

REPORT

BY

MR. COMMISSIONER MACKAY

RELATIVE TO

THE SURRENDER OF TE WAKE, ETC.

(Return to an order of the House of Representatives, of Thursday, the 19th day of August, 1869.)

“That there be laid upon the Table of this House—Mr. Mackay’s Report of the 8th of July, 1868, relative to the surrender of Te Wake, and the Letters of the same Officer, of the 1st day of April, 1866, reporting his visit to the Thames to investigate circumstances connected with the supposed murder of a Maori.”

(Mr. Rolleston.)

WELLINGTON.

—
1869.

REPORT BY MR. MACKAY RELATIVE TO THE SURRENDER OF TE WAKE, ETC.

No. 1.

(No. 91.)

Civil Commissioner's Office,
Auckland, 18th July, 1868.

SIR,—

I have the honor to inform you that, in accordance with your instructions that I should proceed to Hokianga to endeavour to arrange a quarrel between the Ngapuhi and Rarawa Tribes, and demand the surrender by the latter of a half-caste named Te Wake, who had been committed for trial on a charge of murder, and had escaped from the custody of Messrs. Williams and Barstow, Resident Magistrates,—I left Auckland on the 31st May last, in H.M.S. "Brisk," accompanied by Wiremu Te Wheoro, Hakiriwhi Purewa, Hori Tauroa, and Nini Kukutai, Chiefs and Assessors of the Waikato District, Wirepe Hoterine Taipari, Honana Wahataiki, Ngakapa Whanaunga, and Piniha Marutuahu, of the Thames District, and Heneri Pango, Tararua Paraitia, and Pita Wakahochoe, Native policemen.

We arrived at the Bay of Islands on the 1st June. H.M.S. "Brisk" left for Sydney immediately after landing myself and party; and we crossed over from Russell to Waitangi.

On the 2nd June, we travelled from Waitangi to Tarawaua, a Ngapuhi settlement on the banks of the Waihou River, a tributary of the Hokianga.

On the 3rd June, we took boats and descended the river to Te Waiti, where we were compelled to remain for the night, owing to a strong westerly wind, which prevented our further progress that day. On the 4th June, we continued our journey down the river. On passing Motukauri, a Rarawa settlement, on the north side of the Hokianga, we observed a pa had been constructed there. At Onoke we also noticed that the Ngapuhi had two pas on the beach in front of Mr. Maning's house, and one on the hill at the back thereof. On the opposite or north side of the river, the Rarawa Tribe held two pas on the hill known as the Karaka. We pulled over to and landed at the latter place. In order to properly understand the position of affairs, it will here be necessary to give a short *résumé* of previous proceedings in the case, before entering on the details of my own action in the matter. It appears that a piece of land at Whirinake was claimed by a hapu named Ngatikuri, who were connected with both the Ngapuhi and Rarawa Tribes. The principal claimants to lands in that neighbourhood seem to have been Ihipera (wife of John Hardiman, senior) and Remu, living with the Rarawa Tribe, and Tahaetini and Nuku, residing with the Ngapuhi. About the end of February last, Ihipera, who had had some previous dispute with Nuku and Tahaetini, determined to have the land surveyed, in order that the title might be investigated by the Native Land Court. The other party objected to this, and said they would shoot the surveyor and any persons who accompanied him to show the boundaries. This quarrel went on, and about the 18th March it was proposed to divide a piece of land which formed the principal subject of dispute. On the 23rd both parties met on the ground; Ihipera and her son, John Hardiman, a half-caste, pointed out the boundary of their claim, and Nuku and Tahaetini did the same on their side. As neither party could agree, and the latter encroached on what Ihipera and Hardiman considered to be their property, the two last named agreed to leave it for Tamaho te Huhu to decide between them. He then placed a stake nearly in the centre of the contested piece, giving nearly equal portions to each. Tahaetini then went to his settlement for his gun, and on returning with it, then proceeded to pull up the stake planted by Tamati te Huhu. Some wrangling ensued. Tahaetini and Nuku then mustered several of their Ngapuhi friends, and erected a pa on one end of the disputed block, and stopped the road which passed close to it.

The Rarawa next made a pa at the other end of the block, and also stopped the road there. This was of serious inconvenience to Ngapuhi, and, on the 27th March, they asked for permission to open the road for two days, to allow them to procure supplies of food for their pa. This was assented to by Te Rarawa. On the 29th, the road was again closed. On the 30th, Nuku, accompanied by several other persons, went to the neighbourhood of the Rarawa Pa; he publicly stated his intention of taking his oxen and dragging some timber along the closed road. He was urged not to do so, but persisted that he wanted the timber to finish his pa with. He is said to have gone past the Rarawa Pa twice on this day, and not to have been opposed. The Rarawa put a fence across the road, and the third time he came back with some other persons, who went into the pa by another route, and he obstinately refused to leave the usual road, and attempted to remove some of the fencing. Te Wake, it is stated, on the instigation of another person, went out of the pa, and shot Nuku.

It is notable that at the time Te Wake sallied forth from the one end of the pa to shoot Nuku, Mohi Tawhai and others of Ngapuhi were at the other extremity of it, negotiating a peace with Te Rarawa.

After this both parties commenced hostilities, but these seem to have been principally confined to firing at each other at long range.

In April, His Excellency the Governor, accompanied by the Hon. Mr. Richmond, proceeded to the Bay of Islands, and Mr. Richmond, accompanied by Messrs. Barstow and Williams, went to Hokianga. The result of their negotiations was, that peace was made between the belligerents, and Te Wake was to be formally handed over to the law. At this stage of the proceedings the Hon. Mr. Richmond left for the Bay of Islands, it being supposed that the whole affair was definitely arranged. Te Wake was surrendered and brought before Messrs. Barstow and Williams for examination, and

was fully committed to take his trial at the next sitting of the Supreme Court, on the charge of having murdered Nuku. He, however, managed to escape from their custody, and to get away to Te Rarawa. It is perhaps fortunate he did, as it has since transpired that, on the day of the peace-making, a number of the Rarawa intended to shoot Messrs. Richmond, Barstow, and Williams, but, owing to unfavourable circumstances, they were unable to carry out their treacherous designs, but, as a set-off for their want of success on that occasion, they had plotted to waylay Messrs. Barstow and Williams on their road to the Bay of Islands, murder them, and rescue the prisoner.

After the escape of the prisoner, Messrs. Barstow and Williams returned to the Bay of Islands. The Rarawa withdrew from Whirinake to their settlement at the north side of the Hokianga River, and erected the pas before-mentioned at Motukauri and Te Karaka.

On the 11th May, a party of Ngapuhi crossed the river to Te Karaka; some firing took place between them and Te Rarawa, which resulted in the retreat of Ngapuhi to Onoke, with one man mortally wounded. The Rarawa sustained no loss. After this both parties contented themselves with firing occasionally harmless volleys from opposite sides of the river, varied by dubbing canoes and making preparations for crossing the river for a final engagement. Such was the state of affairs when myself and party arrived at Te Karaka.

As previously stated, we landed at that place on the 4th June. We were met on the beach by a chief of the Rarawa named Tehu and about eight Natives, all fully armed; they invited us to a hut on the beach; and, although they did not give us a very cordial reception, they could not be considered as unfriendly. After this a number of Natives arrived from the pas on the hill, and assumed rather a threatening and hostile attitude; but whatever their intentions were, they were not carried out, owing to the intervention of the chief Tehu. We camped on the beach for the night.

