

CHAPTER 4

ALIENATION THROUGH THE NATIVE LAND COURT

4.1 INTRODUCTION

From 1867 the Native Land Acts came into operation in the Wairoa district. The intention and policy of the Legislature in introducing the Act of 1865 was to facilitate the transfer of Maori lands by overcoming the strict use of the Crown's right of pre-emption, and by individualising tribal holdings through the issuing of certificates of title. The certificate of title was to be treated as the authoritative instrument which would free Maori land from any impediment to its transfer. Europeans were able to purchase Maori land, without having to wait for 'any preliminary sale or direct cession to the Crown, as stipulated for by the Treaty of Waitangi'.¹

Because by section 21 any single native could bring land before the court, every single Maori person in the country became a potential target for land-hungry settlers or speculators and their lawyers or agents. Martin wrote that 'Capitalists who desire investments can have no difficulty in finding the single man needed'.² Once one individual had taken tribal lands before the court the other members of the tribe were forced to attend or risk losing their property. As Ward says:

The Maori people were consequently exposed to a thirty-year period during which a predatory horde of storekeepers, grog-sellers, surveyors, lawyers, land agents and money-lenders made advances to rival groups of Maori claimants to land, pressed the claim of their faction in the Courts and recouped the costs in land. Rightful Maori owners could not avoid litigation and expensive surveys if false claims were put forward, since Fenton, seeking to inflate the status of the Court, insisted that judgements be based only upon evidence presented before it.³

All lands in New Zealand were held either tribally or by hapu. If certificates of title were to be issued they should have been issued to the tribes and hapu by name. Section 23 provided for this, but whether it was deliberate or a misinterpretation of the section, the judges of the Native Land Court adopted the habit of issuing certificates, upon which Crown grants were made, for all lands, whatever the area, to 10 or fewer people. In 1891, Fenton could remember only two cases in the whole

1. Commissioner Johnston, AJHR, 1872, G-6, p 8

2. Memorandum by Sir William Martin on the operation of the Native Land Court, AJHR, 1871, A-2, p 4

3. Ward, *A Show of Justice*, p 186

of New Zealand where a certificate was actually issued in favour of a tribe by name.⁴ The rest of the tribe was therefore shut out, even if the court had already found the rest to be tribal owners in common with the 10. W L Rees commented in 1884, that it ‘was in vain that the great mass of tribal owners murmured at this summary confiscation of their ancestral lands. They were told it was the law, and they must submit’.⁵

The tribe was placed in the position of having to choose ten, or a lesser number, from among themselves to put on the certificates of title. Invariably the chiefs were amongst the 10 placed on the title.⁶ For example, Ihaka Whaanga was placed on the titles to all the blocks on the Mahia Peninsula, except for those awarded to Nga Puhi. Paora Te Apatu’s name shows up on a number of blocks as well. These two also figured prominently in the early 1860s Crown purchases.

Crown grants were issued to these chiefs vesting the freehold title absolutely in them as joint tenants and equal holders in the property:

It thus happened that the lands of tribes composed of numerous hapus and hundreds of individuals, became vested by the certificate of the Court, and afterwards by grant from the Crown, in ten or some lesser number of the vast body of owners.⁷

It was believed by most Maori that these 10 were to be trustees for the whole body. In Hawke’s Bay, some had even been told this by the judges of the Native Land Court.⁸ But no word of trust was put in the certificate or Crown grants, instead the certificate alleged that they were the absolute owners of the land according to Native custom, and the Crown grants, which were issued to them by name, vested an absolute estate of freehold in possession, unencumbered by any trusts or conditions whatever.

In Hawke’s Bay, the iwi had also been told by the judges that one person could not sell their interest without the consent of the others. They thus thought there was some protection in having 10 people named in a certificate.⁹ But they soon found this to be incorrect. As soon as the title became vested in individuals, those individuals were free to sell, lease or mortgage the land without any reference to the rest of the hapu or iwi, or even to their fellow grantees.

A favourite tactic of merchants, tradesmen, and often their own tenants, would be to tempt them to take credit without any restrictions for food, drink and clothing. Many of the principal grantees ended up in debt to the amount of many thousands of pounds. Storekeepers and other creditors would then threaten them with legal action unless the debt was paid immediately.

While the land was held by the tribe in common it could not be forfeited by the indebtedness of the individual. However once the land became the property of one person, or even six or 10 who held it by virtue of an absolute Crown grant, the

4. AJHR, 1891, sess II, G-1, p 46

5. Rees, AJHR, 1884, sess II, G-2, p 11

6. Cole, ‘The Hawke’s Bay Repudiation Movement’, p 24

7. AJHR, 1891, sess II, G-1, p vii

8. See for example Paora Kaiwhata and J P Hamlin, evidence to the Native Land Laws Commission, AJHR 1891, sess II, G-1, pp 120, 121–122

9. See memorial of Karaitiana Takamoana, AJHR, 1869, A-22; also AJHR, 1873, G-7, p 18

individual share or interest became a convertible property, which was liable to be seized for debt, and sold by the courts. In some cases what may have started out as a trivial debt would become increased by interest and law costs, and the land would become the payment for that debt. Usually at the same time as they were threatened with legal action, the chiefs would receive an offer from the urgent creditor, or some other party, for their land, and to avoid litigation, and seeing no other means of raising the money, Maori were forced to sell their land.¹⁰

All this was perhaps the natural consequence of a policy designed to not only promote land sales but to also lead to the detribalisation of Maori society. Hawke's Bay squatters in particular had campaigned vigorously against what they termed 'communism in land' and a newspaper in 1862 lamented the fact that 'All our difficulties in New Zealand arise from the existence of the "tribal right"'.¹¹

As Sewell admitted in 1870:

The object of the Native Land Acts was twofold: to bring the great bulk of the lands of the Northern Island which belonged to the natives . . . within the reach of colonisation. The other great object was, the detribalisation of the natives – to destroy if it were possible, the principle of communism which ran through the whole of their institutions, upon which their social system was based, and which stood as a barrier in the way of all attempts to amalgamate the Native race into our own social and political system. It was hoped that by the individualisation of titles to land, giving them the same individual ownership which we ourselves possessed, they would lose their communistic character, and that their social status would become assimilated to our own.¹²

4.2 LEGISLATIVE CHANGES

The consequences of the 1865 Act did trouble the conscience of some settlers and in October 1867 Parliament passed a new Native Land Act. Its purpose was to remedy the effects of the 10-owner rule. By section 17 of the 1867 Act certificates could still be issued to 10 of the owners, but the names of all other owners were to be registered in the court and endorsed upon the back of the certificate. This section further provided that the 10 whose names appeared upon the face of the certificate had no power to deal with the estate, except by way of lease for a period not exceeding 21 years; no sale or mortgage could take place until after the land had been subdivided among the different owners.

