

**BEFORE THE WAITANGI TRIBUNAL
TE ROOPU WHAKAMANA I
TE TIRITI O WAITANGI**

WAI 970

IN THE MATTER of the Treaty of Waitangi Act 1975

AND

IN THE MATTER of the Hauraki Inquiry District

AND

IN THE MATTER of a claim by **Florence Te Paea Watene Gurnick; Mita Eparaima Watene; Billy Wi Te Koha Williams; Bill Wiremu Te Moananui; Ropata Te Wharetoitoi Rare; Harata McCaskill Williams; Toi Te Akeake and Aporo Hikitapua Reedy** on behalf of themselves and all the descendant whanau and hapu and the constituent whanau and hapu of the ancestor **TAMATEPO of the MARUTUAHU TRIBAL CONFEDERATION**

**STATEMENT OF MICHAEL FRANCIS O'DONNELL
IN SUPPORT OF WAI 970 CLAIM
Dated 10 June 2002**

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1. TE MATAHAU

My name is Michael Francis O'Donnell and Te Matahau is my great-great-great grandfather. I am the son of William Harry John O'Donnell, whose mother was Gertrude Violet Boxall, daughter of Charlotte Tookey, daughter of Tauhinu and whose father was Te Matahau.

2. in 1984 I began trying to re-connect with this side of our family, the bonds having being broken by the 1894/95 separation of my grandmother from her whanau which impacted on the later generations. From Te Matahau's mana which was recognised through the Land Court, I am amazed how invisible he has become, not only for us his separated family, but for those who have lived in the Thames area and kept in touch with each other.
3. Our family would like to see Te Matahau's mana re-established both within our family and in the wider community and I look here at some of the reasons as to why he was down-graded and how the Crown may have directly or indirectly contributed to this. I believe such conduct was inconsistent with the guarantees of the Treaty of Waitangi.

4. CONNECTION TO THAMES/HAURAKI AREA

Firstly, I wish to present some historical material on Te Matahau to establish his long-term bond and association with the Thames/Hauraki area in the nineteenth century which has been taken from the Land Court records of sittings held in the Shortland (Thames) Court before moving onto more personal family stories. Most of the Court evidence has been given by the oldest son of Matahau's second marriage, Hare Renata (alias Hare Pikikuri). That Te Matahau appears to have died in 1868 (Waiwhakaurunga, p502, 1872, appendix 1), explains his absence in presenting his own whakapapa and land cases. Hare Renata states his mandate to do so comes from Matahau himself.

5. "I claim Te Kauri for myself and other descendants of Te Matahau - six of us brothers and sisters... Kerei is my older brother as I am not the oldest son of Te Matahau but I am processing the claims of his children. Matahau made me his children's' agent when he was near his death." (HMB 14, Te Kauri, p13, 1881, appendix 2).

6. OPAPANGO Nos. 1 and 2 - HMB 03 1870

- a) Land Claim is made through Matahau descent and genealogy given (HMB 03, p 311, appendix 3).
- b) Opapango Nos. 1 and 2 are awarded to Matahau's children and others (HMB 03, p 317, 9/2/1870, appendix 4).

7. WAIWHAKAURUNGA - (Opango) 1872 - HMB 06 / 07

Kerei Te Tuhi, oldest son of Matahau, claims Opango and Hotoritori as a descendant of Wawenga, through his father (HMB 06, p 494 - 496, appendix 5).

- 8. Toroire, second son of Matahau, claims the same, having heard and seen the boundaries claimed through ancestry (HMB 06, p 498 - 499, appendix 6).
- 9. Hare Renata says Matahau described this land to him (HMB 06, p 501, appendix 7a). His sister Tauhinu was born there at Raiponga where the family lived (HMB 06, p 502, appendix 7b).
- 10. Kerei Te Tuhi states they used the land for gathering hinau berries. Papawhakairo (Matahau's grandfather) and others used kauri trees on the land for making canoes. (HMB 06, p 494, appendix 8).
- 11. Full whakapapa of Matahau given (HMB 06, p 465, appendix 9).

Opango and Hotoritori is awarded to Matahau's children (HMB 07, p 74, 22/8/1872, appendix 10).

