

RANGAHAUA WHANUI DISTRICT 8

**THE ALIENATION OF MAORI LAND
IN THE ROHE POTAE (AOTEA BLOCK)
PART 2: 1900 – 1960**

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Introduction

Part 1 of this report, *The Alienation of Maori Land in the Rohe Potae (Aotea Block), 1840-1920*, was completed in 1996. It was originally intended that another author would undertake part 2 at about the same time. The focus of part 1 was on land alienations in the Aotea block before 1900. Significant legislative and administrative changes governing the alienation of Maori land occurred around 1900 and these continued to have an impact for the next fifty years. The period from 1900-1920 was therefore given less emphasis on the assumption that these changes would need to be further described in part 2. In the event, part 2 of this report was not completed as originally intended. The present commission is intended to remedy that gap and provide a narrative overview of land alienations in the Rohe Potae (Aotea block) 1900-1960.

Unfortunately circumstances have meant that this commission has had to be very brief. I have been fortunate to have the assistance of Jenny Skinner who undertook four weeks research to identify relevant file records and prepare a preliminary appraisal of Maori land purchase files. In addition to this, the main research and writing of the report has been completed in the equivalent of seven weeks full time work. As a consequence, this report can be no more than a brief outline of the general history of alienations in the Rohe Potae while identifying possible Treaty issues and areas where further research is needed. Research has also been limited to written records, including published material and archival sources in research institutions and government agencies in Wellington.

It is often difficult to separate out what was happening in the Rohe Potae (Aotea block) from the larger administrative districts established by the government. The Rohe Potae was subsumed within the larger Waikato-Maniapoto Maori Land Board and Maori Land Court district for example, and was considered part of the Lands Department's Auckland land district. It was also divided between the Kawhia, Waitomo and Awakino local bodies and their successors. In spite of government efforts however, the district survived in the vernacular as a separate entity, known as the King Country, although with somewhat unclear outer boundaries. Government officials also found themselves occasionally describing a 'Maniapoto' sub-district for practical convenience. Yet official statistics rarely recognise the district, making some analysis difficult without time consuming block searches. Given the

limited time for this report the Rohe Potae (Aotea block) and King Country have been treated as virtually the same for the purposes of identifying overall trends and where outer boundaries appear to be not too dissimilar.

Officials tended to regard Ngati Maniapoto as having exclusive interests in the Rohe Potae (Aotea block). As noted in part 1, this was not entirely accurate. Although the district was largely Ngati Maniapoto territory, there were overlapping interests in parts of the district such as with Ngati Raukawa to the east, various Tainui hapu and iwi around Kawhia harbour and Ngati Tama and upper Whanganui to the south. Ngati Maniapoto also had interests outside the strict boundaries of the Aotea block, which was after all a Maori Land Court construct; for example, to the north of the Waikato confiscation boundary.

This report is concerned with land alienations and there are, of course, other Treaty issues that are therefore not addressed in it. These include, for example, fishing rights and other resources such as forestry, minerals and waterways. Such matters await further research.

The following chapters contain an outline of how Rohe Potae Maori came to view the Rohe Potae compact and how this continued to be influential into the twentieth century, the administrative background of the new system of Maori Land Councils/Boards' control of land alienations, and then an outline of the major types of land alienations in the Rohe Potae from 1900 to 1960. These also point to possible Treaty issues and areas where further research is likely to be useful.

Chapter 1

Maori Land Councils and Boards: A New System of Administering Maori Land Alienations

The New System

The system of Maori land administration through Maori Land Councils and Boards was described to a limited extent in part 1 of this report up to 1920. This chapter summarises and extends that description because of the importance of the new system in the alienation of Maori land in the first fifty years of the twentieth century. The new Maori Land Councils were created by the Maori Lands Administration Act of 1900. They and their successors, the Maori Land Boards, became major agencies in administering and managing the disposal of Maori land. The Maori Land Boards were finally abolished in 1953 and their powers and duties transferred to the Maori Trustee. This chapter only provides a brief outline of the major features of the system and possible issues given the limited research time available. More detail on the district Maori Land Councils and Boards can be found in Tom Bennion's *The Maori Land Court and Maori Land Boards 1900-1952*, Donald Loveridge's *The Maori Land Councils and Maori Land Boards: An Historical Overview*, and John Hutton's two reports: *'A Ready and Quick Method': The Alienation of Maori Land by Sales to the Crown and Private Individuals, 1905-1930*, and *The Operation of the Waikato-Maniapoto District Maori Land Board*.

Part 1 of this report described how Crown purchasing of Maori land constituted the major means of land alienation in the Rohe Potae in the nineteenth century. As described, the Rohe Potae was only opened to Europeans in the mid 1880s. Rohe Potae leaders had clearly wanted the district opened to economic opportunity, but also wished to retain a significant level of partnership with the Crown in the management of the district and especially over their lands. They sought this (and believed they had achieved it) through an overarching agreement or compact with the government. If land had to be alienated to provide an income, they preferred to lease rather than sell it. They sought to make decisions concerning ownership,

management, and disposal of lands themselves through their own committees, without Native Land Court interference, but with the government providing legal authority to their decisions.

As shown in part 1 of this report the Crown appears to have largely ignored these wishes as soon as this seemed possible. The state did participate in talks designed to achieve some form of partnership, but then insisted on the full Land Court process and embarked on a programme of large scale land purchasing under Crown monopoly that undercut hapu and chiefly authority. The result was that by 1900, just over one third of the land in the Rohe Potae had been sold to the Crown. Some of the 'purchased' land fell into the category of land that owners were forced to sell or that was awarded by the Court to the Crown in order to meet survey and other charges associated with the Land Court process. There was also some compulsory 'purchasing' under public works provisions, as in the case of land required for roads. This seems to have been included in overall Crown purchasing statistics as being a type of 'sale' - albeit a compulsory one - and no separate statistics for this type of taking are readily available.

The Crown purchased some 687,769 acres of land in the Rohe Potae (Aotea block) during the 1890s, out of an estimated total of 1,844,780 acres. It paid some £145,384 for this land, or an average price of 4s per acre. The price paid also generally took no account of millable timber on the blocks purchased.¹ This was a significant amount of land purchased given the determined attempts by Maori to retain management of their land and their preference to lease rather than sell land. A relatively small amount of land was leased privately during that time, although leasing was difficult to undertake successfully and indeed was actively discouraged by the Crown. There are indications that Maori owners may have seen significant areas of their best quality land alienated. The most closely subdivided blocks, for example, were of good land just west of the railway line. Close subdivision usually indicated purchase activity, as owners sought to partition off 'sale' and 'non-sale' blocks. There was also significant subdivision around Kawhia, which was expected to be an important port for transporting produce.²

¹ AJHR, 1907, G-1b, p 4

² AJHR, 1907, G-1b

By now, the Crown had created some problems for itself as a result of its policy of secretly purchasing undivided interests in numerous blocks. As shown in part 1, many Crown purchases remained incomplete with exact partitions and awards not yet known; a number of other purchases were also scattered amongst Maori interests and this undermined plans to provide large areas for European farm settlement that were 'free' of Maori title. Crown purchase agents may also have purchased significant areas of much poorer quality land as part of attempts to break down Maori resistance to sales, and to acquire footholds in certain areas in the hope that better land would eventually be available.

In many respects, Maori land alienations in the Rohe Potae by 1900 were not nearly as clearcut as official statistics appeared to show. The legacy of Crown purchasing and the Native Land Court process in delays, confusion and uncertain title remained apparent in the district well into the new century. By 1900, the Native Land Court had large backlogs of work for hearings, successions and partitions. The Crown and its purchase agents had carefully computed theoretical acreages representative of interests purchased, but in practical terms the land was often not properly surveyed or partitioned and titles were confused. The Crown may have been reasonably confident that the Native Land Court would ensure its interests were protected when it came to partitions, but meanwhile the process of preparing and offering the land for European settlement remained on hold. Maori continued to occupy many technically alienated areas, uncertain of what the Crown had bought through the policy of secret purchasing outlined in part 1, or where partitions might be made. It seems likely therefore that the pattern of Maori occupation on the ground may well have continued to be quite different to official lines drawn on maps.

In the late 1890s the government appeared to change its policy on acquiring Maori land. Section 3 of the Native Land Laws Administration Act 1899 stopped any new Crown purchasing, although purchases already begun could be completed. The 1900 Maori Lands Administration Act introduced the new system of making Maori land available for settlement through Maori Land Councils. This Act also emphasised leasing rather than selling Maori land. Maori owners could voluntarily transfer their lands through deeds of trust to the Councils to manage on agreed terms. These lands, later known as vested lands, could be leased by Councils but initially not sold.

Reserves for papakainga, birding, fishing, urupa or other purposes could be created and made inalienable. No Maori land in a district could be sold unless approved by the relevant district Maori Land Council. The Council had to be satisfied that an area sufficient for 'maintenance and support and to grow food' existed for every Maori man, woman and child affected by a proposed sale before the sale could be approved. A 1901 amendment required that alienations by sale required the consent of the Governor in Council. Although private sales were possible, there were significant restrictions and the Act assumed that leases would be the main means by which Europeans would acquire and develop Maori land.

The new system was in large part a response to frustration with what now seemed to be a bottleneck in purchasing Maori land. By the late 1890s, the combined system of Native Land Court investigation and purchasing appeared to have become a hindrance rather than a help in acquiring Maori land. The system had seemingly collapsed under its own weight, with long delays, complicated processes and frequent litigation. The creation of district Maori Land Councils seemed to offer a means of sidestepping the process and freeing up the disposal of Maori land, if only by lease. Many of these difficulties the new system was designed to avoid were apparent in the Rohe Potae as the Stout-Ngata commission noted in its 1907 report on title problems in the district. The commission had been appointed by the Liberal government to determine what remaining Maori land was required by the owners, and which of these remaining 'unutilised' lands could be sold or leased for general settlement. The members of the commission were Sir Robert Stout, Chief Justice and former Premier, and Apirana Ngata (later Sir Apirana Ngata).

The commission report observed that the backlog in titles in the Rohe Potae was not due to lack of effort by the Native Land Court. In fact the commission was not aware of any district which until 1888 was closed to the law courts, but where subsequently 'the Native Land Court has been so active and where subdivision has proceeded so far' as in that part of the Rohe Potae to the west of the railway line.³ The commissioners noted that such a massive process of subdivision resulted from hearings on ownership and 'in consequence of Crown purchases'.⁴ They instanced the work undertaken in the Kinohaku block, which originally totalled some 230,155 acres. The Court had subdivided it into East and West blocks and then

³ AJHR, 1907, G-1b, p 20

⁴ AJHR, 1907, G-1b, p 2

successively subdivided those blocks into 273 subdivisions by 1907. These subdivisions had resulted from Crown purchases, partitions to pay survey liens, one private sale, partitions for leasing and hearings as to ownership. Similarly Ohura South, originally some 115,584 acres, had been partitioned into 104 subdivisions. Other instances of close subdivision given by the commission were Hauturu East and West blocks, Pirongia and parts of Rangitoto Tuhua.

The commission report explained that in every step of this process of subdivision, the Court had to progressively ascertain tribal, hapu, family and then individual interests. Necessary delays were required to dispose of appeals, or allow title to mature, or have surveys made before further subdivision could take place. At each stage further partitions might be required to recover, in land, costs associated with litigation and surveys. The Court focus for this time-consuming process was on blocks that were most sought after for settlement.⁵

In contrast, the Court had made relatively little progress in other areas of the Rohe Potae. The lands to the east of the railway were of a generally poorer quality. In that area, the commission noted, the Native Land Court work had been much more 'tardy' largely due to delays in surveys. The unsatisfactory nature of titles in these blocks had in fact prevented the Crown from purchasing prior to 1900.⁶ The Stout-Ngata commission report referred to the problems the Court process caused for lessors and would-be purchasers of Maori land. It explained how the Maori Land Boards (which succeeded the Councils in 1905) might overcome this because when land was vested in them (as legal 'owner') they could then 'guarantee the successful applicant a perfect title'.⁷

Maori initially welcomed the system introduced in 1900 insofar as it appeared to offer more self management, Crown purchases were stopped, vesting was voluntary and the emphasis was on the leasing of land rather than sale. Leases offered the possibility of returning rents to the Maori owners while still enabling land to be made available for European settlement, and when the lease expired the land would revert to the Maori owners. The opportunity for self management appeared to be confirmed by Councils that had a majority of up to four Maori members of a total membership of up to seven, although only three of the Maori members

⁵ AJHR, 1907, G-1b

⁶ AJHR, 1907, G-1b, p 3

⁷ AJHR, 1907, G-1c, p 6

were elected. The fourth was appointed by government, as were the three European members (who included the president). The Maori Land Councils could also theoretically exercise all the powers of the Native Land Court, including those concerned with ascertaining ownership, partition and succession - although not until directed to do so by the Native Land Court. The Maori Lands Administration Act also appeared to recognise Maori concerns that they could be left landless, even if the motivation for this 'concession' may have been to prevent Maori becoming a 'burden' on the state.⁸

These kinds of changes, then, initially appeared to be responding to Maori demands. The Stout-Ngata commission reported that, during the 1890s, Maori had held numerous meetings all over the North Island and had presented many petitions to parliament, year after year. Although divided on many points, the tribes were unanimous in asking the Crown to cease purchasing Maori lands and to place the adjudication, management and administration of the remainder of their lands in controlling Boards or Committees composed of representative Maori.⁹

In that sense the new Councils, although they fell short of Maori demands, were in the same tradition as the earlier Native Committees insofar as Maori aspired for more autonomy through them. Some of the Rohe Potae leadership supported the new system, although there were still divisions within the region about how to best manage the land. What was often termed the 'Kingite faction' remained suspicious of government motives and preferred to deal with their land themselves without what was regarded as government interference. Those termed the 'progressives' in the leadership did however participate in the new system. They cautiously welcomed the Councils as offering more autonomy and having the potential to overcome problems with leasing and using their own land. In addition the new system was welcomed for stopping new Crown purchasing of land in the district.¹⁰

The Maori Land Council responsible for the Rohe Potae district was originally named the Hikairo-Maniapoto-Tuwharetoa District Maori Land Council, reflecting the fact that the region it covered was larger than the Rohe Potae (Aotea block). There was considerable

⁸ eg Capt Russell of Hawkes Bay, speaking on 1900 Bill in NZPD, 1900, p 509

⁹ AJHR, 1907, G-1c, p 5

¹⁰ AJHR, 1907, G-1b, pp 6-7

interest among Maori in the proposed boundaries of the districts and in the names of the councils. As noted in part 1 of this report, the government received a request from Ngati Maniapoto for the Rohe Potae itself to be considered a separate district, as it had been recognised as a disparate area by iwi since the 1883 petition.¹¹

The name of the Council was shortened to Maniapoto-Tuwharetoa in 1902 when the first members were appointed. Tuwharetoa and Maniapoto leaders had asked for a change to Turongo, the name of a common ancestor, to shorten the unwieldy name but this was ignored by the government.¹² John Ormsby was the first government appointed Maori member of the new Council. He was a Ngati Maniapoto leader who had also been involved, as we have seen, with the earlier negotiations on the Rohe Potae compact and with the previous Native Committees. The first elected Maori members were Pepene Eketone, Erueti Arani and Te Papanui Tamahiki.¹³ The first president appointed to the new Maniapoto-Tuwharetoa institution until his death in 1906, was G T Wilkinson, the previous Crown land purchase officer who was also involved with earlier negotiations.

The initial operation of the 1900 Maori Lands Administration Act reveals the conflict between Maori aspirations and the Liberal government's optimism that the Maori Land Councils would satisfy electoral pressure by freeing up 'unutilised' Maori land for European settlement. The Councils never managed to become an alternative to the Native Land Court because they could not undertake such work unless directed to by the Court. The European members were moreover given ultimate power in running the Councils. At the same time the new institutions did not have enough power to ensure Maori wishes concerning land were properly met or protected.¹⁴ Many government members and officials seemed to assume that vesting land should and would ultimately result in passing effective control of such lands into European hands by methods such as perpetual leases.¹⁵ Even within the Act, the provisions to ensure that Maori were not left landless seemed to sit oddly with the firmly held belief that

¹¹ Marr, *Rohe Potae*, part 1, p 146

¹² Marr, *Rohe Potae*, part 1, p 146

¹³ Marr, *Rohe Potae*, part 1, p 147

¹⁴ Marr, *Rohe Potae*, part 1, p 147

¹⁵ Marr, *Rohe Potae*, part 1, p 147

there were large areas of unutilised Maori land that could be made available for European settlement.

The government choice of appointees as Council presidents must have caused alarm to Maori owners. In many cases - as in the Rohe Potae - these were former Crown land purchase agents and were entirely sympathetic to the transfer of Maori land to European control. Such presidents appear to have used the same methods to acquire the agreement of a majority of Maori owners to ensure that land would be 'voluntarily' vested as they had done when secretly purchasing individual interests. In the Rohe Potae, Wilkinson appears to have kept firmly in mind purchases the Crown might want to 'complete' in the district. If the Crown decided not to complete a purchase he then set about acquiring a majority of signatures in the block in an effort to have the land vested in the Council.¹⁶ To Maori, this must have seemed uncannily similar to his work in the 1890s. The government no doubt valued the local knowledge of the previous land purchase officers, but such appointments could hardly have inspired Maori confidence in the new Councils or in the wisdom of voluntarily vesting land in them.

The result was that although Maori were willing to use the Councils for some purposes, soon relatively little Maori land had been voluntarily vested in the Councils - apart from in the Aotea district - for leasing before 1905. The Stout-Ngata commission reported that much like the Native Committees of the previous century, the early Council system failed because Maori were unwilling to entrust the administration of their lands to the Councils. Maori objected to being deprived of all authority and management of their ancestral lands, experience had convinced them that the government could change provisions and protections at will, and they suspected the Councils were simply another means of the State taking their lands.¹⁷ This appeared to be confirmed after 1905 when the Boards replaced the Councils, and Maori representation was reduced. The commission noted that very little Ngati Maniapoto land had been voluntarily vested to that point. Indeed, only the three major Native Townships totalling some 893 acres and a Maraetaua block of some 1800 acres had been vested under the pre-

¹⁶ Marr, *Rohe Potae*, part 1, p 147

¹⁷ AJHR, 1907, G-1c, p 6

1905 system. Instead Ngati Maniapoto still preferred to lease direct, although this still required Board confirmation.¹⁸

The Stout-Ngata commission reported that in the Rohe Potae the 'progressive' leadership had supported the Council, hoping it would assist them get better prices for their leases. However they had quickly become critical of the Council system. They complained the Councils (and then Boards) were ineffectual in meeting Maori concerns, such as assistance and training to farm their own lands. Their representative, John Ormsby, noted that they had been trying to satisfactorily establish methods of utilising their lands for nearly 25 years. Yet notwithstanding this, the laws affecting Maori lands had proved to be 'harassing and entirely against progressive settlement'.

The commission reported that the Crown had also undermined the mana of what was by then the local Maori Land Board. Lease agreements had not been registered, and the president did not live in the area. From 1906 the Crown had also resumed secret purchasing, upsetting lease arrangements.¹⁹ Maori interest in the Councils/Boards appears to have declined by 1907. John Ormsby had resigned from the Maniapoto-Tuwharetoa Board in 1906 citing poor remuneration, heavy responsibilities and conflicts with business interests.²⁰

Overall, alienations of Maori land slowed in the years 1900-1905, the Rohe Potae included. This appears to have resulted from a combination of factors, including the reluctance of Maori to make land available by vesting it in the Councils, the continued backlog of Native Land Court work, and the restrictions on purchasing in the 1899 and 1900 Acts. At the same time, pressure was building on Maori to alienate land. There was a boom in farming in the early twentieth century spurred on by such advances as refrigeration. Large farming estates were being supplanted in economic importance by smaller family farm units.²¹ These small Pakeha farmers became a powerful lobby group in both the Liberal government and the Reform party

¹⁸ AJHR, 1907, G-1b, p 7

¹⁹ AJHR, 1907, G-1b, pp 6-7

²⁰ Hutton, J L, *The Operation of the Waikato-Maniapoto District Maori Land Board*, Crown Forestry Rental Trust, Wellington, 1996, p 10

²¹ Fairweather J R, *Land Policy and Land Settlement in New Zealand: an analysis of land policy goals* Agricultural Economics Research Unit, Lincoln, 1985, p.5

that came into power in 1912. In response to electoral pressure, new measures were introduced from soon after 1900 that undermined the voluntary nature of the 1900 Act, changed the nature of the Maori Land Councils, and provided for a more streamlined process of alienating 'unutilised' Maori land for mainly European settlement.

Compulsory measures concerning land alienations had soon been implemented. These included 1902 legislation that enabled township lands to be vested in the Councils and the 1904 Native Land Rating Act that empowered the government to vest land in Councils on default of rates payments. Then in 1905 came the major change in administration, with the Maori Land Settlement Act which contained new provisions designed to more effectively streamline the disposal of Maori land. The Councils were reconstituted as Maori Land Boards wholly appointed by government, and the old requirement for a Maori majority was removed: the new Boards had three members of whom only one was Maori. The Act also continued provisions for voluntary vesting of Maori land, and restrictions on private leases were liberalised. Although safeguards against landlessness remained, and there were some facilities for the government to lend money to Maori to improve their land, the Act was intended to continue the emphasis on leasing - although under section 20 the government was also enabled to purchase Maori land.

Rachael Willan has identified the period from 1900 to 1930, and in particular 1911 to 1921, as a time of massive alienation of Maori land in the North Island, mainly through sales.²² This was made possible by a series of legislative measures designed to assist and streamline the disposal of Maori land through the Maori Land Board system. As will be shown, these legislative measures had the effect of bringing more Maori land under the direct control of Maori Land Boards through vesting and also gave the Boards more control over the disposal of non-vested Maori land, through the process of confirming sales to private interests for example. The following paragraphs briefly outline the major features of subsequent legislation.

The Native Land Settlement Act of 1907 made the Maori Land Board a much more important agency in the Rohe Potae. Under this Act the government could declare Maori land which the

²² Willan, R, *Maori Land Sales 1900-1930*, Crown Forestry Rental Trust, Wellington, 1996, p 6

Stout-Ngata commission had identified as unutilised to be vested in the Maori Land Board for sale or lease. This greatly increased the amount of land the Board directly controlled. As will be seen in chapter three of this report, the amount of Rohe Potae land vested in the Maori Land Board increased to at least 180,000 acres, and from this time the Board played a major role in many leaseholds in the district - either through directly leasing vested lands or confirming leases negotiated direct with lessees. The 1907 Act also required the Maori Land Boards to sell half the land vested in them under part 1 of the Act, and they could sell previously vested land to the Crown at an agreed price, even though at the time the land was vested it was regarded as being protected from sales. The Maori Land Board therefore, was given a major role in Maori land alienations through both leases and sales.

The Native Land Act of 1909 established a new system of alienating Maori land through meetings of assembled owners. This system lasted until the 1960s, although with many modifications, and was administered and facilitated by the Maori Land Boards. It was described by Finance Minister Sir Joseph Ward in his 1909 financial statement as assisting the purchase of 'as large an area as possible' from Maori owners while safeguarding their interests. He hoped that the new system would avoid past difficulties by generally expediting purchasing after negotiation with assembled owners. He explained that the consent of the majority of the meeting would constitute the purchase, subject in certain cases to the partition of the interests of dissenters.²³ Where there were fewer than 10 owners the land could be disposed of as for European land as long as the disposal was confirmed by the Maori Land Board. If there were more than ten owners, a meeting of owners was generally required.

The 1909 Act removed all previous restrictions on 'alienation' (a term which included sale, lease, license, gift or easement) and set up a series of new requirements. In the case of fewer than ten owners, the Maori Land Board had to take certain requirements into account before confirming alienation. This included whether the Maori owners understood the effect of the transaction, whether the proposed alienation was contrary to equity or good faith in the interests of the owners and whether Maori would be made landless by it. But though the Maori Land Board had to be assured that Maori owners had sufficient land left for their

²³ AJHR, 1909, B-6

'adequate maintenance' before a sale was confirmed, no particular acreage was specified. The price paid had to be adequate, sufficiently secured and involve no breach of trust or law.

The requirements for meetings of owners were less strict than for alienations of land with less than ten owners, presumably because matters could be explained in more detail at the meetings. The Maori Land Board could delay confirmation of a sale to allow dissenters' interests to be cut out, or to define interests more closely so those liable to be made landless could have their land similarly safeguarded. In fact Boards were also given increasing compulsory powers, as will be elaborated on in later chapters. From 1909, as an example, Boards could set aside up to five acres of vested land for factory, charitable or educational purposes, and they were given powers to set aside land for roading within vested lands. These powers no doubt helped to overcome title problems and may have been useful in developing land. Questions arise, however, as to the extent of consultation with Maori over the use of such powers.

The Native Land Court and Maori Land Boards now governed the majority of alienations of Maori land and the latter had been reconstituted in such a fashion that their principal purpose was to facilitate the alienation of Maori land.²⁴ Subsequent legislation confirmed and extended this. Tom Bennion has found that during the period of large scale alienations from 1909 to the early 1920s, the Maori Land Boards, together with the Native Land Court were the 'facilitators and promoters of the alienation of Maori land'.²⁵

Native Townships

As described in part 1 of this report, the Maori Land Boards were also made responsible for Native Township lands, especially from 1910 when the Native Townships Act of that year vested Native Township lands in the Boards to administer and hold in trust for the beneficial owners. The 1910 Act continued provisions enabling township land to be sold and township

²⁴ Hutton, J L, '*A Ready and Quick Method*'; *the alienation of Maori land by sales to the Crown and private individuals, 1905-30*, Crown Forestry Rental Trust, Wellington, 1996, pp 34-52

²⁵ Bennion, T, *The Maori Land Court and Maori Land Boards 1909-1952*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), July 1997, p 40

leases could now also be made perpetual. The provisions generally moved the emphasis in administration of township lands from leasing to freeholding.

The history of the main Native Townships in the Rohe Potae - Taumarunui, Te Kuiti and Otorohanga - were described in some detail in part 1 of this report. These townships were reported on because they survived for many years and there was considerable agitation for the Crown to alienate them by buying up the freehold on behalf of lessees. Three other townships, Parawai, Karewa and Te Puru were also proclaimed in the district, all three located around Kawhia harbour. They were not covered in part 1 because they failed as townships. However a claim has since been submitted to the Waitangi Tribunal concerning Parawai township and therefore a brief history of these townships is necessary. Only a brief outline is possible given the research time available. Official records for failed townships are also very sparse.

Parawai was proclaimed a Native Township on 29 June 1900 under the Native Township Act 1895.²⁶ It was located in an area generally known as Te Maika, on a spit of land at the south end of Kawhia harbour, bounded by the harbour and the Tasman sea. The land was officially described as part of Taharoa A block, in the Albatross Survey District. About 485 acres was taken and proclaimed as a township although the plan submitted required only 99 acres.²⁷ According to local history the township was created to provide a place for dispossessed exiles from the Tuakau-Waikato area following the Waikato confiscations.²⁸ Official documents indicate however that the government proclaimed Parawai, and the other townships around Kawhia harbour, to ensure sufficient government land for wharf facilities expected to be required as the Rohe Potae was settled by Europeans requiring a port for transport of produce to Auckland and other markets. Premier Seddon directed officials to take urgency in acquiring this land, presumably to forestall competition from private land speculators. Land already owned privately in the area of the Wesleyan mission in the south Kawhia harbour was briefly considered for a township but was considered too expensive and too difficult for the government to obtain. Instead officials chose the cheaper and easier option of Maori land at Te Maika which was thought to provide very good access to deep water, even though it was

²⁶ NZ Gazette, 1900, p 1342

²⁷ memo Chief Draughtsman 31 August 1902, ABWN 6095 w5021 box 247 LS 7/671 Parawai township

²⁸ report on township history in MA-MT 54/27/707, vol 1

admitted to be far away from the heads of the harbour and required rather 'intricate navigation' to reach it.²⁹

Official documents reveal that the Crown intended to acquire land near each of the five rivers emptying into Kawhia harbour in anticipation of growth in the area. In 1899 Parawai was considered the most urgent, but Karewa and Te Puru townships also appear to have been proclaimed as part of the same policy. The site for Parawai was chosen and gazetted in 1900 under considerable urgency. Officials confidently expected that the construction of a road linking the Rohe Potae district to the new township would then 'no doubt have the effect of preventing a township being started at any other fairly suitable place around Kawhia harbour'.³⁰ Official records appear to indicate therefore that Parawai township was proclaimed primarily to serve the interests of the Crown in providing cheap land for port facilities.

The requirement for urgency appears to have compounded problems for Maori. In 1902 Survey officials complained that proper procedures had not been followed in submitting a subdivision scheme before the township was gazetted. They questioned whether proper costings had been made, how much of the costs would be charged to the Maori owners and whether sales of leases would ever be likely to meet these costs. In addition they pointed out that the proposed reserves for Maori were far less than was required. File plans show most of the reserves appear to have been made up of five burial grounds.³¹ The township was also proclaimed before the Maori Land Court had determined individual owners of the township land. This may well have placed Maori at a disadvantage in attempting to object to features of the township and was still the situation in July 1903 when the Native Land Court dismissed all objections from Maori to the township.³² Maori also objected to the name 'Parawai' which was apparently the name of a swamp in the township but which officials in haste had attached

²⁹ memo 10 May 1900 Commissioner Crown Lands to Under Secretary Crown Lands, ABWN 6095 w5021 LS 7/671

³⁰ memo from Premier Seddon 13 december 1899 and official correspondence 1899-1900, ABWN 6095 w5021 LS 7/671

³¹ memos to Surveyor General, 18 August 1902, 1 September 1902, ABWN 6095 w5021 LS 7/671

³² correspondence 1902-1904, ABWN 6095 w5021 LS 7/671

to the whole town. In 1904 a number of owners asked officials to rename the township Te Maika as it was generally known by both Maori and Europeans, but this was never done.³³

Parawai township was subdivided into sections for leasing in 1902 and about 100 leases in the northern part were offered for tender in 1903 and 1904.³⁴ The 1904 notice described the township as mainly undulating grass and scrub. Most of the flat area was swampy requiring drainage before it could be built on. Access was by weekly steamer from Onehunga to Kawhia, or by coach road from Pirongia to Oparure and then by steam launch to the township. The response to tenders was poor and only about 15 leases were sold by 1904 for a total annual rental of £48.0.0. By 1910 only 18 leases were sold. As a result the southern part of the township was apparently never tendered for leasing. The Crown appears to have quickly lost interest in Parawai township as it failed. For instance, initiatives by some Maori owners to have rents put towards a loan for draining and improving the lease sections and therefore making them more valuable, failed as officials could find no legislative means for loans on township lands. Maori owners also had problems obtaining rental monies, not least because of the delays in determining ownership and possibly because of costs associated with the township. There was some dispute over ownership and the Native Land Court seemed reluctant to begin hearings. In the end the Minister of Lands officially requested a hearing to determine ownership in 1904.³⁵ The local history reported in the Maori Trustee files may possibly relate to these disputes over ownership.

Parawai township was vested in the Waikato-Maniapoto Maori Land Board under the 1910 Native township legislation. Lands officials forwarded £196.3.0 rent money to the Board. Presumably owners had received very little if any rents by this time. The Board also had difficulty in leasing the land. In August 1919 the Board leased some of the southern part of the land to Miss McNeish for grazing, much to the apparent consternation of some owners who had cultivations in the area. In 1920 the Maori Land Board tendered leases for subdivided sections in the northern part of the township. Five lessees purchased leases on 29 lots for a total annual rent of less than £30.³⁶ The township was hardly profitable and the

³³ letter from owners 30 June 1904, file note by Wilkinson 30 August 1904, ABWN 6095 w5021 7/671

³⁴ 1903 correspondence, ABWN 6095 w5021 LS 7/671 and NZ Gazette, 1904, notice 28 April 1904 p 1178

³⁵ 1904 correspondence on file ABWN 6095 w5021 LS 7/671

³⁶ letter Withers to Sir Maui Pomare 2 March 1926, ABWN 6095 w5021 LS 7/671

Board seemed happy to get rid of the problem with a proposal to re-vest the land back to the owners.

The difficulties encountered with re-vesting Parawai appear to be indicative of the problems with returning Maori land generally. A special Act was required to consider the re-vesting proposal. Section 26 of the Native Land Amendment and Native Land Claims Adjustment Act 1923 authorised and directed the Maori Land Board to summon a meeting of beneficial owners of the township to consider a proposal to gift the township to the Maori King, Te Rata. Most owners supported the proposal and dissenting interests were located separately in two sections in the township. By 1926 Crown officials were trying to sort out matters connected with effecting the transfer. There was some question of whether title to the southern part was legal given the subdivision of sections had never been made. In addition outstanding survey costs were initially sought from Te Rata. These were calculated as £157.3.4 from 1902 plus five percent interest making a total of £350. Some officials, to their credit, suggested this was inequitable but Treasury officials insisted on recovery. Eventually the matter was settled by the Maori Land Board paying the costs without interest minus the value of reserves retained. Some of the township sections had been originally set apart for public purposes. The section set apart for a quarry reserve could not be returned as it had been vested in the Kawhia County Council as a quarry in 1909 although it had never been used for the purpose as the land turned out to be unsuitable for quarrying. It was agreed that four other reserves set aside for drainage, public buildings, police and a school could be re-vested. Under section 49 of the Native Land Amendment and Native Land Court Adjustment Act 1929, the reserves were re-vested as Maori freehold land in the Maori Land Board for consideration for inclusion in the gift to Te Rata. There were still 21 leases on the township land in 1929 however and Crown officials decided that in order to protect the lessees, the township road lines could not be closed and re-vested in Maori. Instead a road line was officially proclaimed as road in 1929 to protect lessee access.³⁷

It is part of the current claim regarding Parawai that injury was caused to the Maori King by having the land returned encumbered with leases and an official road line, thus impeding free management and use of the property. By the 1940s and 1950s most leases had apparently

³⁷ correspondence 1926-29 ABWN 6095 w5021 LS 7/671

lapsed and only one remained perpetual. However building had tended to occur on the road reserve to avoid swampy land. The road had not been re-vested and was therefore outside the control of the Maori King. In the late 1940s the then Kawhia County Council apparently continued this problem by granting some temporary licences to build baches on the road reserve. This continued difficulties for managing the township and taking advantage of development opportunities. A further subdivision was made in about 1956 for some sections fronting the foreshore, and more leases were made with limited rights of renewal.

In 1981 the Maori Queen applied to have the status of the land changed from general to Maori freehold land. This was done on 19 March 1981 by order under section 68 of the Maori Affairs Amendment Act 1974, and it was followed on 10 July 1981 by orders under the Maori Affairs Act 1953 vesting the land in ten named trustees known as the Te Maika Trust. It appears that in the 1980s the final perpetual lease was also ended. One of the objects of the Trust was to continue long standing efforts to develop the township as a holiday resort. In the 1990s the final outstanding owners vested their land in the Maori Queen. A new subdivision scheme was developed in the 1990s and some land is leased through this. Negotiations are continuing over Trust control of the foreshore baches.³⁸

There is much less official documentation of Karewa and Te Puru Native Townships. They were proclaimed shortly after Parawai. Karewa for example was proclaimed on 26 September 1902. They appear to have been proclaimed as part of the same Crown policy of ensuring government land around Kawhia harbour as was Parawai. Both townships were quite small. Karewa for example was about 37 acres and they were located either side of the main Kawhia township, Karewa to the south and Te Puru to the north. Sections in both townships were offered for lease along with Parawai sections in 1903 and 1904.³⁹ Both townships also failed and appear to have been engulfed in the larger Kawhia township. Te Puru appears to have disappeared quite quickly. For all practical purposes Karewa also appears to have become part of Kawhia but the legal designation of township land remained for many years. In 1910 Karewa lands were vested in the Waikato-Maniapoto Maori Land Board. The Native Land Court titles were cancelled in 1916 and the blocks redesignated part of Kawhia blocks. When the Maori Land Board was abolished in 1953 the remaining township land was vested in the

³⁸ MA-MT 54/27/707

³⁹ NZ Gazette, 1904, p 1178

Maori Trustee and administered under the Maori Reserved Land Act 1955. By 1974 about 19 acres remained. Over the years most land was freeholded, some was taken for public purposes such as a school and some was revested in the owners.⁴⁰

Many of the issues concerning the creation of various townships and their management by the Waikato-Maniapoto Maori Land Board have been outlined in more detail in part 1 of this report and include, for example, the compulsory nature of the proclamations, the change in land status, the lack of consultation over Maori Land Board administration, issues of perpetual leasehold and the freeholding of sections. These townships also raise issues associated with later management and revesting of Maori land such as the loss of opportunities through having land returned encumbered with leases.

Maori Land Boards

Meanwhile, ongoing legislation concerning Maori land alienations in general, and the system of Maori Land Board oversight of these, had continued the trend of reducing safeguards for Maori in the interests of streamlining the disposal of Maori land. At the same time as Maori Land Boards were gaining increased control over Native townships, the Maniapoto-Tuwharetoa and Waikato Maori Land Boards were amalgamated in 1910 to form the Waikato-Maniapoto District Maori land Board. By 1910 a pattern had already evolved of declining Maori representation on the Boards and an increase in Board power to control and alienate Maori land. Even Maori appointees to the Board had to suit government aims. John Hutton has shown that Pepene Eketone was considered as the Maori appointment on the new Waikato-Maniapoto Board because he was felt to have the influence with Ngati Maniapoto that was needed to overcome difficulties anticipated when the Board began administering Ngati Maniapoto land compulsorily declared vested under the 1907 Act.⁴¹ Even as the Boards were given increased authority, they were required to cope with heavy workloads and insufficient staff. Hutton has also shown that the Waikato-Maniapoto Maori Land Board suffered an increasingly heavy workload, one that was worsened when the Maori Land Boards and the Maori Land Courts were virtually amalgamated after 1913. Hutton suggests

⁴⁰ Commission of Inquiry into Reserved Land, in *AJHR*, 1975, H-3, pp 231-2

⁴¹ Hutton, *Waikato-Maniapoto District Maori Land Board*, p 11

that this workload may be one reason why legislative protections regarding alienations appear to have been inadequately applied in the district.⁴²

After the Liberals were defeated in 1912, the Reform government continued the process of 'opening up' unutilised Maori land for closer settlement. The Native Land Amendment Act 1913 finally eliminated Maori representation on the Maori Land Boards and reduced Maori Land Board membership to two, the judge and registrar of the Native Land Court in the district. The management of vested lands had therefore been entirely removed from Maori control. The new system also meant that the Native Land Court and the Maori Land Board were now practically the same.