During the night guards were kept by the Rarawa, and shots were fired by both parties, so as to keep their people on the alert. Early on the 5th June I asked the Rarawa to meet at Te Karaka to discuss matters. This they refused to do, saying, "If they left their pas, Ngapuhi would attack them." I then wrote a letter to Mohi Tawhai asking him and his people to cease firing, and agree to a truce during our visit. Wirope Hoterini Taipari and Ngakapa Whanaunga volunteered to carry the letter to Ngapuhi. On their arrival at Onoke, Ngapuhi, under the advice of Mr. Maning, Judge of Native Lands Court, hoisted a white flag, and agreed to a cessation of hostilities for the time being. My messengers returned the same evening.

These preliminaries having been arranged, Te Rarawa also agreed to a truce, and put up white flags at their pas. It was then determined that the korero should take place on Monday, the 8th June.

Sunday was properly observed by both sides.

On Monday the Rarawa, to the number of 343, assembled at Te Karaka, and as each division arrived they favoured us with a war dance. I found that any mention of the name even of Wake was hazardous; and therefore, in the first instance, I withheld the letters to the Rarawa written by the Government. I then proceeded to inform the Rarawa that myself and the chiefs who accompanied me had been deputed by the Government to visit them, and endeavour to induce them to cease fighting with Ngapuhi.

They replied that the Government had no right to interfere in their quarrels; and if they did, the result would be they would attack the European settlers. That if we had come to ask for Te Wake, he would not be given up; that he had been handed over to the law, that it had held him, and while he was in its custody he was as a dead man; but having regained his liberty was now free, and the law had no right to demand him, and he should not be given up a second time; his body no longer belonged to the law but to himself.

I replied I had not come to investigate the guilt or innocence of Te Wake, that was not my business; that anything concerning him was of secondary importance, but so long as there was so much smoke from gunpowder no one would be able to see clearly whether Te Wake was right or wrong. The first step, therefore, was to clear away the smoke by making peace with Ngapuhi.

Te Rarawa contended that they had not broken the peace made at Whirinake, but the Ngapuhi had done so by coming over to Te Karaka and attacking them. That the peace should emanate from Ngapuhi and not from them.

I said it was true Ngapuhi had broken the peace, but then they had been punished, as they had lost a man and the Rarawa had repulsed them. All I wanted was for them to say they would make peace; then I would go to Ngapuhi, and ask them to do likewise. That the demand did not arise from either of the belligerent parties, but from the Government, who were acting as mediators between them.

A very lengthy discussion ensued, and the chiefs who accompanied me joined in it with considerable ability, pointing out the evils of war as experienced by themselves at Waikato. The Rarawa ultimately consented to cease fighting provided Ngapuhi would agree to do the same. They would not, however, consent to surrender Te Wake either to the law or to Ngapuhi.

I answered that the question of war or peace with Ngapuhi, and that about Te Wake, were quite separate. It was not Ngapuhi who required Te Wake but the law. They had, in the first instance, during Mr. Richmond's visit made peace, and had very properly handed over Te Wake to the authorities; that his escape was no fault of theirs, and the Government did not blame them at all for it; that they would only be blamable if they retained him when asked to give him up. That if Ngapuhi made peace I should then return to talk about Te Wake.

After concluding the talk with the Rarawa, myself and party crossed the river to the Ngapuhi settlement at Onoke, and requested the people there to meet us the next morning.

On Tuesday, the 9th, the Ngapuhi assembled at Onoke. The proceedings commenced by a war dance, in which about 460 men took part, and there were about 70 others sitting on the beach as spectators. This mummery being completed, the actors returned to the pa and proceeded to the lawn in front of Mr. Maning's house, where the korero commenced.

Mohi Tawhai initiated the korero of the day by saying he was glad to see the law and the Government stepping in to make peace and maintain order in that district. That they had frequently solicited the Government to take action in other cases, but nothing had come of it. He was followed

by Hone Mohi and others, who said it was very well to make peace, but let Te Wake be first surrendered. That he had committed an offence punishable by law; they were wishing to uphold that law and arrest the offender, and deliver him over for trial. That if they made peace there was no guarantee that the law would be afterwards enforced; many other men had been shot in that district, and the law had not stepped in to vindicate its authority.

I answered, the question of making peace or war had nothing whatsoever to do with the arrest of Te Wake; the two questions were distinct and separate. He had been brought before the Magistrates, and examined and committed for trial; he had ultimately escaped, but it was not from the hands of the Ngapuhi, but from the custody of the law. It was true they were desirous of assisting in the reappréhension of Te Wake, but they in their zeal had made a great mistake, perhaps not wilfully or willingly, but through ignorance. The law could not be assumed or not at pleasure; it was presumed to be always present, and not to be like a wet weather mat, which was valued in bad weather and cast aside as useless in good weather. That an admixture of law and Maori revenge was not good: it was even as salt and fresh water intermixed. They had better make peace, and leave the law to deal with the question about Te Wake. The law would work quietly in the first instance; it was true the law occasionally had to resort to armed force to vindicate its authority, but this must be done in a proper manner. If a riot took place, or any body of persons banded together to resist the officers of the law, it was for the Magistrates of that district then to embody a sufficient force of special constables to enable them to enforce the law; but private individuals had not that right. The difference between doing what they wished and doing it as the law directed was this, in the one case it was done under authority, but in the other case there was no legal sanction given. It was true Te Wake had escaped from the officers of justice, but he had not got beyond the pale of the law, a warrant had been issued for him and he could be taken at any time. But this did not justify them in recommencing hostilities with the Rarawa; it was time enough for them to assemble an armed force to support the law when they were called on so to do. They had better consent to a permanent peace, and leave Te Wake to be dealt with by the law. That they had not seen Te Wake commit the murder with which he was charged, and they seemed to wish to dispose summarily of him before he could get that fair and impartial trial to which he was entitled. Neither Ngapuhi or Te Rarawa were fit persons to judge of his guilt or innocence, and it ought to be left to a dispassionate tribunal to try him.

As to the law not having stepped in to interfere in other murders, it had never been fairly asked; certainly other Natives had been killed, but the law could not act on defective or insufficient information. In those cases the Government had never been called on to act; in this they had, and intended to do so. As to what had been done in other cases or by other persons I knew not, neither did it concern me; one man made his canoe after one fashion and another in a different way. I make mine thus: Te Wake has escaped from the law, it is for the law to deal with him. I shall demand that Te Wake be given back to the law, and I now call on you to make peace with Te Rarawa. Mohi Tawhai assented to make peace. The only person who opposed this was a chief named Te Waharerarera, who came forward with a loaded gun, and brandishing it about at full-cock said with a sneer, "You want peace, take this gun, show it to Te Rarawa. No peace shall be made until Te Wake and his younger brother are delivered into my hands. Te Wake shot Nuku first, but it was his brother who killed him. Don't talk to me of peace." He then continued to speak as to the boundaries of the land and the origin of the quarrel. After he had finished his speech, some further discussion ensued. It was at last finally arranged to make peace, and leave Te Wake for the law to deal with. Mohi Tawhai said, "If Te Wake is apprehended we will stop quiet, if he is not we will do the same; if he is, however, handed over to the law, we will be quite satisfied; if he is tried and acquitted it will be well; if he is condemned it will be well also; in any case we shall now remain quiet, we have waited for a long time for the law to be enforced, and we now submit to it." In the evening myself and party recrossed the river to our former camp at Te Karaka. Nothing of any moment transpired until next day.

