National Overview on Land Consolidation Schemes 1909-1931

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Preface

My name is Leah Campbell. I graduated with a Master of Arts in History from Victoria University of Wellington in 1995 and have been employed by the Crown Forestry Rental Trust since that time.

This national overview project was commissioned by the Crown Forestry Rental Trust to provide a broad investigation of Crown policies and practice with regard to land consolidation schemes from 1909 until 1931. The sources consulted are largely from the Crown's own records. Archival sources have been worked from directly, and are supplied in two volumes of supporting papers. Where possible, correspondence from Maori appears in the supporting papers in Maori and with a translation from the archival source. A comprehensive newspaper search was not conducted; any newspaper articles referred to are taken from extracts located in archival files. While this report does not claim to have examined every primary source possible, this does not prevent it from presenting a comprehensive overview.

This overview was completed in 1996, and revised in 1998. The opinions expressed in this report are entirely those of the author except where stated otherwise.

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Abbreviations

Appendices to the Journals of the House of Representatives	AJHR
New Zealand Parliamentary Debates	NZPD

Introduction

In 1931 Native Minister Apirana Ngata described consolidation schemes as "the most comprehensive method of approximating the goal of individual or, at least, compact family ownership."[1] This report explores the Crown's attempt to solve the problem of title fragmentation through the implementation of land consolidation schemes on a national basis. Beginning with the early requests of Maori to the Crown to be able to exchange their interests, it outlines how the policy of land consolidation schemes evolved and became a part of official policy in an attempt to solve Maori land problems. This report also highlights the main geographical areas that were affected by land exchange and land consolidation schemes. Land consolidation schemes were implemented on the East Coast from 1911 and from the 1920s in the Waikato-Maniapoto, Taitokerau and Waiariki Maori Land Districts.

Certain key factors which contributed to the development of a comprehensive policy on consolidation schemes are also identified. The rating problem is of particular importance as it created the urgency for a solution and explains to some extent why Ngata was successful in promoting consolidation schemes as that solution. Legislation which addresses the land exchange and consolidation process is also explored, but only insofar as it deals with specific issues relating to exchange and consolidation.

What becomes clear from analysis of the issues is that consolidation, as well as providing a short-term solution to the problem of fragmented title, it was, in many cases, very much in the Crown's own interests. Interestingly the consent of Maori was not a legal pre-requisite for schemes, Maori had no avenue through which to appeal, new terms and conditions could and were imposed upon existing consolidation arrangements, and Maori ancestral ties to the land were repeatedly subordinated to the Crown's objective of enabling Maori land to be profitably

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1 *Appendices to the Journals of the House of Representatives* (AJHR) 1931 G.-10, p. ii.

utilised and occupied. With particular respect to consolidation schemes, this report reveals that throughout the period under study the Crown seemed to be largely concerned with serving the interests of the settler majority, (who it appeared to regard as representing the general public interest), even if this was at the expense of Maori land owners.

Chapter One

1862-1906

This chapter explores Crown policy on Maori land during the Liberal period, the expression of this through legislation and early contributing factors that caused some provision to be made to enable land exchange in the Native Land Court Act 1894. It also examines two early exchanges and briefly, the use of incorporations as an alternative way of regrouping Maori interests.

Exchanges did not occur for any other reason than convenience for one or both parties and were not used as a solution for other problems relating to Native lands such as outstanding rates or survey liens. They could involve the Crown using this mechanism to acquire specific areas and/or to resolve specific grievances. In some cases special Acts were passed to legalise specific exchanges, such as the Rangitatau Block Exchange Act 1907. The Native Land Court was usually only involved in an administrative capacity, to pass orders and vest land in its new owners. These early exchanges indicate a piecemeal approach by the Crown which did not provide any substantive solution to a national problem that was to worsen with time.

It is important to note that until 1909, (when the Native Land Act provided the first set of comprehensive provisions on land consolidation schemes), land exchange and not land consolidation was being implemented. Statutory provision for the exchange of Native land was first established in 1862. Under section 17 of the Native Land Act 1862 persons named in a Certificate of Title as owners were able to dispose of their interest by sale, lease or exchange for other lands.[2]

As early as 1867 the Crown was using the mechanism of land exchange with Maori as a means to acquire certain areas of Maori land. The 1867 Wairoa

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2 Like the rest of this Act this section was rarely used as a result of the New Zealand Wars. Native Land Act No. 1862 No. 42, p. 197. Document Bank I, p. 1.

cession can be described as a case where a land exchange took place between Maori and the Crown in order to further the Crown's interests. A deed of cession between the Crown and Ngati Kahungunu was signed at Hatepe in the Hawkes Bay in April 1867. Under the terms of this deed "loyalist" Ngati Kahungunu exchanged the Kauhouroa block with the Crown for the interests of "rebel" Maori which the Crown had recently acquired under the East Coast Land Titles Investigation Act 1866.[3] A Native Land Court sitting in September 1868 confirmed Crown title to the Kauhouroa block.[4] However, the interests which the Crown had acquired from "rebel" Maori remained undefined. As a result Certificates of Title were not issued to the "loyalist" Ngati Kahungunu, even though they had been awarded this land under the 1867 deed. The Crown's dependence on Ngati Kahungunu for military support brought them under increasing pressure to honour the terms of the 1867 agreement.[5] A further deed was negotiated in 1872 by Samuel Locke and was signed by 17 Ngati Kahungunu and one Tuhoe-Ruapani. It was at this point that land belonging traditionally to Tuhoe-Ruapani was awarded via the Crown to Ngati Kahungunu in exchange for the Kauhouroa block.[6]

The Native Land Court and the principle of succession

But why did land exchange and more importantly, land consolidation schemes become such a necessary part of Crown policy? The answer lies in the Native Land Court and its application of the principle of succession. One of the most crippling legacies of the Native Land Court system was the fragmentation of Maori land holdings and the creation of uneconomic shares.[7] Fragmentation was a

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3 Section four of this Act stated that the land of persons engaged in rebellion could be declared to be lands of the Crown. The Wairoa cession 1867 has been comprehensively dealt with by Vincent O'Malley, 'The Crown and Ngati Ruapani: confiscation and land purchase in the Wairoa-Waikaremoana area, 1865-1875', A report for the Panekiri Tribal Trust Board, October 1994; especially pp. 71-90.

4 Interestingly section four of the East Coast Land Titles Investigation Act 1866 was amended by the East Coast Act 1868 so that land confiscated from "rebels" could now be issued to owners who were not engaged in rebellion.

5 O'Malley, 'The Crown and Ngati Ruapani', p. 170.

6 Despite this Ngati Kahungunu did not receive Crown grants to this area; *Ibid*., p. 109. Tuhoe-Ruapani interests which were well outside the boundaries specified by the East Coast land Titles Investigation Act 1867 were, in effect, confiscated.

7 Geiringer actually makes this remark with respect to Muriwhenua, but it is true of all regions. Claudia Geiringer, 'Historical Background to the Muriwhenua Land Claim, 1865-1950', Waitangi Tribunal Record of Documents, WAI 45, #F10, 1992, p. 147.

direct result of the Native Land Court's application of the principle of succession. In 1865 the General Assembly issued a directive that the principle of succession with regard to Maori land should accord with the law "as nearly as can be reconciled with Native custom".[8] According to Maori custom

> rights to the use of land descended, generally patrilineally but not exclusively so, to children who retained their basic ties with their parent hapu and resided on the land. Traditionally, although children could trace descent through either parent, they inherited rights to the use of land only in the village where they lived and were active members. Their rights to land in the village of the other parent lay dormant unless they chose to live there, and the rights of absentees were usually lost after three generations of absence.[9]

Native Land Court Judge John Rogan deemed it to "be the duty of the Court...to cause as rapid an introduction amongst the Maoris, not only of English tenures but of English rules of descent as can be secured without violently shocking Maori prejudices."[10] This, in turn, would precipitate the individualisation of Maori titles to land. Judge Fenton amended the English rule of inheritance, which favoured the inheritance of intestate estates by widows, to include children. He proceeded to divide

> the estates of Maori deceased, male or female, in approximately equal shares to all children of either sex, resident or absent. The result was that titles soon became divided into an infinite number of shares, smaller and less economic with each succeeding generation, until they were soon so overcrowded and fragmented as to put the actual land almost beyond efficient use. Moreover, the whole Maori population

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8 Alan Ward, *A Show of Justice: racial 'amalgamation' in nineteenth century New Zealand*, Auckland, 1973, p. 186.

9 Hugh Kawharu, 'New Zealand' in Ron Crocombe (ed.) *Land Tenure in the Pacific* Melbourne, 1971, pp. 129-130; cited in Ward, *A Show of Justice*, p. 186.

10 Judgment paper on the Papakura Block, *New Zealand Gazette* 1867, p. 189; cited in Ward, *A Show of Justice*, pp. 186-187.

> was encouraged to indulge in the pursuit of inheritances from both sides of their ancestry and in districts remote from where they lived.[11]

From 1865 the Native Land Court systematically undermined the communal nature of Maori land tenure by fragmenting the ownership of thousands of acres of Maori land through the application of succession orders. The application of this law of succession combined with a relatively high mortality rate to be instrumental in accelerating the fragmentation of Maori land.[12] As a result the majority of interests became uneconomic and essentially useless. Alan Ward has referred to one instance in 1876 where succession had reduced some inheritances to fractions such as 0.4 of a 52nd part of an estate.[13] Although successive governments passed extensive enactments and amendments throughout the 1870s and 1880s none of these affected the principle of succession.[14] By the end of the nineteenth century the principle of succession had been applied to such an extent as to render much Maori land uneconomic.

The fragmentation of titles also posed a large problem for the Crown. Purchasing a block increasingly meant negotiating with a large number of owners, which was not only extremely time-consuming, but in some cases totally impractical. As interests were not defined the Crown had to apply for a partition order to have their interests cut out. All of this further delayed the Crown's objective of making land available for settlement. By the 1890s the Native Land Court system had become so cumbersome that it was described by the Rees Commission "as a major inhibition to European settlement. The problem of multiple individual ownership, which grew worse with each succeeding generation, also made the sale or lease of Maori land to Europeans increasingly difficult."[15]

The Rees Commission had been appointed in 1890 to investigate "the present state of the law affecting the alienation and disposition of interests in Native lands" and the "general constitution, practice, and procedure of the Native Land Court, so

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11 *Ibid*., p. 187.

12 The reference to mortality rates is in comparison to Pakeha mortality rates.

13 Heaphy to Woon, 14/12/1878; MA-Wanganui 1/9; cited in *Ibid*., p. 297.

14 Geiringer, p. 148.

far as may be necessary to ascertain the operation of the existing laws".[16] The Commission illustrated the complexity of succession orders to the Crown and how the application of this principle was instrumental in fragmenting Maori land. They drew the Crown's attention to the fact that

> In the North Island there are certainly thirty-five thousand Natives owning land in common. On an average, every name will be found in at least two certificates of title. Thus seventy thousand cases have to be decided. In addition to this colossal number, deaths are occurring at the rate of at least fifteen hundred a year. To these there will be three thousand successors. Even now the undecided claims to succession are numerous....
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> ...even if all those titles were defined, they would then, under the present system, have to be located, and the Maori lands cut up, in the midst of an universal scramble, into a hundred thousand allotments of varying size, character, and location, all made at the absolute will of the Native Land Court Judges.[17]

The Commission identified the principle of individual title as "the foundation and source of all difficulties which have since arisen", revealing the inherent impractical nature of the application of the principle of succession, though they did not suggest a suitable long-term alternative.[18]

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15 *Ibid.*, p. 148.

16 Members included WL Rees, Chairman and Member for the City of Auckland James Carroll, Member for Eastern Maori; and Thomas Mackay, Land Commissioner on the West Coast. AJHR 1891 Session II G.-1. p. iii.

17 *Ibid.*, p. xvii. Document Bank I, p. 87.

18 *Ibid.*, p. viii. Document Bank I, p. 86. This Commission did, however, propose the establishment of "a statutory body in which to vest Maori land in order to overcome the problem of multiple individual ownership of Maori land blocks." The Maori Lands Administration Act 1900 suspended the Crown's purchase activities and enabled Maori Land Councils to be set up. The Crown authorised these councils to exercise all the powers of the Native Land Court in relation to title determination, succession, and partition, and to create inalienable papakainga reserves for all Maori; Geiringer, pp. 150-151.

JK Hunn's report on the Department of Maori Affairs in 1960 reveals the extent to which succession orders have effected the ownership and economic viability of Maori land.[19]

Land Titles: Number of Separate Land Titles, 1960

District Office	No. of Titles
Whangarei	7 000[20]
Auckland	9 455
Rotorua	13 000
Gisborne	6 167
Wanganui	10 000[21]
District Office	**No. of Titles**
Palmerston North	7 695
Christchurch	3 028

19 JK Hunn, *Report on Department of Maori Affairs with Statistical Supplement 24 August 1960*, Wellington, 1961, p. 154.

20 This is figure is an estimate. A tally of titles was taken in October 1958 and gave a figure of 6 945. Allowing for subsequent partitions the total should now be at least 7 000; *Ibid*.

21 This figure is also an estimate. Hunn states "that to arrive at actual figure would involve lengthy and expert research as the titles files in this office are in a bad state and do not disclose the present tile status in many cases and this could only be ascertained by reference to the Land Transfer Office." *Ibid*.

Estimated Numerical Increase in Owners Over A Period of 12 Months[22]

District Office	Average Increase in Owners per Succession Order	Annual Net Increase in No. of Owners
Whangarei	1.9	933
Auckland	8.1	7 522
Rotorua	5.4	8 508
Gisborne	1.3	338
Wanganui	6.1	7 522
Palmerston North	5.1	2 640
Christchurch	7.0	1 045

Instead of addressing succession, the crux of the problem, the Crown attempted to regroup interest holders in a variety of ways, for example by vesting of Maori land in a statutory body for administration, the incorporation of owners under a management committee or by the consolidation of individual shares.[23] These piecemeal solutions only alleviated the problem of scattered interests in the short-term rather than providing a long-term solution and in the case of land consolidation schemes introduced a whole range of new problems for the Crown and Maori to contend with. The Crown failed to appreciate that consolidation could only ever be a short-term solution as long as the Native Land Court continued to apply the principle of succession.

Maori land policy under the Liberals

Before exploring legislation concerned with exchange and consolidation it is important to place it within a wider context and investigate general Crown policy on Maori land. The Liberals came to office in 1890 under Premier and Native

22 These figures were found by taking a test sample of 100 succession vesting orders in each district and calculating the estimated annual increase on this basis; *Ibid*.

23 A five page document simply titled "Native lands" written during the 1920s; MA 31/16 East Coast Commission. Also cited in Geiringer, p. 147. Geiringer later repeats these three solutions and quotes Ngata as having made them; AJHR 1931 G.-10, p. ii.

Minister, John Ballance. Liberal Maori land policy was conceived in terms that were consistent with their primary aim of promoting closer settlement. Alfred Cadman stated these objectives very clearly in 1892: "The object of the Government - of any Government - is to settle the lands of the country. We want settlers on these lands".[24] The Liberals' initially ambitious policy was driven by the settler demand for land for settlement and the Crown's desire to establish secure titles to both Maori and Pakeha land. Between 1891 and 1911 the Liberal government purchased 3.1 million acres of Maori land. Most of this was acquired in the 1890s, 2.7 million acres by the Crown and 400 000 acres by private purchasers.[25]

At the beginning of the 1890s large areas of the North Island still remained in Maori ownership and, as far as Pakeha settlers and politicians were concerned, could only be made productive and profitable if freed from both Maori ownership and the complications of Native title. There had been wide condemnation of any Maori land policy that allowed large tracts of Maori land to lie idle since the 1840s. In 1891 TK MacDonald, Member for Wellington City, commented "that 8,602,000 acres is the total area of Maori lands in the North Island; and of this area 888,500 acres are lands held for agricultural purposes, and 7,713,500 acres are lying unproductive."[26] Pakeha were concerned that there were large areas of Maori land that were "unproductive" and lying in "waste". This continued to be of paramount importance throughout the period covered by this report, with Members in the House continuously expressing their concern. In 1892 Dr AK Newman, Member for the Hutt, was in "no doubt that the millions of acres owned by the Natives are lying waste, on which they graze no cattle - many thousands of acres which they never cross from one year's end to another - are as idle and useless to us as if they were not in New Zealand at all."[27] PJ O'Regan, Member for Inangahua, described Maori as "land-monopolists as bad as any Europeans."[28] Robert Houston, Member for the Bay of Islands, stated that "The large tracts of

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24 *New Zealand Parliamentary Debates (*NZPD*)* Volume 77 1892, p. 231.

25 Tom Brooking, 'Busting Up the Greatest Estate of All: Liberal Maori Land Policy 1891-1911', *New Zealand Journal of History (*NZJH*)*, Volume 26, April 1992, p. 78.

26 NZPD Volume 73 1891, p. 579.

27 *Ibid*., Volume 78 1892, p. 299.

28 *Ibid*., Volume 86 1894, p. 228.

land from which they [Maori] are deriving no benefit...have been a great bar to the progress of the North".[29] Native Minister and Member for Thames, Alfred Cadman, was aware "that the Natives have large areas of surplus lands which they cannot utilise".[30] Robert Thompson, Member for Marsden, commented that "In many districts the Natives are possessed of large areas of first-class country, from which they derive no income whatever...It is lying waste".[31] In 1900 Thompson re-iterated his concern, stating that "There are large blocks of land which are of no value to the Natives; they do not use it, they do not occupy it, and it brings them in no income."[32]

It also appears to have been a particularly common belief among Pakeha politicians that Maori could not utilise their land nearly as effectively as Pakeha.[33] At the same time recognition grew among most Members that "no Native should be allowed to alienate his land to such an extent as to render himself liable to become a burden on the State".[34] In 1900 Captain Russell, Member for Hawkes Bay, suggested in order to avoid such a situation that "a certain portion of their land" should be "absolutely inalienable" and that "each head of a family should have vested in him a sufficient area of land that would prevent himself or family becoming a burden to the State."[35]

In this light large areas of Maori land "lying unproductive" were of enormous concern to the Crown. William McLean, Member for Wellington City, declared that

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29 *Ibid*., Volume 81 1893, p. 539.
30 *Ibid*., Volume 77 1892, p. 221.
31 *Ibid*., Volume 81 1893, p. 526.
32 *Ibid*., Volume 114 1900, p. 508.
33 The legislation administered by Minister of Lands, John McKenzie, ensured that Maori farming could never become a serious competitor with the heavily subsidised, tightly regulated and scientifically instructed white settler farmer. McKenzie held a poor view of Maori farming ability and seemed unaware that some tribes had engaged in successful sheepfarming. Although he determined to drag Maori into the modern world of scientific farming, this was not going to be to the disadvantage of Pakeha farmers whom he clearly favoured over Maori farmers; Martin, pp. 160-163; Tom Brooking, 'McKenzie, John. M17' in Claudia Orange, (General Editor)*The Dictionary of New Zealand Biography. Volume Two*, 1993, p. 296.
34 NZPD Volume 86 1894, p. 977.
35 *Ibid*., Volume 114 1900, p. 509.

> The sooner the Government get hold of these lands from the Natives at a fair price the better for the colony,... At the present time they seem to be locked up, and no one can get at them unless he employs what are known as pakeha-Maoris;...for the sooner these Native lands pass into the hands of the *bona fide* settlers the better.[36]

In 1893 Minister of Lands, John McKenzie informed Maori Members that unless they were "prepared of their own accord to open up land for settlement they must be prepared to hand it over to the Crown at a fair and reasonable value, for the purpose of being opened up for settlement."[37] Premier Richard Seddon was also aware "that in some parts of the colony there are many Natives living together, who have far more land than they can cultivate."[38] He went even further, stating that "the settlement of the North Island is retarded owing to the vast tracts of Natives lands which are at the present time locked up, and which block the progress of settlement."[39] There were no limits to what some Members would propose to gain access to Maori land. In 1900 WJ Napier, Member for Auckland City, suggested "that [surplus] blocks of land could be taken by a simple Proclamation."[40] Under these circumstances it was imperative "for the Government of the day to resolve the title problems so that the land could be brought into production."[41]

Despite the constant demand from Pakeha that Maori land be made available for settlement certain restrictions prevented this until 1892, when the Liberal Government decided to pursue a policy designed to ensure both the large scale alienation of Maori land and to establish secure titles to both Maori and Pakeha land.[42] The Liberals passed a range of legislation in order to facilitate this process and constantly amended it to make it work more effectively. This legislation

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36 *Ibid*., Volume 77 1892, p. 227.

37 *Ibid*., Volume 81 1893, p. 513.

38 *Ibid*., p. 519.

39 *Ibid*., p. 520.

40 *Ibid*., Volume 114 1905, p. 512.

41 GV Butterworth and HR Young, *Maori Affairs/Nga Take Maori: a department and the people who made it*, 1990, p. 50.

42 This later concern resulted in various reforms of the Native Land Court and the establishment of the Validation Court in 1893.

importantly ascribed a key role to the Crown in the purchase and redistribution of Maori land.[43] Pre-1909 this legislation was designed by Alfred Cadman, John McKenzie, Richard Seddon and James Carroll, and was instrumental in accelerating the rate of Maori land sales. This body of legislation was variously described by Maori Members of the House as "confiscation", "dishonest" and "evil", "unjust", "designed to oppress", and "plunder".[44]

Following the election of the Liberal government in 1890, new Premier and Native Minister, John Ballance, appointed a Native Land Laws Commission, headed by William Rees.[45] Rees' views paralleled very closely those of the Liberals, who were critical of the way Maori land had passed into the hands of a few monopolists. Rees also wanted to promote the development of the North Island by encouraging the selling and leasing of Maori land. The implementation of some of this Commission's recommendations were, however, delayed by Alfred Cadman's appointment as Native Minister in February 1891.

Cadman had much in common with the country Liberals' emphasis on building roads and bridges and facilitating closer land settlement. His opinions on Maori land were clearly bound up with his commitment to closer land settlement. He favoured the purchase rather than leasing of Maori land.[46] He professed that the Native Land Purchases Act 1892 would be "of great advantage to the Crown" as it would enable "the Crown to purchase [Maori land] irrespective of restrictions".[47]

Following his appointment Cadman proceeded to codify Maori land laws, to extend the powers of the Native Land Court and to abolish the Native Department. The Native Districts Regulation Act 1858 and the Native Circuit Courts Act 1858 which had provided much of the legal framework for the Department's independent jurisdiction over Maori communities were repealed. In 1893 Cadman passed the

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43 Brooking, 'Busting Up the Greatest Estate', p. 95.

