

CHAPTER 18

THE MAORI TRUSTEE

Note: Material for this chapter has been drawn largely from Kieran Schmidt and Fiona Small, 'The Maori Trustee 1913–1953', May 1996, a report completed under the aegis of the Crown Forestry Rental Trust, in cooperation with the Waitangi Tribunal Rangahaua Whanui Series.

18.1 The Public Trustee

The West Coast Settlement Reserves Act 1881 vested over 200,000 acres of very fertile Taranaki land in the Public Trustee. Some was reserved for Maori occupation but the bulk of the estate was leased to settler tenants. This was the first step towards a very different emphasis in the administration of Maori reserved lands from that of Heaphy and Mackay, the previous administrators of Maori reserves.

Following the death of Mackay in 1881, the Native Reserves Act 1882 provided for the vesting of the other Crown-administered Maori reserves in the Public Trustee. Like his predecessors the trustee had the power to lease these reserves and to collect and distribute the resulting rents to the beneficial Maori owners, after deducting expenses. The Board of the Public Trust Office was to be extended by the appointment of two Maori representatives. The Board was to provide guidelines for the leasing of the trust estate, but the trustee was also required by the act to consult with the beneficial owners. The independent Commission of Native Reserves, that had existed since 1862, ended with the appointment of Alexander Mackay to a judgeship of the Maori Land Court in 1884, and the reserves were solely under the control of the Public Trustee. He appeared to reverse the previous Commissioners' policy of 'aggregating the accounts according to tribal communities and using the surplus from one block to assist the development of another' by instead accounting for each individual block separately. This, it has been suggested, led to his role being that of a 'passive administrator' with an interest in the economies of the blocks rather than a concern about the long-term interests of the beneficiaries'.¹ The Board failed to meet regularly (not even twice a year) and consequently did not provide opportunity for its Maori members to represent Maori interests. (They were unsalaried and their involvement with the board seems soon to have lapsed.)

During this period of Public Trustee control of Maori reserves, a number of pieces of legislation were passed which encroached on the ability of Maori owners

1. G V Butterworth and S M Butterworth, *The Maori Trustee*, Wellington, 1991, pp 19–20

to both retain their land and influence the terms of the leases of their land. Extensions of the terms of leases and reductions in rents were granted, by legislation and Order-in-Council in 1883 and 1887 respectively. By 1908, the interests of Maori beneficial owners in these estates had been reduced to an annuity computed at a 30 year intervals on the unimproved value of the land.² In 1887 the Westland and Nelson Native Reserves Act gave Greymouth lessees a perpetual right of renewal. This was extended to Taranaki lessees by the West Coast Settlement Reserves Act 1892 against the wishes of the Maori owners. This conversion to perpetually renewable leases involved some 120,000 acres. Maori petitioned Parliament every year from 1900 to 1912 protesting about the administration of the settlement reserves. The Waitangi Tribunal has noted that the Public Trustee was required, under the West Coast Settlement Reserves Act 1881, 'to promote two goals inherently in conflict': to act for the benefit of the Maori owners and to promote settlement.³ As commented above (sec 8.11.1) this is not strictly the case; an equitable leasehold system could, all along, have served the interests of both parties. But there is always a tension between the two sets of interests, a balance to be struck, and it is clear that the settlement reserves were administered overwhelmingly in the interests of the settlers, especially under the 1892 Act.

The Native Land Amendment Act 1888 removed most restrictions on the purchase of reserves, the result being inroads into the New Zealand Company tenths and the Otago Heads reserve, for example. In the same year (1888) the Maori Real Estate Management Act laid down rules for the administration of the estates of minors and Maori adults under disability, which were vested in the Public Trustee by the Native Land Court. This category of trusteeship was a significant part of the Public Trustee's responsibility.

