

ENGLISH LAW AND THE MĀORI RESPONSE: A CASE STUDY FROM THE RUNANGA SYSTEM IN NORTHLAND, 1861-65

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Examples of the genuine devolution of state authority to Māori tribal communities are few in New Zealand history until at least the late 20th century. Sir George Grey's 1861 "plan of native government", usually described as the "new institutions" or "runanga system" (Ward 1974:125), is often cited as one of the earliest efforts in this direction. Yet there was never any intention of allowing the *runanga* (tribal councils or assemblies) established under this system to develop into state-sanctioned instruments of genuine self-government. The extension of English law into what were perceived to be ungovernable Māori districts remained the priority throughout. With unofficial *runanga* already widely established in many Māori communities, officials saw an opportunity to harness the energies of these in pursuit of government objectives (O'Malley 2004:47).

Widespread suspicion of Crown intentions in the wake of the first Taranaki War saw Grey's plans flatly rejected in many areas (Ward 1974:132-33). Meanwhile, chiefs in those districts where the *runanga* system was most fully implemented proved no more willing to be duped into enforcing Pākehā laws against their own communities. Government officials, who had hoped to appropriate for their own ends the aspirations of Māori in such districts for state recognition of existing tribal governance structures, instead found the new *runanga* system reappropriated by *iwi* ('tribal') leaders in pursuit of their own, rather different objectives. An assertion of British sovereignty from one perspective was thus viewed from another as belated recognition of the right of Māori communities to manage their own affairs in accordance with their own customs, as had been widely understood by many chiefs to have been promised to them under the Treaty of Waitangi signed in 1840. The contradictions inherent in that agreement would thus continue to bedevil the *runanga* system more than two decades later.

Some of the apparent incongruities in a system, which appeared to offer self-government even as it aimed at the extension of English law and which in some respects ended up being subverted towards Māori ends, are explored in this article in the context of Northland. Early and cautious northern Māori engagement with English law is considered, along with initial proposals aimed at overcoming ongoing resistance to its greater application within Māori communities. Those proposals, it will be seen, turned in large part on the

argument that objections to English law could best be countered by involving Māori in its design and application. Such a viewpoint also lay behind the *runanga* system of the 1860s, though in a weaker form. After the cautious re-engagement between northern chiefs and Crown officials that occurred after 1858, following on from more than a decade of uneasy relations, the region became a favoured one for early endorsement of the scheme of rule through the *runanga*. Support for Grey's proposals was indeed forthcoming, as expected, but both parties had quite different notions as to what this meant in practice.

Nowhere, it will be suggested, can the divergent expectations behind Grey's "new institutions" be seen more clearly than in Northland, where the scheme was most fully implemented. It was here that Hone Heke, Kawiti and other chiefs had waged war against Crown forces and their Māori allies in 1845—in large part over these questions of *mana* ('authority, control') and to prevent perceived government intrusions into matters deemed the exclusive concern of local *rangatira* ('chiefs') (Belich 1986:30-34). Yet even chiefs such as Tamati Waka Nene, whose limited intervention on the Crown side proved crucial in preventing a complete rout of government forces, shared these concerns. Informed of a government proclamation in 1841 against unauthorised felling of kauri timber, Nene reportedly flew into a rage, declaring that "if the Governor were present he would cut down a Kauri tree before him and see how he would act".¹ He and other "loyal" chiefs did not join the fight against their fellow tribal members in 1845 in order to extend British authority in the North but in pursuance of their own tribal objectives, which were perceived to be threatened by Heke's actions (Belich 1986:34-36).

Later, when government officials were sent to Hokianga in 1847 in order to "remonstrate" with local chiefs over reports of numerous murders recently committed in the district (all of which were purely Māori affairs), Nene defiantly declared that "in all of the instances he had heard of... the individuals put to death had been guilty either of the crime of adultery under aggravated circumstances, or of being believed to have caused deaths by witchcraft".² British laws were "neither applicable nor available" to Māori in such circumstances, the chief added, and any effort to apprehend those who, "acting in accordance with their customs, had put to death a witch or sorcerer", or those guilty of committing adultery, would be fiercely resisted.² Crown officials wisely heeded such warnings and confined themselves to pleading with the chiefs to put an end to such killings. When a further man was found guilty of practising *makutu* ('witchcraft') and subsequently was executed in accordance with the decision of his tribal *runanga* at Kawakawa more than a decade later in 1859, the government's response was confined to dismissing a local chief thought to have condoned the killing from his

government-salaried position as an assessor.³ No action at all appears to have been taken against those actually involved in the killing.

For the most part Nene and other northern chiefs viewed the internal affairs of their own communities as being entirely beyond the jurisdiction of British authorities. They did not consider themselves as having ceded any authority to the Crown with respect to purely Māori matters and clearly resented unsolicited interference when officials did seek to immerse themselves in such cases. At the same time these chiefs were not above selective engagement with British officials, when they deemed it expedient to involve them in certain cases and were usually more willing to acknowledge a more general role for the Crown in mediating disputes between Māori and the settlers (Ward 1971:131-32).

THE FIRST TRIALS UNDER ENGLISH LAW

In 1837 Hokianga Māori consented to the execution of a slave (the situation being defined by captivity in war rather than being a hereditary one within Māori society) for the murder of a Pākehā sawyer, after a trial supposedly founded upon the principles of English law and convened by the British Resident, James Busby, with a panel of local chiefs and leading settlers having found him guilty of the crime based on extremely dubious circumstantial evidence.⁴ On no account, however, were the Hokianga tribes prepared to hand over the slave's master, a young chief from the area, against whom rather more incriminating evidence might have been levelled. Busby nevertheless felt convinced that the case had demonstrated the willingness of northern Māori to accept a new form of justice, and it was partly in response to reports such as those produced by him on this case that many officials naïvely assumed English law would be welcomed with open arms.

The first official murder trial following the signing of the Treaty provided an early test of these assumptions. In April 1840, some 300 well-armed Māori stormed the church serving as a makeshift courthouse at Kororareka, where a man named Kihī was being tried for the murder of a European shepherd in the employ of the Williams family. It soon transpired that the *taua* ('war party'), which performed an angry *haka* ('war dance') as it burst into the church, had come not to liberate the accused man but to deliver a more summary form of justice. Haratua, their leader, was indignant that the suspect, who was from Tauranga, had murdered an employee belonging to "his own *pakehas*" (Taylor 1966:405-8). They were eventually persuaded to allow the case to proceed, apparently reassured that the desired outcome would be achieved, as several chiefs reportedly expressed a strong preference for shooting rather than hanging the offender (Taylor 1966:407).

In the event Kihī escaped both the noose and a firing squad, dying of natural causes before his case could proceed much further. Less than two years later, however, a high-ranking young chief, named Maketu, from the Bay of Islands became the first person to be executed in New Zealand in accordance with English law. Maketu had readily confessed to the murder of a settler family. His guilt seemed clear-cut, but it was only after his own father had handed Maketu over to authorities that the accused was able to be taken into custody. The decision had by no means been an uncontroversial one. Hone Heke was reportedly enraged by this move declaring that “to hand him over for trial by an English jury and not by his own people was simply to efface the standing law of the Maori Blood Bond” (Clarke 1903:68).