44 Kapa, NZPD Volume 81 1893, p. 520; Taipua, *Ibid*., Volume 77 1892, p. 229; Heke, *Ibid*., p. 232; Te Ao, *Ibid*., Volume 86 1894, pp. 233, 478; cited in Brooking, p. 90.

45 AJHR 1891 Session II G.-1. p. iii.

46 Graham Butterworth, 'Cadman, Alfred Jerome. C2' in Claudia Orange (General editor), *The Dictionary of New Zealand Biography. Volume Two*, 1993, p. 72.

47 NZPD Volume 77 1892, p. 221.

Native Lands (Validation of Titles) Act and began to dismantle the Native Department. The abolition of the Native Department removed an institutional check on rapid alienation, with the Native Land Court and a handful of clerks and interpreters being transferred to Cadman's other portfolio, Justice, and the Land Purchase Office transferred to the Department of Lands and Survey.[48]

This later change enabled the Minister of Lands, John McKenzie, to oversee and combine the purchase of Maori land with the break-up of the great estates, thus cementing the Liberals' popularity in both the North and South Islands.[49] McKenzie's expertise on land matters won him the Lands portfolio in the Liberal cabinet which he retained from 1891 until 1900.[50] He viewed Maori communal ownership as a serious block to progress and favoured the closer settlement of land and the introduction of some form of leasehold tenure to prevent more land being locked up.[51] McKenzie was directly involved in making land still held under Maori ownership available for sale. In 1893 he proclaimed that

> the time has arrived when it is necessary that something should be done to enable the large areas of Native lands in this Island to be made more productive than they are at the present time.... ...it is quite impossible for us to remain, as it were, quiet in this matter-to allow those large areas of Native lands to remain in the position they are in at the present time. We have at the present time something like seven millions of acres of land in the North Island which I may put down as unproductive-... ...it is our duty to legislate in such a manner as will give to the people of the colony an opportunity of acquiring portions of these lands for settlement purposes, and to do so in such a way that no injustice will be done to the Natives themselves,...[52]

He impressed upon the House that "something must done to fix the time when the Natives shall be called upon to make up their minds as to whether they will make

48 Butterworth, 'Cadman, Alfred Jerome', p. 72.
49 Brooking, 'Busting Up the Greatest Estate', p. 84.
50 Brooking, 'McKenzie, John', p. 296.
51 *Ibid*., p. 295.

good use of their land, or allow good use to be made of it by the Government of the colony and the people of the colony."[53] In 1893 he informed Maori Members that unless they were "prepared of their own accord to open up land for settlement they must be prepared to hand it over to the Crown at a fair and reasonable value, for the purpose of being opened up for settlement."[54]

A series of Acts passed between 1892 and 1895 established a Validation Court to sort out Maori title, introduced a new system of land boards to purchase land and set up the Native Appellate Court to resolve disputed purchases. This new structure operated free from the constraints of the Native Department. McKenzie played a major part in enacting this legislation with John Ballance, Richard Seddon and James Carroll. This new system worked so effectively that 2 729 000 acres of Maori land were purchased by the Government between 1892 and 1900.[55] Under McKenzie's direction alone 2.3 million acres of Maori land were bought for £562 258.[56]

In addition to these changes partial pre-emption was introduced under the Native Lands Purchase Act 1892 in that once an area was gazetted for sale, negotiations with anyone other than the Crown were made illegal in that specified area for two years. This time limit was removed under the Native Land Purchase and Acquisition Act 1893.[57] The Rees Commission, with the exception of Carroll, had favoured the resumption of Crown pre-emption, a measure which Cadman personally supported.[58] Carroll initially opposed Crown pre-emption, as it denied Maori landowners full access to the market and left them exposed to manipulative Crown land agents paying derisory prices. He nevertheless wanted an end to individual sales and supported Rees' call for the setting up of Maori committees to negotiate future leasing and sales.[59]

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52 NZPD Volume 81 1893, p. 511.
53 *Ibid.*, p. 512.
54 *Ibid.*, p. 513.
55 Brooking, 'McKenzie, John', p. 296.
56 Brooking, 'Busting Up The Greatest Estate Of All', p. 79.
57 *Ibid.*, pp. 85-86.
58 Butterworth, 'Cadman, Alfred Jerome', p. 72.
59 AJHR 1891 G.-1, pp. xvii-xxx; NZPD Volume 73 1891, pp. 578-582; *Ibid.*, Volume 74, pp. 430-432; cited in Brooking, 'Busting Up The Greatest Estate Of All', p. 85.

Full Crown pre-emption was re-introduced in 1894, supposedly to protect Maori from the unscrupulous land grabber and to ensure that a reasonable price was paid.[60] Stout and Ngata observed that "In 1895 the Governor was empowered by Order in Council to except lands from the operation of the restrictive section 117 of the Act of 1894." They went on to comment that this act "centralised in the Government of the day the power (1) of deciding by Proclamation what Native lands should be acquired for general settlement, and (2) by Order in Council of deciding what lands of what Native owners should be sold, leased, or mortgaged to private individuals."[61] Seddon dismissed complaints from the Maori Members in 1894 that pre-emption was unconstitutional and a Treaty breach as irrelevant. McKenzie argued that if free trade in Maori land continued it would all be owned by land speculators and lawyers within 20 years.[62] Seddon and Carroll repeated this claim continuously to justify the reintroduction of Crown pre-emption.[63] From 1899, however, the Liberals were influenced to enact legislation, "which, without waiving the Crown's right of pre-emption, practically decreed the cessation of its purchases, except as to dealings then pending."[64]

In order to implement their policy of closer settlement the Liberals made funds available for large-scale purchasing through legislation. £200 000 was made available by extending the £50 000 provided by the Native Land Purchases Act 1892 over four years and £250 000 was granted for two years for the roading and development of Maori land purchased by the Crown under the Lands Improvement and Native Lands Acquisition Act 1894.[65] These two actions

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60 NZPD Volume 86 1894, p. 374.

61 AJHR 1907 G.-1c, p. 4.

62 *Ibid.*, p. 237.

63 Section 117, Native Land Court Act 1894 No. 43. Seddon NZPD Volume 86 1894, p. 374; Carroll *Ibid.*, Volume 78 1892, pp. 632-633. Full pre-emption didn't last long as the Native Land Laws Amendment Act 1895 No. 52 exempted land held outside town districts or boroughs if the block was less than 500 acres; 1895 Act, pp. 199-214.

64 Section three of the Native Land Laws Amendment Act 1899 No. 32 prohibited further Crown purchases. AJHR 1907 G.-1c, p. 5; cited in John L Hutton '"A Ready and Quick Method": the alienation of Maori land by sales to the Crown and private individuals, 1905-1930.' A report commissioned by the Crown Forestry Rental Trust as part of the Twentieth Century Maori Land Administration Research Programme, 3 May 1996, p. 11.

65 Lands Improvement and Native Lands Acquisition Act 1894 No. 36, pp. 171-174; NZPD Volume 86 1894, pp. 192, 237; cited in Brooking, 'Busting Up The Greatest Estate Of All', p. 87.

provided most of the funds for the purchase of 2 729 000 acres of Maori land that the Stout-Ngata Commission recorded as purchased by the Crown between 1892 and 1899 for £775 000.[66]

Although there were numerous amendments to the law between 1895 and 1900, there was no change in policy. This "period is marked...by a vigorous prosecution of the purchase of Native lands by the Crown,... and...by a constant use of the Governor in Council's power of excepting lands from the restrictions against private alienation." It should also be remembered "that the question of land-settlement generally had more than any other subject occupied the forefront of colonial politics."[67] From 1899 the Liberals were influenced to enact legislation, "which, without waiving the Crown's right of pre-emption, practically decreed the cessation of its purchases, except as to dealings then pending."[68] It was in this political climate that the first provisions on land exchange were passed in 1894.

The legislation

Maori had been requesting the legal ability to exchange land prior to the introduction of the first comprehensive provisions on exchange in 1894. Major Hamlin, Member for Franklin, received such a request from one Nopera. Nopera requested that he "be allowed to obtain Fifty acres of land at Whangape where he was now residing, in lieu of Fifty acres he owns at Waiuku." In January 1891 Major Hamlin received a reply from Native Minister John Ballance stating "that the Government has not the power to effect exchanges of land."[69]

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66 AJHR 1905 G.-1c, p. 5.

67 AJHR 1907 G.-1c, p. 4.

68 Section three of the Native Land Laws Amendment Act 1899 No. 32 prohibited further Crown purchases. AJHR 1907 G.-1c, p. 5; cited in John L Hutton '"A Ready and Quick Method": the alienation of Maori land by sales to the Crown and private individuals, 1905-1930.' A report commissioned by the Crown Forestry Rental Trust as part of the Twentieth Century Maori Land Administration Research Programme, 3 May 1996, p. 11. See AJHR 1907 G.-1c, p. 5 for an explanation as to why the 1899 amendment was passed.

69 Ballance to Hamlin, 19/1/1891; MA 4/53 Native Department Outwards Correspondence, p. 390. Document Bank II, p. 1.

The Native Land Court Act 1894 was the first to contain provisions for exchanges of land between groups of Maori and between Maori and the Crown with the aim of combining interests into more workable units.[70] Under this Act land was defined as "any land in the colony (other than Native land) owned or held by Natives, or by Natives and Europeans jointly, under any class of title, and includes any estate, right, or interest therein". Native land was defined as "land in the colony owned by Natives under their customs or usages, the title whereto has been ascertained by the Court or other duly constituted authority". Customary land was defined as "land which immediately before the coming into operation of this Act is owned by Natives under their customs and usages the owners whereof have been ascertained by the Court".[71] Crown land was not defined in this Act.

Section 14(3) gave the Native Land Court jurisdiction to effect an exchange of land owned by Maori between them. This suggests that the consent of Maori was necessary. The Governor could also apply to the Court and the Court could effect an exchange of land between Maori and the Crown.[72] Clearly the Crown wanted a legal mechanism whereby it could be involved in exchanges of land with Maori. It is not stated whether the consent of Maori was necessary in order to effect exchanges between Maori and the Crown, or whether exchange had to be for the benefit of Maori. The Native Land Court did not have the power to initiate exchanges and the Native Minister had no specific role. This Act did not stipulate what the nature of title of land vested in Maori would be.

Under section 44 the Native Land Court had to be satisfied that each of the parties involved in an exchange would have enough land for their support and that any money paid to make the exchange equal had been paid.[73] No limit was set on the amount of money to make an exchange equal. In theory the Crown could exchange a small area for a huge area of Native land and then pay them the rest in cash. This could be a very convenient way to purchase Maori land under the

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70 Section 14, Native Land Court Act 1894 No. 43, p. 315. Document Bank I, p. 6.
71 *Ibid.*, pp. 311-312. Document Bank I, pp. 2-3.
72 *Ibid.*, p. 315. Document Bank I, p. 6.
73 *Ibid.*, p. 321. Document Bank I, p. 7.

guise of an exchange. The Native Land Court was used to issue titles and vesting orders.

Under section 45 orders of the Court vested the interests of each party in the other, and also specified any amount of money necessary to make an exchange equal. Orders could be registered without a confirmation order, (an order made on inquiry).[74] Richard Seddon, Premier and Native Minister, expressed the usefulness of these provisions in the House.

> A tribe has land in the Waikato say, and in Taupo, and one section of the tribe lives on the land in the Waikato and the other section at Taupo. The land is cut up almost like a chess-board, and those little bits of land have been given to Natives residing in the two places. No attempt has been made to allow the Natives to exchange their land, or to give the Court the power of saying to the Natives where they are separated in this way that they may exchange their land. That seems to me to have been a serious defect, and the Natives themselves have said so. Some of these pieces of land were hardly sufficient for a Native to live upon. The land was scarcely worth selling because there were so many persons interested in it. The Government were not purchasing it, private persons could not do so and there the land has remained year after year. We must have legislation, I think, which will permit exchanges to be made between the Natives. If we do this we shall be doing good, and we shall promote their going upon the land and settling upon it the same as European settlers.[75]

Seddon's motive in encouraging land exchanges to occur between Maori appears to have been the promotion of a shift by Maori towards the adoption of Pakeha forms of land tenure and use, and not as a means of providing a solution to the continuing problem of title fragmentation. Although Seddon emphasised the benefits that exchange between Maori would bring he made no reference to the

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74 *Ibid*., p. 321. Document Bank I, p. 7.
75 NZPD Volume 86 1894, p. 372. Document Bank I, p. 141.

advantages gained by the Crown in section 14(3) under which the Crown was able to participate in exchanges. The Crown had an active interest in promoting exchanges in order to acquire land that would be suitable for settlement.

All Members of the House who referred to this part of the 1894 Act expressed their support for land exchange. Mr Parata, Member for Southern Maori and a member of the Native Affairs Committee, felt that the clauses on exchange would "suit the Natives of the South Island very well". He illustrated his point with the following example:

> Suppose I had twenty or thirty acres of land at Waikouaiti or anywhere else, and some other man interested in the same reserve had a similar area, we could make an arrangement by valuing the two pieces of land, and, if there is a difference in the values of those two pieces of land, the difference is to be made up by a cash payment to be decided by the Court. This principle should be applied to every part of the colony.[76]

The Honourable Sir PA Buckley pointed out that,

> The Natives have no power to exchange their lands with one another, and it has been found by experience that where some portion of a tribe, for instance, resides in one place, and another portion in some other place to which the tribe lays claim and where it is desirous of remaining, they ought to have the option, as between themselves, of exchanging.[77]

In 1909 Native Minister James Carroll commented on the 1894 Act that although land exchange was "effective in cases where the owners were few in number, it was not greatly availed of in the case of lands where there were a great number of

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76 *Ibid*., p. 479. Document Bank I, p. 142.
77 *Ibid*., p. 652.

owners."[78] The exchange clauses in the 1894 Act did, however, act as a springboard for future land exchange and as a forerunner to land consolidation schemes, as this was the first time that the motive behind exchange was explicitly stated as a means whereby interests could be combined into economically viable units.

Two amendment Acts were passed in 1895 and 1896. Under section 25 of the Native Land Laws Amendment Act 1895 the whole interest of any Maori in any section or block had to be exchanged.[79] This would accelerate the alienation process - by tidying up all one person's interests in one block or section all at once. This implies that if Maori were not prepared to do this then they could not exchange land.

Section four of the Native Land Laws Amendment Act 1896 empowered a sub-commissioner of the Native Land Court to exercise all the powers of the Native Land Court or a Judge under s14(3) of the 1894 Act. This meant that Sub-commissioners could effect exchanges of land between Maori and exchanges, and on application of the Governor between Maori and the Crown.[80]

In December 1899 James Carroll was appointed Native Minister. Carroll's goal was to empower Maori within modern economic life and secure their equality with Pakeha. He fought hard to win acceptance for Maori institutions which he considered would facilitate this process.[81] Carroll argued that it was necessary "to legislate for them [Maori] as they are in their present condition, and to assist in their development and advancement until they draw up into line with the pakeha. But we must preserve those who are not in a position yet and who are not capable

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78 James Carroll to WDS MacDonald, Esq, MP, 30/8/1909, pp. 4-5; MA 16/1 Miscellaneous papers relating to land. Document Bank II, pp. 5-6.

79 Native Land Laws Amendment Act 1895 No. 52, p. 205. Document Bank I, p. 8.

80 Section three of this Act enabled the Governor to appoint a Registrar of the Court or any other fit person holding a permanent appointment in the Civil Service of the colony to be a Sub-commissioner of the Court; Native Land Laws Amendment Act 1896 No. 53, p. 177. Document Bank I, p. 9.

81 Alan Ward, 'Carroll, James. C10' in Claudia Orange (General editor), *The Dictionary of New Zealand Biography. Volume Two*, 1993, pp. 79-80.

of understanding their true interests."[82] It was at this point that Carroll began to implement his policy of taihoa - the staving off of alienation of the freehold to give Maori time to acquire the knowledge and skills of the Pakeha.[83] Taihoa was an attempt to compromise. Its downfall was that it did not satisfy settlers who wished to benefit directly from increasing land values by acquiring freehold of their farms at its original value and then selling at the current market value.[84]

Carroll accepted that Pakeha would not be denied access to Maori land, especially in the central North Island, and sought a place for Maori to lease land and use the revenue to invest for their own farming. He considered that leasing, together with the compulsory investment of the rent on behalf of the beneficial owners, would produce development and diminish the squandering of payments that usually occurred.[85] Meanwhile the Government was drafting the new Maori Lands Administration Bill and wished to stop alienations until the new system could be established.

In 1900 Carroll persuaded Kotahitanga and other Maori leaders to accept a compromise between their objectives and the Crown's.[86] These took the form of the Maori Councils Act 1900 and the Maori Land Administration Act 1900. These Acts attempted to placate the Pakeha demand for land to some extent and to continue to prevent Maori from becoming completely landless.[87] The Maori Land Administration Act defined Maori land as "any land or estate or interest in land in New Zealand held, or which hereafter be held, by any Maori under any class of title, and includes papatupu land, but does not include (a) land which has been acquired in fee-simple by purchase from the Crown or a European, (b) land which is subject to the following Acts... nor (c) native land in the Middle Island or Stewart Island, or any other lands controlled by any other special Act".

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82 NZPD Volume 114 1905, p. 513.
83 Barbara Gilmore, 'Maori Land Policy and Administration during the Liberal period, 1905-1912'. MA, University of Auckland, 1969, p. 5.
84 Gilmore, p. 5.
85 Ward, 'Carroll, James', p. 79.
86 *Ibid*., p. 80.
87 Gilmore, p. 33. See the preamble for the Maori Lands Administration Act 1900 No. 55.

Under this Act the Liberals discontinued Crown purchases of Maori land, although purchases already under negotiation were allowed to be completed. Maori Land Boards were established with a majority Maori membership, that could sell or lease land voluntarily placed under them. Block committees were empowered to assist the Native Land Court in determining title. Likewise, private purchases were prohibited, except if the land was owned by one or two Maori. Leases were allowed, (they were the only way that Europeans could acquire and develop Maori land), but Maori were also required to retain a certain amount of land for their individual support; these areas were called papakainga. Papakainga were defined as "an inalienable reserve set apart for the occupation and support of any person of the Maori race".[88]

Under section 21(7) in cases of papakainga where the whole of the land was unsuitable for occupation or support, a Maori could, with the consent of the Maori Land Council, either exchange the land for other suitable land, or he could sell it and purchase other suitable land. The Maori Land Council determined whether land was suitable for exchange or not.[89] It is not specified what kind of other land could be involved in exchange, for example Crown land or European land, just that it had to be suitable. Whether money could be used to make an exchange equal is not specified either. In effect this Act transferred control and management of Maori land from Maori to the Councils.

The Maori Land Administration Act 1900 initially appeared to satisfy many Maori wishes and was adopted with enthusiasm. The Councils were effective in helping to settle titles, but very little land was placed under them. As a result of this failure from 1905 the Opposition began to mount enormous pressure on the Liberals, calling for the Crown to open the large area of undeveloped land in the central North Island for settlement.[90]

The Liberal government did not respond favourably to the failure of the Councils and moved towards systems for the compulsory vesting of Maori land by both

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88 Maori Land Administration Act 1900 No. 55, pp. 469-470
89 *Ibid*., p. 474. Document Bank I, p. 12.

lease and sale. Carroll was forced into concession after concession; the first of these was the Maori Land Settlement Act 1905. This Act aimed to keep remaining Maori land in Maori ownership and to facilitate "the sub-division of large estates and the opening up of land to small farming." Although "small farmers were denied ready access to the freehold of Maori land they were granted unprecedented freedom following the acquisition of the leasehold of these lands."[91] As far as Carroll was concerned it was imperative to "satisfy the public demand" but "at the same time" he wanted to conserve "the rights of the Natives" and give "them what assistance we can."[92]

The Stout-Ngata Commission reported in 1906 that

> those initiating the Native legislation...had decided to use compulsion in certain cases....The tendency towards "free trade," which had persisted throughout the long course of legislation, developed in 1905 a demand for the removal of all restrictions against leasing, and the adherents of that policy succeeded in placing on the statute book section 16 of "The Maori Land Settlement Act, 1905," which permitted a greater measure of freedom in leasing Native lands than had been enjoyed for over a decade.[93]

Interestingly, Herries opposed the compulsory vesting of Maori land, believing that it was "not fair to compulsorily take it unless we give them a chance of doing something with it themselves...give the Maori a fair chance to do what he can".[94]

Section four of the Native and Maori Land Laws Amendment Act 1902 prevented an exchange of land being confirmed under section 14(3) of the 1894 Act if the areas being exchanged were unequal, unless the person taking the larger area made a declaration under section five of the Native Land Laws Amendment Act 1895. The Native Land Court could use disproportionate values as grounds not to

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90 Gilmore, pp. 32-33.
91 Gilmore, pp. 40-41.
92 NZPD Volume 135 1905, p. 705.
93 AJHR 1905 G.-1c, pp. 6-7; cited in Hutton, pp. 23-24.

sanction an exchange or on any other grounds the Native Land Court thought fit. Although money could be paid to make the exchange equal, this was at the Native Land Court's discretion and could not exceed £100.[95] This is the first time a limit was set on the amount of money. This could potentially restrict exchanges, by limiting the size of areas which could be exchanged.

The Rangitatau Block Exchange 1907

As has been mentioned sometimes exchanges were effected to resolve specific grievances. The Rangitatau Block Exchange Act 1907 is a case in point. This exchange did not utilise any of the existing legislation; instead a special Act was passed, to deal specifically with this exchange.

The Rangitatau Block Exchange Act 1907 provided for the exchange of Nga Rauru and Crown lands near the Waitotara River in South Taranaki.[96] Under this Act confiscated land was granted to the Maori occupiers in exchange for their interests in other land. Importantly this Act gave "the Governor absolute discretion as to whom the land" was "granted, and on what terms."[97] However, that the Governor could only act on the advice of his responsible Ministers had become an established constitutional convention by the turn of the nineteenth century. The result of this is not therefore the personal discretion of the Governor, but that Ministers hold the real power of decision, essentially making the government a judge in its own cause.

