

Chapter 2

The assault on land rights

On 11 October 1904, the day after he arrived in Fiji, Everard im Thurn was installed as Supreme Chief of the Fijians with ceremonies he acknowledged in his diary as 'extraordinarily interesting'. On the evening of the same day he was recovering in his office when he noticed

something that seemed a great dog creeping up and licking my boots. It was a magnificent Fijian, an officer of the Armed Native Constabulary, who had crept on all fours vaka Viti to take the earliest opportunity to prefer some request. I was startled - and . . . gave him to understand that he was never to do such a thing again.¹

Vakaviti, Fiji-style, is a word im Thurn was to use often in the following six years. Applied to individuals it never lost the connotations it has here of unmanly behaviour that ill became the dignity of full British subjects. Applied to land rights, vakaviti was synonymous with chaotic.

From his diaries it seems that im Thurn came to his views on the state of Fijian society after talking to Chief Justice Sir Charles Major, Attorney General Albert Erdhardt, and a few other government officials of comparatively short-term experience in the colony. They had one thing in common: they agreed with the long-held view of the European settlers that the Gordon-Thurston system, or 'the communal system' as it was now called, had outlived whatever usefulness it might have possessed in the early years. It was hampering the natural development of the colony and destroying the moral fibre of the Fijians themselves. The new Governor was easily persuaded to the popular view that the Fijians had lost the will to live and were doomed to extinction.

By April 1905 im Thurn was confident enough to speak to the Council of Chiefs in perhaps the most unpleasant language they had ever heard. The chiefs, he charged, were 'killing' the people who 'do not even care for the trouble of living and of raising children for a race which is dying out so fast that unless a change comes soon, there will not

be one of you left in forty years . . . The Fijian people are perishing chiefly because they are not allowed any liberty to think and act for themselves.' He appealed to the chiefs to help their people become 'more like real men . . . fit and willing to do men's work' so that with the gradual substitution of British laws for the backward Native Regulations the people would eventually be on the same level 'as white British subjects are'. As a grand, but in the context boorish gesture, he announced that he was abandoning forthwith his personal rights as Supreme Chief to isevu, first fruits. These were voluntary tokens of goodwill from the provinces, a pleasant reminder also of Fijian expectations that the Governor would act towards them as a true chief. To Sir Everard it was all vakaviti, unprogressive sentimentality: 'In future I do not want anyone of you Fijians to offer me anything for which you will not let me pay.'²

Having prepared the chiefs for radical change, im Thurn set about laying the foundations for a future whose prosperity would be assured by a large European population with the capital and skills to bring into production the vast tracts of fertile land a dying and indolent race could never hope to use. He reawakened the vision of building a strong outpost of the British Empire in the South Seas, moving the Fiji Times to hail him, quite accurately, as 'the first Governor of Fiji to make any public recognition of the fact that the colony may have a British future; that the lands of the colony are necessary to that future; and that the present conditions of land tenure are untenable'.³

Whereas Gordon had argued that the alienation of land had already gone to the 'very verge' of what should be permitted if the Fijians were not to be lorded over by white settlers, im Thurn saw the European development of the 4,250,000 uncultivated acres of the colony as his first priority.⁴ It was then he confronted the implications of the Fijian myth interpreting the Deed of Cession as a personal covenant between the chiefs and their Queen, reflecting their retrospective satisfaction with the way their first Governor had articulated British respect for their rights and privileges.⁵ Had not Gordon, and his successors too, outraged the European community by enthusiastically treating with them as Supreme Chief to brother chiefs, even to the details of Fijian ceremonial etiquette? The proof of the wisdom of Cession was that the people had been given a secure legal title to the lands

remaining to them. Alienation had been halted. From the Fijian language compendium of Native Regulations they could invoke Commodore Goodenough's response to the offer of Cession made on 12 March 1874: 'It is clear to me that you are not ceding the land itself or your people. That is good.'⁶ In the Fijian popular mind the lands had been given by the chiefs to the Queen vakaturaga, that is, by way of a chiefly presentation which entitled them to expect that the Queen in her reciprocal generosity would return the lands to be shared and used by the people. Gordon did nothing to disabuse them of this notion; he encouraged the myth to secure their loyalty - despite the plain provisions of article IV of the Deed of Cession vesting in the Crown all lands not actually used by a tribe or chief nor needed for their 'probable future support'. Ordinance XXI of 1880 had established a Native Lands Commission to give legal recognition to Fijian ownership of all lands not already alienated, and to implement Gordon's personal pledge that what Fijians then held would be confirmed to them. In 1908 the former Governor wrote to Lord Elgin at the Colonial Office: 'I do not only think, I know, that I must have repeated the assurance at least 30 times.'⁷