Rumours of a general uprising of northern Māori in revenge persisted long after Maketu’s execution on 7 March 1842, and in many people’s eyes his fate was a critical cause of the subsequent Northern War (Wilson 1985:253-54). Yet the decisive factor in handing over Maketu to authorities had been one of tribal politics. A young Māori girl living with the Robertson family had also been murdered. She happened to be the granddaughter of Rewa, one of the most senior Ngāpuhi chiefs at the Bay of Islands, and payment for the crime would naturally be expected. Under the circumstances, surrender to the law “was seen as a means of avoiding a greater calamity” (Ward 1974:53). The condemned man’s extended family was able to avoid embroiling themselves in a potentially bloody conflict only by allowing Maketu to personally pay the ultimate penalty for the offence. Yet even then, some of the northern chiefs subpoenaed to give evidence at the Supreme Court in Auckland either ignored this completely or imposed various conditions on their attendance (all of which were complied with by the government).⁵ Even more extraordinarily, perhaps, some four months after the execution Maketu’s remains were discreetly exhumed under orders from the Governor and returned to his family for burial.

LEGISLATING MĀORI CUSTOMS

Settlers in the North had few illusions as to the implications of this case for the rule of law. As one local newspaper noted, Maketu had not been apprehended by the authorities but was handed over voluntarily by his family for their own reasons. It was asserted that the case only went to prove that:

The Maories [sic] are not, and cannot be, governed by the crown. Those who signed the treaty, and those who did not, alike disregard it, as far as the government is concerned. They are as much ruled by their own customs... as they ever were. The sovereignty over them on the part of Great Britain is entirely nominal.⁶

This was the dilemma for authorities, and while some officials argued that the most honest course of action was for the Crown to abandon any pretensions to rule over Māori districts, others believed that such a policy would merely lead to further problems as unregulated settlement of such areas inevitably brought colonists into conflict with the tribes. The issue was brought to a head following a series of serious incidents in the Bay of Plenty in 1842 and 1843 involving tribal clashes and the revival of cannibalism, prompting an intense debate which was eventually won by those in favour of renewed efforts to extend English law into Māori controlled areas (Ward 1971:132-33).

Among the most prominent of those who had argued in support of such a policy was George Clarke Senior. A former Bay of Islands missionary, Clarke had lived in New Zealand since 1824, and had been appointed Protector of Aborigines in 1840 in accordance with Colonial Office instructions that such a post should be established at an early date (McNab 1908:734). He had played a key role in assuaging northern Māori concerns in the wake of the Maketu case. Although under few doubts as to the difficulties inherent in endeavouring to gain adherence to the law, he believed any alternative course of action would be “destructive to the interests of the natives and the prosperity of the colony” (Wake 1962:351).

In Clarke's conception no better way could be found to overcome continuing Māori preference for their own customs over English law than by “legalizing their customs”.⁷ He accordingly set out comprehensive proposals in 1843 for courts to be established under the presidency of the Protector of Aborigines, supported by a panel of chiefs and either mixed or exclusively Māori juries depending on whether Europeans were involved in the cases, which would determine matters in accordance with a codified version of “native customs and usages...not in themselves repugnant to humanity”. The key to gaining Māori obedience to the law, Clarke argued, was to involve them in its framing and implementation.

Such far-reaching proposals were anathema to those officials who viewed the concessions to Māori custom contained within them as unwarranted deference to an inferior culture (Wake 1962:354). Clarke was unable to secure sufficient support for his proposed courts, but did gain agreement for at least some tentative steps in the same direction. Under the Native Exemption Ordinance of 1844 chiefs were to be made responsible for the arrest of tribal offenders from their own communities; widespread Māori fear and dread of imprisonment were acknowledged through provisions limiting its application. A further important concession to the Māori concept of *utu* (‘satisfaction or payment’) was embodied in a provision allowing for cases of theft to be punished by paying four times the value of the stolen goods, with most of the fine to be retained by the injured party by way of compensation (Ward 1974:66).

Yet even these more moderate measures were enough to spark howls of outrage in the settler community. William Fox, the New Zealand Company agent at Nelson and a future Premier, described the Native Exemption Ordinance as “a sort of cloak to cover the design of the government to render the natives independent of British law” (O’Malley 2004:17). Clarke complained that European hostility to the Ordinance had hindered its implementation.⁸ However, some early disasters for the British at the commencement of the Northern War were enough for Governor Robert FitzRoy, who had shown some sympathy for Clarke’s viewpoint, to be recalled in 1845.

THE RESIDENT MAGISTRATES COURT ORDINANCE OF 1845

Fitzroy’s replacement, George Grey, immediately signalled an abrupt change of approach. Soon after his arrival in New Zealand he informed the Legislative Council of his intention to demand “an implicit subjection to the law” on the part of all Māori (O’Malley 2004:18). Clarke’s own “utterly useless” Protectorate was abolished within the space of a few months and the Native Exemption Ordinance repealed soon after.⁹ Grey’s own Resident Magistrates Court Ordinance of 1846 in fact retained several important features of the earlier measure that the new Governor had been so vociferous in denouncing. The new Ordinance built on Clarke’s work in some respects with the appointment of assessors, usually drawn from the ranks of the most important chiefs in each district, who were charged with working alongside the Resident Magistrates to resolve various disputes (Ward 1974:74-75).

Yet many of the chiefs appointed to such positions tended to see their assessorships as merely providing belated Crown recognition of their customary roles. Although not empowered to decide matters in the absence of the Resident Magistrates, unilateral interventions on the part of the assessors became a frequent cause of complaint from European officials. Many of the assessors proved to be more reluctant to act without the sanction of their own tribes, however, and unofficial *runanga* were often convened to determine matters in accordance with customary collective decision-making processes (O’Malley 2004:31-32). An intended instrument of English law was thus in some respects remoulded for customary Māori purposes.

Such processes tended to encourage greater co-operation with officials, especially where reasonably sympathetic magistrates sought to acknowledge the place of Māori custom in their adjudications, as Clarke had long advocated (Ward 1971:135). Even so, Māori engagement with English law, in Northland and elsewhere, remained at best selective, much to the frustration of many Europeans. The Bay of Islands Resident Magistrate observed in 1854 that

cases involving chiefs could only be settled using moral influence, as any effort to put the law in force “would endanger the property of others and cause an ill feeling that would be difficult to remove”.¹⁰ John Grant Johnson, a Crown land purchase officer based in the area, commented two years later that Whangarei Māori were “not at all inclined to submit to the English laws, except when decisions are given in their favour”.¹¹ Other Europeans resident in the North similarly noted the limitations of British authority at this time.