By the early twentieth century the majority of accounts vested in the Public Trustee came under four principal Acts: the Native Reserves Act 1882, the Westland and Nelson Native Reserves Act 1887, the West Coast Settlement Reserves Act 1892, and section 185 of the Native Land Act 1909. Under legislation such as the Public Works Act and section 428 of the Native Land Act 1909, the Public Trustee controlled 'cash' accounts for compensation to be paid out for Maori land taken under the Public Works Act, or for rentals received by the trustee when the recipient of the rent was in dispute.

The period from 1913 to 1921 saw an increase in accounts and estates. Much of the Public Trustee's administration of Maori affairs was coming from Native Land Court decisions upon succession and orders appointing trustees of the interests of minors in respect of the intestate estates of deceased Maori. The same period also saw an increase in the trustee's responsibilities in collecting and distributing rentals. The Public Trust Office was becoming increasingly unwieldy and over-burdened. In 1913 a Commission of Inquiry investigated a range of problems relating to the office, some of them indicated by Maori petitions. In 1912 a commission had also investigated the situation of tenants under the west coast settlement reserves.

2. AJHR, 1891, h-3, p v

3. Waitangi Tribunal, *The Taranaki Report: Kaupapa Tuatahi*, Wellington, GP Publications, 1996, p 258

Perhaps ‘symptomatic of the negative attitude expressed by the Office towards Maori Reserve administration’, it was revealed that it had not kept rent succession records or made payments to each beneficiary.⁴ The Public Trust officers in fact urged the 1913 Commission that Maori matters be removed from their brief. Not only did the administration of Maori reserves and estates often run at a loss, but it often cost them business from lessees.

The Public Trustee had a legal responsibility to ascertain Maori wishes regarding the administration of their reserves but he was under no obligation to take these wishes into account. The 1912 commission recorded the Public Trustee’s failure to consult Maori about legislation affecting the reserves:

In the whole of this legislation [the west coast settlement reserves legislation] two facts stand prominently out. The first is, that every legislative measure has been in favour of the lessees; and the second, that on no occasion has the Native owner been consulted in reference to any fresh legislation.⁵

The blame apportioned by the 1912 West Coast Settlement Reserves Commission to the Public Trustee for failing to consult with Maori about legislation may in part be mis-directed. While the trustee had a legal responsibility to those whose land was vested in his control, the government’s obligations under the Treaty of Waitangi also have to be considered. While Treaty principles about the Crown’s obligation to consult Maori are not closely defined it appears that Maori interests must be considered and that would normally imply consultation except in unusual circumstances. The duty of active protection, also identified in the Court of Appeal judgment, would seem to require that the trustee should consult adequately with owners as to major changes in the future disposition of their lands, and that the Crown should have ensured that he did.

Under the West Coast Settlement Reserves Amendment Act 1913, major changes occurred. Lessees who had not taken up perpetual leases under the 1892 Act were granted an extra ten years’ lease; two-thirds of the rentals were to be set aside for compensation for improvements upon expiry of the leases. Maori owners, who had retained about 26,000 acres as papakainga, and 25,000 acres under Occupation Licences, could have these lands partitioned and vested in them via the Land Court. The Public Trustee lost control of this land— a rare case of reserved land being returned to its owners.⁶ Most seriously, however, section 2 of the Native Land Act Amendment Act 1913 gave the Crown power to purchase west coast settlement reserves land. It did so vigorously between 1913 and 1923; much of the newly returned land was sold, along with lands that still remained under the Public Trustee. Willan gives the figure of 20,000 acres of settlement reserves having been alienated by the Native Trustee to the Native Land Purchase Board from 1915 to 1916.⁷ The total amount of Maori reserves under the Public Trustee were reduced

4. Kieran Schmidt and Fiona Small, ‘The Maori Trustee 1913–1953’, CFRT Report in association with the Waitangi Tribunal Rangahaua Whanui Series, May 1996, p 160