Im Thurn made a determined attack on the Gordon-Fijian viewpoint, suspecting a cosy conspiracy to defraud the Crown of its legitimate assets. He reviewed the history of Fijian land transactions as 'one great blunder from the beginning . . . from 1875 we have again and again failed to claim the lands but even ostentatiously pretended to recognise . . . the natives' imaginary rights as real'.⁸ On solid historical grounds im Thurn argued that pre-Cession Fijians had lived in a constant state of petty war and that their boundaries shifted frequently: it was pure invention to speak of ancestral rights to pieces of land or to say, as Gordon and others did, that every inch of Fiji had its owner. There were large tracts of land unoccupied at Cession which should have been marked off immediately as Crown land and kept for future European settlement.⁹

To im Thurn the work of the Native Lands Commission had been conceived on false premises. It was attempting to codify and standardize customary situations that varied from one district to another, situations that were of their essence uncodifiable. In his first year of office he also observed that the NLC hearings in Tailevu province seemed themselves to bring to a head or even cause serious disputes. He suspected the ageing David Wilkinson, who had

served the government off and on since Cession, was mentally incapable of effecting reasonable settlements, but in any case he was impatient for the 'impenetrable obscurity' of Fijian custom eventually to give way to 'the clear light of the Real Property Ordinance'.¹⁰ Im Thurn's analysis of the problems of codifying custom was brilliantly done and has won him the respect of modern scholars, although few have thought through the political consequences of his determination to get Fijian land into the open market.

The only move towards rational management of the Fijian estate had been the unanimous consent of the Council of Chiefs in 1903 to the suggestion that the government should have the entire control of the leasing of 'waste' lands or those lying idle.¹¹ By March 1905 some four hundred vaguely described blocks had been nominated for leasing by the provincial councils, most so truly waste or inaccessible as to be useless for settlement. Im Thurn suggested to his subordinates that alienation would have to be made easier. The Chief Justice was enthusiastic, urging that the time had come for the government to take unused lands 'say the owners yea or nay'. The Native Commissioner, Francis Baxendale, 'as representing the natives' assured the Governor that drastic reforms would be 'welcomed with pleasure' by Fijians.¹² Without consulting a single chief, Im Thurn had his first reforms passed by the Legislative Council in May 1905. Fijian lands became alienable with the consent of the Governor-in-Council, the twenty-one year limit to leases no longer applied, and the Native Lands Commission was restricted to the hearing of actual disputes. The European settlers could hardly believe that a simple ordinance could strike at the heart of Fijian polity so long sustained by the official majorities in the undemocratic legislature. Over the next three years 104,142 acres of Fijian land were quietly sold and became freehold. The Council of Chiefs was never convoked to give the Fijians their opportunity to assess what was happening and write their thoughts to the King. But they were not without vigilant friends abroad who soon became aware that things in Fiji were not what they used to be.

The land sales attracted little attention in London until a former Governor, Sir William des Voeux, sent the Colonial Office a cutting from the Fiji Times of 27 June 1906 describing the purchase of a Rewa riverfront property, 'Navuso', for £1500. Under a lease that still had seven

years to run the Fijian owners had received an annual rental of £415. The purchaser, prominent Suva lawyer H. M. Scott, had made quite a bargain. The Governor defended the transaction (which had only been approved in Executive Council by his own casting vote) on the grounds that the land was exhausted, the real rental value was only £200, and that even if the deal was a bit dubious then 'a few experiences of such a character are likely to teach more self-reliance than years of leading strings'.¹³

Im Thurn had on another occasion put his dilemma in terms that should have alerted the Colonial Office to a fundamental shift in the position of the Fijians: 'The social and political status of the Fijian native in this British colony is so extraordinary and anomalous that it is a matter of very great difficulty to hold the scales evenly when the interests of the natives and Europeans are weighed against each other . . .'.¹⁴ Two years after taking office im Thurn forwarded for approval an ordinance (XVI of 1906) to empower the government to resume land for 'any undertaking proposal or policy which may appear to the Governor in Council desirable as directly benefiting the Colony'. One of the situations im Thurn had in mind was the possibility that Fijians at some future date would refuse to accept in the remote districts prices lower than they were demanding and receiving in the sugar centres.¹⁵

Although Sir Everard never admitted to the connection, this ordinance came after months of frustrating negotiations by CSR and government officers to obtain about 10,500 acres of unused swamp lands lying between Nausori and Wainibokasi on the Rewa River. The proposals involved moving five villages of 352 people. Ratu Joni Madraiwiwi, now Roko Tui of Ra, was called in to gain their support. The chief was foiled by the agents of two Suva lawyers who encouraged the owners, the Nakelo people, to hold out for the high rentals they were used to receiving from Indians for small blocks. 'The real trouble', said Ratu Joni in a moment of chiefly exasperation, 'is that they have never had anything to decide before and it's only in the time of the Government that they are allowed to have any.'¹⁶ Im Thurn could not have agreed more.

