

DUPLICATE

WAI 814 # D1  
WAI 856 # C1

TE ROOPU WHAKAMANA I TE TIRITI O WAITANGI  
IN THE WAITANGI TRIBUNAL

WAI 856

IN THE MATTER OF

The Treaty of Waitangi Act 1975  
(as amended)

AND

IN THE MATTER OF

a claim by **PUKA MOEAU** for and  
on behalf of **NGA URI O TE  
KOOTI RIKIRANGI**

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**STATEMENT OF EVIDENCE OF PROFESSOR JUDITH BINNEY FOR  
NGA URI O TE KOOTI RIKIRANGI: WAI 856 IN REGARDS TO SECTION 23:  
NGA URI O TE KOOTI CLAIM AFTER THE BATTLE OF NGA TAPA**

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**STATEMENT OF EVIDENCE OF JUDITH BINNEY IN REGARDS TO SECTION 23: TE WHANAU A TE KOOTI CLAIM AFTER THE BATTLE OF NGA TAPA**

1. **BEFORE** discussing the specific questions asked (23.1.4.1-8 of the Tribunal's Statement of Issues, WAI 814# 2.202 ("SOI")), I wish to make some preliminary comments in relation to the statements outlined in 23.1.1 to 1.3.

*SOI: 23.1.1 Many of the pleadings of Te Whanau a Te Kooti have been covered in Part 1 of this statement of issues, particularly in respect to the battle at Waerenga a Hika, the deportation of prisoners to the Chatham Islands, the return of the Whakarau, and the subsequent Deed of Cession and investigation of lands by the Poverty Bay Commission. In this respect the Crown accepts:*

*that Te Kooti was arrested and detained and that he and his descendants have suffered and were prejudiced. (SOR 456.1)*

*that failure to try Te Kooti before he was detained on the Chatham Islands was in breach of the principles of the Treaty of Waitangi. (SOR 466.4.5, 467.9.2)*

*that following Te Kooti's return to Aotearoa, ancestral and tribal lands in which Te Kooti may have had an interest were alienated through processes including the Deed of Cession of 1868, the Poverty Bay Commission, and the Native Land Court. (SOR 472.1)*

*that the Crown conducted a campaign against Te Kooti and that suffered from some degree of infamy. (SOR 456.2)*

*that a bounty was offered for Te Kooti dead or alive. (SOR 468.4, 468.17.1)*

*that Te Kooti's personal property, including cattle, stock, horses, furniture, clothing, diaries, papers, personal effects and other property were dispersed. (500.1)*

2. **SOME** of the issues raised here I have addressed in my earlier statement of November 2001 at the opening hearing of WAI 814. The matters surrounding Te Kooti's detention on Wharekauri, 1866-68, were covered and (in my opinion) convincingly demonstrated to have been unjust. Similarly, the issue of bounties was addressed directly and proven conclusively. The new elements introduced in

this summation are three: questions surrounding Te Kooti's land, his property and his proclaimed infamy. I will discuss these aspects in the context of the specific questions asked by the Tribunal in SOI, 23.1.4.

*SOI: 23.1.2 From the significant concessions that have been made, it appears that aspects of the claim will be uncontested. My view, though, is that Turanga Maori should hear evidence on these matters.*

3. I find this statement to be unclear in that it seems to re-open the possibility of a general discussion of the entire history of Te Kooti and the Crown. The Crown has conceded many aspects of the claim in general terms. It has, however, evaded some precise elements of the claim. I will try and touch on these elements in my answers to specific questions. I would also state that some of the questions asked in SOI, 23.1.4 are extremely open-ended and seem to be seeking a psycho-historical approach, probing the 'net effect' on Te Kooti of being remorselessly hunted. Such questions are impossible to answer with certainty, and I will restrict my answers only to what can be established.

*SOI: 23.1.3 Furthermore, the basic facts of the Crown's pursuit of Te Kooti outside the Turanga district do not appear to be in dispute. Nor do the events surrounding his pardon on 13 February 1883, and his later arrest and detention in 1889.*

4. IT is stated that the basic facts of Te Kooti's pursuit outside the Turanga district from 1869 until 1872 do not appear to be in dispute, nor the events surrounding his pardon on 13 February 1883. The Tribunal should note the correct date of his pardon, 12 February. The date is one reason (among several) for the significance of the Twelfths in the Ringatu faith.
5. IT is also stated that it seems that the basic facts of his arrest and imprisonment in 1889 are not disputed. I do not consider this assessment of the Crown's responses regarding Te Kooti's arrest and imprisonment in 1889 to be correct. In the Crown's Statement of Response (SOR), it does not accept that Inspector S Goodall, in demanding three sureties in cash (later declared by the Supreme Court to have been an illegal proceeding), was acting on instructions from the premier.

In his report to the Police Commissioner on 1 March 1889, Goodall stated that he had asked the magistrate for these unusual terms following explicit instructions from the premier, H Atkinson.<sup>1</sup> This strategy had been planned in advance by the government, as the *New Zealand Herald* acknowledged the day prior to Te Kooti's arrest.<sup>2</sup> Because it was impossible for Te Kooti to raise this sum in cash (£1500), he was sent to jail. The purpose of setting the sureties in cash was to ensure that Te Kooti could be imprisoned.

6. **THE** Crown also does not accept the statements of the claimants regarding the deliberate government obstruction of the lawyer William Napier, engaged by Rewi Maniapoto to act for Te Kooti (SOR 479.7.2. and 479.8). On 4 March 1889, when Napier tried to see Te Kooti in Mt Eden jail, the chief jailer informed him that Te Kooti did not wish to see him. Te Kooti's note sent to Napier (quoted in full in *Redemption Songs* (WAI 814, #A39(L), ("RS")) p.412) stated that he had been persuaded by the government not to see a lawyer as the condition of his release from jail. Napier's reply, which informed Te Kooti that his imprisonment was illegal, was withheld from him by the chief jailer until after Te Kooti was released (upon payment of the sureties (in bonds)). The jailer informed Napier that he was delaying delivering the letter. This entire strategy was devised by the Native Minister, E Mitchelson, as soon as he became aware that the government had adopted an 'utterly illegal course'<sup>3</sup> in the first place. The raising of bonds for the £1500 sureties was Mitchelson's solution, and the condition he set, and to which Te Kooti agreed, was that Te Kooti would not seek a lawyer. The deal rested on Te Kooti's understandable desire for freedom, but it was constructed only because of the government's awareness that it had acted improperly in imprisoning him in the first place.