5. AJHR, 1912, g-2, p 6

6. Schmidt and Small, p 10

from around 209,000 acres before the West Coast Settlement Reserves Act 1913 to around 119,200 acres by 1919, falling to around 94,000 acres by 1921 and 72,000 acres by 1934. Of the remaining 115,000 acres (at 1921) 73,000 acres included land occupied or retained as papakainga, leaving around 42,000 acres unaccounted for.⁸ Some may have been taken under the Public Works Act (although the low value of the Public Works Compensation Account suggests the amount taken was very low), but it is likely, according to Schmidt and Small, that the rest was sold by the trustee. In Schmidt and Small's judgement:

The large proportion of vested land permanently alienated under the Public Trustee indicated his failure to act in the best interests of his Maori beneficiaries and to protect the latter's land. It meant that the Maori beneficial owners of the Reserves became worse off as the Public Trustee's administration wore on.⁹

Certainly there are situations where a responsible trustee could sell part of his estate if that improved the position of the estate as a whole, or a significant portion of it. The extent of selling in the west coast settlement reserves, mostly of excellent quality land, makes it difficult to believe that such was the case in this instance.

In 1919, 90 percent of leases under the Public Trustee were for 10 to 21 years and 3.3 percent for 21–42 years. When these leases fell due, there were often sharp increases in rentals when they were renewed, indicating the extent to which land prices had increased during the lease, and implying 'that the overall rental return for Beneficial Owners was less for long term leases'. It appears that rent renewals only took place at the expiry of a lease, not during the lease's term. Schmidt and Small believe that '[a]s most leases were for 21 years then Beneficiaries were significantly disadvantaged'¹⁰, although it must be noted that 21 years was a normal term for agricultural leases in New Zealand, sometimes with rent revisions at seven-year intervals, but often not. There is also evidence that re-valuations of reserve land at the expiry of a lease were not always carried out, and that rents were often reassessed at less than 5 percent of the unimproved value as required by the West Coast Settlement Reserves Amendment Act 1893.¹¹

It appears that Maori owners had a less than satisfactory opinion of the administration of their reserves by the Public Trustee. Small highlights their 'grave dissatisfaction' with the Public Trustee's handling of the Nelson and Motueka reserves and the west coast settlement reserves. At the heart of this dissatisfaction appears to lie the issue of lack of consultation, which was recognised by the West Coast Settlement Reserves Commission in 1912. The 1913 Commission into the Public Trust Office pointed out that the trustee's position had diminished his mana among Maori.¹²

7. Rachael Willan, 'Maori Land Sales, 1900–1930', report for the Crown Forestry Rental Trust, Twentieth Century Maori Land Administration Project, March 1996, p 27.

8. Schmidt and Small, p 162

9. Ibid, p 163

10. Ibid, p 164

11. Ibid, p 164

12. Ibid, p 18

18.2 The Native Trustee

The 1912 Commission into the Public Trust Office recommended that the Maori reserves and their administration be vested in an independent body. The outbreak of World War I delayed the implementation of this recommendation until 1920. The Native Trustee Act 1920 established the office of the Native Trustee. All Maori reserves vested in the Public Trustee were transferred to the Native Trustee along with the requisite powers, duties, functions, and funds. As well as having normal powers of investment, the Native Trustee was given the power to loan trust moneys by mortgage on freehold or leasehold interests in Maori hands. This was an attempt to alleviate the problem Maori had in obtaining mortgage finance. He was also empowered to use funds accumulated by Maori Land Boards for the same purpose, prior to their distribution to beneficial owners.