David Wilkinson had another view of the matter and wrote a strong letter of protest, with a copy to Gordon, now Lord Stanmore, alleging that the Nakelo people had been bullied and insulted and had a 'deep-seated dread . . . that in some way or another they [were] to be deprived of their ancestral lands . . . A native said to me

the other day "has our Governor ceased to be our High Chief?"¹⁷

Im Thurn dismissed Wilkinson's views as 'hysterical' but on the whole the old man had better reason for his fears than did the Governor for holding optimistically to a contrary opinion. Sure of the rightness of his cause, and encouraged by the enthusiasm of the European community and the apparent acquiescence of the Fijians, im Thurn introduced in June 1907 a third ordinance (IX of 1907) providing for the sale or lease of native land to Fijians and its conversion thereby to freehold title. It also allowed for the devolution of the powers of the Native Lands Commission to magistrates or others so that they could settle disputes on the spot, with appeals against their decisions lying to the Supreme Court rather than the Governor-in-Council.¹⁸ Thus was another safeguard of Fijian interests, direct appeal to their supreme chief, quietly removed.

The Colonial Office, by now thoroughly alerted to im Thurn's real intentions, sharply enquired whether the ordinance was 'merely a device under which land held individually by a native Fijian may be disposed of to a non-native' and whether Fijian opinion had been sought on the matter through the Council of Chiefs.¹⁹ In his reply the Governor ignored the last suggestion and confirmed that there would be no restrictions on individuals selling their land, but that it was not likely to happen very often. In a long review of the whole land situation he suggested that the time had also come for a special commission to assess the position of Fijian natives 'as affected by special legislation and by that legally recognised, but yet formless, law of "Fijian custom" ("vaka viti") and their consequent partial exclusion from the rights and obligations of ordinary British subjects'.²⁰ Although nothing came immediately of the last suggestion, it reveals the true context of his land reforms as the major item on a much larger agenda: the reformation of the whole Fijian system.

Meanwhile government officers and one or two Fijian Rokos were attempting to circumvent the problem of alienation by obtaining large tracts of land for leasing. Resistance was strong in provinces where the best lands had already been alienated, as in Ba and Cakaudrove. The fifteen inhabitants of Nanuca in the latter province, for instance, had 3000-4000 acres of land but regarded none of

it as surplus, even though 30 acres would have sufficed for their subsistence planting. Land in the Rewa delta was also hard to obtain as the owners could get quite high rents from Indians and saw no reason why they should subsidize either CSR or the government. In the province of Bua, however, Ratu Joni Madraiwiwi spent ten weeks in 1906 inspecting surplus lands and obtained for the government 51,000 acres for ninety-nine years at the rate of £10 per 1000 acres. In 1907 he obtained another 12,000 acres. The Macuata people surrendered 50,000 acres at £1 per 100 acres from 1 January 1908. About the same time 60,000 acres of good grazing land were obtained in Colo West.²¹

It needs recalling at this point that the eyes of the original Fijian lands, especially the river flats, had been picked before Cession, and that Fijian ownership of 83 per cent of the lands, while tremendously important in the larger sweep of history, is not as impressive in economic terms as it may sound. After the second wave of selling just described there remained in Fijian control (July 1909) only one large area of first-class flat land, the Waidalici and Sawakasa flats in northern Tailevu, some 50 miles north of Suva. In the course of a routine inspection by Ratu Kadavulevu and Assistant Native Commissioner W. A. Scott, the proposal was put before the District (Tikina) Councils of Namalata and Sawakasa that the government should assume the entire control of these lands. The signatures of the owners were obtained without difficulty on the understanding that planting reserves would be set aside and none of the lands would be leased to Indians, who, the people claimed, 'taught them bad customs and polluted their water courses'. The land surrendered included 5000 acres immediately suitable for cane, bananas or tobacco and a further 2000 acres that needed draining. There were 30,000 acres suitable for grazing.²²

Before the end of the year the people reconsidered. The old Sawakasa chief, Ratu Kamenieli Bituvatu, with all the original signatories alleged duress and tried to repudiate the agreement: 'We did not hand over our lands, you spoke of it first. We did not ask for this.'²³ Im Thurn, of course, had little sympathy and made an ill-conceived appeal to Fijian precedent: 'Vakaviti, Cakobau would, if he had known that there were people [Europeans] ready to use and pay for this land, have given over this land to those people. I quite as much vakaviti' . . . am prepared to lease to those people.'²⁴ The people were held to a miserable deal, and regretted it

ever after.