Under the Rangitatau Block Exchange Act it was envisaged that the Native Land Court would determine who was entitled to the five areas of Crown land which were awarded to Nga Rauru.[98] There is a large discrepancy between the amount

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94 NZPD Volume 135 1905, p. 707.

95 Native and Maori Land Laws Amendment Act 1902 No. 56, p. 297. Document Bank I, p. 14.

96 Rangitatau Block Exchange Act 1907 No. 54, pp. 237-238. Document Bank I, pp. 17-18.

97 Under-Secretary, Department of Lands, to Under-Secretary, Department of Native Affairs, 6/4/1908, p. 1; MA 1 1925/323 Rangitatau Block File. Document Bank II, p. 9.

98 *Ibid*. The five blocks were section 10, block I, Nukumaru Survey District (SD), 648 acres; Puao Native Reserve, section 11, block I, Nukumaru SD, 175 acres 20 perches; section 3, block II, Nukumaru SD, 115 acres 2 roods; Takirau Reserve, section 9, block XIV,

of Maori land that was vested in the Crown, approximately 280 acres, while over 983 acres of Crown land was granted to Nga Rauru.[99] In the House Attorney-General, Dr John Findlay, stated that "Although the proposed exchange of Crown and Native land is considerably in favour of the Natives, it settles a troublesome dispute, and enables the Government to deal with the adjoining land for settlement purposes."[100] Robert McNab, Minister of Lands, commented that

> Although it might be said the Crown was not getting equal value for what it was giving to the Natives, when they considered that some grounds existed for the Natives' grievances and that it would be terminated by this legislation, it would more than compensate for the increased value of the lands that were given to the Natives by the Bill [Rangitatau Block Exchange Act].[101]

The Rangitatau Block is part of the controversial southern boundary of the Taranaki confiscation and was the subject of several petitions and deputations to the Crown both before and after 1907.[102] A group of Nga Rauru had continued to occupy this area, building dwellings and cultivations, after it had been confiscated under the New Zealand Settlements Act 1863. Although the confiscation of this area was published in 1865, the Crown did not actually take possession until 1903 when a survey was first conducted and the boundary line was first cut.[103] Until this time the Crown were unable to or simply not prepared to enforce confiscation

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Momahaki SD, 7 acres 3 roods; Te Iringa Native Reserve, section 10, block XIV, Momahaki SD, 34 acres 3 roods 22 perches. Second Schedule of the Rangitatau Block Exchange Act 1907 No. 54, p. 238. Document Bank I, p. 18.

99 First and Second Schedules of the Rangitatau Block Exchange Act 1907 No. 54, p. 238. Document Bank I, p. 18.

100 NZPD Volume 142 1907, p. 975; Document Bank I, p. 144.

101 *Ibid*., p. 868; Document Bank I, p. 143.

102 In 1887 Wiremu Kauika and 53 others petitioned Parliament "that the boundary of the confiscated land...be removed off the Rangitatau No. 1 Block, as that block belongs to them, and they do not wish to have the confiscated boundary on their land." Petition No. 112 presented to the Native Affairs Committee; AJHR 1887 Session II I.-3, p. 7; Document Bank I, p. 91. The Committee Chairman was to report to the House on this matter; unfortunately I have been unable to find this report. From later remarks it appears that the petitioners were unsuccessful. NZPD Volume 142 1907, p. 868. Document Bank I, p. 143. There were also several petitions sent to the Native Department in 1925; MA 1 1925/323.

103 The Order in Council confiscating this area was published in the *New Zealand Gazette* No 3, pp. 15-16. Cited in Raupatu Document Bank, Waitangi Tribunal, 1990, Volume 11, pp. 3990-3991.

in this area. Nga Rauru, however, claimed that the confiscation boundary was at the Waitotara River, and did not include the Rangitatau Block, (which lay on the east bank of the Waitotara River).[104] Until 1903 Nga Rauru had continued to live on this land, never having "been disturbed in their occupation, while two generations have been born and lived any [sic] many have been buried upon this land since its confiscation."[105] In 1899 a deputation of Waitotara Maori were informed by the Prime Minister that "the only question to be considered was, as to what they were prepared to give by way of exchange, and that if anything was done, it would be purely a matter of grace on the part of the Crown."[106]

In October 1904 various Government officials, including John Strauchon, Commissioner of Crown Lands in Wellington, visited Maori who were "squatting on" the east side of the Waitotara River.[107] Their objective was to meet with these Maori "who profess to have some claim to consideration in view of occupation and certain promises alleged to have been made to them long ago."[108] In his report, Strauchon proposed that certain areas of Maori land be exchanged for confiscated land. He stated that

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104 RN Jones, Native Department Under-Secretary to The Chairman, Native Affairs Committee, House of Representatives, 29/9/1925; MA 1 1925/323. Document Bank II, p. 28.

105 John Strauchon to Under-Secretary for Crown Lands, 9/12/1905; *Ibid*. Document Bank II, p. 29. Confiscation was not immediately enforced in South Taranaki. As a result many Maori may have thought that confiscation had been abandoned in this area. In the early 1870s Civil Commissioners Parris and then Brown were appointed to encourage Maori in this area to accept takoha, "compensation for former rights previously occupied to its becoming Crown land through confiscation". This subject is dealt with more fully by Aroha Harris, 'Crown Acquisition of Confiscated and Maori land in Taranaki, 1872-1881'. Waitangi Tribunal Record of Documents, WAI 143, #H3, 1993, especially pp. 44-51.

106 A memo signed by Prime Minister, Richard Seddon, 13/9/1899; cited in Jones to Chairman of the Native Affairs Committee, 29/09/1905; MA 1 1925/323. Document Bank II, p. 28; NZPD Volume 142 1907, p. 975. Document Bank I, p. 144.

107 Other officials were Thomas W Fisher, Reserves Agent for the Public Trustee in New Plymouth; Mr Lundius, Crown Lands Ranger at Wanganui; and Mr Wheeler, District Surveyor. This land had previously been surveyed by Mr Wheeler into Small Grazing Runs for settlement purposes; John Strauchon to Under-Secretary for Crown Lands, 9/12/1905; *Ibid*.; NZPD Volume 142 1907, p. 975. Document Bank I, p. 144.

108 When Government Agent Booth was dealing with the Rangitatau Block before the Native Land Court, a dispute arose when Maori alleged that 830 acres of this block had been promised to them by Major Brown when he was Civil Commissioner; Thomas W Fisher to J Strauchon, 27/11/1905. In a further letter Fisher states Brown had proposed to reserve 1500 acres for Wahiawa Rakei and his people. This was the reason they did not accept "Tahoka" [takoha] for the Momahaki Block; Thomas W Fisher to Under-Secretary for Crown Lands, 27/11/1905; MA 1 1925/323; NZPD Volume 142 1907, p. 975. Document Bank I, p. 144.

> Much of the land proposed to be given by [the] Government in exchange is equally rough, but the general effect of my proposal will be to consolidate the Native interests and wipe out the unfencible boundaries in favour of a good fencible boundary...
>
> ...the course proposed will give the minimum of dissatisfaction to natives in occupation and the intending European settlers, while the effect will be to consolidate the interests of both races without much delay or expense in survey.[109]

Strauchon's report of this visit appears to be the basis of the 1907 Act. However, in November 1905 Thomas W Fisher, who had accompanied Strauchon on his visit in 1904, suggested that Maori land in this area could still be bought by the Crown. Fisher pointed out to the Under-Secretary for Crown Lands that "The legislation passed last Session [Maori Land Settlement Act 1905] will allow the interest of the Native owners to be acquired..., or failing them agreeing to sell, then exchange could be effected by Native Land Court procedure."[110]

Although it appears that Strauchon took the location of dwellings, mahinga kai sites and wahi tapu sites into consideration, it is difficult to establish the extent to which Nga Rauru were consulted. Although Thomas Duncan, MP for Oamaru, said in the House that the proposed exchange had "the consent of the Natives",[111] this may not have been the case as the following cases suggest. In October 1906 Mane Tupeke of Rourou informed the Native Minister, James Carroll that "the government has taken this land [Rangitatau Block] without good reason. Send me an explanation because I am living on the said land and I cannot shift off the

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109 The Government agreed to pay for any surveys. These schemes appear in detail in this file; John Strauchon to Under-Secretary for Crown Lands, October 1904, pp. 3-4; MA 1 1925/323. Document Bank II, pp. 31-32.

110 Section 7 empowered the Native Minister to have the title to customary lands investigated by the Native Land Court. Providing the Maori owners were willing to sell, the Governor could purchase land from the owners or a majority of owners under section 20; Maori Land Settlement Act 1905 No. 44, pp. 448, 453. Thomas W Fisher, Reserves Agent, to Under-Secretary of Crown Lands, 27/11/1915; *Ibid*. Document Bank II, p. 33. Lists of owners appear in Document Bank II, pp. 11-27.

111 NZPD Volume 142 1907, p. 812.

land."[112] The Native Department were later informed by the Department of Lands and Survey that the "subject of proposed exchanges of land between the Crown and Natives is to be dealt with by a special Bill next session."[113] It was "recommended that Mane Tupeke be informed that as the whole question of the exchange of land at Rangitatau between the Crown & the Natives has been settled...the matter will not be re-opened and that the exchange arranged will be given effect to by" the Rangitatau Block Exchange Act.[114]

Despite the passing of this Act the Native Department continued to receive inquiries from Maori concerning the Rangitatau Block. In March 1908 Wiremu Kauika was "exceedingly wrath" to discover a Pakeha running sheep and cattle on land at Mangipani. He further stated that he would "fetch the sheep and cattle of the said Pakeha and drive them away".[115] In June Kauika wrote to Thomas Fisher, Under-Secretary of the Native Department, expressing his dissatisfaction with the consolidation arrangement, saying that "I and my tribe do not like the partitions of this land". He further stated that he was "very grieved" as the Crown had wrongly taken land at Mangipani.[116] A lack of consultation with Maori became a characteristic of future consolidation schemes.

Although section three of the Rangitatau Block Exchange Act stated that "the Governor may grant the Crown land described in the Second Schedule hereto to the Native owners of the land described in the First Schedule" this was not completed until 1915.[117] In January 1908 Ngarangi Katitia inquired as to when ownership of burial sites in one section were to be determined and pointed out that descendants of those who were buried there were "greatly distressed" in case

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112 Mane Tupeke to James Carroll, 15/10/1906; MA 1 1925/323. The original letter and a translation appear in this correspondence. Document Bank II, p. 34-36.

113 Under-Secretary, Department of Lands and Survey, to Under-Secretary, Native Affairs, 31/10/1906; *Ibid*. Document Bank II, p. 37.

114 HF Edger, Under-Secretary of Native Affairs, to Hon. Native Minister, 3/11/1906; *Ibid*. Document Bank II, p. 37.

115 W Kauika to Mr Fisher, 23/3/1908. The original letter and a translation appear in this file; *Ibid*. At this point no one had been granted the "right to put cattle or other stock on the Crown lands in the Rangitatau Block."; Under-Secretary, Department of Lands to Under-Secretary, Native Department, 15/4/1908; *Ibid*.

116 W Kauika to Mr Fisher, 26/6/1908. The original letter and a translation appear in this file; *Ibid*. Document Bank II, pp. 38-39.

any person was wrongfully included or excluded. In order to prevent this Katitia suggested that the matter be settled outside the Native Land Court.[118]

Section 118 of the Reserves and other Lands Disposal and Public Bodies Empowering Act 1915 extended the provisions of the Rangitatau Block Exchange Act.[119] Section 118 empowered the Governor to

> grant the lands described in the Second Schedule to that Act [Rangitatau Block Exchange Act] to the former Native owners of the lands described in the First Schedule thereto, and to such other Natives as may be equitably interested therein, as determined in accordance with the report of inquiry held by Henry Dunbar Johnson, Esquire, a Judge of the Native Land Court,...[120]

This Act implied that section three (1) of the 1907 Act was repealed.

Incorporations

Incorporation has been described as when

> the owners of any area or contiguous areas, subsequently extended to areas not necessarily contiguous but having elements of common ownership were, with the consent of a majority in value, incorporated. A body corporate was created, which acted through a committee of management, having complete power to raise funds on the security of the land and to carry out farming operations.

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117 Rangitatau Block Exchange Act 1907 No. 54, p. 237. Document Bank I, p. 17. This was gazetted in January 1910.

118 Ngarangi Katitia to Mr Thomas Fisher, 29/1/1908. The original letter and a translation appear in this file; MA 1 1925/323.

119 RN Jones, Native Department Under-Secretary to The Chairman, Native Affairs Committee, House of Representatives, 29/9/1925; Chief Judge Jackson Palmer to Under-Secretary, Lands Department, 17/12/1915; *Ibid*.

120 Reserves and others Lands Disposal and Public Bodies Empowering Act 1915 No. 68, p. 428. Document Bank I, p. 38.

> It was deemed to be a temporary measure to overcome the handicaps of the communal title, to organize the land resources of the community,...[121]

George Asher and David Naulls have traced the origins of incorporations to Ngati Porou, who began pastoral farming on the East Coast after the New Zealand Wars.[122] By 1870 they had small flocks up and down the coast, which were expanded during the next two decades. As the land in this area had numerous "individual owners, economic development on any large scale was impossible unless some method of coordinating the various owners and mediating between their various rights could be found." It became necessary "to evolve a system of organising the individuals in the title in such a way as to stabilise corporate action and legal decisions, and on the other hand to secure legislative recognition of the title expressing such an organisation as could be legally offered to a money lender and on which he could lend."[123] Incorporation was an attractive solution not only because it provided a viable system of management but also because this system provided a framework that was not dissimilar to tribal hierarchy, enabling Maori owners to control and manage their lands. It kept the title in tribal ownership but allowed the farms to be developed as viable units. Joining disparate Maori blocks together also made them easier for the Crown to purchase and more desirable for would-be settlers to buy.[124]

Prior to the Native Lands Administration Act 1886 incorporation schemes had no legal recognition or protection.[125] Around this time WL Rees, a lawyer, "argued that instead of listing a multiplicity of names of owners, fragmenting title even further through succession and allowing dealing with individual owners...the principle of tribal title and tribal dealings should be preserved by the incorporation of owners of a block as one legal entity. The 'incorporated' owners would then

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121 Apirana Ngata; AJHR 1931 G.-10, p. ii.

122 George Asher and David Naulls *Maori Land*. Planning Paper No. 29, New Zealand Planning Council, Wellington, 1987.

123 Apirana Ngata, in ILG Sutherland (ed.) *The Maori People Today: A General Survey*, 1940, pp. 139-140.

124 Brooking, 'Busting Up The Greatest Estate Of All', p. 86.

125 No land was brought under this Act's jurisdiction; Geiringer, p. 161.

elect a 'block committee', with executive powers."[126] Wi Pere was another important exponent of incorporation schemes. He was one of the first Maori leaders to emphasise that "Maori people were not indolent but that such problems as fragmentation of title frustrated men who wanted to put their land to efficient use."[127]

Carroll was another. He apparently held a horror for 'minifundia'; the situation where constant subdivision creates farming units too small to be economically viable.[128] Hence his emphasis on incorporation in the 1894 Act. Sections 122 and 123 of the Native Land Court Act 1894 gave the Native Land Court the power to declare the owners of any block a body corporate, providing the Crown had not purchased any right or interest in that block. A committee representing the owners could then be appointed to administer the land.[129] Although the Native Land Act 1894 empowered the Native Land Court to incorporate the owners of a block of Maori land into one body, Maori land incorporations did not receive full legal recognition until 1909. The legislation implemented by the Liberals was designed to overcome some of the difficulties of multiple ownership of land. Hence, the process of incorporation aimed to "facilitate alienation" by placing blocks under committees with full powers to alienate the land, thus avoiding the necessity of the Crown dealing with each individual listed on a memorial of ownership.[130] In 1909 Carroll indicated in a report to WDS MacDonald, Member for Bay of Plenty, that this "power [of incorporation] has been largely taken advantage of in some districts, and has in many cases provided a satisfactory means of utilizing the land, but in other districts Native owners did not take kindly to the proposal to transfer the control of their lands to the minority."[131]

Under the 1909 Act Judge Fisher noted that Maori owners could be "incorporated by order of the Native Land Court in substantial accordance with the existing

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126 AJHR 1884 Session II G.-2; cited in Ward, *A Show of Justice*, p. 296.

127 Rees and Pere were also partners at this time in a scheme for land settlement on the East Coast; cited in *Ibid*., p. 296.

128 Brooking, Busting Up The Greatest Estate Of All', p. 86.

129 Native Land Court Act 1894 No. 43, pp. 336-337.

130 AJHR 1907 G.-1c, p. 4; cited in Hutton, p. 8 The incorporations were brought under the control of Maori Land Councils in 1903.

131 J Carroll to WDS MacDonald, Esq, MP, 30/8/1909, p. 4; MA 16/1.

practice." Through a resolution of assembled owners or the consent of the owners of at least half the land, the Native Land Court was able to incorporate blocks of land so that the land was held in trust for the owners and their descendants. Under section 325 a Committee of management could be elected by the incorporated owners and then appointed by the Native Land Court. This committee, under section 327, exercised all the powers of the body corporate. Such a body corporate had "the same power of alienating the land vested in it as is conferred by this Act upon a Native owning Native land in severalty (save that the body corporate shall have no power of selling the land except to the Crown) without the precedent consent of the Governor Council."[132]

As with subsequent land consolidation schemes one advantage of encouraging incorporation schemes for the Crown was that it enabled them to negotiate directly with one collective body instead of many separate owners. However, as incorporation schemes fostered the communal structure of Maori society it was inevitable that they would be supplanted by a system which precipitated individual ownership. Incorporation schemes have enabled extensive pastoral farming and timber milling in the North Island.[133] They "have been, until recently, the principal means of Maori owners being actively involved in the development of their land."[134]

The main similarity between incorporations, land exchange and consolidation schemes is that they all organised Maori interests in a convenient and economic way, although the system of management was markedly different. Incorporating interests enabled a group to use land more productively than they would have been able to had they become individual owners with separate titles. Even though there was no comprehensive legal infrastructure to support the incorporation of owners of Maori land under development schemes, land development and farming

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132 Section 330, Native Land Act 1909 No. 15, p. 237.

133 In 1960 1.47 million acres of Maori land were farmed by incorporations; AJHR 1961 G.-10, statistical supplement, p. 47; cited in Ward, *A Show of Justice*, p. 297.

134 Asher and Naulls, p. 39; Geiringer, pp. 161, 181; Alan Ward, *A Show of Justice,* pp. 296, 297

which resulted from incorporation schemes can be described as forerunners to the development schemes implemented by Ngata in the 1920s and 1930s.[135]

[135] Heke goes on to describe how incorporated groups were able to develop and farm these areas; NZPD Volume 127 1903, pp. 530-531.

Chapter Two

A NEW NATIVE DEPARTMENT

"The resumption of both large-scale land purchasing and extensive leasing under the Liberals demanded a better administrative framework than the improvised one that had grown up since 1900." As a result Carroll was allowed to reconstitute the Native Department in June 1906.[136] In 1906 the Native Department was separated from the Justice Department in order "to deal with all matters affecting the Maori, more especially as regards their lands...., and the bringing of them into more profitable use." It was stated that "The policy for the future will be a continuation of that followed during the last few years, with the object of securing that [sic] Maori lands now lying for the most part unused shall be brought into profitable occupation."[137] This provides a rationale for consolidation and for imposing Pakeha forms of land use and ownership on Maori.

With these objectives in mind a Bill was drafted to ascertain which lands were needed by Maori in order to encourage them to become industrious and independent and not "to own land without using it". It was envisaged that "younger Maoris" be able

> to consolidate their scattered interests, and become the holders of separate farm sections, instead of, at present, owning, jointly with others, shares in land no part of which can any one Maori cultivate and improve, feeling sure of reaping the reward of his own labour.[138]

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136 Butterworth and Young, p. 63.

137 This information comes from a four page document which appears in miscellaneous file on Maori Affairs. It is titled "Native Matters" and neither the author nor the recipient are mentioned; MA 16/1 Miscellaneous papers relating to land, p. 1. Document Bank II, p. 40; Butterworth and Young, p. 56.

138 Paper on "Native Matters", p. 2; MA 16/1. Document Bank II, p. 42.

This would be achieved by consolidating scattered interests into one-man farming units. Owners would be able to form a body-corporate with the power to obtain capital for farming.[139] But the real thrust of this Bill would be

> To bring the occupation of Maori lands into line with the conditions under which Crown lands are occupied by Europeans, securing division into sections of suitable size and shape, with road-access, and furnishing a ready means of making such lands available without delay for use and occupation wither [sic] by individual Maoris or by Europeans.[140]

It was with this purpose in mind that a Royal Commission was appointed to inquire into the question of Native lands and Native land tenure.

Stout-Ngata Commission 1907

In 1907 a Royal Commission of Inquiry was appointed to investigate areas of Native land which were unoccupied or not deemed to be profitably occupied, and the mode in which lands could best be utilised and settled in the interests of Maori owners and Pakeha would-be owners and leaseholders.[141] Headed by Sir Robert Stout, Chief Justice and former Premier, who was assisted by Apirana Ngata, this Commission was to consider areas of Maori land that could be set aside for future occupation, how such land could be profitably used at present, which land could be set aside for Pakeha settlement and on what terms and conditions, and to establish how the existing institutions could be utilised for the above purposes. In each region the Commission had to ascertain the area of Maori land, discuss the question of utilisation with the owners and present specific recommendations to

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139 *Ibid*., p. 3; MA 16/1. Document Bank II, p. 43.

140 *Ibid*.

141 AJHR 1907 G.-1, p. 1; Michael King, 'Between Two Worlds' in Geoffrey W Rice (ed.) *The Oxford History of New Zealand*, second edition, Auckland, 1992, p. 291.