Cattle trespass remained a perennial cause of tension and conflict between the northern tribes and settlers, and some Europeans accused the Resident Magistrates of consistently favouring Māori in their determinations, knowing full well that their ability to enforce a contrary decision was negligible. A visitor to Northland commented in 1857: “[T]here is little redress against a native, although if one of their dogs or pigs is hurt they demand immediate payment. The law does not compel the native to fence his Crops before he can think of asking damages, and they in these out districts laugh at a summons” (Stewart 1857:12-13). One northern settler, successfully prosecuted by local Māori for killing some pigs which had trespassed on to his own cultivations (but unsuccessful in his own efforts to prosecute them for seizing his dog in part compensation), no doubt spoke for many when he declared, “is it not monstrous, and yet they tell us that we live under the protection of British law”.¹²

AN UNEASY ALLIANCE

In many respects, then, the Northern War had changed little. Governor Grey may have proclaimed a crushing victory over anti-government forces at Ruapekapeka in January 1846, in the context of which his subsequent free pardon for the “rebels” and abandonment of earlier plans to confiscate their lands could only seem truly magnanimous. But behind the rhetoric, the Governor understood well enough that the war had done little to extend effective British control over the North. The only condition of Grey’s pardon had been that all settler horses seized during the conflict should be returned to their proper owners forthwith. Yet none of the anti-government chiefs were inclined to take any notice of this and efforts to flatter Hone Heke into returning the horses with the offer of a salaried assessorship met with an emphatic rejection. “I am no magistrate for Europeans”, the chief wrote, “I am a Maori man for the Maori people.”¹³

While Heke and Kawiti reportedly boasted that they had taken on and withstood all the forces the British could muster against them, Europeans still resident in the North lamented their position. “The flag-staff in the Bay is still prostrate”, the missionary Henry Williams wrote, “and the natives here

rule. These are humiliating facts to the proud Englishman, many of whom thought they could govern by a mere name” (Belich 1986:70). Yet the flagstaff at Kororareka, felled four times by Heke, continued to remain prone only because officials such as Grey, fearful of their ability to successfully defend it again in the future, resisted Māori efforts to have it re-erected.¹⁴ In effect, the Crown turned its back on the North for more than a decade. But the decline in the economic fortunes of Northland, which had contributed to the war, deepened in its aftermath. This was something which even those who had fought against the Crown would later have cause to regret. Meanwhile, with the emergence of the proto-nationalist King movement from the mid-1850s, officials could no longer afford to feel comfortable ignoring the densely populated northern regions.

Both Northland Māori and the Crown therefore had strong incentives for entering into the period of significant re-engagement which followed from the late 1850s. This renewed relationship—symbolised from the Ngāpuhi perspective by the January 1858 re-erection of the flagstaff at Kororareka upon local Māori initiative—saw frequent gubernatorial visits to the region and promises of significant Crown assistance in reviving the economic fortunes of the area in return for assurances of “friendship and alliance”. Governor Thomas Gore Browne informed the northern chiefs that the Crown would undertake to establish new townships in the North “where the Maori and Pakeha should cultivate their fields and build their houses side by side” and together become prosperous once again.¹⁵

Behind the Elysian images lay a different reality. Browne may have reassured northern chiefs that “the past was forgotten; and... the Ngāpuhi now possessed the confidence of the Government and were looked upon as friends”.¹⁶ Privately, though, Crown officials remained deeply suspicious of northern Māori. Browne refused to attend the flag-raising ceremony and would not lend more than token assistance for feeding and provisioning the large party required to haul the spar out of the bush and up Maiki Hill at Kororareka. He further revealed something of the rather neurotic attitude adopted at this time in writing to the Secretary of State for the Colonies shortly before his removal from office that he “hope[d] to be able to bring a number of the Ngāpuhi Tribe to assist” in efforts to crush the King Movement, even though “it will not be safe to rely implicitly on their support” (Turton 1883:73). The influential Hokianga trader and future Native Land Court judge, Frederick Maning, may have been bullish, offering the services of “1000 Ngāpuhis” for the fight at Taranaki, but others were more concerned by his distribution of gunpowder to local Māori “while a portion of the Natives are in open rebellion against the Law and the Queen’s Supremacy in these Islands”.¹⁷

APPROPRIATING UNOFFICIAL *RUNANGA*

One point widely appreciated at this time was that northern Māori declarations of allegiance to Queen Victoria did not translate into ready acceptance of the applicability of English laws to their own affairs. The wily Native Secretary, Donald McLean, certainly understood this fact, writing with respect to the North that it was “quite evident that the English law cannot be strictly carried out without the agency of the Natives” (Turton 1883:58). Even the altogether less astute Browne realised this as well. At a national level, Browne contemplated allowing *runanga* to regulate tribal affairs, including the ascertainment of titles to Māori lands, encouraged by findings such as that of the 1860 select committee on Waikato, which had concluded that “[p]roperly organized and placed under the control of Government... the Runanga would become a great instrument of civilization, a powerful means of securing order, and a machinery for facilitating the administration and disseminating the principles of law”.¹⁸

Such a conclusion rested in large part on the fact that *runanga* were being spontaneously revived on a more permanent basis than their customary equivalents across many Māori communities in the country. The Waikato settler and former Native Secretary, F.D. Fenton, had first reported on these developments in 1857, noting the establishment of an elaborate network of standing *runanga* throughout the district. Encouraged by his belief that the emergence of such institutions was much more than merely a passing fashion and stemmed from “a fixed determination to discover and establish among themselves, a system of order and combination” (O'Malley 2004:33), Browne had appointed Fenton Resident Magistrate for the Waikato, hoping to bring the *runanga* there under the influence of the government and use them to undermine support for the emerging King movement (O'Malley 2004:33, 39). Similar interest was also shown by the General Assembly, which in 1858 passed the Native Districts Regulation Act, allowing for the governor-in-council to proclaim native districts within which by-laws on matters of local concern could be passed with the general assent of Māori living in such areas, along with the Native Circuit Courts Act, which provided a mechanism for the enforcement of such by-laws in tandem with the common law (Ward 1974:107).

Early implementation of these proposals was hampered by ongoing dispute over the broader issue of whether and how exactly Māori lands should be “enfranchised” (a euphemistic term for allowing direct sales to settlers). A third related legislative measure intended to facilitate this was overruled by the Imperial Government. But with unofficial *runanga* increasingly prominent in many districts, many officials felt that they had little choice but to try and bring these under the aegis of the Crown. As the Premier, William Fox, later informed the General Assembly:

[W]e look to the runanga, or Native council, as the *point d'appui* to which to attach the machinery of self-government, and by which to connect them with our own institutions.... We have no choice but to use it, it exists as a fact, it is part of the very existence of the Maori—we can nor more put it down than we can stay the advancing waves of the rising tide; and, if we do not use it for good purposes, it will assuredly be used against us for bad.¹⁹

INITIAL PROPOSAL

It was in the North, in fact, that Browne proposed first trialling a limited experiment with such a system. If the loyalty of the Ngāpuhi tribe was considered questionable at best, Browne, following a visit to Mangonui in February 1861, concluded that of the Muriwhenua tribes was “undoubted”. Concessions to Kingitanga tribes would be read as indicating weakness, the Governor believed, but a successful pilot scheme of improved governance in the North would do much to undermine support for their position.