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<sup>1</sup> Police 1/1889/559, National Archives (NA), Wellington.

<sup>2</sup> *New Zealand Herald*, 27 February 1889.

<sup>3</sup> *Evening Post* (Wellington), 11 March 1889.

7. **THESE** two important aspects of a legal charade, therefore, need to be reaffirmed as part of the evidence demonstrating that the Crown acted wrongfully towards Te Kooti in 1889.
  
8. **THE** Crown also asserts that the claimants' quotations provided from the Court of Appeal judgement in 1890 were of a 'selective nature' (SOR 480.7.1). The quotations were provided to indicate the bias, or active prejudice, of the judges' Bench, which overturned the Supreme Court findings and reinstated the findings of the magistrate's court. The quotations cited were necessarily brief. Other statements found in the 1890 judgement demonstrate that the Bench was collectively prejudiced in its views about Te Kooti, despite its own statement that Te Kooti's claim was 'considered on its merits'.<sup>4</sup> Justice Williams stated that Te Kooti was 'returning in triumph in the guise of an inspired prophet to the scene of his bloody exploits, accompanied by those who assisted him in the massacre [of 1868]', and that this behaviour would 'naturally provoke a breach of the peace' by the local inhabitants; Justice Denniston echoed his colleague when he stated 'that the irruption of this drunken fanatic, with the instincts of a savage, and the prestige of a prophet' was 'in itself a menace to the peace'.<sup>5</sup> Justice C Richmond, who chaired the Bench, voiced the prejudiced view that the claimants cited. In full: 'The belief in his supernatural powers gives him complete ascendancy over his followers, and makes him doubly dangerous. At the same time he is intemperate in his habits – a Maori prophet and a drunken one to boot.'<sup>6</sup> This evidence of the spoken opinions of the three judges goes to the heart of the claim, that, despite Te Kooti's formal pardon in 1883, prejudice continued to exist at all levels of society and directly influenced the practice of the highest court of law in New Zealand. I will discuss further aspects of the events of 1889-90 in relation to the question asked in SOI 23.1.4.7.

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<sup>4</sup> Goodall v. Te Kooti, *New Zealand Law Reports (NZLR)*, IX, 1891, p.41.

<sup>5</sup> *Ibid.*, pp.51, 57.

<sup>6</sup> *Ibid.*, p.46.

***SOI: 23.1.4.1** Did the Crown have proper reason to seek to apprehend Te Kooti after the battle at Nga Tapa? Were the strategies then adopted by the Crown to capture Te Kooti a proper response to the situation at hand?*

9. **AFTER** the siege of Nga Tapa, where Te Kooti, whose capture was its primary purpose, escaped the Crown's forces - thus explaining the frustration of the military and, as a consequence, the brutal executions of the male prisoners whom they took - it is only to be expected that the Crown would continue the hunt for Te Kooti. However, some of the strategies that it adopted were not proper, even for a war situation.
10. **AS** I demonstrated in my statement in November 2001, the issuing of a £1000 bounty on his head, dead or alive, was not a 'proper' response. This was one major strategy adopted, and the bounty was increased to £5000 in February 1870. But no-one collected this reward. Not only was it not 'proper'; it did not work.
11. **THE** Crown sought to 'apprehend' Te Kooti, but it did not seek to negotiate with him. From 1869, he was treated as a man who, if captured alive, was certain to be executed because of his attack on Matawhero in November 1868. He was thus treated both as a 'rebel' and a 'murderer': the government turned him into an 'outlaw', bearing a price on his head. Because of this attitude, it rejected several opportunities to negotiate for peace. The most notable missed opportunity was Te Kooti's offer in January 1870, made through the Waikato settler, Josiah Firth. Te Kooti sent several urgent messages that he would end fighting, if the government ended the hunt for him. But the government was not interested in terms. It also failed to acknowledge some significant Maori overtures to bring about peace, notably efforts made during 1870 and 1871 by Rewi Maniapoto to stop the fighting.
12. **THE** government's military agents were instructed not to offer Te Kooti terms for surrender. In 1871, when the search for him focused on Te Urewera, Donald McLean specifically reminded G Mair and G Preece, who accompanied the Te

Arawa armed forces, that they must make no statement to Te Kooti, should he surrender, other than that he would be tried 'for his crimes', and above all, 'no pledge must be given that his life will be spared' (RS, p.255). In this context it can be noted that the Crown treated Kereopa Te Rau, who incited the murder of the missionary C Volkner in 1865, in precisely the same manner. After Kereopa's capture in 1871, he was given a summary trial, and the day after he had been squeezed for information, he was executed, on 5 January 1872, at Napier.

13. A further point to note is that the Crown victimised every group who gave Te Kooti shelter, including the innocent. In May 1869, the Crown's troops invaded the Urewera for the first time, where Tuhoe were sheltering Te Kooti. The strategy adopted by Colonel Whitmore was full-scale 'search and destroy'. The first place attacked was Te Harema pa, on 6 May. Most of the people were, as Whitmore put it cruelly, 'in the valley collecting their crops, so that all could not be killed'.<sup>7</sup> He also noted that it was 'unfortunate' that the men were mostly absent, being at Ruatahuna and Waikaremoana with Te Kooti. Six men who tried to defend the pa were shot: 50 prisoners were taken, all women and children.<sup>8</sup> The women were given to the Arawa contingent, led by Te Pokiha Taranui, to take away 'to their country so that this hapu will be destroyed'.<sup>9</sup> This was genocide, not a hunt for Te Kooti.
14. **THE** forces penetrated to Ruatahuna where every one of the Tuhoe settlements there was burnt. Whitmore boasted that every 'kainga of note', except Maungapohatu and around the northern shores of Waikaremoana, both beyond the range of the troop movements, was destroyed before the expedition withdrew. All crops were destroyed, the animals either killed or dispersed, and fences knocked over so that the wild pigs could ravage the gardens. This expedition, conducted at the start of winter, ensured the protracted deaths of numbers of innocent Tuhoe

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<sup>7</sup> Whitmore to Army Defence (AD), 18 May 1869, *Appendices to the Journals of the House of Representatives* (AJHR) 1869, A-3, p.48.

<sup>8</sup> Here I am correcting the statement in RS, p.165, that 40 of the prisoners were women and children.

<sup>9</sup> Whitmore to AD, 11 May 1869, AD 1/1869/2913, NA.

and Ngati Whare people, through starvation. As Whitmore made clear in his retrospective account (published in 1902): ‘The main object of the expedition was the destruction of the food supply in the mountains’.<sup>10</sup> It did not achieve its principle objective: the capture of Te Kooti.