Although the Act was passed with the object of protecting all of the owners the fact that only 10 people could still be inserted on the face of the certificate perpetuated the problems of the 1865 Act. There was nothing to show on the certificate that the 10 named were trustees for the other owners, and they could appropriate all the rent money just as the 10 owners under the 1865 Act had done with the purchase money from their sales. Further, if someone did wish to sell the

10. AJHR, 1867, A-15; AJHR, 1870, D-16, no 9, p 12

11. Quoted in Ward, pp 147–148

12. NZPD, 1870, p 361

land, they could get around this section by not registering any names besides those of the grantees. If the judge asked in court whether there were other parties interested, it was simple enough not to say anything.¹³

For example, of the numerous blocks in the Wairoa district passed through the Native Land Court in 1868, this provision appears to have been enacted in only four cases and these were some of the smaller blocks: Te Rato, 301 acres, where 10 names were placed on the certificate of title, while 19 others were registered as joint owners under section 17; Te Whakapau, 281 acres; and Taupara 693 acres. Paeroa no 2, 1850 acres, was the exception because it was slightly larger.¹⁴

4.3 THE NATIVE LANDS FRAUDS PREVENTION ACT 1870 AND HAWKE'S BAY NATIVE LANDS ALIENATION COMMISSION

By 1870 the extent of 'frauds and abuses' under the Native Lands Acts forced the Government to introduce more legislation and the Native Lands Frauds Prevention Act 1870 was passed. The objective of this Act was to prevent the maladministration of lands vested in trustees, in cases where trusts had been created in the names of individuals, but were intended for the benefit of all; to take care that these trusts were fulfilled, and that the lands were not alienated so as to defeat the object of the trust. The same precautions were also to be exercised in respect of the alienation of lands that were not the subject of any trust.

Native trust districts were established (s 2) and trust commissioners appointed (s 3). The consent of the commissioner was necessary for any alienation of land (s 4). The commissioner had to be fully satisfied before he would agree to any alienation that the transaction was fair and equitable; that it was in accordance with the trusts affecting the land; that no part of the consideration, either directly or indirectly, was payable in liquor or arms; and that the parties understood the nature of the transaction (s 5). He was to show this by endorsing the deed of certificate (s 6).

In February 1871 H Turton was appointed trust commissioner under the Act.¹⁵ J D Ormond was satisfied the Act had been of great service in Hawke's Bay, but according to Ward, Turton was at best careless, at worse, unscrupulous.¹⁶ One transaction to come before him concerned the Orangitirohia block, in Wairoa, of 211 acres 2 roods. This block had been heard by the Native Land Court on 17 September 1868 and had been awarded to 10 grantees, without any restrictions.¹⁷ In 1870, 100 acres were conveyed to Dr Ormond for £150. Eight of the grantees had agreed to the sale, but Taraipene and Rauhira Timo had initially refused. To induce Taraipene to agree to the sale, she was promised a reserve of five acres for her and her children. The transaction was inquired into and approved by Turton, on 17 August 1871. According to a memorandum, signed by Ormond and

13. AJHR, 1871,A-2a, p 4

14. Wairoa minute book 1

15. Evidence of Select Committee on Council Paper, AJLC, 1871, no 97

16. Ward, p 252; AJHR, 1871, G-7

17. Wairoa minute book 1, pp 34-35

appended to the deed of conveyance, occupation of the reserve was to be only during Taraipene and her children's life time; it was not to be permanent. This condition, however, did not appear to have been understood by the family, even though Turton swore he had explained it to them. They continued to believe the reserve to be theirs in perpetuity.

This case came before the Hawke's Bay Native Lands Alienation Commission in 1873. The evidence of a public officer was clearly preferred over that of Maori witnesses by the pakeha commissioners. Turton was commended for having 'effectually performed' his duty. The family had to make do with the sympathy of the Maori commissioners who were convinced that the terms of the deed had not been clearly explained to them at the time of the sale.¹⁸

The Hawke's Bay Native Lands Alienation Commission had been set up in response to the protest in Hawke's Bay over the alienation of Maori land. At the heart of that protest was the realisation that the loss of land was leading to the breakdown of the traditional fabric of Maori society and weakening chiefly authority.¹⁹ The commission commenced sitting on 3 February 1873 and sat throughout February, March and April.²⁰

A number of complaints regarding land in the Wairoa district were received by the commission. A typical complaint was:

Disputes alleged mortgages and sales. Asks inquiry into same. Calls for production of all accounts and documents referring to such alleged alienations. Requires a settlement of rents, and that the lands be returned to them.

One complaint against Joseph Carroll alleged 'mortgage foreclosed to pay other grantees' debts. Wants his share of land returned' (complaint 285). Another complaint against Carroll claimed 'Mortgages were paid in flour, sugar, grog, goods, and money' (complaint 111). Possibly because the majority of the commission's time was spent on the Heretaunga case only three Wairoa cases were heard; Orangitirohia (see above), Huramua and Te Kiwi.

The Te Kiwi block is an example of land acquired through fraud. The key figure in this case was the licensed interpreter, George Worgan. According to Ballara and Scott, Worgan was several times dismissed from Government service and was even imprisoned for fraud, forgery, or suspected embezzlement of Maori money.²¹ Worgan had also been involved in the Orangitirohia case.

Te Kiwi was heard by the Native Land Court on 24 September 1868. It was awarded to 10 grantees and the court ordered that it be made inalienable by sale or mortgage.²² The block, containing 133 acres 2 roods, was then leased to William Couper, by a deed of lease dated 20 December 1869, for 21 years at £15 per annum. The original lease was drawn up in Maori by Ahipene Tamaitimate, brother of one of the grantees. It stipulated that the land was to be occupied jointly by Couper and

18. AJHR 1873 G-7, pp 31, 70, 114

19. Cole, 'The Hawke's Bay Repudiation Movement'

20. AJHR, 1873, G-7

21. Ballara and Scott, 'Crown Purchases' report, p 160

22. Wairoa minute book 1, pp 115-116

the grantees. At some stage, Couper, through Wogan, executed a new lease giving himself exclusive legal right to the possession of the land. According to the complaints, Wogan never explained this to them. They thought they were signing an agreement to pay George Burton, the surveyor, £10 out of the lease money. They had only leased the land, in the first place, to raise money to pay the surveyor. They only became aware of the provisions of the new lease when, in 1870, Couper began killing their pigs that had previously fed on the ground. His wife and children burned posts that they brought for fencing.

Wogan denied the fraudulent conduct imputed to him but it was clearly proved that several of the grantees never signed the deed, that their names had been signed in their absence by their relatives. This may have been a usual custom at the time but Wogan filed a declaration that he had seen all the grantees sign on the same day, and that previous to the execution of the deed it was carefully interpreted by him to the grantees in the presence of his clerk, Clement Saunders. Wogan was compelled to admit that this was a false declaration. Usually the pakeha commissioners bent over backwards to avoid imputations of personal blame, but in this case they had to acknowledge the accusations against Wogan and even recommended his suspension for gross negligence. The Maori commissioners recommended that the lease be declared null and void.²³

The commission proved to be a big disappointment for Ngati Kahungunu. Despite Commissioner Richmond admitting that they did have a real grievance with respect to section 23 of the 1865 Act,²⁴ both pakeha commissioners believed that the Maori had been treated fairly by the settlers and dealers of Hawke's Bay.²⁵ Furthermore, the commission was only directed to inquire into and report to Parliament upon the complaints, it was not empowered to give any redress.

The commission did achieve one significant thing though. It provided valuable evidence of the effect of the process the Crown set in place by Parliament's legislative act. For example, Worgan's evidence showed the number of transactions in Wairoa, for which he acted as Maori interpreter, in 1869. In that year alone he got 60 to 70 deeds signed, involving some 1000 Wairoa Maori. At one stage, he had 'Natives . . . coming and going the whole day long for three weeks'.²⁶ The commission also made some successful recommendations for reform of the Native Land Acts, several of which were incorporated into the Native Land Act 1873.