Tom Bennion has identified potential conflicts of interest in this. He notes that the 1913 amendment did provide 'a one-stop alienation service, but the cost would be confusion for all parties about the role of the land boards and the land court'. For example, the Maori Land Boards were required to act in the interests of Maori owners but still had to progress purchases. The Native Land Court had to decide on partitions while the Board - essentially the same personnel - had to finalise purchases which might be affected by the same partitions. In terms of partitions, the 1913 Act required that divisions should as far as possible be made so that the resulting partitions were able to be disposed of by purchase or lease, while at the same time taking into account the interests of owners.⁴³

Often those interests were neglected. The 1913 Act removed the requirement on the Crown to call meetings of owners before completing a sale, for example. Crown purchases were now checked by the Native Land Purchase Board rather than the Maori Land Board. The adequacy of safeguards in 1913 Act appear to have been further undermined by the attitude of Maori Land Boards. For much of the period up to the 1920s, they seemed uninterested in the development of Maori land for Maori, but in facilitating and promoting the alienation of Maori land - with Maori retaining just enough to make a subsistence living or left with no land where it was felt they could make a living by other means.

⁴² Hutton, *Waikato-Maniapoto District Maori Land Board*, pp 16-17

⁴³ Bennion, *Maori Land Court...*, p 13

Bennion notes that there were even cases where the Boards lent beneficiaries' money to land purchase officers so they could continue to purchase Maori land.⁴⁴ He further argues that the heavy workload and confusion of functions acted to the detriment of Maori Land Boards and the Native Land Court. As a result their responsibility for Maori interests was often overlooked. There were many complaints that Boards did not check on lessees properly or adequately collect and distribute rental monies. The work of promoting alienation took up time and resources to the overall detriment of the Boards' role as trustee for the interests of Maori beneficiaries. Bennion describes legislative amendments up to the 1920s in detail. Some were designed to overcome problems and abuses as they became apparent. For example, after it became clear that there were abuses over the proxy voting system at meetings of owners, the government passed measures designed to prevent speculators operating at such meetings. Where would-be purchasers kept calling meetings of owners, the government recognised the expense to Maori owners and placed time limits before subsequent meetings could be called. The time before the Maori Land Board could confirm sales was also extended in response to protests from dissenting owners. However, Bennion emphasises, the overall thrust of legislation remained the same. It was designed to increasingly streamline the process of alienation of Maori land through the Maori Land Boards in the interests of European settlement.⁴⁵

From the mid 1920s, as land alienations slowed and under the influence of Sir Apirana Ngata, the Maori Land Boards appear to have finally become more focused on assisting Maori to develop their own land. The Native Trust Office had also been established in 1920, and through it Maori were able to eventually secure some finance for land development. The Maori Land Boards appear to have had a major role in the early land development schemes of the 1920s and to have used beneficiary monies in funding development. Land development schemes are covered in more detail in chapter five of this report although more research is still required on the role of the Waikato-Maniapoto Board in land development in the Rohe Potae. Ngata began to lessen the role of the Maori Land Boards in land development during the 1930s, and they became increasingly removed from the management of large schemes - although they remained influential for Maori farming outside the government land development schemes.

⁴⁴ Bennion, *Maori Land Court...*, pp 35-36

⁴⁵ Bennion, *Maori Land Court...*, pp 40-41

Meanwhile, the Maori Land Boards continued to have a significant role in the administration of leased vested lands. This appears to have been particularly important in the Rohe Potae. There are numerous complaints and file evidence that the Maori Land Board may have failed to fulfil its duties to the owners adequately with regard to leaseholds. For example, there seem to have been many instances where properties under lease were not adequately supervised, and inadequate records were kept for the purpose of valuing improvements. There were also criticisms when leases came close to expiry, and Maori owners found that in fact little had been done to ensure funds were available to pay for improvements so that owners could take over the land again. A 1951 commission into vested lands recommended that Maori Land Boards needed to improve record keeping, make better property inspections and establish a fund to pay for compensation for improvements.⁴⁶ These issues are discussed in more detail in chapter two on leasehold lands.

The Maori Land Amendment Act 1953 finally abolished the Maori Land Boards, and their powers and duties were transferred to the Maori Trustee, but the latter had strictly limited powers or discretion to act in the interests of beneficiaries even in the vital matter of land alienations.⁴⁷ The actions and powers of the Maori Trustee in taking over the function of the Boards requires more research. The 1974 Commission into Reserved Land noted that even in 1967 when the possibility of freeholding to lessees was being considered, in the context of the Maori Affairs Amendment Bill, the Maori Trustee was not consulted regarding the interests of beneficiaries. By this time however, the Maori Trustee had control of relatively little vested land in the Rohe Potae and alienations through sales or leases had declined considerably.⁴⁸

Summary

To sum up, the role of the Maori Land Boards was central in the administration and management of the alienation of Maori land in the first half of this century and especially during the time of massive land alienations in the North Island between 1911 and 1930. The major types of land alienation overseen by the Boards through leases and sales are covered in more detail in the following two chapters. It should be noted at this point that there are some

⁴⁶ Report of commission into vested lands, in AJHR, 1951, G-5

⁴⁷ Commission of Inquiry into Maori Reserved Land in AJHR, 1975, H-3 p 61

⁴⁸ Commission of Inquiry into Maori Reserved Land in AJHR, 1975, H-3

possible Treaty issues arising from the Board system in general and of the Waikato-Maniapoto Board in particular. These include the loss of Maori representation on the Boards, the lack of consultation with Maori over the work of the Boards, the compulsory powers of the Boards, the evolution of the Boards into agencies to promote and assist the alienation of Maori land and the general Board failure to adequately apply legislative protections to Maori land. Issues have also been raised of the Boards being largely funded by monies from vested lands rather than from central government funding; of a system being allowed to develop whereby Boards were overworked and unable to carry out their obligations to Maori owners adequately; and of a potential conflict of interest and confusion between the roles of the Native Land Court and the Maori Land Boards. Overarching all of this, it seems that in general terms Maori interests were subordinated to the overall goal of making Maori land available for general settlement. The major processes through which land was alienated in the Rohe Potae district, and specific issues arising from these particular types of alienation, are covered in more detail in the following chapters.

Chapter 2

Leasehold Maori Land in the Rohe Potae

Many Maori land owners in the Rohe Potae appeared to regard leasing land as potentially more benign than land alienations through sales or compulsory measures. As already seen, the 1900 Maori Lands Administration Act emphasised leasing rather than selling land as a means of opening Maori land for settlement. This was greeted with some enthusiasm in the Rohe Potae as it appeared to more closely match long-held Maori aspirations to retain their land. The advantages of leasing appeared to be that land the owners did not require for immediate use, or could not utilise through lack of capital, could still be used to economic benefit.

Rents provided necessary cash to pay charges and fees incurred in the Land Court process instead of having to sell more land. Rents also helped with day to day living. Importantly, if some could be saved, rents might also provide the means to develop land. Leasing land to Europeans moreover brought European farming methods and expertise into the district and helped develop the local economy. Leasing land, in short, seemed to fit best with the concept of Maori developing and farming their own land. All the advantages of leasing such as income from rents and the importation of European expertise were, in addition, beneficial for those Maori owners who wanted to begin farming their own land.

Leasing also appeared to offer Maori more control over their remaining lands, especially compared with the chaos that had resulted from secret purchasing of undivided interests. Maori owners could make rational decisions about what land was economically feasible to farm themselves and what would be leased and for how long. It was also hoped that through leasing and farming the land would be considered 'utilised'. This would mean less pressure on government to impose compulsory measures to 'open up' Maori land for settlement. A judicious combination of leasing and developing land seemed to offer Maori owners the best opportunity for participating more fully in the growth of farming and the economy of the district. In contrast, land sales appeared to limit Maori participation to seasonal labour and into pockets of subsistence living.

The Maori Land Councils initially appeared to hold promise for Maori wanting to lease. They offered a means of sidestepping title problems for lessors as well as lessees and this promised better rents. The safeguards required for Councils to confirm leases also potentially overcame problems with faulty and unenforceable leases. The voluntary nature of the system is also likely to have been welcomed. However although many Maori in the Rohe Potae were willing to use the Council to confirm leases and hopefully get better prices, they were not ready to vest their lands in the Councils and therefore lose control of them. Under the system operating before 1905 very little land in the Rohe Potae was voluntarily vested in the Maori Land Council, in fact, only the main three Native Townships, totalling some 893 acres, and the Maraetaua No. 10 block of 1,800 acres.⁴⁹ Even these vestings may not have been entirely voluntary, for the government had already begun introducing some compulsory measures. For example, an amending Act in 1902 provided for compulsory vesting of Native Township lands in the Councils.

Maori opinion in the Rohe Potae seemingly, in short, favoured direct leasing as opposed to vesting in the Councils/Boards for lease. The Councils were regarded as agents to assist and confirm leases. The Stout-Ngata commission found that, in the Rohe Potae, the 'general opinion was hostile to selling, and strongly in favour of leasing through the agency of the Board to the highest bidder.'⁵⁰ Under the Maori Land Settlement Act 1905, in the Rohe Potae voluntary vesting continued and measures controlling direct leasing were liberalised. Leasing by direct negotiation was now subject to Maori Land Board confirmation. Leases could not run for more than a total of 50 years. Certain conditions also had to be met before the Board could confirm a lease. It had to be assured, for example, that the proposed rental was adequate, which meant not less than five percent of valuation. Maori owners also had to be left with sufficient other land for their support, and the lease to benefit the owners.

The system of direct leasing rather than vesting continued to be overwhelmingly preferred in the Rohe Potae. At the beginning of the new Board system in 1906, the new President of the Maniapoto-Tuwharetoa Maori Land Board, A F Puckey, reported Ngati Maniapoto preferences.⁵¹ He noted that 'Maoris in this district have shown the same reluctance to

⁴⁹ AJHR, 1907, G-1b, p 7

⁵⁰ AJHR, 1907, G-1b, p 12

⁵¹ Marr, *Rohe Potae*, part 1, p 149

convey their lands to the Council as the Natives in other parts'. Instead they preferred to lease directly to Europeans using the Board only as confirmation. Puckey noted that Maori favoured this method because it gave them a say in the settlement of terms, and so forth, even though it may have been a more expensive process. Land vested in the Council largely came as a result of compulsory measures. For example, the government would take over survey liens and vest the value in land in the Council. Puckey complained that Maori were keeping back the best land and only transferring to the Council blocks they could not make use of. As a result the Maniapoto-Tuwharetoa Maori Land Board was mainly concerned with work involved in confirming leases.

Section 18 of the 1905 Act provided for advances from the Land for Settlements Account for Maori to farm their own land. However there is little evidence that this section was widely promoted or used. The prevailing Pakeha opinion appears to have been that Maori were poor farmers and the land required Pakeha farmers to make it properly productive. Problems associated with title may well have also impeded owners from being in a position to meet requirements for such advances. When the Stout-Ngata commission began sittings in the district in 1907, one of the first requests from Maori was for more assistance to begin farming and for assistance and training in farming methods.⁵²

The Stout-Ngata commission reported that from 1900 to 1905 some 41,077 acres in the Rohe Potae had been leased with the consent of the Maniapoto-Tuwharetoa Maori Land Council. Of these, some 7,751 acres were covered by timber leases and 4,830 acres by coal prospecting rights.⁵³ Under the new measures introduced in 1905, a further 84,000 acres had been leased in the period to 1907. Some 62,439 acres had been leased for timber milling (mostly east of the railway line between Te Kuiti and Taumarunui) while some 5059 acres had been leased for coal prospecting (all in Te Awaroa block south of Kawhia). The amount approved by the Board or still under negotiation for pastoral and agricultural leases was some 122,892 acres. The total area under formal lease or under negotiation for lease was some 217,763 acres.⁵⁴

⁵² letter from John Ormsby in AJHR, 1907, G-1b, p 6

⁵³ AJHR, 1907, G-1b, p 8

⁵⁴ AJHR, G-1b, p 11

This contrasted with land sales in the district, where between 1900 and 1907 a total of 87,208 acres had been sold.⁵⁵

A report published in 1909 showed the land leased or otherwise disposed of in the 'King Country' during the previous five years. It is not certain what were regarded as the exact boundaries of the King Country as opposed to the Rohe Potae (Aotea block), but it appears to have been a slightly larger area - taking in the Waimarino and Raetihi blocks for example. However the overall trends are still clear. The return showed that some 370,000 acres had been leased in the King Country exclusive of land vested in the Maori Land Board, while some 11,402 acres had been sold to private purchasers. This confirms the trend to lease rather than sell, and to lease directly rather than by vesting land for leasing in the Maori Land Board.⁵⁶

Even by 1907 however, the Stout-Ngata commission was reporting serious problems with leasing. In the Rohe Potae it appeared that there was considerable confusion over leases. Very few of the leases approved by the Maori Land Board had been found to have been registered by the District Land Register and therefore made legal and enforceable. In many cases this was because of the continuing problem with titles and delays in the Land Court process. Intending lessees and lessors might have to wait for surveys, or for the appointment of successors to deceased owners, or for the Court to partition off the interests of owners unwilling to lease. In order to obtain a suitable, economic farm, a lessee might have to combine a number of leases over several blocks. However once owners not wishing to lease had interests partitioned out, this might mean that important features such as road access had been lost.

The title was also subject to appeals and litigation which could delay matters further. Even after a lease was negotiated, it had been found that there were many potential legal problems in having it registered. For example, a legal problem had been discovered when there were minors in a title and so the District Registrar had refused to register such leases. A legislative

⁵⁵ AJHR, 1907, G-1b, p 10

⁵⁶ AJHR, 1909, G-11

amendment in 1907 had not solved the problem, and the commission believed that new legislation was required.⁵⁷

Stout and Ngata also found that there was no legislative support to encourage Maori to farm their own lands. Title problems ensured that it was almost impossible for individual Maori to gain title to land in a manner that made it usable for farming. The commission noted that European settlers were provided with assistance through the Waste Lands Board. This Board undertook all preliminary work perfecting titles, and ensuring surveys met needs for economic blocks, fenced boundaries, road access and homestead sites. The state also provided finance for improvements on easy terms. Maori on the other hand were faced with insurmountable difficulties and considerable expense in perfecting title sufficient to create individual farms.

The system of partition and individualisation through the Land Court exacerbated this situation, and the commission recommended instead that a body such as the Maori Land Board should be 'armed with powers sufficiently elastic to meet the exigencies of the situation'.⁵⁸ The commission reported that, by 1907, Ngati Maniapoto were farming very little land themselves,⁵⁹ and very few owners who were farming were doing so on an efficient scale. The most hopeful thing the commission found was that about three quarters of the butter fat supplied to the Te Kuiti dairy factory in the previous season came from Maori suppliers, but dairy farming was only likely to be successful on the small pockets of good land around Otorohanga and Te Kuiti. The future of the district appeared to be with sheep farming although the commission noted that this was a relatively new industry in the Rohe Potae and Maori owners still had little knowledge or experience of efficient sheep farming methods.⁶⁰

The government intended that the Stout-Ngata commission would identify large areas of unutilised Maori land for general settlement. Ward explained to parliament in 1905 that a commission would assist the government to deal with surplus Maori lands 'with the object of making available for settlement in this country upwards of a million acres of land'. This would ensure 'the opening up of the surplus lands for the use of Europeans in the proportion

⁵⁷ AJHR, 1907, G-1b, p 8

⁵⁸ AJHR, 1907, G -1c, p 15

⁵⁹ AJHR, 1907, G-1b, p 8

⁶⁰ AJHR, 1907, G-1b, pp 8-9

of half freehold and half leasehold after ample reservation has been made for the Maoris'.⁶¹ The commission relied on information provided by government officials as well as its own investigations in the limited time it had to report. The commissioners did not find exactly as the government had anticipated. The overall amount of unutilised land was less than expected. In addition the commission recommended that most of the unutilised land should be leased, with under 20 percent to be sold.⁶² Its findings offered some hope of compromise between the wishes and needs of Maori as taken on board by the commission, and European demand for Maori land to be opened for settlement.

More information is required on how the commission and Maori judged land that was suitable for their 'use and occupation'. It seems from commission reports that the land the commission recommended should be retained for Maori use often had existing kainga and cultivations on it and may also have had areas important for traditional sources of mahinga kai.⁶³ This suggests Maori were retaining land suitable for traditional living, rather than - say - land that may have been suitable for the new industry of sheep farming. It is possible that most of the best land for farming was selected to be leased on the understanding that it would eventually return to Maori ownership, when owners were in a better position to farm it. If so, this would have serious implications in the future.

The commissioners' consultation with Maori appears to have taken place only within certain limits. There was no possibility, in their eyes, that Maori could do what they liked with their land, if this meant not 'utilising' it in approved fashion. The commission reported in 1907 that some Ngati Raukawa owners in the Wharepuhunga block objected to the commission's work, and 'confessed' that they merely wanted to be left alone to live in the old style. The commissioners however made it clear to them that the settlement of the country could not be delayed by either European or Maori, and if Ngati Raukawa would not utilise their land then other people would be found who would.⁶⁴

⁶¹ Ward, in NZPD, 1905, p 1124

⁶² AJHR, 1907-08, G: reports of Stout-Ngata commission

⁶³ for example, see commission report re Wharepuhunga blocks in AJHR, G-1d, pp1-2

⁶⁴ AJHR, 1907, G-1b, p 6

In the Rohe Potae, the commission eventually found that, exclusive of Crown purchases and land already leased, there were some 289,028 acres on which it could make recommendations. Of this, it recommended that about 114,344 acres should be retained for Maori occupation. Of the remaining lands that could be used for general settlement, it recommended that the majority, about 165,595 acres, could be leased and only about 9086 acres should be sold.⁶⁵ The possibility of a fair compromise between Maori and European interests appears to have been undermined by government impatience and electoral pressure to make large areas of Maori land available for European settlement.

After the Stout-Ngata Commission

Legislative measures were passed before the commission even finished work in the Rohe Potae and these undercut the commission's recommendations as to how unutilised land should be alienated, although the government did make use of the interim findings of the commission as to what was unutilised Maori land. The Native Land Settlement Act of 1907 was described as implementing the findings of the Stout-Ngata commission. The Governor could declare unutilised land vested in the Maori Land Board under part 1 of the Act. The Maori Land Boards were then required to divide vested land into two equal portions, one of which was to be leased and the other sold. While the Maori Land Boards were therefore now given control of much larger areas of land, the procedure for land disposal was quite different to the commission's recommendations. The Crown also upset the commissioners' work by continuing purchase methods that took no account of findings, as will be explained in the next chapter.

When it came to the practical application of the commission findings as to unutilised land in the Rohe Potae, it soon became clear to officials that some information supplied to the commission had been inaccurate and this was likely to impact adversely on Maori. The problem may have been caused by reliance on the confused and incomplete state of titles in the district. It indicates that the government may have acted hastily in legislating on the recommendations, especially when the legislation required land alienations to vary from the commission recommendations.

⁶⁵ AJHR, 1908, G-10

In 1909, for example, government officials found some supposedly unoccupied land in the Rohe Potae that had been recommended for general settlement that was still being lived on by Maori: the officials decided that the Maori occupiers should be encouraged to take up a lease so they could remain living where they always had. Other errors became evident that affected Maori adversely, such as findings that surveys had been incorrect. In one extreme case, the area of the Maraeroa C block had to be changed on surveys from 2140 acres to some 13,900 acres! The Lands Department was busy at this time putting in roads and preparing the vested land for general settlement.⁶⁶ In general, the practical application of commission findings in the district appear to reveal that the government was willing to subordinate Maori interests to the needs of general settlement.

The Native Land Settlement Act of 1907 provided that leases were to run for up to 50 years from the date the Act came into operation, 25 November 1907. The lessee was now entitled to compensation for improvements. The value of the improvement was to be paid out of revenues received by the Board. Provision was also made in the Act for the land to be revested in the Maori owners at the end of the rental, if certain conditions were met. The 1907 Act contained some provisions that enabled Maori themselves to lease some of the vested land for farming and to borrow money to stock and improve the leased land. The advances were held on the security of the lease or on moneys the borrower received from other land vested in the Board.

These provisions were strongly supported by Ngata and other Maori Members of Parliament who had for some time urged the government to think of Maori, as well as Europeans, as potential settlers of Maori land. According to Hutton, these provisions may well have been included to soften the opposition of Maori Members of Parliament to the rest of the Bill.⁶⁷ It seems to be a telling indictment of the legacy of the Native Land Court that Maori who theoretically owned land, nevertheless had to resort to leasing vested land as the only means of securing land that could actually be farmed. The provisions may also have been a means of tempting Maori to vest lands in the Boards in the hope that they would then be able to secure a lease of a suitable area for farming. The measures requiring unutilised land to be declared

⁶⁶ MA1, 54/23/3, box 266, accn 2490

⁶⁷ Hutton, *'A Ready and Quick Method'*, p 27

vested in the Maori Land Boards were re-enacted in the Native Land Act 1909. Ngata was especially critical of measures in the Act that allowed the purchase of vested land.⁶⁸

A quick search of the *New Zealand Gazettes* shows a considerable number of Rohe Potae blocks vested under the 1907 Act. General vestings of Maori land under the Act began in 1908, but no Rohe Potae blocks appear to have been vested until 1909 when the Stout-Ngata commission completed its final report for the district. The most substantial vestings of Rohe Potae land began under Order in Council dated 9 March 1909. On this date several Wharepuhunga blocks were declared vested, as being not required by their owners and available for sale or lease for general settlement. They totalled about 42,990 acres.⁶⁹ A further approximately 71, 282 acres was declared vested by order of 10 May 1909. This included Hauturu East, Karuotewhenua, Kaingapipi, Kinohaku East and West, Kakepuku, Maraetaua, Orahiri, Rangitoto-Tuhua, Turoto, Taumatatotara, and Rangitoto blocks.⁷⁰ In June 1909 another 3,897 acres of Rangitoto-Tuhua blocks were declared vested.⁷¹ In December 1909 some 63,355 further acres in the Ohura South, Rangitoto, Wharepuhunga, Aotea South, Rangitoto-Tuhua, Maraeroa, Hurakia, and Taharoa blocks were declared vested.⁷² Another 1000 acres in the Kinohaku West block were declared vested by order of 22 January 1910.⁷³

This made a total of about 182,524 acres compulsorily declared vested for sale or lease under the 1907 Act and later provisions between 1909 and 1910. Such figures need to be taken with some care and more research is required to refine them. As previously noted, for example, some stated acreages were later found to be incorrect. Nevertheless the amounts declared vested are reasonably close to the 174,681 acres the commission recommended as unutilised Maori land in the Rohe Potae that should be vested for lease or sale. In addition, a quick comparison of Stout-Ngata recommendations as to Wharepuhunga blocks seems to indicate they were followed reasonably closely as to which areas were regarded as unutilised.⁷⁴ It was

⁶⁸ NZPD, 1907, pp 1041-1042

⁶⁹ NZ Gazette, 1909, vol 1, p 741

⁷⁰ NZ Gazette, 1909, vol 1, pp 1295-1299, notice dated 10 May 1909

⁷¹ NZ Gazette, 1909, vol 1, p 1605, 14 June 1909

⁷² NZ Gazette, 1909, vol 2, p 3247, notice dated 14 December 1909

⁷³ NZ Gazette, 1910, p 437

⁷⁴ AJHR, 1907, G-1d, p 2 and NZ Gazette, 1909, vol 1, p 741 and 1909, vol 2, pp 3247-3249

possible under part II of the 1907 Act for the government to declare land reserved for the occupation of Maori owners, as recommended by the Stout-Ngata commission. This appears to have happened in some districts but a quick search did not reveal any of this type of declaration for the Rohe Potae.

More research is needed on the land the commission found to be required by Maori owners in the Rohe Potae, and the land declared vested under the 1907 and 1909 Acts. It is beyond the scope of this report to investigate in detail precisely how much land was vested under these provisions or how this was practically achieved. It seems from even brief research however that the result was that substantially more land came to be vested in the Maniapoto-Tuwharetoa, and later the Waikato-Maniapoto, Maori Land Board. This effectively removed the land from owner to Board control. There also appear to have been problems in practically applying the provisions when, for example, patterns of Maori occupation differed from official records.

The amount of land vested in the Rohe Potae under the 1907 Act *may* have been reasonably close to the commission's findings on unoccupied Maori land. The commission had, after consulting with hapu, recommended that most of this unoccupied land should be leased and relatively little sold. The Act however, as already described, required the Maori Land Boards to divide the vested lands in half and sell half and lease the remainder. More research is needed on how this was applied in the Rohe Potae. It appears however, that the Maori Land Board did attempt to dispose of the land as required. One of the earliest notices concerning the tender of such vested land in the Rohe Potae is dated 9 February 1910 and concerns some Kinohaku West and East blocks. The amount tendered for sale was about 1768 acres. In the same notice some Kakepuku, Hauturu, Ohariri and Kinohaku East and West blocks were also offered for lease, totalling about 1773 acres.⁷⁵ This shows a fairly even division between sale and lease.

The difficulty of applying such a division in a workable way soon became apparent however. The equal division did not always meet farming needs, and the demand for leases or sales did not always fall equally. A legislative amendment in 1908 made it possible for the split to be

⁷⁵ NZ Gazette, 1910, pp 624 -625

flexible within various blocks as long as there was an overall 50:50 split. The 1909 Act, by section 239(3), authorised the Maori Land Boards to divide the land in any proportion if this was expedient or to sell or lease a whole block if necessary. Under this provision the Waikato-Maniapoto Maori Land Board offered land in the Rangitoto-Tuhua, Maraetaua and Wharepuhunga blocks in 1911. The amount for sale totalled 13,876 acres and that for lease was 17,820 acres.⁷⁶ Maori Land Boards were, in short, increasingly allowed to respond to perceived demand. Board decisions could now diverge considerably from owner preferences and from the Stout-Ngata recommendations.

By 1909 there were a number of different types of leases in the Rohe Potae. There appears to have been a significant number of 'informal' leases. These were not officially recognised and therefore not included in official statistics. Hence they are difficult to research, although there is evidence they did influence land use in the district. Lessees with informal leases also appear to have been a significant force in pressuring subsequent governments to have such leases recognised.⁷⁷ Of recognised leases, there was a considerable acreage of Maori land that had been leased directly between Maori owners and private lessees, although increasingly with Maori Land Board confirmation. The land under this type of lease was at least 200,000 acres, possibly more. The 1909 published report on private leases in the district shows a wide variety of lease terms and payments within legislative requirements in the period 1904 to 1909.⁷⁸ Many rental periods were broken up into seven year, ten year or other fixed time periods with rights of renewal up to the 50 year limit. In other cases the rental periods were less than the 50 year limit. Many, for example, were for three periods of seven years, or one period of 10 years followed by an 11 year period. Some of the rentals were for timber or coal rights while others were for land.

The general assumption was that the land would generate increasing returns. Rental payments reflect this, often increasing with each rental period. There is no provision in the 1909 report to show whether a lease allowed for compensation for improvements. It seems that many did not. From 1907 there was also a considerable amount of land vested in the Maori Land Board for lease, with generally an upper limit of 50 years on this type of lease and provision for

⁷⁶ NZ Gazette, 1911, p 2490

⁷⁷ for example newspaper cutting of *The Kawhia Settler* of 30 November 1901, in MA-MLP, 1904/4

⁷⁸ AJHR, 1909, G-11

payment for improvements. This was around 90,000 acres at least. It may have increased significantly once the Board was allowed to move away from the requirement to split vested land equally for sale or lease.

There were other types of land under special lease, for example, the Native Township lands which totalled under 1,000 acres and which were also under Maori Land Board control; and the Joshua Jones lease, the history of which was covered in some detail in part 1 of this report. The 1951 inquiry into vested Maori land found that at this time it was generally assumed both in legislation, and certainly by the Maori owners, that the majority of vested land under these leases would eventually revert to Maori control.⁷⁹ In the meantime it was assumed that Maori would receive rental income and could develop the land left to them for their occupation. The significant exception was the provision for perpetual leases for Native township land under the Native Townships Act 1910.

It appears that the assumption of increasing returns built into many of the early leases may have been over-optimistic. Farming was much more difficult in the Rohe Potae than had been generally assumed. Apart from some small pockets of good dairy land much of the land in the district was of low fertility. When timber was first burned and cleared, grasses seemed to grow well, but this turned out to be temporary. By the 1920s it had become clear that the land required relatively high levels of fertiliser to maintain production and if this could not be maintained the land quickly reverted to scrub and weeds. Much of the country was also rough, broken and steep and within a few years problems such as erosion became serious in some areas.⁸⁰ The land also suffered from other problems not well understood until the late 1930s, such as cobalt deficiency. There was a boom in farming early in the century but it is not clear how much Maori owners with long term leases benefited from this. More research is required into this.

It does seem that the recession that followed from 1921 and the later severe Depression of the 1930s affected both owners and lessees. The owners lost income as some leases were abandoned and rentals went unpaid. In addition, if the occupiers walked off the land the rates

⁷⁹ Inquiry into Maori vested lands, AJHR, 1951, G-5, p 17

⁸⁰ Ministry of Works (Town and Country Planning), *National Resources Survey: Waikato, Coromandel, King Country region*, Wellington, 1973, p 95

bills fell to owners. Other charges were incurred if the owners wanted to de-register the lease. This seems to have been significant in the Rohe Potae. When government officials began consolidation and development schemes in the region in the 1930s they found that a major obstacle was the numerous cases where leases were registered against titles but the lessees had abandoned the properties. This created unexpected expenses in having the registration stopped or taken over by someone else.⁸¹

At the same time, many lessees suffered when their incomes did not rise, or actually fell with difficult farming and recession, but their rentals had inbuilt increases at periodic intervals. While some abandoned the leases, others agitated for legislative measures to arbitrarily change the terms of leases. Not surprisingly this was opposed by many owners who were also losing income. In the 1930s as a Depression measure all rents were temporarily reduced.⁸² This affected Maori leased land in the Rohe Potae. In some cases this had a continuing impact when leases were purchased and the value capitalised, as will be shown in the next chapter.

Other significant problems had become apparent with leasing. The problems with Maori Land Court title, including delays and confusion as found by the Stout-Ngata commission, continued to cause fundamental problems. A renewal of the Crown system of secret purchasing of undivided interests from 1906 also undermined attempts of Maori owners to rationally control leases and develop their own lands. Owners could find that land they intended to lease or develop had significant areas partitioned out to satisfy Crown purchases. This could include necessary improvements or features required for farming such as access to water or roading. Other difficulties with leases often became apparent in subsequent years, especially as the leases expired.

Many problems with title that had been sidestepped by the Councils or Boards reappeared as soon as Maori attempted to take over the land on expiry of a lease. This was most obvious with Maori Land Board leases where the leased block had boundaries that cut across or combined Native Land Court titles. When a lease expired the owners were faced with problems of sorting out title and perhaps gaining the cooperation of the owners of a number of

⁸¹ correspondence between Earle and Jones, April 1930, in MA1, 29/3/1

⁸² AAMK, 869/1194b (MA 54/16/5)

different titles if they wanted to keep the block as an economic unit. If the owners did not all agree and wanted to take parts out, the resulting block might lose vital roading or water access or be too small to be farmed economically.

As years went by and the number of owners multiplied, the value of interests fell and difficulties arose in getting large numbers of owners, often with very small interests, to make effective decisions about utilising the land - especially when rentals due to such large numbers of owners meant individuals received very little. There were many other difficulties. Fences and other improvements might also follow the lease rather than title boundaries, for example. Some owners would be able to finance improvements and want to take over the land themselves, but owners of other partitions might be unable to pay their share of improvements and the land was not available until improvements were fully met.

Leases that contained provisions for improvements became a major concern for both owners and lessees. Many Maori owners found they could not pay off the value of improvements claimed on the land, and therefore could not get the lease cleared in order to regain the land. In such cases, the value of the improvements was charged against the land and it could be compulsorily leased again by the Board to pay off the charge. If the leases were over poor farm land this could take a long time and the increasing value of improvements might continue to outstrip income required to pay them off. Many Maori owners claimed that the improvements were often valued too highly for the land. In other cases, as a lease neared expiry a lessee might not maintain improvements or, if farming proved too difficult, might simply abandon the lease. Much of the land in the Rohe Potae was of poor fertility and reverted very quickly causing other problems such as weeds and pests. Even if the improvements were practically lost, moreover, they could remain as a charge on the land. The cost of paying off the lost improvements and redeveloping the land was often beyond owners.

On the other hand, lessees also became frustrated when they could not get cash for improvements, as this hindered their ability to take out new leases, buy other farms or make further improvements or developments. In particular, they found it difficult to secure credit on leased land under Maori title and this often contributed to financial difficulties that made abandoning a lease more likely. Legislation concerning improvements assumed the lessee

would initiate proceedings to have compensation paid or decided. However if the lease was abandoned and no attempt made to have the value of improvements decided, the owners were left in a difficult position. It was apparently expensive, and difficult because of large numbers of owners, to clear the matter up - if it could be settled at all - without input from the lessee. The result was that land was often left idle once the lease was abandoned.

Valuing improvements seems to have been a very complicated and often disputed process. There were numerous complicated disputes over improvements, and valuing and maintaining them. The process of valuing improvements also required good record keeping and vigilance over the period of the lease. The Maori Land Boards were overworked and seem to have often failed to do this. There were many complaints that they failed to inspect leased vested properties adequately, that they failed to ensure lessees properly maintained properties or carried out lease covenants, and that they failed to collect and distribute rents properly.

Criticism was also made of the Maori Land Boards' inability to adequately finance Maori owners so they could take over expired leases. In some cases, even where owners could pay off the value of improvements, the Land Boards were unable to provide sufficient finance for the necessary farm stock. Many Maori owners also complained that some lessees had been able to purchase leases at artificially low prices during depression years, but then claimed the full value of improvements when times improved. In addition Maori owners complained that the Maori Land Boards were effectively financed by beneficiaries rather than central government funding.⁸³

Pakeha farmers responded to difficulties with leases by applying pressure on governments to either make leases perpetual or allow them to be freeholded. The Liberal government had originally considered leased Maori land as 'utilised'. Leasing encouraged European settlement and farm development and produced an income for owners and lessees from which charges such as rates could be paid. Early this century attitudes changed however, especially under pressure from the increasingly powerful farming lobby. This trend was strengthened when the Reform government gained power in 1912. Reform favoured freeholding leases and a large part of its support came from North Island Pakeha farmers. Legislation in 1913

⁸³ eg see AAMK, 869/1187g; MA1, 48/2/2, w2490; AJHR, 1951, G-5

contained a range of measures designed to make freeholding Maori land easier, including provisions to enable the Crown to more easily purchase Maori leased land on behalf of lessees. This will be covered in more detail in the following chapter on alienations through land purchasing.

The MacCormick Inquiry

The pressure towards freeholding Maori leasehold was even supported by the district Maori Land Board and Native Land Court covering the Rohe Potae district. In 1929, the president of the Waikato-Maniapoto Maori Land Board and judge of the Waikato-Maniapoto Maori Land Court, Judge Charles E *MacCormick*, was appointed to chair a commission of inquiry into matters concerning leases of Native Lands in the Waikato-Maniapoto Native Land Court district.⁸⁴ The other members of the commission were two sheep farmers, W F Metcalfe of Auckland and G W Rochards of Otorohanga. The commission held sittings at Te Kuiti, Taumarunui and Otorohanga. This suggests that Rohe Potae or King Country district leases were the focus of investigations. The commission heard from 65 lessees who appeared at sittings and received several written statements from persons 'possessing knowledge of conditions respecting Native lands'. The commission report reveals the investigation was conducted very much from the point of view of Pakeha lessees whose interests were equated with the 'public interest'.

The commission described three types of lease of Maori land in the district. One type comprised leases of land vested in the Maori Land Board. These provided for full compensation for improvements under section 263 of the Native Land Act 1909. There were also two groups of private leases which could be divided into those that generally made no provision for improvements, and those where there was some provision for improvement - generally up to a certain limit and usually calculated per acre. The commission found that where provisions for improvement existed, payments were generally not enforced. Where there was no provision for improvement nothing could be done except seek an Act of Parliament to change the situation, and Maori had protested very strongly against this. As a

⁸⁴ AJHR, 1929, G-7, report of 3 July 1929

result the commission came to the conclusion that 'Freeholding appears to be the only solution of this difficulty where the Natives are willing to sell'.

The commission reported many of the problems that had become apparent with leases, including lack of maintenance of improvements when leases came close to expiry, problems associated with abandoned leases, various problems with improvements, and the difficulties many lessees were having in paying the periodic increases built into many rentals. Many of the commission findings supported lessees. For example, the report criticised the method of assessing unimproved land where features such as drainage were generally regarded as part of the unimproved value. The commission considered this unfair to lessees. Instead it recommended such features should be regarded as improvements and therefore able to be charged on the land. The commission recommended rates relief for the lessee occupiers and supported this by explaining that some had problems such as lack of legal road access. The commission also reported that lessees had difficulty financing farm development on Maori land, which drove lessee pressure to have leases freeholded.