The Native Trustee started out with just over 90,000 acres of reserves and £262,000 of accumulated rents and assets. In his role as banker for the seven Maori Land Boards, an extra £544,441 came under his care. However, the Native Trustee did not initially live up to Maori hopes that he would be a major source of funds: out of all his funds which totalled approximately £800,000, only £25,000 was in cash, the rest in mortgages (mainly to Pakeha) or securities.¹³

The Maori Land Boards carried out a very similar role to the Native Trust Office. They held Maori land in trust and collected and distributed rental moneys to the Maori owners. From 1922 they also acted as mortgagee to Maori and so competed with the Native Trustee for mortgage investment. In 1952 the Maori Land Boards were abolished and their functions were transferred to the Maori Trustee¹⁴, who consequently received greater revenues but was also under obligation to accept the administration of uneconomic properties.

18.3 The Native Trustee and Land Development

In the late 1920s the Native Trustee's role expanded to fit in with Ngata's land development proposals and he began to invest in farming on a large scale. Under the Native Trustee Amendment Act 1929 and the Native Trustee Act 1930, the Minister could vest the control and management of any native land in the Native Trustee. This assisted land development, the advances being made out of the trust funds and guaranteed by the state. These powers of investment were, as pointed out by the 1934 Royal Commission into Native Affairs, much wider than those that existed previously.¹⁵ The trustee was given the power to use any proportion of his trust funds as he thought fit for farming purposes, totally without the control of any Board. Concerns were rightly expressed about the wisdom of subjecting the trus-

13. AJHR, 1935, g-11, p 134

14. The term 'Native' was changed to 'Maori' under the Maori Purposes Act 1947

15. AJHR, 1935, g-11, p 27

tee's funds to the fluctuations of primary product prices and whether the trustee had unnecessarily put under threat the funds under his control.

The Native Trustee's role as a farmer was to prove to be a heavy burden on funds. Not only did it seriously threaten the trustee's liquidity (with 78 percent of funds being held in mortgages by 1930)¹⁶ but it seriously affected the trustee's ability to meet his commitments to Maori reserve owners. Falling primary produce prices meant that mortgagors were unable to meet their liabilities and this had a flow-on effect to the Native Trustee. Those who held leases under the Native Trustee were unable to pay their rents, and the trustee was unable to collect rents to pass on to Maori owners. Questions were raised whether the stations were being farmed for the benefit of their Maori owners or for the protection of the Native Trustee's securities. Submissions to the 1934 Royal Commission into Native Affairs not only highlighted the financial inconvenience to Maori owners, but also to the Maori Land Boards (who had large funds deposited with the trustee) and their beneficiaries. The Commission concluded that these complaints were well-founded and 'that there is at present a dislike of the Native Trustee among many Natives'.¹⁷

The 1934 Royal Commission into Native Affairs was highly critical of the trustee's farming ventures: firstly for the conflict of interest between his role as supervisor of the Native Trustee Office and as mortgagee; secondly for the inexperience in farm management of the trustee, Native Affairs Department, and the supervisors; and thirdly, for the over-expenditure at the expense of the trustee's commitment to the Maori owners.¹⁸ In 1932 the trustee was unable to meet his rent obligations to west coast settlement reserves owners. Distribution of rents were late and only two-thirds were paid out in June and only one-third in December. The arrears were paid in full by the end of 1933 after the trustee mortgaged the stock from Aohanga Station with Dalgety and Company Limited. Nevertheless, the beneficiaries who were dependent on these rents suffered great inconvenience.¹⁹ The Government injected a number of grants of capital in order to help the trustee meet his commitments, the first of which was an emergency loan from Treasury of £38,000 in 1928. In 1949 the trustee was embroiled in a court case regarding its management of Motuweka Station. All of this only served to further damage the trustee's integrity in Maori eyes.