On Wednesday, 10th June, the Rarawa assembled at our tent. I then informed them that Ngapuhi had consented to make peace, that both sides were now willing to do so. That at first the hills of Hokianga had been so obscured with fog that the way was not plain; now a wind had sprung up and cleared away the clouds, and there was no further difficulty in the matter. I therefore now, in the name of the Queen, the Government, and the law, demanded the surrender of Te Wake. My demand was followed by some very violent speeches made by men of low rank, and others who were related to Te Wake. Threats were used, and they flatly refused to either give him up or allow me to take him. Peace had been made, and that settled everything: no person had a right to recapture Te Wake. At any rate Te Wake had left the district, and could not be found. That the Government had no right to take the part of Ngapuhi. I reiterated my demand. Denied Te Wake having left the district, as I had certain information that he was at Motukauri on the previous evening. If he had gone from that place, doubtless he was within the Rarawa territory; and if he was not in one room of their house, he was in another. As to the Government having no right to interfere between Natives, I could not accept that theory. Before the country was colonized no doubt the Natives could please themselves, but they must recollect that the Europeans had now come into the country, and had vested interests in it as well as themselves. That the house Muriwhenua (the Northern portion of this Island) was inhabited by Te Rarawa, Ngapuhi, and the Pakeha; that the goods and furniture within that house belonged to the three tenants, and if any one or two of them set fire to the house it must injure all three. Also that all three had agreed to have one law, which they and Ngapuhi had boasted had been introduced into the country mainly through their instrumentality. That I cared nothing about anything that was said about the Government having no right to step in between them and Ngapuhi. The two questions of fighting and the escape of Te Wake were quite separate. Ngapuhi were to blame for breaking the peace which had been made at the time of Mr. Richmond's visit, but that peace had now been formally renewed by both parties. I now came in the name of the law to demand my own. I came not to ask for Te Wake to be handed over to Ngapuhi, but to have that returned to me which I believed had been surrendered to the law in good faith. That they had stated in their letter that if they had retaken Te Wake they would have been to blame; now there was no

difference between recapturing him and detaining him after he had escaped—in either case it was a withholding of him from the law. That I held a warrant for his apprehension, and wherever Te Wake was seen it would be enforced against him. That I did not ask them to capture Te Wake and bring him to me. If they would only say "We will not in any way resist your taking him," then I would go with my Native police and arrest him.

Much further discussion took place, and strong assertions were made that Te Wake should never be given up or taken. None of the chiefs spoke at all in the matter, but maintained throughout a very sullen attitude. The chiefs who accompanied me tried their best to persuade the Rarawa to listen to reason, but we could not apparently make much impression on them. At last Te Tai Papahia arose and said, "Both parties have carried on that dispute long enough; it had better be left for the Runanga of their chiefs to decide." I at once assented to this proposal, as being a very proper course to adopt.

I omitted to observe that, on our going to Onoke, on the 8th June, we found Winiata, a Native Assessor of the Rarawa, of Kaipara, there, and that on our recrossing to Te Karaka, on the evening of the 9th, he accompanied us.

On the 11th, the Rarawa Chiefs informed us that they had consulted about Te Wake, and had agreed to give him up, and that Puhekura had been sent to see him at Motukauri, and request him to surrender quietly. About noon their messenger returned, saying that Te Wake wished to see Te Tai Papahia and Winiata at Motukauri. Winiata is a near relation of Te Wake, and I believe it was mainly through the influence he used at Te Runanga that the other chiefs agreed to give over Te Wake. Te Tai, Winiata, and Puhikura proceeded to Motukauri on the 12th, were absent all day, and returned to our camp about 7 p.m. They then stated that the people at Motukauri, headed by Te Whata, flatly refused to allow Te Wake to surrender, or to be surrendered by the tribe; that the Ngapuhi had been off Motukauri before daylight that morning in a canoe, and had fired at some women who were collecting shell-fish on the beach; that in consequence of this breach of the truce, the Motukauri people were determined not to make peace, and they had found them busily occupied in strengthening the fence of their pa. As I believed this statement to be a subterfuge, especially when coupled with the assertion that the women were gathering shell-fish before daylight, I then expressed great indignation at Ngapuhi for their breach of faith, and stated my intention of coming over that night to Onoke to ascertain the correctness of the report. As I expected, innumerable objections were made to my going there, but finding they could not dissuade me from my purpose, they then said, "Bring Mohi Tawhai, and let us know for certain whether peace is made. I replied, "Mohi will refuse; but I tell you what can be done: the Ngapuhi shall sign a document, making a formal declaration of peace; I will bring it to you, and you shall then sign a similar one.

I then went in a boat with two policemen to Onoke, and on landing there had a korero with the Ngapuhi. I taxed them with infringing the terms of peace, which they strictly denied, Mohi stating that only one shot had been fired after the first hoisting of the white flag, and this had been done by a neutral Native (Kupapa); that he had taken away the gun belonging to this man, and retained it in his possession. I demanded the gun to show to the Rarawa; it was given to me. I then asked Ngapuhi to write a letter denying the charge of firing at the Rarawa women at Motukauri. This they consented to do. I then said that, in the morning, they must sign a formal document making peace with the Rarawa: this was assented to.

On the 13th June, Ngapuhi gave me the letter as requested (copy attached), and signed a document, in which they agreed to make peace with the Rarawa, and not to interfere about Te Wake. I enclose the original, with translation. On completion of this, I returned to Te Karaka. On arriving there, the Rarawa speedily assembled, and many inquiries were made about the gun I had brought with me, which some of them noticed was loaded—the fact is I had obtained some ammunition and loaded it, thinking it would be handy in case any serious quarrel arose with the Rarawa about the re-apprehension of Te Wake. I passed it off as a *murū* for the *hara* of Ngapuhi (a fine for the offence committed by Ngapuhi in firing during time of peace). I assured them that only one shot had been fired, and it was from that gun; that it had been done at Wherinake, and not at Motukauri, as represented. I then read the letter from Ngapuhi, and the treaty of peace signed by them. I then said I would have no further excuses about Te Wake: he must be given up at once, and without longer delay. Winiata then came to me and said, "Te Wake has arrived here; he has come to consult with the tribe, and it is on the guarantee that he is not to be arrested during his stay here." I replied, "Very well; then I will not take him now, though it is clearly my duty to do so, as I hold a warrant for his apprehension." Te Wake then came forward and spoke:—"He had escaped from custody, he had been to death and had freed himself, and now he intended to live. Messrs. Williams and Barstow were to blame for letting him get away, and he had no intention to again place himself within the reach of the law."

I replied, "I will not have any parley with you, or ask you to surrender. I tell you plainly I will not take you on this occasion, because I have given my word to the contrary; but, recollect, to-morrow morning, if the tribe will not give you up, I will go to Motukauri and apprehend you. I see you are armed (he had a double-barrel gun, a tomahawk, and three cartridge-boxes); now I give you fair warning, if I find you armed, and you attempt to resist either me or my policemen, we shall shoot you with our revolvers. I will tell you another thing: you need not imagine you can escape from the law, for if you contrive to keep out of its way until you are grey-headed, and any policemen or other officer then sees you, you will be arrested. If you cross the river, Ngapuhi will kill or capture you; if you go to any European town, the same fate awaits you. You have a chance if you surrender to the law, as you will get a fair trial; but in the other case you will become an outlaw and any one may take you." Te Wake then retired with Winiata and Pahikura.

Towards the afternoon Pahikura returned, and said Winiata and Te Wake wished to see me. I went to them, and Te Wake said he consented to give himself up to the law, but he wished to arrange his affairs that day. I objected to his going, but said, "Of course as my word had been given not to arrest him on that day, he might go." Winiata and Te Tai Papahia agreed to guarantee his safe return on the next morning, and his giving himself up then.

Te Rarawa then signed a formal document making peace with the Ngapuhi. (Original and translation enclosed.)