4.4 THE NATIVE LAND ACT 1873

Under this Act, districts were to be created and district officers appointed, whose duty it was to ascertain the tribal and hapu boundaries, being assisted by Maori chiefs, before reporting to the court. The judges were supposed to take strong notice of the officer's findings. In order to prevent landlessness, it was the duty of the court to see that reserves of at least 50 acres were made for each Maori man, woman

23. AJHR 1873, G-7, pp 34, 50, 75 and 128–133

24. Ibid, p 7

25. Ibid, p 6

26. AJHR, 1873, G-7, pp 129 and 131

and child of the district. The reserves were to be inalienable by sale, lease or mortgage, except with the consent of the Governor. McLean, the architect of the Act, also contemplated a 'Domesday Book' of Maori claims and whakapapa, which would prevent the court from entertaining spurious claims by increasing its depth of local knowledge.²⁷

The most significant thing about this Act, though, was substituting the certificate of title with a memorial of ownership. By this Act the system of individual ownership was carried to its furthest limits. From granting land to a tribe by name, as intended by the 1865 Act, the whole people of the tribe individually became the owners – not as a tribe, but as individuals. Each man, woman and child was to be listed on a memorial of ownership and the extent of his or her individual share in the block recorded in the memorial. No sale, lease or mortgage could be valid or effectual unless it was executed by every person named in the memorial. As Locke said, when commenting on the situation in Wairoa, 'Such a state of things is not in accordance with Maori custom, whatever it may be else'.²⁸ Neither was it in accordance with European law. It was not usual in nineteenth-century England for every man, woman and child to be listed in a deed of ownership. J P Hamlin testified that in some instances names were assigned to children not yet born and their names were then put in as owners. There were also cases where men and women had been put in to meet contingencies. According to Hamlin, this had been done in the Whakapunake block in Wairoa.²⁹

The difficulties inherent in such a system are obvious. Because all had to join in any contract, agreement, lease or sale, it meant sometimes that the land could not be effectively utilized. If some of the owners wanted to farm the land for example, or develop it, they would have to get the consent of the rest of the owners. Even supposing they could get the consent of perhaps 100 people, if one sowed a crop, the others could claim an equal right to the produce. If a few fenced in a paddock or small run for sheep or cattle, their co-owners could turn their stock or horses into the pasture. The apprehension of results, not to mention the great inconvenience of getting the consent of over 100 people, paralysed any industry Maori might conceivably undertake.

The system was not even working for the benefit of the Europeans. With so many owners to negotiate with individually, agents for the buyers found it easy to begin to purchase a title but hard to complete the purchase. Endless expense and anxiety was borne by would-be purchasers as they tried to finalise their title. While this may have been useful for preventing the alienation of Maori land, it also meant that land that could have been yielding a revenue to the country, as well as an income to its Maori owners, was lying idle. And in the end it only postponed the sale of land, it did not stop it altogether.

If a determined purchaser could obtain a few signatures to a lease there was nothing the rest of the owners could do to stop him squatting on the land, even if there might be 300 of them. They could not turn him off by force, because they

27. AJHR, 1891, sess II, G-1, p ix; Ward, *et al*, 'Historical Report on the Ngati Kahungunu Rohe', p 114

28. Locke to Under-Secretary, Native Department, 18 May 1877, AJHR, 1877, G-7, no 6

29. AJHR, 1891, ses II, G-1, p 122

would be prosecuted and punished by the law; nor could the courts turn him off by legal process because he could plead the leave and license of some of the owners. By advancing payment to some owners to secure a foothold in the title, a shrewd purchaser could complete the purchase over a period of years, gradually, through various means, buying out the rest of the owners.

This was the situation Hamlin encountered when trying to purchase approximately 100,000 acres of land situated between Wairoa and Poverty Bay, known collectively as the Hangaroa blocks, for the Crown. By this time the Crown had resumed large-scale purchases of land in Wairoa. The negotiations for these blocks commenced in 1875 but in July 1877 Hamlin was still trying to complete their purchase. He reported:

The great length of time occupied in the survey and passing of the land through the Court, coupled with the fact of there being in each block a very large number of grantees to deal with, have been the chief causes of delay.³⁰

Hamlin's tactic, once the land had passed through the Native Land Court, was to visit the various owners where they lived, either at Wairoa or Gisborne, and buy their interests out bit by bit. By this method he completed the purchase of the land in 1880 and 1881. This included the Hangaroa Matawai 1 block, 3269 acres; Tauwharetoi, 50,389 acres; Whakaongaonga, 12,418 acres; Tuahu, 9250 acres for a total of £18,965; and Waihau, 13,800 acres for £3506.³¹ Also purchased in 1880 was Paritu 1, 1320 acres for £303 and Takararoa 1, 1000 acres for £158.³²

Hamlin's actions may not have been illegal but the fact that many of these people were heavily in debt was obviously a factor in these sales. Frederick Ormond had noted in 1876 that nearly every Maori in Wairoa had run into debt, on the expectation of the money to come from selling the returned confiscated land, and had to sell more land to clear it off.³³ As well, heavy floods in early 1877 had destroyed a large quantity of their food; the early crop of potatoes had rotted after being dug up and the seed potatoes for the late crop were washed out of the ground. At Nuhaka, the greater part of their cultivations had been covered with from six to eight feet of silt. Wairoa Maori would have suffered great hardship if European storekeepers, tempted by the prospect of land sales to the Government, had not supplied them with flour, sugar and other necessaries on credit. Ormond reported that, because of this, nearly every Maori in the district was about £10 in debt, with some ranging from £200 to £500. One chief was reported to be in debt to the amount of £2000.³⁴

These purchases were conducted under the Immigration and Public Works Act 1870 and its amendments. By the 1870s the Government had decided to embark on a massive programme of immigration and public works, aimed largely at opening up the North Island for European settlement. It was felt that public works on a much

30. AJHR, 1877, G-7, no 7

31. AJHR, 1881, C-6, p 8; *New Zealand Gazette*, 1881, p 174

32. AJHR, 1881, C-6, p 8; *New Zealand Gazette*, 1881, p 752

33. AJHR, 1876, G-1, no 36; see chapter 3

34. AJHR, 1877, G-1, no 12

larger, national scale, were necessary to stimulate the country and to encourage immigration. At the same time, money spent on warfare could be better spent on employing Maori on public works construction which would also assist in their pacification and civilisation. The Government accepted therefore, that forceful acquisition, in 'sensitive' areas anyway, and the continuance of the wars was holding back the continued development of the country. In addition, the withdrawal of imperial troops meant that the colony had to avoid provoking further serious confrontation.

