ownership gained momentum. In 1858 the Colonial government made a first attempt to introduce the individualisation of Maori land tenure and the authorisation of direct purchase of Maori land by European settlers. The proposed Native Territorial Rights Act provided for the registration of tribal titles and the issue to individual Maori of Crown titles to land ceded to them by the tribe for that purpose. Settlers might purchase such land direct from the owners on payment of a ten-shillings-an-acre tax, which, according to Keith Sinclair, was

\* Edward Shortland, Traditions and Superstitions, 300-301.
intended to limit such sales. The 1858 Native Territorial Rights Act did not receive royal assent, on the advice of Governor Browne and after severe criticism from some officials and humanitarians, who saw it partly as an attempt by the colonial government to gain control of Native Affairs. Yet neither the governor nor the Native Secretary were adverse to finding ways to open up the possibility of direct purchase by settlers of Maori land.11

King movement

In the 1850s Maori in the middle North Island responded to the increasing demands to sell land and to the new form of government with attempts to unify their efforts to resist European pressure, and to take control of their own affairs. Several tribal groups held meetings to discuss the problems caused by the coming of the Europeans and what action they could take. Specifically they were seeking an intertribal agreement to sell no more land within a particular boundary. Initially they could not reach agreement, but in 1858 they united under the first elected Maori King. Shortland’s old friend Wiremu Tamihana played a prominent role in the movement’s inception.12 Among Europeans in the colony there were different opinions about the nature and objectives of the King movement. Many saw it as an attempt to emulate European forms of government. At first the official view was that the King movement was only a temporary excitement. When the King movement did not go away but increased its influence, Gore Browne began to see it as a dangerous challenge to the Queen’s sovereignty, which he would suppress by force if necessary.13 The opposing view, expressed by many missionaries and humanitarians, including Sir William Martin, saw the reasons for the King movement in the failure of the government to govern Maori. According to this view Maori had no choice but to set up their own government to deal with lawlessness and provide law and order. William Martin saw this Maori wish to bring law and order among them as such a

10 Keith Sinclair, The Origins of the Maori Wars, 98.
13 M. P. K. Sorrenson, ‘The Maori King Movement’, 34; Gore Browne’s proclamation to the King party, 25 April 1861, AJHR, 1861, E-1B, 11-12.
positive move that he recommended that the colonial government recognise the King movement as such.\textsuperscript{14} The historians Sorrenson and Sinclair, however, both argue that the opposition to the sale of land was the main underlying motive. In fact, Sorrenson suggests, the main motive was the ‘fear that European government would by its very nature deprive them of their lands.’\textsuperscript{15} Sorrenson elaborates this interpretation by arguing that ‘law and order’ effectively meant ‘authority over the land’. As the two races were in conflict over the land, Sorrenson continues, it was natural that they should set up conflicting authorities to govern the land and the men it sustained.\textsuperscript{16}

The reasons Wiremu Tamihana gave Shortland for setting up the King movement show that both the law and order and the land conflict explanation are correct. Tamihana told Shortland that constant feuds about land had led to bloodshed in recent times, as a result of the revival of disputed claims to land that had been offered for sale to government agents.\textsuperscript{17} To avoid such conflicts and to protect their land from ‘clandestine sales’, tribal groupings adopted the practice of handing over the mana of their land to the Maori king, or to some other ‘influential chief in whom they have trust’, Shortland explained in \textit{Maori Religion and Mythology}.\textsuperscript{18} Clandestine sales had become more frequent as the pressure to sell more land increased. Speculators would tempt young and ‘careless’ young men who visited towns with offers of gold for their land. Unable to resist the temptation, these young men would readily give away their signature in exchange for ready money, Shortland claimed. But these transactions caused ‘much heart burning and trouble’ to their tribe, Shortland asserted, because once ‘the thin end of the wedge’ had been applied, others tended to follow the example until finally ‘a sort of forced consent is obtained’\textsuperscript{19}.

\textsuperscript{15} M. P. K. Sorrenson, ‘The Maori King Movement’, 34.
\textsuperscript{17} Wiremu Tamihana told Shortland this to explain why the King movement had arisen. Tamihana was referring in particular to the blood shed in Taranaki, conflict over which commenced in the 1850s (Edward Shortland to Native Minister F. Dillon Bell, half-yearly report, Letter Book 1863-64, 6 May 1863, Dunedin Hocken Library, MS-0489/004).
\textsuperscript{19} Edward Shortland, \textit{Maori Religion and Mythology}, 91-92 (footnote). This same reason was given by the Maori leader Renata of Hawkes Bay (GBPPNZ 1862-64 [326], Vol. XLI, 19).
In *Southern Districts* Shortland showed that he was not averse to the idea of a separate legal and political entity under the Crown for Maori, which would be situated in the densely populated middle of the North Island. He suggested this as a potential 'last retreat of the Maori race'.

He thought it possible to contemplate that area of New Zealand as eventually occupying 'the same relation which Wales now does to England'. Bishop Selwyn proposed something similar to Governor Browne in 1860. Some settlers feared, however, that if this were allowed to happen, it would put up a permanent barrier to colonisation. Grey also did not favour such a separation of races and preferred to replace the influence of the Maori King with that of the Crown through the New Institutions, which would introduce and enforce English law.

**Taranaki war**

Governor Browne's view that the King movement denied the Queen's sovereignty, which he would if necessary suppress by force, led to war in Taranaki in 1860. The trigger was the sale of a block of land in Waitara by Teira. Wi Kingi, who was chief of the hapu with ownership rights to the land, strongly objected to the sale. William Martin bluntly labelled the conflict a 'land quarrel'. The governor and his ministerial advisers, however, saw it as exercising the right to purchase land from individuals without interference from chiefs and interpreted the issue as a question

---

21 Edward Shortland, *Southern Districts*, 78. Wales was probably not the most auspicious association to make. The social effects of industrialisation in Wales in the nineteenth century led to bitter social conflict between the Welsh workers and the English factory owners. Partly as a result of these disturbances, a government enquiry was carried out into the state of education in Wales. The resulting report, published in 1847, concluded that the Welsh were ignorant, lazy and immoral, and that this was caused by the Welsh language and nonconformity. Source: [http://en.wikipedia.org/wiki/History_of_Wales#The_Nineteenth_Century](http://en.wikipedia.org/wiki/History_of_Wales#The_Nineteenth_Century)

Selwyn's comparison with Swiss cantons (see note below) was likely to make a better impression.
22 Selwyn proposed that the central district of the North Island including Waikato, Taupo, Rotorua, Tauranga, Opotiki, Waiau and Poverty Bay should be formed into one or more provinces with their own representative system under the 'immediate sanction' of the governor. As with the Swiss cantons, the form of government did not need to be exactly the same in all parts and could be adapted to the needs, customs and wishes of different tribes with the following restrictions: that the governor should confirm all appointments of chief magistrates and councillors and have the final assent over all regulations (Bishop Selwyn, 8 May 1860, *AJHR* 1860, E-No. 1, 24).
24 M. P. K. Sorrenson, 'The Maori King Movement', 34; Gore Browne's proclamation to the King party, 25 April 1861, *AJHR* 1861, E-1B, 11-12.
of sovereignty. Octavius Hadfield, the missionary most closely involved with the tribes at the centre of the dispute, was enraged by what he termed 'a flagrant act of injustice ... committed by the Governor of a British colony in the name of Her Majesty the Queen'. He mounted a methodical campaign for this to be recognised by the Colonial Office and by the wider public. His flock at Otaki drew up a Petition to the Queen. Hadfield himself wrote an open letter to The Times, titled One of England's Little Wars, addressed to the Duke of Newcastle, Secretary for the Colonies in London, in which he explained at length why the governor's act of war was unjust. Although public opinion in New Zealand at first turned against Hadfield, when the details of the Taranaki quarrel became known it became apparent to many that Governor Browne had made the wrong decision. In support of this view Sir William Martin wrote his own pamphlet on The Taranaki Question based on legal arguments.

Shortland saw the Waitara affair as a fatal example of a lack of cultural understanding. He interpreted the actions of Te Teira in selling land at Waitara as an act of whakahe aimed at Wi Kingi. He acknowledged that influential chiefs with strong support from their own hapu often acted as if they could dispose of large tracts of land without consulting others who had rights in the land. But, Shortland suggested, such chiefs would never claim that they could completely ignore the rights of other parties. Rather they would expect that those other claims would be satisfied with future payments, or that the owners might hold on to their portion of the land. Shortland believed that if Te Teira had been asked to mark the boundaries of the land he and his people had a right to sell before the purchase money was handed over, it would have become apparent that his rights were limited to small

26 F. Dillon Bell and Thomas Gore Browne, Notes by the Governor on Sir William Martin’s Pamphlet Entitled the Taranaki Question (Auckland: Published for the New Zealand Government, 1861), 1. The Waitara purchase has been discussed by several historians, for example Keith Sinclair, The Origins of the Maori Wars, Chapter 3; Claudia Orange, The Treaty of Waitangi (Wellington: Bridget Williams Books, 1987), Chapters 7 and 8; Belich, The New Zealand Wars (Auckland: Penguin, 1988), Chapter 4. B. J. Dalton, War and Politics in New Zealand 1855-1870 (Sydney: Sydney University Press, 1967), Chapter IV. For a brief clear discussion see Alan Ward, A Show of Justice, 114-115.
29 Edward Shortland, Maori Religion and Mythology, 106. The missionary Octavius Hadfield gave a lengthy explanation of the origin of the dispute between Te Teira and Wiremu Kingi in his pamphlet about the Taranaki war (One of England’s Little Wars: A Letter to the Right Hon. The Duke of Newcastle, Secretary of State for the Colonies [London: Williams & Norgate, 1860], Dunedin Hocken Library. Pamphlets vol. 041 no. 07, 6-8). Shortland had his own source for this information. When he visited Matamata in 1863 Paora Te Ahuru, a Ngatihaua chief who took part in the war in Taranaki, told him about the quarrel between Teira and Wi Kingi (Maori Religion and Mythology, 101).
30 Edward Shortland, Maori Religion and Mythology, 102.
plots that would have been ‘of little value for the occupation of our colonists’. It is tragic that despite the several enquiries into Maori land tenure and the publicly available reports on the subject, Edward Stafford, who was Premier at the time, claimed forty years later that he had ‘no knowledge of, nor had my attention been directed to the intricacies of native title whether resulting from long possession, from conquest ... all which were overshadowed by the mysterious & undefined phrase “mana”’.  

George Grey returns to New Zealand

When it appeared that the Taranaki conflict might develop into a general war involving Waikato tribes, the Colonial Office decided to recall Governor Browne and reappoint former Governor Grey, now Sir George, who had asked the Colonial Secretary for a posting to New Zealand. The Colonial Office believed that Grey was a man who ‘had the Maoris well “in hand”’, who was able to govern them and ‘lead them towards civilization’. Many in New Zealand felt the same optimism and Grey was welcomed by cheering crowds of both Europeans and Maori. On his arrival he found a voluminous bundle of reports from ‘Native Officers’ (including resident magistrates, land purchase commissioners and local missionaries). His predecessor, Governor Browne, had these prepared in order to provide Grey with the most up to date information on the state of Maori in the country, including their feelings towards the government, and their disposition and conduct towards Europeans in general.

Soon after his arrival Governor Grey and his responsible advisers worked out a policy for the administration of Maori districts, the so-called Runanga system (or ‘New Institutions’). As Alan Ward points out, the system was not a novel idea, but was based on proposals from Waikato Maori, elaborated by F. D. Fenton, who was

---

34 B. J. Dalton, *War and Politics in New Zealand*, 139, quoting from a letter by Herman Merivale, Permanent Under-Secretary at the Colonial Office, to C. W. Richmond.
35 Grey landed in Auckland on 26 September 1861 (Edmund Bohan, *To Be a Hero*, 200).
36 ‘Reports on the State of the Natives at the time of Sir George Grey’s Arrival’, *AJHR* 1862, E-No.7.
Native Secretary under Governor Browne, and about to be implemented by Browne. Wiremu Tamihana told Shortland in 1863 that he had tried to discuss better ways to implement law and order among Maori, based on a runanga system, with the governor in 1856, but that he was ‘not well received’. James Preece, formerly missionary in the Thames and now district sub-commissioner in the same area, made a detailed proposal for a system of ‘self-government’ for Maori very similar to the New Institutions. Derived from the existing village runanga system, government sponsored village runanga under direction from resident magistrates and district runanga under civil commissioners would be responsible for creating by-laws, to be jointly implemented by Pakeha officers and Maori assessors, with specially appointed Maori police responsible for enforcement. The responsibilities of the runanga and resident magistrates comprised of settling disputes (such as over stock trespass), health and sanitation, as well as defining tribal, hapu or individual interests in land and, when these were confirmed by a Crown grant, to authorise the alienation of land to Europeans. The system acknowledged tribal authority over land.