To this end, Browne proposed that a chief of the “Rarawa” tribe be selected by a *hui* (‘meeting, assembly’) to act as the “Deputy or Superintendent” to the Resident Magistrate at an annual salary of £100, with two further chiefs to be appointed as his assessors at £20 per annum.²⁰ The principal chief would be required to assist the Resident Magistrate in the administration of justice as well as suggesting to the Governor regulations for the local affairs of the district which were likely to be “conducive to good order, and acceptable to his people” He would further be required to mark out a “distinct boundary” between the lands of the “Rarawas” and those of neighbouring tribes. When this object was accomplished, the Governor added, “every exertion should be made to indicate the lands belonging to the different ‘hapus,’ until it may be hoped that an individualization of title may be ultimately accomplished”. The people of Muriwhenua would thus be rewarded for their “steady loyalty” by being made guinea pigs for a scheme of government rule through the chiefs and individualisation of title to their customary lands.

The problem with Browne’s proposal was that, as officials diplomatically tried to point out, it provided the basis of an ill-conceived, rather than “well-ordered”, form of government.²¹ McLean and his assistant T.H. Smith, though acknowledging that the area was a good one “for trying an experiment of the kind proposed”, nevertheless noted that it was “scarcely probable that the Rarawa would unite in acknowledging one Chief as having supreme authority over all the ‘hapus,’ or subdivisions of the tribe”. They further pointed out that Ngāpuhi, whose land interests extended into the district, “would reasonably expect that privileges granted to the Rarawa should be equally conceded to them as residents in the same Native district”. W.B. White, the local Resident

Magistrate, and Frederick Weld, the Native Minister, made similar points, suggesting Browne's proposals, could lead to more harm than good in stirring up rivalries both within and between tribes.

Everyone, it seems, other than Governor Browne, understood well enough that such a system would be at odds with Māori forms of governance, based as they were on collective decision-making processes. Weld considered that the whole subject would need to be referred to the next session of the General Assembly, since the government would need to be ready to extend any experimental form of rule to other tribes if it worked well, for which purposes "considerable funds" would be required. Browne, though, was more cautious, believing any effort to implement a more ambitious scheme for the governance of Māori-dominated districts would need to follow the suppression of the King Movement.²²

GREY'S "NEW INSTITUTIONS"

The news reaching the colony in July 1861 that Grey had been appointed to replace Browne for a second term as Governor as soon as he could reach New Zealand effectively scuttled further consideration of the Mangonui proposals. But the new Governor had his own ideas on this subject and within six weeks of his arrival back in New Zealand in September 1861 he was again touring Northland to explain his even more ambitious proposals for the governance of the area. Gone was Browne's cautious approach. Instead, Grey quickly announced proposals for a comprehensive "plan of government" intended to encompass all of the North Island. The new Governor had a ready ally in the form of recently installed "peace" ministry of William Fox. Both Grey and Fox viewed legally-constituted *runanga* as a vital tool in isolating and undermining the Kingitanga. Grey informed a meeting of lower Waikato Māori in December 1861 that he did not mind if they chose to call one of their number King: "I shall have twenty kings in New Zealand before long; and those kings who work with me shall be wealthy kings, and kings of wealthy peoples."²³ But his very first meetings with Maori after announcing his proposals were held in Northland.

It was no accident that Grey had chosen to visit the North before venturing anywhere near the Waikato. As the Governor realised, in the event of conflict with the King Movement, securing the attachment of the northern tribes would be critical to success. As local officials continued to remind their superiors, strong tribal connections through intermarriage and the ongoing residence of some Waikato Māori in the North meant this was no certainty.²⁴ At the same time, given the vastly improved relationship between the Crown and local Māori after 1858, it was obvious that proposals for a comprehensive

system of state-sanctioned local government stood a better chance of ready acceptance in the North than elsewhere. Grey needed to shore up support for the Crown in the North and convince any waverers, before he could tackle the Kingitanga with any confidence. He hoped that his scheme of “new institutions” would provide the sort of carrot with which he could confidently secure the ongoing allegiance of the northern tribes before dealing with the looming Waikato crisis head on.

Whereas Browne had envisaged spending £140 per annum on a modest experiment in the Mangonui District, Grey advanced proposals soon after his arrival back in the colony, which envisaged the Crown spending £49,000 annually across the country.²⁵ Under his proposals, which were based on reviving the 1858 legislation, the North Island would be divided into 20 districts, each of which would have its own District *Runanga* operating under the supervision of a Civil Commissioner. Each district would in turn be divided into about six Hundreds (named after the divisions of English counties or shires), whose own *runanga* would appoint two representatives to the District *Runanga* and have primary responsibility for recommending to the governor the appointment of wardens, constables and other salaried Māori officials from within their communities. The District *Runanga* were to be accorded significant powers under these proposals to recommend by-laws on a wide range of matters of local concern, subject to confirmation by the governor-in-council, along with authority to inspect and report upon Native Schools as well as construct and control hospitals, jails and roads. They would also have primary responsibility for providing for “the adjustment of disputed land boundaries, of tribes, of hapus, or of individuals, and for deciding who may be the true owners of any Native lands”, as well as recommending the terms and conditions upon which Crown grants should be issued and authorising land sales.²⁴

Fox agreed with Grey’s suggestion that land title investigations should be left “substantially in the hands of the Runanga”.²⁶ Given the extent of Māori “jealousy” on the subject, there was, he noted, no alternative to such a course short of “abstaining from all further purchase”. Grey indicated his willingness to compromise on the main sticking point—his insistence on restrictions on the amount of land any individual could purchase directly from Māori—provided that the essential principle that “no one should be allowed to grasp more land than he can use” was observed, along with occupancy requirements and the consent of the District *Runanga* to any proposed alienation. Grey added that he would “fear, at present, to go further. The great object is to devise a system which, at this critical time, both Natives and Europeans will gratefully accept”.²⁵

It was a similar concern not to go beyond what Māori would accept which also prompted ministers to suggest that the system be designed from the bottom up, building on existing (and unofficial) village *runanga*, rather than the more elaborate system of “Hundreds” initially proposed by Grey. The “rude Native institutions already existing” could, Fox believed, be successfully appropriated as instruments of Crown authority, “taking under the recognised shelter of law... what now exists as a universal custom”.²⁷ Grey, typically, claimed this to be entirely in accord with his own ideas on the subject and set off to Northland within a matter of weeks to sell his proposals to the tribes.

THE “NEW INSTITUTIONS” IN NORTHLAND

A *hui* at Kororareka on 6 November 1861 provided the first opportunity. With a large crowd of Māori assembled inside a marquee near the beachfront, Grey, after receiving a warm welcome from local *rangatira*, informed the gathering:

The time had come when a change must take place in their government and customs corresponding to that which had taken place in other things. When he asked what was the state of affairs in their country, he was told that there were quarrels in this place and in that place and runangas set up in this place and in that place, all making various laws. He proposed to make use of all these existing institutions but to put them into a new and better condition. Therefore people must be appointed from amongst themselves to take charge of these runangas, and in each village there must be native constables, acting under the people chosen from the runangas, to execute the laws. The people from these runangas must be sent to a central runanga—that is to a large runanga established for a large district of country. This principal runanga would make laws for many things; for example it would have to provide for all questions about the boundaries and ownership of lands, and for all cases of cattle trespass, and would make laws about fencing. These laws when made and assented to by the government would have to be carried into execution by their own officers.²⁸

The governor added that those appointed to undertake this work would be well paid and would be expected to do their work well. As northern Māori had assisted him to bring an end to the fighting at Taranaki, Grey flatteringly declared, he now expected them to “assist him in that which was for the good of all”. He had “undergone troubles & labours and left other friends in order to make them rich and happy and he demanded their assistance that they might be governed by laws assented to and worked out by themselves”.