The 1934 commission concluded that:

there is need for a trustee who will act as a safe investment trustee for the Natives. We think that the Native Trustee should be limited to the functions of such a trustee and should not be permitted to act as a farmer, except in so far as he is a mortgagee in possession, or is otherwise protecting a security upon which he has advanced moneys subject to the safeguards proper to a trustee board of investment. We think that schemes for the development of Native lands and for granting farming assistance to Natives should be carried on by the State and by the Maori Land Boards (whose funds

16. Butterworth and Butterworth, p 34

17. AJHR, 1935, g-11, p 134

18. Schmidt and Small, p 89

19. AJHR, 1935, g-11, p 144

are not guaranteed by the State) and should not be undertaken by the Native Trustee; and we make recommendation accordingly.²⁰

Native Trustee investment in farms continued however, and in the period from 1934 to 1953 investment increased. In the 1940s the trustee actually took over the management of a number of new stations. But expenditure was now heavily monitored and restricted by the Board of Native Affairs, created under legislation in 1934 to take over from the Native Land Settlement Board. Until 1948, no Maori served on this Board.²¹

18.4 The Native Trustee Amalgamates with the Department of Native Affairs

The 1932 Native Land Amendment Act saw the amalgamation of the Native Trustee Office and the Department of Native Affairs. This move grew out of the recommendations of the 1932 National Expenditure Commission and was endorsed by the 1934 Native Affairs Commission, both of which propounded the advantages of decentralising the functions of the Native Trustee Office. Under the 1932 Act the position of Native Trustee was combined with the position of Under-Secretary of the Department. Chief Judge Jones became the first holder of both positions. The most significant change was that the field staff of the Native Trustee Office were now to come under the control of the various Maori Land Board Registrars, who were to oversee the collection and distribution of rents, manage the estates vested in the trustee, and the various other duties under the trustee's jurisdiction.

Butterworth and Butterworth have argued that these actions were the catalyst for the Native Trustee's role being reduced to 'a second grade function of the Native Department', a process marked by loss of administrative autonomy, loss of corporate identity, the absorption of Native Trust Office staff into the Department of Native Affairs, the elimination of all administrative signposts of independence, the 'gradual dissipation of the pool of expertise in the Native Trust Office through the natural processes of retirement and promotion', and decentralisation. A further contributing factor was the vesting of control of the Native Trustee's investment decisions and expenditure on farming in the Native Land Settlement Board (which was later replaced by the Board of Native Affairs). All of these actions, the Butterworths believe:

left little room for initiative or imagination and its ultimate effect was to turn the Native Trustee into a bureaucratic arm of the Department rather than a prudential financial institution and an agent of his beneficiaries.²²

20. Ibid, p 147

21. Butterworth and Butterworth, p 40

22. Ibid, pp 39-41

There are numerous examples showing that the decentralisation of the Native Trust Office was less than well received by Maori. In 1938 the accounts of the west coast settlement reserves were transferred from head office to the Aotea District Maori Land Board in Whanganui, and it was proposed that the half-yearly rental distributions be stopped and payment made through the Post Office. This decision was reached following reports of alleged careless spending and drunken behaviour by Maori following rent distributions. Taranaki Maori were strongly opposed to the change and raised other issues regarding the administration of their reserve lands and the lack of consultation:

In the new regime that arose in the reconstituted Native Affairs Department, we see the sudden decline of our interests back to the state existent prior to the World War. No longer will we and our lands be regarded as a large enough section to warrant the full time care of a trustee and a competent staff ... because of extraneous circumstances, we are again thrust into the midst of a Department bound up with multifarious duties which have very little relationship to the obligations required of a trustee. We claim that dealings with us ... [are] being delegated more and more into ordinary office routine.²³

The perception of beneficial owners seems to have been that the Department did not seem to be concerned with their interests.