In the evening I went to Oneke, and remained there for the night. The next morning (Sunday) I returned to Te Karaka and found Te Wake had not arrived from Motukauri. I was told that on his going back there Te Whata had objected to his surrender, and now detained him. I said, "very well, I will go at once to Motukauri and apprehend him; I kept my word yesterday, and will also adhere to it to-day. I told Te Wake that he should be taken to-day. I will now go for him myself; there have been too many subterfuges practised already in this case." I proceeded to carry out my intention when Winiata and Te Tai asked me to give them until that evening to go to Motukauri and fetch Te Wake; that there was no occasion for me to go to be killed until they had tried persuasion. I said, "Let it be so, but to-morrow morning at daylight I and my policemen will go to capture Te Wake, if he is not forthcoming on your return this evening."

At sunset, Winiata and Te Tai returned with Te Wake, who then formally surrendered. I at once made him a prisoner, handed him over to the Native police, and told him that as long as he behaved himself he would be well treated, but on the first sign of treachery or escape he would be shot without mercy.

Winiata strongly urged on me that it would be desirable to convey the prisoner to Auckland by way of Kaipara. I did not accede to this suggestion, as I knew there were nearly one hundred men of the Rarawa Tribe in that neighbourhood.

Early on Monday, the 15th June, I went to Onoke, taking Te Tai, Papahia's nephew, with me to Mohi Tawhai and Ngapuhi as a herald of peace. The peace was ratified by Mohi Tawhai sending back his son Hone Mohi to visit the Rarawa in the same capacity. I then made arrangements for the return of some horses which belonged to the Rarawa, and had been taken by Ngapuhi as spoils of war.

I and my party, together with the prisoner, then left for Tarawera, which we reached the same night. On the 16th we travelled to Waitangi; on the 17th we crossed the harbour to Russell, and embarked in the cutter "Emma" the same evening for Auckland. We arrived there on the 20th June, our passage having been prolonged by a foul wind and very bad weather. The prisoner was lodged in the Stockade at Mount Eden the same evening.

In conclusion, I would remark that the Ngapuhi, and especially the Rarawa Tribe, at Hokianga, did not appear to me to be at all well disposed towards the Government. One complaint they make is, that the Crown levy a duty or percentage on sales of Native land to Europeans, which lowers the price of their lands in the market. It also seemed to me that there were Europeans in the district who were active in stirring up disaffection, and encouraging them in riotous conduct, the Natives having informed me that certain Europeans had told them it was all right for the Rarawa and Ngapuhi to fight; the Government would not and dare not interfere, as they had neither men nor money to enable them to enforce the law. From this and similar statements, coupled with the fact that during the last two years upwards of ten persons have been shot in the intertribal feuds of the Natives of the northern district of the Province of Auckland, and no decisive action had been heretofore taken to uphold the supremacy of the law, it is not much to be wondered at that we are looked on with contempt, and the bulk of the Native population think it would be an easy matter to drive us from the North altogether.

I endeavoured to disabuse their minds of the belief that the Government were making a great profit from the duty or percentage on sales of Native lands, by pointing out that the officers of the Native Lands Court were paid and maintained at a very great expense to the country, and it was not right that this should be a burthen on the European portion of the population. I also instanced that the bulk of the troubles of the country were caused about land, and it was right the land should contribute something to the revenue, as it was a great source of expense to the country. I think this view of the case was entirely new to the Natives, and to a certain extent satisfactory, as they appeared to be more moderate afterwards.

I would here beg most respectfully to observe that, in my opinion, there would be much less quarrelling about land if the Judges of the Native Lands Court would favour the plan of investigating the title to disputed lands before survey, for which provision has been made in the Native Lands Act. As it is now, the rule of the Court is that no title shall be investigated before survey has been made of the land in question; and I think but little pains have ever been taken to inform the Natives that there is a provision to investigate the title to disputed land previous to its being surveyed, as I find the Natives everywhere profoundly ignorant of the fact that the Court has such a power. It has been argued by some persons, that if land is not surveyed, and proper maps of it brought into the Court, that it is impossible for the Court to obtain accurate information as to the area, boundaries, and position of the land forming the subject of adjudication. This I deny being any difficulty whatsoever; if it is, I would then suggest the propriety of the Judges of the Native Lands Court having the same powers given to them as are conferred on Judges of Wardens' Courts on Gold Fields, viz., that they should be empowered to proceed to view the land in dispute. I do not speak theoretically in this matter, but from my own experience, which, although I am not a Judge of the Native Lands Court, has been considerable, as it has frequently been my duty to arrange such quarrels, and to assist the officers of the Native Lands Court in that behalf. Of course, in the majority of cases coming before the Court, it is most desirable that accurate surveys of the lands forming the subject of adjudication should be previously made and laid before it. But there are cases constantly arising, and which, as the extent of land held by the Natives diminishes, will then more frequently happen in which the making of the preliminary survey is likely to endanger the peace of the country. By referring to past disputes of this nature, it will, I think, be found that these have nearly all commenced by obstructing surveys. The question, therefore, naturally follows, can this be prevented? At any rate, it appears the Legislature were of opinion that such cases would arise, and endeavoured to make provision to meet them; and it yet remains to be proved whether the hearing of claims to disputed lands before survey would not materially aid in reducing intertribal feuds. I am induced to make the above remarks, because the Rarawa excused the erection of pas on the disputed land at Whirinake on the ground that they were

compelled to fight in consequence of Ngapuhi objecting to the survey of the land. The Ngapuhi, at a public meeting at Onoke, made somewhat similar remarks. On both occasions, I told them the course which could be pursued in such cases.

I should be wanting in my duty if I did not here express my sense of the services rendered to the Government by Mr. Maning, Judge of the Native Lands Court, for the great assistance he rendered by restraining the Ngapuhi from committing any breach of the peace during my visit. I also take this opportunity of expressing my gratitude for the steps which he took in making preparations to succour myself and party, if required, when there was a probability of our being killed by the Rarawa during our stay at Te Karaka.

In justice to the chief Mohi Tawhai, his son Honi Mohi, Hare Wilcox, and some other young chiefs of Ngapuhi, I must here state they acted with much prudence and judgment when their patience was sorely tried by their own tribe. I believe that these men were sincere in their wish that the law should be carried out, but doubtless the majority merely said they would support the law out of a desire to obtain "utu" for the death of Nuku; and, as they were well aware of their numerical superiority over Te Rarawa, the task of restraining them was a very difficult one, and reflects credit on the chiefs above named.

I consider that the thanks of the Government are due to Wiremu te Wheoro, Wiropo Hoterine Taipari, Te Hakiriwhi Purewa, Hori Tauroa, Honana Wahataiki, Piniha Marutuahu, Ngakapa Whanaunga, and Nini Kukutai, also the three Native police, for the very great assistance they cheerfully rendered on every occasion during the whole trip; and although Winiata, the Native Assessor from Kaipara, was not one of my immediate party, he should not be overlooked for his share in the proceedings.

I hope that the peace made between the Ngapuhi and Rarawa Tribes may be lasting, and that the surrender of Te Wake may hereafter be looked on as the era from which the Northern tribes commenced a thorough submission to the law.

I have, &c.,

JAMES MACKAY, junr.,
Civil Commissioner.

The Hon. the Native Minister.

Enclosure 1 in No. 1.

E HOA E TE MAKE,—

Hokianga, 13th Hune, 1868.

Ka tuhituhi nei matou ki a koe ki te tangata o te Kawanatanga pai rawa, kia ora tonu koe. Ma te Atua koe e tiaki, me matou ano hoki.

Kua tae mai koe i te 13 o nga ra o Hune ki te ui i nga korero a nga tangata o Motukauri, i hoe atu etahi o matou ki te pupuhi i o ratou wahine. Ko ta matou kupu tenei ki a koe, ekore matou e pokanoa i runga i te Ture i whakatakotoria e koe, ehara hoki koe i a koe i haere noa mai. Na matou korua ko te Ture i tono mai kia haere mai ki te mahi i tenei hara.