The public works legislation of the 1870s provided authority for the massive new national programme of public works. In addition it reflected the Crown policy of purchasing Maori land required for public works in the North Island at least, and the hopes of politicians that public works would be more effective than warfare in solving the 'Native problem'.³⁵

Locke admitted that the purchase of a large extent of this upper Wairoa land, stretching to Waikaremoana and then northward to Poverty Bay, was intended to contribute to the general safety of the district, by enabling settlement to extend along the boundary of the territory of the Tuhoe tribes.³⁶ The negotiations for this 100,000 acres had begun at the same time as the Government was purchasing the four returned confiscated blocks.³⁷

4.5 MAORI INITIATIVE AND FRUSTRATION

By 1872 the war with Te Kooti was over and the Wairoa people could start to recover from its debilitating effects. Some of these people had been fighting with the Government side, thereby neglecting their cultivations, and found themselves heavily in debt to the local storekeepers. As Lambert admits, the bulk of the Maori people at this time were 'deplorably poor'.³⁸ He goes on to say that it was at this time that the settlers secured large tracts of land, quite close to the Wairoa township, on long leases without improvement clauses. As an example, Lambert cites the Duff brothers who held leases of 21 years for both Paeroa 1 and 2, 1495 acres and 1850 acres respectively at a rental of £100 per annum³⁹. So numerous were the owners that many of the yearly cheques totalled only 18 pence or half a crown. As Lambert says, 'Of what use was that to the poor Maoris?'

Nevertheless, throughout the 1870s the Wairoa Maori continued to participate in the settler order, just as in the pre-war years they had consciously engaged in the new order to share its advantages equally with Pakeha. Locke reported that with Te Kooti gone from the area, the Wairoa Maori were able to settle down to the cultivation of their lands, with sheep runs being established in the upper Wairoa and Poverty Bay area.⁴⁰ He also reported the attention parents were paying to educating

35. Cathy Marr, 'Public Works Takings of Maori Land, 1840–1981', Report for the Treaty of Waitangi Policy Unit, 1994, p 70

36. Locke to McLean, 29 May 1875, AJHR, 1875, G-1 no 14

37. AJHR, 1875, G-6, pp 5, 21, see chapter 3

38. Lambert, p 710

39. AJHR, 1886, G-15, p 17

the rising generation. A school was to be erected in Wairoa, towards which the Maori had subscribed £70 and had arranged to pay a portion, out of rents accruing from leased lands, towards the teacher's salary.⁴¹

But the continuing operation of the land court and subsequent land purchasing played havoc on consistent enterprise. As Ward says, it was exceedingly difficult for the owners listed on multiple titles, their shares increasingly fragmented through the introduced system of succession, to organise effectively to farm their land.⁴² By 1874 Locke was reporting that the Wairoa people, who used to be owners of three sailing vessels navigated by themselves, and who formerly exported large quantities of wheat and other produce, now could barely grow sufficient potatoes for themselves.⁴³ As the Wairoa people became increasingly disillusioned with the process they, in some cases, started turning their backs on the system. By 1880 the resident magistrate was reporting that the only native school in the district was poorly attended.⁴⁴

The rising discontent over the Native Land Acts led to the emergence in the mid 1870s of a vigorous new movement called the Komiti. Led by a young Hawke's Bay chief, Henare Matua, the komiti's objective was to practice passive resistance to all land sales. It sought to stop land being put through the Native Land Court and to upset fraudulent land transactions.⁴⁵ The influence of the komiti quickly made itself felt in Wairoa. Locke reported that as a result of all the leasing and selling of lands that had gone on there, the Wairoa people:

have got into a slothful, discontented, drinking state, which has been taken advantage of by designing Natives travelling from other parts of the country, telling people that they can upset all sales, leases, mortgages, etc, and persuading them to join what is called the Komiti.⁴⁶

In 1874, there was an attempt by the komiti to disrupt the erection of the telegraph between Napier, Wairoa, and Poverty Bay with the local Maori demanding payment for the wire passing over their land. However, 'by careful explanation', from Locke, the work was able to proceed.⁴⁷

A more serious event occurred in 1878 when the komiti refused to allow a case to be heard by the Resident Magistrate's Court. Some horses had been impounded at Mahia and when the owners of the horses heard about it they broke down the pound. The poundkeeper took proceedings against them, a summons was served and a date set for hearing, but the komiti refused to have the case heard. The native assessors, Toha Rahurahu and Hamana Tiakiwai, were then sent to try and sort things out but were unsuccessful. The komiti was not prepared to back down. The

40. AJHR, 1872, F3A, no 36

41. AJHR, 1874, G-2, no 14

42. Ward, p 267

43. AJHR, 1874, G-2, no 14

44. AJHR 1880, G-4, no 13

45. AJHR, 1874, G-2, no 14; Ward, p 272

46. AJHR, 1874, G-2, no 14

47. Ibid

Government was powerless in the face of such intractability. All that Frederick Ormond, the resident magistrate, could suggest was:

that some gentleman enjoying the confidence of the Government, and as such able to reason with authority, be sent to them to explain their real position; and I feel assured that then these simple people will very soon return to their old state of obedience and order.⁴⁸

Maori complaints about the Native Land Court included its strict adherence to procedure. The case of Raniera Turoa provides a good example of this. He was required to give evidence in relation to a claim over the survey of the Mangapoike Block (situated inland between Wairoa and Gisborne). He left Gisborne at six o'clock in the morning, arriving at Wairoa at two in the afternoon in time for the hearing, a journey of 70 miles and nine hours. He was extremely fatigued as a consequence of his long ride and asked the court if the case could be put off until the next day, until he had time to recover. The court, however, requested that he proceed immediately with his evidence. To add insult to injury, it then demanded that he pay £1 and told him that if he did not pay the money straight away judgment would be given in favour of the European. Luckily for Raniera, the Reverend Tamihana Huata was in court that day and gave him £1. Notwithstanding this, he lost the case and judgment was given in favour of the European.⁴⁹

Raniera was of the opinion that if the matter had taken place before, say a Native Committee, instead of the Native Land Court, the proceedings would have been conducted entirely differently:

The behaviour shown would have been different. There would have been no threats, no intimidation, nor any objection made to any evidence I might have wished to give.⁵⁰

Raniera's complaint also highlights another standard complaint, that of having to travel long distances for their hearings. This was a development of the court in later years. Previously, the court had sat as near as possible to the settlements where the land was situated. In 1885, Captain Preece, the resident magistrate, reported the Wairoa Maori complaining bitterly at having to travel from Wairoa to Hastings for some hearings. They were put to great expense providing for travel and food for those who had to attend. To cut down on the expense they sent only a few men to represent the tribe. But these men then had to stay with the local Maori, who sometimes put in a claim to the land, which would not have happened if the case had never been taken out of the district. Being dependent on local Maori generosity and under obligation to them, the applicants were placed at a great disadvantage and preferred to admit their claim rather than oppose it.⁵¹

Another consequence of long distance hearings was that the old people were frequently unable to travel, owing both to infirmity and the expense. As they were

48. AJHR, 1878, G-10, pp 1-2

49. AJHR, 1891, G-1, minutes of evidence, pp 17-18

50. Ibid

51. Preece to Under-Secretary, Native Department, 8 June 1885, AJHR, 1885, G-2, no 12

usually the best and most reliable persons to give evidence of the traditions of the people and of the ownership of the land, according to native custom, a great injustice naturally resulted due to their absence. In some cases, it was claimed, this was what was intended by the younger and more resourceful members of the tribe. By having the cases heard at a distance, the old people would be prevented from attending to give evidence in support of their claims. The result would be, their exclusion from the certificate of ownership, in favour of the younger members.⁵²

J T Large, a licensed interpreter, gave another example of the consequences of having hearings miles from the block:

When the Hereheretau subdivision case was being tried by the Court under Judge Wilson, the Natives interested made a strong effort to obtain the portion containing the homestead of Mr J Hunter Brown, the lessee of the block and purchaser of several undivided interests therein. Whereupon Judge Wilson told the Natives that he would no more think of giving them the European's homestead than he would of giving the European their (the Natives') settlement. Yet, in spite of this assurance, the Court, in making the partition of the block – having failed to personally inspect the land – actually awarded to Brown the portion of the block containing the chief Native settlement (Te Whakake), the church and burial-ground. This extraordinary decision led to a rehearing, when the judgement was, of course, reversed.⁵³

His point was that if the court had sat as near as possible to the land being adjudicated upon, the court would have been able to go and examine the land before giving judgement. If this had been done in all cases it might have cut down on the applications for rehearing.