The commissioners advised that the best solution to the various problems with leases was to convert them to freehold. To this end they recommended that the government make it easier for lessees to purchase their leases. This should include legislative measures and the provision of finance on easy and deferred terms to make purchase possible. The commission assumed that Maori owners were willing to sell, but if they were not then the commission felt that it might be considered 'in the interests of land settlement' to make Maori land subject to the Land for Settlements Act 1925. Under this, land could be taken for settlement 'of course, upon payment of adequate compensation, and provided that the land was not required by the owners for their own use'. By 'settlement' the commission 'of course' meant both Native and European settlement, without distinction.

The commission recommended that Maori lands be classified into categories. The first was lands that could be brought into production at moderate cost and were suitable for Native farming. A second category would be lands that could only be made productive by extensive capital and efficient farming. The commission believed these would be better in European than Native hands. The third category was lands suitable for forestry on which Natives could be employed. The commission suggested that in cases where the Crown purchased large

areas of Maori land, some of the purchase money should be set aside as a form of fund to enable Maori settlers to be established on land suitable for Native occupation. The commission drew particular attention to the potential of land east of Otorohanga. It clearly intended that where Maori were to be allowed to be 'settlers' they should continue to fund the development of their own land.

The commissioners still clearly supported farming as a major industry in the region but also appeared to recognise that there was some land that was simply unfit for farming and might be better off under forestry. They clearly believed that Maori interests should be subordinated to the overall needs of settlement and that this should happen by further compulsory measures if necessary. The original reasons for Maori wishing to lease rather than sell their land appeared to have been forgotten, or considered qualified by the 'national interest'. Pakeha were considered to be generally better farmers than Maori and therefore the report concentrated on measures designed to assist them in the 'national interest', including the significant freeholding of leases. The commission appeared to be largely unconcerned with measures that might have alleviated Maori problems with leaseholds and that may have assisted Maori to farm their own land.

The report of this commission has been quoted in detail because, although under Ngata's influence, government policy began to change in support of Maori farming their own land, the *MacCormick* commission is indicative of the beliefs and concerns of a significant section of decision makers and the farming community at this time. It is also revealing of the attitudes of Judge *MacCormick* who at the time was the most influential figure in administering leases of vested land in the Rohe Potae at the time. The report is also important in revealing the work Ngata was faced with in turning official attitudes around.

The 1930s – 1950s

In terms of leases, the Maori Land Act 1931 consolidated the Native Land Act 1909 and its amendments. In general, the 1931 Act continued the requirement that all leases of vested lands and renewals should finally terminate by 25 November 1957. This however did not prevent Maori owners from renegotiating leases, or the Maori Land Board from resuming the leased land and farming it itself. In the meantime it appears that Maori owners in the Rohe

Potae had made relatively little progress in developing their own land. It seems this may have partly been because much of the best land had already been leased. As suggested earlier, the land retained for Maori use and occupation may have been chosen with traditional subsistence living, or small cultivations, in mind rather than land that was best suited to sheep farming. This would have made farming remaining land more difficult.

Title problems and a lack of finance also made it very difficult to begin and sustain farming, as we have noted. The barrier of title problems seems to be clearly indicated by the number of Maori who took up leases of vested land in order to obtain an economic farm, even though they owned substantial land interests in their own right (although this requires more research).⁸⁵ It appears that much land in the district was so poor that it was expensive to develop and maintain. The lapse of rental monies because of (for example) Maori Land Board inadequacy, abandoned leases and depression measures also hampered efforts to finance farming. The lack of interest by Maori Land Boards in assisting Maori to develop their own land and the continued impact of land purchasing may also have discouraged efforts to develop land. There were many instances where Maori did begin to engage in farming either by lease, obtaining suitable title or with the agreement of family or hapu groups. In many cases however the farming appears to have been barely above subsistence level and was often supplemented by traditional means such as fishing and birding.⁸⁶

More detailed research is required on Maori leaseholds than was possible for this report. However it seems clear from the above that leasing land did not prove as beneficial as had been hoped. Leases often did not provide the expected rental income, and in many cases the Maori owners found it difficult to take over land where leases had expired. The continued problems created by the Land Court process played a large part in such problems, as did the compulsory vesting of large areas of land to the control of an overworked Maori Land Board.

It seems clear that for much of this time, the Board placed the needs of general settlement and proper utilisation of Maori land above Maori interests, and in fact promoted the further alienation of leasehold land into European control or ownership. Even by the early 1930s, a

⁸⁵ eg anecdotal evidence in Morgan, V, *A History of Waitomo: Maori and Pakeha Side by Side*, Outrigger Publications, Hamilton, 1983, p 20, and reports on leasing in AJHRs

⁸⁶ eg Morgan, p 20

Native Department report confirmed that the best lands in the King Country had been vested in the Maori Land Board and were leased to Europeans. The remainder were made up largely of coastal sandhills, pumice plains, central ranges and 'sick' and 'suspect' country.⁸⁷

It seems that significant areas of land remained leasehold by 1950 either through private leases or leased as vested land by the Waikato-Maniapoto Maori Land Board. Some land proved very difficult to farm and remained vested with the Board but unleased. In some cases the most difficult or isolated land the Boards were unable to dispose of was revested in owners.⁸⁸ There were significant areas of leased land still farmed by Europeans, although in many cases this was also subject to agitation by lessees for the freehold. This is covered in more detail in the following chapter on alienations through purchases.

In 1951 the government established another commission of inquiry into questions relating to leases of Maori lands vested in Maori Land Boards.⁸⁹ By this time it was only a few years before many vested leases were required to expire on 25 November 1957. The commission investigated leased vested lands within the Waikato-Maniapoto district as part of its work. The Waikato-Maniapoto district was larger than the Rohe Potae (Aotea block) itself, including south Auckland, the Waikato, the Coromandel and part of the Bay of Plenty as well. The commission found that for the whole district, land vested under the 1909 or 1931 Acts amounted to about 199,148 acres. Of this, about 10,843 acres had been revested in the owners, 103,085 acres had been sold to the Crown and 34,679 acres had been sold to private individuals. This left about 50,000 acres of land outstanding in the district overall. It is not clear how much of this fell into the Rohe Potae (Aotea block) although some certainly did. The overall trend of losses through sales is clear however.

By 1951, about 14,940 acres in the whole district were under lease, but not all leases provided for compensation for improvements. Some of those that did were within the Rohe Potae, including Kinohaku East of about 129 acres and Wharepuhunga 14B of about 3,602 acres. A further 35,478 acres were vested in the Waikato-Maniapoto Maori Land Board but were not leased. One of the main blocks not leased was in the Rohe Potae. It was the Maraeroa C

⁸⁷ AJHR, 1932, G-7

⁸⁸ AJHR, 1923, G-9

⁸⁹ AJHR, 1951, G-5

block which contained 13,727 acres. The block was subject to timber cutting rights which were originally due to expire on 25 November 1957 but under special statutory authority of section 24 of the Maori Purposes Act 1949, the licence had been extended to 1970. This still left a significant area not designated as leased, and reasons given for this included that some of the land was occupied by Maori, some was under temporary lease and some was considered not suitable for farming. As before, the trend seems to be that land remaining in Boards after purchasing took place was generally of the poorest quality and therefore less suitable for leasing.

The 1951 commission confirmed that previous problems with leases were still rife. These included Maori owners being unable to regain land because they could not pay for improvements, Maori Land Court and lease boundaries not matching, and problems with multiple ownership. The commission made a number of findings concerning the right to compensation for improvements, the principles of valuing improvements and the means of settling differences as to compensation for improvements.

It found that in general, where the owners could pay compensation for improvements they should be permitted to do so and have a right to the return of their land. Where the land was suitable, they should receive assistance through the programme of government assisted Maori land development. Where the land was not suitable for Maori occupation, the commission recommended that the Board be given the power to lease for successive terms of 21 years subject to the right of the Maori owners to resume possession at the end of any such period on payment of compensation of a limited nature. The commission recognised that most of the lands were originally vested on the basis, supported by legislation, that the lands should ultimately return to the Maori owners. The ideal in resuming any vested lands at the termination of a lease should therefore be to enable Maori to settle the land and farm it.

However the commission did not want any steps taken that would be likely to lead to a deterioration in the condition and productivity of the vested lands against the 'national interest'. The commission determined that a 'substantial' area of vested lands which were leased with provision for compensation for improvements were not suitable for farming by the Maori owners, or it was unlikely the Maori owners would be able to pay for improvements. In those cases, too, it recommended that the lessees should be offered further leases of the

land for periods of 21 years subject to the right of owners to terminate at any such period on payment of compensation for improvements.

Some findings vindicated past criticisms by Maori owners. In terms of compensation, the commission found that in some cases the method of valuation had acted unfairly towards the Maori owners, and recommended that the valuation of improvements should never be more than their worth to the property. It also found inconsistencies and difficulties in valuing, that were essentially caused by the Land Court system. For example, when several leases were required for the creation of a viable farm, valuers were required to try and find the value of improvements such as farm buildings which might serve several leases but be located on only one of them. There were also problems with valuing timber on leases.⁹⁰

The commission report apparently met with some hostility from both lessees and Maori owners. It was not until 1954 that a Maori Purposes Bill was presented to Parliament in an attempt to legislate for some solutions to the issue of vested lands. In speaking to the Bill, Minister of Maori Affairs Ernest Corbett, explained that it was intended to provide something for both lessees - who having farmed the properties for so long felt strongly about the land and the improvements - and the Maori owners who wanted their lands returned, especially in light of having lost so much land already.

In general the measures which were enacted provided that at the end of the lease, the Maori Trustee could resume possession by paying the full value of improvements to the lessee. The valuation was to be determined by special valuation under the Land Act. If the Maori Trustee did not resume possession, then the lessee could accept a new lease which included compensation for the value of the improvements. The new leases would be for 21 years, renewable for successive terms of 21 years. The owners could however resume possession of the land at the end of the first 21 years, or at the end of the fifteenth year of the successive term, or at the end of successive terms, on payment of two thirds of the value of the improvements for which the lessee was entitled to compensation.⁹¹

⁹⁰ AJHR, 1951, G-5

⁹¹ NZPD, 1954, vol 304, pp 1969-1976

Summary

More research is required into the history of leasehold land in the Rohe Potae. The main issues that seem to arise from the period 1900 to 1960 are the Crown treatment of land that was voluntarily vested for leasing, the lack of Crown consideration of the reasons why Maori leased land when legislative provisions were being considered, the compulsory nature of legislative measures vesting land for lease, Crown disregard of its own commission findings as to whether Maori land in the district should be leased or sold, the Maori Council/Board and later Maori Trustee administration of leased land, the loss of ownership and management rights in perpetually leased land, the Crown role in acquiring the freehold of leased land for lessees to the detriment of Maori interests, the lack of consultation with Maori owners over management of leases and the subordination of Maori interests in leased land to the perceived needs of general settlement and the 'national interest'.

Chapter 3

Sales of Maori Land in the Rohe Potae

The Situation from 1900-1907

Just over one third of the Rohe Potae district had been sold to the Crown by 1900. This was some 687,769 acres out of a total of 1,844,780 acres. Purchases of Maori land in the Rohe Potae then declined in the years 1900-1905. As already noted, this appears to have been due to a combination of Land Court delays and (mostly) the change in government policy in favour of leasing: new Crown purchases were stopped and Maori Land Councils were introduced. The Crown conducted some land purchases during this time but these were classed as 'completing' earlier purchases begun before 1899 as was permitted under the Native Land Laws Administration Act. Only piecemeal acquisitions continued in the Rohe Potae from 1900 to 1905, according to published returns.⁹²

The Stout-Ngata commission also reported some Crown purchases in the Rohe Potae from 1901 to 1906, of about 28,756 acres, apparently purchases that were 'begun' prior to 1899 and completed 'later'.⁹³ These were included in the total 687,769 acres the commission reported that the Crown had purchased before 1900. File records show government officials were very busy during this time, completing work required for Court-ordered partitions for land equal to interests purchased.⁹⁴

The needs of settlement remained a priority for the government even though purchasing had slowed. In 1905, for example, it was discovered that the Land Court had mistakenly awarded part of the Taorua block to the Crown. The mistake was corrected but by this time the Crown had subdivided the land and it was practically all occupied by Crown tenants. The

⁹² AJHR, 1900 - 1905, G-3 in each year

⁹³ AJHR, 1907, G-1b, p 4

⁹⁴ eg MA-MLP files, 1903/23, re orders for Crown in Otorohanga blocks and MA-MLP, 1903/26, re orders for Crown in Puketarata and other blocks

government refused to consider upsetting this arrangement although it was conceded that the owners should be fairly compensated for the land sold by mistake.⁹⁵

The Maori Lands Administration Act 1900, while it focussed on leasing, also allowed some private purchasing. This was a new experience in the Rohe Potae, where previously all purchasing had been conducted under Crown monopoly. But restrictions on private purchasing - for example, allowing only land owned by one or two owners to be purchased - appear to have discouraged large scale private purchases before 1907. The Stout-Ngata commission reported that in the years from 1900 to 1907 some 17,818 acres were sold to private purchasers in the Rohe Potae district.⁹⁶

As already described, when the rate of Maori land alienations slowed the government responded to electoral pressure with a number of measures. In terms of land purchases, an apparently last minute provision in the Maori Land Settlement Act of 1905 enabled the Crown to begin new land purchases in most districts - including the Rohe Potae. The government was authorised to borrow £200,000 for the purchase of Maori land, and Crown purchases were to be supervised by the Department of Lands.

There were new safeguards for Maori in the 1905 Act. The Crown could not now buy Maori land at less than the government valuation and the Governor had to ensure that sufficient land was reserved for the support and maintenance of those selling. This amounted to 25 acres of first class land or 50 acres of second class or 100 acres of third class land per person. However other changes appear to have been included to make Crown purchasing easier, and to perhaps remedy the problem over 'completing' sales. The Crown now only had to acquire the approval of a majority of owners to conduct the sale of a block, for example, completing the sale by paying purchase money to the Receiver General for the interests of the minority who had not signed.

The Stout-Ngata commission criticised some of these new measures. The commission found, for example, that a provision enabling the Crown to complete title to a block regardless of the wishes and interests of the minority owners was contrary to natural justice. The commission

⁹⁵ minute Sheridan to Kensington, 6 October 1905, in MA-MLP 1906/88, box 77

⁹⁶ AJHR, G-1b, p 10

explained that this forced the minority owners to accept the price agreed by the majority with the Crown, and overruled the wishes of individuals who may have been competent to utilise their land properly and for that reason may have refused to sell.⁹⁷

The commission also noted that while the Crown was now obliged to pay not less than the government valuation, a proper valuation of Maori land was very difficult to calculate in the absence of real market conditions. The Crown also refused to pay the value of timber on the land, arguing that once Maori land was purchased and it was handed over to the Waste Lands Board, this latter institution was not interested in the timber. However the commission pointed out that this meant Maori were being penalised by the system of government lands administration.⁹⁸ The commission welcomed the fact that the 1905 Act had at last introduced a duty on the Governor to ascertain whether Maori had sufficient land for their maintenance and support before a sale to the Crown took place. However, although an allowance was made for every living individual, the commission noted, there was a failure to make allowance for their descendants.

In April 1906 the Cabinet approved a new programme of extensive Crown purchasing of Maori land under the 1905 Act. The Lands Department employed land purchase officers for several districts. The Rohe Potae was now officially part of the Auckland land district, but a land purchase officer was appointed with special responsibility for what was largely the Rohe Potae district. He turned out to be none other than W H Grace, who had been actively involved in land purchase dealings in the district during the 1890s. Grace reported to the Under Secretary for Lands in May 1907 and this report was published as part of an annual report on overall Crown purchases of Maori land.⁹⁹

Grace reported that Crown land purchasing had officially started again in the Rohe Potae in mid October 1906, although 'of course' he had been obliged to prepare the ground before then. He reported that Maori of the district were hostile to selling. Although he was confident this was being overcome, 'a great deal had to be done to induce Natives to make a start to sell, as in all matters of this kind there are many elements to contend with so as to induce them (the

⁹⁷ AJHR, 1907, G-1b, p 5

⁹⁸ AJHR, 1907, G-1c, p 8

⁹⁹ AJHR, 1907, G-3a

owners) to fall in with one's wishes.' Because a large group in the district strenuously opposed selling or dealing in any way with the land, many meetings had to be held. There was also a strong feeling among others in the district that though sales could be contemplated, there should be none until the law was changed to allow Maori full freedom to deal with their own land. Another group wanted the Maori Land Boards to have increased powers and to control the disposal of land more closely. All parties objected to the Public Trustee having authority over monies from land alienations. Grace had found the presence of minors in titles a hindrance to his purchasing: parents refused to sell because the money for the minors went to the Public Trustee.

Grace already had a good idea as to which land in the Rohe Potae the Commissioner of Crown Lands and European settlers were most anxious to obtain. He appears to have concentrated on acquiring land which was of reasonably good quality, close to roads and the railway and close to land already settled by Europeans. He also tried to purchase land that would fill gaps in and consolidate earlier Crown purchases, and land that had good millable timber on it - which he knew would be 'very valuable before long'. Grace reported that in some cases it would be very difficult to induce the Maori owners to sell the land he wanted and such purchases would 'take time'. In the Hauturu blocks near the railway, for example, there were numerous subdivisions, with Maori and Crown lands scattered throughout the block. The Maori owners were generally unwilling to sell 'although I have bought a few'.

Grace was confident that given time he could induce reluctant owners to sell but 'it only makes matters worse to show any great desire to buy'. He purchased some rougher land which he felt would nevertheless provide a means of getting the country settled. The official reported somewhat regretfully that he had been obliged to pay no less than the price fixed by the Valuation Department. He did note however that some of the land being purchased was good timber land that had been bought 'cheap'; if put on the market 'the timber alone would bring in a splendid profit'. He advised against selling any of it however, until all nearby owners were bought out. Grace also argued that any private dealings by Europeans be prohibited, in case such events encouraged Maori owners in the district to hold out against the Crown for better terms.

The purchase officer was silent on how he managed to achieve purchases in the face of Maori hostility to selling, although he did report that Maori were becoming more open to persuasion. He noted that 'they, of course, offer the bad blocks first; and in a great many instances I have had to refuse to buy' land unfit for close settlement. His report suggests that he was using methods in the Rohe Potae that were not a great deal different to those of the 1890s. He was relying on the secret purchase of undivided interests, followed by the Native Land Court assisting with partitions. He knew Maori did not want to sell but was willing to wait until a need for cash resulted in a sale of interests.

The attempts by Maori to sell the worst land first suggests they were still trying to protect their better land for their own use. Crown purchases however were still being made in the interests of European settlement, and the intention was to move Maori out of areas intended for European farmers. Moreover the Crown appeared to be unwilling to either give fair value for the land or for the timber on it. The new checks such as government valuations were simply regarded by purchasers as another impediment to be overcome, and the fact that Grace could still acquire land for what he believed was a cheap price suggests that official valuations may have been inadequate.

Grace reported that he had purchased or was negotiating to purchase some 167,820 acres in the Rohe Potae district to May 1907. Even allowing for his optimism about potential purchases, the amount of land he reported seems large. The Stout-Ngata commission reported, for example, that from 1905 to 1907 the Crown had purchased the considerably smaller amount of 69,390 acres in the district. The discrepancy is perhaps partly explained by the fact that many of Grace's reported purchases were still secret and uncompleted, while the figures supplied to the commission were probably for completed sales only. The commission may also have regarded Grace as completing some earlier purchases begun in the 1890s, and omitted such figures from its total. Crown purchase figures might also have included land expected to be awarded, or cut off for charges such as survey liens, and these figures may not have been available as finished purchases when the commission was sitting.

The new Crown policies

It seems clear that the new Crown land purchasing programme cut across the work of the Stout-Ngata commission in the Rohe Potae. As described in chapter three, the commission was required to investigate remaining Maori land and determine which was required by the owners and which of the remaining 'unutilised' land could be sold or leased for settlement. The commission found in general terms that most unutilised Maori land should be leased and relatively little sold. It reported in 1907 that it had only been able to investigate some 292,440 acres of Maori land in the Rohe Potae, including the most accessible and settled land near the railway line. It had not yet been able to investigate more remote areas around Kawhia or to the east of the block. It had been left in no doubt that Maori of the district generally favoured leasing their lands and were hostile to selling.

The commission's interim recommendations for the Rohe Potae followed a similar pattern to its overall findings on Maori land: the majority of land it had investigated should be leased, some 163,769 acres. Less than one eighth was recommended for sale (some 34,522 acres) and somewhat over one quarter was recommended for the Maori owners' own use (some 94,148 acres). The commission had noted that the Maori owners did not want the reserves recommended for their use to be made inalienable at present because they might need to adjust them, and had found that there was an enormous amount of survey work still required in the Rohe Potae. It estimated that at least 1,104 surveys were outstanding in the district, not counting the surveys required where the interests of non lessors still had to be cut out: titles in the district were still unsettled.

Yet when the commission made later investigations of the Rangitoto Tuhua and Wharepuhunga blocks, it reported that it had been obliged to revise earlier figures as a result of Crown purchasing in the district. These Crown purchases appeared to have been conducted with little or no account taken of the recommendations of the commission or of the wishes of Maori owners. According to the commission, as a result, both the system of voluntarily vesting land and the Maori Land Board had lost mana in the district. It recommended that the Crown stop its purchasing in the district because of this.¹⁰⁰

¹⁰⁰ AJHR, 1907, G-1b, pp 6-7

In 1908 the commission reported that it had been supplied with figures that showed the Crown had now purchased a total of some 117,000 acres in the King Country since 1905. It noted that some areas in the district that it had recommended be set aside for Maori occupation only, or for lease, had instead been purchased by the Crown. When leases and revised Crown purchases were taken into account, there were now some 289,028 acres left for the commission to make recommendations on. Out of this, it recommended a similar amount be leased as it had in 1907 (165,595 compared with 163,769 acres). However the new situation meant that it now recommended more land be retained for Maori occupation (some 114,344 acres compared with 94,148 acres in 1907) and considerably less be sold than it had recommended previously (some 9086 acres compared with its previous recommendation of 34,522 acres).¹⁰¹

Parliament passed the Native Land Settlement Act 1907 while the commission was still in the process of adjusting recommendations to take account of Crown purchases. The Act enabled Maori land that the commission found to be 'unutilised' to be declared vested in the Maori Land Boards, which were then required to divide vested land into two equal portions, one of which was to be leased and the other sold. This had major implications for land sales. The commission had found that relatively little land in the Rohe Potae should be sold, but the Act completely changed the proportions recommended.

The commissioners commented unfavourably on this situation with regard to the Rohe Potae. They reported that Crown purchasing had already caused considerable confusion in the district, with areas recommended for lease or for Maori use having been sold to the Crown. Now they explained that there was uncertainty as to whether the Act would require even more land to be sold. The commissioners believed that any strict enforcement of the 1907 Act in the Rohe Potae would be 'harsh and unjust to the Native owners'.¹⁰²

Further measures in the 1907 Act also assisted Crown purchases. The Crown was authorised to spend a further £50,000 for completing Crown purchases begun under the 1905 Act, and the Crown could purchase undivided interests retrospectively back to 1905. In addition it could purchase land previously vested in the Board, even though at the time it was vested it

¹⁰¹ AJHR, 1908, G-1c

¹⁰² AJHR, 1908, G-1c

was understood to be protected from sale. In parliament, Ngata criticised the government for not having properly established a way for Crown land purchase officers to check that they were not leaving Maori landless. He thought that the local knowledge of the King Country land purchase officer might be sufficient but was not sure about other districts.¹⁰³ Given past experience in the Rohe Potae, this was probably generous of Ngata. He also pointed out that there seemed to be no independent source for checking land purchase officers' decisions in regard to landlessness.

After the initial rush of purchasing through the Lands Department in the Rohe Potae from 1906 to 1907, such purchasing appears to have declined, particularly as money authorised for purchasing ran out. The Crown turned instead to completing partitions through the Land Court in order to acquire land equal to interests purchased. By mid 1908 Grace was the only land purchase officer still employed regionally by the Lands Department. He reported that he was now concentrating on completing outstanding purchases and assisting with matters arising from the Stout-Ngata commission.¹⁰⁴

Grace regretted that purchase funds had run out, as he believed he could have continued purchasing. In contrast to his previous report, he claimed that by now Maori within the Rohe Potae were showing a great desire to sell any lands they did not require. He reported that he had acquired some 164,403 acres and although this land was generally not suitable for very close settlement, he was certain it would be taken up by Europeans and would 'tend to the opening-up of this part of the country, as it will be occupied by Europeans, who will work the land.'¹⁰⁵ Grace believed that the main obstacles to purchasing were lack of purchase funds, and the owners requiring a higher price than he was able to pay. He noted that the owners seemed willing to sell land where they owned a large number of small scattered interests, making the land 'useless to lease'. He was also aware of the problems for owners in making any decisions about using land where titles remained confused.

The Crown continued to report in 1909 that purchase work was concentrating on completing and rationalising old purchases. This included buying up odd areas that cut into Crown

¹⁰³ NZPD, 1907, vol 140, p142

¹⁰⁴ AJHR, 1908, G-3a

¹⁰⁵ AJHR, 1908, G-3a, p 4

awards but were considered 'useless' to Maori owners, perhaps because they lacked road access or were of such awkward shapes they were difficult to lease. The Lands Department encouraged sellers to place their land with the Maori Land Boards for sale and the Boards would then take responsibility for distributing purchase money to the owners.

At the end of June 1909, the remaining land purchase officer Grace finished employment with the Department, which publicly thanked him for what it considered were his valuable services. Since mid 1908 he had made no further purchases in the district given that the authorised funds had been spent. Instead he had followed instructions to proceed to the Native Land Court and have the Crown interests, equal to about 164,403 acres in various blocks, cut out. He reported that the Native Land Court had completed most of this work and he summarised the progress of individual blocks.

His report highlights both the problems in having titles defined and the continued Crown interest in and pressure on the Court to award in its favour. He noted, for example, the problems that had arisen where the state had failed to be represented and awards were made against its interests. In these cases the Crown had appealed, or requested amended judgments that were possible under various legislation. Grace also referred to the many delays inherent in the Court process.¹⁰⁶

Operations under the 1909 Native Land Act

The Native Land Act of 1909 instituted a change in government purchasing of Maori land. The intention of the 1909 Act was to liberalise Maori land purchasing and it was followed by a series of legislative measures until the 1920s which were all basically intended to streamline and facilitate such purchasing. Prime Minister Sir Joseph Ward described the system in 1909 as assisting the purchase of 'as large an area as possible' from Maori owners while safeguarding their interests. The Act established a new system of alienating Maori land through meetings of assembled owners. This system lasted until the 1960s although with many modifications. Until the early 1950s, it was administered and facilitated by the Maori Land Boards.

¹⁰⁶ AJHR, 1909, G-3a, p 3

Purchasing through the Lands Department wound down and new Crown purchasing took place through the Native Land Purchase Board. This Board was an arm of the Native Department and oversaw Crown purchases of Maori land from 1910 to 1933. The Board consisted of the Native Minister, the Under Secretary for Lands, the Under Secretary for Native Affairs and the Valuer General. In the meantime the Lands Department no longer supervised purchasing but still continued to tidy up some purchases until about 1913. Purchase officer Paterson of the Lands Department was detailed to undertake this work in the southern Auckland and Waikato districts, and many blocks involved, such as Turoto, Te Awaroa, and Rangitoto, were in the Rohe Potae. Paterson reported that in many cases only one or two interests or signatures were required before purchase of the blocks could be completed. In other cases completion was simply awaiting the Native Land Court process.¹⁰⁷

Under the new system, any party could apply to the district's Maori Land Board to call a meeting of owners to consider a proposed alienation. The Board could then call the meeting if it believed the proposed alienation was lawful and not contrary to the public interest. The Board decided when and where the meeting would be held and gave notice of it. At any meeting, five owners or their representatives constituted a quorum. Resolutions were passed if those in favour owned more in total interests than those opposed. In cases of private purchasing, where there were fewer than ten owners, the Board could confirm alienations after being satisfied that proper procedures were followed. That is, that Maori fully understood the transaction, the alienation was not contrary to 'equity or good faith' in the interests of the owners, and no Maori owner would become landless through the alienation. The definition of landless was now having insufficient land for adequate maintenance, although no acreage was specified. The price paid also had to be adequate and sufficiently secured, no breach of trust or of the law could be involved, and no alienation had any force until it was confirmed by the Maori Land Board.

The requirements were slightly different for land owned by more than ten owners. The Board had to consider both the public interest and the interests of owners. If any owners might be made landless, their interests could be cut out, but there was no requirement concerning proper understanding, breach of trust or good faith or equity. Presumably it was intended

¹⁰⁷ AJHR, 1910, G-3a, report of Maori land purchase operations for year ended 31 March 1910

these matters would be fully discussed at the meeting of assembled owners. With private purchasers the Boards also had to be sure the purchaser was not creating an undue aggregation of land.

Under the 1909 Act, the Crown, through the Native Land Purchase Board, could purchase direct from the owners where there fewer than ten owners in a block. In these cases confirmation by the district Maori Land Board was not required. Where the Crown wished to purchase land with more than ten owners, the Native Minister was required to submit the Crown sale proposal to the Maori Land Board. This Board then called a meeting of owners. In the case of proposed Crown purchases, the Maori Land Board was not required to consider whether the proposed sale was in the best interests of the owners, as it had to with private purchasers.

If the meeting passed a resolution to sell to the Crown, the Maori Land Board was required to confirm it in the normal way - including allowing for the partitioning out of the interests of non-sellers if necessary. Once confirmed, the resolution passed to the Native Land Purchase Board. When that Board adopted the resolution, it became a contract of purchase directly between the owners and the Crown. The process was finalised by the Crown issuing a proclamation that the land had been purchased and that it had become the property of the Crown. Some safeguards were retained: the Crown could not purchase for less than the current government valuation, and the Native Land Purchase Board was also required to make 'due inquiry' that no owner was made landless through such a sale (although there were no guidelines on how this might happen).

Although the 1909 Act eased restrictions against private purchasing, the Crown still had significant advantages, presumably to ensure it could acquire land needed for general settlement. For example, the Crown could restore pre-emption over particular areas or blocks for limited periods. This was done by the Native Land Purchase Board recommending an Order in Council prohibiting private alienation in a block it intended to purchase for up to one year. This prohibition could also be extended in six month periods as required. The Crown was also able to purchase undivided interests, while private buyers had to buy discrete blocks. This enabled the Crown to gradually increase its interests until it secured a whole block or had sufficient to have its interests partitioned out. The Crown was also able to purchase certain

Maori land that had been vested in the Maori Land Boards. This could be done by contract without auction, or public tender on terms agreed between the Native Land Purchase Board and the Maori Land Board.

Legislative provisions in 1908 and 1909 had given the Maori Land Boards more flexibility in determining what proportion of vested land would be sold. This was changed from the previous 50:50 split to allow the Board to basically decide what would be leased or sold. The Boards appear to have tendered land according to what seemed most attractive to potential buyers or lessees. A 1910 published return shows that the Waikato-Maniapoto Maori Land Board had some 203,529 acres vested under part 1 of the Native Land Settlement Act 1907 and corresponding provisions of the Native Land Act 1909. Of this only 1,114 acres had been leased and 1,145 sold. Some 50,000 acres were still under report or survey.¹⁰⁸

The return does not give separate figures for the Rohe Potae but it is known that some 180,000 acres of Maori land in the Rohe Potae had been vested by around by this time.¹⁰⁹ This suggests that early attempts at tendering were nowhere near as successful as hoped. The Board offered more land in 1911 under provisions that allowed more flexibility in deciding what to lease or sell. The 1911 notice, as described in chapter three, offered more vested land in the Rohe Potae for sale than the total recommended by the Stout-Ngata commission for the whole region.¹¹⁰ It is not clear at this stage how successful the Board was in selling this land, but the Maori Land Board certainly felt able to sell considerably more land than the commission had recommended.

Rachael Willan has shown that overall, purchasing of Maori land slowed considerably from 1900 to 1909, a period when there were some 990,790 acres purchased. The Crown purchased some 762,750 acres of this, and private interests some 228,040 acres. To put these figures into context the Crown had purchased some 2.7 million acres of Maori land during the 1890s.¹¹¹ The period 1910 to 1930 then saw sales increase substantially. A total of some 3,589,585 acres of Maori land was sold and another 938,494 acres leased during the years

¹⁰⁸ AJHR, 1910, G-10a

¹⁰⁹ see *NZ Gazette* notices, 1909–1910, cited in chapter 2

¹¹⁰ *NZ Gazette*, 1911, p 2490

¹¹¹ Willan, pp 6-33

between 1911 and 1930. The major purchasing period was in the years 1911 to 1921 however and after 1921 overall acreages of Maori land sold began to decline.

It is not possible to be precise about the amounts of Maori land bought privately as opposed to that bought by the Crown. However it seems clear that private purchasing became increasingly significant. In some cases the distinction seems redundant as the Crown began buying on behalf of private interests, especially lessees. Overall Maori land sales began to decline in the 1920s and from about 1930 dropped off considerably. This was partly due to the influence of Sir Apirana Ngata and his land development schemes, as will be shown in the next chapter, partly to recession, and partly because by this time there was relatively little 'useful' Maori land left to alienate.

It is not clear how closely the Rohe Potae followed these overall trends in land sales. By 1900, as already noted, just over one third of the district had already been sold to the Crown. In the years 1900 to 1905 purchases slowed in line with the rest of the country. From 1906 to 1909 it seems as though there was a significant increase with at least another 135,000 to 182,000 acres purchased by the Crown and private individuals. This took the total Maori land sold in the district to roughly just under half of the total. If the Maori Land Board had managed to sell roughly half the land vested in it by 1910 this would mean another 90,000 acres, bringing the total sold to just over half the district. This is similar to the estimates for the Rangahaua Whanui 'King Country' district in the *National Overview* report, although as previously noted, this district is slightly different from the Rohe Potae (Aotea Block). These figures were that 47% of Maori land remained in the district by 1910.¹¹²

Unfortunately it becomes very difficult to identify Maori land sales in the Rohe Potae separately from other districts by this time. With the departure of Grace, separate reports on the Rohe Potae also ended, and published sales statistics are for larger administrative districts. The Waikato-Maniapoto district, for example, included not only the King Country but also part of south Auckland, the Waikato, the Coromandel and parts of the Bay of Plenty. A more accurate idea might be obtained from block histories and an analysis of Maori land purchase

¹¹² Rangahaua Whanui series, *National Overview*, vol 1, p xxiv

Maori land that had been vested in the Maori Land Boards. This could be done by contract without auction, or public tender on terms agreed between the Native Land Purchase Board and the Maori Land Board.

Legislative provisions in 1908 and 1909 had given the Maori Land Boards more flexibility in determining what proportion of vested land would be sold. This was changed from the previous 50:50 split to allow the Board to basically decide what would be leased or sold. The Boards appear to have tendered land according to what seemed most attractive to potential buyers or lessees. A 1910 published return shows that the Waikato-Maniapoto Maori Land Board had some 203,529 acres vested under part 1 of the Native Land Settlement Act 1907 and corresponding provisions of the Native Land Act 1909. Of this only 1,114 acres had been leased and 1,145 sold. Some 50,000 acres were still under report or survey.¹⁰⁸

The return does not give separate figures for the Rohe Potae but it is known that some 180,000 acres of Maori land in the Rohe Potae had been vested by around by this time.¹⁰⁹ This suggests that early attempts at tendering were nowhere near as successful as hoped. The Board offered more land in 1911 under provisions that allowed more flexibility in deciding what to lease or sell. The 1911 notice, as described in chapter three, offered more vested land in the Rohe Potae for sale than the total recommended by the Stout-Ngata commission for the whole region.¹¹⁰ It is not clear at this stage how successful the Board was in selling this land, but the Maori Land Board certainly felt able to sell considerably more land than the commission had recommended.

Rachael Willan has shown that overall, purchasing of Maori land slowed considerably from 1900 to 1909, a period when there were some 990,790 acres purchased. The Crown purchased some 762,750 acres of this, and private interests some 228,040 acres. To put these figures into context the Crown had purchased some 2.7 million acres of Maori land during the 1890s.¹¹¹ The period 1910 to 1930 then saw sales increase substantially. A total of some 3,589,585 acres of Maori land was sold and another 938,494 acres leased during the years

¹⁰⁸ AJHR, 1910, G-10a

¹⁰⁹ see *NZ Gazette* notices, 1909–1910, cited in chapter 2

¹¹⁰ *NZ Gazette*, 1911, p 2490

¹¹¹ Willan, pp 6-33

between 1911 and 1930. The major purchasing period was in the years 1911 to 1921 however and after 1921 overall acreages of Maori land sold began to decline.

It is not possible to be precise about the amounts of Maori land bought privately as opposed to that bought by the Crown. However it seems clear that private purchasing became increasingly significant. In some cases the distinction seems redundant as the Crown began buying on behalf of private interests, especially lessees. Overall Maori land sales began to decline in the 1920s and from about 1930 dropped off considerably. This was partly due to the influence of Sir Apirana Ngata and his land development schemes, as will be shown in the next chapter, partly to recession, and partly because by this time there was relatively little 'useful' Maori land left to alienate.

It is not clear how closely the Rohe Potae followed these overall trends in land sales. By 1900, as already noted, just over one third of the district had already been sold to the Crown. In the years 1900 to 1905 purchases slowed in line with the rest of the country. From 1906 to 1909 it seems as though there was a significant increase with at least another 135,000 to 182,000 acres purchased by the Crown and private individuals. This took the total Maori land sold in the district to roughly just under half of the total. If the Maori Land Board had managed to sell roughly half the land vested in it by 1910 this would mean another 90,000 acres, bringing the total sold to just over half the district. This is similar to the estimates for the Rangahaua Whanui 'King Country' district in the *National Overview* report, although as previously noted, this district is slightly different from the Rohe Potae (Aotea Block). These figures were that 47% of Maori land remained in the district by 1910.¹¹²

Unfortunately it becomes very difficult to identify Maori land sales in the Rohe Potae separately from other districts by this time. With the departure of Grace, separate reports on the Rohe Potae also ended, and published sales statistics are for larger administrative districts. The Waikato-Maniapoto district, for example, included not only the King Country but also part of south Auckland, the Waikato, the Coromandel and parts of the Bay of Plenty. A more accurate idea might be obtained from block histories and an analysis of Maori land purchase

¹¹² Rangahaua Whanui series, *National Overview*, vol 1, p xxiv

files for the district. However this would require considerably more time than was available for this report.