Kia rongo ane koe, katahi te tino korero teka, kahore matou i haere atu ki wahe ki te moana pupuhi atu ai ki nga tangata o Motukauri.

Ko to matou whakaaro tenei mo enei korero teka, e whakahe ana i to matou ata noho, i to matou tika, i to matou whakarongo ki runga ki nga tikanga o te Ture.

Heoi ano ka mutu.

Na nga RANGATIRA katoa o NGAPUHI.

[TRANSLATION.]

FRIEND MR. MACKAY,—

Hokianga, 13th June, 1868.

We write to you, to the Officer of the very good Government. May you continue to live, and may God protect you and us also.

You reached here on the 13th day of June, to inquire about the statements of the people of Motukauri, that some of us paddled thither to shoot their women. This is our word to you: we would not violate the law which you laid down, for you did not come here of your own accord; we asked you and the law to come here, to deal with this sin.

Hearken you again: this is quite a false statement. We did not go out in the sea and shoot at the people of Motukauri.

This is our opinion with regard to these false statements: that they are to injure our peacefulness, our justness, and our obedience to the principles of the law.

That is all; it ends.

From the whole of the CHIEFS of NGAPUHI.

Enclosure 2 in No. 1.

Ko matou ko nga Rangatira, o te Rarawa kua oti o matou ingoa te tuhituhia ki raro nei, e whakaae ana kia tino mutu te whawhai ki a Ngapuhi, a ka mau tonu te rongo, ekore rawa matou e whawhai ki a Ngapuhi me ana Pakeha.

E whakaae ana hoki matou kia waiho te tikanga mo te Wake ma te ture e whakarite, ekore rawa epa o matou ringaringa ki a Ngapuhi mo te Wake, kua riro i te ture, engari me waiho ma te ture e rapu tonu he tona tika.

I tuhituhia tenei pukapuka ki Hokianga i tenei te 13 o nga ra o Hune, 1868.

TAMAHO TE HUHŪ,

NGANIHO,

TEHU NGAWAKA,

WITANA PAPAHA,

RIKIHANA WHAKARONGOURU,

Me nga Rangatira katoa o te Rarawa.

Witness to signatures—James Mackay, junr., Civil Commissioner.

[TRANSLATION.]

WE the undersigned Chiefs of the Rarawa, consent to terminate the war against Ngapuhi, to make peace with them, and not again fight against Ngapuhi or their Pakehas.

We also agree to leave the question about Te Wake to be decided by the law; our hands shall not touch Ngapuhi in consequence of Te Wake being given up to the law, but will leave it for the law to investigate his guilt or his innocence.

This document was written at Hokianga, this thirteenth day of June, 1868.

TAMAHO TE HUUH,
 NGANIHO,
 TEHU NGAWAKA,
 WITANA PAPAHA,
 RIKIHANA WHAKARONGOURU,

And the whole of the Chiefs of the Rarawa.

Witness to signatures—James Mackay, junior, Civil Commissioner.

Enclosure 3 in No. 1.

Ko matou ko nga Rangatira o Ngapuhi kua oti o matou ingoa te tuhituhi ki raro nei, e whakaae ana kia tino mutu te whawhai kia te Rarawa, a ka mau tonu te rongu, ekore rawa matou e whawhai ki a te Rarawa.

E whakaae ana hoki matou kia waiho te tikunga mo Te Wake me te ture e whakarite, ekore rawa e pa o matou ringaringa ki a Te Wake, engari me waiho tona he ma te ture e rapu.

I tuhituhia tenei pukapuka ki Hokianga, i tenei te 13 o nga ra o Hune, 1868.

Na MOHI TAWHAI,
 TE MOANAROA HAKA, tona x tohu,
 WIREMU HOPIHANA, tona x tohu,
 WIREMU WAAKA, tona x tohu,
 TAHAETINI, tona x tohu.
 Na Ngapuhi Katoa.

[TRANSLATION.]

WE the undersigned Chiefs of Ngapuhi, consent to terminate the war against the Rarawa, and to make peace, and not again fight against the Rarawa.

And we also consent to leave the question about Te Wake to be decided by the law; our hands shall not touch Te Wake, but we will leave his offence to be investigated by the law.

This document was written at Hokianga, on the thirteenth day of June, 1868.

MOHI TAWHAI,
 TE MOANAROA HAKA, his x mark,
 WIREMU HOPIHANA, his x mark,
 WIREMU WAAKA, his x mark,
 TAHAETINI, his x mark,

And the whole of Ngapuhi.

Witness to signatures—James Mackay, jun., Civil Commissioner.

No. 2.

Mr. J. MACKAY to the HON. the NATIVE MINISTER.

(No. 165.)

Civil Commissioner's Office,

SIR,—

Auckland, 1st April, 1866.

I have the honor to inform you that, on the 16th ultimo, I received a letter from Riwai Kiore, a chief of the Ngatimaru, residing at Kauaeranga, Thames, informing me that a Native named Paora te Waitau had been murdered by some Europeans engaged in cutting flax on the banks of the River Thames (Waihou), and that affairs were unsettled in consequence.

Having no means of conveyance, the "Snowflake" having been despatched to the Thames by the Agent of the General Government to fetch the Chief Taraia to Auckland, and being unable to procure another vessel, I got a five-oared whaleboat belonging to Te Hotereni, and proceeded to the Thames, accompanied by Honauru Taipari, Native Assessor, of Kauaeranga, two Native policemen named Waata Tipa and Henare Pango, and three other Natives, Tiraima, Wiremu Waitangi, and Pita, who were sworn in also as special constables. We arrived at Tuhitu early on the morning of the 17th. We there took on board Weka, another policeman of the district; thence we proceeded to Kauaeranga, where we arrived at 8 p.m. on the same day. I, accompanied by Hanauru Taipari, proceeded to Riwai Kiore's place, and the police went on to Kopu Flax-mill, to obtain information. Riwai Kiore stated that the people of the tribe of Ngatitamatera were the first who reported the death of Paora te Waitau; it had first been described as a case of death by natural causes. It was stated at that time, that the effects of the deceased had been stolen by the Europeans. As Paora te Waitau was connected with Ngatimaru, they naturally felt some interest in the cause of his death, and on hearing shortly after that he had been murdered, they requested the Ngatitamatera to meet them at a place called Tuhitai. A meeting took place, and a woman named Taiata, who had been of the party who buried the body, publicly stated that there were five wounds on the right side of it. The question then arose, by whom had these been inflicted? The Ngatitamatera said, "by the European flax-cutters." Ngatimaru said they suspected some of the Ngatitamatera, as they had, only three or four months before, threatened to kill Paora te Waitu for a makutu (witchcraft). Ngatitamatera said it must be the Europeans, because the goods had been stolen by them. On Sunday, the 18th March, I went to

Kopu Flax-mill, Hanauru Taipari accompanying me. I here obtained sufficient evidence of a robbery having been committed, but could collect no satisfactory information about the reported murder. It appeared that the men who had been engaged in cutting flax were eleven in number; of these, five were then at Hikutaia, four had gone to Coromandel, and two to Auckland. The five at Hikutaia were those suspected of the robbery, though it was not known how far the others were implicated in it.