15. **WHILE** the Crown has argued that the safety of the colony was at stake in 1869, this view is hard to accept uncritically. Te Kooti was never able to gain the political or military support of the Kingitanga. Indeed, in November 1869, King Tawhiao sanctioned the pursuit of Te Kooti by Topia Turoa of upper Whanganui in an attempt to stop the fighting. Topia’s role was to seize Te Kooti, but not to surrender him to the government. In 1869, Te Kooti had visibly failed to create the one political and military alliance that would be essential if he were to be considered a serious threat to the survival of the colony.
  
16. **CERTAINLY**, Te Kooti waged war against the government forces from 1869. I have already examined the reasons for this escalating war in my earlier statement. The Crown has stated that Te Kooti’s attacks on other coastal settlements – notably, Whakatane in March 1869 and Mohaka in April 1869 – made it clear that Te Kooti posed a threat to the wider region (SOR 469.2). The point to be noted here is that both these attacks had precise purposes; they were not assaults on the population in general.
  
17. **THE** raid on Whakatane was intended to effect the release of several Tuhoe chiefs held as prisoners under the watchful surveillance of Ngati Awa and Ngati Pukeko since September 1867. This situation arose from the confiscation of Tuhoe’s lands at Opouriao in 1865 and the partial transfer of this land as reserves for Ngati Awa and Ngati Pukeko. I discuss this history in my forthcoming Overview Report to the Tribunal on the Urewera, 1832-1878. In this respect, the raid led by Te Kooti, and supported by the inland Tuhoe leaders, was successful.

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<sup>10</sup> *The Last Maori War in New Zealand...*, London, 1902, p.165.



18. **THE** other purpose of the raid was to obtain arms, ammunition, horses and people. In this respect, Te Kooti could be seen as a wider threat, in that success would breed success. But Te Kooti's methods -- taking Maori prisoners and hoping to persuade them to his cause -- created as many Maori enemies as friends. Those who did join him voluntarily were, without exception, those who had already suffered loss of tribal lands by confiscation. A far better government strategy than the vengeful pursuit of Te Kooti, if it wanted to end the fighting, would have been to follow the advice of the Imperial government in 1869, and return the confiscated lands. But, as has been well documented, the government expected (wrongly) to fund its military costs from the sale of these lands.
19. **TE** Kooti's raid on Mohaka also had a specific purpose. It was to take reprisal for the recent capture of some Ngati Hineuru and Tuhoe men, who had been held prisoner at the villages of Te Arakanihi and Maungaturanga, on the lower Mohaka river. It is usually forgotten that Te Kooti's kokiri struck first at these two villages, killing 31 Maori. This conflict had arisen from land rivalries between the lower Wairoa chiefs of Ngati Kahungunu and the tribes of the hinterland, triggered by the Crown's land seizure (forced cession) in the upper Wairoa district, 1866-68. Mohaka itself was a target because government-supplied ammunition was stored there, as well as the fact that the Ngati Pahauwera chiefs were fighting for the Crown. Two European out settlers, J Lavin and A Cooper (with their families, totalling seven people), were killed in this raid, adding to Te Kooti's notoriety in the European imagination. It should be noted that Lavin, and probably Cooper, had served in the Wairoa militia against Te Kooti. A further 26 Maori (mostly women and children) were killed at Mohaka.
20. **THE** Mohaka attack triggered Whitmore's Urewera expedition of May 1869: 1300 men in three forces,<sup>11</sup> more than the entire population of the Urewera, men, women and children. Whitmore believed that its 'double object of punishing the

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<sup>11</sup> J Belich, *New Zealand Wars*, Auckland, 1986, p.278.

mountain tribe and of destroying the stores of provisions' was successful.<sup>12</sup> The people, already described as so very poor by the Poverty Bay chief Wiremu Kingi Te Paia,<sup>13</sup> could not now support Te Kooti and the men and women accompanying him. It was Tuhoe themselves who told Te Kooti in June 1869 that he must leave their land, for their own survival.

21. **THE** war spread because of the Crown's strategies. As it continued its remorseless pursuit of Te Kooti, he was forced to flee from one region to another, and his flight brought renewed fighting everywhere he sought refuge. The vortex of war moved to Taupo; western Bay of Plenty; Tapapa; Rotorua; eastern Bay of Plenty; Waioeka; Te Urewera; and upper Wairoa. Any Maori community suspected of harbouring or aiding Te Kooti was subject to government attack, as the Crown has acknowledged.
  
22. **IN** February 1870, Te Kooti again came to the Urewera in flight. From this point in time, a new government strategy was applied: no more European forces were engaged. The pursuit was to be conducted by Maori, with the promise of the reward (or bounty) of £5000 for his capture, alive or dead. This strategy unleashed older Maori vendettas. The leadership of the pursuing forces was Maori. This transfer of authority not only allowed the government to cease payment for troops; it also moved all responsibility for 'excesses' onto Maori. This was a policy adopted elsewhere in colonial situations when a government wanted to destroy an indigenous enemy but determined to escape the responsibility for any excesses taken to achieve this end.
  
23. **IT** is to the credit of some outstanding Maori leaders that, in 1870, Ngati Kahungunu withdrew from the hunt, persuaded by the skilled mediator and peacemaker, Te Paea Iho (Te Paea Tiaho), who was probably a sister of King Tawhiao. Finally, in November 1871, Rewi Maniapoto offered Te Kooti

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<sup>12</sup> Whitmore, p.175.

<sup>13</sup> AJHR 1870, A-8B, p.27.

sanctuary in the King Country, if he came in peace. It was Rewi's karanga, which found Te Kooti – he who could not be found by the government's military allies - and gave him the opportunity to make his last great flight across the land to reach shelter, in May 1872. This sanctuary lasted eleven years, until Te Kooti's pardon.

24. **IN** summation, while the Crown had reason to attempt to apprehend Te Kooti after the siege at Nga Tapa, the strategies it adopted ensured the prolongation of the fighting rather than achieving a settlement. The use of tribal enemies to catch other Maori, notably setting Major Ropata and Ngati Porou against Tuhoe, ensured that the bitterness lasted between these tribal groups long after the wars were over.