The runanga system could be seen as a practical expansion of the work of the old Protectors’ Department and the tasks relating to land envisaged for the resident magistrates were not very different from what Shortland had proposed. It is therefore understandable that Shortland accepted an invitation to take on the office of civil commissioner for Waihou (the Thames area), at the urging of his friend Sir William Martin. There was still a shortage of capable men with knowledge of Maori language and customs. At the time of Shortland’s return quite a few of the old philo-Maori/missionary contingent were again working for Native Affairs. This raised the fear among some of the old settlers of a return of the Protectors’ Department and its

37 Alan Ward, A Show of Justice, 125.
38 Tamihana told a similar story to the Waikato missionary Benjamin Ashwell, who gave the Church Missionary Society a more elaborate account of the disgraceful way in which Tamihana was treated in Auckland (Evelyn Stokes, Wiremu Tamihana [Wellington: Huia Publishers, 2002], 134-35).
39 AJHR 1862, E-No. 7, 14-15.
40 Alan Ward, A Show of Justice, 125.
41 It would seem that Shortland returned at Martin’s urging (G. H. Campbell, ‘Dr. Edward Shortland and His Work in Northern New Zealand 1841 to 1847’, M.A. thesis, University of Otago, 1935, 88). Shortland’s biographer in the DNZB, Atholl Anderson, repeats this claim, using Campbell as his source (DNZB, Vol. One, 396). There is no documentary evidence to support the claim, however. Paul Monin suggests that it was George Grey who requested Shortland to return to New Zealand (This Is My Place: Hauraki Contested 1769-1875 [Wellington: Bridget Williams Books, 2001], 175). The appointment of Dr E. Shortland as Civil Commissioner of Waihou on 1 January 1863 (signed by F. D. Bell, Native Office) was announced in the Gazette. The announcement is dated 25 April 1863 and appeared in New Zealand Government Gazette, Number 15, 4 May 1863, 151.
pro-Maori approach. It predisposed them to a dislike of the New Institutions and land policies, a dislike the Daily Southern Cross tended to stoke up.\textsuperscript{42} The New Zealander countered with an attack on the Southern Cross for publishing articles 'based almost totally on unsubstantiated "facts", later admitted, albeit unwillingly, by the Cross.' The editor of the New Zealander believed that the Southern Cross was 'covertly undermining the action of the law by holding it up to ridicule and contempt of those for whose control it is intended.' It was high time the public openly showed its disapproval of the way in which the Cross wrote about 'the Native question', stated the New Zealander, whose editor, John Williamson, was an Auckland politician.\textsuperscript{43} New Zealand historians often quote the Southern Cross without presenting the counter arguments from other sources. It is evident from this newspaper debate that among the settlers there were both proponents and opponents of humanitarian policies.\textsuperscript{44}

**Shortland returns to New Zealand**

Shortland returned to New Zealand in December 1862. He remained less than two years.\textsuperscript{45} A great deal happened during the two short years of Shortland’s return to New Zealand, but he played a relatively minor role. This thesis is therefore not the place to discuss these important historical events, unless they are relevant to Shortland’s story. Unfortunately, Shortland’s journal for this period contains few entries and, compared to the lengthy descriptions in his journals of earlier years,

\begin{itemize}
    \item \textsuperscript{42} Alan Ward, *A Show of Justice*, 147-148. Among those working for the New Institutions were George Clarke and three of his sons, and C. O. Davis.
    \item \textsuperscript{43} The New Zealander, 27 December 1862, 3/3.
    \item \textsuperscript{44} The Southern Cross and The New Zealander were the two main Auckland newspapers. According to historian Patrick Day 'The New Zealander spoke for the official party, composed of the Crown Colony Government officials, the Military and their supporters, while the Southern Cross spoke for the opposition, known variously as the Radicals, the Senate, or the Progress Party. In the case of the Southern Cross the newspaper was more than the mouthpiece for the opposition. In a sense it was he opposition' (Patrick Day, *The Making of the New Zealand Press 1840-1880* [Wellington: Victoria University Press, 1990], 37). In another study of the New Zealand press Ross Harvey warns that 'The student of the history of New Zealand newspapers needs to be constantly vigilant about distinguishing fact from fiction' (Penny Griffith, Ross Harvey and Keith Maslen, eds., *Book & Print in New Zealand: A Guide to Print Culture in Aoteroa* [Wellington: Victoria University Press, 1997], 128).
    \item \textsuperscript{45} There is a Mr Shortland listed on board the Bombay from the Port of Galle to Sydney New South Wales, 16 December 1862, arriving Auckland on 22 December on board the Lord Ashley. Arrival of the Lord Ashley in Auckland with Dr Shortland on board is confirmed in *The New Zealander*, 22 December 1862. 1. Shortland’s departure on board the Prince Alfred from the Port of Auckland to Sydney on 10 October 1864 as passenger 1st class is listed on: http://mariners.records.nsw.gov.au. The first entry in Shortland’s journal for this period is dated 27 December 1862 ('Journal, Memoranda, receipts and payments 1862-1864', Dunedin Hocken Library, PC0029).
\end{itemize}
provides scant information. A letter book with letters to Native Minister Dillon Bell gives an overview of Shortland's work as civil commissioner. It is unclear why Shortland stayed for such a short time. It may be that he was unhappy about the turn of events and the outbreak of war followed by land confiscation. A further reason for Shortland's decision may be the move of the General Assembly and seat of government to Wellington, which decision was made at the end of 1864. It is also possible that Shortland only came to assist with the 'New Institutions' and always intended to return after a short while. Confirmation for the latter possibility may be found in the fact that Shortland left his pregnant wife and his children in England.

In his journal he noted receiving letters from his wife, posting remittance to his family, and a careful record of all his expenses. Whatever Shortland's reasons for leaving the country again so soon, it cannot have been easy for him to work under two Native Ministers (F. Dillon Bell and William Fox) who had both formerly worked as agents for the New Zealand Company in New Plymouth, Nelson and Wellington.

One of Shortland's first missions after he arrived back in New Zealand was to visit his old friends in Matamata and in Maketu. Not as fit as he was twenty years earlier (he was now fifty years old), Shortland travelled on horseback. The people of Matamata welcomed him as an old friend. Shortland met with William Thomson (Wiremu Tamihana), whose oldest son, now eighteen years old, carried the name Hoterene (Shortland). Shortland and Tamihana had a long conversation about the setting up of the Maori King. Tamihana demonstrated how he saw the King in relation to the government. He bound together three sticks with a piece of raupo, to represent a tree with branches. The central one was the longest and represented the

---

46 This may be explained by the fact that one of the duties of protectors of aborigines was to keep a journal, while the position of civil commissioner may not have required this. By August 1864 Shortland was Native Secretary, a clerical position. As civil servant he would have had different record keeping duties and official correspondence would have formed the most important part of this. There are, however, few letters available in the archives.


48 B. J. Dalton, War and Politics in New Zealand, 203. When Shortland was posted to Wellington in 1845 he saw it as a reason to resign, on top of the reduction in salary he had already suffered. See above Chapter Seven.

49 Shortland had three children in 1862, two daughters and a son. Another daughter was born in 1863 while he was in New Zealand (1881 Census, Devonshire, Compton Gifford, page 05313).


52 Edward Shortland, 'Journal, Memoranda, receipts and payments 1862-1864', 28 January 1863. See also above.
law, according to Tamihana, the shorter ones the Queen and the King. When Shortland asked what the good points were of his ‘tree’, Tamihana replied ‘Blood has ceased to be shed about land wherever the mana of the king extends and by and by we shall see other fruits’. Without engaging in a discussion about the rights of the Maori people to ‘set up kings’, Shortland brought forward only one objection, namely ‘that I feared his king would be the cause of trouble between Pakeha and Maori whereas he and I ought to strive to establish union.’

After his conversation with Tamihana, Shortland continued his travels to Maketu, where he was again greeted as an old friend and with great joy by the wife of Tohi Te Ururangi and the latter’s brother Nga Moni, who was one of the people from whom Shortland bought the land on which he had built his house. As the pledge of their promise to make peace with Tauranga, Nga Moni produced the pounamu mere Shortland had given Tohi on his departure from New Zealand, a promise they had kept. Nga Moni told Shortland that they intended to invite him to remain at Maketu. When Shortland met Tohi Te Ururangi that evening he urged him not to make the invitation public, because Shortland could not consent to the proposal. There was a Resident Magistrate in the area already, Henry Clarke, who was stationed in Tauranga as magistrate for the Bay of Plenty. Shortland was appointed as Civil Commissioner for the Waihou area, which excluded Tauranga. Nevertheless, Shortland in turn honoured his alliance with the Arawa in speaking or writing on their behalf. He devoted most of his 1865 essay *A Short Sketch of the Maori Races* to their history.

53 Edward Shortland, ‘Journal, Memoranda, receipts and payments 1862-1864’, 28 January 1863. This view of the law as higher than both the Queen and the King may be explained by the fact that for Maori religion and law were one; the European law and the Bible were one. ‘Law was assumed to be God’s reflection in a series of earthly mirrors’, as Lindsay Head explains (‘The Pursuit of Modernity in Maori Society’, in Andrew Sharp and Paul McHugh, eds., *Histories Power and Loss* [Wellington: Bridget Williams Books, 2001], 116).
54 Edward Shortland to Native Minister F. Dillon Bell, half-yearly report, Letter Book 1863-64, 6 May 1863.
56 The Waihou District, where Shortland worked as civil commissioner, was created after other districts had already been outlined (AJHR 1862, E-No. 6). Its boundaries were based on the boundaries of these other districts (Lower and Upper Waikato and Bay of Plenty). This makes it difficult to work out the exact area it contained. Roughly, the Waihou District comprised the Coromandel and Thames area, including Waiheke and other islands off the coast. On the east it stretched to, but did not include, Tauranga. To the south, it went up to the area belonging to Ngati Haua (Declaration under the Native Districts Regulation Act 1858. The district excluded all land over which the Native title had been extinguished [New Zealand Government Gazette, Issue 15, 22 March 1862, 123]. See also AJHR, 1862, E-No. 6, Nos. 25 and 26). This district contained about a third or less than the district Shortland had worked in during the 1840s. Some of his closest former contacts, such as the people of Maketu and of Tauranga and Matamata, were outside his district.
Civil Commissioner of the Waihou District

Shortland spent the first six months as civil commissioner travelling around his district, meeting old friends and acquaintances and reporting on the general state of the district and its people. He found many improvements and signs of 'civilisation'. Shortland noted improvements in agriculture owing to the introduction of ploughs and horses. Maori in his district grew more than enough wheat for their own consumption and in many places had built mills for grinding their corn. Bread of their own baking with tea and sugar were now staples. There was also an abundant supply of honey from numerous swarms of bees that had spread wild through the forests. Many more people than in the early days wore European clothing. The people owned more gold and silver as a result of high pay for their labour. Shortland noted that 'A day's wages now would have been a week's in 1846'. Clearly this was a very different picture from that painted by a strident correspondent of the Southern Cross who claimed in 1863 that Maori 'are opposed to civilization in any shape'. Yet, Shortland also noticed what he saw as a 'deplorable change', namely that Church services in the district were less attended than in the past and sometimes conducted in a 'slovenly manner'. Shortland's contemporary John Gorst was of the opinion that Maori economic success had led to a general slovenliness and idleness. Well-off Maori had too much free time, according to Gorst, which they spent on 'endless runangas'. By the 1860s, however, the Maori economy was in decline.

Shortland's work as civil commissioner was very similar to his earlier work as protector of aborigines. He dealt with Maori complaints over the behaviour of Europeans, in particular the miners at the Coromandel gold fields who encroached on Maori land. He mediated disputes among Maori over land. Shortland also attended sessions of different local runanga. Methods of payment for fines and

57 For an excellent detailed overview of events in the years 1860 to 1865 in the Hauraki area see Paul Monin, This Is My Place, Chapter Six.
58 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863.
59 Daily Southern Cross, 7 August 1863, 3.
60 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863.
62 Hazel Petrie, Chiefs of Industry, Chapter 11.
63 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 28 February 1863.
64 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863.
remuneration for the runanga were a frequent subject of discussion. Shortland proposed a fair and practical system, in order, as he wrote, 'to secure the cooperation of the Runanga as a necessary support for the magistrate to enable him to carry out the law'. Shortland suggested that convicted offenders should pay two fines: one as compensation to the plaintiff, the other 'for his offence against the law'. The latter fines were to be accumulated and by a joint decision of the runanga expended on something 'chosen of importance to the whole tribe (a mill, a bridge, a sheep farm)'. Shortland also suggested that all fines must be entered in a book for the civil commissioner to audit from time to time. After much discussion his proposals were accepted by the runangas, once Shortland agreed that 'the Runanga should have power from time to time to vote money out of the book in cases of poverty, sickness or accidental fire and in case of the death of a member of the Runanga to provide food for the funeral of the deceased at the hahunga or funeral feast.'

Shortland found less adherence to Maori ritenga and greater readiness to adopt Pakeha law, although in his opinion the Maori magistrates and runanga would require 'constant and careful teaching for some time'. They had no problems detecting crime, but meting out justice was still strongly influenced by tribal hierarchies and based on 'the comparative dignity of the person offended against and the offender irrespective of the crime'. They would award higher damages to, or deal more leniently with a person of rank than with persons 'lower in the social scale. Shortland remarked: 'The Maori is so practical a man, however, that if justice be once well administered in any limited district, I feel convinced other districts will imitate'. He hoped to make his district an example for others. In the old days, disputes would often degenerate in an altercation. Now magistrates and runanga adopted a method modelled on the English court system. Two neutral persons placed themselves between the contending parties. The latter were told to address their issues and anger at these representatives, rather than each other. In that way, peace was maintained. As in the 1840s Shortland again struggled to deal effectively with cases where Maori tikanga, Christian rules and English law became entangled, or clashed. When he was asked to advise on a case for which English law provided no

---

65 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to 16 March.
66 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to 16 March.
67 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to 16 April.
remedy, Shortland thought it advisable 'that some tikanga should be laid down which might serve as a precedent in similar cases' and proposed fines that the plaintiffs found acceptable.

Shortland discovered that the European settlers in the district who had caused problems and disputes with Maori in the 1840s were still the cause of problems. Mr McCaskill, who had been alarmist in 1842, now tried to slander Shortland with the Hauraki people and even urged the Native Minister to remove Shortland from his position as civil commissioner. Taraia and his people were not fooled, however, and 'very shrewdly looked for some motive ... and have attributed it to an apprehension that errors in the boundaries of land claimed by him [McCaskill] may be set to rights through my influence.' George White, who was involved in a dispute over a boat in 1844, was again involved in unfair practices, again involving a boat. The dispute with George White was symptomatic not only of what had stayed the same, but also of the changes that had taken place in the district in the past fifteen years. Such disputes now had wider, more dangerous implications, as Shortland explained to the Native Minister in a private letter. George White was in conflict over a vessel with Maori from Matakana. Their leader, Rotoehu, who was an old acquaintance of Shortland’s, together with ‘all the western division’ of Tauranga had joined the ‘King Party’. This was not in itself surprising, according to Shortland, because of their close relationship to Wiremu Tamihana and Ngati Haua. But, Rotoehu told Shortland, his main reason for joining the King Party was that he had heard that the government had given Taraia a deposit of £200 for land at Katikati (‘he kainga tautohe nonamata’ – a place of ancient dispute). If this were true, it would be a mistake almost as great as the one made in Taranaki by a land purchase officer and it might threaten a war that had been averted in 1842. Rotoehu had written to the Maori king for help and protection. Shortland urged the Native Minister to effect a speedy resolution of the dispute through arbitration in Auckland, because, wrote Shortland, such a resolution

---

68 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to 16 April.
69 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 10 March 1863. For the earlier incident see Chapter Three above, pages 92-93.
70 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 11 March 1863.
71 See Chapters Four and Five above.
would be 'a practical proof that there are cases where a government officer in my position can be of more service to them than their king.'\(^72\)

The further south Shortland travelled along the river Piako towards Waikato, the more villages he found that belonged to the 'kingites', although the people were 'not on that account the less hospitable'. The shift to the King Movement might be explained in part by the 'many opposition claims to land' regarding purchases made by the government in recent years. Shortland also heard about 'secret agreements' between Maori and Europeans for the purchase of land 'as soon as ever the law permitted direct purchase from the former.'\(^73\) In that respect little had changed, it seemed.