4.6 W L REES AND THE EAST COAST MAORI TRUST

By 1886 the amount of land left in the Wairoa district which had not yet passed the Native Land Court was 276,300 acres.⁵⁴ Of the land that had passed the court since 1867, a figure well in excess of 200,000 acres (see table 4.1), only 36,622 acres were still held by Maori as inalienable; the rest had presumably been either sold or leased, to the Crown or Europeans.⁵⁵

One European alarmed at the rapid loss of land by Maori was William Lee Rees. Rees was born in Bristol in 1836 and came out to Australia as a young man. He started out as a solicitor but did not complete his articles and turned instead to religion. After spending four years as a minister of the Congregational Church he resumed his law career and was called to the bar in 1865. In 1866 he moved to New Zealand, practising for three years at Hokitika before moving to Auckland. His first brief was for the plaintiffs in the case of *Whitaker and Lundon v Graham* (which is where he may have first got interested in the Native Land Acts). He interested himself in politics and became a member of the Auckland Provincial Council in

52. Ibid; Wi Pere, minutes of evidence, AJHR, 1891, G-1, p 9

53. Large, correspondence, AJHR, 1891, G-1, no 8, pp 88–89

54. AJHR, 1886, G-15, p 1

55. Ibid, p 13, this was apart from the reserves of the confiscated lands

1875. It was here that he met Sir George Grey and became his loyal supporter. Rees entered Parliament as Grey's follower upon winning the Auckland City East seat in 1876.⁵⁶

Rees, and Grey for that matter, did not want to see a complete cessation to land sales, rather they just wanted to do away with the 'free for all' system of individual purchase under the Native Land Acts. Rees favoured a system where the iwi was treated as a corporate body. The iwi would be the company, its name the corporate name of the body, its members as shareholders in the company, and the land no more owned by the individual members of it than the land of a joint-stock company is owned by the individual shareholders. All decisions affecting the land would be made by a committee, chosen by the owners, and subject to the iwi and some responsible Government agency.⁵⁷

Rees's scheme saw him setting up in partnership with Wi Pere. Wi Pere was born on 7 March 1837 at Gisborne (then Turanga), the son of Poverty Bay trader Thomas Halbert and a Maori woman of considerable mana, Riria Mauaranui. Through his mother he became a leading chief of the Rongowhakaata and Aitanga-a-Mahaki people.⁵⁸ He also was concerned at the rapid loss of Maori land. In 1878 he joined forces with Rees and together they won sufficient confidence from local Maori to have land blocks vested in themselves as trustees. The idea was that the trustees were to handle the land in accordance with the wishes of the tribe as a whole. The tribes' wishes were to be expressed through an elected committee of owners in each block. Rees and Wi Pere were always to consult this committee before selling, leasing or mortgaging the land, while prospective settlers would only have to deal with two trustees, instead of a multitude of owners.⁵⁹

The venture floundered on the suspicion and criticism of the Gisborne citizens and settler politicians. It was attacked as a 'monstrous scheme of robbery', with Rees and Wi Pere being accused of having 'evil and selfish designs' on Maori land.⁶⁰ They also experienced difficulty in securing the approval of the Native Land Court for their trusteeship over Maori land, the court holding that the blocks could not be vested in any persons other than the Maori owners. Nothing daunted, Rees launched the East Coast Native Land Settlement Company in July 1881, later renaming it the New Zealand Native Land Settlement Company. The company was to exercise the functions which Rees had intended himself and Wi Pere to exercise, namely that of an agency between Maori vendors and European purchasers. The Maori were to assign their land to the company in return for shares in the company. European shareholders would invest capital in the company which would be used to assist Maori to secure a Crown grant to their land, and to survey and subdivide the land prior to it being sold or leased to immigrant settlers, who were to be brought out by the company.

56. G Scholefield, (ed), *Dictionary of New Zealand Biography*, vol 2, Wellington, 1940, p 212; Ward, *The History of the East Coast Trust*, p 10–11

57. AJHR, 1884, sess II, G-2

58. *The Turbulent Years, 1870–1900: The Maori Biographies from the Dictionary of New Zealand Biography*, vol II, p 90

59. Ward, *East Coast Maori Trust*, p 17

60. Ibid, p 19; AJHR, 1884, sess II, G-2, p 3

The company set off with a flourish. The Maori were actually writing to Rees with offers of land and by the end of 1882 the company had acquired 125,000 acres.⁶¹ Some capital was subscribed and a few settlers arrived, but the company was unable to give clear titles to the settlers, even though the supreme court found that the company had the freehold of the blocks and not just a trustee interest. By the end of 1883 the company had sold only about 20,000 acres to the value of £43,952.⁶² With survey, legal and other expenses it became necessary to mortgage the land to the Bank of New Zealand. Economic depression and political hostility compounded the problems and the directors were unable to secure legislation which would have enabled them to deal with the land on the authority of the former Maori owners. In July 1888 the settlement company was wound up and the land was subsequently placed in the trusteeship of Pere and a reluctant James Carroll.⁶³

Carroll was born at Wairoa in 1857. He was one of eight children of Joseph Carroll and his Ngati Rakaipaaka wife, Tapuke. His father, a Sydney-born Irishman, had come to the Bay of Islands in the early 1840s and begun whaling, timber-cutting, blacksmithing and coastal trading in northern Hawke's Bay in association with the local Maori communities. He eventually turned to sheep and cattle farming on his property at Huramua, which he had acquired from the Maori grantees in 1869.⁶⁴ These blocks, Huramua 2 and 3, came before the Hawke's Bay Native Lands Alienation Commission in 1873. Some of the owners apparently did not understand that these blocks had been sold to Carroll. The commissioners did not find in their favour.⁶⁵

James Carroll's upbringing was bicultural right from the start. Maori was his first language and he received whare wananga instruction. At the age of eight he attended the native school at Wairoa, then a school in Napier, but he left after two or three years. In 1887 he won the Eastern Maori seat in Parliament. Carroll firmly believed in Maori control over their own land. He favoured leasing rather than selling, the revenue arising from the leases to be invested in their own farming. Carroll's standing on land questions earned him appointment in 1891, along with Rees and Thomas Mackay, to a comprehensive commission of inquiry into the Native Land Laws.⁶⁶

4.7 THE 1891 NATIVE LAND LAWS COMMISSION AND THE VALIDATION COURT

The commission was to investigate the whole tangle of acts and amendments governing direct purchase and the individualisation of the Maori ownership in land. It was then to provide a framework for an efficient and uncomplicated native land policy and law, which the Liberal Government would enact.