A number of other issues surrounding the decentralisation process surfaced. Taranaki Maori complained that the Whanganui office no longer provided distribution sheets to the 'principal' owner showing the names of all owners and what rent they had received. This had been supplied by the Public or Native Trustee since 1881. In 1938 the deputy trustee accused Registrars of the Maori Land Boards of granting illegal rent advances to owners in order to buy popularity. There were complaints that the Boards were being too slow in collecting and distributing rents and not enforcing lease covenants. In 1942 owners were told that they would have to wait for their rents to be paid as the district office was too busy to prepare accounts. The Whanganui district officer advised head office in 1953 that the west coast settlement reserves rents were in arrears and that there was no indication when they would be paid as there were still many rents to collect.²⁴

From 1920 onward, the trustee's role in development and management of Maori estates had produced an ongoing interaction of the trustee with the Department of Native Affairs. (This applied also to the relationship of the Department with the Maori Land Boards and with the Native Land Court, the Judge of the district being, since 1913, also President of the Land Board of that district and the Land Court Registrar being the other Board member). This close network of administration belies any suggestion that the Crown was not involved in the work of the Native Trustee. The trustee was very much an agent of the Government's management policies towards Maori land, both in respect of development and Maori land

23. ma 54/2/30, pt 1, 12 August 1937, submission of deputation of Taranaki Maori to Savage, cited in Butterworth and Butterworth, pp 46–47

24. Schmidt and Small, p 193

settlement. The amalgamation of the office of Native Trustee and Native Department Under-Secretary simply recognised the fact.

18.5 The Native Trustee and the West Coast Settlement Reserves

The west coast settlement reserves made up a significant portion of the reserves vested in the Native Trustee and consequently figured largely in the business carried out by the trustee. These reserves provide a case study of the problems inherent in the trustee's administration. In 1924 the ten year leases issued under the West Coast Settlement Reserves Amendment Act 1913 began to expire and it immediately became obvious that the fund for compensation for improvements was short of the estimated necessary amount. The trustee, Rawson, was in favour of extending the leases for another five years, partly to save his office from the burden of paying compensation and partly because he seemed reluctant to allow the land to revert to the owners. He argued that other Maori in the district who had their land returned to them were already behind on rate payments and that it would be difficult and expensive to partition the land between the various family groups. He also believed that as most owners only had small shares they would have to sell them to derive any benefit. The wishes of the Maori owners prevailed and the West Coast Settlement Reserves Amendment Act 1923 provided for advances to owners to pay compensation to lessees and mortgage the land as security. Some owners re-leased their land in order to repay the compensation charge from the rents while others sold their land to the Crown.²⁵

Related to this was the issue of whether compensation for improvements was necessary in all cases. The lessee had the responsibility to ensure the land was maintained in good condition and the trustee had the corresponding responsibility to inspect the leasehold properties. Some owners found, as leases expired, that there had been breaches in lease covenants, and rightly complained that the breaches should have been identified earlier by the trustee. This implied that the trustee's administration in terms of inspecting leasehold lands was lacking and he thus failed to protect the owners' interests. The appropriate level of compensation for improvements became an issue. Although the trustee advised that he would not pay compensation to the lessees until disputes were settled, the owners claimed that the trustee paid out before the matter was settled.²⁶

Schmidt maintains that the most distinctive feature of the trustee's administration of the west coast settlement reserves was his failure to monitor and control the valuation process. He believes that evidence shows the:

... Maori Trustee pursued a flawed policy in the important area of valuations as it was in the interests of his beneficiaries that the valuation process be consistent and fair in view of the fact that their whole rental income depended on valuations.²⁷

25. Ibid, pp 100–101

26. Ibid, p 101

Under section 19 of the Native Purposes Act 1935 lessees were permitted to be credited with all improvements when calculating renewal rentals, over-ruling an earlier Supreme Court decision that the lessee was only entitled to improvements carried out in the previous 21 years. Maori owners were understandably angry about this provision and wanted to know why they had not been consulted on the matter. An examination of 48 arbitration awards held by lessees that were assessed between 1934 and 1938 show that 85 percent of reviewed rentals were reduced. Of the total number of leases renewed under section 19 of the 1935 Act, 10 percent resulted in rent reductions. It has been estimated that losses to owners amounted to £20,000 a year.²⁸