I found a Native named Te Rua could identify the men who had gone to Coromandel, as he had acted as their guide. I then despatched him with two policemen, Waata Tipa and Henare Pango, in a cargo boat, to Coromandel, with a letter to the Resident Magistrate there, asking him to send his European policeman with them to look after the men, and to request them to attend as witnesses; if they refused to do so, then for the police to arrest them on suspicion of having committed a felony. On proceeding up the river to Tuhitai, I heard that three of the men then at Hikutaia were old convicts, and that when some of the Maoris went to their camp to look after the stolen goods, they had come out with their knives to attack them. Fearing they would not surrender to Native police, I determined to go myself and assist in their arrest. I then wrote to Mr. Lawlor, and asked him to come to Kopu and hear the case, as I should most probably be unable to act in a judicial capacity. We pulled up the river, and reached Hikutaia at dusk. After landing, we had to walk through thick flax and brambles for about three-quarters of a mile before reaching the flax-cutters' camp. By this time it was 10 p.m. We apprehended all five men, and took them to the house of Mr. Nicholas, a settler there. At 4 a.m. on the 19th, we pulled up the Thames to Opakeko, having left Weka, policeman, and Wiremu Waitangi, special constable, in charge of the prisoners. On arriving at Opukeko, I invited the Ngatitamatera to meet me at Karaitiana's place. The Natives assembled about noon. Tukukino welcomed us, and said he was glad to see me back again, as I had not been there for some time, owing to the reports that they intended to kill me. He was glad I had come, and hoped I would continue to do so. Hanauru Taipari, Native Assessor, said, "We have come as we have heard that evil has taken place, and wish to inquire into it. Those who transgress ought to be punished."

Te Hira Katu: "Come to see us, although you have differed from us in opinion. Come, Mr. Mackay, we treasure your words; they are locked up in a box, lest they be damaged by wet or anything else. Your words are obeyed; we are holding them and considering them. There are two laws: that of God and that of man. There are also persons who uphold each description of law. Come and carry out the law."

Hanauru Taipari: "Your words are good; we have come to make inquiry according to law."

Wiremu te Paura: "Come, although you see there is evil. Te Moananui comes, whether he hear good or evil reports. Why have you stopped away so long?"

Mr. Mackay: "It is true I have not been here for some time. I have not stopped away because I feared your threat, but because I heard that you, together with W. Thompson, had written to the Government to remove me from this district. Therefore I thought you did not wish me to come. When I was last at Piako, I heard you wished me to come to you, but I would not do so without invitation. I have, however, always told you that if any dispute of consequence, or evil arose, you would receive a visit from me. I am here now on account of the reported murder, and am pleased to receive a kindly welcome from you. I have no ill-feeling against you, only you cannot deny that I have not had good cause not to come near you. It is well. I am glad your ill-feeling has vanished."

Tukukino: "You have heard these reports from others. As to the letter written by W. Thompson, he did that at Warenga, without our knowledge. We were angry when we heard of it, and asked what right he had to interfere with the affairs of the Hauraki tribes. We asked him to confine his letter-writing to the concerns of Waikato, and to let us manage our own business. It is well for you to come on this day of evil. This offence is yours, the European; it is also done by Moananui, Te Tanewha, Riwai, Hanauru Taipari, Patene Puhata, Rawiri Takurua, and all the Queen Natives. I say it is your offence, because your people brought the flax-cutters to Hauraki, formerly the timber, flax, and other vegetation of the Thames was untouched by any one. You and the friendly Natives allow Europeans to come, and after they arrive this evil takes place. I shall not make free the enquiry, but shall say the Europeans have committed this murder."

Wiremu Hapihana: "There is no searching or twisting of words here. I speak straight, and state that although you may say it is the Pakeha, it is the work of Moananui, Riwai, Hanauru, and all the Queen people of Hauraki. In the days of Kereopa, he alone was guilty of the murder of Mr. Volkner, yet we Pai Marire fanatics all suffered. We did no evil then; we committed no offence. This crime has been done by you. We are not angry with you. Come to see us and put it right."

Tekuri, son of Paora te Waitau: "Come to see your ancestor; come, Riwai."

Meha Takurua Patene Tanewha: "Come with the axe (Europeans); come to your place and count the offences."

Mr. Mackay: "You have now completed the preliminary talk; it is good. I will now tell you what I wish to do. Our custom is, if any person meets with his death by violence, or is found dead in the bush, fern, water, or in a solitary house, to convey the body to some public place. The death then becomes known. An officer called a coroner summonses a runanga of twelve men; they then examine the body. After this they take evidence—First, as to who knows or can recognize the body; then, who was the last person who saw him alive; then, who first saw him dead; next, under what circumstances—are there any marks of violence? If there are, they next inquire by whom they were inflicted. I now wish to know who last saw Paora te Waitau alive; next, who first saw him dead; and lastly, why you suspect him to have been murdered. If it is found after this inquiry that there is reasonable cause for suspicion against any Europeans, they, if not already in custody, shall be arrested. I have taken steps to secure the attendance of all the flax-cutters. If it is found that a Maori has committed murder, I shall apprehend him."

Hamiara Kewha stated: "I believe I am the last person who saw Paora te Waitau alive. I called at his place on Sunday, the 25th February, on my way from Hikutaia to Ohinemuri; he was all right then. He was making a net. He was apparently in good health."

Tukukino: "I went to Paora te Waitau's house on Saturday, 3rd March. I found him lying with his head on the door step of the house; his body was inside. I looked at him, and found blood on the

right eyebrow. I wiped it, and found a cut, which had been done either by a knife or by a kick from a boot. As soon as I removed the clotted blood, it flowed again. I wiped the place three times, and each time the blood ran afresh. He had apparently been dead two days. The head was wet with the rain which had fallen on the Friday. There were some maggots in the mouth. I did not notice any other wound. I saw blood on the doorstep. I have heard the Maoris wished to kill Paora for being a sorcerer. The Ngatimaru were at first told that the man died from natural causes, and afterwards it was a murder. I hid the murder because you had said that we (Pai Marire) were bad people, and you would not allow us to take our religion to Hauraki. I thought that as now I had something against you, I would keep it quiet. If you committed a second murder, I would then take revenge for both. I, the bad Pai Marire, have done no wrong: your side has given the first offence. A good deal of blood flowed when I wiped the wound. I returned to Ohinemuri, and sent word to Hamiora Kewha that Paora was dead. Taiata took the message. I told her Paora was dead. I said there was blood. I did not say he was murdered. When I spoke of blood, the woman said 'He has been stabbed by the Europeans.' I made her no answer."

Hamiora Kewha: "On Saturday evening I heard of Paora's death. On Sunday at sunrise I went to his place at Rangura. I found the body lying on its right side. I saw blood on the door-step. Taiata and Rahera, two women, were with me. I turned over the body, and saw five pools of blood under it. I then drew it out of the house. I saw two cuts in the shirt, and it was stained with blood. I lifted it and found a wound under the right arm-pit, another just below the ribs on the right side, one on the right buttock, one on the right thigh, and one on the calf of the right leg. I then saw the cut on the eyebrow. This made six wounds all on the right side. They had been made with a knife. The blood was only under the body, with the exception of that on the door-step. The only clothing was the shirt. I think he must have been either held down and stabbed, or stabbed when sleeping. That is how I account for the wounds all being on the right side. I think the right side being nearest the ground, was caused by the murderers having turned it over to hide the wounds. The women saw the wounds. They are not present now. I can have them here to-morrow. I am the owner of the property stolen. It was all right on Sunday, the 4th, when we went to bring the body. I returned there on the 8th, and it was all gone. I then went to the flax-cutters' camp; they had left for Hikutaia. I went there and found a gun, which I recognised as my property; it was concealed under some raupo. I then said the two women, Taiata and Rahera, must come early next morning. The robbery appeared pretty clear, and from what I had heard from the Europeans, there would be little doubt that the men in custody would be convicted of it. It had, however, been clearly proved that the robbery did not take place until after Paora te Waitau had been buried, as the goods were all right when Hamiora went there for that purpose. If the goods had been missing at the time the man was found murdered, it would, if they were found in possession of the Europeans, be a strong proof against them, especially if there were any other circumstances connected with the murder which could be brought against them. As it was, the goods being stolen could not be taken as evidence against the Europeans in the murder case. The murder might be done by one person, and the property be stolen by others. The best plan to satisfy all parties would be to exhume the body. I had sent to Coromandel for a surgeon, and he would be able to tell the nature of the wounds."