61. Ward, *East Coast Trust*, p 24

62. *Ibid*, p 33

63. *Ibid*, pp 38, 50

64. *The Maori Biographies*, p 8; AJHR, 1873, G-7, pp 35, 77; 176 Huramua, Gisborne Maori Land Court

65. Report of the Hawke's Bay Native Lands Alienation Commission, AJHR, 1873, G-7, p 35

66. *The Maori Biographies*, pp 9–10

The inclusion of Carroll on the commission showed a new willingness on the part of the country's leaders to include Maori in the decision-making process on issues affecting them. As Rees had said, in 1884, the policy of the Government towards Maori had been to 'dragoon them by lead and steel, treating them as a conquered people, or to cajole them by flour and sugar, as if they were children'.⁶⁷ It never seem to have been to treat them as responsible adults capable of determining their own future. Whether Carroll's inclusion was due solely to the fact that he was a member of the Liberal Government or not, it still represented a major step in taking him into the Government's confidence and thereby giving Maori responsibility.

The report of the 1891 commission had a far-reaching effect on native policy.⁶⁸ Rees threw into it all his long-held cherished beliefs on the administration of Maori land. He recommended the abolition of direct purchase, abolition of individualisation of Maori ownership in land, the resumption of Government pre-emption and the creation of some responsible authority, like a Native Land Board, to administer Maori land. The board was to be a corporate body with a common seal, and the full power to act in all things as trustee of the Native lands for the Maori owners. He wanted a committee appointed by the owners of each block, who would choose sufficient reserves for the people and instruct the Native Land Board to lease or sell the land.

Carroll concurred in the majority of Rees's recommendations, except for the resumption of pre-emption. He was opposed to the Crown's exclusive right of purchase as he believed Maori could obtain a fairer price for their land when it was sold on the 'free market'. However Rees's recommendations were accepted by the Government and Government pre-emption was re-introduced in 1894. According to Ward, the result of this was that, despite the fact that the Government later released certain areas to private purchase, the worst excesses of individual dealing, of many buyers approaching many, many sellers of Maori blocks, were ended.⁶⁹

For the responsible agency between settler and Maori seller that Rees recommended, the Liberal Government launched a scheme of Maori Land Councils under the Maori Lands Administration Act 1900. Each council was a corporate body, with perpetual succession and a common seal. They were to have all the powers of the Native Land Court as to the ascertainment of ownership, partition, succession, the definition of relative interests, and the appointment of trustees for Native owners under disability. These councils later became the Maori Land Boards, which persisted to 1952.⁷⁰

Another result of the commission was the setting up of the Validation Court. Amidst the evidence collected by the commission were numerous examples of Europeans purchasing land from Maori, with both parties acting in good faith, yet unwittingly infringing some section of the complex land law. This made the transactions void or incomplete.⁷¹ The commission recommended that a special

67. AJHR, 1884, sess 2, G-2, p 5

68. AJHR, 1891, sess 2, G-1

69. Ward, *East Coast Maori Trust*, p 54

70. Ibid

71. Ibid, p 55

court be set up to examine past transactions and to validate them if they were made in equity and good conscience.

The Native Land (Validation of Titles) Act 1892 set up the new court. The Validation Court could, upon application by a European or Maori, enquire into the right title and interest of the claimants in a land transaction. It could decide the owner in a disputed claim, order a partition of a Maori block if that would settle a dispute, settle claims to past, present or future rights of occupation, determine the amount of rents or other charges accruing on native land, settle contracts and validate any such contract, deed, or agreement involving native land.

The very wide jurisdiction of the Validation Court soon made it a popular tribunal in which to settle claims to land where there was any doubt. A Validation Court order was a short-cut to the securing of a title or claim sound in law. Not only was the court called upon to determine disputes in many transactions dating from the 1870s and 1880s, but it became standard practice in many areas, and especially on the East Coast, to refer transactions to the Validation Court.⁷²

In 1895, the Validation Court vested approximately 9930 acres of the Mahia peninsula in Carroll and Wi Pere. This came out of the Tawapata South and North blocks, 6379 acres; Whangawehi 1, 1200 acres; Moutere 1 and 2 blocks, 502 acres; and Nukutaurua, 1849 acres. These were mortgaged by Carroll and Wi Pere, along with others, as specific security lands. This meant that a mortgage was executed over those blocks for a specific portion of the total sum owing to the estates company.⁷³

In 1896, the court vested the inland Wairoa block of Mangapoike, 41,000, acres in Carroll and Wi Pere, and 60,000 acres of the Tahora 2 block, which was indebted to the bank, was made over to Carroll and Wi Pere. At the same time the court validated Tahora 2f, section 1, 8095 acres, as Crown land. It appears to have been the practice of the Crown's land purchasing agents, during the 1890s, to buy up lots of individual small shares in a block then apply to the Native Land Court to have the Crown's interests defined. A part of the block would then be partitioned off and granted to the Crown in satisfaction for the shares it had purchased.⁷⁴

By 1897 the trustees controlled 222,094 acres of East Coast land, of which approximately 110,930 acres was in the Wairoa district. Carroll and Wi Pere tried to farm or lease the land under their trust but they were unable to without finances and they were powerless to borrow. As Ward said, no private source in 1892 would lend money to Maori.⁷⁵ Meanwhile the mortgage of the trust estate kept rising so they were forced to sell some of the land. With the authority of a court order of 1895, parts of Nukutaurua and Moutere 1, about 3432 acres, were sold to J C Ormond.⁷⁶ The Ormond family were eventually to acquire most of the Mahia peninsula, either from the trust or by direct private purchase.

Carroll and Wi Pere were not business men and they came in for much criticism. Their inabilities were seen as yet another example of crooked lawyers and land

72. Ibid, pp 55–56

73. Ibid, p 57; Mahia commission, correspondence and notes, MA, 94/3

74. See for example Kahaatureia, Wai 192; see also Cathy Marr's report on the Rohe Potae for more on this

75. Ward, *East Coast Trust*, p 58

76. Ibid, p 59; MA, 94/3

Figure 6: Land affected by the operations of the New Zealand Native Land Settlement Company. Source: Alan Ward, *The History of the East Coast Maori Trust*, p 69.

agents. But Carroll and Wi Pere had tried their best, they had just been hampered by their lack of capital and their inability to borrow. In 1901, with the debt on the trust lands mounting higher and higher, the Bank of New Zealand informed them that it would have to sell land if the mortgage was not promptly paid. January 1902 was fixed as the deadline. Rees then went into action to save the land. First he obtained an injunction in the Supreme Court restraining the sale. Then he secured the support of the chairman of the directors of the Bank of New Zealand, Frederick de Carteret Malet. Malet approached Sir Joseph Ward, the Acting Premier, and asked him to sponsor a bill which would place the Carroll–Wi Pere Trust estate in the hands of a responsible body with power to develop the estate, take out fresh mortgages, sell and lease land if necessary and pay the bank mortgage. This course would, said Malet, bring less hardship on the Maori owners, and also offer the bank a surer return of its money than would a mortgages sale, which was always an uncertain method of retrieving investments. Ward agreed and the East Coast Native Trust Lands Act 1902 was passed. The Carroll and Wi Pere trust was dissolved, Carroll had only taken on the responsibility reluctantly anyway, and a new statutory trust was established under the Act.⁷⁷