A brief survey of official documents suggests that there was still a significant amount of purchasing in the district from 1909 to the 1920s, but not at the same rate as in the previous century. The focus of purchasing also seems to have changed. The Crown, through the Native Land Purchase Board, appears to have purchased much more strategically, trying to provide access to blocks already purchased, improving the size and quality of blocks where purchasing had already been started, and acquiring areas that appeared to have the potential to provide reasonable areas for farm settlements.

Following the defeat of the Liberal government in 1912, the incoming Reform government was more closely aligned with small farmers. They persistently agitated for the Reform government to provide liberalised conditions for private purchasing and for freeholding Maori leased land. The implications of this process were that Maori were steadily being left with the poorest quality land. Even by 1911, the Under Secretary of the Native Department reported that some two thirds of remaining unoccupied Maori land was in fact unlikely to be generally fit for settlement.¹¹³

In terms of buying up large areas of unoccupied Maori land, after 1911 Crown attention seems to have turned from the King Country to the Urewera and Taupo districts. It seems as though the large amount of land already under lease in the Rohe Potae, either directly or as vested land managed by the Waikato-Maniapoto Maori Land Board, may have saved some land from being sold. Land under lease could still be sold, but unless it was to an existing lessee it was not such an attractive proposition to an outside buyer as was land unburdened by leases. It was also difficult for private purchasers to buy land that had been vested in a Maori Land Board for lease. Legislative provisions that meant only the Crown could buy vested leasehold land were in place, presumably to protect the leases.¹¹⁴ Maori owners having interests in land vested for leasing were prohibited from selling those interests.¹¹⁵ This meant

¹¹³ AJHR, 1911, G-6

¹¹⁴ section 360 of 1909 Act, and section 110 of 1913 Act

¹¹⁵ eg section 83 of 1909 Act

that as pressure built to freehold leases for lessees, the Crown typically purchased on behalf of lessees and then sold the land on to them.

As indicated in chapter one, the Native Townships Act of 1910 continued previous provisions enabling Maori to sell township lands. The Act also provided for perpetual leases and enabled the Crown to buy vested township lands. The Crown responded to pressure from this time to buy up land on behalf of tenants and lessees and then sell land on to them, provision being made for this under section 23 of the 1910 Act. As indicated in part 1 of this report, half the land in the three main Native townships in the Rohe Potae was sold in the first two decades of this century. For instance, the Native Land Purchase Board reported the successful acquisition of the freehold of leased land in Rohe Potae townships in its annual reports during this time.¹¹⁶

The Native Land Amendment Act of 1913 provided more advantages to the Crown as well as further liberalising measures for private purchasers. The Crown was, for example, no longer required to call meetings of assembled owners where there were more than 10 owners in a block it wanted to purchase. If it chose, it could therefore avoid publicly advertised meetings and a possible rejection by a meeting of owners. It could also avoid the confirmation procedure before the district Maori Land Board and the possibility the Board could have dissenting owners' interests partitioned out. Instead, the Crown could use the alternative method of secretly buying up undivided interests.

This was the same system the Crown had used in the Rohe Potae in the nineteenth century as described in part 1 of this report. This system of secret purchasing had been severely criticised, and the process in the twentieth century caused the same problems it had earlier. For example, it upset Maori efforts to lease or to manage and improve their own land. The Crown could generally rely on the assistance of the Land Court in having the interests it had purchased secretly located in one part of a block. This would often cut across Maori plans for the rest of the block. Maori also hesitated to make improvements in blocks where secret purchasing was known to be taking place, in case the Crown sought to have those areas

¹¹⁶ eg AJHR, 1915, G-9

included in its partitions. The expense of partitioning out non-seller interests and the fees and charges involved in the whole process continued to be a common cause of complaint.

From 1913, the only checks left on the Crown were that it still could not purchase land at prices below the government valuation, and the Native Land Purchase Board had to satisfy itself that no Maori were rendered landless by a sale. So the Crown had enormous advantages in purchasing Maori land, with very few checks and balances. If the assumption was that the Crown would be more just in its dealings with Maori than private purchasers, and therefore required fewer safeguards, then this surely imposed a high duty on the Crown to act in good faith and with justice to its Treaty partners. It also suggests that such limited safeguards as were imposed were required to be scrupulously followed by the Crown. Bennion has concluded: 'Combined with its power to prevent others from dealing with lands the Crown was interested in, the Crown was in a formidable position to conduct purchase operations on its own terms, with very few independent checks on its performance.'¹¹⁷

During this time, although private purchasers were given greater opportunity to purchase Maori land, the requirements governing such purchases remained stricter than those for the Crown. There were, for example, rules to ensure the purchaser was not engaged in undue aggregations of land. It was also up to the purchaser to show the Board that the Maori owners would not be made landless by the sale, that the sale was not opposed to the owners' interests and that the sale price was adequate taking the government valuation into account. By 1916, private purchasers were required to pay their purchase money to the Board, or show receipts to prove the Maori owners had received the money.

Bennion has argued that in theory these were important safeguards but that in practice they appear to have been not applied or poorly applied.¹¹⁸ He notes that there were some legislative measures put in place to remove abuses from the system. For example, a 1914 measure was put in place to prevent speculators operating at meetings of owners, and a 1915 amendment was intended to prevent further meetings being called too soon after a meeting rejected a proposal to sell, thereby causing additional expenses for Maori owners having to

¹¹⁷ Bennion, *Maori Land Court...*, p 31

¹¹⁸ Bennion, *Maori Land Court...*, pp 26-27

attend. However the major thrust of legislation during this time remained to facilitate the purchasing of Maori land.¹¹⁹

The first World War brought renewed pressure to buy up Maori land for returned servicemen. This also threw into relief the competition between the Crown and private purchasers, many of whom were regarded as speculators rather than 'real' settlers. Any suitable Maori land was regarded as a prime candidate for soldier settlement because it remained relatively cheap. The perceived need to prevent speculators buying up such land led to pressure to take whatever measures were necessary to acquire the land. Maori interests appear to have taken a low priority as a result. In 1917 the Secretary of the Native Land Purchase Board, F. O. V. Acheson (later a Maori Land Court judge) advised the Native Department of the problem. He explained that in the Gisborne district, for example, when the Crown tried to purchase, objections were raised because Maori were invariably living on the land. Yet large areas of the district were continually being alienated to private individuals. Since this East Coast region had areas suitable for soldier settlement, Acheson recommended measures to ensure such land was acquired by the Crown, to hand on to the returned soldiers likely to require settlement within the next few years.

He noted that there were still large areas of undeveloped Maori land that could still be acquired at reasonable rates and therefore he recommended the government 'adopt drastic Maori land purchase measures'. He noted that the trafficking in Maori land in the Waikato district, in particular, was a 'positive scandal', and speculators were being allowed to not only reap huge profits out of lands but leave lands undeveloped for years.¹²⁰ More research is required on the effects of private purchasing in the Rohe Potae, however, before the impact of such matters can be assessed for that region.

While under-utilisation of land by speculators and even by lessees who abandoned land went relatively unremarked, 'unutilised' Maori land was still widely held to be a major problem. In 1918 the office of the Commissioner of Crown Lands advised with regard to problems on the East Coast that the Crown should return to the old system of buying in every Maori land block

¹¹⁹ Bennion, *Maori Land Court...*, pp 19-20

¹²⁰ memo of 9 July 1917, from F O V Acheson, Clerk to Native Land Purchase Board, to Under Secretary of Native Department, in MA series 24/23

possible, even if the result in the short term was a large number of scattered blocks. This could be rectified in the long term by further purchasing. The judicious exchange of interests would also enable the Crown to consolidate the purchases and eventually provide blocks suitable for settlement. In the meantime the sale of grazing rights would furnish a fair interest on the outlay.

The Crown's power to place prohibitions against private dealing in Maori land was regarded as 'a powerful weapon in the contest and seriously hampers the would-be white speculator'. The Commissioner explained that ideally the Crown should only turn down an opportunity to purchase in the district where there was no chance of obtaining more land in the block or where the roading aspect killed it. He provided plans of areas such as the Waipiro blocks which illustrated what he meant. To be ultimately successful, he urged that the 'Crown should buy, buy, buy'.¹²¹ More research is required too, into how this pressure translated into the Rohe Potae.

A brief outline of the process of purchasing through to the 1930s in the Rohe Potae can be found in Maori Land Purchase files. It is beyond the scope of this report to analyse these in detail but some trends can be ascertained. These show that through the Native Land Purchase Board there was still a significant amount of Crown purchasing of Maori land in the district. Records show that during the period 1909 to the 1920s the Crown still seemed prepared to subordinate Maori interests to the needs of general settlement, and to press ahead with tactical purchases even when owners were clearly reluctant to sell. It seems clear that the Crown responded to pressure to freehold leased land for lessees, and to provide land for soldier settlement. New restrictions and safeguards concerning purchases appear to have been regarded as technicalities to be overcome rather than offering real protections to owners.

This process was assisted by Maori Land Boards which regarded facilitating alienations as their major role. There were conflicts in the role of land purchase agents especially when they were required to apply safeguards as well as purchase land. In the Waikato-Maniapoto district the interchange of personnel between land purchase duties and the Maori Land Board continued to raise more issues of conflicting interests. Early on George Wilkinson had been

¹²¹ memo from Commissioner of Crown Lands to Under Secretary of Lands, 14 May 1918, in MA series 24/23

land purchase officer and then president of the Board. In around 1910 Walter H Bowler was made president of the Maniapoto-Tuwharetoa and then the Waikato-Maniapoto Maori Land Board, and shortly after he was replaced as president of the Board by A G Holland in 1914 he appears to have become the main land purchase officer operating for the Native Land Purchase Board in the district.

The Native Land Purchase Board does appear to have exercised more official supervision over what land was to be purchased in the district than had happened in the 1890s. In some cases owners do appear to have genuinely wished to sell land. For example, the owners in a Pirongia West subdivision offered to sell in 1913, the Native Land Purchase Board decided to buy, the land was valued and survey costs were deducted. The purchase was completed and the land declared Crown land in March 1915.¹²² Owners sold for a variety of reasons, including smallness of land size or awkwardness in land shape, making it difficult to lease or farm usefully. Owners tried to rationalise holdings and sell up in order to more usefully work land that they were living on. Some owners simply needed the money to pay living expenses or to pay off debts. For example, some owners sold to pay off debts to a sawmiller.¹²³ In other cases owners had to sell when farms failed. When the Crown tried to buy in the Hauturu blocks in 1917 it was unsuccessful as an owner was living on the land and working and improving it. However by 1922 the Crown was able to buy the land as the State Advances was about to force a mortgagee sale.¹²⁴ There is also evidence that owners persisted with the process identified in part 1 of this report of cutting off 'sale' blocks in an effort to counter Crown secret purchasing and protect remaining land.

In some cases, if the land was considered poor quality or there were too many scattered owners, the Purchase Board refused to approve a sale.¹²⁵ It seems as though the Board also at times took account of Stout-Ngata recommendations and refused to confirm sales involving land that had been set aside for Maori occupation, especially where this was a fairly small discrete area.¹²⁶ In other cases, Hutton has found evidence suggesting that the Board

¹²² MA-MLP, 13/42, box 121

¹²³ MA-MLP, 1904/4, box 69

¹²⁴ MA-MLP, 14/116, in box 149

¹²⁵ eg correspondence in MA-MLP, 14/115, in box 149, re Hauturu East subdivision

¹²⁶ Hutton, *Waikato-Maniapoto District Maori Land Board*, p23

confirmed sales without apparently taking sufficient care, possibly because of overwork. There were later claims that owners may not have realised they were placing their signature to a sale of interests and also claims of dubious practices with sales such as writing in the price after the transfer was signed. These practices appear to have become quite common before the Board became aware of them and sought to have them stopped.¹²⁷

In purchasing Maori land in the Rohe Potae, the Crown had a choice of methods. It could either seek a meeting of assembled owners to consent to a sale, or proceed to secretly acquire undivided interests, according to what seemed most useful at the time. In many instances if a meeting was unsuccessful, then purchasing of undivided interests would be tried. A meeting of owners was less expensive as only a majority was required to approve a sale, meaning less time and expense involved in sorting out successions and contacting all owners in a block for example. However the Crown risked outright rejection by holding a meeting. If a meeting opposed a proposed sale, the Native Land Purchase Board could persist with further meetings, or decide to begin purchasing individual interests. An initial meeting of owners was useful in that case, as the meeting gave the land purchase officer the opportunity to find out who the main owners opposed to a sale were and he could make personal contact with them. This could be useful later in setting up a new meeting or in seeking to purchase undivided interests.

Purchasing undivided interests was by this time considered expensive and time consuming, even more so when successions had to be considered. This was even more especially the case where the block was quite small and had numerous owners. The method was still used, however, where meetings failed and the acquisition of the land was held to be necessary for settlement. Little account seems to have been taken of the objections of owners. The assumption was that purchasing was in the national interest and this took priority. Purchasing was also at times driven by the perceived need to prevent private purchasers buying the land in question. Indirect references to private purchasers in file records indicate that both lessees and government officials believed that many private purchasers were engaged in speculation, preventing land being opened for settlement at reasonable prices. These features of Crown purchasing are described further in examples of correspondence files referred to in the following paragraphs.

¹²⁷ Hutton, *Waikato-Maniapoto District Maori Land Board*, pp 22-25

There are examples of meetings of owners rejecting Crown offers to purchase. In 1910, for example, the Crown attempted to buy the Taharoa A block of some 16,000 acres. This was delayed for Native Appellate Court hearings, and when the Crown tried again in 1913 a meeting of owners refused to sell. The President of the Maori Land Board suggested that absentee owners might be approached as they might be more willing to make a sale, having less interest in the land and being away from local influences. However a follow-up proposal to sell was also rejected.¹²⁸ In the case of some Otorohanga subdivisions in 1918, a meeting of owners also rejected Crown offers. However the land purchase officer still found such meetings useful. If successful, they were less expensive, and in any case they gave him a better chance of getting in touch personally with owners, a useful matter should purchases of undivided interests begin.¹²⁹

In most cases, where the Native Land Purchase Board was determined to buy it succeeded, even if it could not acquire a whole block and some interests had to be partitioned out. In 1912 owners in the Wharepuhunga number 16 block made many protests to government about the land being vested in the Waikato-Maniapoto Maori Land Board.¹³⁰ They explained that they had many dead buried on the land and did not want them trampled on by Europeans. They objected to the land being surveyed and partitioned and they wanted to work and live on it themselves. They were even willing to sell the whole of number 17 block to the government if it would refrain from purchasing in number 16. There were about 16,000 acres in number 16 block and about 10,000 acres in number 17. The government refused to agree to those terms.

In 1914 Maui Pomare asked Native Minister W H Herries if the land could be set aside for the owners. The Maori Land Board had also recommended that the block should be revested in the owners. Cabinet referred the matter back to the Board however and as a result the Board reconsidered and recommended that number 16 should not be revested. The government decided that while some areas of block 16 could be partitioned out for papakainga and urupa, the rest should be acquired for settlement. The government believed that private speculators

¹²⁸ MA-MLP, 1910/39, in box 87

¹²⁹ correspondence on MA-MLP, 1911/60, in box 100

¹³⁰ MA-MLP, 13/51, box 122

were operating in the block and wished to prevent this so the block could be made available for settlement, in particular for returned soldiers.

When the Crown had a meeting called in 1916, there was such a large opposition to a proposed sale that it was decided to allow the matter to lapse rather than suffer the ignominy of having the proposal thrown out. Instead, the Native Land Purchase Board decided to go ahead and purchase undivided interests while making allowance for any kainga and urupa. The Board also asked the Maori Land Board to sell number 17 direct to the Crown to avoid the 'long and expensive process of acquiring individual interests', it being believed that if the owners realised they had no chance of using number 17 as a lever to retain number 16 then they would probably sell. Land purchase officer Bowler was instructed to make a special effort to acquire interests in 16, first searching Court and Board files and also ascertaining that no owners would be left landless. The government continued buying up undivided interests and decided that kainga and other reserves could be partitioned out later. Throughout this time the owners continued to ask to have the land revested in them, but this was consistently refused.¹³¹

In 1917 it was realised that the Maori dead were in fact buried over the whole block and that making reserves for urupa and kainga was likely to involve much more land than previously anticipated. It was decided however to reject requests for appropriate partition arrangements so as to avoid prejudicing the ultimate scheme of settlement. By March 1918, the Crown had acquired approximately half of number 16, about 8000 acres, and the government continued to oppose attempts by Maori to have partitions made. Officials even considered a legislative measure to prevent this, while interests were still being bought. Bowler explained that the 'public interest would certainly be prejudiced by any partition at the present juncture'. By 1918 Bowler believed that acquiring the outstanding interests was mainly a matter of 'combing out', and further interests could be bought from time to time as the opportunity offered. By November 1918 the Crown had acquired 8768 acres in block 17 with 1397 acres outstanding. In block 16, 8815 acres had been acquired with 7184 acres outstanding.¹³²

¹³¹ MA-MLP, 13/51, box 122

¹³² correspondence in MA-MLP, 13/51, box 122

In 1919 Bowler made an agreement with the desperate non-sellers that he would recommend partition at the end of six months, but only in exchange for each of the non-sellers selling a portion of their interest. As a result he managed to purchase another 800 acres. He wrote to the Native Department that this land was 'perhaps the best virgin block in the 'King' Country, and as the Ngatiraukawa have practically no other land, the result must I think, be considered satisfactory, seeing that the owners have throughout displayed a strong inclination to hang on to it'.¹³³ When block 16 was partitioned in 1921, 10,691 acres (16A) was awarded to the Crown and 4857 acres (16B) to the non-sellers. Block 17 was partitioned in 1920 with 9580 acres (17A) going to the Crown and 585 acres (17B) to the non-sellers.¹³⁴

By the 1920s it seems to have become government policy that meetings of owners should be called for sales of vested lands even if this was not legally required. For example, in 1921 the Crown wanted to acquire Wharepuhunga 13 block as the Crown owned adjoining land and the block would 'round off' the Crown area. The land purchase officer suggested that the Maori Land Board could sell the land direct to the Crown without reference to the owners under part XVIII of the Native Land Act 1909. However the Native Minister directed that vested lands were not to be sold by the Board without obtaining the approval of beneficial owners where there were more than ten.¹³⁵

As well as being able to make use of either the meeting procedure or buying up interests, the Crown also had a powerful advantage in being able to prohibit private alienations, whether by sale or lease, for periods of time. In 1916, the Crown wanted to purchase subdivisions in the Otorohanga blocks, in order to create a compact block for settlement purposes. An owner persuaded most of the other owners not to sell some parts but to lease instead. The Crown promptly sought an order in council prohibiting the alienation of the land to anyone except the Crown. Land purchase officer Bowler warned that 'care be taken to keep the prohibition against private alienation in force, as otherwise Mr Ormsby may forestall us'.¹³⁶ Even with the order in council prohibiting private alienations, however, Bowler still found it very

¹³³ Bowler to Under Secretary Native Department, 2 October 1919, MA-MLP 13/51, box 122

¹³⁴ MA-MLP, 12/46, box 111

¹³⁵ MA-MLP, 1921/12, box 233, re Wharepuhunga no 13

¹³⁶ Bowler to Under Secretary of Native Department, 27 October 1916, MA-MLP 1911/60, box 100

difficult to purchase interests in the block. In the end he was obliged to drop survey charges in order to get signatures.

Prohibitions were not only useful in forcing a sale, they could be used to hold prices low by preventing competition and using the time to buy up undivided interests at a lower rate. They were also used to assist other government departments. For example, in 1921, the Forest Service wanted parts of the Maraeroa block for its valuable milling timber. The financial situation meant that the Service could not buy the subdivisions it wanted. Even so, a prohibition on alienation was retained in order to prevent a private sawmilling company from completing action it was taking to buy the area. The Forest Service continued to have the prohibition extended for several years over parts of the block, even though it still could not afford to buy, until it eventually agreed the prohibition could be revoked.¹³⁷

Hutton has found that the Waikato-Maniapoto Maori Land Board may not have adequately applied legislative checks and safeguards when sales were made. This was partly due to the increasing workloads and financial pressures the Board operated under.¹³⁸ In other cases it appears as though there was a conflict between the Board's function to facilitate the alienation of Maori land and its duty to protect Maori interests. In pursuit of facilitating alienations, the Board appears to have applied protective provisions somewhat flexibly.¹³⁹

Hutton further shows the Board was often inconsistent about applying the test of landlessness.¹⁴⁰ Moreover, legislative provisions regarding landlessness were liberalised during this time, making flexibility easier. For example, sources of income such as rents from perpetual leases or income from a trade or profession, or marriage to a European, might be considered as making landlessness provisions inapplicable, even though technically the alienation may have left the person without any land. Bennion has quoted the Native Minister in 1913 as stating that while the Crown would not deliberately purchase so as to make Maori landless, technical landlessness would not prevent further purchasing: 'if they are landless already - as a great many of the Natives are - they are no worse off than they are at the present

¹³⁷ MA-MLP 1921/18, box 234

¹³⁸ Hutton, *Waikato-Maniapoto District Maori Land Board*, pp 13-17

¹³⁹ Hutton, *Waikato-Maniapoto District Maori Land Board*, p 31

¹⁴⁰ Hutton, *Waikato-Maniapoto District Maori Land Board*, pp 25-27

time'.¹⁴¹ He has described how the government was not particularly concerned with Maori landlessness in spite of protests, reflecting a widespread belief that persisted among Pakeha that there were huge areas of Maori 'waste' land lying idle and unproductive.¹⁴²

Land purchase files show the Maori Land Board and the Native Land Purchase Board were aware of requirements concerning landlessness, but it is unclear how thorough their investigations were. There is evidence that the Boards certainly took landlessness into account; it is less clear in what ways it was deemed that the restriction did not apply. In many cases it seems that finding an owner had other land interests, whether or not they could realistically provide an income, was sufficient. In many cases especially with Crown purchases, the decision was left to the land purchase officer.¹⁴³ This set up a potential conflict of interest, as the purchase officer was also required to ensure sales were made.

In the case of private purchase, the purchaser was required to find out about landlessness. Again this set up a conflict and it is unclear whether the Board tested such matters. As requirements were liberalised it seems to have been considered that landlessness was acceptable if it seemed likely the owner had another source of income. For example, in one case the government received an offer to sell from two Maori women who were married to Europeans. It was decided that as they must have another source of income, through their husbands, the fact that they would be made landless would not prevent a sale.¹⁴⁴ Hutton has also found that the Waikato-Maniapoto Maori Land Board was loath to find that a proposed sale might not be in the owners' interests, and the Board only rarely placed Maori interests (especially minority Maori interests) above those of a potential purchaser.¹⁴⁵

Hutton has found that the most common reason the Waikato-Maniapoto Maori Land Board refused to confirm a sale was on the basis of under-valuation. However, the Board relied on government valuations and never questioned them unless they were substantially out of

¹⁴¹ Bennion, citing Herries, in *Maori Land Court...*, p 30

¹⁴² Bennion, *Maori Land Court...*, p 10

¹⁴³ eg MA-MLP, 14/94, box 146, re Waiwhakaata 3E, no 4F

¹⁴⁴ MA-MLP, 14/42, box 135

¹⁴⁵ Hutton, *Waikato-Manaipoto District Maori Land Board*, p 25

date.¹⁴⁶ Even preliminary research suggests that government valuations may have been inadequate. The Stout-Ngata commission identified problems with the system of establishing a reasonable government valuation of Maori land as early as 1907-08.¹⁴⁷ Bennion quotes the Rotorua Maori Land Court in 1911 on a public works taking: 'Government valuers are notoriously circumspect in their valuation and the Court's experience is that the market value of Native land is invariably higher than the Government valuation'.¹⁴⁸ Further research on valuations of Maori land in the Rohe Potae might be useful.

When Maori did sell land they were often very disappointed to find that they could not get cash immediately, especially when the land was vested in the Maori Land Board. In that case they often had to wait for a series of small payments over a number of years. This was allegedly intended to prevent Maori from immediately wasting the proceeds of a sale. However it had the effect of undermining the reason land might have been sold in the first place and of preventing owners acquiring sufficient cash to begin improvements to the land they retained. Maori also found that charges for surveys, unpaid rates and Court fees could also be taken off the purchase money, after it was negotiated but before it was paid. In many cases purchases took place before surveys were made, so owners could end up with considerably less than they had anticipated. In some cases however, survey charges were dropped if this was the only way a sale could be made. ¹⁴⁹

Maori Land Purchase files reveal that the Crown was willing to act on behalf of lessees in matters such as freeholding land. Freeholding of township land, covered in some detail in part 1 of this report, took place under section 110 of the 1913 Act.¹⁵⁰ This raised problems in that the Crown was again effectively the only buyer, and therefore real market conditions were lost. The Crown, as already noted, was under far fewer restrictions than private buyers, presumably in the interests of general settlement. The Crown was able to use methods such as purchasing undivided interests on behalf of private individuals, thereby effectively undermining many safeguards.

¹⁴⁶ Hutton, *Waikato-Manaipoto District Maori Land Board*, p 19

¹⁴⁷ AJHR, 1907, G-1, report of Stout-Ngata commission

¹⁴⁸ Bennion, *Maori Land Court...*, p 137

¹⁴⁹ eg see correspondence in MA-MLP, 12/61, box 114

¹⁵⁰ eg see MA-MLP, 1920/35, box 228 and MA-MLP, 1920/62, box 232

In the 1930s the government unilaterally reduced all land and house rentals as the result of the economic depression. This had an impact on the later acquisition of freehold since when rentals were capitalised, no account was taken of the fact that in many cases they had been artificially reduced. Assistance to lessees sometimes backfired on the Crown when, for example, the Crown bought up land only to find the lessees wanted to pull out of the deal.¹⁵¹ By 1932 the Native Department refused to acquire the freehold unless it could be disposed to the tenant for cash within six months or on completion of the sale.¹⁵²

It is difficult to find out about the process of private purchasing in the district, as it is mentioned only indirectly in official records. Suffice to say that even Crown purchasing, which was supposed to have been conducted more justly, was the subject of criticism from within the Native Land Purchase Board. F. O. V. Acheson, Clerk to the Native Land Purchase Board (previously a land purchase officer, and appointed a Maori Land Court judge the following year) drew the attention of the Native Department in 1918 to deficiencies in the Crown purchasing system. Acheson noted that there had been a lack of proper supervision of land purchase officers since purchasing under the Native Land Purchase Board had begun. He was sure that the individual land purchase officers were above suspicion 'but the facilities for fraud are so numerous and easy' that the Department would be blamed if irregularities did occur. Land purchase staff had been left seven or eight years without their work being checked. Purchases had frequently been allowed to run on for three or four years.

As a result there were huge opportunities for fraud. 'In my brief experience of actual purchasing, the avenues for fraud have been many and easy, and compel me to give some credence to the extraordinary tales told about a former Officer of the Department'. Acheson noted that there were administrative problems as well. The work of the Land Purchase Board had fallen behind, for example, and Crown purchasing was now being concentrated in the Taranaki, Wanganui and Hawke's Bay districts.¹⁵³ Such criticism was frequent, echoed for example by Sir Apirana Ngata in parliament when speaking to the Native Land Amendment Bill in 1932. He described how Native Land Purchase officers, instead of buying in just a few

¹⁵¹ eg MA-MLP, 1930/30, box 260; AAMK, 869/1194b

¹⁵² MA-MLP, 1930/24, box 260

¹⁵³ memo from F O V Acheson to Under Secretary Native Department, re Crown purchases, 26 March 1918, MA series 24/23

blocks and then completing those purchases, used to spread sales over 40 to 50 blocks instead. They then patrolled their districts acquiring little bits at a time and holding their jobs for long periods of years.¹⁵⁴

Just as there was a renewal of pressure to acquire Maori land for returned soldiers, the Native Department was reporting in 1920 that, contrary to popular belief, there was in fact very little usable Maori land remaining by this time. It was estimated that by 1920 there was a total of about 1,657,278 acres of land available for the use of Maori. Of this, some 550,000 acres were within the infertile pumice area and another 200,000 acres were mountain tops, springs, sand dunes and the like that were unfit for settlement. This left about 907,278 acres suitable for settlement. 'This cannot be regarded as an excessive area for the use of the 47,000 Maoris comprising the population of the North island and their descendants. It is roughly 19 acres per head. Instead, therefore, of there being a large area of Native land available for general settlement, it would seem that there is barely sufficient for the requirements of the Natives themselves'. Maori had lost nearly all the lands they could dispose of 'without leaving the bulk of them landless, and later, probably, to become a charge on the State.'¹⁵⁵

This assessment by the Head of the Native Department did not stop the Crown purchasing in areas it still wanted for settlement. In 1920 the Crown prohibited private alienations in Wharepungu block 17B, an area that had been partitioned off for non-sellers, and the prohibition was extended several times until 1930. In late 1922 a meeting of owners had been called which rejected the Crown's offer to purchase, and land purchase officer Goffe was then instructed to begin acquiring individual interests. The process of acquiring these took several years, but in November 1931 number 17B (585 acres) was proclaimed Crown land. There is no indication on file that landlessness was considered an issue in this purchase.¹⁵⁶ Land purchase files show that the Crown continued making purchases in some blocks into the 1940s and 1950s.¹⁵⁷

¹⁵⁴ Ngata, NZPD, 1932, vol 234, p 665

¹⁵⁵ report of Under Secretary of Native Department C B Jourdan, AJHR, 1920, pp 2-3

¹⁵⁶ MA-MLP 12/46/1, box 111

¹⁵⁷ eg MA-MLP 1931/4, pt 2, Te Kuiti

The 1920 report on the relative lack of usable Maori land seems to have impressed the president of the Waikato-Maniapoto Maori Land Board as little as it did the Crown. As noted in the previous chapter, in 1929 the government established a commission of inquiry into matters concerning leases of Maori land in the Waikato-Maniapoto Native Land Court district, chaired by the president of the Board, Judge MacCormick. The report found that the solution to problems with leasehold Maori land was to acquire the freehold, it being assumed that Maori owners would agree to sell their leased land. However if they did not, the commission suggested that Maori land might be taken for settlement as was possible under the Land for Settlements Act 1925 on payment of adequate compensation and provided that the land was not required by the owners for their own use. The commission expected that land for settlement would be open to both Maori and European settlers without distinction, and suggested that some of the purchase money be withheld from the owners as a fund to enable Maori settlers to be established on land suitable for their occupation. The commission drew particular attention to the potential of land east of Otorohanga.¹⁵⁸

Purchases Post 1920

By the 1920s, the attitude of the Native Department was on the verge of being transformed by Sir Apirana Ngata as he gained increasing influence in government. In the 1920s, too, the recession had reduced the amount of money available for purchasing Maori land, and the Native Land Purchase Board appears to have become more cautious about purchasing poor land. For example, in 1926 the Board refused an offer from owners to buy land that had previously been leased by a returned soldier who could not make it a success.¹⁵⁹ Under the influence of Coates and Ngata the amount of money for purchasing was allowed to decline and purchases of Maori land fell steadily. By the early 1930s, official statistics show that overall Crown purchases of Maori land had fallen off considerably. By now they were well behind private purchasing. The Native Land Purchase Board report for 1932 shows that total Crown purchases of Maori land for the year was 5,624 acres whereas the overall total of private sales was about 10,645 acres. There is no separate breakdown for the Rohe Potae but it does seem that the Crown was no longer interested in buying up very large acreages of land

¹⁵⁸ AJHR, 1929, G-7

¹⁵⁹ MA-MLP 1930/19, box 260

as it had done previously. In fact as already noted, annual reports show Crown interest in large areas of land had now turned to the Urewera and the district around Taupo.

There was still a significant loss of land through sales however and this seems to have been largely connected with the freeholding of leases, most commonly to the lessees and often with the active assistance of the Crown and the willing compliance of the Maori Land Board. An example of this was in sales of township lands although other types of leases were also involved. It has already been noted that the judge of the Waikato-Maniapoto Maori Land Court and President of the Maori Land Board, Judge MacCormick, favoured the freeholding of Maori leased land.¹⁶⁰ He evidently carried this policy into practice and for example he informed the Native Department in 1936 that he was 'entirely in favour of selling Native Township sections whenever the owners are willing and the price reasonable'.¹⁶¹ It seems that Maori owners of township sections were often keen to sell, as the only way they could use township interests productively seemed to be to sell them and use the money for other purposes - such as housing or farming other land. However questions still remained as to what was a reasonable price, and whether the owners would be made landless. The Board appeared to be so cavalier in applying these protections that Native Department officials became concerned.

In 1938 when one sale of an Otorohanga township section went to the Native Minister F Langstone for approval, officials suggested to the Minister that he remind the Court 'of the need for greater discrimination'. Officials had found that the owners stood to get less through the Board for selling the land than they would have got through rentals from perpetual leases. The owners had very little land left, but even perpetually leased land could be exchanged or consolidated to more advantage. Officials also noted that in the case in question, the purchase money was simply going to the Maori Land Board, pending the Board's decision as to its disposal. The officials argued that sales could be beneficial to the owners if the proceeds were used for purposes such as housing or improving farms, but in this case there was no indication of this. 'Experience has shown that, in many cases, continual pressure by the Natives has resulted in small sums being paid to them from time to time for certain purposes

¹⁶⁰ AJHR, 1929, G-7 report of MacCormick inquiry into leased land

¹⁶¹ MacCormick to Under Secretary Native Department, 20 January 1936, AAMK, 869/1194b

with the gradual dissipation of the fund as a result.' They also warned that if the Minister did decline in this case, he was likely to become subject to lessee pressure.¹⁶²

Langstone, however, agreed with the officials' fundamental concerns and indicated that he wanted a tightening up against such alienations. This was followed by a memo to all presidents of Maori Land Boards in December 1938 which noted that it was not considered in the best interests of Maori to alienate their lands as the government was anxious to encourage the owners to develop and farm them. By the 1930s and under Ngata's influence, the government had finally begun to accept that Maori should be assisted to develop and farm their own land rather than continue to be subjected to pressure to sell it. In January 1933 the Native Land Purchase Board was abolished along with the Native Trust Office Board. Their functions were taken over by a new Native Land Settlement Board, reflecting Ngata's vision that Maori should be encouraged to develop their own land. The land development schemes and issues arising from them are described in more detail in chapter five.

In the case Langstone was being asked to consider in 1938, the would-be purchasers claimed that the sale should be allowed after all, as the proceeds from the Otorohanga section would go to assist Maori owners farming other land. On investigation this 'other' land turned out to be not owned by them but land they leased, and the leases appeared to be informal and unsatisfactory for spending money on. After more pressure the Minister finally agreed the sale could go ahead if all leases were made satisfactory. This was finally done, and the sale approved in 1939.¹⁶³ This case raises general issues about the adequacy of Maori Land Board applications of safeguards in the region.

It seems that private purchasing, often with the assistance of the Crown, remained significant in the continued alienation through sales of Maori land in the Rohe Potae up to at least 1940. More research is required on this period and more detail is likely to become available through block histories. According to the *National Overview*, only 13% of the 'King Country' district was Maori land by 1939.¹⁶⁴ In the North Island in general, in the years 1940-46, presumably to meet the needs of returned soldiers, the Crown began buying up Maori land again,

¹⁶² memo Under Secretary to Acting Native Minister Langstone, 30 November 1938, AAMK, 869/1184b

¹⁶³ correspondence in AAMK, 869/1194b

¹⁶⁴ Rangahaua Whanui *National Overview*, vol 1, p xxiv

purchasing some 24,562 acres of Maori land. Again in 1958 Crown purchases of Maori land were recorded as 23,178 acres. This may have been linked to leaseholds due to expire at this time and more research is required on this. However in general, Crown purchasing declined considerably in the years from the 1930s to the 1960s and overall Crown purchases of Maori land were around a few thousand acres or less each year.¹⁶⁵ Separate statistics for the Rohe Potae are not recorded.

There are indications that one of the legacies of the Maori land development schemes was an overall change in the policies of both major political parties: in general there was more willingness to assist Maori to develop and farm their remaining lands rather than simply to respond to pressure to purchase yet more Maori lands. The judges of the Native Land Court (Maori Land Court from 1947) also appear to have become more protective of remaining Maori land by the 1940s. Although the overall amounts of land purchased were generally declining, by this time there was relatively little Maori land left and therefore the impact of even small purchases could be argued to have been relatively more significant.

The Servicemen's Settlement and Land Sales Act 1943 was intended to stabilise land values for the benefit of ex-servicemen. It provided for land sales of the time to go to a Land Sales Court where prices could be reduced if this was thought necessary. In the 1940s it appears that some Maori Land Court judges when confirming applications for sales, refused to reduce the prices as might have been expected had they gone through the Land Sales Court. Some buyers protested as they had apparently offered higher prices at auction expecting them to be reduced. The judges, however, relied on their primary duty to protect the interests of Maori owners and argued that this took precedence over their obligation to take the 1943 Act into account. They also argued that the government valuation of Maori land was known to be too low in many cases and a further reduction would compound the injustice. When the matter of the Maori Land Court declining to reduce sale prices was raised in Parliament, Prime Minister Peter Fraser agreed it was an anomaly. But the sales of Maori land were now so small, he declared, there was no need to take any measures concerning this matter.¹⁶⁶

¹⁶⁵ Crown purchases and areas of Maori land proclaimed Crown land 1929-1959, AJHR, 1961, G-10, p 142

¹⁶⁶ file notes on LS, 13/207/45

The general policies followed by the Labour Government were adhered to after its fall. In 1950 the new Maori Affairs Minister Corbett told a deputation on behalf of lessees that Maori owners had a right to keep their land and he would not be a party to relieving them of it. Instead he wanted to see them use their lands.¹⁶⁷ The government would also soon formally abandon the policy of purchasing Maori lands simply to facilitate the freeholding of the leases. The Maori Reserved Land Act 1955 repealed the Maori Townships Act 1910, removing regulations under the 1910 Act (and the later Land Act 1948) that provided for the purchase of leases by the Crown to sell directly to lessees.