12. TE KAURI-1881-HMB 14

Hare Renata claims himself Ngati Rautao of Ngati Maru (HMB 14, p 12, appendix 11).

- 13. While the land in the block is uninhabitable, the family got eels here (HMB 14, p 12, appendix 12).
- 14. Hare produces a prior claim to the land in writing (HMB 14, p 13, appendix 13).
- 15. Matahau allowed Europeans (Abercrombie) to fell timber on the land (HMB 14, p 14, appendix 14).

16. Erueti Wetea states Matahau got this land through Ngati Patu descent (HMB 14, p 14, appendix 15).

Te Kauri is awarded to Matahau's children and others (HMB 14, p 26, 13/12/1881, appendix 16).

17. TE HOPAI-(Piako)-1890-HMB 25

Hare Renata states he and his father lived on the land and had a house there where they raised pigs and got eels (HMB 25, p 240, appendix 17). W.H. Taipari states he does not object to this claim (HMB 25, p 241, appendix 18).

18. Hori Ngakapa swears that he saw Matahau and his party working here (HMB 25, p 272, appendix 18a). Also states Matahau and all of Ngati Patu brought pigs onto the land (HMB 25, p 279, appendix 19).
19. Neighbouring pigs crossed onto Matahau's land and he killed them (HMB 25, p 298, appendix 20).
20. Hare states Matahau and he lived at Kerepehi where they had a permanent residence and grew potatoes kumara and fruit. They also had eel weirs (HMB 25, p 298, appendix 21).
21. Part of the Te Hopai block is awarded to Matahau's children and others (HMB 25, p 320 ff, 1/11/1890, appendix 22).

22. KOUKOURAHI-1893-HMB 33

Hare Renata claims land through conquest of Wawenga. Matahau and he kept pigs on the land since the time Hare was six (HMB 33, p 214, appendix 23).

They lived here many years, worked on the land and grew vegetables and fruit trees at Kirimango (HMB 33, p 214, appendix 24).

23. Te Matahau was "a chief of note" (HMB 33, p 216, appendix 25).

Land ownership is not proven and no land was awarded. Appeal lodged. (HMB 38,1896)

24. MAKUMAKU - 1893 - HMB 34

Evidence will be similar to the above states Hare Renata (HMB 34, p 25, appendix 26).

25. Hare Renata and Matahau planted fruit trees on the land. Hare grew up on the land with his father (HMB 34, p 25, appendix 27).

Land ownership is not proven and no land was awarded. Appeal lodged. (HMB 37,1896)

26. KOUKOURAHI APPEAL 1896 - (KOUKOURAHI) - (MAKUMAKU) - (WAIRAU) - HMB 37,38

Hare Renata appeals previous judgements made on these lands.

27. Hare declares he was a child when he moved from Hauraki to the Koukourahi block, and at that time Matahau cut down Kahikatea trees for their fruit as he was unable to climb them (HMB 37, p276, [Makumaku], appendix 28).
28. When moving there, Matahau planted and grew fruit trees, their produce harvestable before the Waikato War (HMB 37, p276, [Makumaku], appendix 29).
29. No opposition was made to their occupation or working on the land (HMB 37, p276, [Makumaku], appendix 30).
30. One of Hare's opponents states Hare and his ancestors lived at Ohoupo, near the Kauaeraunga Bridge. This witness states that Matahau died here at Hauraki and was buried here (HMB 37, p 345, 1896, [Wairau], appendix 31).

Hare says,

"My permanent residence was a Kirimango. I lived there with my father. We went there to live some time before the Taranaki War and were living there when the Waikato War broke out. We were fetched from there by Hori Tawa and came to live at Hauraki. They were afraid that we should be killed by Europeans. So our permanent occupation ceased. Our subsequent occupation was going there and catching eels and looking after pigs on this land and my father lived permanently there for many years at Kirimango. For when we first went there I was a boy and when we left I was grown up." (HMB 28, p 11, [Koukourahi], appendix 32).

31. Hare states his grandfather Papawhakairo died at Koukourahi on a pa there. His remains were brought to Hauraki for interment to Paneheneke, at Waiwhakaurunga, in a burial cave. His father's remains were taken there also (HMB 38, p 11, [Koukourahi], appendix 33).
32. Matahau caught ducks as did his ancestors on the Umutawa block on Koukourahi and was not interfered with (HMB 38, p 13,[Koukourahi (Umutawa Block)], appendix 34).