4.8 THE EAST COAST TRUST

The prime purpose for which the East Coast Trust Lands Board was set up was to rid the lands of the Carroll–Wi Pere trust from debt. The men appointed to the board were John Harding, businessman, John McFarlane, a farmer, and Walter Shrimpton, a farmer and an active local body councillor. The board was expected to have a short history, merely paying the bank debt, returning the remaining land to Maori and then dissolving itself. To do this efficiently it had to contemplate the sacrifice of some of the land. Under the terms of the 1902 Act all lands held by Carroll and Wi Pere in trust were vested in the board. In January 1904, it sold 31,000 acres comprising the Ohakuatiu 2 block (Gisborne), 10,000 acres in Tahora 2 and sections of the Paremata (Tolaga Bay) and Maraetaha block. In 1905, another 9000 acres, mostly in the Tawapata North and Moutere blocks of the Mahia peninsula, was sold. In the same year the debt to the bank, assessed at £159,029, had been paid.⁷⁸

The approximately 187,000 acres which remained in the trust estate were subject to fresh mortgages to new creditors, standing at £21,080 in 1905. These mortgages lay most heavily on the Wairoa land, the Mangapoike and Tahora blocks. In addition the board, having made reserves for the Maori owners, leased 3000 acres in the Paremata block at Tolaga Bay, nearly 23,000 acres of Mangapoike and 18,000 acres of Tahora. The rentals from these promised to yield a steady return to reduce the remaining mortgages on the estate.⁷⁹

77. Ward, *East Coast Trust*, pp 88–95

78. *Ibid*, pp 98–100; MA, 94/3

79. Ward, *East Coast Trust*, p 101

The board, once having completed its task, was to be dissolved. But it informed Parliament that, since some blocks in the estate had borne more than their fair share of the cost of clearing the debt to the bank, an adjustment of accounts between the separate blocks would have to be made. Until this had been carried out, the remaining lands in the estate should be administered by an authority responsible to Parliament.⁸⁰ The Maori Land Claims Adjustment and Laws Amendment Act, 1906, section 22, provided for the establishment of an East Coast commissioner to handle the trust lands in place of the board. John Harding of the board became the first commissioner, but after a few months of office, he died, and T A Coleman, an accountant of Gisborne, was appointed commissioner.

During Coleman's period the nature of the East Coast Trust underwent several changes. First, it passed from being a short term operation under a board of financial salvage experts, to a long term trust under a single administrator with more general duties. Second, the remaining land was not to be handed back to Maori, but was to be subject to an adjustment of accounts within the trust over a long period. The third change arose when the commissioner obtained the power to farm the land as well as develop it for sale and lease.⁸¹

The long term adjustment of accounts meant that the land remained in the hands of the East Coast commissioner until 1953.⁸² This was a complex necessity which Maori, without financial and accountancy experience, did not understand and resented. Throughout its 47 year administration there were repeated protests against the operation of the trust.

Part of the protest was that Maori wanted assistance to farm the land themselves but the East Coast commissioner only had the right to farm land for them, not to assist them in farming for themselves. In 1906 owners in the Mangapoike block wrote to the commissioner seeking aid in developing their land for farming. They were not very happy when the assistance took the form of developing the land, leasing it, appointing Pakeha managers and shutting the Maori out from their own attempts at large scale farming. In 1919 they petitioned Parliament, praying for an adjustment of relative interests and boundaries in the Mangapoike block.⁸³

Meanwhile Coleman had to sell some more blocks which were apparently a drain on the trust's finances. This included 980 acres of Whangawehi 1a in 1911 and 7000 acres of Tahora 2 in 1920.⁸⁴ These sales, along with others, made Coleman a very unpopular man with Maori and it was at this stage that Coleman died in 1920 and a new man took over the administration of the trust lands.

The next East Coast commissioner was Judge Rawson of the Native Land Court. He remained commissioner until 1933. He worked in Wellington and rarely visited Gisborne so John Harvey, Registrar of the Native Land Court at Gisborne, was appointed the local agent. When these two took over, the external debt of the trust in 1921 was £118,529. They decided to sell more land. This included more land in Whangawehi 1, a block on Mahia which was leased but not paying its expenses.⁸⁵

80. Ibid, p 102

81. Ibid, p 103

82. See Ward, *East Coast Trust*, pp 103–105 for more on this

83. Ibid, pp 106 and 115; see AJHR, 1919, I-3, p 16

84. Ward, *East Coast Trust*, p 119

Rawson and Harvey fought hard to reduce the overdraft and pay off the mortgages which had accumulated during Coleman's time. This was at a time when New Zealand was experiencing its worst depression. It became clear that farming paid better than leasing, so under Harvey's direction the trust began to farm more land. As the old 21 year leases came up for renewal during these depression years, many of the lessees chose to take compensation for the improvements rather than renew the lease. Harvey found capital, paid compensation to the retiring lessee, bought up stock and rebuilt the farms, if necessary. The expenses entailed in this, however, along with the diminished return from farm produce in depression years, meant that he was unable to reduce the mortgages and external debt which lay over the trust. But Harvey was able to build up a well stocked, well equipped set of stations. In 1929 there were 19 farms employing 29 permanent hands and 83 casual workers.⁸⁶

Despite Harvey's good work though, Maori protest did not diminish. In 1924, and again in 1929, Hune Hukanui and 87 others petitioned Parliament seeking the re-vesting of Tahora 2c1 and 2f in its owners. They complained that they were receiving no benefit from their land.⁸⁷ Also in 1929, Puhara Timo sought a statement of accounts on the money being paid out by the trust on Mangapoike A and a guarantee that the land be made inalienable.⁸⁸ Te Haenga Paretipua and 24 others of Wairoa sought relief in connection with their rights in the same block.⁸⁹

Maori objections were based not so much on the adequacies or otherwise of the trust itself, but on a growing desire to be farmers themselves. After years of political agitation, Apirana Ngata, member for Eastern Maori, and others, had at last convinced the nation's representatives in Parliament, that the Maori race was not a dying race, that it was reproducing vigorously, that it was very anxious to have its remaining land left to it, and that it should be helped to help itself by occupying that land usefully. That help took the form of Native Lands Development schemes, which were, in Ngata's words, to train Maori 'to be efficient farmers in the course of developing their lands and to assist them when they settled down to the business of farming'.⁹⁰ No longer were Maori to be seen as fit only for casual labour.

Maori responded enthusiastically to Ngata's call which saw a heightened interest in their land. That interest translated into an increased demand by Maori for the re-vesting of their land, despite the good work of the trust. Agitation by Maori for the return of their land stepped up during the years 1934 to 1941, under the administration of J S Jessep. These were the years when the trust moved into a period of greater and greater prosperity.