Parliament.[142] Joseph Ward revealed that the real intention of the Commission's investigation was to assist the Crown in establishing a policy to deal "with the surplus lands...with the object of making available for settlement in this country upwards of a million acres of land." It was anticipated that this would "insure the opening-up of the surplus lands for the use of Europeans in the proportion of half freehold and half leasehold, after ample reservation has been made for the Maoris."[143]

The Commission was "almost wholly sympathetic to the difficulties of Maori owners."[144] Reports were presented to Parliament from March 1907 until August 1908. In one of their first reports dealing with matters of general interest arising from visits in the North Island, Stout and Ngata informed the House that,

> You cannot control the wishes of individual owners, each of whom is given the right to dispose of his interests as he thinks best....
>
> It has been suggested that to meet the difficulty that lands should be partitioned so that the interest of each owner is defined by survey on the ground....Our researches have convinced us that this minute sub-division of land is not in the interest of the Maori people as a whole; that it is in many cases unnecessary, in some merely wasteful. It is inimical to speedy settlement, and impossible to carry out in a practical and effective manner, apart altogether from the enormous cost that would be entailed upon the land and its owners....
>
> It is a recognition of this position that has called into existence such schemes based upon the principle of consolidating the ascertained interests of individual members of a family, hapu, or tribe under such control as to insure to a purchaser or lessee a good title, secured with little expense.[145]

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142 The Commission's recommendations were legalised in part by the Native Land Settlement Act 1907, the Maori Land Laws Amendment Act 1908 and the Native Land Act 1909. There were a number of deviations from their recommendations. AJHR 1907 G.-1, pp. 1-2.

143 NZPD Volume 142 1905, p. 1124.

144 King, p. 291.

145 AJHR 1907 G.-1c, p. 13. Document Bank I, p. 88.

This comment would suggest that the primary reason to consolidate was not to put the land in a position whereby its Maori owners could develop it, but to put it into a position where it would be an attractive proposition for a "purchaser or lessee". One of Stout and Ngata's general recommendations was that it was necessary to amend the law "to permit of exchanges on [a] large scale, so as to secure the consolidation of individual and family holdings."[146] Exchanges were proposed in Wanganui, the Waimarama Estate and part of Waiapu County.[147]

Additional provisions on land exchange, 1907-1908

The Native Land Settlement Act 1907 defined Native land as "all land owned at law or in equity by any Maori under any class of title, if the title has been ascertained, whether the said land is vested at law in the Maori owner or is held in trust for him by a trustee; but does not include any land which, although owned by a Maori, has been at any time alienated from the Crown in fee-simple to any person other than a Maori".[148]

Section nine of the Maori Land Claims Adjustment and Laws Amendment Act 1907 extended the Native Land Court's jurisdiction by empowering it to order exchanges over land vested in a Board or trustee, provided the Board or trustee consented to the exchange.[149] It was not stated in whom land would be vested after exchange. The Native Land Court could exercise the jurisdiction conferred on it under sections 1-5, and 10 of the 1894 Act, as if such lands had not been vested in Board or Trustees. As consent from a Board or Trustees was required this did provide some safeguard.

Section 33(1) of the Maori Land Laws Amendment Act 1908 empowered the Native Land Court to make orders effecting an exchange of and/or any part or

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146 *Ibid.*, p. 19.

147 AJHR 1908 G.-1, p. 1; G-.i, pp. 1, 3, 5, 17.

148 Native Land Settlement Act 1907 No. 62, p. 271. Document Bank I, p. 19. All refer to section 47, p. 281. Document Bank I, p. 21.

149 Maori Land Claims Adjustment and Laws Amendment Act 1907 No. 76, p. 395. Document Bank I, p. 22.

share of land between Maori, as long as it hadn't been acquired by gift or purchase, if it was satisfied that exchange benefited both parties, each would still have sufficient land for occupation and support (similar to section 44 of the 1894 Act), and if values were not equal that money was paid, but this could not exceed 15% of the aggregate value of lands effected. This limited the size of areas that could be exchanged to some extent and changed the provisions of the 1902 Act that had said this amount could not exceed £100.[150] This is the first time exchange had to be for the benefit of both parties. This section differs from section 25 of the 1895 Act as the whole interest or share of a Maori did not have to be exchanged.[151]

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150 Section 4, Native and Maori Land Laws Amendment Act 1902 No. 56, p. 297. Document Bank I, p. 14.

151 Section 33(2) repealed section 44 of the Native Land Court Act 1894 No. 43, section 25 of the Native Land Laws Amendment Act 1895 No. 52, and section four of the Native & Maori Land Laws Amendments Act 1902 No. 56; p. 237. Document Bank I, p. 23.

Native Land Act 1909[152]

Under this Act the Crown intended "to remove all existing restrictions against the alienation of Native land, whether imposed by statute or by any instrument of title."[153] Carroll revealed "that the Court shall be guided more by considerations of how the land will ultimately be settled than by considerations of Native custom and usage."[154] Attorney-General, Dr Findlay commented that this Act removed the obstacles

> that have stood in the way in connection with the alienation of Native land for at least twenty years.... by facilitating all these operations of alienation the government has done an immense amount to help the settlement of Native land in the North Island. It is not through the State alone that we are going to settle large areas of Native land: we are going to settle them as much through private operations between the Native owner and the settler as between the State and the settler, and I would ask whether, by providing a cheap and expeditious method for the European settler to go on to Native land, we have not done much for settlement in the North Island to-day.[155]

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152 This Act repealed the Native Land Court Act 1894 and the Native Land Laws Amendment Act 1895. Under this Act European land was defined as "any land which has been alienated from the Crown for a subsisting estate in fee-simple, other than Native land". Crown land was "any land which has not been alienated from the Crown in fee-simple, other than Native land". Native land was defined as either customary or Native freehold. Customary land was "land, which being vested in the Crown, is held by Natives or the descendants of Natives under the customs and usages of the Maori people". Native freehold land was "land which, or any undivided share in which, is owned by a Native for a beneficial estate in fee-simple, whether legal or equitable". Provided that:-

a) European land did not become Native land when it was vested in any manner in a Maori for an estate in fee-simple, but would still be classed as European land.
b) Crown land became European land when it was vested in any manner in a Maori for an estate in fee-simple.
c) Native land which has become subject to a contract of alienation of the fee-simple remains Native land until the contract has been completed. Native Land Act 1909 No. 15, pp. 161-162. Document Bank I, p. 24-25.

153 NZPD Volume 148 1909, p. 1101.

154 *Ibid*.

155 *Ibid*., p. 1139.

This Act was also a major turning point in the respect that it was the first time specific provision was made for land consolidation schemes as opposed to land exchange. Consolidation schemes became a distinct part of Native policy under this Act when a system was put in place whereby schemes prepared by the Native Land Court and approved by the Governor could be implemented which would lead to the definition of interests and clear titles, thus enabling the owners to settle, develop, sell or lease these consolidated areas. "Legislation directing and empowering the Native Land Court to formulate schemes for the consolidation of interests in native land was one of the novel features of the Native Land Act 1909."[156] In his Financial Statement to the House in November 1909 Ward stated that

> Exchanges of interests in Native lands for other Native lands, or for European or Crown lands, will be greatly facilitated and unhampered except by a condition that the power be not abused and sales effected under the guise of exchanges. An important feature of the Bill is the proposal to consolidate the scattered interests of individual owners or groups of owners. The Court will be empowered to formulate schemes for the purpose which, after approval by the Governor in Council, will operate by way of exchange or otherwise as may be necessary.[157]

The provisions relating to land exchange and consolidation schemes appear to have arisen almost entirely as a direct result of the recommendations made by the Stout-Ngata Commission. Sections 124-129 of the Native Land Act 1909 fine-tuned the mechanisms for the exchange of Native freehold land with other Native freehold land or European land. Importantly there was no provision for Crown land to be exchanged. Under section 124(1) the Native Land Court could effect an exchange of Native freehold land by an order of exchange. This suggests that Maori could apply to the Native Land Court to have their interests exchanged.[158] The making of an such order was absolutely in the discretion of the Native Land

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156 This five page document appears in Coates' personal file on consolidation; p. 1, MA 31/3 JG Coates' personal file on consolidation.

157 AJHR 1909 B.-6, pp. xxi-xxii. Document Bank I, p. 96-97.

Court.[159] Furthermore, none of the provisions contained in any other part of this Act, with respect to the alienation of Native freehold land, applied to any exchange under this Part of the Act.[160]

Under section 125 nothing in this part of the Act could prevent the alienation of Maori land by way of exchange.[161] Section 126 allowed any interest in Native freehold land to be exchanged for any other interest in Native freehold land or European land. This section did not apply to the exchange of any interest held by a European in Maori land, other than an undivided share in the legal or equitable fee-simple.[162] This effectively excluded Crown land and customary Maori land from these types of exchange.

Section 127 specified the conditions the Native Land Court had to observe in order to make an order of exchange. These were that exchange was for the benefit of Maori owners,[163] that no Maori would become "landless" as a result of exchange,[164] and that the interests being exchanged were approximately equal under the definition of this Act.[165] The Native land Court also had to ensure that where the value of interests being exchanged was unequal that money was paid to equalise the exchange,[166] and that all Maori in whom any interest to be exchanged was vested consented to such an exchange.[167] This was the first time where the consent of Maori was explicitly stated as a prerequisite to exchange. Under section 129 when money was owed in order to make an exchange equal the Native Land Court could make the money a charge on any interest owned by

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158 This was similar to s14(3) 1894 Act where the Native Land Court could effect an order of exchange of land owned by Maori.

159 Section 124(2), p. 187. Document Bank I, p. 27. This is also similar to s14(3) of the 1894 Act.

160 Section 124(3), p. 187. Document Bank I, p. 27.

161 Section 125, p. 187. Document Bank I, p. 27.

162 Section 126, p. 188. Document Bank I, p. 28.

163 This is similar to section 33 of the Maori Land Laws Amendment Act 1908 No. 253.

164 Landless was defined by the Act as the "total beneficial interests insufficient for adequate maintenance". This is similar to section 44 of the 1894 Act.

165 They are regarded as equal if the difference does not exceed £100 or a quarter of the aggregate value of both interests. This section limited the area of land that could be exchanged. This is similar to section 4 of the 1902 Act, £100; and section 33 of the Maori Land Laws Amendment Act 1908, 15%. So this is an increase to 25% of value of both interests.

166 This is similar to section 44 of the 1894 Act.

that person in Native land. Money so charged was payable in accordance within the meaning of the Order.[168]

During a discussion of the Bill, Carroll highlighted the benefits of Part VII on exchange:-

> The [exchange] provisions in this Bill are made more elastic, so as to allow of the greatest possible freedom, while making adequate provisions against abuse. The chief safeguard is that the maximum amount that may be paid by way of equality of exchange shall not exceed one-fourth of the aggregate value of the properties exchanged.[169]

Sections 130-132 related exclusively to consolidation schemes. Consolidation as distinct from exchange is new in legislation. Consolidation schemes were very much an instrument of the Crown. Schemes could only be initiated by the Native Minister, a Crown official; not Maori, or the Native Land Court. Section 130(1) enabled the Native Minister to apply to the Native Land Court to prepare a scheme of consolidation of areas of Native land. The Native Land Court could do this and make any necessary inquiries and would then submit the scheme to the Governor for approval, which invariably meant the Governor would consult the Native Minister who had initiated the scheme in the first place. Under section 130(2) every scheme could only involve Native freehold land.[170] Crown land and European land could not be involved. Section 130(3) enabled the Governor to send a scheme back to the Native Land Court or Appellate Court for reconsideration and amendment. Both Courts could make amendments and then re-submit the scheme to the Governor for approval. There was no provision for Maori to reject a scheme or to suggest amendments. Only the Governor could confirm a scheme by Order in Council if he was satisfied with it.[171]

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167 Native Land Act 1909 No. 15, p. 188. Document Bank I, p. 28.
168 *Ibid*., Document Bank I, p. 28.
169 NZPD Volume 148 1909, p. 1101.
170 Section 130(4), Native Land Act 1909 No. 15, p. 188. Document Bank I, p. 28.

Section 131, in particular, gave the Court a considerable amount of discretion in respect of consolidation. After a scheme had been confirmed section 131(1) enabled the Native Land Court to execute it by making the necessary orders of exchange. The scheme then assumed the status of an exchange, except that such orders of exchange were not subject to any of the limitations or restrictions imposed by section 127. In other words consolidation did not have to be for the benefit of Maori owners, Maori could become "landless" as a result of exchange, the interests being exchanged did not have to be approximately equal under the definition of this Act, money did not have to be paid to make an exchange equal, and most importantly the consent of Maori whom any interest to be exchanged was vested was not necessary. This provision legally allowed the Crown to implement consolidation schemes at its own discretion without providing any Maori it affected with any course of redress or appeal. Importantly, no appeal could go to the Appellate Court from any order under section 131. Moreover, the Court could apply its own procedures and make decisions without consulting Maori. Some attempts were made to appeal under section 50 of this Act, which provided for the Chief Judge to grant leave to appeal in certain cases.[172]

To carry out a scheme the Native Land Court could cancel or vary a partition Order even if it had already been registered. The District Land Register would make the necessary amendments.[173] All Orders made by the Native Land Court were at its own discretion. It wasn't necessary for the Native Land Court in making such an order to proceed judicially or hold an open court or to hold any further inquiry.[174]

Section 132(1) allowed the Governor to issue an Order in Council to prohibit the alienation for a period not exceeding 12 months of the alienation of any Native land if the Native Minister had made an application to the Native Land Court to prepare a consolidation scheme. Under section 132(2) any alienations that did

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171 Native Land Act 1909 No. 15, p. 189. Document Bank I, p. 29.

172 Section 50 stated that "the Chief Judge may, if he thinks fit, on being satisfied that the applicant has shown a *prima facie* case of error, whether of fact or of law, in any final order of the Native Land Court, grant leave to the applicant to appeal to the Appellate Court against that order"; Native Land Act 1909 No. 15, p. 174.

173 Section 131(2), *Ibid*.

occur were void and it was an offence to negotiate a purchase while an Order in Council under s132(1) was in place. However, under section 132(3) no such Order in Council could prevent any lease, sale or other alienation by a Maori Land Board of the Public Trustee of any Native land vested in them.[175]

The sections on consolidation were commented on and commended by both Native Minister James Carroll and Attorney-General, Dr John Findlay. During his discussion of the Bill, Carroll directed the House's attention "to clauses 130, 131 and 132, where a mode of consolidating the scattered interests of individual Maoris, or groups of Maoris, is provided for. I consider these to be some of the most valuable clauses in this Bill. This provision is new, and will have far-reaching effects."[176] Dr John Findlay commented

> that many of our Natives own small portions of blocks in different parts, particularly of the North Island, but they are often very small areas, sometimes a few acres here and a few acres there; and the purpose with regard to the provisions of consolidation is to enable these interests to be consolidated into one block. That is, the interests of the Natives may be taken from one block into another, and, as far as possible, consolidated in that block. That, no doubt, involves a further principle of exchange. You will see that the scheme is to gather in the small interests of the different sections of the Maori people into the different blocks, so as to give them one block in a consolidated area. Perhaps a scattered thirty or forty interests are brought into one block, and instead of getting a few acres in scattered blocks they will get a few hundred acres in one block. I need not labour the matter further to show what a great help that will be to the Maori owners. At present these scattered sections are a hindrance to settlement and a loss to the Maori people.[177]

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174 Section 131(3), *Ibid*.
175 *Ibid*.
176 NZPD Volume 148 1909, p. 1101.

As noted although this Act provided for an exchange of a Maori interest in land for another interest in Maori or European land, (section 126), it did not allow for exchanges between Maori and the Crown. Special legislation continued to be passed after 1909 to effect such exchanges.

Proposed exchanges in the Urewera, 1910

Following the 1909 Act individuals began approaching the Crown with proposals to exchange their interests in land located in the Urewera District Native Reserve for Crown land. Although provision was made for exchange to occur in the Urewera District Native Reserve under section five of the Urewera District Native Reserve Amendment Act 1909, exchange was restricted to Native freehold land and European land, and excluded Crown land from being involved. Whiri and Horoai Meihana were clearly under the impression that exchange with the Crown was a possibility. In February 1910 they approached Native Minister James Carroll regarding the likelihood of exchanging their interests in the Te Whaiti block for Crown lands. Whiri felt

> quite pleased to find that my own thoughts (for the disposal of lands) have already been embodied in the Acts passed last Session.... I now ask you to let this Board deal with the Te Whaiti lands of myself and (my brother) Horoai, by way of exchanging our shares of 300 acres each in the Te Whaiti block, for Crown lands.[178]

What is more interesting is that it appears that the Native Department were not aware that the 1909 Act allowed for no exchange of this nature to occur. Even so, this request and others were taken seriously, with the Department inquiring as to

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177 Carroll was the only Maori MP to comment on these sections in the House; *Ibid*., Volume 148 1909, p. 1274. Document Bank I, p. 145.

178 This was taken from a translation of the original letter which is also in this file. Whiri Meihana and Horoai Meihana to Carroll, 22/2/1910; MA 13/91 Ureweras. Document Bank II, p. 45-46.

whether or not Whiri and Horoai Meihana had interests at Te Whaiti.[179] EP Earle, the Registrar of the Native Land Court in Auckland, replied that Te Horoai Meihana and Whiri te Meihana each had about 440 acres in the Te Whaiti block.[180]

In March 1910 Hohepa Mauruhau wrote to Native Minister James Carroll with regard to some land he had interests in at Ruatoki.

> Sir, greetings to you. A word to you in the matter of my Ruatoki 250 acres. As I have ceased to reside at Ruatoki, I wish to exchange those acres for some Crown land inland of Te Mimihi at the home of Te Puehu, at --karewa, [sic] Matata. I have decided to reside here permanently, and this is a good time for you and opportunity for you to accede to my wishes, so that you may have the Ruatoki land in your hand.[181]

Once again the Native Department requested the Native Land Court to ascertain whether Hohepa Mauruhau had interests at Ruatoki.[182] Earle replied that Hohepa Hami was the only name similar to Hohepa Mauruhau in the lists.[183] However, at the end of March a Hohepa Hamiora wrote to Carroll inquiring into the possibility of exchanging his lands at Ruatoki for "Crown" lands at Te Memiha. Hohepa Hami requested that he be able to exchange his "lands in Te Purenga block, Ruatoki and another part elsewhere, 250 acres in all...for 240 acres of Crown lands situate at Te Memiha, Matata".[184] Earle informed the Native Land Court that "Hohepa Hamiora (if the same as Hohepa Hami) owns about 40 acres at Te Purenga 11

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179 TW Fisher, Under-Secretary of the Native Department, to EP Earle, The Registrar, Native Land Court in Auckland, 4/5/1910; *Ibid*.

180 EP Earle to TW Fisher, 9/5/1910; *Ibid*.

181 This was taken from a translation of the original letter which is also in this file. Hohepa Mauruhau to James Carroll, 6/3/1910; *Ibid*. Document Bank II, pp. 47-48.

182 TW Fisher to EP Earle, 5/5/1910; *Ibid*.

183 EP Earle to TW Fisher, 11/5/1910; *Ibid*.

184 This was taken from a translation of the original letter which is also in this file. Hohepa Hamiora to James Carroll, 29/3/1910; *Ibid*. Document Bank II, pp. 49-50.

acres in Ruatoki South 13 acres in Ruatoki No. 2 and 15 acres in Ruatoki No. 3. I cannot identify the Crown land referred to."[185]

In 1919 the Native Department received a request from Tutakangahau of Maungapohatu. Tutakangahau stated that:-

> ....I want to exchange my interest-including those of my family - in the Tuhoe rohe-potae. The reason is that I find it very difficult to get our produce out (to the markets), and it is equally difficult to get our supplies to this place.
>
> I therefore make the following proposition to you and your Government, for your consideration:
>
> I wish to exchange land beside the Tara-pounamu Block, which is on the East side of TeWhaiti NuiaToi.[186]

At the bottom of the translation WH Bowler, the Land Purchase Officer for this area, has written a note to Under-Secretary Jordan that he did "not think that it would be at all wise to open up the question of exchanges at the present juncture."[187] Although Tutakangahau thought he could derive considerable benefit from such an exchange, this did not proceed.

These examples are important because they indicate that Maori were discussing the possibility of exchanging their interests with the Crown in this area as early as 1910. In this instance Maori were clearly prepared to initiate such exchanges. It is, however, important to remember that 14 367 original owners had been determined as having interests in the Urewera District Native Reserve, making it likely that these three requests were the exception rather than the rule.[188] These exchange proposals preceded the Urewera consolidation scheme which was not implemented in this area until the 1920s.

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185 EP Earle to TW Fisher, 11/5/1910; *Ibid*.

186 This letter is in Maori and only dated Aperira I, April 1; MA 1 W1369 Tutakangahau, re exchanging interests in the Tuhoe rohe potae. Document Bank II, pp. 223-224.

187 WH Bowler to the Under-Secretary, 22/4/1919; MA 1 W1369 Tutakangahau, re exchanging interests in the Tuhoe rohe potae. Document Bank II, p. 224.

188 AJHR 1920 G.-9, p. 2.

Massey, Herries & the Reform Ministry

In 1912 the Reform Party, headed by William Massey, came to office. Reform's policies included the granting of freehold and the opening up of Maori land for settlement. Massey was convinced that if land settlement was promoted, particularly the settlement of Maori land, difficulties with labour and industry would disappear.[189] In the House he argued that the time was

> ripe to push settlement for all we are worth. Prices are good, and now is the time,...It also provides for the settlement of the surplus Native lands - I say surplus, and I say it advisedly, because I am strongly of opinion that we should not endeavour to take from the Natives, even by purchase or lease, lands they require for their own use and maintenance. It will give the small man a chance such as up to the present he has never had.[190]

WH Herries was appointed Native Minister in this new Ministry. He favoured the individualisation of Maori interests, the removal of all restrictions on land purchasing and the opening up of as much Maori land for settlement as soon as possible.[191] Herries' views were formed early and held throughout his career. As Michael Belgrave records Herries believed that all Maori land should either be taken into trust and leased to Maori and European alike, or individualised. He clearly preferred individualisation, blaming rental income for Maori indebtedness, an unwillingness to work and general moral turpitude. Once titles were individualised, Maori would be free to develop their land; if Maori land was not developed it should pass into Pakeha hands - by compulsion if necessary. Herries was also prepared to sell the land of Europeans who refused to develop their estates. Herries derided Maori landlords, denigrated Maori Land Boards, and

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189 NZPD Volume 158 1912, p. 112. Cited in GV Butterworth, 'The politics of adaptation: the career of Sir Apirana Ngata, 1874-1928', MA, Victoria University of Wellington, 1969, p. 147.