The position was now that Crown purchases of Maori land would make the land Crown land, subject to normal requirements regarding disposal: lessees were no longer able to purchase so easily through the Crown. Section 86 of the 1955 Act still enabled the Maori Trustee, with the written consent of the beneficial owners, to sell township land to any person. Lessees had to now deal direct with the Maori owners, or ask the Maori Trustee to go to the owners with a proposal to purchase. The Crown would not intervene. The Minister of Lands explained that if the 'owners are not willing to sell then there is no use taking the matter further'.¹⁶⁸

Issues remain regarding the way the Waikato-Maniapoto Maori Land Board and then the Maori Trustee continued handling sales of Maori land in the Rohe Potae from the 1940s, with in particular more research required into the adequacy of the Board's application of protections. Investigation might include the importance these agencies were placing on Maori concerns about the continued loss of Maori land during this period, and the degree of consultation or otherwise there was with owners over sales. There is some evidence for example, that after the Waikato-Maniapoto Board was criticised in the 1930s for being too ready to approve sales, the Board responded to allay departmental concerns by ensuring that comments attached to confirmations indicated the sale money would be put to useful purposes or that rentals from leases were too 'trifling' to be worth an owner keeping them.¹⁶⁹

Although Crown policy had gradually turned against large scale purchases of Maori land, by the mid 1920s, it seems that private purchasing, often with Crown assistance, accounted for

¹⁶⁷ notes of meeting 1950, in MA1 54/16/5, w2490

¹⁶⁸ memo Minister of Lands to Town Clerk Otorohanga Borough Council, MA1, 54/16/5, w2490

¹⁶⁹ file notes on AAMK, 869/1194b, from 1940s

further significant alienations by 1940, until relatively little Maori land was left in the Rohe Potae district. After the war, the Crown moved out of assisting private interests to freehold Maori land. However the Crown was still concerned that Maori land was used profitably in the national interest and was willing to legislate and implement measures to achieve this. The compulsory nature of many of these measures will be outlined briefly in the next chapter.

Chapter 4

Compulsory Land Alienations in the Rohe Potae

Varieties of Compulsion

Maori owners in the Rohe Potae must have felt that many types of land alienation were practically compulsory, regardless of how they were technically described. For example, as already seen, the vesting of much land in Maori Land Boards for lease or sale became compulsory after 1907. Maori also lost many of the essential features of ownership with leased land through, for example, Maori Land Board control and perpetual leases. Bennion has described the legislative advantages created for Crown purchasing as virtually a form of compulsion.¹⁷⁰ Forms of compulsion linked to leases and sales have been described in more detail in previous chapters. Moreover, as will be seen in the next chapter, measures introduced in association with land development schemes also had compulsory features that reduced the level of the Maori owners' effective ownership of the land.

There were also a series of compulsory measures associated with Maori Land Council/Board administration. Legislation in 1902 and 1910, for example, enabled Native township lands to be vested in the Councils/Boards. Compulsory provisions were also passed that enabled land to be compulsorily vested in Councils/Boards for leasing as a result of unpaid rates - for example, the Native Land Rating Act 1904. The Maori Land Claims Adjustment and Laws Amendment Act 1904, section 3, also provided that certain lands over which the government had taken over survey mortgages to prevent sale could be vested in the Councils.

The government passed further compulsory measures in the Maori Land Settlement Act Amendment Act 1906. This enabled Maori land to be compulsorily vested in a Maori Land Board where there was a problem with noxious weeds or where the Minister felt the land was not properly occupied by Maori. The Native Land Claims Adjustment Act 1910, section 5, also enabled the government, on the recommendation of the Native Land Court, to declare any portion of Native land not exceeding in any one case five acres as a site of a factory, or

¹⁷⁰ Bennion, *Maori Land Court...*, p 40

for religious, charitable or educational purposes to be vested in a Maori Land Board. This provision was used in 1911, to vest three acres in Kinohaku East in the Waikato-Maniapoto Maori Land Board as a school site, for example.¹⁷¹

The Native Land Court system had already resulted in much compulsory alienation of land to pay survey and other costs. The Stout-Ngata commission estimated in 1907 that Ngati Maniapoto had seen nearly 40,000 acres of land alienated for survey costs, quite apart from surveys where cash had been paid.¹⁷² Many owners felt this was a form of compulsion as the Crown initiated many Court proceedings after undertaking secret purchasing. Under the Native Land Act 1909, the Crown took over the cost of surveys, but they were placed as an equitable charge on the land.

Until at least the 1940s, Pakeha demands for the government to open Maori land to general settlement, by compulsory measures if necessary, provided a constant pressure on Maori decision making concerning land. As will be seen, the threat of having land taken by compulsory means was a constant factor when Maori were being asked to consider other forms of land use - such as placing their land in land development schemes or making land available for leasing. This had already happened under the Liberal government early in the century, when pressure was applied to have Maori land treated the same as South Island estates broken up for closer settlement.

In 1907 the Stout-Ngata commission had responded to such pressure by explaining that although legislative provisions enabled European-held estates to be acquired compulsorily for close settlement, in those cases the owners were first able to select for themselves up to one half of a maximum 1000 acres of first class land or 2000 acres of second class land or 5000 acres of third class land. If the same provisions were applied to Maori land, then very little would be surplus for settlement.¹⁷³ Despite such arguments, the demands continued.

In 1929 even the district Maori Land Board president and Maori Land Court judge recommended in his capacity as chair of an enquiry that if Maori were unwilling to sell

¹⁷¹ NZ Gazette, 1911, p 2490, notice dated 7 August 1911

¹⁷² AJHR, 1907, G-1b

¹⁷³ AJHR, 1907, G-1c, p 9

'unutilised' land then the compulsory provisions of the Lands for Settlement Act 1925 should be considered.¹⁷⁴ A further similar campaign for compulsory measures appears to have been associated with land required for returned servicemen following the Second World War. Such undercurrents of demands for ever increasing compulsory measures constrained Maori choices over land use. Indeed, compulsory measures continued in various legislation right into the 1960s.

In fact, after the 1930s, as sales declined, compulsory measures had become more significant as a form of alienation. The effects were compounded as the overall quantity of Maori land remaining had become much smaller. Compulsory provisions were put in place for a variety of reasons, and long standing provisions continued, such as those for land declared infested with noxious weeds (the Noxious Weeds Act 1950), for example. The continued fragmentation of title through the Maori Land Court also resulted in legislation regarding 'uneconomic interests' which resulted in further alienations: the Maori Affairs Act of 1953 provided for the sale of 'uneconomic' interests to the value of £25 while in 1955 the Maori Reserved Land Act enabled the Maori Trustee to sell Maori land which by reason of its size, configuration and quality could not be profitably used.

Public Works Takings

Another type of compulsory alienation concerned Maori land taken for various public works purposes. More detail on public works takings of Maori land can be found in a previous report.¹⁷⁵ The government had already developed a body of public works legislation when the Rohe Potae compact was negotiated in the 1880s. In 1885 Ballance discussed the proposed route of the main trunk railway with Wahanui and other leaders in the district. He explained that now they had agreed to allow land to be used for the railway, the government proposed to acquire it in the normal way for land needed for public purposes.

Ballance promised that the government intended to deal with Maori precisely as they dealt with Europeans, 'The law is the same in both cases'. He went on to explain that the

¹⁷⁴ AJHR, 1929, G-7

¹⁷⁵ Marr, C, *Public Works Takings of Maori Land, 1840-1981*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), May 1997, pp 22-23

government would pay for land required, but only after the owners were determined through investigation of title. Then the matter would go to arbitration and the owners would be paid for the amount of land taken for the railway: payment would be entirely dependent on when the owners were prepared to go and prove title to their land. The government also needed to acquire land in the same way for the roads required to connect with the railway. 'All the Government asks is for the land for the railway and for roads, and they shall pay a fair price for it'.¹⁷⁶ In fact, as has been shown elsewhere, by this time various public works provisions were discriminatory towards Maori.¹⁷⁷

Ballance insisted that individual Maori would be required to prove ownership through Native Land Court investigation, even though Maori had made it clear that they did not want the Court operating in that way in the Rohe Potae. Perhaps the meeting accepted Ballance's argument because he was also promising more power to Native Committees, and these were expected to take more of a role in determining ownership. Whatever the situation, public works provisions regarding Maori land had begun in the 1860s as part of a confiscatory wartime policy and were inherently deficient in ordinary protections.¹⁷⁸ It is likely therefore that if Maori of the Rohe Potae had understood the compulsory nature of these provisions they would have been much less agreeable to the railway.

Instead most of the concern in 1885 appears to have been about the damage road and railway building might cause, the question of what would be included in payment, and the degree of Maori participation in decision-making over road routes. Maori explained to Ballance that they were concerned that traditional food sources, such as eel swamps and berry trees, might be destroyed in the process of rail building. They reminded him too that when valuable timber was cut they wanted to be paid for it. They were already concerned that the road already being built from Kawhia to Alexandria was not taking their interests into account, and requested that it be extended from Alexandria to Kopua to enable them to provide access to their own good land.¹⁷⁹

¹⁷⁶ notes of meeting, AJHR, 1885, G-1, pp 22-23

¹⁷⁷ Marr, *Public Works Takings*

¹⁷⁸ Marr, *Public Works Takings*

¹⁷⁹ AJHR, 1885, G-1, p 23

It has not been possible in the time available to fully research the extent to and manner in which public works takings in connection with the railways and roads were actually applied in the Rohe Potae. Ballance had clearly promised that land taken would be paid for, but the situation was more complex than that. This has been described in more detail in the Public Works Takings report.¹⁸⁰ In brief, by 1885, Maori land could be taken for roads and railways under two sets of provisions: the main public works provisions for which compensation was generally payable, and the Crown right to take up to five percent of lands without compensation. The provisions and protections concerning both types of taking were complicated, confusing and often inconsistent. They were also essentially discriminatory towards Maori. The protections that did apply required close supervision or constant recourse to legal redress, neither of which seemed to happen very often. In addition, local authorities were heavily involved with roading; much of the taking seems to have been at their instigation, and inadequately supervised by central government. Further complications arose as to how takings would be applied across partitions with some owners suffering disproportionately to others.¹⁸¹

The provisions enabling taking authorities to take a percentage of Maori land without compensation for roads and railways meant that by the 1880s the Governor could, at any time, take and lay off for public purposes lines of public road or railway of up to five percent of any Maori lands that had gone through the Maori Land Court. This could occur from the date of the certificates of title or memorials of ownership, and was operative for fifteen years from the date of the memorial or certificate. In 1894 this taking right was extended to customary land not yet investigated by the Court. Provisions for takings without compensation were included in both Native Land Acts and Public Works Acts, which were not always consistent with each other. The complicated provisions often confused observers and participants, including taking authorities. Local authorities in particular appeared to believe that Maori land generally could be taken as required without payment.¹⁸²

It seems that provisions for taking a percentage of Maori land without compensation, and general provisions for taking with compensation for railways and roads, were both applied in

¹⁸⁰ Marr, *Public Works Takings*

¹⁸¹ Marr, *Public Works Takings*, p 62

¹⁸² Marr, *Public Works Takings*

the Rohe Potae. It is not easy to reach research conclusions, as it is not always clear under which provisions land was being taken or whether owners had been consulted. In some cases the authorities appear to have taken up to the five percent limit without compensation and then taken more under general provisions. Even the land taken for the railway, about which Ballance had made clear promises, seems to have been subject to confusion and lack of good faith on the part of government. Justice Smith researched the history of the agreement in 1946 for an inquiry regarding liquor licensing.¹⁸³ He found that when land was taken for the railway, the Public Works Department made some initial attempts to pay compensation for the land by attempting to arrive at out-of-Court consent agreements with the owners. This failed because much of the land had not been through the Native Land Court, and so it was difficult to determine how to pay the small amount involved to the many owners likely to have interests. A relatively small sum of £123.10s was agreed, but very little of it was paid out.¹⁸⁴ The situation was still confused in 1891 when a senior Native Department official commented that it may have been better if the Public Works Department had not made any such attempts at all. It was decided to allow Wilkinson to try and effect some settlements that had already been agreed, as long as this was 'without interference with his more important land purchase duties'.¹⁸⁵

Wilkinson informed the government at this time that Maori owners wanted compensation monies put towards the cost of surveys. The government was determined that ownership and compensation should be decided at an individual level and, as happened with other takings of Maori land, it immediately became apparent that it was difficult to pay small amounts of compensation to large numbers of owners. The most convenient alternative was to simply use the provisions that enabled up to five percent of Maori land to be taken without compensation. This apparently happened in many cases for the railway land, in spite of the promises made by Ballance.

Smith found that in some cases Maori owners were happy to gift their share of the land for the railway, but in many other cases compensation was sought but never paid. Nor was any attempt made to reduce survey fees as the alternative Wilkinson had outlined. In 1903 the

¹⁸³ Smith report, AJHR, 1946, H-38, app C, report on Liquor Licensing

¹⁸⁴ Smith report, AJHR, 1946, H-38, app C, p 374

¹⁸⁵ Memo, T W Lewis to Native Minister, 15 April 1891, cited in Smith report, AJHR, 1946, H-38, app C, p 374

Public Works Department sought legal advice as to whether compensation had to be paid for land taken for the railway. The Solicitor General advised that under the legal provisions under which the land was taken, the department did not have to pay compensation. When Maori owners made claims for compensation in 1911 and again in 1923, the government refused on those grounds. In 1946, Smith deduced from the documents that very few Maori had ever been paid compensation for the land taken.¹⁸⁶

It seems as though in practice these compulsory provisions without compensation could be applied over much longer than might be expected, another type of fallout from the delays inherent in the Native Land Court process. For example, in Ohura South, title to one part was decided in 1892 but not actually registered until 1913.¹⁸⁷ The Public Works Department took advantage of this to apply provisions for taking land without compensation. Chief Justice Stout decided that the Department had 15 years in which to take land after 1913, the year the title was registered.¹⁸⁸ In this case, after complaints, the Native Department intervened and the Public Works Department agreed to contribute £5 towards the cost of fencing along the road land taken under the provision. The provisions for taking land without compensation for roads and railways did not end until 1927, as a result of Sir Apirana Ngata's influence.¹⁸⁹

The situation regarding the taking of land for roads and the railway has been obscured in the early years of the Rohe Potae because officials were careful to play down the compulsory aspects of takings, and to emphasise the predicted advantages of the roads or railway. In some cases it seems Maori did not fully understand the land was even being taken under public works provisions. Officials were at pains to explain that roads were necessary in developing the land and sought owner cooperation. Contracts for building the road were often awarded to owners whose land the road crossed, providing welcome cash that they well have been regarded as payment for the land even though technically it was not - and this helped to avoid open resistance. In 1897, for example, the Te Kuiti to Awakino road was being built. The road line was taken right through the cultivations of Maori owners, including Tawhaki

¹⁸⁶ Smith report, AJHR, 1946, H-38, app C, pp 379-380

¹⁸⁷ MA1, 22/1/18

¹⁸⁸ *Gazette Law Report*, v 14, p 523

¹⁸⁹ letter Ngata to Buck 9 February 1928, Sorrenson, M P K (ed) *Na To Hoa Aroha, From Your Dear Friend: The correspondence between Sir Apirana Ngata and Sir Peter Buck*, vol 1, pp 68-72

Takiaho. When the owners asked for the road line to be altered, as often happened, this was rejected on grounds that any alteration would be too expensive and circuitous. Surveyor C W Hursthouse did not believe that the owners needed work as they claimed, but he recommended them being given it on their own land anyway, 'to tone things down', and this was endorsed by the Survey Office.¹⁹⁰

In some cases, Maori owners clearly wanted roads and therefore assisted with them, although right from the beginning there was seemingly widespread concern that roads were being built to assist Pakeha rather than Maori. With the Crown system of secret purchasing and partitioning, and land being cut off for charges such as surveys, and with the general confusion and delays in titles, it may have been difficult to identify what was being taken under public works provisions. As purchasing and settlement progressed however and certainly by the turn of the century, the takings of land for roads and railway purposes was becoming a definite grievance. The amount of land taken without compensation was often put forward as part of the reason for non payment of rates in the following years, as described in the next chapter.

The compulsory taking of land under public works provisions appears to have involved a substantially smaller amount of land in the Rohe Potae than was alienated by other means. Nevertheless it seemingly had a significant impact on the relations between Rohe Potae iwi and the Crown because it did appear to be such an extreme contradiction of partnership principles inherent in the Treaty and the Rohe Potae compact. The legacy of the mistrust and bitterness caused by this can be seen, for example, in attempts to build a road from the Taharoa block to Kawhia. The Taharoa area was farmed by Maori who refused to take any part in government projects, including land development schemes. They had held on to their land but lived in considerable poverty and their farms remained largely isolated even into the 1950s. When the government tried to put in a road through in the 1940s, there was so much suspicion of government motives that survey pegs were removed and three women who challenged the surveyors were taken temporarily into police custody.¹⁹¹

¹⁹⁰ memo of 5 July 1897, C W Hursthouse to Surveyor General Wellington, LS1/1342, no 36452/5

¹⁹¹ correspondence re road building 1943, and *Weekly News* article on isolation of 4 July 1951, MA1, 22/1/269
pt 1-2

Extra Public Works Powers

Aside from the two types of taking under public works provisions, Maori Land Boards were also given compulsory powers concerning laying out roads on vested lands. It is not clear at this stage how these powers were applied. They were apparently intended to overcome title problems in order to assist Maori to derive an income from the land, but the use of the powers and the extent of consultation with Maori remain possible issues for further examination. More is known about general public works provisions, which had gradually been extended over time to enable local authorities and central government to undertake works such as drainage, harbour improvements and the provision of amenities such as schools, recreation reserves and public buildings.

The growth of tourism by the turn of the century also appears to have been a factor in stimulating government interest in legislating for taking land for scenery protection. At this stage the government had little concept of protecting sustainable ecosystems, apart from perhaps with the early National Parks. Many areas required for scenic protection were simply beauty spots that could be observed by or used as rest spots for travellers. The Scenery Preservation Act 1903 extended powers to take land for scenic purposes. By this time settlers had destroyed the scenic nature of much of the land suitable for farming. Land left to Maori, frequently unsuitable for farming, often contained some of the best scenery remaining.

There was some confusion over early takings of Maori land for scenery preservation after 1903, but Rohe Potae Maori did lose land. In 1908, for example, part of the Orahiri block was taken for a scenic reserve under the Scenery Preservation Act and a 1906 amendment. The taking was made on the recommendation of the Auckland Scenery Preservation Board made at a Board meeting of 17 February 1908, and three acres were gazetted as taken a month later. There is no mention of consultation with Maori on file.¹⁹² 1910 validating legislation to clear up confusion over early scenery preservation takings did not necessarily help Maori. In 1912 part of Kinohaku West block along the coast of Kinohaku Inlet was being considered as a scenic reserve. When the owner requested land in exchange this was refused on the grounds

¹⁹² LS1/1307, no 207

that there was very little Crown land in the locality, and it would in 'all probability be required for public purposes'.¹⁹³

Management of their land by the Maori Land Board and then the Maori Trustee seems to have created greater problems for Maori owners over public works takings. As the Board or Trustee was considered the legal owner of the land for the purpose of the taking, Maori owners found themselves even further sidelined from participation in the taking process. For example in 1947, when Maori land in Otorohanga township was being considered for a recreation reserve, the owners testified that they were told the matter was between the Town Board and the Maori Land Board: they had no standing in the matter, and did not have to be given any notice of taking.¹⁹⁴

By the 1930s, public works legislation had extended provisions concerning land takings to include electric power, drainage, water supplies, town planning, river control, and forestry purposes. General issues arising from such takings include the extent of consultation with owners, the extent Maori concerns and interests were taken into account, the amount of compensation paid and any offer backs or revestings if the land was subsequently not required after its use (or otherwise) for public works. More research is required into individual cases of takings to determine the extent and pattern of such issues.

Meanwhile it is difficult to determine statistics relating to takings, and these do not appear to have been officially collated. It seems too that some public works takings were technically described as 'compulsory sales', and those may well have been included in overall Crown 'purchase' statistics. The Stout-Ngata commission found that by 1907 only some 110 acres had been taken in the Rohe Potae for public purposes or scenic reserves.¹⁹⁵ But it is not clear how these figures were arrived at, and they do not seem to take into account, for example, takings for roads and the railway by that time. No other sources of public works takings statistics have been found for the district.

¹⁹³ memo Chief Surveyor to Under Secretary of Lands, 22 March 1912, LS1/1309, box 545

¹⁹⁴ correspondence, 1947, MA1, 54/16/5, accn w2490

¹⁹⁵ AJHR, 1907, G-1b, p 10

In 1928 the Public Works Act became the major public works legislation, albeit with numerous amendments for over half a century until revised and replaced by the Public Works Act of 1981. In addition to the main 1928 Act, which contained general taking powers and procedures, there were numerous other Acts which gave taking powers for specific purposes or organisations. Public works provisions continued to cover many traditional areas such as roads, harbours, land development, railways, electricity, defence, irrigation, drainage, national parks and scenic reserves, forestry mining and tourism. In addition, the practice continued of passing special Acts for particular purposes which could contain land taking powers, sometimes affecting Maori land.

Public works provisions relating to Maori land also continued in various Maori Affairs-related legislation such as Maori Purposes Acts and Maori Trustee legislation. Compulsory provisions concerning idle and unoccupied Maori lands remained in force (for example, in the Maori Purposes Act 1950), and provisions relating to taking Maori land infested with noxious weeds (the Noxious Weeds Act, also in 1950). As new developments took place, new provisions were enacted to enable land to be taken. For example, for aerodromes from the 1930s, for motorways from the 1950s, for state housing and slum improvement from the 1940s and for the growth in hydro power from the 1950s. New town planning provisions made an increasing impact on Maori land, not only enabling outright takings for reserves but also restricting ownership rights in matters such as opportunities for land use. Indeed, key town planning legislation in 1948 and 1953 had a profound effect on Maori land while containing no special acknowledgement of Maori interests.¹⁹⁶ The impact of all this legislation on particular takings in the Rohe Potae requires further research.

¹⁹⁶ for more detail on the general impact of public works provisions on Maori land see Marr, *Public Works Takings*

Chapter 5

Consolidation and Development Schemes in the Rohe Potae

Origins of Consolidation and Development

This report can only present a brief overview of the general history of consolidation and development schemes in the Rohe Potae and identify possible issues arising from these that may be considered relevant to alienations of Maori land. Land consolidation and development schemes and associated legislation and policy issues have been covered in more detail in other reports such as S K L Campbell's *National Overview on Land Exchange and Land Consolidation Schemes 1894-1931*, Ashley Gould's *Maori Land Development 1929-1954*, and Claudia Orange's thesis 'A Kind of Equality: Labour and the Maori People 1935-49'. The general background information in this chapter is based on these sources unless specifically stated otherwise.

Land exchanges and consolidations were developed as a way of dealing with the increasing fragmentation of title caused by the Native Land Court process. They were used to amalgamate the often scattered interests of Maori owners and create title to more economically viable blocks of land. They offered some hope to Maori that title problems might be overcome sufficiently for families or individuals to be able to use their land.

Consolidation of titles was also generally required before land development schemes could begin to operate, and these schemes were a further step in the process of enabling Maori to utilise their land by farming it. Maori were aware that if they did not utilise their land productively, which at the time in the eyes of the Crown meant farming it, there would be increasing pressure from Pakeha farmers - and politicians - to have it alienated. Exchanges, consolidations and land development schemes appeared to offer opportunities to avoid further land alienations, and this chapter investigates their application in the Rohe Potae and resulting implications for possible Treaty issues.

The system of exchanging and consolidating interests in land and also by forming incorporations of owners had limited legislative beginnings in the 1890s.¹⁹⁷ The early incorporation schemes were forerunners to the development schemes implemented by Sir Apirana Ngata in the 1920s and 1930s. Ngata believed Maori had to develop their land in order to save it. He favoured improving title to Maori land so that Maori could become 'settlers' themselves, raise their standard of living and participate in mainstream society. At the same time he saw land development as part of a wider movement to ensure a rural base for the revival of Maori culture, customs and pride. The 1907-8 Stout-Ngata commission was his first major task in politics and his views are evident even then in recommendations concerning land exchanges and consolidations, and in urging the government to consider assisting Maori to develop and farm their own land.

While legislation in the 1890s provided some limited measures concerning exchanges of interests in land, the Native Land Act 1909 provided the first specific provisions for land consolidation schemes - as a direct result of recommendations by the Stout-Ngata commission.¹⁹⁸ Some consolidation schemes were begun under these measures in the East Coast and the Urewera districts. Campbell traces subsequent legislative amendments up to 1931 in some detail, and in general these streamlined and widened the scope for consolidations.

The Native Land Amendment Act of 1913, for example, provided for exchanges between Crown and Maori land, and 1919 legislation widened the types of land owned by Maori that could be exchanged. During this period there was also special legislation to effect consolidations and exchanges in particular named blocks. Relatively few exchanges or consolidations took place within the King Country before the 1920s, although some are documented in land purchase files.¹⁹⁹

¹⁹⁷ Campbell, S K L, *National Overview on Land Exchange and Land Consolidation Schemes, 1894-1931*, Crown Forestry Rental Trust, Wellington, 1996, pp 14, 26

¹⁹⁸ Campbell, p 31

¹⁹⁹ eg MA-MLP 1910/14, box 82, re exchanges in Ohura South in 1911, and MA-MLP 1910/39, box 87, re exchanges in Taharoa A block in 1910

Sir Apirana Ngata's influence on government policy and administration increased after World War One, strengthened by his relationship with Gordon Coates, who became Native Minister in 1921 and Prime Minister in 1925. With the support of Coates, Ngata managed to change the focus of official and government discussion from alienating Maori land to assisting Maori to develop and farm their land themselves. This was in spite of the fact that until 1928 he was technically in the Parliamentary Opposition. It would be difficult to over-estimate his remarkable achievement.

Legislative measures to assist Maori to develop their own lands in earlier years had been largely ineffectual, and overwhelming Pakeha opinion was that their land would be farmed more efficiently by Europeans and that converting Maori title was therefore in the national interest. This attitude was still very strong in the 1920s and even into the 1930s, as outlined in previous chapters. Ngata fostered consolidation schemes in his East Coast district first and then used successes in that region to promote schemes more widely among Maori and to government. Coates, after a visit to the East Coast in 1926, was so impressed that he promised to support Ngata's efforts with land development schemes.

Ngata succeeded partly because he was very good at persuading those who might naturally be hostile to the schemes that they too could benefit from them. In this way he gained support from unlikely quarters such as local bodies, members of parliament for Pakeha electorates and government officials. He realised that his influence could very quickly dissipate or even be destroyed if he provoked too much hostility among Pakeha and this seems to have influenced the way he carried out the schemes. He worked very fast in setting up schemes and investing in development, appearing to believe (and if so, was proved correct) that once the schemes were started they would take on a dynamic of their own that was difficult to reverse.

Ngata accepted that schemes had to start in areas of most concern to Pakeha, but within those parameters he chose carefully, gaining influential Maori support, using key people and where possible avoiding forcing reluctant owners whose lack of commitment might bring the whole scheme into disrepute. He left issues such as the exact relationship between occupiers and owners to be sorted out in more detail at a later date, preferring to get the schemes up and going first. He therefore 'stepped over' title problems by suspending owners' rights and vesting land in the Crown to be developed, and took advantage of the Depression of the 1930s

to direct employment monies to his schemes and to entice reluctant owners in. Some of these expediencies turned out to be problematic later on. However Ngata was driven by the belief that Maori were running out of time to retain their remaining lands and if they did not develop them they would surely lose them.

The Rating Issue

Ngata and Coates allowed funds for Crown purchases of Maori land to gradually run down in the 1920s, assisted by recession from 1921. As the Crown stopped purchasing large areas of Maori land, however, the issues of unpaid survey charges by Maori, and unpaid rates, became more apparent. Unpaid rates in particular, had long been a subject of local body concern, Maori often not having the wherewithal to contribute.²⁰⁰ These authorities became even more concerned when it seemed Maori land would stay in Maori title and rates would therefore remain difficult to collect.

During the first World War the government had refused to consider the possibility of selling Maori land for rates because the ill feeling caused might impede the war effort.²⁰¹ After the War however, unpaid rates on Maori land quickly became a major political issue.²⁰² This intensified as local bodies suffered cash difficulties in the 1920s recession. The local bodies with the largest amounts of Maori land began campaigning for government to take measures to solve the unpaid rates problem. They agitated for the government to pay the rates and recoup the money through stamp duties, as had been done previously, but this was no longer government policy. As an alternative they wanted measures to enable Maori land to be more easily taken if rates were not paid. The rating issue also fed Pakeha opinion in such districts that idle and unproductive Maori land that was not paying rates should be 'brought in', by compulsory measures if necessary, and opened to general settlement.

The problem of unpaid rates on Maori land was especially noticeable in the Rohe Potae, intensified by the relatively large amount of leased Maori land in the district. The difficult

²⁰⁰ for more on rating of Maori land see Bennion, T, *Maori and Rating Law*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), July 1997

²⁰¹ memo, Herries to acting Prime Minister, 15 July 1918, MA 31/4

²⁰² eg MA series 31/5

country and then the 1920s recession had resulted in many leases being abandoned. The land reverted quickly and then cost more to bring into production again than Maori owners could afford. Even where the land was farmable, Maori owners often had difficulties in continuing to farm once a lease expired, as we have seen. The result was that land that had previously been farmed and paid rates was no longer doing so, and it was easy to blame Maori for this.

With the burden of rates moving from the occupier to the owners when the land was no longer leased, Maori owners were often unable, and sometimes unwilling, to pay. When local bodies found great difficulty in collecting unpaid rates on Maori land through legal means, they often instead felt obliged to write them off. To local bodies and Pakeha farmers the problem of Maori rates seemed indicative of all that was wrong with Maori title. Their response was to agitate for easier and more effective means of collecting outstanding rates on Maori land, and ultimately for the 'conversion' of Maori title to Crown land to solve the problem entirely.

King Country local bodies provided much of the drive in the 1920s behind campaigns to persuade government to act on the matter of unpaid rates on Maori land. These authorities, supported by local newspapers, argued that Maori were gaining from facilities such as roads but were not contributing to them. They asked government to pass measures whereby, if Maori did not pay rates, their land could be sold to meet the value of the unpaid rates. Maori in the King Country argued that not only were they unable to pay rates in most cases, but that they did not have to under the Rohe Potae compact. They also argued that since the government had taken their land without compensation for roads and the railway, this was contribution enough.

As in other districts, the argument often became bitter and circular, with Maori claiming that their communities were badly served by roads and other facilities; and local bodies claiming they could not provide such services until rates were paid. It seems apparent from file documents that many local bodies of this time were reluctant to deal directly with Maori over these issues, preferring to apply pressure on the Crown to deal with them. They would claim that they did not wish injustice to Maori, and supported efforts to make Maori good farmers, but they made it clear that they thought the continued survival of Maori title was against the best interests of both Maori and Pakeha.

There were a number of local body conferences and deputations to government on unpaid rates in the 1920s. Many of these were organised or instigated by King Country local bodies. In 1923, for example, Waitomo County Council, Te Kuiti Borough Council and Te Kuiti Chamber of Commerce arranged a three day parliamentary tour of the King Country to show 15 Members of Parliament the problem of unpaid rates on Maori land first hand. The tour concluded with a conference where the problems were discussed.

Speakers claimed that they did not want injustice done to Maori, but they vehemently opposed the 'barbarian' nature of traditional Maori ownership and the 'bar' it provided to closer settlement. There were calls to take Maori land off Maori Land Boards and have it made Crown land. The Councils wanted more effective machinery for collecting rates on Maori land, arguing that they needed money to pay for roading in the King Country. There were also calls for the cost of fencing to be paid by taking Maori land, as was done for surveys. The councils blamed the fact that many Pakeha lessees of Maori land were struggling on high valuations and other difficulties with leases. One speaker, an ex-mayor, described the district's problems as a form of 'nativitis'.²⁰³

Ngata offered the possibility of practical assistance on unpaid rates in return for recognition that if Maori were able to farm they would in future have enough income to pay rates. He suggested to a 1923 deputation that included representatives from Waitomo, Taumarunui, Kawhia and Otorohanga Counties that immediate relief might be provided by a small departmental commission that could sort out problems in each district.

An experimental committee was established with Ngata as a member, and it began investigations in his own East Coast district. It found that, as Ngata had suspected, many local bodies were unaware of legal requirements concerning the rating of Maori land, and many of their claims concerning unpaid rates were therefore considerably inflated. The committee found that in the East Coast, for example, in one district about one quarter of the rates demanded were for customary land which was legally exempted from rates. Some of the land was clearly unproductive, moreover, and should not have been rated in any case. The Crown system of secretly purchasing undivided interests had also worked against rates

²⁰³ *Auckland Star* report of 4 May 1923, MA series 31/4

payment, as it undermined and prevented farming and caused much of the land to remain unproductive.²⁰⁴

The Native Land Rating Act was passed in 1924 to simplify collecting rates through the Native Land Court. Some Maori land was exempt from the 1924 Act but, in general, charges were to be registered against Maori land until rates were paid. The owners could not then deal with their land until rates were paid. Rents could be used to pay off rates, and under certain circumstances provision was made for the transfer of land to the Crown or a local body as payment for rates - although this was in the event rarely used.

The legislation was seen as ineffective by local bodies, which were apparently reluctant to become involved in Native Land Court procedures and had no confidence in Judges of the Court having the final decision on whether Maori should pay rates or not. Coates challenged a member of a deputation in 1925 as to whether his council had ever gone to the Native Land Court as provided for under the Act, and the member admitted it had not. Even the newly simplified procedures were considered 'altogether too much trouble', with the deputation indicating for example that it did not have confidence in Land Court judges.²⁰⁵

Local bodies continued to press for further action. Requests included the provision for liens on Maori lands for which rates were unpaid and the confiscation of a portion of those lands by the Crown if necessary.²⁰⁶ In August 1927 another local body conference was convened by the Te Kuiti Borough Council and Chamber of Commerce. Several King Country Maori attended, as did Judge MacCormick of the Land Court and Maori Land Board. The mayor of Te Kuiti, W V Broadfoot, stated that the present economic situation had made the burden of unpaid rates intolerable. The machinery to collect them for Maori land was so intricate, cumbersome and expensive, he claimed, that local bodies were writing most of them off. It was suggested that Maori land should be 'assumed' by the state and thrown open for settlement, as allegedly would happen to Europeans who could not pay their rates. There was a long discussion as to the best remedy: whether the means for collecting rates should be

²⁰⁴ Bennion, *Maori and Rating Law*, pp 50-52

²⁰⁵ report in *NZ Times*, 31 July 1925, of deputation from Taumarunui and Tauranga County Councils with resolution from 16 County Councils passed at meeting in Hamilton, 16 July 1925, MA 31/4

²⁰⁶ MA series 31/4

made easier or Maori land should be taken for rates. Judge MacCormick believed that the authorities could obtain charging orders for rates if they went to the Native Land Court, but local bodies remained apprehensive of the Court.

The meeting was reminded that Maori lacked opportunities to finance development of their lands. Maori representatives stated that their people felt they had already contributed the equivalent of rates through the low prices originally paid for their land, and failed to see why they should be blamed for weeds and pests when Europeans had brought them in the first place. Some did not mind the Crown taking over unused lands at a fair price, but if it became Crown land rates would not be paid anyway. Maori objected to paying rates on unoccupied land, and pointed to Crown land that was unoccupied which was not rated. The idea of land confiscation for rates was regarded as intolerable.

The chairman cut short several Maori speakers who 'protracted' the discussion, and some left in protest. Eventually a motion was passed calling for the sale of land for unpaid rates, with the abolition of Ministerial power to veto this. An alternative resolution asked the government to take over idle lands at valuation price, and make them available for settlement. The government was also asked to pay rates for Maori land from the consolidated fund, since, being allegedly impossible to collect, they were a national burden. At the same time the meeting recognised that Maori had great difficulties financing development on and using their land, and recommended that they should be given the same facilities for land balloting, finance and supervision as European settlers.²⁰⁷

The agitation over Maori land and unpaid rates in the Rohe Potae caused great concern among Maori. A deputation from Ngati Maniapoto met with Coates and Sir Maui Pomare on 1 September 1927. The deputation presented a memorial to the Prime Minister and Native Minister in the wheelbarrow that was used to turn the first sod opening the railway through the Rohe Potae in 1885. On behalf of the Maori people of the Rohe Potae, it referred both to the visit of the Maori King and others to England in 1884 and the agreement of Ngati Maniapoto leaders concerning the railway. It expressed loyalty to the King and Empire and reminded the government of the Treaty of Waitangi.

²⁰⁷ report in *NZ Herald*, 26 August 1927, MA series 31/4

The memorial, of 22 August 1927, expressed great concern that local bodies sought to have Maori land taken for rates in contravention of the Treaty, and that indeed they appeared to regard the Treaty as a 'joke'. As well as the Treaty, the memorial relied on the promises made by John Ballance as reported in the *New Zealand Herald* of 8 February 1885. The memorial quoted the newspaper reporting the statements of Ballance on negotiations about the railway: Rohe Potae Maori did not object to roads and railways as such, but did object to land being rated on account of them; the land should not be rated while it was not used, only once it was cultivated, leased or sold. Ballance had stated that Maori were in no danger that land that was not used would be brought under the Rating Act.