Jessep farmed land near Wairoa and in addition had taken part in salvage work on behalf of the Bank of New Zealand, notably at the Waingawa freezing works near Masterton. He was a director in various companies. He had been largely instrumental in setting up the New Zealand Meat Board in London, on behalf of the

85. Ibid, p 123

86. Ibid, p 131

87. AJHR, 1924 and 1929, 1-3

88. AJHR, 1929, 1-3

89. AJHR, 1930, 1-3

90. Quoted in Ward, *East Coast Trust*, p 135

New Zealand Government, and was a member of the Unemployment Board during the depression.⁹¹

Jessep's policy was to spend money, lavishly some thought, on building up the farms to increase the revenue of the trust. As well, to increase the prestige of the trust, he built an office building, employed salaried officials and bought cars for the staff. Maori naturally resented this, especially when they appeared to be getting nothing out of it. During the years 1908 to 1932, the beneficiaries had been receiving dividends from the trust. Between the years 1921 to 1932, dividends of £92,423 had been paid to 4785 beneficiaries, some of whom had come to rely on them.⁹² Under Harvey the trust had ceased to pay dividends to Maori owners, on account of the need to save money during the bad years of 1932 to 1934. Jessep on taking office did not resume a steady payment of dividends. Instead, he said, to hasten the day when the trust could be wound up, all the profits from the stations should be put back into development of the land in order to make it more productive, or should be applied to build up a reserve for each block whereby all the debts of the trust could be paid off. The calls for the return of the land increased.⁹³

Jessep's problems were compounded by the fact that he had taken little trouble to explain the workings of the trust to the beneficiaries. His inability to communicate with the people on whose behalf he was working, led to a commission of inquiry in 1941, to examine the financial situation of the trust and to see if any changes in the mode of administration were necessary. The commission consisted of Ngata, Chief Judge Shepherd of the Native Land Court and Jessep himself. Although the commission never reported as such, the sittings of the inquiry, according to Ward, served a useful purpose. It brought all the Maori into contact with the administration of the trust and enabled the two sides to listen to each other's point of view. The Maori owners learnt that a creditor block could not be released when all the mortgages and finances of the trust hinged upon it and why dividends were not being paid. Maori agitation against the trust after 1941 for the most part died away.

By 1947 the trust had developed and advanced in prosperity to an impressive degree and the way was now open for a new cooperative system of administration. In September 1948, Jessep, Turi Carroll, a nephew of Sir James Carroll, Kingi Winiata and other Maori met the Minister of Maori Affairs in Wellington. There was a need, they said, for a consultative committee of able Maori, preferably with farming or business experience, to meet regularly with Jessep. The committee could place the interests of the people squarely before the commissioner. At the same time the committee could learn the major problems of the management and finance of the trust, in preparation for the day when they would have to handle the land themselves. The idea was not to replace the commissioner, but to work with him on matters affecting the people.⁹⁴

The new body held its first meeting in April 1949 and adopted the title of the East Coast Maori Trust Lands Council. Turi Carroll was its first chairman. The council

91. *Ibid*, p 140

92. *Ibid*, pp 131–132, 152

93. *Ibid*, pp 151–153

94. *Ibid*, pp 160–161

was given statutory form and authority under section 28 of the Maori Purposes Act 1949. The powers of the council were largely consultative, the commissioner was to submit all important matters to it and give heed to its advice. But the council was empowered, subject to the approval of the Minister of Maori Affairs, to make grants or donations to needy Maori or to charitable causes. In addition they were ensured a share in the discussion of the trust's finances by the requirement that Jessep must secure their consent to any increase in the limit of overdraft secured by the trust. Furthermore the council could recommend people to fill vacancies in the trust's staff and to fill the office of East Coast commissioner, if it should become vacant.

The council took up its work with great pride. Problems arising in the administration were thoroughly discussed and the council drew up lists of names of persons who were entitled to receive the grants in aid of education, which the trust was now paying. The council also facilitated discussion between the beneficiaries and the Minister of Maori Affairs on the winding-up of the East Coast Trust.

Jessep's achievement was to take a debt-ridden business and turn it into a rich and highly developed farming enterprise. In 1936 the East Coast Trust Lands made only £7,535. Under Jessep, and thanks to the steady rise in the price of wool, fat stock and store stock after the second World War, there was a rapid increase in profits from the trust's farms. By 1947 the East Coast Trust Lands made £60,597. When the wool boom sent profits soaring they made £105,600 in 1950 and £356,040 in 1951.⁹⁵ But perhaps his greatest achievement was to save the land under the trust. There was no question now of selling any more land; all the land was to be handed back to the owners debt-free and in full production.⁹⁶

Jessep had his detractors. The aggregation of land under Jessep when leases expired after World War II increased the size of the trust to the extent of provoking suspicion and resentment in the district. The local Federated Farmers for one distrusted the economic power accumulating to Jessep by the number of stations he controlled. Most resentful, however, of the development of the trust were those who had held leases of its land. They had frequently done well on the farms and resented that the leases were not renewed and that the land was soon to be return to the Maori people. Many lessees voiced the argument that the Maori would be better off receiving a steady return from the rents paid by European lessees, rather than farming it themselves.⁹⁷ This probably had more to do with European attitudes towards Maori farming, than to a real concern for what was best for Maori.

Despite his detractors though, the trust in the last years of Jessep's life was moving into a period of excellent harmony between management and beneficial owners, and into increasing prosperity. When Jessep died in November 1951 the winding up of the trust was about to begin.⁹⁸

This phase was supervised by Frank Bull, a Gisborne accountant. He took office, with the full confidence of the East Coast Trust Council, as deputy commissioner. In 1946 the Government, knowing that the trust lands had paid most of their debts,

95. *Ibid*, p 163

96. *Ibid*, p 164

97. *Ibid*, pp 169–171

98. *Ibid*, p 172

and suspecting that the time was approaching when much of the land could be returned to Maori, had the finances of the trust investigated by a selected accountant. The inquiry revealed that the principal security debt and the mortgages had been paid off but that some of the debtor blocks were not yet producing enough to pay what they owed the trust, and to stand on their own feet upon becoming independent. The deputy commissioner kept a close eye on the condition of the weaker blocks and in 1953 informed the Government that these would now be strong enough to pay their debts, if any, and support themselves outside the trust.

Part one of the Maori Purposes Act 1953 directed the Maori Land Court to determine the beneficial owners in all the blocks in the trust, and directed Bull to liquidate his trusts, apportion the liabilities and assets of the estate, and to arrange for the necessary adjustment between various blocks. The land was to be placed in the hands of corporate bodies of owners as soon as this had been done. In July 1954 the lands and assets of the trust were handed over to 24 new bodies corporate, and the management committees, elected by the owners in these bodies, commenced to direct the farming of them.⁹⁹ Today those farms are still in Maori ownership.¹⁰⁰

Today the amount of land still remaining in Maori ownership in the Wairoa district is approximately 14,900 hectares (see table 4.2 for a list of those blocks).¹⁰¹ Admittedly, not all of these lands were part of the East Coast Trust lands, but the trust did perform a valuable part in retaining land for Maori. As well, by the material development of one quarter of a million acres of land the East Coast Trust has made a very important contribution to the evolution of Maori farming. To be sure it had sold some land, but as Ward says, 'The Maori loss would have been far greater if the Trust Board and East Coast Commissioner had not been established'.¹⁰² Their example demonstrates what could have been done if the Crown had really been committed to retaining land in Maori ownership and control.

99. Ibid, pp 180–185

100. For example, the proprietors of Tahora 2f2 (Papuni Station), the proprietors of Tawapata Station (Onenui Station)

101. Gisborne Maori Land Court, this does not include the Tahora block

102. Ward, *East Coast Trust*, p 110