Tukukino: "I am well satisfied with the examination you have made; you wish to get at the truth. But I do not wish my dead to be cast about by the doctors. Paora did not say that he wished to be dug up after his death. Had he expressed such a desire, it might be done. I say let him remain. You ought to be satisfied with our evidence of the wounds. The women shall also come to-morrow.

Mr. Mackay: "I wish to see the body so as to satisfy every one. If you go to Court about it, and you are asked whether you did not first state the death was from natural causes, and whether you did not afterwards say it was a murder, you will have to say "Yes" to both questions, then who will believe it? The Europeans will have lawyers, and they will say the body ought to have been examined. As to the doctor cutting the body, I will promise you he shall do no such thing; if the wounds are as you have stated, there will be no need to cut the body; they will be apparent to the eye at once. It is only in cases of poisoning that the surgeons cut open the bodies, or when the cause of death is not apparent. If you object to a doctor, we will all go to the place where the body is buried. You shall dig it up and show it to me. I will look at it in your presence, that will satisfy me.

Hira Kake said: "The body shall not be dug up. If Riwai and Ngatimaru come, I will not allow them to touch it. If you or they attempt to dig it up, I will resist you. You can hear the case without digging up the body, and I will not allow you or any one else to dig it up.

Mr. Mackay: "It is the law that bodies shall be disinterred in such cases. Therefore I wish to see the body. I only do so to prevent future disputes about it. Let us all go and look at it. There is no occasion to quarrel about it. I will not touch it: you can unfold the blanket. I only wish to see it. Ngatimaru are not satisfied now that it is a murder. You have this day blamed them as partly causing it. Let us see the body, that they may know that your accusation is true.

Tukukino: "The body shall not be taken up. I and all the Ngatitamatera will oppose you, or any one else who attempts to dig it up. What does it matter to you whether the body is wounded or not? I hid it, and did not want you to know it. Who asked you to come here about it? You can leave the question alone."

Mr. Mackay: "You have indirectly accused the Europeans of the murder. If they have done it, they shall not go unpunished. If a Maori has done it, he shall be punished also. It is my duty to make these inquiries. I now tell you, I will see that body, and if you please to oppose me by force, you may. You will be wrong. I shall have the law on my side. You had far better agree to let me dig it up quietly. I did not come here to quarrel, but to prevent further ill-feeling, if possible. You had better let the body be taken up."

A general dissent was given. Te Hira, and many others, then left the meeting. Hanauru Taipari, Native Assessor, then asked Tukukino to return in the morning with the two women. This he consented to do. On the 20th March, Taiata and Rahera confirmed the evidence of Hamiora Kewha about the wounds on the body, except that on the calf of the right leg. They described all the others as being on the right side, and in the same place as before mentioned. I again entered on the subject

of the disinterment of the body, but found it was not at all likely to be acceded to. I therefore determined to let it stand over, until I procured the attendance of the witnesses in the robbery case. After this we left Opuneko for Kopu Flax-mill, calling at Hikutaia for our prisoners on the way down. We arrived at Kopu at 8 p.m., found the cargo-boat had just returned from Coromandel, bringing the four European witnesses; but Mr. Lawlor had not come, not knowing for certain whether I should require his services. Hanauru Taipari and myself went to Kauaeranga the same night, and gave directions for Ngatimaru to meet in the morning.

Wednesday, the 21st March.—The half of the Ngatimaru Tribe met. I explained all I had heard and done in the case. They said that they could only come to the conclusion that it was a case of death from natural causes, and no murder. If it were not, why should the Ngatitamatera so strongly object to the body being seen? If I determined on exhuming the body and feared opposition, they would assist me. It was finally agreed that, before proceeding to that extremity, we should all ask Tukukino and the Ngatitamatera to allow us to dig up the body. They would be at Kopu or Kauaeranga in a day or two, to give evidence in the case of larceny. As all the tribe were not present, it was arranged to have a full meeting next day, to further consider the question.

22nd March.—Another meeting took place with the same result as that of the day previous. The general question of the law of murder, and also that of the Europeans and Natives being in all respects under the same laws, were much discussed. A Native asked, "If Teira and others are sentenced to death, and the Governor confirms it, who will execute them?" I replied, "The Law." Riwai Kiore: "That means the Europeans will hang them. Now, if these Pakehas have killed Paora te Waitau, and they are sentenced to death, let me kill them for utu." I answered, "Now that is the great difference between you and us. We hand a man over to the law; it tries him, finds him not guilty or guilty, according to evidence; if he is condemned to be punished, it is not to satisfy the relations of the murdered man, but to vindicate the law. As to putting a man to death, you, Riwai, are a chief, and talk of acting as the executioner of a murderer to satisfy revenge. With us it is often very difficult to get even a man of low rank, a nobody, to act as hangman. That is why I said to you the law would punish the murderers of Fulloon if sentence of death was passed on them and confirmed by the Governor. In this case of Paora te Waitau, if the old Maori custom had been followed, they would have at once killed the Europeans when they were accused of the murder, without making the slightest inquiry. It proved that they did not desire that state of things now, as they wished the body to be dug up. Supposing, for instance, in this case, they were to have acted according to Maori custom, and killed the Europeans as *utu* for Paora, and two or three years hence it was found out that Ngatitamatera had given false evidence, could they have brought innocent men to life? Another very objectionable feature of private persons seeking revenge was, that from their anger and sorrow at the death of a relation, they could not judge impartially. Also, if private persons acted as the executioners of even guilty men, their relations would bear spite against them. When the law took the life of a man, no one bore it malice or hatred. That is why I say "Let the law try, acquit, or condemn and punish, if necessary." The meeting was altogether very satisfactory in character. Next day Tukukino and five or six other Natives of the tribe of Ngatitamatera came to Kauaeranga. Ngatimaru again met. Tukukino and Hamiora Kewha publicly repeated the same statement about the wounds—Hamiora however omitting that in the calf of the leg. There were some other telling discrepancies in his account, but on the whole there was but little difference to the evidence taken on the 19th. A number of searching questions were put, both by myself and the Ngatimaru, but we could not shake the witnesses' statements. Nearly every influential man of Ngatimaru asked to be allowed to dig up the body of Paora te Waitau. They asserted their right from relationship, he being equally connected with both tribes. Tukukino replied, "You can have the blood, it was shed by your side; the body is mine, you shall not touch it; if you attempt to lift it we will oppose you with force." Tukukino and his people then expressed their intention of returning home at once. I however persuaded them to stay, saying that if they stopped for the case of larceny, something might come out in evidence about the murder.