With varying degrees of grace, then, Fijians did hand over considerable areas of land to the government, far more than could be taken up by prospective settlers. Refusals to lease, even if applications were totally unreasonable and required the removal of a whole village, were blown up by the Europeans as further evidence of Fijian intransigence, while the generous concessions just noted received scant publicity. It did not suit the Fiji Times to attack the European speculators who were tying up 8000 acres on the Dreketi and Sigatoka Rivers, or to admit that there were greater problems than the availability of land for the colony's agricultural development. In January 1908 the Planters Association commissioned the Suva lawyer R. Crompton to prepare a long petition to the Secretary of State for the Colonies demanding that the 'Crown should take such [unused] lands and open up the same for cultivation by planters'.²⁵ The petition was based on the rights of the Crown under article IV of the Deed of Cession and its interpretation of the events since Cession closely followed that of im Thurn, whom the planters now saw as their champion. In his supporting arguments to the Colonial Office, im Thurn was careful to avoid the appearance of sectional bias and to profess great interest in the welfare of 'these interesting natives'. But he agreed with the planters that Fijian landlords were objectionable; they could perform none of the duties of the position. They had neither knowledge nor capital; they just received rents and appropriated improvements. Europeans with freehold titles would at once ensure that the property did not deteriorate, and usually they were able to raise capital for development. Believing that the Crown had a clear right to surplus lands in any case, he was resigned 'as a matter of grace' to allowing Fijians a price for their lands but insisted that the first aim of the government was that the lands be developed and 'the exorbitant demands of the Natives for their more or less imaginary rights' should be firmly resisted.²⁶

The Planters' Petition, and the knowledge that it had the support of the Supreme Chief, sent waves of distrust deep into a Fijian community now thoroughly aroused. The chiefs within reach of Suva met one evening at the home of their would-be champion and lawyer Humphrey Berkeley. The chairman of the Methodist church was present, and he reported that the chiefs were convinced a supreme effort was being made secretly by the Europeans to deprive them of

their lands.²⁷ Ratu Peni Tanoa, leading chief of Naitasiri, and several others said in a letter to the Native Commissioner that they feared a terrible reversal 'as happened in New Zealand - and like the Maoris we too could be reduced to slavery'. They asked that the full petition be translated so that they could study it themselves. Im Thurn was willing: 'It seems at least fair to put it into the power of Fijians to understand what is going on.'²⁸ The final decision lay with the Colonial Office, of course, and an outraged Lord Stanmore used both his private connections there and his seat in the House of Lords to defend his original land policies with passion. Stanmore achieved just the right elder statesman's blend of allusions to arcane knowledge of Fijian complexities and his record of integrity and experience with withering scorn for the intellectual confusion of a tactless successor - an upstart who thought planters a better judge of Fijian problems than the Scottish lord who, in winning the love of the people for British rule, had himself acquired 'the heart of a Fijian'.²⁹

Stanmore carried the day. The Colonial Office rejected the Planters' Petition and im Thurn's arguments and upheld the noble lord's view that no distinction could be drawn between waste lands and occupied lands - what im Thurn had called 'true Crown' and 'true native' respectively. All lands were to be regarded as Fijian property and not to be leased or sold without the consent of the owners.³⁰

The defeat of im Thurn's reforms has been persuasively explained by Peter France in The Charter of the Land as the victory of orthodoxy, a return to the misleading dogmas about Fijian society proclaimed by Gordon to justify his policy.³¹ In another sense, though, it was a victory for Fijians, the defeat of a vision of the colony's future which identified 'the real interests of the natives' with the denigration of everything in Fijian society that offended current British ideas of progress, democracy, manliness or self-respect. What would have happened if im Thurn's land reforms had gone through? Was not individualization of land tenure the classic colonial device for achieving a rapid transfer of native land to European settlers? There could be little doubt that if Fiji had been able to attract several thousand more settlers from New Zealand and Australia they would in time have gained self-government, abolished the Fijian Administration, and built on im Thurn's arguments and his

legal precedents to justify easier ways of alienating the best lands. Im Thurn's Fiji of the future was a more prosperous Fiji, perhaps, but it offered no hope for Fijian autonomy and success only for those Fijians with whom the Europeans chose to share their skills. Equal British citizens in theory, they would have become fringe-dwellers in fact; at best a picturesque background, at worst a broken society of migratory labourers and leaderless peasant farmers devoid of influence at the national level.

The land controversy overshadowed other elements in im Thurn's program of reform. He particularly chafed at the need to subsidize chiefly officials. Was there not some way of eroding their privileges and fostering the emergence of better-educated men with more progressive goals?

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