***SOI: 23.1.4.2** What was the net effect on Te Kooti of his pursuit throughout the central North Island by Crown forces?*

25. **THIS** is indeed a multi-headed question!
26. **AT** one level, the physical, I can state that he lost fingers on both hands. The first two fingers on his left hand were shot off during the fight at Te Porere in October 1869. He also lost the tips of two fingers on his right hand, although they apparently remained usable. He was twice wounded in the foot in 1868, and was rendered unable to walk for a long period of time (late 1868-early 1869); his escape from Nga Tapa in January 1869 was thus even more extraordinary.
27. **DESPITE** the help that he was given by Maori, Te Kooti always lived in fear of betrayal. This was starkly revealed during the time he lived with Maniapoto in the King Country, before he was pardoned. In 1882, he closed his settlement at Te Kuiti to 'European and half-caste visitors', for fear that he would be betrayed (RS, p.309). This action followed the betrayal (for money) and subsequent execution of Winiata, who had been accused of murder and who, like Te Kooti, had been given shelter by King Tawhiao at Te Kuiti. In January 1882, Te Kooti foresaw his own betrayal in a kupu whakarite (confirming saying). His stated distrust of 'marginal

men' was not unwarranted, as long as the government's reward remained for his capture. Long after his pardon in 1883, he feared attempts on his life: he was remembered at Whakatane in his last years for always ensuring that his drink was tested before he accepted it. Te Kooti was profoundly damaged by the vindictiveness of his pursuit (which in 1871 he had compared to 'a rat scratching in excrement' (RS, pp.253-4)), and by his continued vilification after the wars, despite his manifest conversion to the path of peace.

28. **DURING** his years of exile under the shelter of Maniapoto (1872-1883), he made clear efforts to establish his innocence. From 1873, after he laid down his sword before Tawhiao and made a firm commitment to peace, he sought a government pardon. He asked intermediaries to approach the government, which did not respond. He considered asking for a trial in England, saying that only there was a possibility of its being fair (RS, p.283). To every European he met, he gave long accounts of the injustices under which he had suffered. He wrote a lengthy explanation in 1879 for Sir George Grey about his wrongful arrest and imprisonment in 1866; his account has largely been substantiated by the surviving historical evidence. Talking to James Mackay in 1873, he attributed the onset of fighting in 1868 entirely to Biggs's insistent pursuit of the escaped prisoners. He stated again, as he had at the time, that he was trying to get all the whakarau through to the interior, unmolested (RS, p.284). Te Kooti lived with a burning sense of injustice, which was intensified by his long pursuit by Crown forces. It is a tribute to the man, that after his pardon, he eschewed his grievance and rose above it in his espousal of peace.
29. **THUS** he is always remembered by his followers as the warrior who thrust his sword (or variously, his gun) down into ground, saying, "There will be no more wars by the Māori people with the Europeans: the last one will be with me. This is a promise from God to us." (RS, p.506.)

**SOI: 23.1.4.4** *What in fact were Te Kooti's land interests in Turanga? Was Te Kooti excluded from his customary interests in land by the Poverty Bay Commission or the Native Land Court, and if so, what were the circumstances of this?*

30. **IT** seems more logical to address this question next, before discussing his pardon in 1883, as Te Kooti's exclusion from his customary land interests was a direct consequence of the Crown's pursuit of him in the war period.
31. **IN** my written statement, I showed that, in 1869, Te Kooti was known to have had customary interests in land at Matawhero and at Kohangakarearea, Poverty Bay. James Wyllie's list of Rongowhakaata 'Rebels', drawn up to assist the Crown's agent before the Poverty Bay Commission, identified Te Kooti as one who should be excluded from three named blocks. The three blocks were John Harris's run at Kohangakarearea, and two portions of Rongowhakaata land at Matawhero.
32. **I** have shown that Te Kooti was, in addition, a customary owner in other portions of Matawhero. One block was Te Wainui (Wainui 2), which was gifted to the half-Maori children of William Greene. The gift, first made informally, was confirmed by a written deed dated 9 October 1865, which Te Kooti and his elder brother, Komene, both signed. This deed of gift was never disputed, and was confirmed by the Poverty Bay Commission in 1869.
33. **HOWEVER**, the north-eastern boundaries of Wainui 2 were contested by Captain G Read, who had 'bought' the neighbouring block, Matawhero 4, from Harris in 1864. Matawhero 4 itself contained a long-contested portion known as Otoma (Te Toma) (150 acres). The original 'sale' of Otoma to Harris in October 1843 (an illegal 'sale' at that time) was denied from the beginning by one segment of the owners, who received no payment. Te Kooti belonged to a group of young men who had successfully stopped Harris (and others) from occupying this land. In 1866, immediately after Te Kooti's imprisonment on Wharekauri, Read fenced in the entire block, Matawhero 4, and the first settlers moved onto the land,

among them Biggs and his family. The settlers were killed on this land by Te Kooti in November 1868.

34. **IN** 1869, Te Kooti was excluded by the Poverty Bay Commission from the lists of owners in all land at Poverty Bay. The records of the Commission omit any reference to him in its discussion of Matawhero 4, which it awarded to Read. However, as I have shown, the judge's notebook included an exchange between Read and Harris, in which Harris admitted that 'Kooti' had objected to the settler Thomas U'ren constructing a house on the Otoma portion sometime in the early 1850s, and that U'ren's house had been burnt down in protest. Read replied, 'You remember my saying that I would buy your risk?' This risk became fact in November 1868.
35. **TE** Kooti (and most of Ngati Maru, his hapu) were judged to have been in rebellion by the Commission and were therefore, under the 1868 East Coast Act, excluded from the lists of owners. He was excluded from all the Matawhero awards. He was excluded from Kohangakarearea, another contested block, which the Commission awarded to just 10 individuals of Ngati Kaipoho hapu of Rongowhakaata. There was clearly a deep-seated ownership dispute between them and Ngati Maru, but Ngati Maru were excluded in 1869.
36. **IN** these ways, Te Kooti was deprived by the Commission of any land in Poverty Bay in 1869.
37. **SIX** years after his pardon, he was included in the ownership lists for two portions of the vast Tahora No 2 block, which lay inland of Poverty Bay and reached up into the Urewera. This block was dragged into the Native Land Court in 1889 on the claim of two young men from Whakatohea, who were shown to have no rights whatsoever. It had been illegally surveyed in 1887, and the evidence of the legitimate Maori owners was that of extremely angry men. (I discuss this case,

with regard to Tuhoe's interests, in my forthcoming Urewera Overview Report Part II, 1878-1912.)