190 NZPD Volume 161 1912, p. 278.

191 Most Maori land would have been investigated by the Native Land Court by this stage.

vilified restrictions on the sale of Maori land.[192] His first six years as Native Minister were largely devoted to the acquisition of Maori land. He was instrumental in substantially amending the 1909 Native Land Act in order to facilitate the purchase of Maori land. Herries restructured the Native Department into an efficient land purchase department “directed by the Native Land Purchase Board with the majority of staff being directly or indirectly involved with that activity.”[193] Between 1911 and 1920 a further 2.34 million acres of Maori land was sold, though the Crown was only responsible for purchasing 1 076 570 acres.[194]

Reform initially chose to concentrate on using the existing machinery to expand land purchase operations and speed up alienation.[195] In 1913 Herries announced that Reform's Native policy intended “to increase the powers of the Crown to purchase.” He proposed “to give greater powers to the Crown to purchase, so that all land will be vested in the Crown after it is purchased, and will be cut and roaded like ordinary Crown land.”[196] The Native Land Amendment Act 1913 made the only significant changes to the 1909 Act until it was consolidated in 1931. The 1913 Amendment Act amalgamated the Native Land Court and the Maori Land Boards, so that single districts shared the same Judge and Registrar. The Judge formed the Native Land Court and the Judge and the Registrar formed the Maori Land Board. This Act also strengthened the position of the Crown in the purchase of Maori land.[197] Under section 109 the Crown was able to acquire any interest in Maori land, including Native freehold land, Native reserves, or land held in trust “even if a Crown offer of purchase had been rejected by a meeting of owners.”[198] This also promoted the further individualisation of Maori land.

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192 Michael Belgrave, ‘Herries, William Herbert. H19’ in Claudia Orange (General editor), *The Dictionary of New Zealand Biography. Volume Three*, 1996, pp. 213-214.

193 Butterworth and Young, p. 68.

194 Brooking, ‘Busting Up The Greatest Estate Of All’, p. 79.

195 M Pomare to G Mair, 16/8/1912; MS-Papers-0092-13A; cited in Butterworth, ‘The politics of adaptation’, p. 148.

196 NZPD Volume 167 1913, p. 385.

197 Section 45 enabled the Native Minister to apply to the Native Land Court to determine the interests in any Maori land and then partition the land among the owners. Section 46 allowed such a partition to be further subdivided into areas based on the quality of the land. This was meant to enable the easy disposal of each allotment by Maori owners. Section 72 increased the maximum area of land that could be held by a single person to 5000 acres; Native Land Amendment Act 1913 No. 58, pp. 323, 330-331, 343-344.

198 Peter Spiller, Jeremy Finn and Richard Boast *A New Zealand Legal History*, Wellington, 1995, p. 162.

Chapter Three

IMPLEMENTING AND AMENDING THE 1909 PROVISIONS

The first scheme implemented under the provisions of the Native Land Act 1909 was begun on the Waipiro Block at Waiapu near Gisborne, in 1911. "Many false starts were made because the idea was new, and there was no experience of the business on so large a scale."[199] In 1912 a scheme for the Waipiro Blocks was presented to the Native Land Court and in 1913 the Court passed the whole scheme.[200] This scheme was completed in 1917.[201]

The implementation of this scheme was a direct result of a recommendation made by the Stout-Ngata Commission in January 1908. Stout and Ngata noted that "In the various schedules of lands the titles to which have been ascertained it will be seen that a feature of these lands [in Waiapu County] is the congestion of titles. The bulk of the Maori population hold small individual interests in many different blocks. There is hardly one block which can be conveniently individualised."[202] They believed that land at Tuparoa and Waipiro should be consolidated into family holdings.[203] Stout and Ngata forwarded their recommendations to Native Minister James Carroll. They indicated to Carroll that during visits in this area Ngati Porou "made strong representations to us to recommend a system of exchanges whereby the interests of families could be grouped and consolidated." Stout and

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199 This five page document appears in Coates' personal file on consolidation; p. 1, MA 31/3. Document Bank II, p. 66. Other references to this scheme commencing in 1911 are Paora Te Wairakau Parata and 71 others to Herries, 24/3/1915, p. 1; MA-MLP 1 1914/125, Waipiro Block file.

200 The Native Minister to Judge Jones, 12/7/1913; *Ibid.* Document Bank II, pp. 51-65. Paora Te Wairakau Parata and 71 others to Herries, 24/3/1915, p. 1; *Ibid*. Document Bank II, p. 71.

201 A five page document appearing in Coates' personal file on consolidation; p. 1, MA 31/3. A notice also appeared in the *New Zealand Gazette* at this time; 8/3/1917; cited in MA-MLP 1 1914/125. Document Bank I, p. 154.

202 AJHR 1908 G.-i, p. 3. Document Bank I, p. 91.

Ngata believed that although there were “many different blocks, the owners, with a few exceptions, belong to the same hapu composed of a number of families, and exchanges on an equitable basis can...be easily arranged amongst them.” They recommended that representatives from the Native Department and the Lands and Survey or Valuation Department undertake the necessary investigations.[204]

The proposed Waipiro scheme affected an area of 35 000 acres. The blocks involved were Waipiro No 2 (exclusive of the Waipiro township), Waipiro No 1, Waipiro No 3, Waipiro No 4, Rangikohua No 4 and Te Kaupeka-a-Haumia.[205] In a report to the Tairawhiti Native Land Court in February 1917 Judge Jones outlined how this scheme had been implemented through the Native Land Court proposal.

> The Native owners were, for the purpose of facilitating the proceedings, formulated into family groups called for convenience A to S. The shares and interests and the value of the interests in each Block have been compiled and the amount (in value) of land coming to each group has been calculated as regards the consolidated portion. It has not in every instance been possible to confine the owners to one place as there are many individual holdings to be protected. These individual holdings have been located as well as those belonging to the groups, and the portions allotted to survey.
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> ...There have been objections from time to time which have been duly heard and disposed of and at the final settlement of the scheme there were no objections voiced although some desired their locations further partitioned.[206]

The nature of these objections has been alluded to and included some owners wanting further partitions, while others did not; there was an appeal pending under

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203 *Ibid.*, p. 5. Document Bank I, p. 93.
204 *Ibid.*, p. 17. Document Bank I, p. 94.
205 Report to the Native Land Court, Tairawhiti District, from Judge Jones, 3/2/1917, p. 1; MA-MLP 1 1914-125.
206 Report to the Native Land Court, Tairawhiti District, from Judge Jones, 3/2/1917; *Ibid.* Document Bank II, p. 65.

section 50 of the 1909 Act, with these owners not wanting the Crown to buy any land within the scheme until it had been completed.[207] Group K, the Potaka-Tinirau Group, objected to the location of their interests in the scheme that was presented to the Native Land Court in July 1913. There were also details in relation to the subdivision of Waipiro 2 that were "not unanimously approved" of.[208]

There is also strong indication that the Crown attempted to purchase some of the land in the scheme before consolidation was completed. As far as Ngati Porou were concerned, Herries' policy of "purchasing individual native interests wherever they [Maori] were willing to sell" before schemes had been completed, interfered with Maori settlement that the completion of schemes would have facilitated.[209] In March 1915 a petition from Paora Te Wairakau Parata and 71 others of Waipiro, expressing concern to Herries of the Crown's recent move to purchase interests in land which was to be consolidated.[210] They stated "that darkness came into our hearts on hearing that you [Herries] had issued instructions that these lands be purchased because we know that some of the owners would sell and if they were to sell the [consolidation] work that has been commenced and completed would be disturbed."[211] This suggests that these owners in this case wanted consolidation to be completed before the Crown was given an opportunity to purchase.

This petition was followed by "a deputation of the principal owners of the Waipiro Blocks" to Herries in April 1915. The purpose of this deputation was to ask Herries to postpone further purchases "until after the scheme of consolidation of interests had been finally completed." Herries replied that although "he had no desire to interfere with the scheme of consolidation...he did not want the

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207 Report to the Native Land Court, Tairawhiti District, from Judge Jones, 3/2/1917. Document Bank II, p. 65; Deputation re Waipiro Blocks Consolidation, 12/4/1915, p. 2. Document Bank II, p. 74; Paora Te Wairakau Parata and 71 others to Herries, 24/3/1915, p. 1. Document Bank II, p. 71; *Ibid.*

208 Ngata to Jones, 12/7/1913, pp. 3-4; *Ibid.* Document Bank II, pp. 53-54.

209 The area affected by the Waipiro scheme was 35,000 acres. An untitled five page document; p. 1, MA 31/3. Document Bank II, p. 66.

210 Paora Te Wairakau Parata and 71 others to Herries, 24/3/1915, pp. 1-3; MA-MLP 1 1914/125. Document Bank II, pp. 71-73.

211 Paora Te Wairakau Parata and 71 others to Herries, 24/3/1915, pp. 2-3; *Ibid.*, Document Bank II, p. 72-73.

postponement of Crown purchasing to be used as a means of indefinitely delaying or entirely preventing Crown purchases in this block." He indicated that "The Crown was anxious to purchase the interests of those who are willing to sell and would still purchase the interests of those offering to sell."[212] This last remark suggests that as far as Herries was concerned Crown purchasing was more important than the completion of the scheme, and Maori land consolidation and development was merely a secondary consideration which could not be allowed to interfere with the Crown's purchasing programme.

Following the completion of the first scheme in 1917 the *Poverty Bay Herald* reported that "the Crown commenced the purchase of undivided interests in the Waipiro block". By 1921 the Crown had purchased three blocks, and had scattered interests in another 30. In 1921 Native Minister JG Coates met Maori and representatives of the Lands Department, "and decided that the only method satisfactory to both the Crown and the natives would be a further consolidation." Coates applied to the Court for a second Waipiro consolidation.[213] Unlike the first scheme this second scheme arose from a Crown initiative.

The *Poverty Bay Herald* commented in 1925 that the "success of the first [Waipiro] scheme was so outstanding that the natives at once recognised its value, and since that time there has been steady progress in the work of consolidation of East Coast lands." This article also drew attention to the fact that "the Crown has also derived considerable gains from the work." Prior to consolidation the Crown had scattered interests throughout Poverty Bay. Consolidation schemes enabled the Crown to have these "grouped together into substantial blocks" which could consequently be opened for settlement.[214] Consolidation schemes at Waiapu were a means whereby the Crown was able to become directly involved in the organisation Maori land titles. This made subsequent Crown purchases not only much easier but also more economically viable. The Crown was also able to

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212 Deputation re Waipiro Blocks Consolidation, 12/4/1915, pp. 1-3; *Ibid.* Document Bank II, pp. 74-76.

213 *Poverty Bay Herald*, 9/1/1925; MA 31/3. Document Bank II, p. 77.

214 *Ibid.*

purchase undivided shares in the knowledge that a consolidated stock would later be available for settlement.

Statutory Amendments, 1912-1919

Further amendments were made to the 1909 Act in this period. Under section 12 of the Native Land Amendment Act 1912 when European land was vested in a Maori under Part VII of the principal Act, such land became Native freehold land, amending the definition of Native freehold land in the principal Act.

Section 15 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1912 authorised the exchange of certain Crown lands for certain Native lands which were part of Kopua Island. Exchange in this case resulted from a survey error. Massey informed the House that "An area of 250 acres of Native land was erroneously sold and leased by the Auckland Land Board, and it is now proposed to validate such disposal, and to grant the Native owners an equal area of Crown land in lieu thereof."[215] So legislation was used to validate an event that had already occurred, (although this was not unheard of).

Native freehold land on Kopua Island had been disposed of by the Auckland Land Board as if it were Crown land. It was desirable for the Crown to acquire this area anyway so an exchange was arranged. A special Act was necessary to effect this as Crown land could not be exchanged for Maori land under the 1909 Act. Section 15 does not state whether the consent of Maori was necessary or, indeed, whether the Crown had it. The Native Land Court was empowered to subdivide the Crown land amongst Maori owners and their successors as it saw fit.[216]

Section 63 of the Native Land Amendment Act 1913 appended the following subsection to section 130 of the 1909 Act. In addition to the Native Minister being able to apply to the Native Land Court to prepare a scheme of consolidation, this

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215 Reserves and other Lands Disposal and Public Bodies Empowering Act 1912 No. 46, pp. 203-205. Document Bank I, pp. 31-33; NZPD Volume 161 1912, p. 1218.

216 Reserves and other Lands Disposal and Public Bodies Empowering Act 1912 No. 46, pp. 203-204. Document Bank I, pp. 31-33.

section enabled the Judge of each Maori Land District to inform the Native Minister of cases where consolidation should be carried out. This may have already been occurring on an informal basis. The Native Minister still directed the Court to prepare and submit a consolidation scheme.[217] This would have speeded up the process as Judges in the various districts were more likely to know where consolidation could be applied and having such a function would facilitate this process.

Although some Native Department officials were under the impression that the 1909 Act provided for the Crown to exchange land with Maori or Pakeha this was not actually the case until 1913. Section 114 of the Native Land Amendment Act 1913 provided that in cases where it was in the interests of the Crown to obtain practicable boundaries, or otherwise in the interests of settlement, any land acquired by the Crown could be exchanged for any European or Native land of at least the same area. Any such exchange did not necessarily involve payment of money to make the exchange equal; it was up to the Native Land Purchase Board to decide this. The Governor could, by warrant, authorise the issue of a certificate of title to lands exchanged by the Crown to the person entitled.[218] This was the first time provision was made for the Crown to be involved in an exchange since 1909. Although the 1894 had contained such provisions these were not included in the 1909 Act. It appears that when the Crown deemed it to be in their interests, Crown land could be included in an exchange. No reference is made as to whether Crown participation was restricted to exchange or whether the Crown's interests could be included in consolidation schemes.

Section six of the West Coast Settlement Reserves Act 1915 empowered the Native Land Court to consolidate the interests in Ngaruahine block, Ngatimoeahu block, Te Upokomutu block and Parihaka kainga. These were all Crown grants. The Native Land Court could delete any names that had been wrongly included in the Crown grant.[219] Parata expressed his concern about this in the Debates

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217 Native Land Amendment Act 1913 No. 58, p. 328. Document Bank I, p. 34.
218 *Ibid.*, p. 351. Document Bank I, p. 35.
219 West Coast Settlement Reserves Amendment Act 1915 No. 62, p. 342. Document Bank I, p. 36.

stating that this section gave "the Courts great powers of cutting a man's name out of the title to land altogether, and also the substitution of names of other persons not in the title."[220] Under the 1909 Act the Court had only had the power to prepare a scheme and after it had received the Governor's approval to carry it out. In Ngata's opinion this consolidation would

> go a long way towards solving an undoubted difficulty that exists in the Taranaki District. These grants were issued about thirty-two or thirty-three years ago. Sufficient time has elapsed since the issue of the original grants for one or two generations of successors to arise, and, instead of being interested in two or three different blocks, the position now is that a family has its interests scattered widely about, from Waitotara in the south to Waitara in the north. A provision such as this, which enables the family to consolidate its interest in one block, is a very useful one.[221]

Ngata expressed doubt as to whether or not this clause was necessary, given "that the jurisdiction the Native Land Court now has under the Act of 1909, of consolidating interests in Native land, generally applies."[222] Sir Francis Bell, a Legislative Councillor, pointed out to Ngata that under the 1909 Act the Native Land Court actually had "no jurisdiction to deal with it [consolidation], so power is simply conferred on the Native Land Court to make the order."[223] Under the 1909 Act consolidation schemes could only "relate to Native freehold land exclusively."[224] These blocks were all Crown grants administered by the Public Trustee, so were not regarded as Native freehold land. Parata, Member for Southern Maori, felt that this section gave "the Courts great powers of cutting a man's name out of the title to land altogether, and also the substitution of names

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220 NZPD Volume 174 1915, p. 608.

221 Ngata was MP for Eastern Maori; *Ibid.*, p. 607.

222 This was with reference to section six. *Ibid*. Lands which were not leased under the West Coast Settlement Reserves Act 1892 from the Public Trustee were described as "unsettled reserves" and become Native freehold land on partition by the Native Land Court; Reserves Agent, Hawera, to County Clerk, Waimate West County Council, 17/11/1915; MA 31/4 Rating of Native Land.

223 NZPD Volume 174 1915, p. 632.

224 Section 130 (2), Native Land Act 1909 No. 15, p. 188. Document Bank I, p. 28.

of other persons not in the title."[225] The Native Land Court had actually had the ability to do this since 1909. Under section nine the Native Land Court could effect exchanges for the purpose of consolidating family interests if it decided it was not practical for all parties to attend. In other words the Native Land Court could actively exclude any concerned parties it if deemed their attendance to be impractical.[226]

Section three of the Native Land Amendment and Native Land Claims Adjustment Act 1919 amended section 130 of the principal Act by repealing sub-section two. Previously every consolidation scheme could only involve to Native freehold land; it could now include any land owned by Maori, whether acquired from a European by exchange or purchase, or from the Crown; if in the Native Land Court's opinion the inclusion of such land was "necessary for the more effective consolidation of the interests of the Native owners".[227] There was still no provision for Crown land to be involved except under section 114 of the 1913 Act. This suggests that the Crown were beginning to realise the usefulness of a wider application of consolidation and exchange, particularly after Waipiro.

Section four of the 1919 Act amended section 131 of the principal Act by empowering the Native Land Court, as part of a scheme, to appoint trustees and to make succession orders, and to cancel their appointment if necessary.[228] In the House, Herries discussed the reasons for these amendments and how, in his opinion, they would ultimately benefit Maori

> Clauses 3 and 4 had been put in at the request of the honourable member for the Eastern Maori District in order to allow for exchanges. It had been found very difficult in the matter of exchanges, where some European land, or land that had got a European title, owned by a Native, came in the centre of land in which a scheme for exchange had

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225 NZPD Volume 174 1915, p. 608.

226 West Coast Settlement Reserves Amendment Act 1915 No. 62, p. 343. Document Bank I, p. 37.

227 Native Land Amendment and Native Land Claims Adjustment Act 1919 No. 43, p. 148. Document Bank I, p. 39.

228 *Ibid.*

> been brought about. The object of clauses 3, 4, and 4A was to facilitate the question of exchange; that was very desirable for the Native owners....
>
> A Native or a family might own interests in a series of blocks, and it might be to their benefit to consolidate their interests in one block, so they desire to exchange with some other family or individual. Such cases would go before the Native Land Court and, of course, fair play was given. If there was general agreement between the different families represented in blocks A, B, C, and D to consolidate each family's interest in one block, and such adjustments were deemed necessary, an award could be made. This system of exchange was entirely for the benefit of the Native or Natives concerned.[229]

Section five empowered the Native Land Court to order, as part of any scheme for the consolidation of the interests of Maori, the laying out of road-lines over any lands included in the scheme or create private right-of-ways (s48(2) of 1913 Act). The Governor-General could proclaim at any time after any road-line laid out by such an order a public road.[230] This was a way of providing access to areas of Maori land, bearing in mind that Crown land could be included in consolidation schemes now. Such access would probably have increased the value of Maori land in these areas.

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229 NZPD Volume 185 1919, p. 1210. Document Bank I, p. 146.

230 Native Land Amendment and Native Land Claims Adjustment Act 1919 No. 43, pp. 148-149. Document Bank I, pp. 39-40.

Chapter Four

THE UREWERA MILESTONE
AND SOME OF ITS CONSEQUENCES[231]

This chapter explores the beginning of a change in the direction of Native policy by the Crown from 1919 which was manifested in the implementation of the first consolidation scheme on a large scale in the Urewera District Native Reserve in 1921. Until 1919 Herries had consistently refused to allow the interests which the Crown had purchased in various blocks to be partitioned out. He was reluctant to proceed with partitions or consolidation schemes while there was still the possibility of the Crown acquiring more shares. From 1919 Herries began to consider defining Crown and Maori interests and to take an interest in the consolidation schemes which had been implemented on the East Coast.

The largest area which remained conspicuously unsettled by Pakeha at this time was the Urewera. A dwindling in the number of Maori who were willing to sell their interests in the Urewera District Native Reserve was further emphasised by an increasingly strong demand by Pakeha for the Crown to make the areas it had purchased interests in available for settlement.[232] The problem the Crown faced was how to separate its interests from those of remaining owners "without the intrusion of the latter into areas the Crown's sphere of settlement prejudicing a comprehensive scheme of roading and cutting-up and the reservation of forest and watershed areas."[233] Three solutions were proposed; firstly, the Crown could 'compulsorily' acquire the remaining interests in the Reserve. Native Land

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231 For a detailed examination of this scheme see SKL Campbell, 'Urewera Overview Project Three: Land alienation, consolidation and development in the Urewera, 1912-1950'. A report commissioned by the Crown Forestry Rental Trust, July 1997.

232 *New Zealand Herald*, March 1919; cited in Evelyn Stokes, J. Wharehuia Milroy and Hirini Melbourne, *Te Urewera. Nga Iwi Te Whenua Te Ngahere. People, Land and Forests of Te Urewera*. Hamilton, 1986, p. 67; AJHR 1921/22 Session II G.-7, p. 3. Document Bank I, p. 107.

233 *Ibid.*

Purchase Officer WH Bowler suggested that in blocks where the Crown had acquired the bulk of the interests that the outstanding interests be automatically vested in the Crown unless remaining owners lodged an objection.[234] Alternatively, the Native Land Court could partition and define the interests of each party. This, however, was not in the Crown's best interests. Comprehensive and expensive surveys made it likely that the Native Land Court would define the interests of remaining owners in areas where they lived, had cultivations and wahi tapu, and used resources, irrespective of whether this interfered with roading or the cutting up of Crown awards. The third option was for the Crown to arrange with remaining owners to consolidate the interests of both parties.[235]

The milestone

Late in 1919 a scheme was proposed to consolidate the Crown's interests.[236] From the outset this scheme was designed first and foremost to serve the interests of the Crown. The Crown's aim was to consolidate its interests first and to avoid a mixture as far as possible.[237] In August 1920 RJ Knight of the Land and Survey Department in Auckland, was asked to prepare a consolidation proposal.[238] The success of this scheme for the Crown influenced the more extensive implementation of consolidation schemes in other areas during the 1920s and 1930s.

In March 1921, following Herries resignation due to failing health, Joseph Gordon Coates was appointed Native Minister. Coates was determined "to remove the old grievances so that economic and social change could proceed", and to tackle Maori problems "in a comprehensive way rather than by the piecemeal efforts of the past".[239] In his first few months in this position Coates, accompanied by Ngata

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234 Stokes, Milroy and Melbourne, p. 69.

235 AJHR 1921/22 Session II G.-7, p. 3. Document Bank I, p. 100.

236 Jordan to Bowler, 6/11/1919; MA 1 29/4/7 Urewera Consolidation Part 1. Also cited in MA 1 29/4/7a Balneavis file.

237 Stokes, Milroy and Melbourne, p. 68.

238 *Ibid.*, p. 69.