When Shortland wrote his half-yearly report on 6 May 1863, relationships between Pakeha and Maori were still relatively relaxed and good-humoured, although fragile. Shortland met his old friend Paora, who not long ago had participated in the war against British troops in Taranaki. Paora proudly showed Shortland his wounds, but did not 'evince the slightest symptoms of any feeling of revenge', according to Shortland. During the three days Shortland stayed in Paora's village, they discussed the war in Taranaki and the unease of the Waikato people with the governor's activities, such as building a courthouse and barracks at Kohekohe, and sending a steamer, which they considered to be a 'floating pa', up the Waikato River. 'How can we believe the Governor means peace', Paora said, 'when we see these signs of war.'\(^74\) The Waikato Maori, according to Paora, saw the governor's activities as 'maminga', trickery to lure them into war, and believed that the governor was 'contriving all this that he may be able to write to the Queen that he has a just cause for his war'. Shortland expressed his surprise at their suspicions. 'You will be greatly ashamed', Paora replied 'if my suspicions prove true'. Paora reassured Shortland, however, that he did not want war and that he would not join 'those who would strike the Pakeha without a just cause', but Paora also warned that 'if the governor give me a just cause I shall fight willingly though we be few in numbers, if god goes with us to battle'. Shortland explained to the Native Minister that this was a reference to the 'old superstitious belief' among Maori that the atua would only

---

\(^72\) Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to events of 30 January.

\(^73\) Ibid.

\(^74\) Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863.
protect those who waged a war that was tika (had a just cause). Shortland found it difficult to counter Paora’s suspicions and his letter book shows that he made several attempts at finding the right words, not only to respond to his Maori friends, but also to the Native Minister. Shortland crossed out the words: ‘I would not be there if I thought as he did’ and wrote instead that he told them that he would report to the governor, who, he believed ‘would also be surprised to hear these thoughts’.

Shortland heard similar suspicions of the governor expressed elsewhere, but he hoped these feelings were beginning to lessen and that there were ‘some signs of softening among the king party’. Wiremu Tamihana told Shortland that he had warned Rewi Maniopoto and Wiremu Kingi that he would not support them in Taranaki. Shortland also heard that some of the ‘most influential men’ in the Waihou area counselled during a meeting: ‘Don’t let our policy be too defiant’. At another meeting a letter from Wiremu Tamihana was read out, in which Tamihana expressed disapproval of the aggressive acts of some Waikato towards John Gorst, whom they had expelled after seizing his printing press. On a Sunday during prayers the Queen was mentioned together with ‘Maori chiefs’, while ‘when the king element is strong the word king is substituted for Queen’, according to Shortland. Shortland stressed that Maori attached a much looser meaning to the title of king than Europeans. As an example he mentioned a village where they asked him about the administration of the law and for the appointment of a magistrate or a constable. When Shortland said: ‘I thought you all belong to the King side’ they replied ‘what does that signify? the law is one’.

**War**

The balance of this delicate situation was shattered when on 4 May 1863 a Maori ambush attacked a small party of military men in Taranaki. The soldiers were tomahawked. Governor Grey was deeply shaken. It was generally believed that the attack was aimed at him. Grey wrote to the Colonial Office: ‘I was led into a degree of confidence which I ought not to have indulged’. He asked for reinforcements.

---

75 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to 16 April.
76 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 6 May 1863, with reference to late April.
77 Edmund Bohan, *To Be a Hero*, 212.
Yet, at the same time the Native Minister, on behalf of the governor, sent a letter to Waikato Maori assuring them of the peaceful intentions of the governor. Shortland hastened to the Coromandel, where he spoke with Maori leaders. They unanimously condemned the act of the Taranaki Maori. A large meeting held a fortnight later in Taraia’s village also widely condemned the Taranaki murders, while they considered that the governor had acted justly. They told Shortland that Wiremu Tamihana had been ‘exerting all the influence he can to restrain Ngatimaniapoto and the more turbulent section of Waikato.’ If they did attack Europeans against Tamihana’s advice, Ngati Haua and the people of Tauranga and Hauraki would ‘stand quite aloof from them.’ As the best sign of their peaceful intention Shortland noted that Ngati Haua were scraping flax to sell to European traders.

But even the New Zealander, normally conciliatory and pro-Maori, claimed that ‘it would be a folly to ignore the fact that the violence of the “party of disorder” in Waikato might make the preservation of peace and order in the Auckland province “a matter of difficulty”.’ It was no secret that ‘a section’ of Waikato had ‘evil intentions’. The editor regretted that ‘the earnest attempt which has been made by Sir George Grey to save the native people in these Islands from destruction had received such a check’. While the New Zealander had always supported these humanitarian efforts, the situation was now ‘serious and critical’ so that those ‘who have been the most anxious that justice should be done to the natives and peace preserved, will be found foremost to aid in the restoration of order, and in the establishment of law’. If war proved inevitable than Grey’s supporters would enter into it ‘with a clear conscience, stout hearts, and strong arms’. On 10 July 1863 the New Zealander highlighted the fact that it was becoming almost impossible to distinguish ‘who were, and who are, our native friends or foes’.

On 11 July 1863 General Cameron crossed the Maungatawhiri River with his troops, crossing the border into Waikato and effectively declaring war. From this moment on we see rapidly escalating panic, suspicion and mistrust, fanned by wild rumour, on both sides. Stories circulated about an impending attack on Auckland. The New Zealander complained that it was becoming extremely difficult to sift rumour from

78 Reprinted in Maori and English in the New Zealander, 13 May 1863, 2/5-6.
79 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 30 May 1863.
80 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 1 July 1863.
81 New Zealander, 9 May 1863.
truth and to ‘sift the chaff which is from hour to hour poured upon us’. Rumours of a taua at Otau near Piako prompted the European settlers to panic and expel the local Maori, who had been their friends for many years. Shortland wrote a letter to the Europeans, asking them ‘not to treat these people as enemies as they are anxious to remain our friends’. Shortland warned the Native Minister that actions so ‘uncalled for and so impolitic’ would seriously damage his mission, which was to maintain the confidence of the Maori people in his district. He recommended sending ‘Mr Gorst or some other person of intelligence’ to explain to the Europeans that they were not doing themselves any favours. Shortland believed that it was still possible that ‘if confidence could be restored between the settlers and these natives all here could be kept quiet’. He reported that the rumour of a taua at Otau was ‘all an invention’. With respect to the letters the governor had received from ‘various quarters’ warning him of plans of an attack, Shortland believed that some part of this was due to Rewi Maniapoto’s policy to whakaoho [stir up] the Pakeha and to whakararuraru [deceive, or cause trouble for] the governor. ‘I think this motive for writing such letters should not be lost sight o’, wrote Shortland.

Even Shortland was no longer able to distinguish fact from fiction, it seems. On 30 July 1863 the New Zealander reported the distressing news of the murder of four men, two women and four children, shot and tomahawked in their home by Maori. This report originated with Shortland who hastened by canoe to bring the news to the Sandfly about to leave Wairoa. On 31 July the New Zealander stated that Shortland did indeed go alongside the Sandfly and give the news as reported in the paper, but that he might have obtained his information from ‘Native informers’ and the facts might be exaggerated. On 1 August 1863 the New Zealander was happy to report that Dr Shortland had returned to Auckland and that the rumours proved to be untrue and merely an exaggeration by Maori of an earlier reported murder of Messrs Cooper and Calvert at Wairoa, although Shortland had believed it to be true. The ‘Waikato war party’ also tried to stir unrest not only among Europeans, but also among Maori who remained loyal to the government. Shortland reported that Hauraki Maori were anxious, because of rumours that ‘the soldiers would surround them and take away their guns’ and many other wild rumours besides. Shortland urged the Native

---

82 New Zealand, 25 July 1863.
83 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 18 July 1863.
84 ‘Whakaoho’ means to arouse; ‘whakararuraru’ means to deceive.
85 Edward Shortland to Native Minister F. Dillon Bell, Letter Book 1863-64, 24 July 1863.
Minister to send ‘some discreet person’ as an interpreter in the stockade at Wairoa and to appoint ‘some officer of judgement and prudence’ to command the stockade. The situation around the stockade was so critical that Shortland wrote to the commanding officer, Major Lyons, to ‘confine military operations to the West side of the river as any action on this side would excite to arms all the Natives with whom I am now residing and who have every desire and interest to remain friends.’

On 18 September 1863 Shortland reported to the Native Office on a special mission to the Hauraki Harbour where he investigated information received from Reverend Lanfear that ‘a large number of natives were assembled on Ponui and that a fleet of canoes had been seen by him in the Hauraki.’ Shortland’s enquiries revealed that a party of canoes had travelled to attend a funeral feast, while others had gone fishing near Waiheke Island. When Shortland said that the people of Auckland were ‘suspicious of canoes’, his informants told him that there was no need to fear canoes seen by day. War parties travelled only by night and stayed close to the shore. They had not heard of any rumour of a war party from anywhere by sea. If they had they would have sent the governor warning, they said.

The New Zealander, in a surprisingly different editorial tone, was scathing that Lanfear’s information had been treated so dismissively and saw it as on a par with the ‘vaunting imbecility’ with which the government ministers had dealt with the ‘Native difficulty’. Nothing could detract from the fact that the Thames and Waikato areas contained some 11,000 Maori, both friendly and unfriendly, many of whom might conceivably join the ‘rebel’ Maori, and some of them already had, argued the New Zealander. The paper was not altogether wrong, for Shortland’s enquiries also revealed that several groups from different hapu had left their villages to join the war parties, seventy four men in total, and that the tribal leaders who remained loyal to the governor seemed unable to stop them.

In October 1863 Frederick Whitaker replaced Alfred Domett as Premier. The Southern Cross was delighted and hoped that the new government would be able to give guarantees ‘for the peace, order and good government of the Native race’, especially

---

87 Edward Shortland to Native Office, Letter Book 1863-64, 18 September 1863.
88 New Zealander, 16 September 1863.
89 Edward Shortland to Native Office, Letter Book 1863-64, 18 September and 12 October 1863.
amongst the ‘revolted tribes’ south of Auckland. The Southern Cross saw ‘physical force’ as the ‘one grand agent’ for civilising an ‘utterly lawless and very barbarous native population’. Old ideas had proved a folly, claimed the editor, and the time was past for ‘pottering about the native difficulty’. One of the first actions of the new government was to place a blockade on all water traffic in the Hauraki area.

Shortland raised a strong protest against the wording of the proposed proclamation and warned that a complete blockade would ruin the livelihood of loyal Maori. ‘The Natives would not be able to understand the justice of such a restriction on their liberty’, Shortland wrote. The danger was great that the loyal Maori of the area would turn against the government: ‘They have constantly been advised by Waikato that when we felt ourselves strong enough we would turn against them and I fear all those Natives hostilely disposed to us would try to employ it as an argument against us’, Shortland warned. Shortland made recommendations for a different approach.

Although the Southern Cross printed the wording of the original proposed proclamation, the Colonial Defence Office heeded Shortland’s advice and modified the proclamation of the blockade to extend over a smaller area and restricted to boats, vessels or canoes, whether belonging to Europeans or Maori, ‘found carrying Arms, Powder, or other Warlike Stores’, which would be seized, and ‘the persons on board detained in custody’. Shortland was now back in Auckland as Native Secretary. The Southern Cross wondered whether it was owing to the absence of ‘Dr. Shortland’s fatherly care’ in the Hauraki, or due to the strength of the new government, but the Sandfly had already successfully seized the cutter Éclair, which was presumed to belong to ‘rebel’ Maori and on its way to take flour and biscuits to the Piako and Thames.

Native Secretary

On 14 August 1863 Shortland was appointed to the position of Native Secretary. Dillon Bell was Native Minister at the time. It seems highly likely that Shortland’s appointment was related to the implementation of the Native Lands Bill, which had

90 Daily Southern Cross, 2 November 1863.
91 Edward Shortland, Memorandum, Letter Book 1863-64, 2 November 1863. This is the last letter in this letter book.
92 Daily Southern Cross, 2 November 1863. A newspaper cutting of this announcement is pasted on one of the last pages of Shortland’s letter book (Letter Book 1863-64).
93 Daily Southern Cross, 2 November 1863.
94 New Zealand Government Gazette, 1863, 345.
recently received the Queen's approval. This Bill was indirectly the result of the first Taranaki war. Briefly, one could claim that the first war in Taranaki was, in the main, the result of confusion over who had the right to authorise the sale of land according to Maori custom on the one hand, and in light of British sovereignty on the other. The unfortunate violent outcome of this confusion prompted the Colonial Office to instruct the incoming Governor George Grey to examine whether government land purchase policies needed to be modified or even superseded. This opened the way for the royal approval of legislation where the Home government had rejected former proposals. The result was the 1862 Native Lands Bill. On moving the second reading of this bill, Native Minister Dillon Bell traced the origins and intentions of the bill from the first instructions of the Colonial Secretary to Governor Hobson, via the Treaty of Waitangi, to the Royal Instructions of 1846, and finally to the 1861 proposals from Sir George Grey for Native Policy. The principles on which the proposed 1862 Native Lands Bill was based were, first of all, 'to declare that all land over which the Native title is not extinguished is the absolute property of the persons entitled to it by Native custom'. The second principle was that 'Natives themselves should be empowered to ascertain and define their own titles'. The final principle was to waive Crown pre-emption and to replace it with a carefully monitored system of individual purchase. Governor Grey proposed this system as part of his overall Native policy.

The system to be implemented through the 1862 Native Lands Bill closely resembles Shortland’s proposal to Benjamin Hawes of 1847 for the restricted permission of individual land purchase: the establishment of boundaries and ownership of Maori lands according to their own customs; the registration of such lands with the office of a trusted and knowledgeable government servant; permission for Maori to sell their land to individuals who were approved by the government and recommended by tribal authorities. In Grey’s policy the district civil commissioner took care of the

---

95 The proclamation of the Queen’s approval for the Native Lands Bill appeared in the *New Zealand Gazette* on 25 June 1863, 345.
97 Neither the 1858 Native Territorial Rights Bill, nor the 1860 Native Council Bill was approved by the British government (David Williams, *Te Kooti Tango Whenua’ Whenua*: *The Native Land Court 1864-1909* [Wellington: Huia Publishers, 1999], 64-65).
98 *New Zealand Parliamentary Debates (NZPD)*, 1861-1863, 608(b)-611. The debate took place on 25 August 1862, a few months before Shortland arrived in New Zealand.
99 *NZPD*, 1861-1863, 609(a).
100 *NZPD*, 1861-1863, 609(b).
101 *NZPD*, 1861-1863, 609(b).
registration process and the district runanga (proposed in the New Institutions) represented the tribal authority.