Any such laws required the approval of the governor-in-council before coming into force, a crucial point which Grey glossed over in his explanations to northern Māori in favour of an almost utopian vision of the role the District *Runanga* would perform. Asked what the duties of such a body would be, the Governor explained that it would have to make laws for the whole district:

For instance in the matter of roads it would have to decide whether roads should be made and if so between what places they would be most advantageous. He lived in Auckland and could not tell where roads were required, the runanga would be his eyes to see where a road was wanted, his ears to hear what people asked for it, and his hands to construct it. The runanga would moreover have to provide for the building of gaols and hospitals, & determine on what terms medical assistance should be afforded.... In short the runanga would be the governor's eyes and ears and hands for that place.

Although those present at the Kororareka *hui* reportedly expressed “great satisfaction” at Grey’s explanation of his proposed *runanga* system, some significant concerns were also raised. Doubts were expressed, for example, as to whether it would be found possible to execute the law in cases where the offending party was a great chief. Grey replied that if any salaried officer did wrong the matter would be brought before the *runanga* at its next meeting, and the governor would receive a full report on proceedings. The potential loss of salary would provide a strong incentive to carry out the law, even against great chiefs and over time, the constables “from constantly acting together would become a ‘hapu’ and would help each other fast enough”.²⁷

Grey’s primary concern may have been to secure support for his scheme of “new institutions”, but the speeches of northern leaders at Kororareka, Kerikeri and elsewhere in the North, reflected an altogether different priority. Browne had promised the northern tribes new townships and renewed prosperity on his visit in 1858, but the chiefs and their people were still waiting to see these happen. Despite comparing himself with a doctor who had come to hear their ailments and “prescribe remedies”, Grey refused to be drawn on the specific request that he honour the promise made by his predecessor.²⁹ Instead he claimed that his *runanga* proposals would provide for all of the wants of northern Māori, including the establishment of townships:

I live far away in Auckland, I want to leave here eyes to see, ears to hear, hands to provide for, and mouths to tell your wants. Some of you want a town; some, roads; some, Europeans to live with you. How can I know these things, unless there is someone here to represent me. The runanga would provide for all these wants.

In response to a specific query, Grey added that “if they wanted schools the runanga would provide them”. Jails, hospitals and other institutions would also be provided for their benefit and “[b]y the establishment of runangas and courts and by the introduction of magistrates and medical men, Europeans would be induced to settle in the country”.

It was a clever way of dodging responsibility for establishing the promised townships in the North. Essentially, Grey placed the onus back onto northern Māori to subscribe to and actively support his proposals for extending British authority through state-sanctioned *runanga* as the cost of securing the economic revival so desperately desired by the tribes. Lest the point be lost on local Māori, the Governor again repeated the message at a huge gathering held in the Hokianga District less than a week later. Responding to the “great anxiety for a town...expressed by many of those present”, the Governor declared:

[A] town would necessarily spring up in the Hokianga district. Every member of the runanga would have a house there and there would be the doctor and the schoolmaster. All these persons would have wants and Europeans would come and set up “stores” to supply those wants. A town was made by people congregating together to supply the wants of those who had money to spend. The unsettled state of the Waikato would not in any way delay the establishment of a town.... He promised to do his best to have everything he had mentioned put into immediate execution and he called upon them to say with one voice that they would do their best to carry these things into effect.³⁰

Grey’s request was met with “loud and repeated cries of:– ‘Yes! Yes!’”. By effectively linking support for the *runanga* scheme with the establishment of townships the governor thus managed to secure the agreement he sought for his proposals. He had done so, however, only at the cost of greatly heightening expectations among northern Māori as to the benefits the scheme might be expected to bring them. Much now hinged on the success of the *runanga* system in Northland.

ESTABLISHING THE OFFICIAL *RUNANGA*

Grey had promised northern Māori that implementation of his proposals would be swift provided support for them was forthcoming. The tribes were not to be disappointed in this respect at least. In fact, even before Grey left the North, George Clarke Senior had been appointed Civil Commissioner for the Bay of Islands District, with instructions to prepare a list of those best qualified to serve as assessors, and to “make such arrangements as you can for giving

validity to the local runangas now in existence and preparing the way for the assembly of the district Runanga as early as circumstances will justify".³¹ Grey's choice of Clarke was deeply ironic in many respects considering the stinging criticisms levelled at the former Protector of Aborigines at the time his position had been axed in 1846. Yet given that the new system mirrored, outwardly at least, many of the principles championed by Clarke in the 1840s and especially given his lengthy and extensive contacts with the northern tribes, his appointment was in many respects a logical one. The hard-edged assimilationist rhetoric that had heralded Grey's arrival in 1845 had, in any event, never entirely matched his subsequent "flour and sugar" approach to dealings with the tribes during his first governorship (a term coined by critics of his practice of distributing largesse to important and influential chiefs, including, quite literally, gifts of bags of flour and sugar), and it was hardly going to win them over in 1861. Clarke had been widely condemned by the settler press for his "philo-Maori" sympathies during his time as Protector, and his appointment signalled an altogether more reassuring tone in Grey's early dealings with the northern tribes.

Determining the appropriate boundaries was the first task. Clarke recommended that the Bay of Islands district should "embrace the whole of the Ngapuhi country", extending from Whangarei in the south, across to Mangakahia and up to the South Head of Hokianga, "continuing up that river as far as Motu Karaka, from thence to Maungataniwha; from thence in a line North-east to the North Head of Wangaroa", with all of the territory to the north of this constituting the separate Mangonui District, which had been carved out of the larger district following protests from the local Resident Magistrate.³² In fact, when the districts were proclaimed in January 1862, the boundary between the Bay of Islands and Mangonui was shifted north to Herekino on the west coast and moved south on the opposite coast to the South Head of Whangaroa Harbour, meaning some Hokianga Te Rarawa were included in the supposed "Ngapuhi country", and Whangaroa Ngāpuhi were included in the Mangonui District.