Saturday, 24th March.—Having consulted with Hanauru Taipari, Native Assessor, over night, we started for Kopu in the morning, giving out that we were going to see if Mr. Lawlor had arrived at Kopu. On reaching Kopu I found one of the men, Thomas Lee, knew where a pot and camp oven, part of the stolen property, had been thrown into the Hikutaia Stream. This furnished an excuse to go up the river in a whale boat. We started accordingly; the party being myself, Hanauru Taipari, Native Assessor, Henari Pongo, policeman, Teraina and Pita, special constables, Hare One One and Thomas Lee (European). We reached Hikutaia undiscovered. We found the tide high, and that was an excuse for not diving for the pot and oven at that time. It was proposed to pass the interval in pulling up to the flax-cutters' camp, near Paora te Waitau's place. At Hikutaia I managed to smuggle a spade into the boat. We then proceeded up the river to within half a mile of Paora te Waitau's place—Hanauru Taipari, Pango, Tiraina, Hare One One, and myself landing. Pita and Lee were left in charge of the boat, with instructions that if any Maori canoes or boat came down the river, and asked what we were after, they were to say we were endeavouring to find if there were any footprints of Europeans between the flax-cutters' camp and Parora's place. (This was in fact part of our object.) We then proceeded to the spot where the body was buried. We had ascertained this on the 20th, but could not then exhume it, as there were Natives close to us. Hare One One dug it up. It was wrapped in a blanket. The body was not much decomposed. The outer skin had commenced to peel off, but the sub-cuticle was sound and firm. I scraped off all the outer skin, leaving the sub-cuticle clean. There was not even a scratch anywhere on the body; it was most carefully examined all over. There was no wound, or sign of a wound on the eyebrow, as stated by Tukukino and the other witnesses. The Natives who were with me, having examined the body, it was carefully wrapped up again in the blanket, bound with flax and returned to its resting-place. We then left the place as quickly as possible. On arriving at Hikutaia we succeeded in obtaining a pot, camp-oven, and lid, by diving in the Hikutaia Stream. After this we proceeded to Kopu, where we arrived late in the evening. On Sunday morning Mr. Lawlor, Resident Magistrate, arrived. Tukukino and party made another attempt to go away. I went to them and told them they must not go until after the Court

had sat on Monday. After a good deal of discussion they agreed to remain. It appears they were suspicious about our journey up the river on Saturday. One or two expressed doubts as to whether I would not take them prisoners as well as the Europeans. They had not however heard that we had taken up the body, as that was kept secret by us all.

Monday, 26th March.—The five men, Aubry, Hooper, Hargreaves, White, and Smith, were tried before Mr. Lawlor, for stealing a gun, blanket, shirt, pot, camp-oven, powder, shot, caps, trowsers, tin dish, flour, and other things of the value of £5, from the house of Hamiora Kewha. The evidence was very clear against them, and they were all convicted and sentenced to three months' imprisonment with hard labour. On the conclusion of the Court business, I addressed the assembled Natives, about three hundred in number: "You have this day seen that the law knows no distinction between Europeans and Natives. Those men have been tried to-day, as you saw, with great care, and, having been found guilty, have been sentenced to three months' imprisonment with hard labour. In the same way, if any of them had been accused of murder, he would also have been tried, though the case could not have been disposed of summarily by the Resident Magistrate, as this has been. In the same way, if any of the Natives commit an offence, he shall be tried in a similar manner. Now, with respect to this reported murder, I am happy to say that no such crime has been committed, and there is nothing to cause a break in the good feeling which has subsided between the two races ever since I came among you, two years ago. I am, however, much vexed and ashamed to think that men like Tukukino and Hamiora Kewha should act so. I wish you to hear this distinctly: I say that you have both told that which is false, openly and publicly, and I tell you there is not one wound on that dead body. I told you I would have it up. I have kept my word. Hanauru Taipari, Henare Pango, Tiraina, and Hare One One have all seen that body. They will also tell you about it. I only now regret one thing, and that is that you did not go so far as to make a direct accusation against some of the Europeans, for if you had done so, I would have taken you as prisoners, and brought you to trial for conspiracy to accuse innocent persons of crime. You have escaped this time by the ends of your finger-nails (a Maori proverb for a narrow escape); and I hope it will be a caution to you for the future. Now I recommend you to act in the following manner:—If you find the body of any person, European, on the road, in the fern, in the water, in the bush, or in a lonely house, immediately inform the nearest assessor or chief. Even if no marks of violence are apparent, let all such cases be inquired into; then no such case as the present can possibly arise. The relations of the deceased will also be better satisfied in that case. The statement made by Tukukino, that the blood flowed each time he wiped the wound on the eyebrow, and that of Hamiora Kewha that there were six wounds, all on the right side, and especially those on the thigh and calf of the leg, seemed so very improbable—the first, because blood could not flow after the man had been dead three days; the second, because no person with life in him would ever have remained quiet to be stabbed along one side of his body, commencing at the eyebrow, and extending to the calf of the leg. The obstinacy of Ngatitamatera about exhuming the body also confirmed my doubts in the case. For these reasons I had determined to see the body. I had done so in spite of their threats, and the result was that Tukukino and his companions were now obliged to sit with their heads bowed before the men who only a few days ago had been listening to their false statements, which they had given with such an air of truth. Let them never endeavour to do such a thing again; I shall, if you do, try to punish in some way or other. I hope you will go home determined to behave properly for the future, and not make quarrels with your European and Native neighbours. I bear you no malice for your evil proceedings. I only wish to see you do what is right in future, and thus atone for your present offence."

Hohepa Paraone: "Mr. Mackay has done quite right. He has found out the truth. He is quite right. He has removed the evil from Hauraki."

Riwai Kiore: "It is well that the truth has come out. You need not have gone so secretly to look for the body. I do not want any fresh faces here. Keep away all you Europeans. I like my old friends and those who can speak the Maori language. I do not want any flax-cutters here. I do not want any gold-diggers here. If they come, disputes will arise. All this has come from the Europeans coming here to dress the flax. Let them remain at Auckland."

Tukukino made a plausible speech, endeavouring to excuse himself. He had only seen one wound on the eyebrow. He had never seen the others. Hamiora was to blame for that part. He was ignorant of the law, but would, for the future, keep all dead bodies about which there was any doubt for examination. He did not wish the Europeans to cut flax on his land. "It is your fault, Mr. Mackay, letting these men come up the river. You gave them permission to cut flax on the Government land, and they have trespassed upon mine."

Mr. Mackay: "Now, Riwai, if Hohepa Paraone wishes to go up the River Thames, and any other Native wishes to visit Auckland, Coromandel, or Waiheke, can you stop him? If you can, then I will prevent the Europeans coming here. In times of peace the roads and rivers are open to all. As to the flax-cutting, you Natives could have had the supplying of the mill with all they required. You were offered a better price than that now paid to the Europeans. If you wish to keep them away, provide the flax yourselves. I found you would not let the people at the mill have any flax, and they applied to me to let them cut on Government land. I gave them permission; by so doing, I was serving you as well as them; because if this mill produces good dressed flax, then not only your flax swamps, but those of every other Native in the country, will be very valuable. I will not, however, allow the Europeans to trespass upon your lands for any purpose. If they do, ask them quietly to leave, complain to the manager of the mill if they do not; if he does not assist you, write to me and I will soon eject them."

Hanauru Taipari, Native Assessor: "Mr. Mackay and myself agreed that it was necessary to see the body. We therefore went and took it out of the ground. There were no wounds on it. Mr. Mackay has told you all about it. If any of you wish to ask me any questions about it, I will answer them."

Hare One One, Tiraina, and Henare Pango then came forward and made similar statements, which were unquestioned. This concluded the proceedings. I feel that I should not be doing justice, if I omitted to mention the valuable assistance which I received from Hanauru Taipari Native

Assessor, in this matter; and I cannot speak too highly of the unwearied exertions of Weka and Henare Pango, Native policemen, Tiraina, Wiremu Waitangi, Pita, and Hoani Nahe, who acted as special constables and boatmen. In addition to pulling in the boat two whole nights, they had to keep watches of four hours each over the prisoners, who were confined in a building from which they could have readily escaped. I am sorry to say that Waata Tipa behaved badly, in not taking his proper share of watching over the prisoners, he having left all the labour and responsibility on Weka and the others. I have suspended him, and beg to recommend that he be dismissed from the 31st ultimo. He does not work cheerfully or willingly.

Hoping that the proceedings which have been taken in this important political service will meet with your approval,

I have, &c.,

JAMES MACKAY, junr.,
Civil Commissioner, Auckland.

The Hon. the Native Minister, Wellington.