While the Native Lands Bill awaited royal assent there were fierce discussions in New Zealand about the intent of the bill. The colonial government made clear that its aim was not to individualise Maori land titles. On the contrary, ownership would remain tribal and government efforts would be directed to prevent individualisation of title. The ever strident *Daily Southern Cross* declared that ‘the present government is ruining the country. All our difficulties in New Zealand arise from the existence of “tribal rights”’.¹⁰² When the Bill was discussed by the General Assembly, on its second reading in August 1862, Walter Mantell suggested that there was no going back, however. The Bill was already in the hands of Maori: ‘The thing was done, the words of truth and justice had gone forth to the Natives, and they would not give up their rights.’¹⁰³ Ultimately, however, these rights were curtailed by different means, namely the confiscation of Maori lands after the New Zealand wars.

The Waikato campaign, which began in July 1863 when troops crossed the Mangatawhiri River into Waikato land, unavoidably delayed the implementation of the Native Lands Bill. Yet, some progress was made. Shortland called on his former employer George Clarke, who had returned to government service as civil commissioner of Waimate, to suggest regulations for the Land Court and to name Maori Assessors in his district.¹⁰⁴ In amongst newspaper reports of the war there is a cheerful article from Kaipara in the north about ‘a new order of things’ owing to the Native Lands Bill. A large assembly of ‘well-behaved and well-dressed’ Maori attended a hearing at Kaipara. The author of the article commented that the Maori judges ‘appeared well suited for the important task they had to perform’ and that they were clearly aware of their responsibility to award the certificates to the rightful owners. The hearing was ‘extremely minute, and well and ably conducted.’ The author further stated that the proceedings reflected ‘much credit’ on those ‘who for years have endeavoured to introduce this new law’.¹⁰⁵ Before the Bill could be

¹⁰² *The Daily Southern Cross*, 28 January 1862, 3. This was a reference to the trouble over land sales in Taranaki.
¹⁰³ NZPD, 1861-1863, 620(b). Interesting remarks in view of the fact that Mantell had done his utmost to limit Maori reserves to a minimum when he finalised the purchase of land in the South Island on behalf of Governor Grey in 1848.
¹⁰⁵ *The Daily Southern Cross*, 30 June 1864, 7.
implemented more widely, however, Shortland had already left New Zealand. His parting shot was a pamphlet titled *A Short Sketch of the Maori Races*, which was entered into a competition for the 1865 New Zealand Exhibition.

*A Short Sketch of the Maori Races*

Although the pamphlet is an ethnographic essay, Shortland again took the opportunity to address political issues. Shortland's remarks suggest that he disagreed with the war and its consequences. The main issue Shortland addressed in his *Sketch* was Maori land. He outlined the early 'colonization and the acquirement of territory' in New Zealand by Maori, devoting seven of the eleven pages in the pamphlet to the subject. Shortland explained how each group of Maori immigrants took possession of certain parts of New Zealand and how their descendants subsequently spread over and claimed the whole of the country. He pointed out that as families multiplied and spread they took on an independent identity as a sub-tribe of the original group of immigrants from whom they were descended. The detailed explanations in the *Sketch* were a potential tool for those whose task it was to unravel Maori land ownership. Shortland denied claims that 'a native title to land is so complicated that it is impossible to unravel it'. Of late, he wrote, 'the favourite theory has prevailed that the only remedy is to cut the knot'. It was true, Shortland admitted, that it was a 'troublesome matter' to thoroughly investigate Maori land titles, but it had been done before and 'could in every case have been done with the application of patience by a person who understood his work and had sufficient intelligence'. Such diligence was always applied in England when the purchase of an estate was contemplated. But in New Zealand, Shortland suggested, it had too often been the case that men 'possessing no qualification fitting them for the office' carried out the investigation of Maori land ownership. It was much to be regretted,

---

106 His departure was probably the result of a change in government. Sir William Martin complained in a letter to the Native Minister that the tenure of ministers was so short-lived that policies changed constantly. He suggested that either 'the subordinate officers will be left to go on at their own discretion ... or business must stand still until the new man has acquired the requisite knowledge'. Martin saw the constant changes as detrimental to the government's relationship with Maori (William Martin to the Native Minister, 23 December 1865, GBF/PNZ 1865-68, 1866 [3695], Vol. L, 97).

107 Edward Shortland, *A Short Sketch of the Maori Races* (Dunedin: Printed for the Commissioners of the New Zealand Exhibition by Ferguson & Mitchell, 1865).


109 That the government made use of such information is evident, for example, from a motion in the General Assembly to submit 'a copy of the genealogical table prepared by the Native Department'. The motion was agreed (NZPD, 1863, 810(b)).
Shortland snidely remarked, that 'political influence should be suffered to intervene in such affairs'.\textsuperscript{110}

After these allegations, Shortland continued his Sketch with a history of the Arawa tribe, who constituted about one sixth of the entire Maori population, he estimated. The Arawa could be distinguished from the Waikato and other tribes through some peculiarities of dialect, he wrote. Shortland’s own motivations become increasingly clear. From what follows it transpires that he intended to fulfil his obligations towards his old allies. Shortland emphasized that the ‘majority of this [Arawa] tribe have taken no part in favour of the Maori King’ but had, instead, forcefully prevented the east coast tribes from traversing their territory to join the Waikato in the war. He referred to the recent death of Tohi Te Urrurangi of Maketu, whom he called ‘one of their bravest chiefs and our firm ally’, who fought on the side of the government and lost his life during an engagement at Matata.\textsuperscript{111} These remarks and the explanations of tribal dispersion over New Zealand were important in view not only of the Native Lands Bill, but also of the impending land confiscations.

**Land confiscations**

At the start of the Waikato campaign the government issued a notification addressed to Waikato chiefs, declaring forfeit the land of those who took up arms.\textsuperscript{112} By the end of the same month Premier Domett, in consultation with Governor Grey, completed plans for settling the land that was to be forfeited, although it had not yet been conquered.\textsuperscript{113} The colonial government planned to finance the war by selling the confiscated land. Its confiscation plans were accordingly broad. The New Zealand Settlements Act 1863 authorised confiscation by proclamation of all land in districts, which contained land belonging to a tribe any section of which, in the opinion of the governor-in-council, had joined in rebellion since the beginning of 1863.\textsuperscript{114} Sir William Martin strongly protested this initiative, arguing that it could not be lawful to forfeit Maori lands under English laws when Maori held their lands according to

\textsuperscript{110} Edward Shortland, *A Short Sketch of the Maori Races*, 5.
\textsuperscript{111} Edward Shortland, *A Short Sketch of the Maori Races*, 6.
\textsuperscript{112} *New Zealand Government Gazette*, 11 July 1863.
\textsuperscript{113} B. J. Dalton, *War and Politics in New Zealand*, 180; Domett, 31 July 1863, *AJHR*, 1863, A-8, No. 1. When Grey sent the proposal to the Colonial Office he pointed to its similarity with the one he had previously implemented in British Kaffraria.
\textsuperscript{114} B. J. Dalton, *War and Politics in New Zealand*, 181.
Maori custom and when Maori property was not protected by English law. The question was also whether a General Assembly in which Maori were not represented could exercise any legal rights over their lands. Rather it was now the duty of the government, according to Martin, having shown Maori the extent of its power and 'folly of resistance on their part', to use that power neither vindictively nor selfishly, but 'as becomes a great, generous, and Christian nation', to 'reform its administration' instead of destroying its subjects. Martin compared New Zealand with Ireland to show 'how little is to be effected towards the quieting of a country by the confiscation of private land; how the claim of the dispossessed owner is remembered from generation to generation, and how the brooding sense of wrong breaks out from time to time in fresh disturbance and crime.'

Colonial Secretary William Fox wrote a rebuttal to Martin's pamphlet. Fox claimed that there were only two ways to prevent constant future outbreaks of rebellion: a large and constant military force, or the introduction and settlement of such a large European population that insurrection became hopeless in the eyes of Maori, and 'easily repressible, should they be mad enough to attempt it'. To make this possible, large numbers of Europeans needed to be introduced in the rebellious districts 'now sparsely inhabited by the rebels'. Fox made an assurance that the government would only confiscate lands that belonged to Maori who had been engaged in open rebellion, or who had actually aided or abetted the 'rebels' by overt acts. Fox defended the idea of confiscation by pointing to Maori custom as outlined by Richard Taylor in Te Ika a Maui, according to whom confiscation was neither new nor 'in any way abhorrent to their moral sense'. For centuries it had been the law of the victor. Whether confiscation was viewed as a punishment for rebellion, an indemnity

---

115 Sir William Martin, Observations on the Proposal to take Native Lands under an Act of the Assembly, 16 November 1863 (GBPPNZ 1862-64 [326], Vol. XLI, 4-20), 8. Interestingly, the opposite point was made by the Southern Cross, which complained that it was a 'gross injustice' to hand over 'the management of matters affecting both races', meaning land, to Maori runanga in which Europeans were not represented (The Daily Southern Cross, 28 January 1862, 3).

116 William Martin, Observations on the Proposal to take Native Lands, 15.

117 William Martin, Observations on the Proposal to take Native Lands, 16. When he moved the second reading of the Suppression of Rebellion Bill in the General Assembly, William Fox first made a comparison with Ireland, with reference to other, historical applications of the administration of martial law (NZPD, 1863, 791(b)). As George Stocking has pointed out, the Irish had long been a British exemplar of the 'savage' overseas (George W. Stocking, Jr., Victorian Anthropology [New York and London: The Free Press, 1987], 234).

118 Enclosed in Despatch No. 1, 4 January 1864, Sir George Grey to the Duke of Newcastle, GBPPNZ 1862-64 (326), Vol. XLI, 20-21. Fox made similar statements during a debate in the General Assembly of the New Zealand Settlements Bill (NZPD, 1863, 782(b)-783(a)).
for the cost of its suppression, or a material guarantee for the future, it seemed to be based in principles of natural justice, according to Fox.\textsuperscript{119}

In response to the claim that confiscation was a Maori custom, Shortland wrote in \textit{A Short Sketch of the Maori Races} that although admittedly some chiefs tried to seize lands ‘which did not rightfully belong to them’, they could only carry out such acts ‘by might, and not by right’. Maori always strongly resisted such conquests, Shortland wrote, referring to a favourite saying that ‘the best death for man is to die for his land, and that his blood be shed thereon’\textsuperscript{120}. Earlier, in \textit{Traditions and Superstitions} Shortland explained that after a long war the party that had lost fewer lives might give up land in compensation to the other party, in order to restore the balance.\textsuperscript{121} This was a far cry from the wholesale confiscation proposed by the government. Whether the Europeans had lost considerably more lives to justify the giving of land was also debateable.

\textbf{The 1865 Native Lands Act}

Although seemingly successful in its implementation, the 1862 Native Land Act did not satisfy settler needs because it did not lead to more land becoming available for purchase. The earliest hearings under the 1862 Act dealt with the ratification of old land sales. In the aftermath of the New Zealand wars, historian David Williams suggests, the settler government again looked ‘for ways and means of acquiring Maori land in the North Island other than by confiscation’.\textsuperscript{122} What became law as the Native Lands Act 1865 reduced Maori participation in the adjudication of land disputes.\textsuperscript{123} The Act also omitted mention of tribal rights to land and spoke only of ‘the title of persons to Native Land’. It was possible for ‘any native’ to make a claim to the court.\textsuperscript{124} What happened in practice, according to David Williams, was that ‘land-hungry settlers or speculators’ would enter into an agreement to purchase land with one or more individuals. By this they set the Land Court machinery in process,

\textsuperscript{119} William Fox, enclosed in Despatch No. 1, 4 January 1864, 20.
\textsuperscript{120} Edward Shortland, \textit{A Short Sketch of the Maori Races}, 5.
\textsuperscript{121} Edward Shortland, \textit{Traditions and Superstitions}, 296.
\textsuperscript{122} David Williams, ‘Te Kooti Tango Whenua’, 69.
\textsuperscript{123} The legislation required merely the presence of Maori in the Land Court. Two prominent Maori assessors resigned in 1871 because they felt the system was not working (David Williams, ‘Te Kooti Tango Whenua’, 152; see also pages 150 and 151 for the role of Maori assessors).
\textsuperscript{124} David Williams, ‘Te Kooti Tango Whenua’, 158.
pulling in hundreds of others who belonged to the hapu with rights to the land in question.

These proceedings raised criticism in some European quarters and protests among Maori, who petitioned the government. In 1865 Sir William Martin, at the request of the Native Minister and the Attorney General, wrote a lengthy (twelve page) proposal for improvements, which would be ‘most conducive in its effects to the peaceable settlement of this Island’. Martin stated that his views were based on observation, contributions from ‘every available source’, and ‘much conference’ with a variety of knowledgeable persons. It is possible to discern Shortland’s views in a number of places in the document. Large portions of Martin’s notes, comprising half the document, do not deal with land but address issues of law and order, such as the administration of justice, police, courts, debts etc. Martin explained that repeated discussions over the previous few years had given him a better understanding how different aspects of the ‘Native problem’ were related and interconnected. Martin suggested that the management of property and the administration of justice should be brought into one system. Like Shortland, Martin understood the intricate relationship between customs, laws and land. Where Shortland stressed cultural systems, Martin’s emphasis was on legal systems.

Martin recommended that the Land Court should issue certificates rather than Crown grants, because the latter immediately invoked English law. It was better to use a simplified system, adapted to Maori customs. The Court’s task should be to give ‘the utmost attainable security for the correctness and trustworthiness of the certificate’ so that the government had assurance that ‘it will be safe and right to act on the certificate’. As we have seen (see chapter six), if Crown grants were not secure, it led to later problems and disputes. Shortland had experienced the various ways in which would-be purchasers tried to outsmart the work of the land commissioners in the 1840s. Martin therefore stressed the importance of avoiding ‘all deception or collusion’ through the constitution and procedures of the Court. This could be

126 I discussed some of this in Chapter Three.
127 William Martin, ‘Notes on the best Mode of introducing and working the Native Lands Act’, 81 and 80.
129 William Martin, ‘Notes on the best Mode of introducing and working the Native Lands Act’, 83.
partly overcome by clarity over boundaries. The first requirement, therefore, was to mark out the boundaries and to register all owners of pieces of land, according to Martin. While the 1865 Land Act, like the 1862 Act, moved away from Crown preemption, Martin suggested that all Maori land should be sold by public auction only, to guarantee a fair price and avoid the impression of unfair profits. Shortland had earlier written that he felt that the system of public land auctions had worked well.

Martin, like Shortland, stressed the enormous importance of the character and qualifications of the persons employed in Native Districts to administer law and order, and to implement the Land Act: ‘This is not a work to be done by hasty or over-busy or over-bearing men’, Martin wrote. Martin acknowledged the ‘difficulty of finding agents fit for this work’ and therefore suggested that it would be necessary to start ‘on a very limited scale and in a very measured way’. There were sufficient qualified people available to run the central administration of such a system, according to Martin. He referred to the fact that only a year earlier the Native Department had three such men in its employ, one of whom (Shortland) had since left the colony, but ‘might possibly be recovered’. In fact Shortland did return to New Zealand in 1869. It seems that he came as a private person and practiced as a physician in Parnell, Auckland. Again, he stayed only a few years, until 1873, and left his family in England.