The newly-appointed Civil Commissioner may have believed these divisions to have been "from time immemorial... those of the Natives", but many local chiefs considered otherwise. Wiremu Tana Papahia, the principal chief of Te Rarawa at Hokianga, who found himself on the Bay of Islands District *Runanga*, later complained that "it was not only his, but the wish of the people generally that the [Te Rarawa] tribe should be united, and not divided as under the present arrangement" (W.B. White MS. 1860-69:227-28). James Clendon, the Hokianga Resident Magistrate, meanwhile, reported from Hokianga in April 1862 that "many of the influential Chiefs of this hundred complain that several tribes are not represented at the District Runanga and

have no assessors in their neighbourhood".³³ Clendon also noted that two chiefs at Whangapē, "where there is neither a representative at the District Runanga nor an Assessor have resolved to govern themselves by their own laws", a determination which he felt persuaded, had "originated from their having been overlooked". Ten months later the Hokianga Resident Magistrate was continuing to unsuccessfully urge the appointment of additional assessors from the area along with further representation from among the Hokianga chiefs to an enlarged District *Runanga*. Such steps would, he believed, "tend to secure their influence and attachment to the Government and lead them to abolish their own self constituted runangas".

Clarke's divisions were, it would appear, less reflective of custom than he assumed, but had nevertheless been adopted by the government seemingly without any further consultation with local chiefs who may have been able to assist in the determination of appropriate boundaries. It was not a good start for a system which purported to offer northern Māori extensive powers in the management of their own affairs. In reality, it seemed, Crown officials remained in the driver's seat. And even after sensible suggestions for improving the system were made by Clendon and others, there was little willingness shown to act on these in any significant way.

In fact, when the Bay of Islands District *Runanga* met for the first time before a crowd of more than 500 people (including many local settlers) in March 1862, Clarke fielded almost immediate complaints as to the impossibility of representing all *hapū* ('sub-tribe') interests within a body limited to just 12 members. When Clarke declared that they were able to nominate two further members, he was informed in response by the *Runanga* "that there ought to be ten instead of two".³⁴ Wiremu Tana Papahia, the Te Rarawa chief, was then nominated for inclusion, along with an associate of Tamati Waka Nene, who had threatened to vacate his own seat if this was the only way to secure the inclusion of his friend. Clarke noted that if the government was unwilling to admit a larger number than 12, then "more useful and influential men" would be excluded from the *Runanga* by this act, but at the same time the government could not afford to lose Nene and his influence. Complicating matters further, the Ngāti Hine chief Maihi Paraone Kawiti then put forward a "friend and neighbour" of his own for inclusion, and despite Clarke's reminder that they were limited to 12, the *Runanga* approved his nomination.

The Civil Commissioner believed that the only way to prevent "future embarrassment" of this kind would be to insist that the *Runanga* find the means of paying for any further members they might wish to appoint (who should be accorded "honorary" membership only by the government). At the same time, he recommended that the membership be increased to 15,

given that the whole of the coastline from Russell to Tutukaka was entirely unrepresented in the existing membership and had been “greatly neglected” in the existing arrangements. This, however, does not appear to have been approved, and when the District *Runanga* met again in March 1863, just 12 members were present.

Beyond lengthy wrangling over the respective salaries paid by the government under its scheme of “new institutions”, at Clarke’s urging, the first session of the District *Runanga* also passed a number of resolutions, pledging themselves to bring an end to the institution of *taua muru* (‘plundering parties’) and to henceforth resolve disputes in accordance with English law, and declared their intention to resolve disputed land titles and to use all lawful means to stop the excessive consumption of “ardent spirits”. Meanwhile, consideration of other issues, such as provision for education and medical aid, was deferred to the subsequent meeting.

Yet although the Bay of Islands District *Runanga* continued to meet and usefully debate and pass resolutions on matters of local concern over the next few years, only one of its regulations, tightening the restrictions against consumption of spirits, was ever approved by the governor-in-council and given the force of law (O’Malley 2004:51). Grey had himself urged the *Runanga* to pass such a resolution, which its members reluctantly agreed to do, despite the requests of northern leaders a few years earlier to end such “exceptional laws” (Ward 1974:144).

There was, however, much more to the scheme than merely periodic meetings of the District *Runanga*. Clarke informed the Bay of Islands Resident Magistrate in September 1862 that a principal object of his periodical visits to the different settlements within his area would be that of:

controlling [sic] when you cannot wholly suppress the many self constituted Runanga’s [sic]; unless they are kept in a great measure under your direction, they will be a source of endless confusion, if not a complete nuisance they will be resorted to in opposition to your Court, and being governed by self interest, partiality and covetousness [sic], these acts would be Tyrannical, arbitrary and unjust, and even in cases where offences may have been given, and in Justice some reparation should be made, their demands, will be found so unreasonably excessive [sic], subjecting the offender to greater inconvenience than the Native Taua’s [sic] It will therefore be your duty, to remind all such self constituted Runanga’s [sic].

1stly That self constituted Runanga’s [sic] claiming any Judicial or executive functions are illegal.

2ly That there can be no legal Runanga but such as is constituted by the Government.

3ly That where Runanga's [sic] are duly constituted by the Government their powers are very limited, and in order to give validity to any thing they do, it must be through the Magistrates and Assessors. (Clarke MS. 1861-65:12-13)

Existing unofficial *runanga* could not, Clarke added, "be altogether suppressed, but may be brought under regulations which will render them useful as well as harmless".

OFFICIAL *RUNANGA* AND UNOFFICIAL *RUNANGA*

Unofficial *runanga* were thus to be brought under the influence of Crown officials as much as possible, and official *runanga* were severely restrained in their actions. Despite Grey's promises when he visited the North that extensive powers and resources would be devolved to the District *Runanga*, the Crown was never interested in allowing these to develop into state-sanctioned instruments of genuine self-government. The extension of Crown control over Māori districts through the instrument of the chiefs remained the primary concern of Grey and his officials. It was also hoped that through their role in the suppression of "injurious Native customs", the *Runanga* could serve as agents of assimilation (O'Malley 2004:53-59).

With unofficial *runanga* already in existence across many Māori communities, including Northland, the Crown sought to co-opt and control such bodies for its own ends. Institutions perceived as a threat to the Crown might therefore be harnessed and used to further its own assimilationist goals. Mechanisms of self-government could be used to extend the effective application of the rule of law and perceived challengers to British sovereignty could be recruited (probably unknowingly) for the difficult task of extending its real application on the ground.

Crown officials were frequently scathing of the supposedly tyrannical nature of many of the unofficial bodies, ignoring the fact that they would not be in existence without considerable support from within their own communities. Yet what were frequently viewed by European observers, such as Clarke, as "exorbitant" or excessive punishments handed down by unofficial *runanga* for "trivial" offences were often viewed by Māori themselves quite differently. *Runanga* regularly handed down penalties tailored to the circumstances of the offender rather than to those of the actual crime committed—a notion which sat comfortably with Māori concepts of *utu* and *muru* ('plunder, in compensation') but less so with mid-Victorian ideas about crime and punishment. Some chiefs readily accepted large fines levied by *runanga* against them as a mark of their own *mana* and significance, whilst crimes considered minor in Pākehā society, such as verbal curses,

caused huge disruption within Māori communities and were accordingly treated seriously by the *runanga* (O'Malley 2004:53). Clarke informed the Bay of Islands Resident Magistrate that he would be required to intervene in many cases "which are weighty in the estimation of the Natives but which officially you could scarcely notice". Clarke advised that such matters as curses, breach of *tapu* 'spiritual or ceremonial restrictions', abductions and other causes of dispute within Māori communities could only be dealt with officially (that is in accordance with English law) even at the cost of undermining the standing of the courts, but at the same time they could not be ignored altogether: "for if once the Natives believe, that you are unable to help them out of their difficulties, your influence will be lessened, and it would probably lead them to adopt some Native mode of redress" (Clarke MS. 1861-65:11-12).