Hare says,

"Shortly after their (Ngati Rongo and Ngati Te Kura) return from Tairua, Christianity was introduced to Hauraki. Mr Fairburn was the minister. Ngati Te Kura and Ngati Rongo asked my parents for a piece of land for them to live on at Piako. They consented and gave them Koukourahi, the part of it owned by Wawenga including Oparia, but the mana of the land was retained by my parents. Kirimango was given to Ngati Rongo to live on, the mana of which was retained by my parents." (HMB 38, p 15, [Koukourahi (Umutawa)], appendix 35).

Hare also states,

"Papawhakairo lived on Makumaku, his permanent place of residence. In the time of Te Whatuueue (Matahau's father), son of Papawhakairo the occupation of that pa ceased. Te Whatuueue came to Huekaretu at Hauraki to live - near the railway bridge - and married a woman of Ngati Whauaunga, named Werarua. Werarua was the mother of my father. In our day my father and myself, returned to, and lived at Te Rautawhiri and we were not interfered with by anybody. We grew crops, built houses and caught eels." (HMB 38, p 18, [Koukourahi], appendix 36)

In the Appeal, land (Makumaku) is awarded by occupation, the gifting of the land not being sufficiently proven (HMB 38, p 177, 21/9/1896 [Koukourahi], appendix 37).

33. OTAKAWA -1898 -HMB 46 / 47

Hare Renata states he is descended from two hapu, Ngati Patu and Ngati Rautao, and lives at Ohaupo, Hauraki (HMB 46, p 370, appendix 38).

34. Matahau and others cleared the area of Kirimango, established themselves there and planted maize, potatoes, kumara, fruit trees, vines (HMB 47, p 95, appendix 39).
35. Matahau felled trees on the land which no one disputed (HMB 47, p 95, appendix 40).
36. Two of Matahau's children, Pene and Matuku, were born at Kirimango. They had two born later at Hauraki, Anaru and Hariata (HMB 47, p 96, appendix 41).

Part of Otakawe, (No. 1) is awarded to Matahau's children and others (HMB 47, pp 119,130, 2/5/1898, [Otakawa], appendix 42).

37. A range of Court proceedings in which Matahau's children were involved has been presented here but they are not exhaustive. Family land claims continued into the early twentieth century but I have not yet investigated them. From the evidence given under oath, and the judgments in favour of Matahau's whanau by the Land Court over the thirty-year period of 1870 - 1898, it is clear that:
- a) Matahau existed;
 - b) He lived and spent much of his life in the Thames/Hauraki area;
 - c) He died there;
 - d) He raised a large family who continued to and still lives there today; they are also scattered throughout the country and beyond;
 - e) He acquired land through both inheritance and occupation;
 - f) He felt the need to distance himself from pakeha for his safety;
 - g) His family recognised him then, as do his descendants want to today.

38. WHY AM I ADDRESSING THE WAITANGI TRIBUNAL TODAY?

I am addressing the Waitangi Tribunal for several reasons which I believe cut to the heart of the Treaty of Waitangi and what it was meant to offer our tupuna and us today. The fact that the spirit of the Treaty has not been consistently followed, I believe, has meant our family has suffered through its disintegration and lack of leadership and cohesion. I cite two examples.

39. Briefly, according to Hare Renata's evidence to the court in the Koukourahi case (HMB 28, p11, appendix 32), Matahau, fearful for his life, moved into hiding with the permanent occupation of his traditional lands ceasing. It appears he was being pursued by Europeans but not for anything he had specifically done. This action, I believe, led to his isolation from the rest of the tribe with the subsequent lack of influence over tribal matters impacting negatively on his mana and that of our whanau.

40. This forced exile and consequent invisibility is contrary I believe to the principles of the Treaty which guaranteed partnership, protection and participation. Access and link to tribal lands and territories is regarded by kaumatua as integral to identity and fundamental to a sense of well-being. Any wonder that within a short time after the Waikato war when Matahau was dislocated, we hear from his son that he died. (Waiwhakaurunga, p502, 1872, appendix 1).