On the operation of the Native Land Court

The 1865 Native Lands Act, like its predecessor, did not have a long life. According to historian Alan Ward, the bill and its later workings came under pressure from speculator interests in the Assembly and little account was taken of Martin’s suggestions. The Act was amended in every single year from 1866 to 1870, until in 1873 it was finally replaced. The 1865 Act did form the basis for all subsequent

---

130 William Martin, ‘Notes on the best Mode of introducing and working the Native Lands Act’, 81.
131 William Martin, ‘Notes on the best Mode of introducing and working the Native Lands Act’, 91; also William Martin to the Native Minister, 23 December 1865, GBPPNZ 1865-68 (1866) (3695), Vol. L, 97.
132 William Martin to the Native Minister, 23 December 1865, 98.
134 Alan Ward, A Show of Justice, 185.
legislation. Its main purposes were to ‘encourage the extinction of ... proprietary customs’ and to convert these to Crown derived land titles. It also provided for the regulation of inheritance once the title had been so converted. In 1870 the Native Minister responsible for preparing a new bill, Donald McLean, again sought advice from Sir William Martin and also appointed a commission of inquiry under Colonel Haultain, whose purpose was to gather evidence and report on the operations of the Land Court. Although Haultain purported to find widespread Maori support for the Land Court, his report also admitted ‘serious defects’ which had opened the door to ‘fraud and chicanery’ and had caused ‘much dissatisfaction amongst the sufferers’.

Sir William Martin, in a Memorandum on the Operation of the Native land Court, referred to this dissatisfaction and proposed remedies. Where in his 1865 pamphlet Martin had addressed both legal and cultural issues, in this memorandum he concentrated on legal proposals. In an accompanying memorandum Shortland, who assisted Martin in putting together proposals for the new land bill, put more emphasis on cultural issues. The recommendations Shortland made and the system he proposed were a summary of what he had suggested on other, earlier occasions. The main purpose of the Land Court, as Shortland saw it, was ‘to discover all Native owners of any given piece of land, and to insure to a European purchaser a title with quiet possession’. As he had stressed more than once, unless all owners of land were identified through thorough investigation, it was not possible to give a valid title to the land, which would enable a sale that guaranteed such ‘quiet possession’. The only way to achieve this, according to Shortland, was through a simple, inexpensive system that was well adapted to the work it had to carry out. This meant a judge should work on the spot and not in a formal manner, but ‘by his visiting every neighbouring settlement’. The judge should record the names of all tribes and hapu and the names of as many people as possible in each hapu, including heads of families. This would form the basis for a register of all Maori in a district. Judges should work in a specific district only, so that they could master the history of the

---

135 David Williams, 'Te Kooti Tango Whenua', 142, from the preamble to the Act.
136 Quoted by David Williams, 'Te Kooti Tango Whenua', 92 from Haultain report, which may be found in Henry Hanson Turton, An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand (Wellington: New Zealand Government, 1877-1883)), Part 1, G, No. 18, 42.
inhabitants in their district. These histories should be recorded and registered with the office of the court, because they were related to the ownership of Maori lands. Boundaries of lands should be recorded by their Maori names, together with the names of every hapu with an interest in the land, and affirmed by the signature of at least one influential person from each hapu. Such a register would make future investigations easier. A judge with sound knowledge of the history of his district would, Shortland believed, acquire influence among Maori in his district and this would be of ‘great political as well as social value’.

Francis Dart Fenton, who was the first Chief Judge of the Native Land Court and who had drafted and administered the 1865 Native Lands Act, thoroughly disliked Shortland’s suggestions. Fenton believed they would reduce the Land Court to a secondary role and entailed the ‘re-establishment of the Native protectorate in an aggravated form’—an idea that was quite abhorrent to most settlers.

In his memorandum Shortland accused the government of having handed over the control of ‘a powerful political engine’ to ‘irresponsible agents’ who had turned the court into an arena of contention. Since fighting over land was part of Maori nature, Maori had taken to the system ‘with a zest, regardless of the cost’, in the process stirring up old disputes that had been dormant for years, Shortland claimed.

This system was abused by ‘capitalists’, who worked behind the scenes to stir parties up and who advanced liberal amounts of cash, charging high interest and demanding land as security. Shortland feared that this could only lead to future conflict over ownership of the land. He believed that ‘amicable compromise’ was a much better approach than the system of contest employed in the Land Court. No English counsel or agent should be allowed to take part in the proceedings, Shortland recommended, because English counsel was ‘useless in a Court not constituted for the administration of English law’. William Martin made exactly the same point.

139 ‘Memorandum by Dr Edward Shortland’, 36.
141 ‘Memorandum by Dr Edward Shortland’, 37.
142 ‘Memorandum by Dr Edward Shortland’, 36; ‘Memorandum by Sir William Martin on the Operation of the Native Land Court’, 35. As historian Michael Belgrave points out, even today the adversarial nature of the enquiries of the Waitangi Tribunal tends to polarise debates, affording little opportunity to ‘explore the issues in a more rounded fashion or seek out a middle ground’ (Michael Belgrave, ‘Looking Forward: Historians and the Waitangi Tribunal’, New Zealand Journal of History, 40.2 (2006), 234.)
Shortland discussed the costs involved in the working of the Land Court, which were sometimes so high that they swallowed up the purchase price of the land. Shortland pointed out that land issue concerned both races equally. He therefore suggested that surveyors should be employed and paid by the government. Unpaid representatives of the Maori owners of the land should assist them in their work. The costs of surveys, judges and assessors should all be paid by the government, Shortland thought, although he did suggest that the money be taken from funds the government appropriated for Native purposes, which rather defeated the purpose. Shortland suggested a fixed rate per acre for surveys and a moderate percentage on the value of a property as costs for issuing a Crown grant. ‘What with fees to the Court and fees to counsel, agents, and surveyors, the action of the Court is rendered burdensome’, Shortland wrote, ‘to an extent which never could have been contemplated by the Legislature’. He referred to a remark by Frederick Weld, who was Premier from 1864 to 1866 and whose government oversaw the early work of the Native Land Court. Weld had predicted that ‘the Court would prove the straw thrown out to save a drowning race’. Shortland, on the other hand, claimed that ‘it may prove the feather which will break the camel’s back’.

The Land Court judges viewed matters from a settler point of view. They felt that ‘a great benefit has been done to the country’ by the court. During the six years in which the Native Land Court had been in operation nearly as much land had been brought under English law as in the preceding twenty-four years. Judge Monro expressed the opinion that he had ‘always looked upon the wide extent of the uncultivated holdings of the Maori as a curse to them rather than a blessing’. Judge Maning, who had been a Pakeha-Maori, considered it inevitable that in an encounter of two races the land of one passed into the hands of the other. Admitting that such land loss caused suffering, he did not believe that there was a remedy. Chief Judge Fenton agreed and believed that it was better that land were transferred into the

---

143 ‘Memorandum by Sir William Martin on the Operation of the Native Land Court’, 35. Martin suggested ‘a scale of fees, accompanied by a proper taxation of costs’. For Maori complaints about high costs see, for example, Mr H.T. Clarke to Mr Henry Halse, 26 January 1871, in Henry Hanson Turton, An Epitome of Official Documents, Part 1, G, No. 16, 38.
144 ‘Memorandum by Dr Edward Shortland’, 37.
145 ‘Memorandum by Dr Edward Shortland’, 37.
hands of Europeans, even if they were capitalists who held large uncultivated estates, than for it to remain in Maori hands.\textsuperscript{149}

Although it would appear that many, if not all, of the recommendations made by Shortland and Martin were implemented in the 1873 Native Lands Act, the wording in English in this and other acts was sometimes so convoluted as to be incomprehensible, while the concepts it tried to deal with according to Maori custom were either unsatisfactory, or impossible to interpret under English law.\textsuperscript{150} For example, where Maori might be willing and able to appoint one of their leaders as trustee of the land (to confer to him the mana of the land), by having his name placed on the Crown grant as their representative, in practice this led to problems, conflicts and abuse when applied by European land purchasers and by the Land Court. In fact, Europeans, including government representatives, often disagreed with ‘this doctrine of trusteeship’. They ignored the protestations and petitions of Maori whose joint ownership was ignored.\textsuperscript{151}

\textbf{‘Confiscation: the Sale of the Waimate Plains’}

After collaborating with William Martin on comments on the operation of the Native land Court, Shortland went back to England in 1873. In 1880, now in his late sixties, he returned to New Zealand for a final visit. The political climate in New Zealand had changed. Many of Shortland’s humanitarian friends and many of his former adversaries had died or were no longer involved in politics. William Swainson was still alive, but retired. Most of Shortland’s old Maori friends were also no longer among the living.\textsuperscript{152} One of the few remaining humanitarians from the old days who still actively participated in politics was George Grey, with whom Shortland maintained regular contact during his last stay in New Zealand.

\textsuperscript{149} David Williams, \textit{Te Kooti Tango Whenua}, 80-81.

\textsuperscript{150} For a discussion of the 1873 Act see David Williams, \textit{Te Kooti Tango Whenua}, 169-173.

\textsuperscript{151} David Williams, \textit{Te Kooti Tango Whenua}, 162-163, 173.

\textsuperscript{152} Sir William Martin returned to England in 1874 and died there in 1880; Reverend Richard Taylor died in 1873, Bishop Selwyn in 1878, Thomas Chapman in 1876, and George Clarke senior in 1875. George Clarke junior was living and working in Australia. Donald McLean died in 1877. Wiremu Tamihana died in 1866, Te Wherowhero in 1860, Tohi Te Ururangi in 1864, Taraia in 1872. John Jermy Symonds, who had risen to the position of Native Land Court judge, would die in 1883. The missionary Alfred Brown was also still alive. He died in 1884. Henry Samuel Chapman died in 1881.
It is tempting to speculate that Shortland returned at the request of Sir George Grey, who was Premier from 1877 to 1879.\textsuperscript{153} Grey had great respect for Shortland’s knowledge of Maori language and customs. Shortland edited the second edition of Grey’s \textit{Nga Mahi a nga tupuna}, published in 1885 by H. Brett.\textsuperscript{154} Grey also asked for Shortland’s help as interpreter at a meeting in Auckland with the Maori King Tawhiao, Tawhiao’s secretary, and Major Te Wheoro who was member of Parliament for Western Maori. King Tawhiao wanted Sir George Grey’s help to obtain for Waikato confiscated land Donald McLean had promised to return, an offer Grey himself had repeated as Premier at a meeting with Tawhiao in May 1878.\textsuperscript{155}

One of Grey’s promises as Premier was to establish lasting peace with Maori.\textsuperscript{156} The Grey government fell before Shortland arrived in New Zealand, however. R. C. J. Stone, in an article published in 1967, has convincingly argued that Grey’s government fell to a large extent due to the Maori lands question and as a result of political manoeuvring by a lobby of land speculators, which advocated a return to free trade in Maori lands.\textsuperscript{157} As Premier Grey had re-introduced Crown pre-emption and advocated the idea that Maori land ‘really and truly belongs to the public estate’.\textsuperscript{158} Grey favoured Crown purchase of Maori land and making the land available in small blocks on the open market.\textsuperscript{159} This was a return, therefore, to some of the ideas also earlier promoted by Shortland.

\textsuperscript{153} If Shortland had only worked for the government during the 1840s and travelled back once to assist Sir William Martin in 1869, his widow Eugenia might not have felt she could ask Grey for help in obtaining a pension for herself after Shortland’s death (see the introduction of this dissertation where I quote Eugenia Shortland to Sir George Grey, 19 January 1895, Grey Collection, Alexander Turnbull Library, Auckland, MS S27A).

\textsuperscript{154} Sir George Grey, \textit{Nga Mahi a Nga Tupuna} (Auckland: H. Brett, 1885). As evidence that Shortland wanted to note change in Maori society, he suggested to Grey a title change from the original \textit{Nga Mahinga} to \textit{Nga Mahi}, because ‘mahinga’ was generally used ‘to express present and not past actions’ (Shortland to Grey, 21 July 1886 [1885?] and 21 August 1885, Grey Collection, Alexander Turnbull Library Auckland, Letters Edward Shortland, S27).

\textsuperscript{155} Edward Shortland, ‘Maori Manuscript No. 4’, 87-92, Dunedin Hocken Library (PC-0004). Grey attended the meeting with his nephew George and Shortland with his son Frederick. The report of the meeting with Tawhiao is not dated. It describes in Maori what McLean’s offer consisted of and a small map drawn by Shortland of the land in question. The map indicates land running from the mouth of the Waikato River east to the Waipa River, south to Panui, west to Pirongia, and then to the coast at Waingaroa. There is mention of such an offer in Grey’s biography by Edmund Bohan (Edmund Bohan, \textit{To Be a Hero}, 260).

\textsuperscript{156} Edmund Bohan, \textit{To Be a Hero}, 259.

\textsuperscript{157} R. C. J. Stone, ‘The Maori Lands Question and the Fall of the Grey Government, 1879’, \textit{New Zealand Journal of History}, 1:1 (1967), 51-74. Edmund Bohan suggests, however, that Grey’s government was unstable from its inception and not likely to last (\textit{To Be a Hero}, Chapter Seventeen).

\textsuperscript{158} NZPD, Vol. 36 (1880), 390.

\textsuperscript{159} NZPD, Vol. 32 (1879), 4 (b).
Shortland returned to New Zealand in a time of new turbulence with respect to Maori land. After an unsuccessful end to the war in Taranaki in 1868, the government never attempted to survey or take possession of the lands it claimed to have confiscated there. When it finally made attempts to survey the Waimate Plains in 1878 with a view to making the land available for sale to settlers, local Maori protested. This situation led to the famous peaceful protests of Te Whiti and his followers at Parihaka. Te Whiti pointed out that the government had forfeited its right to the land because it did not take possession, while the Maori owners continued to cultivate the land and live on it. As Shortland pointed out, while conquerors might claim rights to the lands they had conquered, as long as a remnant of the conquered tribe remained on the land, their claims also remained valid.

Shortland wrote an incisive article for the *New Zealand Herald* on the subject of the proposed sale of confiscated land on the Waimate Plains. His first comment was an ironic riposte to those who claimed that confiscation was in accordance with Maori custom. Shortland pointed out that confiscation was only part of the Maori custom of conquest:

Confiscation as carried out by the Maori was thorough. When they completely vanquished their enemy they slaughtered them wholesale killing most of the males, and leaving only a remnant as hewers of wood and drawers of water. ... We may safely say that confiscation to be a success must be thorough.