239 WH Worger 'Te Puea, the Kingitanga, and Waikato" MA, University of Auckland, 1975, p. 64; B Farland, 'The political career of JG Coates', MA, Victoria University of Wellington, 1956, chapter three; cited in Michael King, 'Between Two Worlds' in Geoffrey W Rice (ed.) *The Oxford History of New Zealand*, second edition, Auckland, 1992, p. 297.

and Raumoa Balneavis, Coates' Private Secretary, visited the East Coast, Bay of Plenty and the Urewera. These areas provided a startling contrast to each other and, according to Graham Butterworth, illustrated very clearly to Coates the potential advantages of land consolidation schemes on a large scale.[240]

The Urewera scheme was the first comprehensive consolidation scheme implemented by the Crown. The Urewera Lands Act 1921, passed after the actual consolidation scheme had been arranged, gave these proceedings statutory authority. This Act consolidated the Crown's interests in this region. The scheme covered 44 blocks and 518 329 acres. This included 345 076 acres that the Crown had purchased, with owners retaining 173 252 acres. Remaining owners were divided into 150 groups supposedly corresponding to hapu and the location of interests. Each hapu then indicated which group it was to be solely affiliated with. This, in effect, meant relinquishing ancestral rights in all other groups.

In May 1921 Coates and the Minister of Lands, DH Guthrie, met with Maori at Ruatoki. At this meeting Coates suggested that remaining owners should consider the idea of consolidating their interests. According to a report presented to the House in December 1921 by Consolidation Commissioners RJ Knight and H Carr, and Balneavis, this meeting was the second time Urewera Maori "made strong representations" to proceed with consolidation to the Native Minister. It was at this meeting "that it was definitely decided to proceed with a consolidation scheme." Another meeting was proposed for August.[241] In the interim Coates wrote to Guthrie stating that "the underlying principle of consolidation of interests is the extinction of existing titles and the substitution of another form of title which knows no more of ancestral rights to particular portions of the land."[242] Conveniently such an arrangement would enable the Crown to have its interests defined, while at the same time extinguish all customary forms of tenure.

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240 Butterworth, 'The politics of adaptation', pp. 229-230.

241 AJHR 1921 G.-7 Session II, p. 3. Document Bank I, p. 100.

242 Coates to Guthrie, 12/7/1921, p. 2; MA 1 29/4/7a; Urewera Lands Scheme, Balneavis file, 1920-25 cited in Vincent O'Malley, 'The Crown's acquisition of the Waikaremoana Block, 1921-25'. A report for the Panekiri Tribal Trust Board, May 1996, p. 100. Document Bank II, p. 79.

The August meeting was attended by Carr, Knight, Apirana Ngata representing remaining owners, (or non-sellers as the Crown labelled them), WH Bowler, and HM Awarau and HT Fox who had been involved in consolidation schemes on the East Coast. "The Ureweras" are recorded as having attended in "large numbers, every family of non-sellers being represented." The whole scheme was quickly arranged between August 1 and August 25, and implemented over the next five years.[243]

As stated the Urewera Lands Act 1921 was passed later in the year to give these proceedings statutory authority. Carr, Knight and Balneavis were well aware that this entire arrangement had "been formulated without jurisdiction, and with no authority other than the Ministerial instructions". In early November Coates and Guthrie submitted proposals to Cabinet for legislation to be drafted by the Chief Judge of the Native Land Court.[244] The Crown had achieved all of its objectives. These included obtaining complete awards of Te Whaiti Nos 1 and 2, Maraetahia, Tawhiuau and Otairi blocks; having the bulk of their purchases located in the area between the Whakatane River and the Waimana Basin, south of the Ruatoki settlement; receiving a contribution from Maori of £32 000, (later reduced to £20 000), towards the cost of arterial roads connecting Ruatoki with Ruatahuna, and Waimana via Maungapohatu with Ruatahuna; having all existing titles, surveys and tribal boundaries abolished and new titles issued under the Land Transfer Act.[245] This meant that new surveys had to be done, the cost of which would be deducted in Maori land which would subsequently be vested in the Crown. The Crown had also arranged to acquire the Waikaremoana Reserve for scenic and tourist purposes and to reserve the area south east of Ruatoki which would prevent Maori from including Ruatoki 1, 2, 3 in the consolidation scheme on account of their valuations. No alienations, except those to the Crown, were to be permitted until the consolidation scheme was complete.[246] All of these objectives were achieved despite opposition in many instances from Maori. Following the completion of titles blocks were to come under the jurisdiction of the Native Land

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243 AJHR 1921 G.-7 Session II, p. 4. Document Bank I, p. 101.
244 Cited in O'Malley, 'Waikaremoana Block', pp. 100, 103.
245 AJHR 1921 G.-7 Session II. Document Bank I, pp. 98-106.
246 *Ibid.*, pp. 4-5. Document Bank I, p. 101-102.

Court and the Native Land Acts. In due course rates were to be chargeable on Maori blocks. Knight, Carr and Balneavis did recommend that rates should not be charged until the promised roads had been constructed.[247]

Urewera Lands Act 1921[248]

The August arrangements were legally ratified by the Urewera Lands Act on 11 February 1922. This Act was heartily endorsed by all those who commented on it in the House.[249] The title described this as "An Act to facilitate the Settlement of the Lands in the Urewera District", as it was "now desirable to apply the ordinary law" to this region. As well as implementing the first comprehensive consolidation scheme involving the Crown, this Act repealed all legislation relating to the operation of the Urewera District Native Reserve since 1896. Another important aspect of this legislation was that Native freehold titles were to be issued for the Maori interests. This meant the individualisation of title with all its resulting implications.

The Act provided for the appointment of two commissioners, who were empowered to implement the Urewera Lands Act 1921.[250] The commissioners were largely given a free rein in the implementation of this Act. The Native Land Court was virtually excluded from the implementation of the scheme on the ground, as was the Native Minister and the Governor-General. Although the Governor-General had the power to appoint the Native Land Court to exercise the powers and duties conferred upon the commissioners, (and thereupon any Judge of the Native Land Court could exercise all the powers, functions and authorities of both commissioners conferred on them by this Act with the power to adopt any act, matter, or decision of the commissioners as if it were his own, and to make and complete any order accordingly), the Act did not state in what circumstances this power could be used.[251]

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247 *Ibid.*, p. 6.
248 This section is quoted virtually in full from Campbell, pp. 65-71.
249 NZPD 1921 Volume 192, pp. 1113-1118. *Ibid.*, 1922 Volume 194, pp. 90-95, 157-159.
250 Section four, Urewera Lands Act 1921 No. 55, p. 449.

It is difficult to ascertain the extent to which owners had agreed to the provisions of the Urewera Lands Act, particularly given the wide regional variations in opinion. Even so their consent was of little concern to the consolidation commission, who quickly began to implement the provisions of the Act in order to achieve the profitable and advantageous location of the Crown's interests.

This Act declared all previous purchases of land by the Crown in the Urewera District Native Reserve to be valid, whether alienated by the General Committee or by individual owners. The only purchase that had involved the consent of the General Committee was the first one involving lands in the Tauranga basin, negotiated between 1910 and 1912. Although the alienation of this extensive area was the result of a single transaction that had the General Committee's consent, the legality of this first sale was dubious given that the written consent of an owner was first obtained, with a payment being made to him on the assessed value of his interest. The Crown was aware of this and indicated their concern in a report published in the *Appendices to the Journals of the House of Representatives* in 1921/22.[252] All other purchase in the reserve were negotiated directly with individuals, with the consent of the General Committee not being sought. Similarly Maori who had sold interests were deemed to have been authorised to do so.[253] This retrospectively legalised the Lands and Survey Department's purchase of 1912, which had involved acquiring both the consent of the General Committee and the consent of individual owners, as well as all subsequent purchases by Bowler. Under section three any order that was made vested that land absolutely in the Crown, and it could be proclaimed Crown land as if it had been Native freehold land acquired by the Crown under the Native Land Act 1909.[254]

As stated, section four empowered the Governor-General to appoint two commissioners to carry out consolidation. Judge H Carr and RJ Knight of the

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251 *Ibid.*, p. 453.

252 AJHR 1921/22 G.-7, p. 2. For a detailed description of this transaction see Peter Webster, *Rua and the Maori Millennium*, Wellington, 1979, pp. 239-235.

253 Urewera Lands Act 1921 No. 55, p. 448. This section was necessary as section 20 of this Act repealed section four of the Native Land Amendment and Native Land Claims Adjustment Act 1916 No. 12 which had legalised all former and future purchases.

254 Urewera Lands Act 1921 No. 55, p. 449.

Department of Lands And Survey were duly appointed.[255] Any disputes between the commissioners could be referred to the Chief Judge of the Native Land Court, whose ruling was binding.[256]

Section five enabled the commissioners to define the Crown's interests in the Urewera District Native Reserve. This was done ahead of the definition of the interests of Maori owners, often ignoring ancestral ties and social and cultural traditions of Urewera owners. The Crown were also to be awarded land to the value of £20 000 as the contribution of Maori owners towards roading costs and a further area for the probable cost of surveys of Maori portions. The commissioners were empowered to make orders defining the Crown's interests whether these represented the block or blocks referred to in the instruments of alienation or not.[257]

The commissioners alone were charged with determining the location and boundaries of the portions so awarded to the Crown ahead of determining the location of the interests of remaining owners. By defining the Crown's interests first, by default Maori owners got what was left. The commissioners only had to consult as far as was practicable the wishes and conveniences of Maori.[258] Whether the commissioners actively and adequately consulted with owners could be questioned as there was no requirement that compelled the commissioners to take Maori interests into account. In effect Maori ancestral ties to the land were subordinated to the Crown's objective of enabling Maori land to be profitably occupied and utilised. The commissioners could include any portion of the Waikaremoana block as they saw fit, even though no interests had been purchased by the Crown. The consent of Maori was not necessary here either.[259] As a result Ngati Ruapani were relocated against their will to Ruatahuna.

Under section six if land the Crown received lay outside the Urewera District Native Reserve the commissioners could make an order vesting such land in the

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[255] *New Zealand Gazette* 1922, volume 1, p. 449.
[256] Sections 4(1), 4(4), 4(5), *Ibid*., p. 449.
[257] Section 5(1), *Ibid*.
[258] Section 5(2), *Ibid*., pp. 449-450.

Crown, and proceedings would be taken as if they were an order for exchange in favour of the Crown made by the Native Land Court under the 1909 Act.[260]

After the Crown's portions had been determined then the commissioners could make and issue orders with the balance of the land to Maori owners, after taking out land for road and survey costs.[261] This allotment could be of any land within the Urewera District Native Reserve, and did not necessarily have to be the portion originally intended to be awarded.[262] In other words Maori owners had to accept what they were given, regardless of whether it differed significantly from what had originally been agreed to. The commissioners could fix boundaries and name the blocks as they saw fit.[263] This is interesting considering it was particularly important for Maori to be able to name places according to their customs and usages. The commissioners could also substitute the names of living successors for deceased persons.[264]

Section eight described how orders with respect to this scheme were going to be made and when they would be operational. For instance until an order had been finalised owners could only alienate their interest to the Crown.[265] This section re-stored a kind temporary pre-emptive right to the Crown. All land in any order made under this section was deemed to be Native freehold land within the meaning of the Native Land Act 1909.[266] All such orders would be treated as if they were orders of the Native Land Court and take effect accordingly.[267] Under section 15 all orders made by the commissioners were final and conclusive, and Maori owners had no right of appeal.[268]

Under section nine the commissioners could recommend to the Governor-General that Crown lands outside the district be included in the scheme. The Governor-

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259 Section 5(3), *Ibid*., p. 450.
260 *Ibid*.
261 Section 7(1), *Ibid*.
262 Section 7(2), *Ibid*.
263 Section 7(3), *Ibid*.
264 Section 7(4), *Ibid*.
265 The one exception to this to alienate through a will; section 8(4), *Ibid*., pp. 450-451.
266 Section 8(6), *Ibid*., p. 451.
267 Section 8(7), *Ibid*.

General could then, by Warrant, direct the District Land Registrar to issue a certificate of title for any such land. All lands so granted were deemed to be Native freehold land.[269] The Minister of Lands was authorised to use money out of any fund available for the purchase or acquisition of Native land, to acquire on the Crown's behalf from Europeans any other land that was required to give effect to the said scheme. This land was treated as it were already owned by the Crown and could be awarded by the commissioners to Maori.[270]

If the commissioners discovered it was necessary to pay money to any person in connection with consolidation or exchanges required to carry out the scheme, they could specify how much. The Minister of Finance could from time to time pay these out of any fund for the purchase or acquisition of Native land.[271] The commissioners could pay the said sum in debentures instead of cash if they wanted to. The Minister of Finance could issue these to the Native Trustee who would hold them on behalf of the beneficiaries.[272] Any money payable was deemed to be a trust fund under section 424 of the 1909 Act. If it was held by the Native Trustee then all provisions of that section applied.[273] Debentures were issued under this section to owners of the Waikaremoana block.

If the commissioners thought that it was necessary or expedient to include lands owned by Maori within or outside the district they could make and issue orders by way of exchange vesting the interests of the owners referred to in the Crown or any other persons.[274] So the commissioners needed the Governor-General's permission to include Crown lands outside this area in the scheme but did not need the permission of Maori owners to include their lands. Such orders took effect and could be registered as if they were an order of exchange made under

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268 *Ibid*., p. 453.
269 Section 9(1), *Ibid*., p. 451.
270 Section 9(2), *Ibid*.
271 Section 10(1), *Ibid*.
272 Section 10(2), *Ibid*., pp. 451-452.
273 Section 10(3), *Ibid*., p. 452.
274 Section 11(1), *Ibid*.

the 1909 Act. Instead of making an exchange order for any such land the commissioners could ask the Chief Judge to make an amendment to the title.[275]

Section 12 enabled the commissioners to appoint a trustee or trustees to any person under a disability. Under section 13 the commissioners could make alterations to the scheme to give effect to the general purpose and intent of the scheme. If the commissioners made a mistake of law or fact, error or omission, under section 14 the Chief Judge of the Native Land Court could make an order to remedy any such mistake of law or fact, error or omission. He could vary or annul the actual or intended decision of the commissioners, but no such amendment could prejudicially effect the rights of any person claiming *bona fide* under any lawful alienation.[276]

Provision was also made to exempt land in the First schedule from rates until a notice was signed by the Native Minister and published in the *New Zealand Gazette*. This would not happen until at least 12 months after the order relating thereto had been counter-signed by the Chief Judge.[277] Knight and Carr later recommended that this be extended to five years.[278] This exemption from rating was removed until 1964.[279] The Crown was responsible for undertaking all surveys required when asked to do so by any commissioner. Any plan could be approved by a commissioner or Judge. Provisions of the 1909 Act on surveys applied to any such area.[280]

Section 19 made provision for the operation of orders made under the 1896 Act. Although the 1907 titles had been cancelled for all blocks included in the scheme, as Ruatoki 1, 2 or 3, Tapatahi, Whaitiripapa, Manuoha or Paharakeke blocks were excluded from the scheme their orders were deemed to be still in effect. Such orders or provisions made under the 1896 Act could be counter-signed by the

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275 Section 27 of the 1909 Act applied to any amendment; Section 11(2), *Ibid*.
276 Sections 12, 13, 14; *Ibid*.
277 Section 16, *Ibid*., p. 453.
278 Carr and Knight to Under Secretary, Native Department, 9/7/1923; MA 1 29/4/7 Urewera Consolidation Part 1.
279 *New Zealand Gazette* 1964, p. 669.
280 Section 17, Urewera Lands Act 1921 No. 55, p. 453.

Chief Judge and would take effect as orders on investigation of title or a freehold order under the Native Land Acts.[281] Any partition, succession, or exchange orders under the 1896 Act, were deemed to be valid and within the jurisdiction of the Native Land Court, as long as they were not superseded by orders under this Act.[282] Any land within the said district not affected by orders under this Act, could be dealt with as customary by the Native Land Court.[283] The Chief Judge could exercise the same powers of amendment conferred on him by section 14, with respect to orders made by the commissioners. His decision was final and there was no recourse to appeal.[284] This power was used at least once, with regard to Whaitiripapa and Parekohe blocks.[285]

Between 1921 and 1926 Commissioners Carr and Knight and their assistants proceeded to cut out the interests of the Crown and non-sellers. The Ruatoki arrangements of 1921 were subsequently altered, resulting in the further scattering of hapu shares and blocks of land as the assistants were given the power to amend names and shares given and to transfer names from one group to another. Other problems associated with this scheme included the standing value of timber was not assessed, promised roads were not built although land was taken by the Crown to help pay for them, and it was on the basis of these roads that Maori interests were located up the Waimana and Whakatane valleys, as well as the fact that there was considerable Maori opposition to the scheme particularly in the Ruatahuna district which was clearly ignored.

As was realised at the time consolidation was not widely approved of by Maori in this region. Stokes, Melbourne and Milroy have described how highly disruptive consolidation was to Maori communities in the Urewera:-

> There were arguments about who should be in which blocks among those who opposed and those who agreed with consolidation. There were arguments over compensation to be given "to those evacuating

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281 Section 19(1), *Ibid*.
282 Section 19(2), *Ibid*.
283 Section 19(3), *Ibid*.
284 Section 19(4), *Ibid*.

> improvements" i.e. abandoning lands cleared and cultivated, in favour of either the Crown or other groups of owners. There was an argument over individual or communal ownership of cherry trees and cultivated areas....There were disputes over boundaries of blocks. There were disputes over groups of owners set out in the Government List.[286]

One block in the Whakatane valley, north of Ruatahuna, was named Apitihana, opposition. In 1936 Wiremu Wirihana spoke of this at a meeting at Te Whaiti to discuss the Crown's proposal to purchase Te Whaiti Residue Block. Wirihana commented that

> Mr Knight when he was a member of the Consolidation Committee gave the Maori a very unfair hearing. It was he and he alone who decided where the Maori were to go, and that was the reason that they gave that block up at Ruatahuna, which is now known as the Apitihana block, that is meaning 'opposition'.[287]

At Ruatahuna in April 1923 Pomare clearly stated that he was

> an opponent to Mr Ngata & consequently am opposed to the Commission. I lead the opposition I lead Tuhoe who do not desire to consolidate. We oppose the road contribution We do not desire to pay rates. My blocks are Ruatahuna 1.2.3.4.5. Tarapounamu Matawhero Kohuru Tukuroa all are in my hands I mean the shares of those who protest We will not evacuate from Waikaremoana.[288]

Tare Maniera informed the Commissioners that "as regards Mareatahia [at Te Whaiti] and difficulties as between the Crown and those who have interests there we don't want to evacuate Maraetahia."[289]

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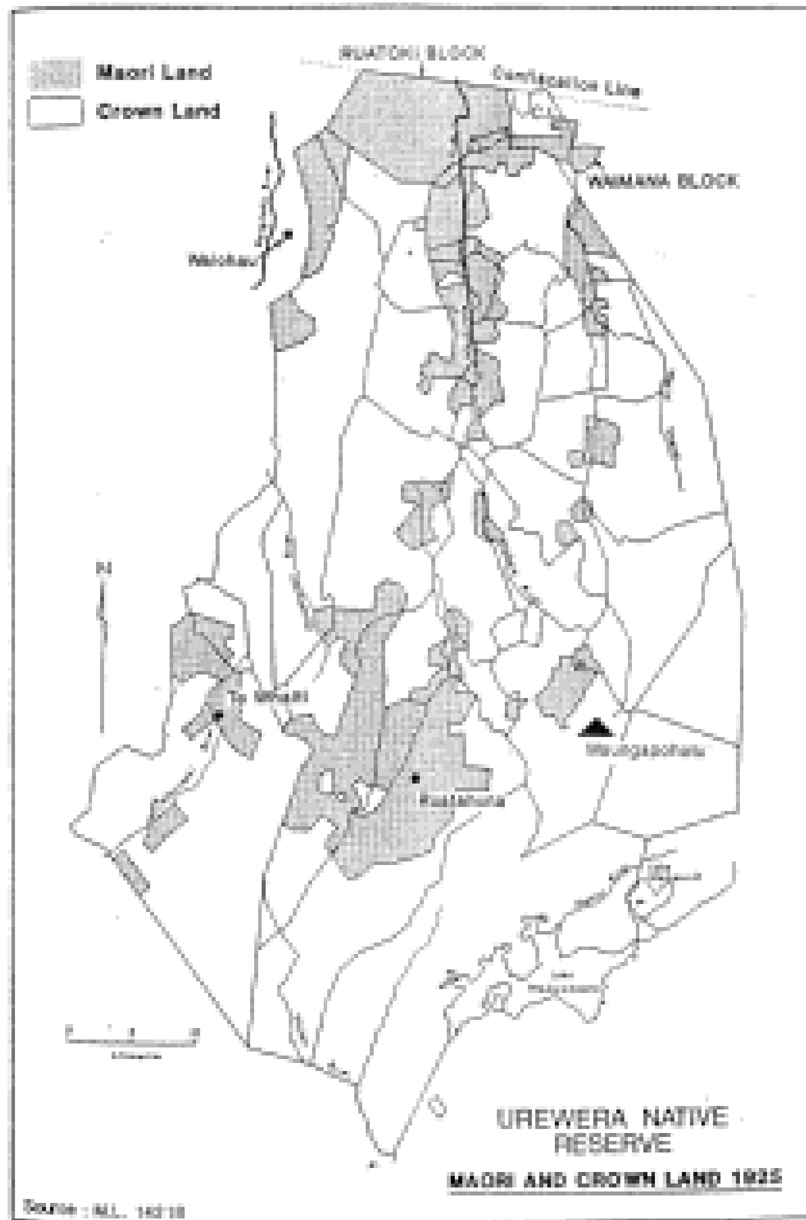
285 For more detail see Campbell, pp. 73-74.
286 Stokes, Milroy and Melbourne, p. 73.
287 MA 13/92; cited in *Ibid*.
288 Urewera Minute Book 1, p. 306.
289 These are extracts from Knight's notes of meetings at Ruatahuna in April 1923; cited in Stokes, Melbourne and Milroy, p. 73. They do not make a more specific reference.