Rent collection and distribution attracted a great deal of criticism from Maori owners. The trustee's over-expenditure on stations combined with the economic depression of the 1930s meant that there were often delays in collecting and distributing rents. In 1932 the trustee changed the timing of distribution in Taranaki from April and October to June and December in an attempt to gain more time. It would appear that not only were the rent payments late, but they were not for the full amount. As stated earlier, only two-thirds were paid out in June and one-third in December. This distribution of rents was partially paid for out of a mortgage on the livestock of Aohanga Station. By 1934 rent arrears among west coast settlement reserves lands totalled £7,000.²⁹ The resulting dissatisfaction and hardship to Maori was predictable. At the same time, however, the trustee seemed to improve the collection and payout procedures by attempting to keep rent cards and distribution lists up to date.

The depression also brought a reduction in the level of rental income. Like the Public Trustee, the Native Trustee did not ensure that all rents were assessed at the minimum percentage of 5 percent of government capital valuation.

18.6 Unclaimed Moneys

Over the years the Public and Maori Trustee was to accumulate a large amount of unclaimed moneys, principally rents accrued due to owners' absences, death, and subsequent waiting for succession to be decided by the Maori Land Court. By 1957 the amount stood at £64,192.³⁰ In the Rotorua district it would appear that the majority of unclaimed moneys were interests of £5 or less.³¹

The Maori Trustee Act 1950 stated that after these funds had been held by the trustee for 10 years or more without any claim being made by those who were entitled to the funds, a list of unclaimed moneys was to be published. If after another year they had still not been claimed, 10 percent was to go to the Maori

27. Schmidt and Small, p 103

28. Ibid, p 107

29. Ibid, p 108

30. Ibid, p 204

31. Ibid, p 93

Purposes Fund and 90 percent to a disposal scheme approved by the Minister. Some of these funds were eventually channelled into the Maori Education Foundation. Unclaimed moneys was an issue that was to plague the trustee continuously and hinted at problems of inadequate staffing, lack of consultation and communication with owners, and probably most importantly, the ever increasing problem of administering multiple interests divided between numerous heirs at each generation.

18.7 The Conversion Programme

The Conversion Programme was one of the most controversial issues surrounding the Maori Trustee. The Conversion Programme was an attempt to stop the further fragmentation of small 'uneconomic' interests worth under £25. Under the Maori Affairs Act 1953 the Maori Trustee was required to purchase these interests and resell them to individual owners or to an incorporation of Maori owners. By September 1959 the Maori Trustee had purchased 10,874 interests at an average of £10 for a cost of £109,936. He had resold 5,930 interests for £74,764 at an average price of £12 10s. Most of these interests were acquired on an owner's death but some were the result of 'live buying'. Under the Maori Reserved Land Act 1955 the programme was extended to include uneconomic interests in reserved land. This compulsory acquisition of uneconomic interests stopped in 1974.

As the Butterworths have pointed out, this programme was extremely unpopular with Maori because 'it deprived them of the interest in land, however small, that proved their kinship connections and gave them their turangawaewae'. They believe that the programme's major weakness was that:

it continued the legal tradition ... of treating Maori tribal property in land as an aggregation of the individual interests of members of the tribe instead of as ownership in common by the whole group.³²

Expressions like 'ownership in common' by the whole group are somewhat problematic (see Chapter 1 above) but it is certainly true that access to rights, however small, in the rohe of a hapu, deepened upon whakapapa linkage to a descent group.