However, Shortland proceeded to suggest, 'a Christian people cannot act in this way. Such wholesale slaughter would be abhorrent to their principles.' He mentioned Ireland where, although confiscations were severe, 'the Christian principle checked them to a certain extent short of thoroughness.' The result was an embittered Irish population who harboured feelings of hostility against the Saxon colonists. This had 'proved a curse to that country'. In New Zealand confiscation had

---


162 Edward Shortland, *Maori Religion and Mythology*, 95-96. See also Chapter Six above.

163 [Edward Shortland], ‘Confiscation: the Sale of the Waimate Plains by an Old Settler’, *New Zealand Herald*, Saturday 25 September 1880. A copy of this article in Shortland’s handwriting is among his papers at the Dunedin Hocken library (‘Maori manuscript No. 11’, PC-0011).

164 See the exchange between William Martin and William Fox described above.

165 [Edward Shortland], ‘Confiscation: the Sale of the Waimate Plains’.

283
been ‘less thorough and less successful’. Shortland referred to the confiscations carried out after the Waikato wars. At the time the government had justly declared, Shortland wrote, that it would protect lands belonging to Maori who had not participated in rebellion in any way. But since Maori land was owned in common it was ‘very difficult to distinguish with precision what of any tribal land belonged to friends and what to foes, when both friends and foes belonged to the same tribe’. The only fair proceeding was to make diligent investigations to ‘unravel the tangle’ and determine how much of the confiscated land actually belonged to friendly Maori. This process was not only necessary but also proved costly, Shortland suggested. It involved courts of inquiry, commissions of inquiry and compensation for claimants, he wrote in 1880, looking back. The process was a travesty of justice, because the ‘friendly’ Maori ‘of course’ put forward all the claims they possibly could, whether disputed or not, while ‘the foes sat sullenly apart, never appearing before the Courts of Inquiry, so that there was no means of fairly coming to a correct decision, whether or not the evidence before the Court was reliable’, argued Shortland.

It was clear to Shortland that the people who proposed the scheme had no idea of the difficulties they were creating. At the time of the Waikato war they had high expectations of the financial success of the scheme and relied on it to secure a three million pound loan in the British market to pay for the war. Shortland believed that if these people had been able to foresee all the future difficulties, they would undoubtedly have condemned the policy as one that would not pay. Even in 1880 the settlers were not yet in full possession of the lands confiscated on paper and every so often it proved impossible to take peaceful possession of a piece of land sold by the government to settlers, Shortland claimed. Building a road through the confiscated districts required ‘a large force of constabulary’, with a great deal of extra expense which, ‘if added up would astound the public were they to hear the figures’, he believed. One could only conclude, therefore, that ‘the proposal to offer any of this unlucky district [Waimate Plains] for sale at the present time, is a measure

---


167 The truth of this may be found in a short piece in the New Zealand Herald of 27 September 1880, two days after Shortland’s article appeared in the Herald. The article describes the difficulties of a settler in occupying a section of land at the back of Lake Waika, in Lower Waikato, which he held under Crown grant. The settler was driven off with threats by Maori from the nearby Matakura settlement.
attended with risk, the risk being much in excess of the profit'. The purchasers would expect quiet possession or compensation in case of loss as a result of obstruction by Maori opponents. If there were any doubt that purchasers could obtain trouble free possession, the land would be sold at its minimum value and probably mainly bought by speculators. If the government maintained public ownership of the land it would prevent disputes and the land would increase in value over time, Shortland reasoned.\textsuperscript{168}

Shortland ended his article with the suggestion that the increase in settlers and the apparent stagnation or decrease of the Maori population would eventually lead to a numerical superiority of Europeans. This increase would 'in no long time, preclude any attempts at forcible resistance on the part of the [Maori]'. This remark is open to two readings. It may be interpreted as straightforward practical advice and an expression of Shortland's view that peaceful settlement was possible but required time and patience. Or the statement may be seen as a cynical dual reference to Fox's 1864 suggested remedy against Maori rebellion (see above), and to the renewed debate about Maori as a 'dying race'.\textsuperscript{169} This second reading is supported by Shortland's earlier impassioned arguments in \textit{Southern Districts} against the notion that Maori were dying out. Clearly, by 1880 Maori had not yet obliged.\textsuperscript{170} Also, in 1880 there were already almost ten times as many Europeans as Maori, as a result of immigration, yet protests and resistance continued.\textsuperscript{171}

\textit{Maori Religion and Mythology}

As always, Shortland kept himself informed on political events and Maori affairs. Among his papers are numerous cuttings of newspaper articles from the 1880s.

\textsuperscript{168} [Edward Shortland], 'Confiscation: the Sale of the Waimate Plains'.

\textsuperscript{169} This debate now tended to be seen in light of Darwin's \textit{Origin of Species} (1859) and \textit{The Descent of Man} (1871), and Darwin's theory that in nature the strongest of a species overcomes the weakest. For a discussion see John Stenhouse, 'The Darwinian Enlightemenent and New Zealand Politics', in \textit{Darwin's Laboratory}, Roy MacLeod and Philip F. Rehbock, eds. (Honolulu: University of Hawai'i, 1994), 395-425.

\textsuperscript{170} In 1924 Te Rangi Hiroa (Peter Buck) sardonically pointed out that for more than half a century many different authors and speakers had lamented the dying out of Maori, but that so far Maori had not obliged (Te Rangi Hiroa (Peter Buck), 'The Passing of the Maori', \textit{Transactions and Proceedings of the New Zealand Institute}, 55 [new issue], 1924, 363).

\textsuperscript{171} According to the 1881 census there were 487,889 Europeans and 46,141 Maori in New Zealand (A. H. McLintock, ed., \textit{An Encyclopaedia of New Zealand} [Wellington: R. E. Owen, Government Printer, 1966], Vol. II, 823, 824).
dealing with land issues, mainly relating to Taranaki.\textsuperscript{172} Shortland’s last book, \textit{Maori Religion and Mythology} (1882), like his earlier books, may be read as both an ethnographic work and a political statement. Shortland devoted about one third of \textit{Maori Religion and Mythology} to a discussion of Maori land issues, a chapter on ‘claiming and naming land’ and a chapter on land tenure.\textsuperscript{173} In the last chapter on land tenure in particular Shortland made his political views evident. It is headed by a quotation in Latin from Cicero’s \textit{De Officiis}, which reads, in translation:

\begin{quote}
There is, however no such thing as private ownership established by nature, but property becomes private either through long occupancy (as in the case of those who long ago settled in unoccupied territory) or through conquest (as in the case of those who took it in war) or by due process of law, bargain, or purchase, or by allotment.\textsuperscript{174}
\end{quote}

A few lines lower, in the same paragraph of \textit{De Officiis}, Cicero states that ‘if anyone appropriates to himself anything beyond that, he will be violating the laws of human society’. Rules should be based on justice, Cicero stated, and one should devote ‘both time and attention to the weighing of evidence’.\textsuperscript{175} Not only the above quotation, but also its provenance has political meaning, as I discussed in the introduction to this dissertation, and is an implied criticism of utilitarianism, reflecting Shortland’s earlier criticism of the Wakefield system of settlements that was based on utilitarian principles.\textsuperscript{176}

Shortland devoted a section of \textit{Maori Religion and Mythology} to the succession of land according to Maori custom.\textsuperscript{177} According to Shortland, the head of a family had ‘a recognized right to dispose of his property among his male offspring and kinsmen’.\textsuperscript{178} This differed, therefore, from the English law on primogenitor. Shortland’s explanation of Maori succession rights was relevant in view of the fact that between 1861 and 1882 there were six different Acts dealing with Maori succession rights which swung between acknowledgement of Maori custom and

\begin{flushright}
\textsuperscript{172} See in particular Edward Shortland, ‘Maori Manuscript No. 11 concerning religion and mythology, land tenure, disputes and confiscation, c.1870s-c.1880s’, Dunedin Hocken Library, PC-0011.  
\textsuperscript{173} Edward Shortland, \textit{Maori Religion and Mythology}, 68-104.  
\textsuperscript{175} T. E. Page, ed., \textit{Cicero De Officiis}, paragraphs 13 and 18.  
\textsuperscript{176} See Chapter Eight above.  
\textsuperscript{177} Edward Shortland, \textit{Maori Religion and Mythology}, 93-95.  
\textsuperscript{178} Edward Shortland, \textit{Maori Religion and Mythology}, 94.
\end{flushright}
attempts to enforce English law. In 1882 Maori custom was again substituted for English law in the succession to freehold land.\textsuperscript{179}

Much of the chapter on land tenure in \textit{Maori Religion and Mythology} repeats what Shortland had already explained in other writing. In the first part of the chapter Shortland analysed the contents of an earlier chapter in the book, which was effectively a history of the Arawa as told by one of the iwi’s chiefs.\textsuperscript{180} He explained that this story was told when Shortland enquired about a specific land title and that it showed that Maori could only consider a particular case in which they were personally involved. Maori were unable to generalise concepts of land tenure, Shortland stated.\textsuperscript{181} The story showed that the Arawa descendants did not ‘form a united and compact settlement at one place’, Shortland pointed out, but dispersed north and south from the place where the canoe had landed, each man searching for lands for himself and his family, some even migrating as far as the Bay of Islands and Kaipara in Northland.\textsuperscript{182} The story also showed, Shortland continued, that once a group took possession of an area of land, Maori considered it ‘as rightfully belonging to the first occupier and his descendants’.

Shortland again explained that parts of tribal lands could be allocated to certain individuals or families for their exclusive use. Land not allocated belonged to the whole tribe and was held ‘under the mana, or trusteeship of the tribal representative’, Shortland explained. This was called ‘mana rahi or great mana’ according to Shortland.\textsuperscript{183} It was not through European settlement alone that land gained value, as was sometimes claimed.\textsuperscript{184} ‘Long before our colonists came to New Zealand land was of great value in Maori estimation’, wrote Shortland. He repeated what he had also written to Benjamin Hawes and published in \textit{Traditions and Superstitions}, namely that land could be accepted as payment in a case of adultery, or as a way of making peace.\textsuperscript{185} In \textit{Maori Religion and Mythology} Shortland emphasised

\textsuperscript{179} Extract from Introduction to the Native Land Act, 1909, by Sir John Salmond, from: \url{http://www.maf.govt.nz/mafnet/rural-nz/people-and-their-issues/access/access-along-water-margins/access-along-water-margins-23.htm}

\textsuperscript{180} This story was told in Chapter Five of \textit{Maori Religion and Mythology}.

\textsuperscript{181} Edward Shortland, \textit{Maori Religion and Mythology}, 88-89.

\textsuperscript{182} Edward Shortland, \textit{Maori Religion and Mythology}, 89.

\textsuperscript{183} Edward Shortland, \textit{Maori Religion and Mythology}, 91 and 90. See also above, under the discussion of the King movement.

\textsuperscript{184} This belief was held by the supporters of the Wakefield system of settlement, but also expressed by Lord Normanby in his instructions to Captain Hobson (14 August 1839, C.O. 209/4).

\textsuperscript{185} Edward Shortland, \textit{Traditions and Superstitions}, 92. See also Chapter Eight above.
that such exchange of land only applied 'in case of civil war between divisions of the same tribe, especially when waged with no prospect of either party completely mastering the other, and with consideration of preventing both suffering such serious loss as would render them unable to cope with a common foe'. This implied that land was compensation for greater losses in war by the other party. Giving up land was therefore a form of peace offering in 'a remarkably equitable spirit' and always given up by the tribe who suffered least, Shortland remarked. With these statements Shortland suggested that government confiscation of Maori land could not be justified under the umbrella of Maori custom.

Conquest and ownership of land

In his final chapter of *Maori Religion and Mythology* Shortland discussed conquest in some detail, including the rights of the conquerors and those of the vanquished. In essence this was the Maori version and an elaboration of what he had written in his article on the confiscation and sale of the Waimate Plains discussed above. He explained that only when a conquered tribe had been destroyed or reduced to a small powerless remnant that the conquerors were able to take over their lands. Shortland suggested that the views of the conquerors and of those conquered by them were not necessarily the same, however. The conquerors might claim that they had obtained land by conquering and destroying the previous owners, but if any of those owners survived they would state that they had not 'abandoned all idea of a right' to the lands they had been allowed to continue to live on. Sometimes the remnant of a conquered tribe was able to restore its numbers and power sufficiently to repossess their lands. Since European settlement this could lead to serious problems and resistance if the conquerors had meanwhile sold the lands without consulting the original owners.

Shortland described a second situation relating to conquest and land. It might happen, he wrote, that a tribe had been driven off its lands by conquest. Such a tribe would not give up on their lands, however, and might at some later date be able to

---

reconquer their lands with the assistance of allies. The question then arises what rights these allies might have over the lands so conquered (or re-conquered). Shortland came across such a case at Maketu where the question of ownership became an issue when he tried to purchase a piece of land on which he had lived for some time and built a house. He did not at first obtain a ‘freehold’ title, but only the right of occupation (noho noa iho in Maori). Naturally, since he had lived on the land undisturbed for some time, he assumed that the people who had invited him to live there were the owners of the land. But once Shortland made arrangements for the purchase of the land he received a night-time visit from a delegation of Tapuika hapu, who had a small pa by the side of the river below his house. They warned him that the people who wanted to sell Shortland the land were not the owners, but only the occupiers of the land. Their people, Tapuika, were the original owners and the mana of the land belonged to their chief Te Koata, they explained to Shortland. The reason for their visit at night was that they did not want their interference to be known publicly, ‘as it would cause disputes’. As indeed it did when their action became known the next morning.