The memorial went on to note that Ballance had assured Ngati Maniapoto that land required for the railway and roads would be paid for, and that Maori would be left to decide what they wanted to do with their own land. Premier Robert Stout had made similar assurances a few months later when the railway was opened at Puniu in April 1885. Ngati Maniapoto explained that they had cared for the wheelbarrow that was used that day, and were now using it again for the first time since the opening in order to convey the troubles that the railway had brought. They indicated that they hoped the troubles could be dealt with as speedily and successfully now as they had been by a previous Prime Minister at Puniu 42 years before.²⁰⁸

Coates replied that he did not understand the history of the problems referred to in the memorial, but that he did want to stick to the spirit of the agreement and accepted that it was his duty to do so. He pointed out, however, that circumstances had changed and he had to balance minority Maori rights against the demands of the majority. Nevertheless he promised that any government decisions would be arrived at with proper consideration of promises, agreements and understandings that were previously arrived at. He accepted that the government had a duty to act honourably and justly in this. At the same time, the government wished to see Maori participate in the country and gradually take on the responsibilities of citizenship. He asked Maori to keep his department informed about specific cases that might be affected by the agreement, and asked the deputation to take the wheelbarrow back in the knowledge that their interests would be very carefully watched 'and, I hope, safeguarded'.

²⁰⁸ notes of meeting with deputation, 1 September 1927, MA series 31/4

A deputation from local bodies also visited Coates in October 1927, to inform him of the recommendations of their August meeting. Ngata took the initiative in suggesting cooperation between the various agencies of government on the issue, and offered practical government assistance to the local bodies in the form of an immediate advance for unpaid rates so that a fresh start could be made. This must have appealed to cash-strapped local bodies. He also argued for consolidation in terms that were appealing to local authorities, explaining that it would make the land more economic for whoever settled it. If Maori did not settle on the land, then someone else would be found to do so. Consolidation would be carried out under government control, with schemes in all districts - beginning with the Bay of Islands and the King Country.²⁰⁹ These districts appear to have been chosen first because in them the rating issue was at its most prominent. They were also districts where the Crown was keen to consolidate its scattered interests to assist with future settlement.²¹⁰

Ngata later wrote privately to Peter Buck that the 'local bodies were demanding their pound of flesh on the theoretical basis of racial equality, whereas in practice the Maori was not regarded or treated as an equal and in the road services for which the unpaid rates were demanded large areas of Native lands were shamefully treated.' Charging orders were being obtained against poor country lands owned by Maori because Pakeha had picked the best, leaving only 'rubbish' which should not be rateable.

He explained that he had not conceded to the local bodies and had won a number of important undertakings from government: that consolidation schemes would be started, that the old stamp duty on alienations of Maori land would be written off to an equivalent of about £28,000, that the right to take up to five percent of Maori land for roads without compensation would be abolished ('the railways have been notorious offenders in this respect'), that there would be heavy remissions on old survey liens, and that £250,000 had been promised to assist Maori farmers. Ngata was fully aware that the rates problems had become an election issue in some seats and that Coates' reputation as Native Minister was at stake. The election would be held in late 1928 and it was critical that Reform held its three Maori seats if it was to

²⁰⁹ notes of deputation of October 1927, MA series 31/4

²¹⁰ Campbell, p 114, citing 1926 correspondence between the Commissioner and Under Secretary of Lands

survive. In the circumstances he was confident that 'One could bank on some influence being brought to bear on the local bodies'.²¹¹

Ngata and Coates informed parliament of their multiple solution to the problem of outstanding Maori rates in November 1927 when introducing what became the Native Land Amendment and Native Land Claims Adjustment Act. This legislation contained measures to further assist consolidation, such as a provision for the Crown to purchase land for consolidation schemes. Coates told the House that if the schemes could be started then 'we shall be able to satisfy the local bodies by giving power in this Bill by which these accumulated rates could be cleaned up.'²¹² He insisted that Maori be treated fairly, but once Maori were able to work the land then they would be expected to carry the usual responsibility of a ratepayer or an occupier of land - or lose the land to those who would.

Coates explained that a commission would be established to investigate Maori land - whether Maori were interested in working it and how it could best be consolidated. The districts investigated first would be the King Country, Bay of Plenty, Rotorua and North Auckland. Ngata believed that much of the land rated in the King Country was clearly unsuitable for production, the best land having been sold or leased and the remaining Maori land being barely marginal. He noted in the House that the local bodies of the district had to face the situation 'that rates have been levied and charging orders taken upon land which is unsuitable for settlement, which, if it had been in the hands of the Crown, could never have been brought into profitable settlement, and which, if owned by a European company, would have been foisted upon the Forestry Department a long time ago'.²¹³

The Consolidation Commission

The Native Lands Consolidation Commission was established in late 1927, headed by Ngata and tasked with inquiring into the consolidation of Maori land. The commission did not have

²¹¹ Ngata to Buck, 9 February 1928, Sorrenson, M P K, (ed) *Na To Hoa Aroha, From Your Dear Friend: The correspondence between Sir Apirana Ngata and Sir Peter Buck 1925 - 50*, (3 vols), Auckland University Press, Auckland, 1986, vol 1, pp 68-72

²¹² Coates, NZPD, 1927, p 537

²¹³ Ngata, NZPD, 1927, p 543

statutory recognition but was personally backed by Coates. Ngata assembled together staff he believed could implement the schemes, and chose the Jones brothers, Pei and Michael, to assist with the King Country. The commission usually approached local bodies and Maori separately, and consolidation was presented to each as a means of solving the problems of unpaid rates and survey liens and creating a means whereby such problems would not arise again in future. Local bodies were persuaded that Maori land, once consolidated, would be more easily identified and made economically viable, rateable and saleable. Maori were offered the opportunity to make an income to pay rates and to retain their land.

Ngata was careful to make sure other government departments were supportive, or at least not hostile, to consolidations and development schemes. In March 1928 he held a conference in Auckland that was attended by the Ministers of Lands and Public Works, officials of the North and South Auckland offices of Lands and Survey, and Ngata and Tau Henare MP representing the Native Department. Ngata argued persuasively that the Maori Land Court had caused many of the problems by fragmenting title: owners were unable to use land properly, and it was expensive and difficult for the Crown to acquire lands for settlement. These problems could be overcome by consolidation, which would be helped by the remission of old survey charges - a remission that would prove less expensive to the Crown in the long run. The conference recommended that with regard to outstanding survey liens, the interest and two thirds of the principal should be written off, the remaining one third to be taken in awards to the Crown.²¹⁴

The members of the lands consolidation commission for the King Country area comprised Sir Maui Pomare, Sir Apirana Ngata and Mr Tau Henare MP; and Messrs Balneavis (the private secretary to the Native Minister), P H Jones (officer in charge of the King Country consolidation scheme), Darby (of the Lands and Survey office) and Cahill (of the Waikato-Maniapoto Maori Land Board). The Native Minister had required the Native Land Court to prepare a consolidation scheme of interests in Maori lands 'in the Rohe Potae, or King Country, district' by direction of 23 March 1928.²¹⁵ Ngata was under no illusions about the

²¹⁴ Campbell, p 95, citing correspondence in MA1, 25/1/1

²¹⁵ report on King Country consolidations scheme at Te Kuiti conference of April 1928, MA series 31/4

work required and believed that the King Country's would be the 'most difficult consolidation scheme of all'.²¹⁶

The land consolidation commission began work in the region in April 1928, seeking the cooperation of Ngati Maniapoto first and intending to meet with local bodies shortly afterwards. Outstanding rates in the district to the end of March 1928 were shown in schedules prepared by local bodies as £52,292. They were expected to reach some £75,396 by 31 March 1930. The commission had secured a promise from government to substantially cancel survey liens totalling some £21,763.²¹⁷ It intended to seek a lump sum compromise with the local bodies. The overall totals probably need to be treated as round figures or estimates only: there are a number of versions in official records, all different. For example, a later published report recorded outstanding rates in the King Country as being expected to reach £63,941 by 31 March 1930, with the government promising to substantially cancel survey liens totalling nearly £20,000.²¹⁸

The commission held its first sitting on 12 April 1928 at the meeting house Te Tokanganui-a-Noho at Te Kuiti.²¹⁹ According to official notes, the sitting was attended by a very large and representative number of Maori with interests in the Rohe Potae. The commission reminded the meeting that King Country local bodies had taken a leading part in agitation about unpaid rates, and that many had obtained charging orders and were now pressing for vesting orders. It was proposed to suggest a lump-sum compromise to local bodies: outstanding rates would be dealt with on the basis of 25 percent of rates outstanding, plus two years to take it to the end of March 1930. The Crown would pay this immediately from the Native Land Settlement Account and would later be reimbursed in land.²²⁰

The commission also informed the meeting that it had negotiated a large remittance in the survey liens due in the district from the government, but there was still a shortfall of some £5,000 and the Crown would accept the equivalent in land. The commission sought the

²¹⁶ Ngata memo, 21 March 1928, MA series 31/4

²¹⁷ notes of meeting re King Country consolidation scheme, MA series 31/4

²¹⁸ AJHR, 1932, G-10, p 17

²¹⁹ report on meeting of 12 April 1928, MA series 31/4

²²⁰ file notes of meeting of 12 April 1928, MA series 31/4

mandate of the meeting for these proposals while making it clear that the proposals could not be effected unless a consolidation scheme was accepted. The meeting had limited time to consider this, as the commission had made arrangements to meet the local bodies in the next and following days.

File notes show that many Maori attending the meeting were opposed to paying rates at all, citing the promise made by Ballance in 1885 and the argument that any rates had been paid for already in land taken without compensation for roads and railways. There were other grievances, including claims that local bodies had discriminated against Maori in providing roading even where, as in Te Kuiti borough, Maori were paying rates; or matters concerning the administration of vested lands and the problems of abandoned leases where the liability for unpaid rates had fallen to the Maori owners.²²¹

The commission responded by pointing out that Ballance had only agreed that unproductive land should not be rated, and that consolidation would offer a means by which unproductive land could be identified and exempted. The commissioners argued that the legislation that enabled up to five percent of Maori land to be taken for roads had applied to the whole country, not just the King Country, and noted that in any case it had been removed last session. The commissioners suggested that many of the grievances mentioned might be met by consolidation: survey liens, for example, could not be addressed without it. Sir Apirana Ngata and Sir Maui Pomare warned the meeting that there was only a limited time to decide and the opportunity, if lost, might not be available again.

The meeting selected a committee to discuss the matter further and report back and it met for most of the night. Reporting back in the morning the committee proposed to pay half the rates but only on certain lands, while outstanding rates should be completely remitted. Ngata later wrote to Buck that Ngati Maniapoto, true to its traditions, had put up a stubborn fight. 'The fight raged the whole of one day and the greater part of a night, at the end of which they conceded that in future they would pay half rates, but that outstanding rates should be paid by the government.' Ngata believed this was 'a great concession judged in the light of past tradition and history!' He explained that he had appealed to the more 'forward looking'

²²¹ report of meeting of 12 April 1928, MA series 31/4

younger people, who grasped the situation, and empowered them to compromise with the local bodies.²²²

The committee also asked for an annual sum of £1,500 as compensation for ending the 1885 agreement, in line with recent lakes agreements with Ngati Tuwharetoa and Te Arawa. Ngata asked the committee to reconsider and bring back a recommendation closer to the mandate the commission asked for with respect to remitting rates for a lump sum. The committee met again and finally recommended support for the Crown proposals, agreeing to a compromise of £13,000 to settle the outstanding rates with eight local authorities.

The commission met with the Waitomo County Council within a few hours of ending the meeting with Ngati Maniapoto. Ngata put forward the proposed rates compromise and proposals for consolidation. The compromise lump sum offered to Waitomo was £7,000 for unpaid rates estimated to be worth about £25,000 by 1930, of which the County had only managed to collect about £1,500 of this itself to the end of March 1927. The commission proposed similar compromises with the remaining local bodies in the district. Most amounts were calculated to the end of 1930 as Ngata believed it would take two years to complete the consolidations. After this time, he believed, Maori would have secure title and be in a position to pay rates.²²³

The local bodies were by no means totally convinced they were making a good deal. They had an immediate lump-sum offer which they had little hope of collecting themselves, but no real guarantee for the future. In the end however the offer of a concrete proposal was too tempting. Members of Te Kuiti Borough Council ruefully acknowledged Sir Apirana Ngata's political ability and admitted that his persuasive oratory had won the day.²²⁴ Other local bodies of the district eventually agreed to similar compromises.

In round terms Ngata believed the final compromise sum for the district was around £16,000, to be recouped by the Crown in land. In return the commission had gained two years respite and removed outstanding demands of about £75,000. Later departmental records show that

²²² Ngata to Buck, 6 May 1928, in Sorrenson (ed.), vol 1, p 85

²²³ *King Country Chronicle* reports of 14 and 17 April 1928, MA series 31/4

²²⁴ report of Te Kuiti Borough discussions in *King Country Chronicle*, 17 April 1928, MA series 31/4

the actual rates compromise sum turned out to be £15,420, to which was added £39 of Maori Land Board costs (for paying the sum to the local bodies) and £1,332 which local bodies claimed they had incurred in costs in earlier attempts to recover rates (and which Cabinet had agreed should be reimbursed to them). This made a total of £16,791 to which was added £159 for 'contingencies', making a total of £16,950 to be recovered in land awarded to the Crown.²²⁵

Large scale land development

As seen, Ngata had already become influential in government policy on Maori land because of his relationship with Coates, even though he was technically an opposition Member of Parliament. The political situation changed in late 1928 when the Reform government lost office. Ngata was made Native Minister in the new government but he felt a little ambivalent about this. He confided that he felt more confident about his effectiveness with Coates as a shield in order to be able 'to get away with so much and cause least resentment from Pakeha'.²²⁶ On the other hand, as Minister he had potentially more scope to work on his grand vision for Maori land development. The Native Land Amendment Act 1928 had been passed with his assistance but it only provided for a limited scheme of development where the funds of the district Maori Land Boards could be used under Board control and direction to develop and settle small holdings for Maori in and around Maori communities. Ngata knew this would not provide sufficient powers for general Maori land development. He developed more comprehensive legislative backing for Maori land development with the Native Land Amendment and Native Land Claims Adjustment Act of 1929. This Act borrowed from the debate on land development generally; many returned soldiers having, encountered problems with farming undeveloped land in the 1920s recession. As a result of this experience, parliament had decided to begin developing Crown land before opening it for selection, and in his 1929 legislation Ngata applied a similar concept to Maori land development.

In short, the 1929 Act gave the Native Minister considerably more power to undertake consolidation and development schemes, including power to overcome delays and difficulties with titles and to ultimately authorise schemes. The type of land involved was widened. Any

²²⁵ memo re Waikato-Maniapoto consolidation scheme rates compromise, folio 45, MA1, 29/3

²²⁶ Ngata to Buck, 17 December 1928, in Sorrenson (ed.), vol 1, p 157

Maori land or land owned by Maori could now be vested in the Crown to carry out a development scheme, and this power could be exercised even if land was vested in a Maori Land Board or incorporation. In order to better effect schemes and overcome title problems the rights of owners were temporarily suspended while land was consolidated and developed. Once a scheme was notified the owners were prevented from interfering with development or privately alienating any of their land.

Ngata explained to Buck that the projected boundaries of the consolidation schemes were being made according to tribal or sub tribal boundaries. The liabilities for rates within the scheme were then assessed and paid according to the compromise achieved with local bodies. This amount was paid by the Native Land Purchase Board and squared off in land within the limits of the schemes, the local bodies having generally accepted about 20 percent of the rates due for the last three years and anticipated for the next two years.

The next step was that the land unfit for settlement such as watersheds or land under dense forest was handed to the Crown and therefore became exempt from local rates. Land that could not be made immediately revenue producing was also identified and negotiated as exempt. Arrangements were made with owners to discharge recognised tribal or communal debts, such as a parish debt, a debt on a tribal factory, a projected carved house, or a required contribution to roading. The final step was to delineate within the scheme the areas that would be occupied and have associated reserves declared, such as papakainga and firewood reserves. All this was carried out within tribal or hapu areas, which appealed to tribal sentiment and fostered Maori cooperation. Ngata was attempting to take iwi and hapu wishes into account when making consolidations.²²⁷

More research is required on the consolidation schemes in the Rohe Potae district. It is clear that, under Ngata, efforts were made to consult with hapū. However the claims of those who objected to proposed consolidations and/or who found that consolidations inevitably upset traditional ties with the land need to be investigated. In the King Country moreover there were greater opportunities for confusion than usual, given the complications of titles and leaseholds, making conclusions difficult. More research is also required into the extent to

²²⁷ Ngata to Buck, 22 May 1930, in Sorrenson (ed.), vol 2, pp 29-30

which rents controlled by the Maori Land Board could have been used to pay off Crown charges, instead of awards being made in land. There are on record later complaints that the original consolidation process in the district had proved unjust. One file complaint is from Thomas Hetet, one of the young progressive Ngati Maniapoto identified by Ngata and employed as an official to assist with implementing the consolidation schemes. He later claimed he always made Crown awards into charges against the land, which presumably retained the possibility that they could be paid off and the land retained. However he had discovered that in some cases in the district the Crown was simply awarded land to cover survey charges. This indicates a certain confusion as to how the policy of land for charges would be implemented. Hetet also complained that when special valuations of land were made for the purpose of settling charges and implementing consolidations, valuations were based on land value only and did not take timber into account. This had later caused injustice and Hetet cited a case in 1955 where the Crown was applying for a partition in order to sell the timber on land that had been awarded for charges. Hetet claimed that for fees and interest worth about £108 the Crown had received timber that was now worth at least £5000. In addition, when owners attempted to object against decisions they found there was no provision for appeal against a consolidation order.

Officials responded to Hetet's complaints by claiming that many charges in the district had been settled in land. In addition, the Valuation Department did not generally value timber but where there was millable timber on a block the valuation certificate was endorsed as such. The certificate for the award Hetet was complaining of had not been endorsed so they assumed that there could have been no bush of any commercial value on it at the time. Officials claimed that in the intervening years the bush may have grown to quality timber, as had happened in other parts of the district.²²⁸ No further action appears to have been taken indicating that Hetet's complaint was felt to have little validity. However this does indicate how the procedures and bureaucracy surrounding the implementation of consolidations could overwhelm and confuse even those who had willingly taken part in the process.

The land situation in the King Country meant that the consolidation process in the district was particularly complicated, time consuming and expensive, much as Ngata had anticipated.

²²⁸ correspondence of March 1955, MA1, 29/3

Officials found that extensive leaseholds in particular caused problems, backlogs and complications with title. A major source of delay turned out to be abandoned leases which required the payment of fees and various legal requirements before they could be tidied up. The fees presumably became a further charge on the land. Ngata wrote to Buck in 1929 that special provisions were being made to deal with the more urgent phases of Maori leasehold problems in the King Country. He had committed himself to three months work with Judge MacCormick to sort out which lands in the district should revert to Maori farming, which should be adjusted as to rents and compensation, and which the Crown should acquire for tenants or for general settlement.²²⁹

Ngata had always known that there would be considerable opposition to Crown-controlled consolidation and development schemes from many Maori, especially in the Rohe Potae. Many owners were deeply suspicious of Crown motives, and resented the fact that consolidations could upset direct relationships with ancestral lands. Another possible result of land development schemes was the destruction of traditional methods of living and of some resources through, for example, the necessity for drainage and bush clearing to provide land suitable for farming. Ngata worked hard to impress Maori that there were benefits that outweighed such factors, citing the success of schemes he had fostered on the East Coast.

Ngata also expected opposition from many departmental officials, particularly those in Treasury and in the Public Works and Lands Departments. He found excessive procedures and regulations frustrating, believing many of these took no account of Maori needs, and that official insistence on Pakeha supervision of schemes was unnecessary. Some schemes were delayed because the cost of surveying the boundaries was often more than the lands were worth.²³⁰

In November 1930 Ngata held a conference between the Native, Lands and Finance Departments on the issue of remission of survey costs and future policy on the subdivision and survey of Maori lands. He found this very helpful in educating the two 'Pakeha' departments. He explained to Buck that he felt the cooperation and understanding achieved as a result was worth at least as much as the write off of monies involved in the schemes. The

²²⁹ Ngata to Buck of 2 October 1929, in Sorrenson (ed.), vol 1, p 250

²³⁰ AJHR, 1930, G-9, p 2

Lands Department had also agreed to accept hill tops, forest lands and sand dunes in land awards - lands unfit for settlement, but still assets for the Crown. It had also been agreed that consolidations were necessary before development schemes could proceed, and Treasury had undertaken to take a paper loss as a good investment in Maori farming.²³¹

In the event, consolidations in the King Country took much longer than the two years Ngata had anticipated, and the process was - among other things - continually being undone by Court procedures such as succession orders. More research is required into the role of the Native Land Court in consolidations. It seems that the increased workload, as the Court and the Maori Land Boards were effectively combined, had an impact on the amount of work that could be done. Official records show that lack of staff was a major problem in completing consolidations in the King Country, as noted in an internal memo in 1935.²³²

A Maori Land Board report of 1940 was however optimistic.²³³ The Board noted that the main groundwork for consolidations was being completed, and necessary surveys and final orders were being made wherever possible. It described considerable progress with consolidations of Crown and Maori areas at Waimiha, for which it was hoped to shortly place a final scheme before the Court for submission to the Native Minister. The Native Land Court had also been arranging exchanges between owners to improve holdings.

But the pace of consolidations slowed considerably during wartime, as might be expected. After the War, the government followed a policy where land development for the 'national good' took priority over completing consolidations in the interests of owners, and consolidations fell further behind.²³⁴ A 1952 report recorded little progress with consolidations in the Waikato-Maniapoto district. Some work had started again in the early 1950s but 'No data has ever been prepared or compiled for some parts of the District'.²³⁵

²³¹ Ngata to Buck of 17 November 1930, in Sorrenson (ed.), vol 3, p 80

²³² memo of 28 June 1935, MA1, 29/3

²³³ AJHR, 1940, G-9

²³⁴ Gould, A, *Maori Land Development 1929-1954; An introductory overview with representative case studies* by Graham Owen and Dion Tuuta, Crown Forestry Rental Trust, Wellington, 1996, p 42

²³⁵ memo 8 April 1952, consolidation officer to Judge, Maori Land Board, MA1, 29/3

In the meantime, Ngata pushed on with land development schemes after only preliminary work with consolidations. This appears to have mainly involved the identification of suitable land and the settlement of Crown charges. Ngata left the process of fully completing consolidations to carry on parallel with land development, although he clearly never expected it to drag on for as long as it did. This appeared to be a sensible approach at the time, for he was well aware he had to take the initiative and show successfully operating schemes as soon as possible. He only had a two year reprieve from rates, and lack of success would renew calls for compulsory measures to dispose of Maori land.

He did not need to wait for titles to be fully completed but could simply declare identified land to be vested in the Crown for Maori land development purposes. As previously noted, Ngata's system was based on identifying suitable land, with boundaries based on hapu or iwi ownership. Hapu and iwi were consulted in a traditional way on principal marae. This preserved hapu authority, took account of local leaders, achieved some compromise regarding the wishes of local people and avoided the process of identifying individual legal owners. Once consent was obtained, Ngata had the land declared vested for land development, again avoiding problems with title.

Establishment of the King Country Schemes

Maori land development schemes do not appear to have been started in the King Country until 1930, partly because of early problems with consolidations and the relatively small amount of good land available for development. The best lands in the King Country had already been vested in the Maori Land Board and leased to Europeans. The rest was mainly coastal sandhills, pumice plains, central ranges and 'sick' and suspect country, leaving only a comparatively small area of good land available for the settlement of what was by now a quickly growing Maori population in the district.²³⁶ Development schemes would inevitably, then, largely be located on difficult, marginal land.

Ngata was fully aware of the great deal of suspicion in the district at any scheme in which Maori owners lost control of their lands to the Crown. He noted in May 1930 that there had

²³⁶ AJHR, 1932, G-7

been no start to schemes in Kawhia because of the 'conservative' Kingite attitude of the people. He was however hopeful that the Waimiha scheme would convince others in the wider district, writing to Buck that he was depending on it 'to convince Ngati Maniapoto of our bona fides'.²³⁷ Ngata apparently visited this area and helped with negotiations with the local people for the commencement of the scheme, authorised by Cabinet in April 1930 with an outlay of £1,000 for preliminary expenditure. The scheme was located about two miles from Waimiha railway station, mid way between Te Kuiti and Taumarunui. Work on the approximately 7,872 acre scheme began in May 1930.²³⁸

Ngata had been careful in his choice of officials for the district choosing young progressive Maniapoto men Michael and Pei Jones. In turn these officials knew which elders to consult with and possibly coopt in order to overcome general suspicion in the district. Negotiations began on the proposed Mahoenui scheme of about 6022 acres in May and June 1930, for example. The scheme was located roughly 30 miles south of Te Kuiti on the main Te Kuiti-New Plymouth road. The first meeting called by departmental officers was poorly attended and another meeting had to be called. This time the official in charge, Pei Jones, persuaded Pepene Eketone an elder with much influence in the district, to attend, and it was Eketone's support for the scheme that eventually persuaded the owners. They remained cautious about the scheme, however, and insisted workers had to be chosen from among owners. Various blocks were gazetted as part of the scheme, and alienations prohibited, and work began in July 1930.

Difficulties quickly arose over problems with some of the blocks that were included. Some were owned by the Crown but were felt necessary to the overall scheme, and this caused difficulties at a later stage. Others were actually found to have been subject to lease or sale arrangements. Some owners were allowed to be excluded, while others whose land was located in areas necessary to the scheme had their land included in spite of their opposition. Various blocks of land were added to or excluded from the scheme in subsequent years as seemed appropriate. In general the overall requirements of land development were given first priority.²³⁹

²³⁷ Ngata to Buck, 22 May 1930, in Sorrenson (ed.), vol 2, p 28

²³⁸ file documents, Accn 1369, no 113, box 35

²³⁹ file documents, AAMK, 869/1494b, and AAMK 869/1493e

There were also problems with supervision of workers. The schemes in the Maniapoto district in general reportedly suffered from the poor supervision of one of the field officers, C M Wright, although what was said to be his overbearing attitude eventually became intolerable even to the Department and his services were terminated. However in the meantime many of the schemes suffered poor management and lost the confidence of owners.²⁴⁰ In 1935 when Ngata visited the development schemes, the Mahoenui owners asked for consolidation to be given more urgency; they complained about poor supervision of the scheme, non payments for work, poor accommodation and lack of access to parts of the project. They also wanted owners to be given first choice when work was available.²⁴¹

The economic depression of the 1930s changed the attitude of many Maori to the schemes, especially when Ngata was able to use unemployment funds to pay labour on the larger ones. Ngata wrote to Buck in 1931 that the Kawhia and Ngati Maniapoto people 'who would not look at the development schemes last Spring are being driven to ask for them'.²⁴² By the 1930s, Ngata's schemes were coming under increasing pressure from Pakeha and he prepared for a bitter battle to gain resources for the schemes, when parliament opened again in 1931. However his feeling that the Maori position was pretty well safeguarded proved correct. He managed to get further unemployment funds that allowed more work in the King Country. He regarded the Waimiha and Mahoenui schemes as a trial of the 'obdurate Maniapoto material', and as a result of their success he had received requests for other schemes in the district.

Ngata had approved a start at Oparure and promised a scheme at Kawhia, although he was still cautious about schemes in the King Country - believing that local suspicion of government might mean a lack of commitment that would reflect badly on his schemes as a whole. His doubts remained private, an admission to Buck - for example - that he was still hesitant about some of the King Country proposals. He had to face Treasury and did not want to go ahead with schemes he had concerns about.²⁴³

²⁴⁰ Accn 1369, no 114, box 35

²⁴¹ AAMK, 869/1494b

²⁴² Ngata to Buck, 8 March 1931, in Sorrenson (ed.), vol 2, p 119

²⁴³ Ngata to Buck, 15 May 1931, in Sorrenson (ed.), vol 2, pp 141-145

Officials shared his caution. When investigating land for schemes they were careful not to spread efforts too thinly or invest in areas where there was very little chance of success. They were, for example, reluctant to tackle schemes where there were still major title problems, poor access, or marginal land, or where owners were reluctant to be involved, such as with the Taharoa and Kinohaku blocks. With limited resources, they preferred to concentrate on areas where there were better chances of success.²⁴⁴ The Oparure development scheme, begun in 1931 on the request of several Ngati Maniapoto leaders, comprised about 439 acres divided into six units and was promising. Ngata hoped it would inspire more requests in the King Country.

Working on the consolidation of Maori land law, Ngata had generated the Native Land Act 1931 which brought together all the previous piecemeal provisions concerning consolidations and development. At the same time he took the opportunity to reorganise the system of lending to Maori farmers. The Maori Land Board funds had been almost exhausted by land development, making it difficult for beneficiaries who wanted to withdraw their funds, and Ngata now hoped that amalgamation of the Native Trustee and the Native Department would help assist with financing Maori farmers.

The Act also contained provisions for overcoming title problems for land development schemes. Campbell has shown that some of the provisions concerning consolidation could undercut the interests of some owners, in the interests of the overall good of the scheme. For example, exchanges of interests still did not have to be made for the benefit of Maori owners, Maori could become landless through exchanges and interests exchanged did not have to be approximately equal. Money did not have to be paid to make the exchange equal and the consent of all Maori whose interest was to be exchanged was not necessary.²⁴⁵ It seems likely that a number of King Country Maori were adversely affected in such ways.

Maori land development schemes were applied differently according to the requirements of the land. There were two major types. The 'unit' system was applied where there were widely scattered small holdings. Departmental officers inspected holdings and each occupier or 'unit' was advanced funds and sometimes stock to improve the farm. The improvement

²⁴⁴ MA1, 48/2/3, accn w2490

²⁴⁵ Campbell, p 121

work for units was often unwaged and supervised by a field inspector. The other method was suited to large areas of unoccupied or partially occupied land. Substantial development was carried out by waged labour, generally but not always drawn from the pool of local owners. It was assumed that when sufficient improvements were made the land could be subdivided into smaller farms that Maori families could settle and farm.

The Maori occupier would be given a leasehold with the consent of the owners and the approval of the Maori Land Board (later, that of the Board of Native Affairs). Occupiers often initially worked for wages, and other income was used to pay off debts. It was assumed that eventually the occupier would take a long term lease or, if consolidation work was finished, perhaps receive a freehold title. Both unit and large schemes operated in the King Country district. Large development schemes such as Mahoenui and Waimiha absorbed relatively large numbers of workers, and smaller unit schemes were begun later at places like Waipipi and Pio Pio.

Ngata continued to work hard convincing Ministers, local members of parliament and government officials that the schemes were a worthwhile investment of government money, including taking them on tours. In such ways he managed to keep getting funding even with the onset of severe economic depression. In fact he took positive advantage of many features of the depression that might assist the schemes: land and materials were cheap, it was easier to get labour and there were fewer alternatives to working the land.²⁴⁶

In 1932 further discussions commenced about the possibility of schemes around Kawhia. The local people remained strongly supportive of the King movement and reluctant to trust government schemes, even under Ngata's persuasion. They appear to have been convinced both by Pei Jones' acknowledgement that negotiations required the participation of the Maori King, and the effects of the Depression. King Te Rata approved trying out the scheme and enthusiasm increased after this. Development schemes were begun around Aotea and Kawhia harbours.

²⁴⁶ Ngata to Buck, 17 November 1930, in Sorrenson (ed.), vol 2, pp 80-85

According to file notes, attempts were made on these schemes to include blocks where owners were supportive of the scheme and exclude those whose owners were opposed. However this was not always possible in practice, and some blocks had to be included because of their importance to the whole scheme regardless of the views of owners. Some blocks that were already being farmed were also included in the development scheme where they could not be realistically left out. There were problems when land used for firewood needed to be included, and problems with the location of reserves such as for papakainga. Nevertheless, at this time the Department seemingly tried hard to take account of local wishes and cooperated with Te Rata to ensure support for the schemes in principle.²⁴⁷

Once the development work began in Kawhia new problems had however become evident. Maori owners found it difficult to work with European supervisors who did not understand their views. There were problems with payment for work, language difficulties and other misunderstandings. When Ngata visited in 1935 the people explained that they preferred having Pei Jones as supervisor because he understood Maori ways and customs, he could speak and understand Maori and the people had confidence in him. They had not been happy with their first Pakeha supervisor and since the 1934 inquiry they had been given another one, but they did not have confidence in him either and language problems persisted.²⁴⁸

There were also difficulties with unemployment payments. Maori were being paid 8s per day while Pakeha got 10s per day: yet, they submitted, Maori living expenses were just as high as those for Europeans. They also felt they were discriminated against by local bodies who took on Pakeha in work gangs in preference to Maori.²⁴⁹ The issue of unemployment relief in local districts was a common cause of bitter feelings. There was antagonism from local authorities against employing Maori on roads, as they were not generally ratepayers. Moreover, as they were technically landowners there was general opposition to Maori getting relief. Ngata's use of unemployment funds to have Maori work on land development schemes on their own lands appears to have eased these tensions, even if it created some new ones.

²⁴⁷ see AAMK, 869/1491e

²⁴⁸ AAMK, 869/1491e

²⁴⁹ see AAMK, 869/1492a

The Te Kuiti scheme was authorised by Cabinet in July 1932. The property, some 617 acres located adjacent to Te Kuiti borough and previously known as the Somerville farm, had been returned to the Maori Land Board when the lessee defaulted on rents. When the development scheme was authorised, some £1,723 was paid to the Board as compensation. The farm was used as a base farm to supply stock to other development farms in the district, but when the Department took over, much of the land was found to have reverted while under lease and noxious weeds were a particular problem. Title problems with previous leases complicated matters and the land was also found to be much harder to farm than had been anticipated. No development work of any consequence could be carried out before 1933.²⁵⁰

Changes in the Development Schemes

Meanwhile, no new schemes were instituted for the time being due to the worsening economic situation and increasing criticism of Ngata's schemes. He put such opposition down to jealousy about the amount of money being spent on Maori in hard economic times. An attack on the schemes by the National Expenditure Committee focused on the amount of power held by the Native Minister. Ngata privately acknowledged that this was probably justified but felt that a form of benevolent despotism had been required to get the schemes going. He welcomed the Committee recommendation to place the Native Trust Office, East Coast Commissioner and Maori Land Boards within the Native Department. Ngata hoped that this would mean the state took over more of the financing of Maori land development instead of the burden falling on beneficiaries.²⁵¹ Ngata appears to have responded to newspaper and other attacks by continuing to focus on the positive aspects of the schemes, and continued to take government Ministers and others to visit the schemes. By now, in any case, the government was committed to providing some finance to the schemes already in operation or it would lose money already invested.

Ngata had already begun reorganising the administration of the schemes in the early 1930s in order to make them more efficient and overcome problems as they became apparent. For example, a Native Land Settlement Board was established in 1933 under the Native Land Amendment Act 1932. The new Board took over the functions of the former Native Land

²⁵⁰ AAMK, 869/1552e, and accn 1369, no 114, box 35

²⁵¹ Ngata to Buck of 17 September 1932, in Sorrenson (ed.), vol 3, pp 20-21

Purchase Board and the Native Trust Office Board. It was made up of representatives of various relevant departments and was intended to take over control of the management of the schemes to reduce the control vested in the Minister.

The administration of the schemes was also reorganised to make better use of staff and better organise documentation of the various projects. In the reorganisation, a King Country sub-district was created with Pei Jones as the field officer in charge. By 1933 Ngata had managed to have unemployment funds cover all labour costs on the big schemes so that they did not have to be charged to the land. Ngata wrote to Buck that in some schemes this meant in practice that workers were only given food, but the people worked because they had nothing else.²⁵² Success in obtaining extra funding resulted however in greater scrutiny of financial and audit procedures. While Ngata accepted reorganisation to overcome irregularities in field work and non-compliance with financial regulations, he wondered whether official obsession with efficiencies would lead to a loss of Maori confidence in the schemes.²⁵³

By this time, unpaid rates on Maori lands were beginning to become a political issue again. After Ngata's two year period of grace was up local bodies became increasingly concerned that the problem remained unresolved. In 1933 the government established an inquiry into the rating of Maori land, and the investigations included the King Country. In general, the inquiry found that there were considerable areas of Maori land that were of no rateable value, but considerable effort was still required to identify them and have them exempt from rates under the Rating Act of 1925. The inquiry found however that there were no reasonable grounds for Maori to refuse rates because of poor road access.

The Maori land development schemes were praised and it was suggested that more be brought into operation, but the inquiry criticised the tendency to treat such lands in the same manner as Crown lands that were being developed unrated. Instead, the inquiry believed, requiring rates to be paid on Maori development schemes would educate Maori in one of the 'first essentials of citizenship'. The inquiry recommended that at least fifty percent of the rates due

²⁵² Ngata to Buck of 2 October 1932, in Sorrenson (ed.), vol 3, p 48

²⁵³ Ngata to Buck of 27 November 1933, in Sorrenson (ed.), vol 3, p 119

should be made a charge on development land. It also recommended that means should be investigated of making it easier to collect unpaid rates on Maori land.²⁵⁴

In 1934 a staff member working in the administration of development schemes admitted falsifying vouchers. A commission of inquiry was set up to investigate the administration of the schemes. According to Ashley Gould, Ngata's enthusiasm for investment in land development as a mechanism to promote benefits beyond farming efficiency, such as unemployment relief, had aroused negative feelings in some parts of the Pakeha community, and this had helped lead to the inquiry. The delays in subdividing the larger farms into individual holdings were also an issue, with the 1934 commission of inquiry being especially concerned about the possibility of communalism developing in state schemes.²⁵⁵

Ngata decided to resign office in an effort to protect the future of the Maori land development schemes. His resignation took effect on 1 November 1934, although he continued working behind the scenes to bolster support for the schemes. In 1935, for example, he took Acting Native Minister Robert Masters on a tour of Waimiha, Mahoenui, Te Kuiti and Kawhia development schemes and felt that Masters had gained a favourable impression of them as a result.²⁵⁶

Ngata's Native Land Settlement Board was replaced in 1935 by a Board of Native Affairs. The new Board aimed to decentralise control of Maori land development schemes, and it was intended to proceed on similar lines to those of the Land Boards operating within the Department of Lands and Survey - although in practice control was not devolved to the same extent.²⁵⁷ The Native Land Amendment Act of 1936 endorsed Board control over the development of Maori land, including power to declare any Maori land subject to development and to decide who the occupier of a scheme would be. The ability to farm land became the most important qualification for an occupier and if no local Maori were able or willing then the Board had power to appoint a European occupier.