38. **DESPITE** the protests, the Court ruled to uphold the survey, and it subdivided the land into 12 portions. The ownership lists were mostly undisputed, due to the high degree of co-operation between the tribal leaders defending their rights, as the Court expressly noted. Te Kooti was included (by Wi Pere and others) in the ownership lists for Tahora 2C1 (Te Houpapa/Waimaha) and 2F (Papuni). He was listed as Te Turuki Te Rangipatahi, probably to ensure that the judge failed to recognize the name. The hearing, which was held at Opotiki, coincided precisely with Te Kooti's attempt to visit Gisborne, and was suspended at the time of his arrest by the government's forces on 28 February-1 March 1889. But Te Kooti was included by his kinsmen as a shareholder in these two blocks, where he had taken sanctuary during the wars.
39. **IN** Poverty Bay, however, Maori who continued to oppose his return to Gisborne in 1889 used the Native Land Court to continue to exclude Te Kooti from ownership there. He was shut out from Pa-o-Kahu, the place of his birth beside the Awapuni lagoon. Pa-o-Kahu was acknowledged to be Ngati Maru land, but Te Kooti was not included amongst the listed owners in the original Native Land Court hearing (1880), nor in the later subdivisions of 1883 and 1889 (RS, pp.392, 622 n.201). Families who had suffered in the attack of 1868 used the Land Court to ensure that Te Kooti remained substantially landless in Turanga.
40. **IT** is possible that, after his pardon in 1883, he was included as a shareholder in some blocks that I do not know about. In 1887, he apparently hoped to exchange some land that he said he owned in Poverty Bay with private land near Orakau, where he wanted to live (RS, pp.333-4). Whatever exchange Te Kooti had had in mind, it never eventuated.

41. **THE** Poverty Bay land may have been land at Paparatu, in which, according to Hei Ariki (Tihei) Algie, Te Kooti's great-granddaughter, she acquired her shares through her descent from him. She said that the portion of Paparatu which remained in Maori ownership was re-named 'Te Whakaari' by Turi Carroll, Sir James Carroll's son, when it was incorporated: that is, named for Te Kooti's 'predictions' ('whakaari'). Tihei described this land as being generally known as Paparatu, and that it was the place of Te Kooti's first military encounter with the militia forces in 1868. Tihei also said that Te Kooti went to Paparatu, at the start of his trek inland, because it was his land, as well as the fact that it possessed a commanding view over the upper Te Arai river. It was part of 'the old Mangapoike block', as it came to be defined by the Land Court.<sup>14</sup> This large block was first brought to the Court in 1883, contested, and ultimately partitioned in February 1893. The first list of owners is completely indecipherable, but in the amended lists for Mangapoike No 2, drawn up in 1894 (after Te Kooti's death), Tihei's grandmother, Oriwia Kunaiti (Oriwia Waata) was included.<sup>15</sup> Later, Oriwia's husband Wetini, Te Kooti's son, gave evidence regarding the incorporation of Mangapoike No 2C in 1910. This he had supported - to the extent of signing another's signature in favour of incorporation and lease, for which he was rebuked.<sup>16</sup> Wetini was, presumably, also a shareholder but as I have not researched the complex history of this block, which was part of Wi Pere's East Coast Trust, I am not in a position to comment further.
42. **THE** specific details do not answer the larger question regarding Te Kooti's customary title to land. It has been shown that he was included among those sent to Wharekauri in 1866 in part because of direct lobbying from men with whom he had long contested Matawhero's ownership (Harris and Read). It has been shown that he (and others) were held longer on Wharekauri than the government had

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<sup>14</sup> Oral Source (OS): 26 November 1983, Manutuke, Tape 2a-2b. See also, Judith Binney and Gillian Chaplin, *Ngā Mōrehu: The Survivors*, Auckland, 1986, p.105.

<sup>15</sup> 7 November 1894, Wairoa Minute Book (MB) 8, p.328, microfilm, University of Auckland Library (AUL). The amended lists deleted the duplication of some individuals, the consequence of variant names. The original lists of owners for Mangapoike 'B', 18 March 1893, entered in the opening pages of Wairoa MB 8, are illegible on the microfilm.



originally intended, on Biggs's recommendation; Biggs was determined to obtain a land cession at Poverty Bay before the prisoners were released. It has been shown that Te Kooti's reprisal at Matawhero in November 1868 was directed expressly at Maori who had 'sold' his land during his exile or those whom he considered responsible for his exile, and at the settlers living at Matawhero. The land ceded by Poverty Bay Maori in December 1868 after his attack was the consequence of these cumulative events, for which Te Kooti became blamed. The bitterness against Te Kooti among some Maori at Poverty Bay arose not only from the killings in 1868 but also because the land was ceded (that is, confiscated) 'for Te Kooti's deeds', as one 1888 petition said (RS, p.386).

43. **BUT** underlying all these events were two original causes:

- (i) the refusal of the early Poverty Bay settlers to re-negotiate improper land 'purchases', or to acknowledge that the long-standing protests against incomplete transactions had any merit. This was despite the fact that, in the case of Otoma, the Old Land Claims' Commissioner had, in 1859, identified its purchase as being faulty. Thus, a smouldering dispute of over 30 years duration burst into flames because the land was occupied during Te Kooti's unjust exile.
- (ii) the insistent pressure of the Crown's agents, notably McLean and Biggs, to force a cession of land by Poverty Bay Maori from 1865.

44. **TE** Kooti, like all Poverty Bay Maori, was deprived of his land because of the Crown's actions. The Poverty Bay Commission not only excluded him from all his remaining land titles on the grounds that he was a 'rebel'; it also silently upheld Read's claim and transferred Matawhero 4 into Read's hands without comment.

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<sup>16</sup> 6 May 1910, Tai Rawhiti Maori Land Board MB 3, pp.247-8, AUL.

45. **DRIVEN** into a permanent exile, Te Kooti dedicated his later life to urging other tribal groups never to part with their lands. He composed many waiata, which convey his recurring advice, be ‘wary’ of sweet temptations, such as money or beer. In 1891, he adapted an old warning song of Tuhoe and sang it to them at the opening their greatest meeting-house, built and named for him, Te Whai-a-Te Motu (The Pursuit Across the Land). The song begins:

*Whakarongo, whakarongo ra te taringa ...  
Listen, prick up your ears at the selling of the land, blowing in  
from Rotorua!...*

46. **AND** it ends:

*Watch for the hundreds who will be stranded, lamenting for their  
land taken away at the hand of the Governor; the sobbing  
resounds in vain.  
(RS, p.448.)*

47. **THE** songs are based on his experience.