The only solution to this dilemma, the Civil Commissioner advised, was to deal with these disputes, however seemingly trivial they might seem from a European perspective, in an unofficial way, trusting that time, greater Māori knowledge and greater acceptance of English laws would eventually "correct" their confused notions on these matters. As Clarke later informed his magistrates, if "respect for Law and order" could be inculcated in Māori communities "an end to all irregular and inconvenient modes of settling Native disputes and disturbances" could eventually be expected provided the co-operation of the chiefs was forthcoming (Clark MS. 1861-65:18-19).

It is an interesting indication of the altered political climate that Clarke's earlier support for the codification of a modified version of custom as a basis for adjudicating upon disputes within Māori communities had been dismissed in favour of an approach based on no more than an informal nod in the same direction. His proposals in the 1840s for the limited incorporation of Māori custom within the legal system had been contentious. By the 1860s, even Clarke evidently believed that they were unacceptable.

RE-APPROPRIATED *RUNANGA* AND THE DECLINE OF THE "NEW INSTITUTIONS"

A fundamental problem with this view was that the northern chiefs and their communities were not prepared to be duped into enforcing English laws against themselves. Extending its own effective authority may have been the Crown objective, but it was not one shared by Northland Māori. Instead, those northern communities who supported the *runanga* system tended to see it as providing belated Crown recognition of their customary authority and as an opportunity to enforce their own customary laws with the support of the Crown. Alan Ward noted (1974:138) that chiefs who voted in

favour of resolutions at District *Runanga* “could and did, act quite contrary to the rulings they had just joined in passing” once they returned to their own communities. Clarke (MS. 1861-65:11) and other officials frequently complained of the assessors “presuming upon powers quite beyond their Jurisdictions” and of making inappropriate or incorrect decisions. Yet, they may not have been in accordance with English laws, but the determinations of the assessors (frequently made with the support of unofficial *runanga*) were often more reflective of Māori *tikanga* (‘custom’).

The Crown may have expected to appropriate Māori institutions such as unofficial *runanga* for its own ends, but with Clarke and other officials forced to recognise breaches of *tapu* and other matters as offences in order to maintain any kind of influence with the tribes, there was much to suggest that Northland Māori had in fact reappropriated the state-sanctioned bodies for their own purposes. Grey had boldly informed northern Māori in 1861 that even their chiefs would be subject to arrest and duly punished like everyone else. But when push came to shove, the reality in a district that continued to be dominated and governed by Māori proved rather different. In 1864, for example, a young chief of high standing shot and wounded another man in an adultery dispute at Te Ti in the Bay of Islands. But efforts to arrest the chief had to be abandoned when the extent of Māori opposition to such a course of action became clear. When even the supposedly arch-“loyalist” Tamati Waka Nene disputed the Crown’s right to intervene in a purely Māori matter of this nature, the options available to officials were limited. On this occasion Clarke wisely opted to treat the shooting as a civil case, to be settled by way of a fine, in order to avoid further exposing the Crown’s fundamental weakness in the North (Clarke MS. 1861-65:40-41).

It was a similar situation further north, where Crown officials had long deemed the tribes to be both more “manageable” and more steadfastly “loyal” in their inclinations than the more unpredictable Ngāpuhi. In fact, the Muriwhenua tribes proved just as keenly conscious of their own *mana* and standing as those of the Bay of Islands District. W.B. White convened the first meeting of the Mangonui District *Runanga* in July 1862 before a crowd of more than 500 assembled onlookers. He noted that “anything like exclusion of the people would have created a strong prejudice against the objects of the Runanga” in subsequently submitting a large bill for expenses incurred in providing for all those in attendance (W.B. White MS. 1860-69:184). Seven sub-districts had been established and one member from each elected to join the District *Runanga*, but the other assessors were also permitted to join in as non-voting members to avert any difficulties which might arise from their exclusion (W.B. White MS. 1860-69:179-80).

Although the Native Minister subsequently endorsed White's positive report on the inaugural meeting, not everyone was quite so happy with the work of the Mangonui District *Runanga*. A by-law on the perpetually troublesome issue of fencing and cattle trespass (which had in fact been drafted by White himself) prompted the *Aucklander* to declare with dread that "it only wants the Governor's approval to subject Europeans settled in that district to Maori law administered by Maoris" (Ward 1974:148). Not surprisingly, therefore, and despite reassurances that the Governor would be advised to proclaim this and another draft by-law concerning the gathering of census information under the Native Districts Regulation Act of 1858, no steps were taken to give effect to either by-law (or indeed to any other resolution passed by the Mangonui District *Runanga*) (O'Malley 2004:55).

The Muriwhenua tribes had demonstrated that they were not unwilling to develop a system of law in order to deal with some of the most common recurring problems in their day-to-day relations with local Pākehā. It was the fact that few settlers were prepared to acknowledge any legitimate role for Māori in drafting and implementing such laws that posed the bigger problem, especially once it became readily apparent that the District *Runanga* were not going to facilitate extensive land sales. At this point attention rapidly turned towards alternative means for achieving the same end. Grey's promises that northern Māori would be empowered to determine titles to their own lands and control the process of sale of these to the settlers were thus soon enough forgotten in favour of a more autocratic system dominated by Pākehā officials. Promising early experiments with a localised "court" for purposes of land sales under the Native Lands Act of 1862 were dispensed with and replaced by a centralised and much more formal Native Land Court from the end of 1864 (O'Malley 2004:65-68).

Meanwhile, White's own objections to "exceptional Laws... for the Natives" were increasingly beginning to undermine the initial enthusiasm for the District *Runanga* on the part of Muriwhenua Māori (W.B. White MS. 1860-69:45-46). A further widely-attended meeting of the *Runanga* was held in January 1863, at which the provision of schooling was hotly debated and a commencement made to resolving land disputes in the district (W.B. White MS. 1860-69:233-36). But by the following year White's actions in attempting to prevent the payment of four horses to the aggrieved party in a *puremu* ('adultery') dispute, as awarded by two assessors, had prompted efforts to establish a "Runanga Kei Waho", or outside *runanga*, "in opposition to the authority of the Magistrates" (W.B. White MS. 1860-69:470). White reported that "the *outside Runanga* as explained by one of the Assessors, means a desire to return to the old Maori Law. Being habitual breakers of the law, they do not like the restraints of the European Law" (W.B. White MS. 1860-69:305, emphasis in original).