A lesser man might have felt irritated by such shenanigans, but Shortland was intent on sorting matters out in a just and fair manner and clearly also saw it as an opportunity to learn about the intricacies of Maori land tenure. The matter was discussed at length at a full tribal meeting held at Rotorua, where Shortland learnt the history of the case. He sent a full report of this meeting to the Chief Protector of Aborigines at the time and the report was sent to the Colonial Office and appeared in the Parliamentary Papers. Neither the New Zealand government nor the Colonial Office could therefore claim to be unaware of the intricacies of Maori claims to land. Shortland gave a potted version of the story in Maori Religion and Mythology. Here he added something not in his original report. He wrote that the gathered chiefs decided that, since Tapuika could not have recovered their lands without assistance from other Arawa, the land that had been re-conquered through their combined efforts belonged to all of the fighting men: the land had ‘gone to the brave’, or ‘kua

190 Edward Shortland, Maori Religion and Mythology, 98.
191 Edward Shortland, Maori Religion and Mythology, 98. For a historic background to this story see Evelyn Stokes, A History of Tauranga County (Palmerston North: Dunmore Press, 1980), 31-35.
192 Edward Shortland, Maori Religion and Mythology, 99.
riro i te toa’. Shortland concluded that this was an important decision, because it established a precedent ‘of value in dealing with any lands similarly circumstanced elsewhere in New Zealand’ and precedents were ‘always a powerful argument with the Maori’. 194

‘a square man into a round hole’

In the last five pages of *Maori Religion and Mythology* Shortland lamented the changes that had taken place in New Zealand over the past fifty years and the loss of much of the love and respect Maori had felt for Europeans. When Europeans first came to New Zealand, wrote Shortland, Maori readily welcomed the strangers and invited them to live among them. The Europeans were allowed to buy land and to form alliances with Maori families. The children of their unions with Maori women became part of the mother’s tribe. Maori did not treat these Europeans as strangers — as ‘tangata ke’ — but denoted them as ‘taku pakeha, toku matua, my own pakeha, my father’, according to Shortland. 195 It was not surprising, he thought, that at first every tribe was keen to obtain their own Europeans, so that they could trade with them and obtain European goods, which Maori greatly valued. But when trouble arose over land, which resulted in war, the feelings of the Maori who took up arms changed and ‘their old friends were no longer looked on as matua or fathers, but as tangata ke, or strangers’. 196

Shortland felt that some, if not all of the conflict had been avoidable. He ended *Maori Religion and Mythology* with a discussion of the Waitara dispute, which led to the Taranaki war. Shortland was convinced the quarrel was the result of whakahe, or ‘putting the other in the wrong’ and that Teira, who sold the Waitara land to the government, only had limited rights. 197 Pacri Te Ahuru, a Ngati Haua chief from Matamata who had taken part in the Taranaki war, told Shortland this. 198 What

---

194 Edward Shortland, *Maori Religion and Mythology*, 100. See for example the precedent set by Waka Nene, described in Chapter Seven above.
196 Italics in original. This sounds like a paraphrase of a speech by Tipene who spoke on behalf of the King party at a meeting with Governor Grey held at Taupiri on 12 December 1861 (J. E. Gorst, *The Maori King*, 226).
197 See my discussion of the Taranaki war above.
happened in this situation confirmed to Shortland that he was right when he claimed that settlers and, even more importantly, the government must become familiar with Maori customs, or otherwise serious misunderstandings and disputes would arise. He was appalled that 'the astute policy of a Maori chief' had dragged 'the Colony and Her Majesty's Government into a long and expensive war to avenge his own private quarrel'.

Towards the end of his life he seemed resigned to the fact that Europeans would always try to circumvent Maori customs and land rights. In 1885 Shortland asked George Grey for a copy of the Native Lands Administration Act introduced by Native Minister John Ballance. Shortland looked at both the English and the Maori version and commented on the Act in correspondence with George Grey. The Act contained clauses that Shortland could not 'believe in', in particular 'the mode of selecting a Maori Committee'. It seemed more practical, thought Shortland, if 'each recognized hapu interested in any piece of land under investigation as to title' should be represented on the Maori Committee by a man chosen by that hapu from among them. He referred to a plan of his own through which, he believed, 'the percentage of each hapu’s interest in the land in question might be determined to the satisfaction of all concerned in a practicable approximate way'. Shortland wrote to Grey: 'The misfortune and error has always appeared to me that our legislators can only consider the subject from the Pakeha standpoint whereas I would have suggested the Maori standpoint as the more rational for obtaining a clear view.' Shortland believed that any 'supposed difficulty' in legislating the purchase or determining the title of Maori land was 'purely mythical'. It was not rational to employ European ideas to 'satisfy Maori matters', according to Shortland. It amounted to trying to 'put a square man into a round hole', as he phrased it.

Shortland’s work on behalf of New Zealand and its Maori population is perfectly summed up by a description of Shortland's friend and former employer Captain Hobson in Brett's Early History of New Zealand (1890). One of the authors of the Early History, Richard Sherrin, asked Shortland to contribute to the account of the early

199 Edward Shortland, Maori Religion and Mythology, 104.
200 Shortland to Grey, 21 July 1886 [1885?], Grey Collection, Alexander Turnbull Library Auckland, Letters Edward Shortland, S27. Grey was a member of Parliament until he resigned his seat in 1895, after his return to England, where he died in 1898
years of the colony. The Early History wrote of Hobson that he was ‘animated by a strong sense of the obligations towards the native race to which the Crown was committed under the Treaty of Waitangi’. The book further states that Hobson ‘maintained with unswerving faithfulness, in spite of violent opposition, the policy which he conceived to be in the interests of the Crown and for the future advantage of the colony’. While the Early History admitted that Governor Hobson had undoubtedly made mistakes, the author felt that his ‘clear vision’, derived from ‘unselfish devotion to duty and unswerving integrity’, enabled him ‘to discern the true path and to follow it.’ We may recognise Shortland in this description not only as the possible author, but also as the person who fits it. During his long career as protector of Maori rights Shortland followed the same true path.

202 Shortland gladly acceded to the request, because he wished to do justice to Governor Hobson and see his work represented fairly. Shortland mentioned his editorial contribution to the Early History in a letter to George Grey (Edward Shortland to George Grey, 4 February 1887, Grey Collection, Alexander Turnbull Library Auckland, Letters Edward Shortland, S27.)

Concluding remarks

In this thesis I have explored the humanitarian project of aboriginal protection by examining Edward Shortland’s encounter with and ethnography of Maori. It would seem that towards the end of his life Shortland was disappointed with, possibly despondent over the outcome, as evidenced by his remarks cited in the previous chapter — the sad comment that the government seemed unable to see things from a Maori point of view and the derisive observation that the government’s lack of understanding of Maori custom had led to war in Taranaki. Did humanitarians fail? Keith Sinclair concludes that they did.¹ He argues that humanitarians were ‘exotics’ who did not belong to the frontier.² Their movement for the protection of Maori rights conflicted with the main interests of European settlers.³ W. H. Oliver similarly suggests that the humanitarian cause of the protection of indigenous rights was incompatible with colonisation and therefore bound to fail.⁴

However, as I outlined in the first chapter of this thesis, humanitarians did not oppose settlement. Their project was closely linked to colonialism, but humanitarians believed that it would be possible to settle New Zealand in a humane way, with the avoidance of violence, with respect for Maori rights and to the benefit of all. By violence they meant the unlawful frontier killing of indigenous people, which had led to the near extermination of indigenes in some colonies. Humanitarians did not disapprove of the use of force by lawful authorities to repress rebellion if this was necessary to protect settlers. Their main aim was to mitigate the effects of settlement. They believed that colonisation should be of benefit not only to settlers but also to indigenous people. The humanitarian objectives could be summarised as follows: to avoid frontier violence by forbidding the unjust taking of land, to bring law and order to the colony, and to share the benefits of civilisation with Maori. An important part of the aims to bring civilisation and law was to put a stop to inhumane and violent Maori practices, such as intertribal wars and the custom of cannibalism. It was the task of the Protector of Aborigines to help fulfil these goals.

² Keith Sinclair, The Origins of the Maori Wars, 225.
³ Keith Sinclair, The Origins of the Maori Wars, 224.
During the early 1840s Shortland worked as protector of aborigines in one of the most turbulent regions of the North Island of New Zealand, not far from the newly established Auckland settlement. The district had been subject to intertribal wars for centuries and Shortland’s appointment was the result of a renewal of conflict. One of the most interesting and effective aspects of Shortland’s work was his mediating role in disputes between Maori. On a number of occasions Shortland’s presence averted violence. Before the establishment of the colony, various missionaries had undertaken this work with some success and they continued to do so. In this area in particular Maori had high expectations of the government. When George Clarke lamented the disestablishment of the protectorate by Governor Grey in 1846, he saw this as one of the great drawbacks. Clarke wrote to the secretary of the Church Missionary Society that Maori ‘want assistance in the way of mediation to assist them in healing their family quarrels’. Shortland’s placement at Maketu served this very purpose and undoubtedly contributed to the district remaining at peace. On several occasions Shortland was able to deflect violence by placing himself, sometimes literally, between contending parties. After the incident of cannibalism at Maketu in 1842, which led to Shortland’s residence in that place, no further cases of cannibalism were reported.

Since Maori were recognised as a strong and powerful people, while the number of settlers in his district was small and scattered in the first five years of the colony, one of Shortland’s tasks was to protect the white settlers from Maori violence and their laws of revenge. The settlers did not always appreciate this and tended to be highly critical of the protectorate, although they seemed to have become bolder in their attitudes towards Maori since the establishment of the colony. Those working for the administration were well aware of this role of the protectors. Governor Robert FitzRoy, for example, wrote that ‘although called protectors of the natives’ they had been ‘more efficient protectors of their own countrymen’. Attorney General William Swainson similarly remarked that ‘they [the protectors] virtually became the

5 George Clarke to Dandeson Coates, 28 February 1846, item 66 of George Clarke [senior], ‘Letters & Correspondence, 1841-1859, Vol. II’ (MS-0061), items 1 to 75, 1841-1849, PC-0069, Dunedin Hocken Library.

protectors of the colonists themselves’. This is not necessarily a negative result. In an ideal situation the law should serve to protect the weaker from the strong. But FitzRoy’s and Swainson’s conclusions do not fully describe the situation.

Historian Alan Ward gives a more balanced view when he argues that by 1845 the protectorate had ‘quietly achieved considerable success in mitigating Maori-Pakeha conflict’. As I have shown, this success was due not only to the work of the protectors, but also to a large extent to the willingness of Maori to leave it to the government and its officers to settle their disputes with Europeans. This enabled the protectors to play a vital role in keeping the peace. Shortland’s work as mediator in Maori-Pakeha disputes allowed Maori to step back and refrain from their traditional system of justice. An important part of their motivation was the pursuit of commercial interests and Shortland appealed to these as much as he did to law or custom. In the course of his work as protector Shortland made a number of useful recommendations to further alleviate the possibility of Maori-Pakeha disputes. Many of these were implemented by the governors.

In order to fulfil his duties as protector Shortland had to familiarise himself with Maori language and customs, a task he undertook with enthusiasm. His ethnographic descriptions of Maori became, and have remained, classic accounts. Shortland was further required to act as magistrate and to recommend ‘special measures’ in accordance with Maori customs that would ease the introduction of English law. He also had to report on Maori welfare, to compile statistical information and to report on Maori wishes and grievances. Specifically, the protector’s role was to watch over Maori rights and interests, to protect Maori from encroachment on their property and from ‘acts of cruelty, oppression and injustice’. As I have shown in the preceding chapters, Shortland was effective in these tasks and performed them with diligence, understanding and with a strong sense of responsibility and duty. Shortland’s broad-mindedness enabled him to understand Maori custom as an expression of and as dictated by their religious beliefs. Shortland believed that it was possible to reconcile the interests of settlers with those of Maori,

---

because he recognised Maori desire for modernisation, for commerce and for Christianity, which were also important in the British empire and Victorian society.

The weakest part of the early colonial administration was its powerlessness to effectively apply English law in the outlying districts, while its lack of military force prevented the government from interfering in Maori conflicts. In disputes between Maori and Europeans there was little else the protectors could do but threaten to allow Maori to take measures according to their own custom, if Europeans refused to cooperate. In his work as magistrate, Shortland creatively blended elements of English law with Maori custom to solve disputes and keep the peace. There were no effective means to apply English law to serious crime cases among Maori in places where there were few European settlers and no police or military to enforce the law. Shortland believed that in such cases it was better not to apply English law at all, rather than apply it inconsistently because, his experience taught him, Maori tested every act for its consistency and adherence to the rules and every rule for whether it was straight (tika). While such a laissez-faire approach may have been pragmatic, it did not instil Maori confidence in the government. Moreover, the lack of military power threatened to cast a shadow of weakness over the government’s policy of ‘moral suasion’. For Maori groups who had allied themselves with the government by signing the Treaty of Waitangi, the lack of support they received in intertribal conflict was disillusioning.

An important aspect of the work of the protectors was concerned with Maori land issues. As interpreters for the Land Claims Commission the protectors of aborigines played a vital role in unravelling Maori land rights for the commissioners and helping to settle claims. Although mistakes were made, the protectors performed a difficult task well in a relatively short time considering the youth and inexperience of most of the protectors, the intense opposition they faced from many of the settlers, and the complexity of Maori land tenure. Shortland made important contributions to this project with his work for the Land Claims Commission. However, the lengthy process of claims investigations delayed the moment New Zealand Company settlers could take possession of the lands they had been allocated. In response, some settlers started to wander and take possession of what they saw as ‘unused’ or ‘waste’ lands. The protectors were unable to prevent this spreading out. Shortland could be considered to have contributed to this expansion when he arranged leases, or
convinced Maori on whose land the settlers encroached of the economic benefits they would derive from settler presence.

Shortland helped define the conditions of Maori land tenure. His ability to see things from a Maori point of view gave him insight into two of the most vital aspects of Maori land tenure: that ownership of land is inseparable from genealogical questions; and, closely related to the first aspect, that Maori could not give general rules of land tenure, but only provide details of a case they were personally involved in and of which they therefore knew the history. Two issues compounded the difficulty of resolving land claims: the fact that most purchases were ill-defined and lacked clear descriptions of boundaries, and that Maori tended to sell land which was disputed and to which other groups, not part of the initial transaction, also had rights. These potential conflicts of ownership formed the reason why Shortland recommended that the government should always be involved in Maori land purchases. He also believed that the government should play the role of neutral arbiter in land issues, to whom all parties claiming ownership of a piece of land or a resource might present their claims. Shortland made this point to the Colonial Office in 1847 and continued to argue for government involvement in investigating land claims. Shortland suggested that institutional help would be required to assist Maori groups overcome internal divisions over conflicting claims to land and resources. He saw the resolution of these disputes as the essence of a process in which the government could be 'appealed to as authority' by becoming the 'depository of the collective knowledge of different tribes'.

He believed that the government must play a role in resolving such disputes before other land issues between Maori and Pakeha could be settled. The truth of this is still evident today from the fact that the proceedings of the Waitangi Tribunal are hampered by unresolved tensions and divisions among Maori groups. The Waitangi Tribunal may be seen as a continuation of a string of investigations into Maori land issues that commenced with the Land Claims Commission of the 1840s, followed by many similar commissions during the nineteenth century.