41. In the normal course of events, Matahau would have lived on the marae and he would have automatically been an intrinsic part of the whakapapa of his mokopuna. His not being so, will in part have led to his being lost to his mokopuna. This has impacted negatively on later generations without knowledge of tupuna, and to the detriment of many within our family. We have all been the losers.

42. A SECOND EXAMPLE

It was only through a reflective comment from my 89 year old grandmother, Gertrude O'Donnell, in 1983, that she would go to her grave with the sense of being "incomplete" having been parted from her mother's family at the age of 9 months, that led me to search for our lost whanau. Her father, a pakeha, married a grand-daughter of Te Matahau, her mother. Only as a teenager did

Gertrude discover that the 'mother' who raised her lovingly, was in fact her grandmother, on her father's side.

43. A dispute between her parents had arisen over burns to her older two-year-old Maori half-sister, Sarah. Gertrude's father who was not Sarah's, was accused of putting the baby on the fire while angry and when the mother was out. Charlotte laid a charge against him with the police and he was given a jail sentence (appendix 43). Within several months of this sentence, the father and his family gained custody of their pakeha grandchild.
44. I have not been able to locate custody records through the Archives, but both our family and her mother's family are adamant a court proceeding was held with the daughter being taken from her mother (a decision virtually unheard of for those days) and being awarded to the family of the convicted abuser! One only needs to read excerpts from my grandmother's sister, Lyn (Boxall) Ryan's 'Children of the pa' (appendix 44), to see how openly angry family members have been throughout the years about the racism and injustice shown at this time with the Court's verdict. This clearly cuts to the heart of the Treaty's protection.
45. It was not until my grandmother was 90 that she saw a photo of her mother and was united with her half-sisters who were still alive. To my grandmother's consolation, her separated family who had never expected to see her again had often spoken her about over the years. That she had been remembered was very important to her and had obviously plagued her for her lifetime. "Being the little Maori bitch as I was often called by my aunts who I grew up with," lost its sting after this time. "Its like the pieces of a jig-saw that just fell into place," was her comment. Being reunited with their families gave her the sense of genuine wholeness (appendix 45).
46. Both sides of the family concur that this incident which split our family for nearly a century, could have been handled a lot more justly, given the provisions of the Treaty. If it is suggested, there was no court hearing, one would have to ask why the mother of a child who was so obviously loved and not forgotten over the years, would not have used the court structures if she believed justice in this case would have been given to her?
47. Given the family recollection about Sarah's burning has been verified by written court record, I have no reason to think that the custody case did not occur. They had little to gain by fabricating it.

48. WHAT THEN CAN BE DONE TODAY TO PUT THINGS RIGHT?

Firstly and most importantly, I believe the whanau is most concerned that the mana of the invisible Matahau is recognised and restored. It would be just that the man who was required to flee for his safety and who deserved and guaranteed the protection of the law, was given what was promised to him. Unless proven otherwise, he deserves his good name, with his mana being acknowledged and remembered by those intimately connected to him.

49. Secondly, if financial compensation is appropriate for negligence on behalf of the Crown towards their Treaty obligations, I would propose an appropriate amount be made available directly to Matahau's descendents to enable them to complete research about his life in order a small publication on him be made available to the wider family and to local libraries in the Coromandel Peninsula/Hamilton/Auckland regions. Additionally, it would be just that a fund be established that would allow some of his dispossessed descendants the educational opportunities which might give them a better sense of direction having lost their knowledge of who they are and from where they have come.
50. It is true that Matahau's descendants have not waited for somebody else to do something about restoring his mana before they have. Some have already grasped Te Reo for themselves and their children as a means of making him present, others have incorporated his name and those of his tupuna into their mokopuna, so they will not be forgotten, while others recently planned and hosted a Te Matahau family reunion which brought together a group of over 400 descendants who determinedly made their commitment to build up and strengthen what had either been deliberately or indirectly marginalised.
51. As our family has taken on its responsibility for moving forward, I would hope those representing the Crown will honestly evaluate whether they share some responsibility for Matahau's invisibility and for some of the unjust actions to the family and family members that occurred, which under Treaty provisions, were unfair and inappropriate. If they are in part responsible, then I would expect and hope they put it right for the future.

MICHAEL O'DONNELL

DATE