It was, though, White's own actions that angered the chiefs. White insisted that any fine should be paid to the court and that any subsequent damages to the aggrieved party would be dependent on proof of their own good character. This ruling breached established Māori protocols for dealing with such matters. In the wake of this, a more general disillusionment with the official *runanga* system appears to have spread. One member of the District *Runanga* openly declared his intention of "not upholding the law with reference to the punishment of theft, and selling spirits to the Natives" and was dismissed from office. The two assessors involved in the *puremu* dispute were suspended and the remaining members of the District *Runanga* censured "for their want of energy" in administering justice in the district (W.B. White MS. 1860-69:308-9). White again had cause to deprecate "irregularities" in the conduct of the assessors at a further meeting of the District *Runanga* in March 1865, but he added that he "did not consider it necessary to invite the Runanga to pass resolutions as to the government of the district, as I wish to lead them to accept the laws in force amongst the Europeans" (W.B. White MS. 1860-69:360).

In the wake of the Waikato War, White's views were entirely in conformity with those of his political masters. At the end of 1865, the last vestiges of the official *runanga* system were formally abolished. White was informed by the Native Under-Secretary that "true policy requires that all exceptional law should gradually cease and the Natives be encouraged to conform to that of the European" (W.B. White MS. 1860-69:431). Although some positions created under the system were retained, these were incorporated into the now depleted Resident Magistrate framework for governing Māori. According to Ward (1974:196), approximately two-thirds of the 450 salaried Māori office-holders under the "new institutions" either had their salaries stopped altogether or severely cut. With the abolition of the office of Civil Commissioner, White was demoted to his former position as Mangonui Resident Magistrate. Though he notified the Native Minister that he intended to continue to convene the now unofficial District *Runanga* once a year, as it was "a great advantage to the Government in a political sense", there is no further record of any such meetings (W.B. White MS. 1860-69:445).

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Although Kingitanga supporters elsewhere had rejected the "new institutions", considering the whole scheme little more than a thinly-veiled bribe to buy their support for the Crown, in the North most groups initially embraced the system with enthusiasm, welcoming the opportunity to work alongside Crown officials to develop solutions to problems in their communities. Their response was no doubt influenced heavily by the face-

to-face explanations of Governor Grey during his November 1861 visit to the North. The *runanga* system, Grey had suggested, was the key to a prosperous future ahead for Northland Māori. Even the establishment of their long-awaited townships, the Governor declared, would rest with the *runanga*. But since the scheme failed to undermine support for the Kingitanga elsewhere, Crown officials rapidly lost interest in the “new institutions” and devoted their energies instead to planning for the forthcoming war. Northern Māori, meanwhile, also became increasingly disillusioned with the system. Their early endorsement of the “new institutions” had never, as some officials might have hoped, signalled any intention to abandon their own customs in favour of English law. A half-hearted effort at co-opting Maori *runanga* was never going to succeed in the absence of any willingness to grant them real powers and to acknowledge Māori custom within the framework of the legal system. Ultimately Grey’s promises to the northern tribes proved hollow ones.

In 1863 Tamati Waka Nene and others implored the Governor to “turn your eyes towards the North, to the people of the Government”.³⁵ But Grey’s eyes were firmly fixed on the Waikato. After a brief period of re-engagement with the North, motivated by the need to shore up “attachment” for the Crown, officials now felt confident enough to neglect the area again. And as the promised prosperity and devolution of significant authority failed to materialise, support for the *runanga* system waned. In any case, even in Northland the *runanga* had never quite proved to be the compliant creatures of state which Crown officials had hoped to establish. The process of appropriation of unofficial *runanga* by the state and the corresponding re-appropriation of the official *runanga* system by northern Māori had, in the end, done little to advance effective Crown control over the North. The Native Land Court, followed by widespread land alienation and significant Pākehā migration into the district after 1865, would eventually do the job instead. Northern Māori, though, continued with their efforts to gain government recognition of their rights of self-governance under the Treaty of Waitangi. In that sense, the tensions, which were inherent in the Treaty and which are seen in the *runanga* system of the 1860s, continue today.

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NOTES

Abbreviations:

AJHR=*Appendices to the Journal of the House of Representatives*

Arch.-NZ=Archives New Zealand.

ATL=Alexander Turnbull Library, Wellington

BPP=British Parliamentary Papers–Colonies, New Zealand

NZPD=*New Zealand Parliamentary Debates*

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2. Colonial Secretary to Captain Nugent, 25 November 1847, IA 1/1848/325, Arch.-NZ.
3. *Te Karere Maori*, 15 November 1859.
4. John White, English law – How it was administered in New Zealand in 1837, 23 August 1871, White Papers, MS 75, ATL.
5. H.T. Kemp to Colonial Secretary, 28 January 1842, 14 February 1842, IA 1/1841/1556, Arch.-NZ; *Bay of Islands Observer*, 4 August 1842. Standard procedure throughout the British Empire was for such requests to be refused, the bodies of executed persons being deemed to be the property of the Crown.
6. *Bay of Islands Observer*, 10 March 1842.
7. Clarke to Colonial Secretary, 31 July 1843, BPP, 1844 (556), pp.346-50.
8. Clarke to Colonial Secretary, 1 July 1845, BPP, 1846 (337), p.134.
9. Grey to Earl Grey, 4 February 1847, BPP, 1847 (837), p.92.
10. James Clendon to Colonial Secretary, 15 February 1854, IA 1/1854/708, Arch.-NZ.
11. AJHR., 1861, C-1, p.70.
12. James Burnett to H. Fletcher, 6 June 1857, Micro-MS-666, ATL.
13. Heke to Cyprian Bridge, 16 January 1849, IA 1/1849/158, Arch.-NZ.
14. Colonial Secretary, minute, 15 February 1848, IA 1/1848/243, Arch.-NZ.
15. *Te Karere Maori*, February 1858.
16. *Te Karere Maori*, February 1858
17. Browne to McLean, 30 April [1860], McLean Papers, MS 32, ATL.; *New Zealander*, 6 March 1861.
18. AJHR., 1860, F-3, p.4.
19. NZPD, 1861-63, 22 July 1862, p.422.
20. AJHR., 1861, E-3D, pp.3-4.
21. AJHR., 1861, E-3D, pp.4-5.
22. AJHR., 1861, E-3A, p.3.
23. AJHR., 1862, E-8, p.4.

24. AJHR., 1862, E-7, pp.16-17, 20.
25. AJHR., 1862, E-2, pp.10-12
26. AJHR., 1862, E-2, pp.15-16.
27. AJHR., 1862, E-2, pp.13, 16.
28. Memorandum of Sir George Grey's address at Kororareka, 6 November 1861, MA 1/1861/150, Arch.-NZ.
29. Memorandum of conversation between Sir George Grey and Maori assembled at Kerikeri, 7 November 1861, MA 1/1861/150, Arch.-NZ.
30. Address of Sir George Grey to Maori assembled at Okura, 12 November 1861, MA 1/1861/150, Arch.-NZ.
31. Fox to Clarke, 9 November 1861, MA 4/4, Arch.-NZ.
32. AJHR., 1862, E-9, Sec.I, p.3; AJHR., 1862, E-9, Sec.VII, p.3; *Te Karere Maori*, 5 February 1862.
33. Clendon to Civil Commissioner, 4 April 1862, 5 February 1863, Hokianga Letter Books, 1862-67, qMS-0473, ATL.
34. AJHR., 1862, E-9, Sec.I, p.8.
35. *Te Karere Maori*, 28 September 1863.

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