Knight, Carr and Balneavis' report on the scheme to Coates and DH Guthrie, Minister of Lands, conveys a very different impression. It states that "The Urewera Natives were moved to agree to the consolidation proposals chiefly by the consideration that out of the scheme would emerge for the non-sellers defined sections, ready surveyed and accessible by or handy to arterial roads; that these sections would be free of the old-time restrictions, and owned not tribally or by hapus, but by compact families".[290] They believed "that the course decided upon by the Government in the case of the Urewera lands was probably the best that could have been adopted under the circumstances".[291]

290 AJHR 1921/22 Session II G.-7, p. 7. Document Bank I, p. 104.
291 *Ibid.*, p. 6. Document Bank I, p. 103; also cited in Stokes, Melbourne and Milroy, p. 71.



Urewera Native Reserve: Maori and Crown land 1925. ML 14218
Cited in Stokes, Milroy and Melbourne, p. 70.

Some consequences

It was noted in the annual report on the settlement of Crown lands in 1922 that the Urewera "arrangements established a principle in connection with purchases of Native lands which no doubt will be followed in similar cases, and which will expedite the settlement of these lands."[292] This clearly suggests that consolidation would in future be used by the Crown to facilitate the settlement of Maori land. In October, following the meeting in the Ureweras to discuss consolidation, Coates organised a conference to discuss future consolidation work. This Conference was attended by Apirana Ngata, Judge Carr and J Harvey, Registrar of the Tairawhiti Native Land Court. A description of the consolidation process was prepared by Harvey and Ngata. This proposal was discussed at the conference and later presented to Coates as a definitive statement of consolidation.[293] On receiving Coates' support this memorandum became the basis of official consolidation policy. Moves were then made to reorganise the Native Department and to amend the law in order to aid the implementation of these policies.[294]

Following the above conference the Native Land Amendment and Native Land Claims Adjustment Act 1921/22 was passed. This Act was the first to facilitate consolidation schemes of a similar nature and scale to the scheme implemented in the Urewera District Native Reserve. Interestingly it was passed into law the same day as the Urewera Lands Act 1921/22. This Act can be considered significant not only for implementing more comprehensive legislation on consolidation schemes for Maori but also in its provision of a legal mechanism for the Crown to consolidate its interests with Maori. The extent to which the Crown used this provision to be involved in schemes should be examined in further specific studies.

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292 AJHR 1922 C.-1, p. 3. Document Bank I, p. 160.

293 A paper titled Consolidation Schemes, pp. 1-5; MA 31/3.

294 Balneavis to Chief Judge Jones, 25/8/22; Ngata to Coates 28/8/22, MA 31/29; cited in Butterworth, p. 230.

Section 3(1) empowered the Native Land Court to carry out a scheme of consolidation of Crown and Maori interests as it approved and to make orders accordingly.[295] This is new in two respects; previously only the Native Minister had been able to approve schemes. Secondly, the Crown was now able to utilise its purchase of individual but scattered interests through a system of exchange. Suitable areas could then be made available for settlement. Importantly this system of defining interests in land appears to be more concerned with partitioning for practicality and ignoring areas where Maori had cultivations and dwellings.

The Native Land Court had the sole discretion to define the interests of the Crown and Maori. In the margin the commentary reads "Enabling Crown and European-owned land to be included in scheme of consolidation of interests", but the text only refers to Crown land. It is not explicitly stated whether the consent of Maori was necessary.[296]

An order could be made in favour of the Crown even though the land named may not have been wholly transferred to the Crown. After such an order had been passed the named land was vested wholly in the Crown.[297] The Native Land Court could recommend that any land vested in the Crown could be vested by way of exchange in any Maori the Court thought should get it, with the Governor-General executing a certificate of title.[298] If a Maori owner held interests in two or more blocks then the Native Land Court could grant the said Maori an interest in any block, even though that Maori may not have originally had an interest in that block.[299] The Court has quite an arbitrary power here to shift the interests of Maori around without requiring their consent to any decision it makes. This also allows for the indiscriminate relocation of Maori disregarding traditional tribal and hapu connections. The Court could also name that land.

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295 Native Land Amendment and Native Land Claims Adjustment Act 1921 No. 62, p. 583. Document Bank I, p. 48.
296 *Ibid*.
297 Section 3(2), *Ibid*.
298 Section 3(3), *Ibid*.
299 Section 3(4), *Ibid*. Document Bank I, p. 49.

Land owned by Europeans could be included in schemes if the Native Land Court thought it was advisable, and the Court could make orders accordingly. It is not stated whether the consent of European owners was necessary.[300] The Court could vest in any Maori any interests acquired by the Crown even if they had not been declared Crown land.[301] As a result this speeded up the process. The Court could also correct any error it had inadvertently made by making the necessary order. The District Land Registrar was authorised to cancel, amend or vary any title that could be registered or provisionally registered. No cancellation, variation or amendment could effect any right or interest acquired in good faith and for value prior to the Order of the Court.[302] Any Crown or European land that was vested in Maori was declared to be Native freehold land subject to the 1909 Act.[303] This is similar to the 1912 amendment which applied this to European land, though is new for Crown land.

In late September R Callaway of Tauranga informed Coates that he had interests "in numerous Native lands here and elsewhere... The area belonging to each of us varies from 1/2 acre up to 5 acres, and on account of the small size of the holdings and the fact that they are scattered all over the District makes it impossible for me or my relatives to work our holdings." He pointed out to Coates that was "urgently required was some method of enabling us to exchange our interests in the different Blocks so that we can consolidate these small interests." He argued that

> The present method through the Native Land Board [the Court] means the same expense for dealing with a small area as a large area, and in most cases costs considerably more than the small area is worth. The result is that the land is useless to us, as it is quite impossible to cultivate these small detached areas. We are unable to get any benefit from our lands and the present condition of the land is keeping back

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300 The provisions in the 1909 Act No. 15, section 127 (c & d), and the part that limited the area that could be vested in disqualified persons, did not apply to any land contained in such an order; section 3(5), *Ibid*.

301 Section 3(6), *Ibid*.

302 Section 3(7), *Ibid*.

303 Section 3(8), *Ibid*.

> the growth of the District, and all the time Noxious weeds are flourishing.[304]

In reply the Native Department ignored the issue of the expense involved for Maori owners and suggested that Maori in Tauranga could initiate the consolidation of their interests under the 1909 Act.[305]

Native Land Court Judges' Conference 1922

In August and September 1922 a conference of Native Land Court Judges was held "to discuss Native matters generally and to assist in putting matters on a sound and uniform basis."[306] Exchanges and consolidation schemes were included on the agenda.[307] Although Ngata did not attend this conference Coates invited him to submit suggestions for them to consider. Ngata made the following suggestions on consolidation.

> The duty may be cast on the Registrar or Judge of a District from timr [sic] to time whether a consolidation scheme should be undertaken in respect of any group of Blocks, which because of their common ownership or for other reasons should become subject to such a scheme. If the process of individualising titles is to be speeded up, consolidation of interests must be undertaken more extensively than at present. Such schemes should incidentally be used for extinguishing existing charges against the titles, such as fees, survey liens and even Judgments for rates. These may be by an award of land in a scheme to the Native Land Purchase Board, which can then adjust the charges with the Departments or local bodies concerned. Absentee owners or

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304 R Callaway to the Native Minister, 29/9/1922; MA 1 1922/367; cited in Kathryn Rose, 'The Impact of Confiscation: Socio-economic conditions of Tauranga Maori, 1865-1965'. A report commissioned by the Crown Forestry Rental Trust, January 1997, p. 88.

305 Native Department to R Callaway, 2/10/1922; MA 1 1922/367; cited in *Supporting Documents Volume II* to the report of Kathryn Rose, p. 719.

306 'Attachment A' to Minutes of a Conference of Native Land Court Judges, 29/8/1922, p. 4; MA 31/29.

307 'Attachment B'; *Ibid.*

> owners of insignificant interests should under due supervision be permitted to transfer their shares to their relatives in a group. The power to absorb these interests should of course be exercised with the greatest possible care. In every scheme I have been connected with during the last ten years I have found owners living in the Waikato, Thames and North of Auckland or who are practically Europeans pestering their Waiapu relatives to purchase their shares. Partition would keep a few cases, but as a rule it would be better if the groups with which such owners are connected were permitted to acquire. Lastly, in connection with these schemes I may remind you of former representations that the State should subsidise the cost thereof.[308]

In this submission Ngata makes a clear distinction between local landowners and distant shareholders and how consolidation could remedy this problem, in the short-term at least. Coates accepted all of the Conference's recommendations and implemented them over the following two years through legislation and/or administrative action.

One such vehicle for this was the Native Land Amendment and Native Land Claims Adjustment Act 1923. This Act was, in effect, a consolidation of all previous legislation on land consolidation schemes. It enabled the Native Minister to initiate and administer consolidation schemes, and provided a systematic method for the implementation of consolidation schemes. Section six enabled the Native Minister to apply to the Native Land Court to prepare a scheme of consolidation of the interests of Maori owners. This removed the initiative the Native Land Court had been given to prepare schemes under the 1921 Act, section 3(1). The Native Land Court would make the necessary inquiries and submit them to the Native Minister for approval. A scheme could be submitted in part or whole to the Native Minister. The Native Minister could ask the Court and the Appellate Court to reconsider and amend it, and then to resubmit it to him for approval.[309] If the Native Minister was satisfied that the scheme was “just and

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308 ‘Attachment C’; *Ibid.* Document Bank II, pp. 81-82.

309 Section 6(5), Native Land Amendment and Native Land Claims Adjustment Act 1923 No. 32, p. 186. Document Bank I, p. 50.

equitable" and is in the public interest it can be published in the *New Zealand Gazette*.[310] This was the first time these requirements were explicitly stated. Importantly schemes did not have to be submitted to Maori owners for their approval. Approval for schemes from the Native Minister is new. Schemes were only to relate to areas of land owned by Maori.[311] However, if the Native Land Court thought it was necessary to include other Maori, European or Crown land in a scheme then it could. It does not state whether consent of any of these owners was required.[312] The Native Land Court had the jurisdiction to make succession and trustee orders.[313] The Native Land Court could also make orders charging the interests of any person or persons, including the Crown, of lands in the scheme with the payment of a sum of money if the Court thought it was necessary to secure for the protection of any persons interested.[314]

Under section seven after a scheme had been confirmed then the Native Land Court could carry it out, and make the necessary orders. No orders of exchange were subject to section 127 of the 1909 Act. Once again this meant that exchange did not have to be for the benefit of Maori owners, that Maori could become "landless" as a result of exchange, that the interests being exchanged did not have to be approximately equal under the definition of the 1909 Act, that money did not have to be paid to make an exchange equal, and that the consent of all Maori whom any interest to be exchanged is vested was not necessary.[315]

The Court could cancel or vary any partition order, even if it had been registered or provisionally registered by the Land Transfer Act 1915.[316] For the purpose of partition the Court could treat several blocks as a single area owned by the owners of several areas in common. The Court could allocate the whole or part of the interests of any owner or owners in any of the several areas and cancel the

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310 Section 6(6), *Ibid*. Document Bank I, p. 51.
311 Section 6(1), *Ibid*. Document Bank I, p. 50.
312 Section 6(2), *Ibid*.
313 This is similar to 1919 section 4; Section 6(3), *Ibid*., p. 186. Document Bank I, p. 51.
314 Section 6(4), *Ibid*.
315 Section 7(1), *Ibid*.
316 Section 7(2), *Ibid*. This is similar to section 131(2) of the Native Land Act 1909 No. 15.

whole or any part of their interest in any other area.[317] This meant that the Native Land Court could carve up and allocate Maori land as they liked as they were not required by section 7(1) to have the consent of Maori, or to ensure that this was for their benefit or that they did not become landless as a result. Once again Maori ancestral ties to the land were of secondary consideration to the Crown.

The Court could define the Crown's interests in any land it acquired through a consolidation scheme.[318] Section 7(5) was the same as section 3(2) of the Native Land Amendment and Native Land Claims Adjustment Act 1921. In addition, however, the Court could award the Crown extra land to liquidate survey or other charges on the land included in the scheme or to pay rates or for any other purpose the Court thought necessary.[319] In other words if the Court could justify a cost they had the ability to vest Maori land in the Crown to meet that cost. This was the first time such a mechanism was put into schemes. The Crown and local bodies were also authorised to enter into any compromise regarding any amount due and the Court could give effect to this. This was obviously an attempt by the Crown to provide some solution to the rating problem and appease local bodies. Once again the consent of Maori was not a prerequisite to this.

The Court could, with the approval of the Minister of Lands, vest any land vested in the Crown in any person the Court saw fit.[320] The Court could, by way of exchange or any other manner, vest in any Maori any interests acquired by the Crown in Native land which had not been proclaimed Crown land. The Minister of Lands' approval was not necessary.[321] The Court could exercise the jurisdiction conferred on it by section 48 of the 1913 Act and make orders laying out road lines or creating private rights of way over any area.[322] The Court could, (with local body consent for public roads), order any public road, road-line or right-of-way within areas to be consolidated to be closed and vest the same in any person

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317 Section 7(3), *Ibid*.
318 Section 7(4), *Ibid*.
319 *Ibid*.
320 Section 7(6), *Ibid*.
321 Section 7(7), *Ibid*.
322 Section 7(8), *Ibid*., pp. 187-188. Document Bank I, pp. 51-52.

to whom the Court may award the same.[323] The Court could grant any Maori or other person an interest in any land, even if they didn't have an interest there before, and could give the awarded land a name even if a title had been issued for another name, for the purposes of consolidation.[324] This completely disregarded Maori ancestral ties to the land. If it was advisable to include any land owned by Europeans or the Crown in schemes, the Court could make an order vesting any Maori land in Europeans or the Crown, or vesting European land in the Crown or any other person. The provisions of the 1909 Act regarding the limitations of area and disqualified persons did not apply.[325]

Section 7(18) repealed sections 130-131 of the Native Land Act 1909, section 63 of the Native Land Amendment Act 1913, sections 3-5 of the Native Land Amendment and Native Land Claims Adjustment Act 1919, and section three of the Native Land Amendment and Native Land Claims Adjustment Act 1921/22.[326] Any scheme begun under the above repealed sections that had not been completed could be continued, confirmed and perfected under this Act.[327] This was extremely high-handed and essentially put new terms and conditions in place without first consulting the owners this effected. When investigating individual schemes under this Act it will be important to check how much this Act changed things, especially with regard to rates compromises and the remission of survey liens. Many Maori may not have participated having known that these things could be paid for in land as a result of a compromise struck between local bodies and the Crown; an arrangement in which Maori had no say until 1928.[328]

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323 Section 7(9), *Ibid*., p. 188. Document Bank I, p. 52.

324 This is similar to the Urewera Lands Act 1921 No. 55, s7(3), where the Commissioners could fix boundaries and name the blocks as they saw fit; p. 450. Document Bank I, p. 43; and Native Land Amendment and Native Land Claims Adjustment Act 1921 62, s3(4), p. 584. Document Bank I, p. 49; section 7(10), p. 188. Document Bank I, p. 52.

325 This is similar to s3(5) 1921/22; section 7(11), p. 188. Document Bank I, p. 52.

326 Native Land Amendment and Native Land Claims Adjustment Act 1923 No. 32, p. 189. Document Bank I, p. 53.

327 Section 7(19), *Ibid*. Section 7(13) was the same as section 3(7), Native Land Amendment and Native Land Claims Adjustment Act 1921 No. 62. Section 7(14) was the same as section 3(8), Native Land Amendment and Native Land Claims Adjustment Act 1921 No. 62. Section 7(15) was the same as section 131(3), 1909 Act. Section 7(16) was the same as section 131(4) 1909 Act.

328 Section 9 of the Native Land Amendment and Native Land Claims Adjustment Act 1928 No. 49.

Under section eight Orders in Council issued under section 132 of the principal Act could be extended from time to time as the Governor-General saw fit.[329] This suggests that this wasn't the case before and previously that alienations could only be prohibited for a total of 12 months.

329 Native Land Amendment and Native Land Claims Adjustment Act 1923 No. 32, p. 189. Document Bank I, p. 53.

Chapter Five

THE RATING PROBLEM
&
THE SURVEY PROBLEM

Land consolidation schemes were initially promoted by Ngata and supported by Coates in the 1920s as a means to provide a solution to the collection of outstanding and future rates on Maori land. Coates and Ngata argued that consolidating interests into economic units and then farming these would provide Maori with a regular income with which to meet rates payments. Given the particularly hard economic times and large amounts of outstanding rates in some areas, (particularly the King Country), land consolidation schemes and subsequent development gained support not only from most Maori but also from local bodies as a solution to the problem of rating Maori land. Maori in te Taitokerau were initially enthusiastic about both types of schemes as they seemed to provide a solution to the mess their lands were in. As a result the widespread implementation of these schemes became inextricably entwined with the unresolved rating problem. The schemes therefore had much wider ramifications as rating was intimately “connected with every other problem of Maori land settlement and economic adjustment.”[330]

The inability of local bodies to enforce the payment of rates on Maori land had been a long-standing problem. Local bodies “continually urged upon the Government the necessity of enforcing payment by Maoris of rates on Native lands, and especially pressed for the power to attach and sell the Native lands for non-payment of rates.”[331] It was the opinion of many local bodies that while Maori were not paying rates they were deriving advantages from improvements funded

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330 Butterworth, ‘The politics of adaptation’, p. 240.

by rates, for example roads. Ngata commented to Peter Buck that in many instances "in the road service for which the unpaid rates were demanded large areas of Native lands were shamefully treated."[332] In 1917 the *Northern Advocate* remarked on the "impossibility of collecting rates from native landowners. The default in this respect has been so enormous that the total sum due, if it could be gathered in, would probably be enough to solve the whole main-roading problem."[333] Herries, however, was not keen in December 1918 "to introduce such a controversial subject as Native rating" into the House.[334] This reticence can probably be explained to some extent by the fact that the National Ministry, still headed by Massey, was coming into an election year.

In July 1920 a deputation from the Executive of the County Councils Association of New Zealand waited upon Herries and GJ Anderson, Minister of Internal Affairs. They emphasised the difficulty in enforcing the collection of rates and the consequent hardships suffered particularly by local bodies in the North Island. "In large counties loans were raised for the necessary road works and the European settlers had to bear the greater part, if not the whole, of the burden." They requested "legislation affording some relief to Counties labouring under these disadvantages".[335] Herries replied that "The Government was endeavouring as far as possible to mitigate the circumstances under which the local bodies were suffering".[336] The recession that hit New Zealand in 1921 further exacerbated the burden on local bodies who were heavily in debt, many of whom were anxious to proceed with local projects.

Local bodies were convinced that these so-called "disadvantages" had arisen largely as a result of a Maori inability to pay rates, and in some cases, such as

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331 A report from the Native Minister as to the progress made with various consolidation schemes, 1/12/1928; MA 31/3 Coates' personal consolidation file.

332 Ngata to Peter Buck, 9/2/1928; cited in *Na To Hoa Aroha. From Your Dear Friend. The correspondence between Sir Apirana Ngata and Sir Peter Buck. Volume One 1925-29.* Auckland, 1986, p. 68.

333 *Northern Advocate*, 7/9/1917; cited in MA 31/4.

334 It should be pointed out that this session of Parliament was nearing the end. Herries to Chairman of the Waitomo County Council, 9/12/1918; *Ibid.*

335 Report on a Deputation of the Executive of the County Councils Association of New Zealand to Herries and Anderson, 30/7/1920, p. 1; *Ibid.*

336 *Ibid.*, p. 2.

Ngati Maniapoto, an unequivocal refusal to pay. Ngati Maniapoto argued that as a lot of their land had been taken under the Public Works Act in the 19th century their remaining lands should have been exempted from rates.[337] David Armstrong has asserted that Ngati Makino's inability to pay rates, particularly in the 1920s, arose from "their apparent inability to raise enough revenue from fragmented land and land in multiple ownership".[338] This was so acute in Rotorua Borough that all Maori freehold land within this area "was later exempted from "all or every special rate"."[339]

Local bodies, however, were steadily increasing the pressure on the Government to provide a solution to the rates problem. Two solutions they suggested were the forfeiture of Maori land in payment for rates, or that rates be paid by the Crown to local bodies and then the Crown could arrange some form of payment from Maori. In May AL Temple, Clerk for Waiapu County, pointed out to the Member for Bay of Plenty, KS Williams, "the extreme necessity for immediate relief from the unpaid rates problem."[340] Ngata suggested to Williams "that an inquiry be made into the whole matter in the Waiapu and Matakaoa Counties and measures taken in accordance with the facts of the situation."[341] In August 1923 a deputation representing local bodies interested in the rating problem waited on the Prime Minister, William Massey. During this discussion Ngata suggested to Massey and Coates that a small Departmental Committee be set up to investigate Waiapu and Matakaoa County Councils as an example of how the problem of unpaid rates on Maori land effected local bodies.[342] The members of this Committee were Judge Carr, Ngata, KS Williams, and the Chairmen of Waiapu and Matakaoa County Councils, AB Williams and WF Metcalfe.[343] They met in 1924 to investigate the

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337 *New Zealand Herald*, 13/4/1928; Minutes of King Country Consolidation Scheme meeting, April 1928, p. 2; MA 31/4.

338 MA 1 1924/50; cited in David Armstrong, 'Ngati Makino and the Crown: 1880-1960', Waitangi Tribunal Record of Documents, WAI 275, Document #G6, 1995, pp. 27-28.

339 Section 12, Rotorua Borough Act 1922 No. 9, p. 35

340 AL Temple to KS Williams, 30/5/1923; MA 31/4.

341 Ngata to KS Williams, 12/7/1923; *Ibid.*

342 Report on a Deputation to the Prime Minister on County Rates on Native Lands, 9/8/1923, pp. 10-11; *Evening Post*, 9/8/1923; The *Dominion*, 10/8/11923; *New Zealand Herald*, 10/8/1923, 11/8/1923; *Bay of Plenty Times*, 22/8/1923; cited in *Ibid.*

343 Coates to Under-Secretary of Native Affairs, 11/12/1923; MA 1 20/1/52 Waiapu and Matakaoa Rates Part 1, 1923-28.

most effective way to impose rates on Maori land, going “exhaustively into the whole question of rating so far as it affected the East Coast”.[344]

The Native Land Rating Act 1924 was the result of recommendations from this Committee.[345] The main complaint of the County Councils was “that they cannot get the rates because the present procedure is too cumbersome”.[346] The Committee recommended that the “solution of the Native rating problem must be bound up with the profitable occupation of Native lands, or the exemption of lands found to be unsuitable for settlement, or not likely under the best conditions to bring in any revenue.”[347] The Committee “commented on the difficult position of lands, the titles to which are in a transition stage, passing from the papatipu stage through the medium of subdivision, consolidation of interests, or incorporation, or leasing to the stage where the occupiers can finance.”[348] Ngata expressed the opinion that “Until there exists not one acre of land Native-owned in New Zealand there will be a Native rating problem.”[349]

The 1924 Act was an attempt to provide a final solution to the rates problem. Coates informed other Members that “Broadly speaking, the proposals...simply transfer the whole question over to the Native Land Court, and give the Court power to deal with each individual case that comes before it.”[350] The Native Land Court was made responsible for the collection of rates with the power to deal with each case individually. This included the power to adjust or remit unpaid rates as it saw fit. Section three stipulated that Native land was liable for rates in the same manner as European land.[351] Section four did exempt some areas, such as wahi tapu sites, from rates.[352] Charges were to be registered against Maori land if rates

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344 NZPD Volume 205 1924, p. 1050.