²⁵⁴ report on Rating of Native Land, AJHR, 1933, G-11

²⁵⁵ Gould, pp 35-37

²⁵⁶ Ngata to Buck of 31 May 1935, in Sorrenson (ed.) vol 3, p 184

²⁵⁷ Gould, p 45

Where it was considered that there were too many Maori owners to obtain the consent of all of them, it was possible to call a meeting of owners to pass a resolution to have land declared subject to development. The Department of Lands and Survey was also enabled to extend its own land development operations to Maori land or land owned by Maori, and charge development expenditure against the land. For the first time the Board was given power to pay revenue to beneficial owners whose lands were under development but received no direct benefit. But as Gould states, the Act continued the general trend for the schemes to concentrate on the development of land with the rights of owners a secondary matter.²⁵⁸

The nature of the supervision of the schemes also changed from the mid 1930s. Gould has pointed out that close supervision was the lot of most farmers in New Zealand at this time. Many Pakeha farmers had little equity in their properties and had to accept management decisions from their financial backers, who might be stock and station agents or state agencies. The state's close supervision of the Maori land development schemes was therefore not unusual. However under Ngata the schemes had used local or well respected leaders to work with Maori. He had also established a system of informal consultation that used traditional authority structures and respected local leadership, often working through informal local committees. Supervision from 1936 to the early 1950s was of quite a different nature with Maori having little input over the direction of land settlement and believing their interests were not being taken into account. From 1936 moreover, supervisory committees could be replaced by a single supervisor.²⁵⁹

The King Country schemes were reorganised along with those in the rest of New Zealand, and as land was developed new schemes were subdivided off. Work appears to have continued at a much slower pace after Ngata resigned. In 1936 it was recognised that there were comparatively large areas of land in the Maniapoto still to be developed compared with other districts.²⁶⁰ This may well have resulted from the depression and related circumstances, such as abandoned leases, together with the fact that the land was difficult to farm. There remained however large areas being improved at Waimiha and Mahoenui, and smaller 'units' being

²⁵⁸ Gould, p 54

²⁵⁹ Gould, pp 55-57

²⁶⁰ AJHR, 1936, G-10

assisted as well - such as the previously mentioned Waipipi and Pio Pio schemes.²⁶¹ The future for the region seemed more optimistic with the discovery by the late 1930s that cobalt could be applied to combat bush sickness.²⁶²

Official records of 1938 describe what was now the comprehensive Maniapoto development scheme as consisting of some 13,937 acres, supervised from Te Kuiti. It appears to have included most of the unit schemes including Kawhia, Pirongia-Kekepuku, Parawera-Tokanui, Wharepungu, Rangitoto, Otorohanga, Te Kuiti, Waitomo-Mangapu, Kinohaku, Pio Pio-Aria, Puketutu, Tiroa, Waimiha, Ongarue, Taringamutu, Mahoenui-Awakino, Ohura, Taumarunui and Mokau. Additionally, Mangaroa farm, Kopu farm, Ngahape farm, Te Kuiti base farm, Hangatiki base farm, Waimiha main scheme and Mahoenui main scheme remained under development.²⁶³ These were all recorded as King Country or Maniapoto schemes, although some may have been on the borders or partially outside the actual Rohe Potae (Aotea block).

During the later 1930s, the Maori land development schemes came under considerable pressure as departments negotiated government funding. In the end it seems to have been the need to protect money already invested in the schemes that ensured continued funding. In 1939 for example, Treasury attempted to reduce unemployment funding to the schemes, arguing that this could be done by in effect reducing the amount paid to otherwise unemployed Maori working on them. The rationale was still quite a common one at the time. Treasury claimed that Maori could be paid less because they did not need as much as Pakeha. In fact 'to give Maoris similar wages to Europeans is, in general, not equal treatment but discrimination in favour of the Maoris'. Treasury continued: 'The great body of the Maoris do not pay rent and have not, until perhaps recently, worn such expensive clothes or maintained such a high standard in other living items as has always been the case with Europeans. Possibly, also, Maoris are not so fully endowed with perseverance and other virtues of a good farmer as to warrant so much capital outlay on their behalf'. Treasury officials accepted that it was no doubt 'inadvisable' to announce a straightout reduction, but believed the Native Department could exercise 'discretion' in regard to present rates and

²⁶¹ Reports on land development schemes, AJHR, 1937-8, G-10

²⁶² AJHR, 1939, G-9

²⁶³ AAMK, 869/1390b

working periods - and in any case preferred unemployment funding to be moved more to local body schemes.²⁶⁴

The Secretary for Native Affairs countered that there was very little difference in standards between Maori and Pakeha by then and that any reduction would therefore need to be a matter for government policy. His Department was also unlikely to achieve much saving by manipulating stand-down times as suggested, as unemployment rates were commonly only paid for part of the year, most Maori going off the rates for a few months each year to undertake seasonal work. The Department argued that the money would be better spent on Maori development schemes than local body schemes, as the former were more productive. The unemployment funds prevented the cost of labour becoming an unsustainable charge on the land. If insufficient money was put in to keep up the schemes, moreover, they would go backward and the government would lose money already invested. It is this argument that seems to have convinced the government, and the Native Department managed to secure the unemployment funds required.²⁶⁵

In 1940 the Board of Native Affairs reported that approximately one quarter of the Maori population of New Zealand was being supported on land development schemes.²⁶⁶ In the King Country, the Te Kuiti scheme of 618 acres was now considered fully developed and was paying full rates. It employed three farm labourers and their nine dependants. The various schemes within the Maniapoto comprehensive scheme (including Kawhia, Pirongia, Ngahape, Waitomo, Oparure and Pio Pio), comprising some 15,616 acres, had seen approximately 9,427 acres developed. They supported 84 settlers, 129 subsidised workers and 624 dependants.

In the Mangaora (Kawhia) scheme some 500 acres out of 742 acres were considered developed and in Mahoenui the figure was some 5,050 acres out of 5,288 acres. The Waimiha scheme of 7,494 acres had 3,300 acres under development and it employed two staff (a foreman and a stockman), 21 labourers, and 85 dependants. The Native Trust also had a farm under development in the district by this time, named Tawanui and located about 30

²⁶⁴ memo from Secretary to Treasury to Minister of Finance, 28 April 1939, MA series 31/15

²⁶⁵ memo Under Secretary Native Department to Minister of Finance, 26 May 1939, MA series 31/15

²⁶⁶ AJHR, 1940, G-10

miles from Te Kuiti. It contained about 916 acres of which 826 acres were developed, employing one foreman and seven labourers and supporting 32 dependants.

In its 1941 report, the Board recognised that land settlement could not provide for all of the growing Maori population but it continued to see the land development schemes as the foundation of the future well being and security of the Maori race.²⁶⁷ New schemes were still being established in the district. The report noted the recently gazetted Arapae scheme (about 21 miles from Te Kuiti and five miles from Pio Pio) containing some 1,448 acres. The Ngutunui scheme (about 17 miles west of Te Awamutu) was also described as a new project (although formerly part of the Pirongia scheme). The Board expected further areas in the Waimiha scheme to be ready for subdivision soon and was considering the possibility of some 20 farms for Maori returned servicemen. ²⁶⁸

In spite of departmental optimism, development work appears to have slowed during the Second World War. Much of this was caused by shortages of labour and materials such as fertiliser and fence posts. King Country lands reverted quickly, and some work of previous years was lost. It had also become clear by this time that farming circumstances had changed. It was realised that many of the large and difficult stations in the King Country would never be able to be subdivided into smaller viable economic farms. In addition, the type of farming meant that once developed, many of the large farms would never require more than a few hands, plus some casual work, to run them. The problems of trying to develop what was essentially marginal land also became more apparent. Most owners would therefore not be able to live and work on their land when it was developed and would have to seek a livelihood elsewhere.

The Labour government, in particular, considered that it was essential for the 'common good' that as much land as possible was made productive. The needs of occupiers and the rights of owners had therefore been considered subordinate to the needs of the community as a whole. A general disinclination on the part of officials to pursue the difficult task of consolidation was reinforced by the government's willingness to let consolidation languish in the pursuit of

²⁶⁷ AJHR, 1941, G-10, p 6

²⁶⁸ AJHR, 1941, G-10

development of what was often essentially marginal land.²⁶⁹ Orange has described the Labour government's focus on the schemes as a means by which Maori could be assisted to improve economically and become self supporting. But in the process, Ngata was squeezed out, Maori lost their direct connection with decision making, and the original carefully chosen staff were often replaced by those who had little empathy with Maori people.²⁷⁰

Post-War Developments

In the late 1940s, the government acknowledged that there had previously been few formal agreements between occupiers and owners. In future, it would be arranged that the schemes would eventually lead to subdivision into economic farms with secure tenure of leases of 21 years, with a right of renewal for a further 21 years and compensation of 75 percent of improvements. The Board of Maori Affairs was to preserve the owners' equity in the land, settle occupiers with finance to purchase the value of improvements and pay rentals to the owners based on five percent of the unimproved value from the time the scheme began earning a profit. It was also recognised by this time that as the costs of development were loaded onto the lands, the time might well come when owners could lose all their equity in the land. The government therefore undertook that the owners' equity would be decided as at the date of beginning the development, and that amount would be protected regardless of development costs.

After the war, there was a renewed campaign in the King Country against Maori title. The agitation was led again by local bodies and groups representing Pakeha farmers in the district. The consolidation process had not been reforming title as quickly as Ngata had hoped. As a result, arrears in uncollected rates had begun to accumulate again. More research is required as to how rates on Maori land were calculated by this time, although it does seem that Ngata's initiative in seeking compromises was allowed to lapse after the initial round. Certainly, the issue of rates was again linked to what was seen as idle and unutilised Maori land.

²⁶⁹ Gould, p 34

²⁷⁰ Orange, C, 'A Kind of Equality: Labour and the Maori People, 1935-1949', MA thesis, University of Auckland, 1977, pp 75-77

In addition the legislative requirement that leases of vested land should return to Maori owners by November 1957 added momentum to agitation. It was still widely believed that the difficult farming country in the district could be made highly productive but only if it were farmed by Pakeha. The evidence of this was seen to be in formerly productive land under lease reverting and becoming unproductive once it returned to Maori control. The possibility of large amounts of leasehold reverting to Maori, and then becoming incapable of paying rates, was considered an outrage. In addition, the need for farms for returned servicemen seemed an ideal opportunity to develop unutilised Maori land as well as solve the unpaid rates problem. It was a small step to go on to argue that it was in the 'national interest' to have Maori land made available to Pakeha farmers.

In 1948, for example, the Te Kuiti Chamber of Commerce wrote to the Minister of Lands concerning land for returned servicemen. The Chamber drew attention to the unoccupied and unfarmed Maori land in the district. It claimed that in Waitomo County there were thousands of acres of undeveloped and unoccupied Maori land and a 'considerable proportion' of this was of excellent quality. Some was in production, but when leases fell in, Maori had allegedly refused to renew them and the land had reverted. Waitomo Council had to write off about £5,500 in unpaid rates on Maori land each year. The Chamber wanted a 'vigorous and definite policy' for bringing such lands into production. Federated Farmers of New Zealand also asked the government to extend the compulsory provisions in the Servicemen's Settlement and Land Sales Act 1943 to unfarmed Maori land.

By this time, official attitudes were changing, and the government was difficult to persuade. The Minister of Maori Affairs replied that it was now Crown policy to place servicemen on farms that were already fully or partially developed. This was to ensure the men had a fair chance of success and that investment was spent most wisely. The great bulk of all unfarmed lands were undeveloped or reverted, and in many cases marginal; while these lands should eventually be made productive, with shortages of labour and materials it was better to concentrate on existing farms. The government was not now willing to contemplate wholesale compulsory measures against Maori land: it could not undertake largescale acquisition of such lands in the face of the guarantees in the Treaty of Waitangi. The Minister noted that the government, through the Board of Maori Affairs, had already developed

considerable areas of Maori land and intended continuing that policy. The recent limitations on such work had been due to shortages of materials and labour.²⁷¹

Considerable post war lessee pressure on government to either make the Maori leases perpetual or have them freeholded continued however. This was supported by local bodies concerned with making rates collection easier. As leases came closer to expiry, many lessees allowed their properties to run down - claiming they had little incentive to continue maintenance, especially when they felt improvements would not be adequately compensated. When leases did expire, Maori owners now had the option of having the land made part of a development scheme. This created conflict with lessees wanting to be able to keep control of the land on more favourable terms - and who regarded government officials as supporting Maori against them.

Lessees and their supporters claimed that keeping farms in Pakeha hands was in the national interest as only by doing so could the government be assured the farms would be productive. It would be unfair to the country for lessees to have to hand the land back to its owners. Where European farmed lands were not doing well this was argued as resulting from leasehold problems rather than from the ability of the farmers. Unutilised Maori land became an issue in the 1949 general election, and many newspapers around the country called on the government to consider the 'national interest' in dealing with the lands. They carried many examples of well run farms that were allegedly threatened with reversion when leases expired and control returned to Maori.²⁷²

It appears from official records that many of these matters were diligently followed up. More research is required on how the government balanced pressure from lessees with its commitment to develop Maori land for its owners, but a brief search indicates that the Maori Affairs Department did attempt to investigate many expiring leases with a view to having them included in Maori land development schemes. When the department investigated expired leases however, it often found the land had been allowed to revert to the point where

²⁷¹ correspondence between Minister of Maori Affairs and Federated Farmers, February 1949, MA1, 48/2/3, w2490

²⁷² correspondence and newspaper cuttings, MA1, 48/2/2, w 2490

it was virtually unimproved.²⁷³ The cost of upgrading was often not considered worth the investment.²⁷⁴

Such investigations formed part of a departmental effort to make new progress with schemes after the Second World War, including those in the Rohe Potae. In 1949 officials reported on investigations of idle or unoccupied lands in the King Country that might be made available for development. The new Arapae development scheme near Te Kuiti contained some 1450 acres and studies were being made of the Trooper's Road area. Officials felt that if machinery and other material were made available these areas could constitute a renewal of the active policy of land development interrupted by the war. There were still great difficulties in getting some materials - for example, fence posts. It is clear from this report that the department was considering discussing the possibility of development schemes with owners as leases in the district expired.²⁷⁵

In 1950 representations from chairmen of the Waitomo, Kawhia and Otorohanga local authorities were made to the new Minister of Maori Affairs, Ernest Corbett, local MP Broadfoot, and government officials. The chairmen claimed that idle Crown and Maori land, much of which was 'responsive, easily broken in country, and which should have been producing wool, meat and butter' but which paid no rates and taxes, was retarding the progress of their districts. Noxious weeds on idle Maori land were also a constant problem. They recommended that the land either be permanently settled or planted in forest, that there be more liberal provisions for Maori to dispose of their land, and that more attractive measures for European farmers to acquire Maori land be introduced, including more liberal leases. The representatives did agree that land development schemes had been important and that taking land from Maori for rates the same way as for Europeans would be too much of a hardship. Instead they asked for improved machinery for collecting unpaid rates and, as a final step provision for vesting land for unpaid rates.²⁷⁶

²⁷³ see memo of 12 July 1950, field officer to Registrar, AAMK, 869/1390b

²⁷⁴ see reports on Herlihy lease of 1950, MA1, 48/2/3, w 2490

²⁷⁵ memo from Registrar to Under Secretary Native Department, 5 August 1949, MA1, 48/2/3 w2490

²⁷⁶ notes of meeting at Te Kuiti, 15 March 1950, MA1, 20/1/49

In response to the increased Pakeha agitation, Maori of the Rohe Potae had also met with the Minister at the meeting house at Te Kuiti on 13 March 1950, leaders having previously met to discuss matters at a hui. Familiar territory was revisited. They told the Minister that they wanted to farm their own lands; they believed the best method was through the land development schemes, but that the Crown appeared to be doing very little in this respect and they wanted a more active policy. They appeared to concede that rates should be paid on land in production, while arguing that unproductive land should be exempt. Although many Maori owned land, they explained, most of these were working men on ordinary wages, and could not pay rates out these. It was submitted that land taken or gifted for roads, reserves and railways should also be taken into account when setting rates. The Minister replied that it was the duty of any Maori who owned land to have it developed to a stage where rates could be paid. He also believed that if people could not cultivate their own lands, it was the duty of the government to see that the lands were cultivated and made productive. On the other hand, he assured them that their ownership of lands would not be interfered with while he was Minister of Maori Affairs.²⁷⁷

The government response to pressure from local bodies was through provisions in the Maori Purposes Act of 1950. As Corbett wrote to the Chairman of Otorohanga County Council, he was convinced that the best method of overcoming rating and noxious weed problems was to encourage and facilitate the productive use of Maori land. The new Act would enable the Maori Land Court to make an order vesting lands for unpaid rates and noxious weeds in the Maori Trustee for leasing, including provision for compensation for the lessee.²⁷⁸ Under the Act, local bodies could apply to have the Land Court vest such land.

It appears that by the 1950s, the Maori land development schemes were perceived by Maori as having become too bureaucratic. The result was that Maori felt less able to participate or have their views made known. This contrasted with the early years of the scheme, when Ngata had been careful to consult with hapu and locally recognised leaders. The Department now consulted through the procedures of meetings of owners, but this was often seen as cumbersome and slow. Successions for example, had to be dealt with to identify legal individual owners. The procedures caused frustration over delays, and in any case the

²⁷⁷ notes of meeting at Te Kuiti marae, 13 March 1950, MA1, 20/1/49, and MA1, 48/2/3, w2490

²⁷⁸ letter Corbett to Chairman, October 1950, MA1, 20/1/49

meetings of owners were in themselves not necessarily considered adequate consultation, for they left out the wider hapu or family group.

In the 1950s the Board of Maori Affairs recognised that there were still considerable problems between owners and occupiers in many of the schemes. Often the rights and liabilities of occupiers had never been properly determined, and they had no guarantee of tenure. There was no recognised system of how an occupier might move on to become a lessee, and many owners had never received any rentals. There was confusion as to whether owners or occupiers owned the stock and improvements. Further questions began to arise as to what would happen to the schemes after they began operating successfully and all the debt was cleared. It was not clear whether the occupier should remain and be given a lease, or whether the land would go back to the owners to decide what they wanted to do with it. Nor was it now clear what kind of earlier promises had been made to owners when they were being asked to place their lands under the schemes in the first place.

As a result, the Cabinet set out certain prerequisites for the release of fully developed, debt-free properties and the resumption of control by owners. The owners were required to form an incorporation, provide evidence of efficient technical and financial management, appoint a qualified accountant and financial advisor, and place the sales of produce and the purchase and sale of livestock in the hands of a reputable stock and station firm. It also became the policy of the Department of Maori Affairs that where Maori farmers could show they could handle their own farming business affairs they were granted relaxation, and ultimately freedom, from departmental control.²⁷⁹

The pressure of a growing Maori population in the King Country led the government to investigate possible new schemes in the 1950s. The policy now was for owners and the government to agree about the relationship between owners and occupiers before a scheme began. Leases now had to be given to occupiers for a reasonable time - at least 42 years. The Maori Affairs Department reported in 1954 that although there was some resistance to the idea of leasing to occupiers, the owners were being encouraged to appreciate that security of tenure would mean the land would be better farmed.²⁸⁰ Further investigations in the decade

²⁷⁹ memo for Cabinet 20 February 1952, MA1, 60/1, box 86

²⁸⁰ AJHR, 1954, G-9

suggested that there was still Maori land lying 'idle' in the King country: as the Maori population was growing quickly, it was intended that this would be one of the districts where land development activity would be focused.²⁸¹ Land development was curtailed by poor quality land however, and although new schemes were developed such as that at Tiroa (6,000 acres near Te Kuiti), forestry was becoming a more important industry.²⁸²

More research is required on the history of Maori land development schemes in the Rohe Potae than has been possible for this report. However by the 1970s a number of development schemes were still operating in the King Country, as indicated by a 1977 Department of Lands and Survey report on schemes in the Waikato-Maniapoto district.²⁸³ This outlined schemes in the wider Waikato Maniapoto district. The information in the following paragraphs comes from the report for those schemes that appear to be located in the Rohe Potae (Aotea block).

The Aotearoa scheme of some 1,712 hectares was described as being located south east of Te Awamutu and just west of the Waikato river; the Department of Lands and Survey had begun work on it in 1953. The owners had contributed land worth \$19,188 and they and the Maori Trustee owned the scheme. By 1977 the land was considered fully developed and profit-making, with a small debt loading. It was described as a valuable property in a sound financial position. The owners were intending to set it up as an incorporation. The Arapae scheme of about 376 hectares was described as located on Arapae Road off the Te Kuiti-New Plymouth road and about 18 kilometres south of Te Kuiti. This was completely Maori owned, and was described as a small, fully developed unit, with a staff of one manager plus casual labour; it had been a 'section 438' trust since 1964. It was profitable but very subject to any downturn in prices or production, and it was considered to be too small to incorporate.

The Mamakumarū scheme of 441 hectares was located on the Te Awamutu-Putaruru highway 26 kilometres south east of Te Awamutu. It was purchased by the Crown in 1947 for the eventual settlement of Maori ex-servicemen. At the time, the whole area was heavily infested with gorse, blackberry and ragwort. The land was still owned by the Crown in 1977, and

²⁸¹ AJHR, 1956, G-9

²⁸² AJHR, 1958, G-9

²⁸³ Department of Lands and Survey, *King Country Land Use Study* (4 vols), Wellington, 1977-78

division into two sheep stations had been approved by the Maori Land Board. Nominations had been invited from the original owners but none were received and the property was to be put to tender in 1979. The Oparure scheme of 831 hectares was located on the Te Awamutu-Kawhia road about 13 kilometres east of Kawhia. It was described as being subject to very dry summers and still carrying 43 percent debt.

The Paewhenua scheme of 447 hectares was located 25 kilometres east of Otorohanga, the land having reverted to Maori owners on expiry of a 42 year lease. It was considered fully developed and was owned by Crown and Maori. The Pio Pio scheme was located eight kilometres north west of Pio Pio and its 751 hectares had been reduced to a two person unit since 1976. The Pukenui scheme (424 hectares) was located on Mangatea Road about six kilometres south west of Te Kuiti. Development under Lands and Survey had begun in 1961. The scheme was now Maori owned, the owners having bought out the Maori Trustee and Crown interests in the block. It was described as producing good returns.

The Tiroa scheme of some 3503 hectares was located 40 kilometres south east of Te Kuiti. Lands and Survey development began in 1957 and some parts were still being developed while other parts were producing good returns. The Maori owners had recently purchased the interests of the Crown and Maori Trustee. The Troopers Road scheme of 503 hectares was located 14 kilometres west of Te Kuiti. Lands and Survey development had begun in 1951. The scheme was described as owned by Maori, the Maori Trustee and the Crown. The land had suffered a severe gorse reversion problem that had been expensive to tackle but was now under control. The scheme was subject to severe droughts and difficult access and it was a difficult property with high debt and prone to price fluctuations.

The Waipa scheme was located 40 kilometres south east of Te Kuiti near Benneydale. It had begun in 1957 as part of the Tiroa scheme and was established as a separate station in 1970. The scheme was described as owned by Maori and almost fully developed, with the interests of the Crown and the Maori Trustee having recently been purchased. The Waipuna scheme of some 622 hectares, was situated on Harbour Road some 27 kilometres south of Kawhia, Lands and Survey development having begun in 1959. The scheme was described as owned by Maori and the Crown. A coastal property adjoining Kawhia harbour and dissected by tidal inlets, by 1977 it was turning a profit and beginning to pay off debts.

This information indicates that some land development schemes were still operating by the 1970s. These schemes often had their beginnings in the original schemes developed in the district by Ngata. More research is required on these individual schemes but it is possible that some issues outlined in the general history of the schemes may be relevant, for example, difficulties with the initial process of consolidation of titles. In general, it seems as though government policy of returning schemes to Maori owners through trusts has been followed, although again issues might arise regarding this in individual schemes, such as the debts loaded on to the land through various charges, management of the schemes before they were returned, and possible replacement of hapu control by a trust.

Conclusion

A number of Treaty-related issues regarding land alienation seem apparent from this brief consideration of land consolidation and development schemes, even though the schemes were originally clearly designed to prevent further alienations of Maori land. In particular, the key issues seem to relate to changes in tenure and ownership rights, the use of compulsory measures, the extent of consultation, and the extent of participation in the management of the schemes. It could be argued, for example, that compulsory measures were required in order that title problems could be overcome, but issues still remain about whether there was adequate consultation with Maori over this, and once land was declared part of a scheme whether Maori ownership rights and interests were adequately safeguarded in the continuing management and administration of the schemes.

Ngata originally seemed to sidestep problems with individual ownership and deal more directly with hapu over the schemes. But as we have seen, the schemes were increasingly controlled by state agencies which were more interested in the efficient and profitable use of the land for the 'national good' than with Maori concerns; matters of Maori ownership and work on consolidations to improve titles appear to have been treated as a lesser priority than ensuring schemes were productive in the 'national interest'. In addition issues have been raised of a lack of rental income for owners, the possibility of excessive charges and costs placed on the land, the awards of land to the Crown for various charges, and the extent to which owners had to meet development costs (as opposed to general development costs at the time being met by taxpayers).

There is a question mark over the extent to which proposals for land development advanced by Sir Apirana Ngata to various groups of Maori owners were honoured by later governments (for example, on the subject of tenure), and other possible issues to investigate further include the lack of appeal against consolidation awards and the role of the Maori Land Court in the process of consolidations. Eventually, economic conditions meant that Ngata's vision of the schemes being able to support Maori communities could not be met in the Rohe Potae. Many schemes, once developed, were extensive in area but required relatively little labour. Once this became apparent, questions arose as to how the Crown brought in measures to deal with the problems of ownership of the schemes, and how the many owners who inevitably would not be able to live on their land would be assisted to find another means of livelihood - especially in the context of the post-war urban drift.

Chapter 6

Maori Response to Land Alienations in the Rohe Potae

Types of protest

Official records reveal a long and consistent history of Maori protest against continuing land alienations in the Rohe Potae during the twentieth century. Much of this protest was similar to that made by Maori throughout New Zealand concerned with continuing land loss. This generally took the form of petitioning parliament, correspondence, delegations and meetings with government ministers and officials and court actions. The subjects under protest ranged from government policies and legislation to Maori Land Court decisions on particular blocks of land. A brief scan of official records and publications reveals many instances of this type of protest in the Rohe Potae. There are numerous letters of concern about land loss in the Rohe Potae in the Maori Land Purchase files cited in chapter three for example. There are also numerous petitions concerning the awards of the Maori Land Court relevant to Rohe Potae blocks. Copies of many of these can be found printed in the *Appendices to the Journals of the House of Representatives*. For example, petition 1940/73 concerning the boundaries of the Maraeroa C block,²⁸⁴ petitions 1918/61, 1919/231 and 1919/234 concerning the adequacy of hearings into Tahora no 2f,²⁸⁵ and petition 1916/43 concerning partitions in the Kawhia R 2B block.²⁸⁶ There are also petitions concerning the administration of land alienations in the Rohe Potae, such as a 1909 petition from owners in the Rangitoto Tuhua, Kinohaku and Wharepuhunga blocks. This petition was concerned with the administration of vested lands in the district by the Waikato-Maniapoto Maori Land Board. It charged that certain vested land was left lying idle and therefore paid no rent because of Board policies, but Maori owners had been left without land. The petitioners did not want the vested land sold and wanted the vesting terminated.²⁸⁷ Official records also contain many notes of deputations to government and meetings with government representatives by Rohe Potae leaders, for example, the files

²⁸⁴ AJHR, 1942, G-6c

²⁸⁵ AJHR, 1920, G-6h

²⁸⁶ AJHR, 1917, G-6b

²⁸⁷ 1909 petition in MA series 24/8, no 3

concerning rates protests cited in chapter five.²⁸⁸ It is beyond the scope of this report to describe the history of these types of protest in the Rohe Potae in detail and it is probably better covered within the context of particular block histories. Instead this chapter seeks to give a brief outline of the importance of the rohe potae compact as a basis for protests concerning land alienations and related issues in the district.

Many of the protests about land loss and related issues in the Rohe Potae during the twentieth century had a unique characteristic in that they often referred not only to the protections and partnership principles felt to have been promised in the Treaty of Waitangi but also to the special agreements of the Rohe Potae compact believed to have been negotiated between Rohe Potae iwi and the Crown in the 1880s. The full history of the Rohe Potae compact cannot be adequately covered in this report due to time restrictions. The compact does however appear to be important and unique in that it was an attempt to build on the principles of the Treaty of Waitangi in order to work out a means of opening up a Maori owned and controlled district to European settlement under a partnership agreement between iwi and the Crown. The importance and even the existence of the compact has often been questioned by Pakeha officials, governments, historians and the wider Pakeha society. This chapter attempts to show that this may have happened due to misunderstandings, poor documentation and the largely unwitting distortion of the real purpose of the compact. In contrast there is sufficient evidence to indicate that Rohe Potae leaders had good reason to believe that they had secured a serious agreement with the Crown and that they have consistently attempted to have this agreement upheld.

The early history of the Rohe Potae compact was touched on briefly in part 1 of this report, particularly in chapters three and four. Later events in the twentieth century have thrown more light on this early period and on Maori and government perceptions of the compact. To understand these it is perhaps worth briefly recapping the major features of the 1880s negotiations. The important features were that Maori believed the compact was formed through a series of negotiations and consultations with the Crown in the 1880s. The important negotiations were verbal rather than written and there does not appear to have been one written and signed 'treaty' as such which constitutes the compact. At the same time,

²⁸⁸ for example, records of meetings, MA series 31/4

there are a variety of official written records of various promises and agreements concerned with the railway and the opening up of the district that may be said to constitute an understanding between iwi and the Crown.

The initial negotiations appear to have begun in 1882 when some Rohe Potae leaders rejected the King movement's tactics of completely boycotting the Native Land Court process as being unrealistic. They decided instead to negotiate a controlled opening of the district with government. These leaders commanded significant support within five major iwi with interests in the district - Ngati Maniapoto, Whanganui, Ngati Raukawa, Ngati Tuwharetoa and Ngati Hikairo. At this time, while the government may have refused to recognise iwi as partners it needed the cooperation and backing of a significant leadership of the district if surveys were to take place as a prelude to a possible railway route and to 'opening up' the district without renewed hostilities. Rohe Potae leaders were also aware that the Native Land Court was operating ever closer to their district and time was limited for negotiating from a position of relative strength. The agreement therefore appeared to take place in a situation of relatively equal strength and where both sides were aware of the need to negotiate.

Rohe Potae leaders gave permission in 1882 for the government to survey routes for a possible railway through the district in return for government support for a petition from iwi containing their concerns and proposals. The chief Wahanui later claimed that this agreement was written down and signed, although a brief search in official records has not uncovered such a document. Maori followed this up with the Rohe Potae petition to parliament in June 1883. The petition was supported by Ngati Maniapoto, Ngati Raukawa, Ngati Tuwharetoa, Whanganui and (later) Ngati Hikairo as described in part 1.²⁸⁹

The 1883 petition invoked the guarantees of protection in the Treaty of Waitangi and claimed that the operation of the Native Land Court and land legislation breached those protections. It acknowledged the positive advantages of new developments such as roads, railways and other works, but explained that Maori of the district valued their lands above all and wished to retain them. They wanted protection for the land, and therefore they did not want the Native Land Court as it currently operated to be allowed into the Rohe Potae. Instead they sought

²⁸⁹ Marr, C, *The Alienation of Maori Land in the Rohe Potae (Aotea Block), 1840-1920*, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), December 1996, pp 22-23

active participation and management of the process of investigating and determining title in the Rohe Potae, and they wanted to be able to settle internal boundaries within the district themselves. They submitted that this did not mean they wanted to keep their land locked up from Europeans, and in fact they were willing to lease and develop it. This became the essential basis of the Maori side of the compact. They proved willing to discuss and negotiate the details of how the 'opening up' might be achieved but the essential principles were to hold on to the land and to protect hapu and iwi authority over the ways in which their land would be used in the new economy.

The petition was followed by further negotiations with government Ministers. Rohe Potae leaders were concerned to find methods whereby legal title was confirmed by agreement in a manner by which they retained control of decisions about it. The Crown was concerned with drawing the district into the wider economy, and in the possible building of the railway once a route had been chosen. The government passed a series of legislative measures designed to convince Rohe Potae leaders that their wishes were being taken seriously. 'Native Committees' were established, for example, to adjudicate on certain issues. These were taken up with enthusiasm by Rohe Potae leaders (although they proved to have too few powers to be effective).

Another important meeting appears to have taken place between Maori leaders and Native Minister John Bryce at Kihikihi on 30 November and 1 December 1883. At this time Rohe Potae iwi and hapu were acting as a confederation and seeking each other's agreement to proposals. The government, however, refused to acknowledge the existence of any confederation and appeared to prefer to deal with Ngati Maniapoto leaders as acting on behalf of Ngati Maniapoto only, and to view the Rohe Potae as a much smaller (largely Ngati Maniapoto) district than was described in the 1883 petition. They tended to ignore discussions and agreements between the various Rohe Potae iwi. At the Kihikihi meeting many discussions were held in private. Reporters were not admitted to some sessions and no detailed official notes appear to have been kept. This makes it difficult to clarify the results.

The *Waikato Times* reported that Bryce had claimed that as far as possible the demands of the 1883 petition had been met, the Land Court had been improved and land could not now be

purchased before the Court investigated it.²⁹⁰ The newspaper also reported that Wahanui and other leaders did not want the Court to investigate anything other than the outer boundaries of the district, with the internal boundaries being decided later. Following the discussions of 1 December 1883, John Ormsby explained that the chiefs were satisfied with Bryce's proposals. In this context he outlined the boundaries of the whole Rohe Potae as following the larger 1883 petition district. In describing the meeting, G T Wilkinson reported that representatives of Ngati Maniapoto, Ngati Raukawa, Whanganui and Tuwharetoa were all present at the meeting and signed the Court application.

As explained in part 1 of this report, on the face of it, reports of the 1883 agreement with Bryce seem quite contradictory, with each side placing a different interpretation on what it meant. Bryce seems to have believed the agreement concerned the smaller Ngati Maniapoto territory only, the Aotea block, and that effectively the Land Court would operate much as it did in other blocks. The chiefs had signed an application inviting the Court to investigate their land and this would bring the whole Land Court process into the Aotea block. He did agree that 'internal subdivisions among hapus can be left till another day' but by this he seems to have meant subdivisions within the Aotea block. This was not what was understood by Ngati Maniapoto and other iwi of the confederation. Ngati Maniapoto leaders clearly believed they had quite a different agreement. They had been clear about the district they wanted protected in their petition and they saw agreements from these meetings as another step in the process, while Bryce appeared to make no connection between the two events.

For Rohe Potae leaders, in short, the latest agreement covered the larger district, and internal subdivisions between iwi and hapu were matters between the members of the confederation. They believed they were asking the Court to effectively ring-fence the larger Rohe Potae, and this would enable the confederation to protect the land inside those boundaries and decide on internal divisions themselves. While the presence of other Rohe Potae iwi leaders when the application was signed may have meant little to Bryce, it was clearly important to Wahanui and other negotiators in indicating the support of the whole confederation. Rohe Potae leaders also appeared to have believed that reformed Native Committees would take a major role in the process of investigating title.

²⁹⁰ Marr, *Rohe Potae*, part 1, p 25.

More research is required regarding discussions and understandings surrounding these 1883 meetings. They may have involved genuine misunderstandings and misinterpretations. However the evidence available seems to suggest that Bryce was manipulating the discussions, at least to some degree. If he had been clear about precisely what he intended to happen, not only about the Court process but also about Crown purchasing of undivided interests (which were to occur secretly), it seems most unlikely the chiefs would have consented. Issues arise as to what extent lack of good faith was involved and whether the government ever intended to engage in any meaningful system of partnership with iwi over the district. It seems clear that Bryce would not have been able to risk carrying out substantial land surveys in the Rohe Potae without the sanction of the important chiefs of the district. He needed their agreement and their influence in preventing hostilities. More detailed research is required into how the chiefs were persuaded that they had achieved a satisfactory agreement.

Wilkinson reported that at a meeting between officials and Maori held soon afterwards it was agreed that the government would undertake the survey of the outer boundary and that the cost, unless the survey was opposed and prolonged, would be no more than £1600. He explained that when Maori had sought prices from private surveyors they had been told it would cost more than £20,000. It was also decided that while the government was conducting the survey of the 'large block' it would also carry on its trig survey and surveys for the main trunk railway which were already in progress. Maori had however made a proviso that no prospecting for gold should be allowed until the land was investigated.²⁹¹

This discussion also seemed to contain room for misunderstandings. The £1600 fee for the survey was, for example, only a very good deal if it was really for the 'large block' not the Aotea block - and presumably the private quotes for in excess of £20,000 were actually for the larger district that Wahanui and others believed their arrangements with the government covered. The agreement about the surveys, including the external boundary, was made in December 1883 as part of a series of discussions following the meeting at Kihikihi, where the Court application was signed. At these there was clearly a great deal of concern about what the application might mean and opposition to it and the surveys which were to take place. It was known that surveys were necessary before the Land Court operated, and there remained

²⁹¹ Marr, *Rohe Potae*, part 1, p 27, citing report in AJHR, 1884, C-1

considerable opposition to the Land Court per se, particularly from those who still supported the boycott policy of the King movement. Bryce was reminded that authority over the land had been pledged to Tawhiao in 1881 but he rejected the idea of any possible sovereignty of the Maori King and stated he would only recognise a chief's authority over his own tribe.