9 Edward Shortland, Traditions and Superstitions, 302.
11 Historian Michael Belgrave also argues that the tribunal's writing of history 'cannot be understood in isolation from a very long tradition of judicial investigations of past events in New Zealand' (Historical Frictions: Maori Claims and Reinvented Histories [Auckland: Auckland University Press, 2005], 3).
The humanitarian campaign, to which Shortland made a substantial contribution, may be considered successful in so far as it postponed the time at which settlers took over Native Affairs. The humanitarian lobby also brought a succession of humanitarian governors to New Zealand. Until and including the 1862 Native Land Act, which received royal approval in 1863, the humanitarians managed to keep the upper hand over the most stridently anti-Maori settlers. According to Shortland, it was not a lack of humane intent, but a lack of understanding of Maori custom that caused many of the disputes and ultimately took the government to war in Taranaki. The wider rupture in Maori-Pakeha relationships of the 1860s was the result of a combination of factors, all in some way related to the issue of law and order. The government's inability to effectively apply English law in outlying districts, and the ineffectiveness of the government to adequately protect Maori land rights, led to the establishment of the Maori King movement. When the Maori King and his adherents also proved ineffective in bringing law and order and in controlling some of the more violent elements among them, mutual distrust led to escalating violence. Ultimately, even many of the humanitarians felt that the time had come to forcefully establish law and order before it was possible to continue the humane and peaceful settlement of New Zealand by Europeans. The ensuing war was seized upon by some of the most strident settler elements in New Zealand to grab large quantities of Maori land under a scheme of confiscation, but not without strong protests from the humanitarian lobby. Shortland and his friends warned that this policy of conquest and confiscation would leave residues of resentment and lead to continuing protest and resistance among Maori.

Humanitarians, or ‘philo-Maori’, may have agreed on many points, but they were not of one mind in all things. The main differences between Shortland and some of the other humanitarians, such as George Grey, was the rate at which they believed ‘civilisation’ of Maori would or should take place and the extent of their paternalistic concerns. George Grey had experience of other colonies, namely Australia and South Africa, which had an impact on his ideas. Grey’s experience in Australia convinced him that it was detrimental to their development towards civilisation if indigenous peoples were allowed to remain separate from European society. Shortland, on the
other hand, believed Maori were so unlike Australian Aborigines in civilisation, intelligence and political sophistication that they warranted a different approach. He thought it acceptable if parts of New Zealand were to relate to the central administration like Wales to England, while maintaining the Maori language and some traditional customs. While this is not what happened, the assimilation Grey hoped to achieve has also not taken place.

Both Grey and Shortland recognised that Maori were intelligent freedom loving people, who might well resist a forceful introduction of English law and customs. Both also believed that Maori were open to change and keen to relinquish their complex system of utu, which had led to ‘exterminating wars’ among them, and to adopt Christianity, which they saw as a peaceful route to modernity and commerce. George Grey believed that it was essential to assimilate Maori into European society and into the workforce as rapidly as possible. This may have been the most practical short-term approach in a burgeoning settler society. Shortland, however, took a long-term view. He was realistic in his understanding that it might take at least several generations before Maori would be assimilated in European society. He did not see it as a hindrance to Maori civilisation if they maintained much of their independence and many of their customs, once Maori had relinquished the inhumane practices of cannibalism and slavery and intertribal wars had ceased. In fact, Alan Ward claims that Maori have to this day ‘emphatically rejected assimilation into a homogeneous New Zealand community’. The importance and vitality of Maori culture was recognised in the late twentieth century, when Maori language and customs were acknowledged and given a prominent place in New Zealand institutions. Shortland’s appraisal of the best way for the two races to live together in harmony implied that Europeans should be willing to give up some of their fixed ideas and, more importantly, that Europeans ‘should adopt that course of action the justice of which could be understood by the latter’. In the modern day context of the recognition of Maori as tangata whenua Shortland’s statements take on a new importance.

While Shortland was in favour of colonisation, he also believed that for this process to proceed peacefully and without injuring New Zealand’s indigenous population, Maori needed to be given time to adapt to the European presence in an organic manner, at their own pace and in their own way. To effect this, Maori rights and customs, in particular with regard to land, needed to be respected and any policies affecting their interests needed to be made in consultation with them. Shortland’s recommendations were pragmatic, sensible and down to earth. He made a strong appeal to rationality and in this context ‘suggested the Maori standpoint as the more rational for obtaining a clear view’.16 Shortland further argued that adherence to the Treaty was the only rational way to bring about successful and peaceful European settlement. This was the object he and fellow humanitarians had in mind.

---

List of Sources

PRIMARY SOURCES

I. Unpublished Sources

Dunedin Hocken Library

Clarke, George Senior and George Clarke Junior, Protector of Aborigines, 1840-1871, Vol. III (MS-0062), items 1 to 65, 1840-1843, PC-0057.

Clarke, George Senior and George Clarke Junior, Protector of Aborigines, 1840-1871, Vol. III (MS-0062), items 66 to 140, 1843-1859, PC-0058.

Clarke [senior], George, ‘Letters & Correspondence, 1841-1859, Vol. II’ (MS-0061), items 1 to 75, 1841-1849, PC-0069.

Clarke, George, ‘Collected papers of and relating to George Clarke senior and family’ (ARC-0032), Letters and Reports 1842-1847, PC-0160.

‘Copy of the Treaty of Waitangi, in English and Maori; and Mr Baker’s annotations thereon’ (Wellington: Legislative Council, 1869), Hocken Variae Pamphlets, v08 no. 01.

Hocken, Dr Thomas Morland, Papers, Correspondence, MS-0451/020.


Shortland, Edward, ‘Maori Manuscript No. 4’ (PC-0004).


Shortland, Edward, Outward Letter Book A, September 1842 - March 1845, MS-0086/001 (PC-0027).


Shortland, Edward, ‘Correspondence and notes 1863-1864’, MS-0385/001.
Shortland, Edward, ‘Correspondence and notes 1842-1870’, MS-0385/002.
Shortland, Edward, ‘Maori manuscript No. 11’, concerning religion and mythology, land tenure, disputes and confiscation, c.1870s-c.1880s (PC-0011).
Shortland, Edward, ‘Maori manuscript No. 12’, containing clippings and notes on the Albert Barracks Reserve, religion and mythology and a tour of Waikato (1842-1879) (PC-0012).
Shortland, Edward, ‘Notes on language, waiata, whakatauki, proverbs, customs and ceremony’, MS-0489/005.
Shortland, Willoughby, Government letters &c. 1840-1848, MS-0052.

*National Archives of New Zealand*

Colonial Secretary Letter Book re Protection of Aborigines, Internal Affairs, series 4-271.

*Auckland City Libraries Grey Collection*

Shortland, Eugenia, to Sir George Grey, 19 January 1895, MS S27A.
Lord Stanley letter to George Grey, dated 5 December 1845, sent from Downing Street marked confidential.


Hobson, Typescript of Letters of William and Eliza Hobson 1835-1844, MS-1010.

Shortland, Edward George, 8 March 1914, Notes on the Shortland Family, MS-Papers-2687.

Shortland, Edward, ‘Fragment of a diary’ [1846], MS-Papers-6597-2.

II. Published books, pamphlets and journals


Bell, F. Dillon, and Thomas Gore Browne, *Notes by the Governor on Sir William Martin’s Pamphlet Entitled the Taranaki Question* (Auckland: Published for the New Zealand Government, 1861).


Buller, Rev. James, *Forty Years in New Zealand* (London: Hodder & Stoughton, 1878).


Gorst, J. E., *The Maori King, or the Story of Our Quarrel with the Natives of New Zealand* (London: Macmillan, 1864).


———, *Polynesian Mythology and Ancient Traiational History of the New Zealand Race, as Furnished by Their Priests and Chiefs* (London: John Murray, 1855).

———, *Nga Mahi a Nga Tupuna* (Auckland: H. Brett, 1885).


Martin, M.D., S. M. D., *New Zealand in 1842; or the effects of a bad government on a good country in a letter to the Right Honorable Lord Stanley, Principal Secretary of State for the Colonies* (Auckland: John Moore, 1842).
Martin, M.D., S. M. D., New Zealand, in a series of letters: containing an account of the country, both before and since its occupation by the British Government (London: Simmonds & Ward, 1845).


Polack, J. S., New Zealand: Being a Narrative of Travels and Adventures During a Residence in That Country between the Years 1831 and 1837 (1838; rpt. Christchurch: Capper Press, 1974).


Shortland, Edward, A Short Sketch of the Maori Races (Dunedin: Printed for the Commissioners of the New Zealand Exhibition by Fergusson & Mitchell, 1865).


III. Newspapers & Periodicals

*Auckland Chronicle and New Zealand Advocate.*

*Auckland Standard.*

*Auckland Times.*

*Colonial Intelligencer or Aborigines’ Friend.*

*Edinburgh Review*

*New Zealand Herald and Auckland Gazette.*

*Te Karere o Nui Tiri (The Messenger of New Zealand).*

*The Daily Southern Cross.*

*The Edinburgh Review.*

*Taranaki Herald.*
IV. Official Publications

Great Britain, Colonial Office, Original correspondence [relating to New Zealand], 1830-1922 [microform].


*Appendices to the Journals of the New Zealand House of Representatives (AJHR).*

*Report from the Select Committee on Aborigines (British Settlements); with the minutes of evidence, appendix and index* (London, Parliament, House of Commons, 1837).

*New Zealand Government Gazette.*

*New Zealand Parliamentary Debates (NZPD).*
SECONDARY SOURCES

I. Published books and articles


Buick, T. Lindsay, *New Zealand's First War* (Wellington: Government Printer, 1926).


Lucas, J. H., *Coromandel (Whare Kai Atua): historically the most important portion of the Islands we now call New Zealand* (Coromandel: Coroprint, 1980).


MacLeod, Roy and Philip F. Rehbock, *Darwin’s Laboratory* (Honolulu: University of Hawai'i, 1994).

McKinnon, Malcolm, *New Zealand Historical Atlas* (Wellington: David Bateman in association with the Historical Branch, Department of Internal Affairs, 1997).


———, *Dictionary of New Zealand Biography* (Wellington: Department of Internal Affairs, 1940).


Spiller, Peter, Jeremy Finn and Richard Boast, A New Zealand Legal History (Wellington: Brooker’s, 1995).


Stone, R. C. J., Young Logan Campbell (Christchurch: Auckland University Press/Oxford University Press, 1982).


Wilson, Ormond, *From Hongi Hika to Hone Heke* (Dunedin: John McIndoe, 1985).

II. Unpublished theses


III. Websites


http://www.utm.edu/research/iep/c/cicero.htm#On%20Duties (Cicero), last viewed 22 August 2007.


http://www.bartleby.com/222/0604.html (Quarterly Review)

http://en.wikipedia.org/wiki/History_of_Wales#The_Nineteenth_Century (History of Wales)

http://mariners.records.nsw.gov.au (shipping records)

Appendix

Shortland’s report on the Wairau affray - Te Rauparaha’s version

G. Clarke addressed them and read the Proclamation etc. Afterwards the old man gave a narration of the whole affair from its commencement. When the brig was first observed at sea they said to each other this is Clarke and Spain. Puaha was at the mouth of the Wairau with some of his people. The brig anchored just off the bar. Several boats full of Pakeha landed. There were 30 or 40 Europeans with guns landed upon the sands. When they reached Puaha they detained him. Puaha being afraid of their intentions towards him told them not to kill him and he would show them where Te Rauparaha was. On their way Puaha made his escape. The Europeans found Rauparaha and party on the opposite bank of a small deep river where he was clearing a cultivation. They called to the natives to lend them a canoe and a canoe was placed so as to form a bridge over which Mr Thompson, Captain Wakefield, and some 12 Europeans passed. The rest remained drawn up on the bank. Thompson showed Rauparaha the warrants telling him thru Brookes the interpreter (whose knowledge of the language was imperfect) that it was a pukapuka from the Queen and that he must go with them to Nelson. The constable had handcuffs. The old man refused to go unless Mr Spain and Clarke were of the party. Brookes told him (without authority probably) that they were on board the brig. The old man however did not believe him and refused to go. Mr Thompson then became very violent and threatened to fire on them unless they complied. Rangihaeata then jumped up and flourished his tomahawk and said they would all die where they were. But that their chiefs would never be made slaves of. Rauparaha quietened him and bid him sit down. Puaha then spoke to Mr Thompson with a Bible in his hand and desired him to remember that the book instructed them not to fight. Mr Thompson disregarded

3 They were expected because of the Land Commission investigation. Both Te Rauparaha and Rangihaeata clearly stated that they would resist any attempt to survey the Wairau until Land Commissioner Spain had given his ruling (Ian Wards, The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852 [Wellington: Historical Publications Branch, Department of Internal Affairs, 1968], 76).
4 Rawiri Puaha, an influential man who also claimed rights to the Wairau Valley. He was a Christian, married to a cousin of Te Rauparaha. Puaha later supported Governor Grey in the conflict over the Hutt Valley (Ian Wards, The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852 [Wellington: Historical Publications Branch, Department of Internal Affairs, 1968], Chapters 7 and 8 passim).
him and pushed him on one side. Rauparaha still refused to go with Thompson, but said he would talk the matter over quietly on the spot. That he had done no wrong to the Europeans but that he was the injured party. His land being seized without his consent. He said the house I burnt contained none of your property. It was built of materials which grew on my own ground. If I had burnt one of your tents then you would have a right to be angry. At last Mr Thompson still persisting the old man offered to give up Wairau. Mr Thompson is described as being mad with rage, tearing his hair and foaming at the mouth. At this time Puaha spoke to the natives and urged them not to fire first. Even if 2 are killed don't fire. Mr Thompson and the Europeans then retired the same way they came. Several of the natives knew a little of English and heard them say - shoot at the chiefs, as Captain Wakefield etc were crossing over. The 1st shot was fired, as the natives declare, by the Europeans. Four natives and several Europeans fell at the 1st general discharge. Wakefield ordered his men to retire to the top of the hill. This movement encouraged the natives who supposed the Europeans were 'whate' [routed]. They then crossed over by means of the canoe in pursuit. The Europeans seeing this did not halt at the top of the hill, but fled leaving Captain Wakefield and Mr Thompson behind then about half way up the hill. Mr Thompson shouted to them to stand but they heeded not, a few only returning. Wakefield held up his pocket-handkerchief and called out to the natives to cease. The natives were now rushing up the hill. Rauparaha in the rear called out to them to spare the gentlemen but they regarded not cutting down everything before them. The most active were Rangihaeata whose wife was shot and a young man whose father was shot by his side. They were not satisfied till they had killed all they could by their hands as a payment. In answer to our remark that we considered it base to kill persons who had thrown down their arms they remarked they should have prevented the first spilling of blood. Should a man be spared who commences a fight and having found himself in danger of being killed throws down his arms and cries out enough. We will now be good friends. Our customs demand that the relations of the slain seek for a payment of blood for the blood of the slain.

5 These days this word is commonly spelt 'whati'. The distinction between 'e' and 'i' appears to be difficult for English speakers and perhaps Shortland's Maori was Anglicised in terms of pronunciation, as was common at the time amongst other competent Pakeha speakers of Maori.