*SOI: 23.1.4.3 What effect did the Crown’s pardon of Te Kooti in 1883 have of absolving him from alleged former wrong doings, and in particular from actions taken by him after the return of the whakarau from Chatham Island in 1868?*

48. **THE** Crown’s pardon explicitly absolved Te Kooti from all the acts he committed after the return of the whakarau. This was acknowledged by the Crown at the time of his attempts to return to Gisborne in 1889. The government made it plain to petitioners against Te Kooti’s return that, for example, the drowning of Te Warihi in July 1868 could not be laid as a murder charge against him, as it was included under the terms of the Amnesty Act of 1882 (RS, pp.386, 621 n.171). The former Native Minister, John Bryce, also reminded Mitchelson, the current Native Minister, of this fact as the Crown prepared its evidence for the Supreme Court hearing in 1890 (RS, pp.416, 625 n.34).

49. **IN** my earlier statement, I cited Colonel Whitmore, Te Kooti's former military opponent, who gave his support for a pardon for Te Kooti in 1879, when it was first discussed. Whitmore observed that all Te Kooti's acts had been committed "in fair war and did not contravene Maori custom in war".
50. **TE** Kooti was included under all the provisions of the general Amnesty Act on the demand of Rewi Maniapoto. Bryce, as Native Minister, met with Te Kooti at Manga-o-Rongo on 12 February 1883 to affirm that Te Kooti was included under its provisions. In turn, Te Kooti gave his affirmation, as Bryce demanded of him, that he had abandoned all acts of war: indeed, as Te Kooti told him, he had laid down the sword since 1873.
51. **IT** is worth noting that, during the parliamentary debate on the Bill, when the matter of Te Kooti was raised (as to whether he should be made an exception to its provisions), Walter Mantell said, 'So far as I remember the case, Te Kooti, great as his offences have been, was more sinned against than sinning, and if I endeavour to put myself in his place I cannot help thinking that I should have been ten times as bitter in my revenge as he was.'<sup>17</sup>
52. **THE** amnesty extended to all offences 'more or less of a political character', committed during 'insurrections' or consequential of 'insurrections', and it extended to all Maori, unless explicitly exempted. Thus, all Te Kooti's acts committed both before and after his return from imprisonment in July 1868 were exonerated.
53. **AFTER** his pardon, Te Kooti was ostensibly free to travel wherever he wished. But as has been shown, the Crown violated his freedom in 1889.

***SOI: 23.1.4.5** Did Te Kooti's pardon in 1883 have an effect on the award of land which, through custom, he held an interest in? If not, what obligation was the Crown under to*

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<sup>17</sup> 9 September 1882, *New Zealand Parliamentary Debates*, p.913.

*ensure that Te Kooti did not remain punished for the actions that he had been pardoned for?*

54. **I** have already shown that, in 1889, he was included in two portions of Tahora No 2, although the Land Court judge was possibly unaware of this fact. Land Court judges possessed wide discretionary powers to exclude individuals from awards of title and, given the context of Te Kooti's arrest in the midst of the Court hearing at Opotiki, the judge was unlikely to have been sympathetic to Te Kooti's inclusion amongst the recognized owners.
55. **I** have also shown that those who remained opposed to Te Kooti ensured that he remained excluded from Poverty Bay lands in which he was entitled to be included.
56. **IT** is clear that Te Kooti was desperately seeking somewhere to live from 1883. The Crown accepted that it had an obligation to him to find him land, especially as it actively dissuaded, and finally prevented him from ever returning to Turanga.
57. **BUT** the saga of the Crown's grants of land is as muddled as the land it ostensibly gave him. In fact, Te Kooti never found a permanent place to live, which he had wanted as a centre for the Ringatu faith. Nor was he given title to the final Crown grant made, Te Wainui (Waimana 313), 600 acres at Ohiwa.
58. **IN** brief: in 1883 Bryce, as Native Minister, agreed to find Te Kooti land at Orakau, within the confiscated block. It is clear that Te Kooti wanted this gift of land from the government to affirm their act of reconciliation of February 1883. In the end, the government purchased some swampland, Ngamoko No 2, half of which it intended to give to Te Kooti (50 acres). But it withheld the title, and the land proved totally unfit for habitation (RS, pp.331-3). The government's promise to find land at Orakau for Te Kooti was abandoned.

59. **IN** 1889, the search for land for Te Kooti switched to the Ohiwa harbour. The promise to find land within the confiscated block there was made by Mitchelson, the Native Minister, as an attempt to deflect Te Kooti's desire to return to Turanga. Mitchelson threatened to make the grant conditional but on 7 February 1889 he set the offer in motion, seeking only the assurance that Te Kooti would travel unarmed to Turanga. This promise Te Kooti made, and kept.
60. A series of petitions in November 1889 asked the government to find this land at Ohiwa, but the premier, Atkinson, now refused. However, in 1891, the government's promise was reactivated as part of an understanding that Te Kooti would mediate with Tuhoe concerning their lands, which had remained closed to surveying and prospecting. In 1891 the new Native Minister, AJ Cadman, offered to grant Te Kooti and his followers land at Ohiwa on two conditions: that Te Kooti give up any thought of returning to Gisborne; and that he would assist in the government's consultations with Tuhoe regarding the surveying of their land. These conditions Te Kooti fulfilled. Cadman's promise, which he did not keep, was that all aspects of surveying in the Rohe Potae must be carried out with Tuhoe's consent, and in an open and clear manner.
61. **THE** area of land at Wainui was first designated in March-April 1891. On 21 November 1891, Te Kooti met Cadman at Whakatane to select the particular piece, and on 4 December Cadman informed the Minister of Lands that he had arranged with Te Kooti to exchange the uninhabitable land at Orakau (which was, in fact, still owned by the Crown) for 600 acres at Wainui, Ohiwa.
62. **THE** problems with the new site were not discovered until the following year: it too was virtually uninhabitable and it did not have access to the harbour. Almost immediately, Te Kooti tried to exchange it for land on the coast. But in the end, he accepted it as the land given to him by God: "I will go there and stay with it" (RS, p.453). In February 1893, he set out on the fatal journey to Wainui that ended with his death by misfortune, 'hau-aitu'.

63. **THE** title to the land was never granted to Te Kooti. It was gazetted first as a general Maori reserve in 1895, and was finally, after extensive negotiations, transferred from Crown ownership to the Haahi Ringatu (Ringatu Church) in October 1923. Even in its final negotiations with Te Kooti the government failed to fulfil its promise to find him somewhere to live in peace. Thus it can be stated that he remained punished for actions for which he had been formally pardoned.