The Minister is also reported as stating that the surveys would determine boundaries as between tribe and tribe, after which would come divisions between hapu and hapu and then possibly settlement of individual claims. This was classic Land Court procedure. At the same time Bryce assured Maori that he would not pester them to sell their land, and in the case of this application names of tribes and individuals would be admitted without consideration of claims and counter claims.²⁹² This was not normal procedure and it is not entirely clear how Rohe Potae leaders understood these assurances. They still seemed to believe that the Land Court would admit ownership claims for the whole larger area when deciding the outer boundary, but further divisions would be up to them.

As described in part 1 of this report, even the application to investigate the outer boundary was enough to spark considerable alarm and debate among Maori in the region.²⁹³ The government received many letters from hapu, for example, asking how they could protect their land and perhaps lease it but not lose it. The government used this to advantage in promising that the Native Land Court would meet their needs in such respects.

As a result of the 1883 meetings, Assistant Surveyor-General J P Smith informed the Surveyor-General on 19 December 1883 that Maori opposition to the government undertaking surveys in the King Country had now been overcome. In 1885 he explained further that he had made arrangements for the survey 'acting under instructions of the Hon. the Native Minister, which letters passed immediately after the meeting held at Kihikihi on 19 December 1883, when the arrangements were made before the assembled tribes'.²⁹⁴ A copy of the signed letter from Smith to the chiefs Wahanui, Taonui and Rewi Maniapoto, confirming the agreement was also dated 19 December 1883:

²⁹² Marr, *Rohe Potae*, part 1, p 36

²⁹³ Marr, *Rohe Potae*, part 1, pp 39-41

²⁹⁴ correspondence reproduced in AJHR, 1885, G-9

Greetings to you all. Your letter of this day's date has been received, in which you state the arrangements made by us in the presence of the people. This is my word in reply to your letter: The Government consent that the Government surveyors should make an accurate survey of the lines of the external boundary of your block, in order that a Crown grant may issue to you and your tribes; it is also agreed that the survey shall not exceed £1,600; the amount for you to refund the Government will not exceed £1,600. And it is agreed to as a definite word that neither the Government nor any other Government can make any other arrangement in the future. The terms of this document apply to the external boundaries only.

The government presented this letter as no more than an agreement over surveys and, as shown in part 1, surveyors appear to have been instructed that it concerned the Aotea block. However it might well have seemed to Maori to be written confirmation of the whole agreement. No other written document to this effect has been found in the time allowed for this report. The letter does however mention the essentials of the agreement as Rohe Potae leaders understood it; it referred to the 'external boundaries only', and it implies with 'you and your tribes' that the greater confederation was involved. It also commits the government and 'any other Government' in future to the agreement, suggesting a pact of more importance than simply a financial agreement over survey costs. It is possible that this is the written document referred to later by Rohe Potae Maori in connection with the 1882-1883 agreements.

Some government surveys had already begun in the district and had met with considerable antagonism. After the December 1883 arrangements, and under the protection of the chiefs, numerous surveys for a variety of purposes were carried out. This, not surprisingly, led to considerably more confusion and alarm among local Maori. The government relied on Rohe Potae leaders to prevent hostilities on the basis of the agreement they thought they had achieved, and it seems clear that the surveys could not have progressed without their assistance. The variety of surveys may have led to alarm over precisely what area was being surveyed for Land Court investigation. As described in part 1, it seems clear that the government and the survey office regarded the block as being the Aotea block only, that is

largely Ngati Maniapoto territory, not the larger district.²⁹⁵ The chiefs clearly became concerned about interpretations of the agreement and sought government assurances on a number of occasions. Nevertheless, they kept their part of the agreement and used their authority to placate opposition to surveys. Their efforts included sending the chief Wahanui to Wellington to address Parliament on behalf of the confederation in late 1884 to discuss measures that would give effect to the various parts of the agreement.

By late 1884 there was a new Ministry in government, headed by Premier Stout and with John Ballance as Native Minister. A number of assurances and legislative measures were used to assure Wahanui of the government's good faith. These included the Native Land Alienation Restriction Act, which was explained to Wahanui as preventing unscrupulous private purchasers from operating in the district. Action was also promised on the liquor question in the Rohe Potae, and on improving the powers of Native Committees.

Maori leaders supported temperance efforts in the district for the same reasons they wanted to keep the Land Court out. In their experience of nearby districts there was a clear link between Native Land Court sittings and the consumption of liquor. People waiting for sittings were plied with liquor and this was used to run up debts which were recovered in land. Liquor also contributed to health problems associated with living in poor conditions while attending Land Court hearings, and to the breakdown of hapu and iwi authority when land was being investigated. In September 1884 a petition supported by many Rohe Potae leaders was presented to the Governor through the agency of the Gospel Temperance Mission. The mission - also known as the Blue Ribbon Army - had worked hard to gain Maori support in the Rohe Potae to ban liquor licences in the district. It could be argued that the temperance cause used Maori concern for their own purposes, but conversely Maori leaders saw this as an opportunity to pursue their interests in protecting their land.

Marten Hutt has shown that Maori concern about liquor predated the efforts of the temperance movement.²⁹⁶ The movement did not arrive in the region until about 1882, when a

²⁹⁵ Mart, *Rohe Potae*, part I, p 34

²⁹⁶ Hutt, M, *Maori and Alcohol: A history*, Alcohol Advisory Council of New Zealand, Wellington, 1999, pp 93-94

temperance newspaper was published in Maori.²⁹⁷ The King movement had however attempted to keep alcohol off marae throughout its history. For example the first Maori King, Potatau I, empowered wardens to police alcohol in the 1850s.²⁹⁸ Hutt reports that wardens were used in many Maori settlements from this time, indicating a desire by Maori to control liquor within their communities themselves. By the 1870s there were reports of drunkenness among Maori in the Rohe Potae, although many of these were on the borders of the district where Maori went to European settlements. In the mid 1870s official reports began to indicate a decline in alcohol consumption and abuse among Maori in the district and a concern about the effects of alcohol abuse. Hutt states that 'in the King Country, Maori met temperance reformers more than halfway. Temperance workers often took the credit for Maori initiatives, but did not allow for the possibility that Maori were using them as much as vice-versa'.²⁹⁹ In this as in other matters, Rohe Potae chiefs wished to maintain a significant level of internal management of their communities.

Wahanui addressed the Legislative Council on 6 November 1884 and explained his understanding of the compact. The issue of alcohol was only one part of his concerns. He wanted the Land Court to be kept out of the Rohe Potae for the present. He wished to consult with government about reaching satisfactory arrangements and laws, and he wanted Native Committees to have full power in all land dealings and transactions in the district. He argued for Native Committees to have power over land decisions and he wanted dealings to be open and public without secret advances on purchases. He also wanted sales of spirits within the district stopped absolutely, although this was clearly within the context of protecting land.³⁰⁰

The new Ministry was keen to convince Wahanui that his requests were being taken seriously. One of the easiest requests to agree to, in order to argue the government's sincerity, was the petition on liquor licences. Cabinet approved the petition request for no-licensing in the region almost immediately, but Ballance waited until immediately after Wahanui addressed the House, some weeks later, to announce the decision that the government was going to

²⁹⁷ Hutt, p 94

²⁹⁸ Hutt, pp 89-90

²⁹⁹ Hutt, pp 93-94

³⁰⁰ NZPD, 1884, pp 555-556

prohibit liquor licences in the district.³⁰¹ Ballance also informed the House that he was considering legislation on Native Committees that would give them more power.

The proclamation on liquor licences was issued on 3 December 1884, although as yet it did not include the whole district. It originally covered only the northern King Country, described officially as the Kawhia Licensing Area because senior government officials advised that the sooner the term 'King' was dropped from the district the better.³⁰² The southern King Country was not proclaimed until 26 March 1887, when it was named the Upper Whanganui Licensing Area.

The Ongoing Compact

As a new Native Minister representing a new Ministry, Ballance agreed to travel to a number of Maori settlements in the North Island to discuss matters of concern. In early 1885 he travelled through the Whanganui district to Kihikihi, where he met with Ngati Maniapoto and other Rohe Potae leaders and separately with Te Kooti. He then travelled to Whatiwhatihoe to meet with Tawhiao, followed by meetings at Hauraki, Rotorua, Tauranga and Gisborne. Notes were taken of discussions at these meetings and later published.

In February 1885 Ballance and his advisors met with Wahanui and other hapu leaders at Kihikihi.³⁰³ He explained to them that he was visiting to address their concerns and to state government policies on various matters. Rohe Potae leaders had expressed concern about the possible violation by the Crown of Bryce's promise that nothing would be done beyond a survey for the railway until further discussions were held between the government and Rohe Potae Maori. Balance said he could not find that promise in government records, but he did feel it was his duty to make good promises and to explain matters so that there was a clear understanding between government and Maori. In doing this, Ballance gave the clear impression that he was taking on the mantle of past discussions and continuing the government role in them. As a result it would seem entirely reasonable for Rohe Potae leaders to believe that they were still taking part in negotiations over the original compact.

³⁰¹ NZPD, 1884, p 312

³⁰² memo from Under Secretary Lewis to Native Minister of 5 November 1884, in J 1934/37/29

³⁰³ notes of meetings in AJHR, 1885, G-1

The railway was yet to be built and the Native Land Court was still not operating in the district. In the twentieth century many iwi protests refer back to discussions at this meeting with Ballance, as well as to the earlier ones with Bryce, as being part of the Rohe Potae compact.

At the 1885 meeting, Wahanui explained to Balance that he had made a signed deal with Bryce that a search for a railway route was to be made and if a suitable line was found he was to return and let Wahanui know. In return, Wahanui had required the government to support the petition he was sending to the House. The surveys had begun but they had caused a great deal of alarm and the people had sent Wahanui to Wellington. Here he had discussed their concerns with Balance: matters relating to the external boundary, final Maori sanction of the railway line, Europeans not seeking gold without authority, Maori Committees conducting the affairs of the Maori people, no liquor licences granted in the district and the Native Land Court not investigating any of their lands without their authority. In addition they did not want Europeans to interfere with the administration of Maori lands, leaving Maori to manage them themselves.

At the same meeting, John Ormsby explained further that the matters of most concern were their lands, the Native Land Court, and roads. He submitted that the Native Land Court process always seemed to result in Maori losing their land to Europeans. They were also now aware that when roads were built their land could be rated. Rates could be set on land near roads even if it had not gone through the Court and was not making an income. They were told to put their land through the Court so it could make an income, but they were afraid that would mean losing it. The Native Committees had proved to have very little power and they needed strengthening.

Ormsby also criticised the way the Land Court currently operated. He objected to individual title and believed title should remain with hapu, which through committees should make decisions concerning the land. He urged the government to restrain gold prospectors in the district and complained that some of the district of the 1883 petition had been left out of the area proclaimed subject to liquor licensing restrictions. In summary, he explained that Rohe Potae Maori objected to the Land Court, and to the imposition of rates in relation to the roads and railway, and wanted extra powers for Native Committees. They also wanted title to be

determined on a hapu basis, hapu committees to control all matters relating to land, all prospecting banned until title matters were settled, Maori representation in parliament increased, and proposed laws affecting Maori to be put before Maori people for discussion before being passed.

All these concerns were clearly associated with the essential principles of the compact, which were to protect ownership of the land and retain iwi and hapu authority over it while taking advantage of new economic developments. Rohe Potae leaders were seeking partnership with the government in achieving this. Ormsby acknowledged that Ballance was new to the negotiations and that the compact had originally been made with Bryce, but he clearly believed that by his actions Ballance was agreeing to keep the compact alive. It also seems clear that the confederation of iwi in the district was still operative at this time. At points in the meeting Wahanui and others asked for adjournments so that matters could be discussed with other iwi and hapu leaders.

In reply, Ballance acknowledged that he had discussed the matters Wahanui had mentioned with him in Wellington. He claimed the government was taking their wishes into account with legislation, and gave the measures excluding private purchasing as an example. He disagreed with Ormsby slightly over Native Committees as he thought the Land Court would be more neutral in making decisions. He did however promise to improve the powers of Native Committees and encourage them. He said that he had given instructions that the committees and principal chiefs be informed of every application for survey received by the Court and he promised reforms to abuses in applications to the Court. He freely acknowledged that the Court had worked badly in the past but promised that changes were being made. The government desired to remove from the Court 'all objections which might be taken by the people themselves who own the land'. When the land passed through the Court it should remain in the hands of the people subject only to the costs of surveys and fees.

Ballance agreed that land should not be rated while it did not produce an income: only land which had been sold, leased or cultivated should be rated. He asked Ormsby to send a letter on that point and he promised he would make a written reply that would be kept on record and that would 'be binding on future governments'. With regard to hapu title, Ballance argued that previous experience had shown that trustees did not always act in the interests of

individuals they represented. He proposed to name all owners and then have them elect a committee to deal with the land. He agreed to try and have important legislation affecting Maori circulated to them, that he would support increased Maori members in parliament and that the extent of the licensing district should be rectified. He also claimed that gold prospectors were not allowed in the district, but had to explain that while the government was opposed to sly grogging, it could do little other than police the district to the best of its ability.

Ballance promised that notes taken of the meeting would be published. When Ormsby asked that all the matters raised should be addressed in the promised letter regarding rates, and this should be kept and considered binding, Ballance reiterated that the replies were being taken down and would be published. The official report of the speeches 'will be the very best replies you can get'. This left the matter a little uncertain. Many of Ballance's replies were simply to the effect that he would do his best, rather than being definite promises. However he appears to have made it clear that he was taking over Bryce's mantle in representing the Crown. He was prepared to make some decisions binding on future governments, for example over rates, and he did make promises over general issues if not the details. For example, he promised to reform the Land Court to the point where no Maori owner would object to it. In effect, he was in Maori perceptions at least, continuing the tradition of the compact. He does seem to have taken the attitude however that the government was very much the senior partner and in most cases would do no more than promise to consider Maori requests. This does not appear to have been apparent to Maori at the time who clearly believed that they were taking part in a continuing discussion with government and their concerns and government promises would be considered seriously.

In any case, Rohe Potae leaders appear to have been sufficiently encouraged by the meeting with Ballance to hold further meetings amongst themselves. Later in February one such meeting decided that consent would be given to the building of the railway. Ormsby telegraphed the Government to this effect, as did Wilkinson.³⁰⁴ Ormsby also informed the government that it had been agreed that it would be able to have land one chain wide for the railway but that it would have to be paid for. On 2 April 1885 an Order in Council under the Public Works Act directed the construction of the whole length of the railway, three chains

³⁰⁴ cited in Smith report on licensing in AJHR, 1946, appendix C, p 368

wide for 210 miles. Lands covered by the proclamation included Maori land in the King Country. The ceremony turning the first sod of the railway was held in April 1885 and was addressed by Wahanui and Premier Robert Stout.

As described in part 1 of this report, the history of events leading up to the agreement regarding the railway has always been interpreted differently by government and Rohe Potae Maori. The government has maintained that there was no compact, only a series of negotiations on particular issues. Rohe Potae Maori on the other hand have consistently argued that they entered a compact with government beginning in 1882 and continuing through negotiations into 1885. In return for apparently genuine undertakings by government, they agreed to surveys, the building of the railway and the opening up of the district. While the government may never have intended to treat the Rohe Potae leaders as partners, the evidence suggests that government ministers encouraged the leaders to believe their wishes were being taken seriously. This raises issues of good faith.

It seems clear that once the Land Court began operating and the railway construction began in 1885-86, the government no longer felt obliged to continue the same level of negotiations. This was not the view of Rohe Potae leaders although under the impact of the Land Court, the confederation appears to have largely failed, at least as a force in dealing with government. Nevertheless, Ngati Maniapoto leaders firmly retained their belief in the importance of the compact and this influenced subsequent dealings well into the twentieth century. The negotiations surrounding the opening up of the district have been covered in detail in this chapter because they provide an important background to relations between Rohe Potae Maori and the Crown concerning further land alienations from 1900. Some of these later dealings were marked with bitterness because of the perceived failure of the Crown to honour the principles and undertakings of the compact. Other dealings have been characterised by positive attempts by Maori to renegotiate or reaffirm the compact so that partnership could be re-established, although these have rarely been officially recognised.

Liquor and the Compact

In general, the Rohe Potae compact was largely ignored or forgotten about by Pakeha government and society in the twentieth century. One area where it did continue to feature

into this century was in connection with the prohibition issue. As shown, Rohe Potae leaders were concerned with prohibiting liquor as a means of protecting and maintaining control over land and to that extent concerns about liquor were expressed in connection with other concerns about opening up the district. Rohe Potae leaders supported the King Country liquor petition for the same reasons, although it seems clear that they thought the effect of the petition would be to stop all liquor in the district, not just to ban licensing. However this proved not to be the case. In fact the no-licence agreement turned out to be little more than a gesture and did very little to stop the importation, sale and even brewing of liquor in the district, especially in the early years when the Land Court was beginning operations. It may have made the situation considerably worse by driving liquor underground and removing ordinary controls as P Skerman has explained. Skerman has further noted that the 1898 Royal Commission into the Police noted that the district was poorly policed and, importantly, that the proclamation itself was actually very limited in scope. It banned hotel licences but little else. Between 1884 and 1908 there was no specific legislation preventing the purchase of liquor outside the district and taking it in, as long as it was not illegally sold. Neither was there any attempt to regulate the importation of alcohol through, for example, requiring liquor imports to be registered.³⁰⁵

In fact, the 1898 commission revealed that a brewer had been operating in the district in the years 1892 to 1897 in Te Kuiti. He lost his license only because he was convicted of offences under the Licensing Act by selling beer in quantities of less than two gallons. Officials had seen no problems in granting him a license in the first place because they did not believe the no-licence proclamations were relevant, applying as they did only to hotel licences.³⁰⁶ According to Skerman, from the outset there was 'a ready supply of liquor for sale in the settlements from those willing to make a quick profit'.³⁰⁷ The railway itself was notorious as a means of supplying liquor into the district. By March 1887 the southern railhead had reached Otorohanga, by December 1887 Te Kuiti and by December 1903 Taumarunui.

³⁰⁵ Skerman, P J L, *The Dry Era: A History of Prohibition in the King Country 1884-1954*, MA thesis, University of Auckland, 1972

³⁰⁶ Skerman, pp 55-56

³⁰⁷ Skerman, p 62

Histories of the district are full of depictions of railway camps and settlements as hotbeds of drunkenness where vast profits were made through sly grogging.³⁰⁸

It was not until 1905 that by-laws were passed preventing the railway from bringing liquor into the district. W T Jennings, the MP for Egmont, quoting an extract from the report of the Commissioner of the Auckland main trunk railway in 1901, reported that the railways had at first refused to carry in liquor but found that being a public carrier they could not refuse. One consignment had contained 60 cases of spirits for one man. The Commissioner asked how this could be considered prohibition.³⁰⁹ In fact, according to Skerman, 'the concept of prohibition, as applied to the King Country, had little force on the first twenty odd years of the no-license era'.³¹⁰ This was precisely the time the Rohe Potae leaders sought protection from the twin forces of liquor and the Land Court. Wahanui's belief that liquor would not be allowed south of the Puniu river had proved to be sadly mistaken.

In response to the situation that had developed in the 'dry' King Country, many Maori as well as Pakeha in the district began to feel that controlled hotels were preferable. Even the *New Zealand Herald*, which at first supported no-licence, changed to favour controlled hotel licences as a means of at least imposing some supervision of liquor consumption.³¹¹ According to Skerman, the consumption of illicit liquor among Maori was most commonly seen at large gatherings such as the Land Court sittings in Otorohanga. In fact Wahanui and other leaders sought a liquor licence for an accommodation hotel in Otorohanga in 1891. This was widely seen by some pakeha as a repudiation of the original agreement. However the leaders explained their position clearly. European customs were now in vogue in the town. Not only were there Land Court sittings, but further gatherings at the railway station and numbers of European travellers on their way to visit the Waitomo Caves. Europeans demanded liquor in such circumstances and Maori wanted to be able to provide hospitality

³⁰⁸ Skerman, pp 62-69, and histories such as Powell, J R, *Those were the Early Days in Otorohanga: Otorohanga Centennial Celebrations 1885-1985*, Otorohanga, 1985 pp 34-42,

³⁰⁹ Jennings in NZPD, 23 October 1901, p 701, quoted in Skerman, p 113

³¹⁰ Skerman, p 57

³¹¹ Skerman, p 70

legally. Wahanui made a similar application for a hotel at Kawhia, apparently to try and stop trouble with sly grogging.³¹²

In a letter of June 1892, Wahanui and other leaders explained to the authorities that in the days of the Rohe Potae tribal boundary question, leases sales and licences were restricted. As some restrictions had now been removed, they should all be. It was preferable, too, for liquor dealings to be conducted openly rather than secretly. Clearly the licences were mostly being considered to meet European demands and Wilkinson supported their application. He explained that Europeans insisted on having liquor and a licence would enable it to be supplied in a controlled situation. It would also mean that Maori hotel owners would no longer lose out economically through being forbidden to sell alcohol while sly groggers made large profits.³¹³

The government was at first agreeable to granting a licence, consistent with its lax approach to liquor in the district up to this time. However the proposal caused an uproar from the temperance movement and the government received objections from all over New Zealand. As a result it backed down and refused a licence. Rohe Potae leaders objected to this: 'we entirely object to a small section of the European community having control over us. If they could entirely prohibit the sale of liquor within the whole of the colony we could clearly understand why the issue of a licence in our district should be stopped'.³¹⁴

It seems that in the King Country, as in the rest of New Zealand, there were differences of opinion amongst Maori as well as Pakeha as to whether it was better to have liquor under controls or to have it banned and risk driving it underground. However Rohe Potae leaders clearly felt it was ironic that while liquor had always been available in the district, in spite of their requests, they were now prevented from either controlling it or deriving a legitimate profit from it. There ensued a half century during which all attempts to introduce hotel licensing in the King Country were met with vigorous opposition by the temperance movement, even when presented as a means of controlling illicit liquor. Wahanui and other Maori leaders continued to petition for licences. There was some opposition within the Maori

³¹² letter of 21 December 1891, cited in Smith report, App C, in AJHR, 1946, H-38, p 375

³¹³ AJHR, 1892, G-3 p 3

³¹⁴ Wahanui and others to Native Minister, 5 July 1892, cited in Smith report AJHR, 1946 H-38 App C

community to this but this was usually based on not wanting liquor in the district at all rather than support for the status quo. European residents also petitioned unsuccessfully.³¹⁵

A young Apirana Ngata was sent to the district by the Te Aute Students Association in 1900 to investigate the situation. Ngata believed there was strong support for sales of liquor under proper controls as the present situation had proved a failure in controlling liquor. Prime Minister Seddon promised to allow the district a vote on the issue but backed down when this provoked a furious outcry from prohibitionists. It was about this time that temperance advocates began to insist that there was a sacred pledge or compact made between the government and Maori of the district that the railway could be built in return for no liquor licensing. This was a distortion of the facts, encouraged by a lack of proper documentation of previous negotiations. The lack of documentation in turn seems to have been a consequence of government manoeuvres to encourage Rohe Potae leaders in the belief that there was a serious agreement while making sure it could not be held to anything in the form of a documented agreement. In fact, as previously outlined, the liquor part of the agreement was only one small element of the negotiations. Banning liquor had seemed to offer one means of protecting the essential principles of the compact which were land and Maori control over it. In that respect the no liquor licence experiment had failed dismally and as a result Maori leaders had lost confidence in it.

The distorted version of the Rohe Potae compact, that the railway had been sanctioned in return for no liquor licensing, was a golden opportunity for temperance advocates. They also seized on comments by Stout in 1900 that if the government had not agreed to Wahanui's request concerning the sale of liquor, then the railway would not have been built.³¹⁶ It seems clear that the government of the day felt they had to appear sensitive to Wahanui's wishes if the railway were to go ahead. However as later commentators have noted, to infer from this that Wahanui was solely concerned to negotiate the railway for a liquor ban was to misrepresent history.³¹⁷ It possibly also misrepresented Stout, for at the time, he was commenting purely within the context of a possible vote on liquor licensing. Ironically, many Pakeha members of parliament now wholeheartedly supported the inviolability of the 'sacred'

³¹⁵ Skerman, *The Dry Era*

³¹⁶ quoted in McLintock report on 'Liquor and the King Country' in AJHR, 1953, H-25, p 38

³¹⁷ eg McLintock report AJHR, 1953, H-25

pledge made with Maori leaders over the railway, as long as it involved only liquor matters. For example, the Member for the Wairarapa stated in 1900 that he could not vote for liquor in the King country because of the 'sacred' pledge.³¹⁸ According to Skerman, the idea of the 'sacred pledge' was used in subsequent temperance campaigns that successfully kept the King Country 'dry' in the following decades.³¹⁹

In 1921 a select committee heard that Maori had not asked for just a prohibition on licences; they had wanted a total prohibition on all liquor. That had not happened and therefore they wanted licences so they could control liquor within the district. John Ormsby, who had been present at so many of the negotiations, also testified that they had wanted no liquor south of the Puniu River, but since it had come they now wanted licences to control it.³²⁰ The linkage of the Rohe Potae compact with liquor licensing only continued to dominate Pakeha perceptions of the compact and Maori attempts to have it upheld well into the twentieth century. In 1945 and 1953 there were two major investigations into liquor in the King Country. The 1945 inquiry was conducted by Justice Smith³²¹ while a 1953 inquiry on 'Liquor and the King Country' was undertaken by government historian Dr A H McLintock.³²² Both these inquiries took place within the context of the liquor question in the King Country and both essentially found that there was no written pact between the government and Rohe Potae leaders regarding building the railway in return for no-licensing. Smith found that any agreement had merely concerned the railway being built in return for payment for the land, and that such payment was, moreover, no more than ordinary compensation – and even this was not generally paid. McLintock decided that there was no written compact – and by implication no compact at all. Even though these findings were made in the context of the liquor question, they appear to have had important implications in assuring governments that there was no basis to the Rohe Potae compact and therefore no validity to Maori protests based on it. This has made it much more difficult for Rohe Potae Maori to engage in discussions with government over issues concerning land alienations based on upholding the compact.

³¹⁸ NZPD, 1900, 30 August, p 330

³¹⁹ Skerman, *The Dry Era*

³²⁰ quoted in Skerman, p 127

³²¹ AJHR, 1946, H-38, App C, Smith report on Licensing

³²² AJHR, 1953, H-25, McLintock report on Liquor and the King Country

More research is required into the whole issue of the Rohe Potae compact. However, given the wider historical context, it seems clear that Rohe Potae leaders had good grounds for believing that they did indeed have a compact with the Crown. The compact was subject to continuing negotiation over details and much of this took place verbally, but this does not lessen the gravity of the agreement in Maori eyes. The essentials of the compact, the protection of land and of iwi and hapu authority in the district, in partnership with government, always remained critical for Maori of the Rohe Potae. The argument that it was simply an agreement for a railway in return for no-licences was a distortion that has weighed heavily upon Maori.

The liquor question was the major means by which the compact was brought to Pakeha attention in the twentieth century, and official inquiries about the compact were limited to the context of liquor. However it is clear that Rohe Potae Maori continued to regard the compact in a wider context, and sought to bring this to government attention. This can be seen for example, in the issue of rates as has been covered in more detail in chapter five. Rohe Potae Maori consistently claimed that they had been promised relief from rates as part of the compact while the land was producing no income. As described, in 1927 they presented a memorial to Minister Gordon Coates that referred directly back to the compact started with Bryce and renewed under Ballance.³²³ Symbolically the memorial was delivered in the same wheelbarrow that was used in the opening ceremony for the railway in 1885. The memorial was concerned primarily with rates and Ballance's promise that land producing no income would not be rated. However it also reminded the government that rates were just part of overall Maori concerns that the protections of the Treaty of Waitangi should not be placed in jeopardy, and that government promises made in connection with the railway should be honoured. The memorial noted the support of all the people of the Rohe Potae including the descendants and representatives of Tawhiao, Wahanui and Rewi Maniapoto, indicating the reconciliation that had taken place within the larger King movement by the turn of the century.

In reply, Coates (while admitting he did not fully understand the history referred to) acknowledged that he had a duty to stick to the spirit of the arrangement and that he would

³²³ memorial of 1927, reproduced in MA series 31/4

bear in mind the general policy referred to in 1885. Much as Ballance had done before him, Coates seemed to be committing his government to at least the spirit of the agreement. Again it does not seem unreasonable that Rohe Potae Maori should have gained this impression. The opportunities for discussing grievances based on the Rohe Potae compact were rapidly closed off to Maori however. As early as 1928, Ngata dismissed attempts by Rohe Potae leaders to rely on the compact as unrealistic and pushed instead for pragmatic compromises with local authorities over rates. He may have been correct in deciding that the compact would not be viewed seriously by Pakeha governments of the time but while from this time Rohe Potae leaders found that attempts to have the compact upheld were dismissed by government this does not mean that they gave up on it. Although as already shown, the later reviews of the compact by Smith and McLintock in the 1940s and 1950s appear to have assisted government officials in dismissing the compact as invalid, recent claims to the Waitangi Tribunal have sought to reopen the whole matter.

The 1927 memorial was clearly a positive attempt to work within the compact. There was also however, a good deal of bitterness apparent in the Rohe Potae district caused by the belief that the government had not honoured undertakings in the compact. This seems to have had important consequences for subsequent Crown/Maori relations in the region which need to be researched further. This can be seen in continuing problems and suspicions when the government has attempted to implement various policies and programmes in the district, for instance, in the difficulties Ngata had when introducing land development schemes, as seen in chapter five. It seems that there is reasonable evidence that the Rohe Potae compact offered an opportunity for the Crown and iwi to develop a meaningful partnership in the district based on Treaty principles. The failure to take up and develop this opportunity remains a significant cause of concern for Rohe Potae Maori to the present day.

Summary

The Rohe Potae compact between Maori of the Rohe Potae and the Crown was negotiated in the years 1882 to 1885. After this, the main trunk railway was built through the district, the Native Land Court began operations in the Rohe Potae and the area was opened to European settlers. Rohe Potae leaders believed that in return for allowing the 'opening up' of the area, they had negotiated an agreement whereby the Crown would assist them to hold on to their lands, to retain iwi and hapu authority over them, and to allow their people to participate in the management of the district. They conducted negotiations with governments on this basis.

The movement in support of national prohibition of liquor, which reached its peak in the 1920s, had the effect of distorting Pakeha and government perceptions of the Rohe Potae compact. This in turn led to official inquiries in the 1940s and 1950s which concluded that the Rohe Potae compact itself never existed. However even a brief outline of the wider history of the agreements of the 1880s indicates that Maori of the Rohe Potae had good reason to believe that they had a compact with government. Their view of the compact, their attempts to use it positively and the bitterness engendered by their perception that the government had not honoured its compact undertakings, characterised much of the district's Maori response to government initiatives and further land alienations in the twentieth century.

The major types of alienation of Maori land in the Rohe Potae from 1900 to 1960, in terms of the amount of land alienated, were through sales and leasing. The Crown had already purchased about one third of the Aotea block by 1900. In the first half of the twentieth century land alienations through sales and leases were administered and facilitated through a new system consisting of Maori Land Councils and their successors, the Maori Land Boards. The Maori Land Councils/Boards also administered Native townships for much of the period from 1900 to 1960. Although the Maori Land Councils originally had significant Maori representation, within a short time Maori involvement was removed and the Maori Land Boards became almost indistinguishable from the Maori Land Court in the district. The Maori Land Court process and in particular its role in the fragmentation of title continued to cripple Maori efforts to retain and use their land.

Land purchases in the Rohe Potae in the twentieth century were conducted by both the Crown and private purchasers, although the Crown had significant advantages. It is difficult to precisely ascertain land alienations in the region after about 1910 because separate reports on the Rohe Potae were no longer produced. This information is only likely to become available as block histories are completed. Nevertheless, official records indicate that the district followed overall trends in Maori land purchases. In the North Island in general the period of greatest overall land alienation through purchases occurred between the years 1900 and 1930 - in particular, 1911 to the mid 1920s. In the Rohe Potae, a sustained campaign of Crown purchasing in 1906 and 1907 appears to have been followed by steady purchasing by the Crown until the mid 1920s. After this there seems to have been a steady stream of alienations largely to private interests through freeholding of leases. Until the 1940s this was assisted by the Crown. Although purchasing still continued into the 1940s and 1950s, by then much smaller quantities of land were involved.

Leaseholds originally appeared to offer a less damaging form of alienation than outright sales because they offered the opportunity for Maori owners to make an income from rents and then regain the land on the expiry of the lease. Maori noted their willingness to lease land as part of the Rohe Potae compact negotiations. However problems with leaseholds often meant that Maori owners had difficulty in gaining an income from rentals, and in being able to regain the land and continue farming after leases expired. The general effect of legislative measures such as those creating perpetual leases and requiring compensation for improvements was to create a barrier to Maori owners in regaining control of leased land. The Crown also responded to pressure from lessees by, for example, assisting them to acquire the freehold of leased Maori land.

Alienations through sales and leases involved increasingly compulsory measures. For example, large quantities of Maori land were compulsorily vested in the Waikato-Maniapoto Maori Land Board for leasing or sale after 1907. Other types of compulsory alienation such as public works takings accounted for relatively smaller quantities of land, but are likely to be considered significant because they seemed to involve such an overt contravention of Treaty guarantees and principles and of undertakings in the Rohe Potae compact. For instance, it seems as though compensation was never paid for land taken for the main trunk railway.

As purchasing declined in the 1920s, issues such as unpaid rates on Maori land became more prominent and were linked with the perceived lack of proper utilisation of Maori land in general. This was particularly apparent in the Rohe Potae from the 1920s, where land previously leased and farmed often seemed to revert to an idle and unutilised state once Maori regained control. Sir Apirana Ngata used the issue of unpaid rates to successfully push for government support of Maori land development schemes. From the mid 1920s to 1930s Ngata was successful in moving official and to an extent public opinion to support the schemes. By the time he resigned in 1934, the schemes had gained a momentum of their own, although after the second World War the administration of them became more bureaucratic and appeared to be less responsive to Maori concerns. While the land development schemes appeared to offer a means of avoiding further land alienations, they also raised new issues concerning Maori ownership, control and management of their land and the subordination of Maori interests to what was perceived as the 'national interest'.

After the Second World War, governments became increasingly reluctant to support measures that encouraged the further sales of Maori land, preferring instead to encourage Maori to develop and farm their land. However, Maori Land Boards and then the Maori Trustee still seemed willing to facilitate alienations. In addition, many measures designed to overcome problems with fragmentation of title and multiple ownership, such as those concerning 'uneconomic' interests, continued compulsory alienations. These involved relatively small quantities of land by this time but were significant in Maori eyes given the relatively small amount of Maori land remaining.

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WAI 389 # 3.2

WAITANGI TRIBUNAL

CONCERNING

the Treaty of
Waitangi Act 1975

AND CONCERNING

the Rohe Potae land
& resources claim

DIRECTION COMMISSIONING RESEARCH

- 1 Pursuant to clause 5A(1) of the second schedule of the Treaty of Waitangi Act 1975, and after consultation with the claimants, the Tribunal commissions Cathy Marr of Wellington to prepare an exploratory narrative report on the history of land alienations in the Aotea block from 1900 to 1960, to complement her previous report for the Tribunal. The report will constitute an overview of the main issues arising from such alienations, and indicate areas where further research is necessary.
- 2 This commission commences on 19 April 1999.
- 3 The commission ends on 6 August 1999 at which time one copy of the report will be filed in unbound form together with an indexed document bank and a copy of the report on disk. [In order to facilitate easy photocopying, staples should not be used on papers in the document bank]
- 4 The report may be received as evidence and the author may be cross-examined on it.
- 5 The Registrar is to send copies of this direction to:

Richard Hill
 Cathy Marr
 Claimants
 Counsel for Claimants
 Solicitor General, Crown Law Office
 Director, Office of Treaty Settlements
 Secretary, Crown Forestry Rental Trust
 Chief Executive, Te Puni Kokiri

Dated at Wellington this 17th day of March 1999


 CHAIRPERSON
 WAITANGI TRIBUNAL

WAI 329, WAI 389

OFFICIAL

WAITANGI TRIBUNAL

Wai 529, Wai 559
3.1 # 3.1

CONCERNING

the Treaty of Waitangi Act 1975

AND CONCERNING

the Rohe Potae land
& resources claim

DIRECTION COMMISSIONING RESEARCH

- 1 Pursuant to clause 5A(1) of the second schedule of the Treaty of Waitangi Act 1975, and after consultation with the claimants, the Tribunal commissions Jenny Skinner of Wellington to carry out research in the archives relating to Maori Land Purchase files from 1900 to 1920 for the Aotea block, and to the general history of land alienations in the block until 1960, reporting on this to the principle researcher Cathy Marr.
- 2 This commission commences on 22 March 1999.
- 3 The commission ends on 1 May 1999.
- 4 The Registrar is to send copies of this direction to:

Richard Hill
Cathy Marr
Jenny Skinner
Claimants
Counsel for Claimants
Solicitor General, Crown Law Office
Director, Office of Treaty Settlements
Secretary, Crown Forestry Rental Trust
Chief Executive, Te Puni Kokiri

Dated at Wellington this 17th day of March 1999



CHAIRPERSON
WAITANGI TRIBUNAL

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