18.8 The Maori Affairs Amendment Act 1967

In 1965 the Prichard–Waetford Inquiry reported on the laws affecting Maori land and the powers of the Maori Land Court. In keeping with the concerns already expressed, the Inquiry concluded that fragmentation and unsatisfactory partitions were 'evils which hinder or prevent absolutely the proper use of Maori lands'.³³ In

32. Butterworth and Butterworth, p 85

33. 'Report of Committee of Inquiry into Laws Affecting Maori Land and Powers of the Maori Land Court, 15 December 1965, p 6

order to overcome the problems of fragmentation of interests it was recommended that the limit for conversion be increased from £25 to £100. If, once the Crown had taken control of these fragmented interests, no other owners or other Maori wished to purchase them, they would become Crown land and be available for disposal. Furthermore, it was recommended that the conversion programme be undertaken by the Crown rather than the Maori Trustee.³⁴ The trustee, the Inquiry proposed, was to gain other powers. If after one year from the request for all Maori with land interests to file their address with the District Officer no address was filed and if the same person had not withdrawn any funds in the preceding six years, the Maori Trustee could:

elect to act as agent for such person in respect of any interest in Maori freehold land, such agency to include the power both to vote at meetings and to execute documents of alienation.³⁵

The Maori Affairs Amendment Act 1967 included many of the Prichard–Waetford Inquiry’s recommendations. Controversially, sections 155–156 gave the Maori Trustee certain powers over the alienation of reserved land. These provisions saw the west coast settlement reserves lessees acquire the freehold of large areas of the Parininihi ki Waitotara Reserve, which had been formed from the settlement reserves.³⁶ Butterworth and Butterworth describe this Act as containing many ‘distasteful provisions’ to Maori and that inevitably the trustee ‘as the agent of so many of these unpopular policies’ bore much of the resulting dissatisfaction.³⁷

18.9 Conclusion

The office of the Maori Trustee was created in 1920 taking over from the Public Trustee the management of important estates such as the west coast settlement reserves, the Mawhera (Greymouth) leases and the remainder of the 1840s reserves in Wellington and Nelson. It was also involved in land development and provision of mortgage finance to Maori farmers. Neither the Public Trustee nor the Maori Trustee and his administration exercised their responsibilities in the best long-term interests of those Maori whose land and revenue was vested in the trustee. Alienation of land under their control, large capital expenditure with little return, charging of lands with high levels of debt, problems surrounding the collection and distribution of rents, land valuations and the maintenance of lease covenants, and inadequate consultation with beneficial owners in respect of all these matters, indicate a dubious record of protection of reserves and other lands vested in the trustee. The difficulties the trustee faced in all aspects of his administration have to be acknowl-

34. *Ibid.*, pp 8–9

35. *Ibid.*, p 13

36. Janine Ford, ‘The Administration of the West Coast Settlement Reserves in Taranaki by the Public/Native/Maori Trustees, 1876–1976’, Wai 143 rod, doc m18, 1995, pp 90–92

37. Butterworth and Butterworth, pp 95–96

edged but it seems that considerations of general efficiency and the interests of tenants came before the interests of the beneficial owners in many areas of the trustee's operations.

Responsibility for the inadequacy of the trustee's administration rests also with the Government. The trustee was obliged to carry out both the legislative directives concerning Maori land under his administration, notably the provision of perpetual leases to the Mawhera tenants from 1887 and the west coast settlement reserves tenants from 1892. The trustee had also to serve the interests of the Native Department. This became increasingly obvious with the amalgamation of the Native Trust Office into the Department of Native Affairs. It is doubtful whether the trustee could have gone against Ministers' directives to protect his clients' interests; the conflict of roles was simply too strong between the Maori Trustee as an agent of the Crown and as trustee for Maori owners.

The Maori Trustee also became an agency for the Department of Public Works and for local bodies, taking over portions of Maori land for public purposes. With most Maori land under multiple title it was difficult to consult with Maori owners before the taking of land or to pay them compensation afterwards. But it was all too convenient for the taking authority to simply take the land, advise the Maori Trustee and let his office deal with the owners as best he could. The trustee's office was also used for the recovery of rates, even exercising the power of sale. While there are genuine dilemmas here in respect of the rights and obligations of the owners, the Maori Trustee, like the Public Trustee before, had increasingly been used to serve the interests of others ahead of the beneficial owners of the land in his charge.