*SOI: 23.1.4.6 What was the effect of Te Kooti's pardon on those individuals from Turanga who had accompanied him after Nga Tapa? Were they too absolved for any alleged wrong doings? If not, what was their status and personal situation?*

64. **THESE** questions seem to fail to understand that the Amnesty Act of 1882, which came into force on 13 February 1883, was a general pardon. The only argument had been, as stated, was to whether Te Kooti ought to be expressly excluded. Bryce's meeting with Te Kooti on 12 February was to demonstrate publicly that he was included.
65. **THE** effect of the pardon was the freedom of all the Turanga people who had followed Te Kooti after Nga Tapa to live where they chose. Te Kooti formed a settlement at Otewa, within the King Country, and many of his followers stayed there, or visited him there from time to time. Otewa became the centre of his religious teachings, based on his commitment to peace. But because it was on Ngati Maniapoto land, he sought always to find a permanent home. As I have stated, from 1883 he negotiated with the government for a land grant, which he saw as the seal of their reconciliation. He expressly wanted a government grant from confiscated lands, so that there could be no dispute with Maori. He clearly thought that it was proper that he should be given recompense in this manner.
66. **SOME** of his Turanga followers stayed with him at Otewa: notably his wife Heni Kumekume and his nephew Pötatutatu, who was Komene's son. Te Kooti also brought up Pötatutatu's daughter, Taawhi, who was well known to the old people

of Turanga. Thus, some of Te Kooti's closest followers from Turanga remained with him, by choice. Others, however, came home, such as Wi Kingi Te Paia.

*SOI: 23.1.4.7 What was the net effect on Te Kooti of his arrest and detention in 1889?*

67. **THIS** question is virtually impossible to answer in summary format.
68. **HE** was nearly destroyed by the experience of arrest and re-imprisonment. The events re-enacted the past as in a nightmare. The men who arrested him at Waiotahi on 28 February 1889 were those who had hunted him in the wars, notably Ropata and Colonel Porter and an armed contingent of Ngati Porou. But even they found his treatment by Goodall, the Police Inspector, to be unduly humiliating, and it was Porter who insisted that Te Kooti should not be dragged, handcuffed, into Opotiki. He rode with Te Kooti in escort in an attempt to accord him some dignity (RS, pp.407-9).
69. **TE** Kooti's arrest was followed by a magisterial court hearing in Opotiki where he was allowed neither legal representation nor an interpreter. He had been arrested after he had turned back and after he had informed the same resident magistrate, RS Bush, that he was turning back. In his subsequent appeal against the judgement, he stated that he neither understood the evidence nor the proceedings taken against him.
70. **HIS** desire for freedom was such that he was prepared to abandon his legal rights to get out of jail. He accepted Mitchelson's offer to find him Maori bondsmen, on the stated condition that he would not see a lawyer. He further agreed to take 'the pledge' against alcohol; and he agreed not to go to Turanga at any time without first obtaining the government's permission. These were the humiliating terms of his release from jail.

71. **THE** physical descriptions of him at the time were of a broken man: he was described upon his release as being in very ‘low spirits’, and overcome with chronic asthma, a condition from which he suffered all his life. Nevertheless, his spirit was not bowed, and in June 1889 he gave orders for Napier to contest the Court’s finding. Te Kooti thus set in motion the tortuous processes, which resulted, finally, in the Court of Appeal’s decision against him in 1890. The Bench’s decision was a gross example of legal judgement endorsing prejudice. It upheld the alarmed hysteria displayed in Gisborne as being a ‘reasonable’ state of mind; the Bench, therefore, accepted that the government had cause to prevent Te Kooti’s journey. It did not reflect on the fact that vigilantes in Gisborne had partly armed themselves. Instead, it chose to speculate that ‘Arms ... might have been at any time supplied by Natives under Te Kooti’s influence’.<sup>18</sup> Its decision empowered hysteria and legitimised misinformation; it endorsed the concentration of armed power of the state against Te Kooti as being the proper response.

72. **DESPITE** all these experiences, Te Kooti remained firmly committed to the principle of law. It was a basic tenet of his teachings from 1873. One of his most famous sayings was uttered in April 1893, as he lay dying:

*The canoe for you to paddle after me is the Law. Only the Law  
can be pitched against the Law.*  
(RS, p.329).

73. **THE** ‘net effect’ on Te Kooti becomes a tribute to the man: that he could experience such travesties of justice and still remain committed to the principle of working through law to achieve justice. His purpose in all his journeys after 1883 was to seek reconciliation with past enemies and travel the former pathways of war to re-establish peace. He constructed the Ringatu faith around these new principles. A waiata he composed on 12 February 1889, on the aborted journey to Gisborne, best expresses his hopes and purposes:

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<sup>18</sup> Goodall v. Te Kooti, *NZLR*, IX, 1891, p.47.



*How evil is this long-abiding dispute. Release me, that I may journey to Turanganui there, beyond the land's horizon, to make my land a place of abiding peace.*  
(RS, p.352).

**SOI: 23.1.4.8** *Have Te Kooti's descendants been prejudiced, if at all, by Te Kooti's alleged loss of reputation through being labelled a 'rebel'?*

74. **THERE** is no question that the descendants of Te Kooti have suffered through the dominant historical explanation that Te Kooti was a 'rebel' - and a 'murderer'. His great-granddaughter Tihei only learnt at about the age of 14 (in 1928) that she was his descendant. Her family had kept the connection hidden from her, through shame:

*I didn't know anything about Te Kooti. I used to hear how he was a rebel and all that, and I didn't think I was connected to him .... But then we were asked to write about Te Kooti at school. I was in Standard Six. And I didn't **know**. ... I went home and talked about it, and was told to forget it. 'Don't worry about it! It is over! Finished!' [Then] I went back and told my parents that my headmaster was threatening to strap me - because I didn't know anything about Te Kooti. I asked them - **then**. My mother said, 'Oh well, it's too late now'. And she started telling me who we were, who he was. My grandfather was there, and she said, 'That is his son, sitting over there'. That is the first time - I must have been about 14 then. I was frightened. I was frightened that someone might take to me because of what **he** did.<sup>19</sup>*

75. **THE** family history is a painful one, and it is probably best that they speak of it themselves. It is a product of war: for Wetini, Te Kooti's only identified son, was brought up alienated from his father. After he and his mother, Irihapeti, escaped from Te Kooti in December 1868, the boy was sent away to live with Ngati Porou. I have been told by a Ngati Porou informant that he was reared as a whangai of Mokena Kohere. Mokena boasted of his 'conquest' of Ngati Maru in 1865, and in 1867 he endorsed JC Richmond's removal of the meeting-house Te Hau-ki-Turanga as one of the 'spoils of victory over the rebels' (RS, p.114).

Mokena was also responsible for the re-sale of part of Te Kooti's land during his imprisonment on Wharekauri in 1866 (RS, pp.108-110). Wetini's youth and adolescence were shaped by the strong Anglican education that he received amongst Ngati Porou, and he never adopted his father's Ringatu faith. His marriage to one of his father's wives, Oriwia Nihipora Kunaiti in 1883 (who had been given by her father to Te Kooti) and with whom Wetini had two children, led Te Kooti to curse their union.

76. **NEVERTHELESS**, the family did not deny their kinship. After Te Kooti's death, they held a tangihanga for him at Whakato marae in May 1893, with his hat and pipe laid out. There was no body, and no-one knew where it was buried. His two little grandchildren, Rangi and Putiputi (Tihei's future mother), dressed in white with large black sashes, were seated beside the 'bier'. Some of the local men present had dramatically shaved one side of their faces as a statement of their shame that his body was not present (see II Samuel 10:4-5). In Maori customary practice, the body has to be contested for and brought home as a statement of love and belonging. Their shame arose from Te Kooti's treatment: a man held in permanent exile, without a home, even in death.
77. **FOR** this situation the Crown was responsible, in that its actions had prevented Te Kooti from ever returning home, as he had wanted and which was his legal right.
78. **THE** prejudices against Te Kooti reached deep into the legal and educational institutions, as has been shown. The first full-length biography attempted of Te Kooti, published in 1966, in its opening sentence labelled Te Kooti as the 'arch-rebel', who plunged the centre of the North Island into a 'blood-bath'.<sup>20</sup> Such prejudices were not particular to individuals: they were the product of a colonial world in which indigenous resistance movements were treated, without proper

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<sup>19</sup> OS: 26 November 1983, Manutuke, Tape 1a. Part-quoted in Binney and Chaplin, *Ngä Mōrehu*, pp.93-94.

examination, as ‘rebellions’, and outstanding Maori military leaders viewed merely as ‘cunning’ ‘savages’. It takes the passage of time, sound historical research, and serious institutional effort to overturn these prejudices; this last, I believe, is one major function of the Waitangi Tribunal.

79. **TE** Kooti’s family suffered the extremes of opprobrium in their own tribal region, because Te Kooti was not only seen as a ‘rebel’ against the Crown but also as a man who had executed his own kin. Some of the most powerful Maori families remained hostile to him, either because of political vendettas or because of their own family’s suffering. The most notable, of course, was Heni Materoa Carroll, the aristocratic granddaughter of Paratene Pototi whom Te Kooti had cruelly executed in 1868. But after her death, in 1948 her family lifted her ban on the return of Te Kooti’s body to Turanga. This early act of reconciliation, made over 50 years ago, provides a model for the present.
80. **HIS** family has been prejudiced in other ways. They were excluded from land ownership in Poverty Bay, except in Tahora No 2 and, probably, Paparatu (Mangapoike), through descent from Te Kooti. He owned no other land to bequeath them. They were excluded from freely discussing their family history, because of the surrounding hostility. They lost access to his personal papers and diaries, and worse, they lost access to a family understanding of the personal greatness of their tipuna. For any real understanding of Te Kooti, the man committed to peace during the last 20 years of his life, rested largely with the Ringatu communities and with those who travelled to hear his teachings. His own family was shut out from this experience. As Tihei said, she had no understanding of what was expected of her, when Wetini, her grandfather, suddenly took her to Wainui:

*The tohungas wanted him, and they took me there. They thought by taking one member of the family, they’ll find where they buried Te Kooti. I was very young, and of course my grandfather*

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<sup>20</sup> WH Ross, *Te Kooti Rikirangi, General and Prophet*, Auckland, 1966, p.9.

*he booboed that, all the way, he didn't believe that. And he went away to Auckland to the races, and left me there with all these people, and they took me on a canoe. ...They were rowing me to wherever I was to guide them. ... Even the man who was the last one of the men that took Te Kooti, he was the one on that canoe: Rikirangi [Hohepa]. But they didn't keep me awake, and they had to come back.<sup>21</sup>*

81. **IN** their claim against the Crown, the family have included the dispersal of Te Kooti's property, including diaries and letters, either as the result of government actions or by its omissions. The Crown has accepted that Te Kooti's property was dispersed (SOR 500.1), but it has not accepted any responsibility. In my written statement I addressed this issue; the Tribunal has also raised the matter in its comments in SOI, 23.1.1.
82. **THE** two personal diaries written by Te Kooti which are currently lodged in public archives (the Alexander Turnbull Library, Wellington, and the Hawke's Bay Museum, Napier) were taken by the Crown's agents in war. The first is the Wharekauri diary, written in a police-issue notebook that formerly belonged to Constable Brennan, who was probably a guard on Wharekauri. It was apparently found after the siege of Nga Tapa; it has bloodstains on the back cover. The second is written in a pocket notebook that was found hidden at Te Houpapa in March 1871. There is also a combined Anglican Maori prayer book and New Testament of 1862, and a book of school songs in English, both of which formerly belonged to Te Kooti. They are associated in their provenance with the pocket notebook, and are held by the same museum (RS, pp.66, 576 nn.28, 29). As I have stated, this diary also contains a note and translations of six inoi (prayers) written by William Colenso, who used these texts in his famous book, *Fiat Justitia* (Let there be Justice), published in Napier in December 1871 in a vain attempt to prevent the execution of Kereopa Te Rau and the continuing 'mercenary' pursuit (as he put it) of Te Kooti (RS, pp.531-3).

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<sup>21</sup> OS: 26 November 1983, Tape 2b.

83. I have stated that these diaries and papers are taonga without which no history of Te Kooti can be told. Because of his national stature, they are taonga for future generations. They are integral to the education, which the family also seeks for the community at large, about the history of the injustices under which Te Kooti suffered. They were taken from Te Kooti by the Crown, and should be fully acknowledged to the family as having been taken. But at this distance in time from these events, a trusteeship role for the taonga by these public institutions would seem to be a proper resolution, for the good of future generations. But that will be a matter for the family and the Crown to resolve.