345 H Carr, A Ngata, KS Williams, AW Kirk to Coates, Report on Waiapu County, 23/7/1924; H Carr, KS Williams, AW Kirk, WF Metcalfe, AT Ngata, Report on Matakaoa County, 25/7/1924; MA 1 20/1/52 Part 1.

346 NZPD Volume 205 1924, p. 1054.

347 *Ibid.*, p. 1051.

348 *Ibid.*, p. 1052.

349 *Ibid.*, p. 1057.

350 *Ibid.*, p. 1051.

351 Native Land Rating Act 1924 No. 51, p. 378.

352 *Ibid.*, p. 379. Document Bank I, p. 57.

were not paid.[353] This prevented the owners from dealing with the land until rates were paid. Rents could be used to pay off the rates and the Native Land Court could appoint a receiver to recover rates or vest a portion of the land in the Native Trustee for sale or transfer to the Crown or local authority as payment for the rates.[354]

From time to time the Governor-General could, by Order in Council, exempt any Native land liable to rates from all or any specified part of such rates. No such exemption could affect any rate already made by the local authority, and an Order in Council could vary or cancel any such exemption at any time. All exemptions that had already been granted by the Governor-General could continue in full force and effect.[355]

Under section 14 a local body could remit the payment of rates due on land owned or occupied by Maori or any additional charge in whole or part, or could postpone the payment of rates or could compound therefor, or may accept land in payment, either under the order of the Native Land Court or by way of transfer. The Native Land Court could make an order vesting Native land in a local body in satisfaction of rates or make an order vesting Native land in the Crown who would in turn pay these rates to the local body. Any land acquired in this manner would be proclaimed Crown land as if it had been acquired by purchase. This section applied to all current and future rates; and all remissions made were to be deemed valid.[356] It never was explicitly stated in the law in the period covered by this study that a rates compromise was conditional upon consolidation being implemented.

The local bodies who had met in June informed Coates and Massey of their "extreme dissatisfaction at the manner in which the Native Rating Bill was rushed through without proper consideration".[357] These new provisions proved ineffective; this was manifested in 1927 when local bodies again agitated for a solution.

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353 Section 9(5), *Ibid.*, p. 380. Document Bank I, p. 58.
354 Section 9(12) and 9(7); *Ibid.*, p. 381. Document Bank I, p. 59.
355 Section 5, *Ibid.*, p. 379. Document Bank I, p. 57.
356 *Ibid.*, p. 383. Document Bank I, p. 61.

A local body conference 1924

Prior to the Rating Act being passed, representatives from 35 North Island local bodies attended a conference organised by Te Kuiti Borough Council in June, to discuss among other issues the collection of Native rates.[358] The *New Zealand Herald* reported that

> Few of their grievances are new. Most of them have been represented to the authorities again and again. Yet despite the protests the native lands continue to act as a drag upon the progress of districts where the natural difficulties of roading and finance are sufficiently great without any such addition.[359]

"It was eventually resolved to include in the petition the clauses embodying a lien on native lands for which rates were unpaid, and the confiscation of a portion of those lands if necessary by the Crown."[360] The Conference also resolved that all lands regardless of whether they were European, Maori or Crown should be rateable. They also felt that Native rates should be "treated in the same manner as the costs incurred in connection with surveying Native lands, i.e., that the rates shall be paid by the Crown, in consideration of which an area of the Native block, on which such rates were paid...shall be cut off and become ordinary Crown land" - in other words a lien. They also wanted the ability, pending effect being given to these suggestions "to register a judgement for rates against the Native Land Court title of land on which such rates have accrued to avoid having to establish a lands transfer title before a charging order or lien can be registered."[361] The recommendations had negligible influence on Government policy.

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357 G Pulsford, Secretary of Committee, to Massey, 5/11/1924; MA 31/4.

358 Other items included the subdivision of Native leases, the control and eradication of noxious weeds on native lands, the roading of native lands, the assignment of survey fees already charged against native lands, the enforcement of fencing claims against native lands, the freeholding of lands vested in the Maori Land Board, and the purchase by the Crown of native leaseholds;*King Country Chronicle*, 12/6/1924; cited in MA 31/4.

359 *New Zealand Herald*, 13/6/1924; cited in *Ibid*.

360 *King Country Chronicle*, 12/6/1924; cited in *Ibid.*

361 Richard F Bollard, Office of the Minister of Internal Affairs, to the Native Minister, 13/6/1924; *Ibid.*

Meanwhile the consolidation legislation continued to be amended in order to make it work more effectively for the Crown. The purpose of section five of the Native Land Amendment and Native Land Claims Adjustment Act 1924 was to carry into effect any consolidation scheme or any matter that arose out of one. The Native Land Court was given additional powers to the ones bestowed on it by the Native Land Amendment and Native Land Claims Adjustment Act 1923. Although section 6(3) of the 1923 Act had given the Native Land Court jurisdiction to make succession and trustee orders, the Court had no power to amend these. Section 5(1) gave the Native Land Court the ability to cancel, vary or amend any succession or exchange order that it had made, provided that any cancellation, variation or amendment did not take away or prejudicially effect any right or interest acquired in good faith and for value prior to cancellation, variation or amendment.[362]

The Native Land Court was also empowered to authorise surveys.[363] The Native Land Court could apportion between the various areas of land all rights, obligations or liabilities arising from or under any lease, license or mortgage, or charge to which the area was subject.[364] The Court could order that any lease, license or mortgage or charge only applied to part of the area stated in such lease, license or mortgage or charge, provided that the Court did not exercise the power in this sub-section without the consent of the lessee, licensee or mortgagee or other person interested. The consent of the Chief Surveyor was required for survey charging orders.[365] The Court could, if it was expedient and it had the consent of the lessee, declare a lease to be surrendered in order to release any liabilities.[366] The Court could also grant a new lease or license of any area. Any such lease would be executed under the seal of the Court and by the Judge, and contain such terms and conditions as the Judge thought necessary. Every

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362 Native Land Amendment and Native Land Claims Adjustment Act 1924 No. 45, p. 311. Document Bank I, p. 54.

363 Section 5(2), *Ibid.* Under section 17 of the Urewera Lands Act 1921 No. 55 the Crown had undertaken all surveys required when asked to do so by any Commissioner.

364 Section 5(3), *Ibid.*, p. 312. Document Bank I, p. 55.

365 Section 5(4), *Ibid.*

366 Section 5(5), *Ibid.*

instrument of alienation so executed had the same force and effect and was registrable as if it had been lawfully executed by all of the owners or their trustees.[367] What this essentially is saying is that the Native Land Court and Judges were legally allowed to lease land on behalf of the Maori owners or their trustees.

In any case where the Court was satisfied that it was not against an owner's interests to cease to retain a holding, the Court could, with this owner's consent, order that this interest in any area affected by a consolidation scheme be vested in some other person/s, and the said interest would vest accordingly subject to any prior lease, license, mortgage or charge. The Court assessed what was fair to be paid to the owner and could secure payment under section 6(4) of the 1923 Act.[368]

Under section seven no lease, mortgage or other encumbrance in a consolidation scheme could be prejudicially affected by an order of the Court made in pursuance of this Act or section seven of the 1923 Act. Such area still remained subject to that lease or mortgage, etc as if there had been no change of ownership. All rights which former owners had passed to the new owners.[369]

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367 Section 5(6), *Ibid.*

368 Section 5(9), *Ibid.*, pp. 312-313. Document Bank I, pp. 55-56.

369 *Ibid.*, p. 313. Document Bank I, p. 56.

Chapter Six

NGATA'S FOOTHOLD

Although Reform remained in office until 1928, Apirana Ngata was progressively able to acquire a great deal of influence, first working with Maui Pomare in the Reform cabinet after World War One, and then with Coates, after he became Native Minister in 1921 and Prime Minister in 1925. "With a sympathetic Prime Minister and Pomare still in the Cabinet, a situation developed in the 1920s in which Ngata became extremely influential". Although Coates remained Native Minister Coates' new appointment allowed him little time for Native Affairs. As a result Ngata and Raumoa Balneavis, Private Secretary to the Native Minister, gained more control of the direction of Native policy and administration. In effect Ngata "was virtually Native Minister from the Opposition benches."[370]

Ngata was preoccupied with Maori land development. Until 1926 he had relied on Maori resources, both labour and capital, but he needed government assistance if Maori land development was to succeed on a national scale. Ngata was aware that "the new element that has been emphasised in the legislation during the last eight years is the conscious development by the Natives of some of the lands they still own."[371] But he realised the need for credit if Maori owners were to develop their land. Ngata argued that it was "no use proceeding with a consolidation scheme which will give the Natives good titles if at the same time, after the Natives have got their good titles, the money will not be available for them to borrow to work the land with."[372] He believed that Maori should manage their own credit and marketing of produce instead of Pakeha stock and station agencies. Ngata was, in fact, preoccupied with land reform. At home he arranged a

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370 Sorrenson (ed.) *Volume One*, p. 31.
371 NZPD Volume 226 1930, p. 612. Document Bank I, p. 151.
372 *Ibid.,* Volume 216 1927 p. 545. Document Bank I, p. 149.

subdivision of Ngati Porou consolidated holdings in the Waiapu valley so that his people could move into dairying.

In February 1926 Ngata took the opportunity of publicising the success of consolidation and land development schemes on the East Coast. He invited Coates to open the impressive decorated church at Tikitiki, a memorial to Ngati Porou troops who died in World War One, and to show off the new dairy farms in the Waiapu valley. Coates was so impressed that he promised government funds for Maori land development.[373] Maori from other areas were also impressed, and as a result many became interested in consolidating their titles and getting proper finance so they too could become farmers.[374] Ngata encouraged other Maori communities to follow Ngati Porou's example, and to get the government to support Maori land development.[375]

During Easter 1927 the Young Maori Party held a conference of Maori representatives at the annual tournament of the New Zealand Maori Lawn-tennis Association at Putiki, near Wanganui. Ngata seized this opportunity to publicise land consolidation schemes, and to explain "the legislation in regard to consolidation of interests."[376] This Conference expressed "pleasure at the increasing interest taken by the Government in the encouragement of industrial pursuits by Maoris" and "notably by the undertaking of schemes for the consolidation of scattered interests in Native lands."[377] The Conference passed the resolution

> That the system of consolidating interests in Native land be actively extended to other parts of the Dominion. So far it has been in operation only in portions of the Eastern Maori Electorate, and as it has proved successful there in bringing Native titles up to date and solving

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373 MPK Sorrenson, 'Ngata, Apirana Turupa. N5', in Claudia Orange (General editor), *The Dictionary of New Zealand Biography. Volume Three*, 1996, p. 361.

374 Butterworth, 'The politics of adaptation', pp. 240-241.

375 Sorrenson, 'Ngata, Apirana Turupa', pp. 360-361.

376 AJHR 1928 G.-8, p. 5. Document Bank I, p. 111.

377 *Ibid.*, p. 4. Document Bank I, p. 110

> numerous problems relating to Native lands, it should be extended where circumstances permitted.[378]

This Conference was followed by a series of meetings in the Manawatu, Waikato and in te Taitokerau.[379] Ngata continued to canvass support for consolidation schemes and implement them on the East Coast. The following is an account of a meeting Eruera Stirling, Whanau-a-Apanui, recalled Ngata calling in 1927 to discuss consolidation or 'whakawhitiwhiti'.

> We all went to Mangahanea. When we arrived at the marae the whole of Ngati Porou was assembled and there was a welcome in the usual custom, then the old man [Ngata] stood up and said,
>
> 'This is the beginning of the scheme of consolidation. Consolidation is a good thing, because little interests can be brought together into big areas and that's better for the owners. Without consolidation you'll have little blocks here and there but the owners get nothing out of it, their interests are uneconomic and that type of land stays there untouched, with no value! I want to start our first consolidation right here, to bring some blocks into a good understanding, and to bring benefits to the owners.'
>
> The people just sat there and said nothing. Ngata continued
>
> 'I think that Tupawaeroa 1B, 2 and 3, and the land down on the beach at Tuparoa are ready to be consolidated. People from the beach can move their interests to the back country or whatever, and this is the time to talk about it.'
>
> Nobody spoke. Apirana turned to me and said,
>
> 'Well, Eruera, you are here from the Bay of Plenty representing the interests of your mother Mihi Kotukutuku, and I'm asking you, are you in favour of this scheme?'
>
> I waited for a while, and then stood up and answered him.

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378 *Ibid.*, p. 5. Document Bank I, p. 111.
379 Butterworth, 'The politics of adaptation', p. 249.

'Well Api, I want all of my mother's interests in Reporua, Tuparoa and around the beach shifted back to Tapuwaeroa B5! I want the whole lot to go into B5!'

All the people sat quietly, nobody said anything, and the old man said, 'Right! You are the first claim for Tapuwaeroa B5, so all of your interests will go back there.'

My cousins the Haerewas stood up and moved all of their interests into B5 too, then Apirana asked me,

'You have no other wish for your mother, Eruera?'

'No, I want B5, that's finished.'

'All right, it's settled; but I warn you, if anybody finds their mistake in years to come, they can't go back - you will have to stay as you are.'

I made no mistake though, because I saw that the valuation of the land down at the beach was £40 to £50 an acre, and the valuation of land in Tupawaeroa B5 was £4 an acre. I swapped our small interests at Tuparoa for a big lump of land and my cousins joined me, and we claimed 1,500 acres altogether. The people didn't see it at first, but afterwards they said,

'By Joves, you were the only one that saw it! After studying your point we can see that you gained a good block of land, and it's all in farming country!'

That was one of the first consolidations on the Coast, settled by Ngata at Mangahanea in 1927.[380]

Although Stirling appears to be pleased at the outcome of this, future research should investigate how all owners were affected by any one scheme.

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380 A Salmond and E Stirling *Eruera: The Teachings of a Maori Elder*. Wellington, 1980, pp. 148-149.

Another King Country conference, 1927[381]

In August 1927 another local body conference was convened, this time by the Mayor of Te Kuiti "for the purpose of considering the rating and other problems arising from Native lands." Representatives from the Native Land Court and local Maori also attended. This Conference expressed the opinion that

> the time has arrived when, in the interost [sic] of both races and for the wellfare [sic] of this Dominion, a more just and equitable solution must be found (a) to provide for the collection of native rates and (b) the satisfactory settlement of surplus native lands found suitable for settlement either by native or European settlers, so that such lands may become revenue-producing at the earliest possible date.

Uncollected rates for Waitomo County alone for the previous five years totalled £17 008.[382] The Conference stipulated "that the rating and the methods of enforcing payment of rates be exactly the same on both European and native lands."[383] Judge MacCormack reported to the Native Department that "The chief object of attack by the speakers was the Ministers power of veto in regard to selling land for rates."[384] They resolved that the law with regard to the rating of Maori land "be amended to provide fullest powers of sale, and the veto of the Native Minister should be abolished". They suggested that a committee be set up to make recommendations on changes to the law. If this could not be done they suggested that all Maori land be classified as either "lands being utilised or desired to be utilised by the owners" or "land not being used". Maori land in the first category "should be treated as European land in all respects for rating." All Native land in the second category "where required and where suitable for settlement, should be taken over by the Crown at valuation and made available for settlement." These lands should be purchased from Maori with non-negotiable

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381 *King Country Chronicle*, 25/8/1927; The *Sun*, 26/8/1927; *King Country Chronicle*, 27/8/1927; all cited in MA 31/4.

382 Minutes of a Conference of Local Body delegates, 25/8/1927, p. 1; *Ibid.*

383 Minutes of a Conference of Local Body delegates, 25/8/1927, p. 2; *Ibid.*

384 Judge MacCormack to Under-Secretary, Native Department, 1/9/1927; *Ibid.*

bonds which could then be used by holders “towards facilitating...farming operations.” Until such time as these resolutions were given effect to all native rates should be paid out of the consolidated fund “As Parliament, by legislation, has made it economically impossible to collect these rates”.[385]

Following this conference a deputation waited upon Coates in October 1927. Their purpose was to familiarise him “with what had occurred at the conference with the local authorities”.[386] Ngata stated that the Under-Secretary for Native Affairs, the Native Trustee and representatives of local authorities all

> generally agreed that the final remedy [to the rating problem] would be the consolidation of titles. It was felt that the staff that would be required for the purposes of the proposed scheme would need strengthening and it would probably be necessary to create a special organization to carry out the work.[387]

The deputation suggested in order to afford some relief to local bodies in the interim that an advance be made to them out of the Maori Land Settlement Account.[388] Coates was agreeable to this providing that the Crown “was satisfied the land had its value.”[389] Co-operation between the Native Land Court, the Valuation Department and the Lands and Survey Department was imperative. Ngata also suggested that “the State should in some signal [sic] way show that it was prepared to assist in the settlement of Native lands”.[390] Colonel Allen Bell, Member for the Bay of Islands, felt sure that “If it were possible to get some scheme going to settle the Native lands and settle the rating question...that practically all the local authorities would agree to wipe the slate clean and make a fresh start.”[391] Coates replied that the capacity of the land to pay rates, who should pay rates and the question of finance would all “have to be worked out to

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385 Minutes of a Conference of Local Body delegates, 25/8/1927, p. 2; *Ibid.*

386 Deputation to the Right Hon. The Prime Minister on the Subject of Native Rating, 19/10/1927; *Ibid.* Document Bank II, p. 84.

387 *Ibid.* Document Bank II, p. 84.

388 *Ibid.* Document Bank II, p. 85.

389 *Ibid.* Document Bank II, p. 92.

390 *Ibid.* Document Bank II, p. 85.

get a clear idea of the actual positions in different localities".[392] He further stated that the Government "would consider...[consolidation] wherever it was possible. Consolidation embraced everything. The ultimate object was to get the land settled and if the Maori would not settle then someone else would have to take it up."[393] This reveals the primacy of the Crown's agenda; to open up Maori land for settlement. Finding a long-term solution to the fragmentation of Maori interests does not seem to have been considered.

When JC Rolleston, Member for Waitomo, expressed concern as to what would happen if Maori were "not willing to consolidate". Ngata revealed his agenda:- "generally speaking they [Maori] would ultimately agree. They would see the advantages of it. <u>It was not always with a view to their settling on the land, it was with a view to title being made available for other purposes</u>."[394] Although at this time Ngata was not a Minister of the Crown, Coates, (Prime Minister and Native Minister), did not offer any comments to the contrary, suggesting that he shared Ngata's views.

This Deputation obtained an undertaking from the government that consolidation schemes would be carried out in all districts beginning with the Bay of Islands and the King Country. The old Native land rate duty, (collected by way of a stamp duty), which amounted to £28 000, would be remitted. Old survey liens would also be heavily remitted. The Crown would also relinquish their legal right to take 5% of an area of any Native block for public purposes without paying compensation. The Crown also promised that in the current session of Parliament that they would provide up to £250,000 to assist Maori farmers.[395]

In November 1927 Ngata, Minister of Lands AD McLeod, and Tau Henare, MP for Northern Maori, met to consider outstanding rates, the payment of survey liens and consolidation policy. They concluded that consolidation was the most far-reaching solution to urgent Maori land problems in the Taitokerau and Waikato-

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391 *Ibid.* Document Bank II, p. 87.
392 *Ibid.* Document Bank II, p. 89.
393 *Ibid.* Document Bank II, p. 91.
394 Emphasis added; *Ibid.* Document Bank II, pp. 91-92.

Maniapoto Maori Land Districts. These were the two Maori Land districts that the Crown had a heavily vested interest in the settlement of, and as a result the two most heavily burdened with outstanding rates and survey liens. Coates commented that these were "the two districts where there seems to be the greatest need for action."[396] As a result it was in the Crown's interests to ensure that they were the first to receive attention. Ngata, McLeod and Henare were concerned that staff who implemented these schemes were competent and adequate. It was noted that new surveys would be necessary in order to properly implement consolidation schemes. This created particular problems in the Far North as land values were low and new survey costs and existing ones would absorb a lot of land which would, as a result, not be available for inclusion as Maori-owned land in the schemes.[397]

Coates introduced the Crown's solution to the problem of outstanding Native rates to the House in November 1927. Describing the issue of Native rates as the "most important question", he proposed "a system of consolidation" as the solution. This would enable the Crown "to get these scattered interests into such a form that they can be dealt with by a system of individualization." Coates was a firm believer that Maori should have the opportunity to work land, and "the moment it gets into that position he must be made to carry the usual responsibility of a ratepayer or an occupier of land." Coates made it clear that through consolidation schemes the Crown intended to put Maori on the land. He was most concerned about being "fair to the native in regard to the land he owns and his ability to pay the rates."

Consolidation schemes could be used to put a large amount of Maori land in such a position. Naturally this would involve "a thorough examination of the position of these Native lands...and to that end" Coates reported "the Government has agreed to certain organizations which shall apply to both the King-country and the North of Auckland district". The Crown's proposal was to organise a specialised staff, who, in conjunction with the Native Land Court would "undertake the

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395 Ngata to Buck, 9/2/1928; cited in Sorrenson (ed.) *Volume One*, pp. 68-69.
396 NZPD Volume 216 1927, p. 536. Document Bank I, p. 147.

examination and generally carry out all the necessary administration until we can reach a point when we will be able to say what land is involved and what course it is necessary to take in regard to it." Schemes would include Crown land and possibly private land. Coates' defined the Crown's objective as to "show what land there is, whether it is suitable for settlement, and whether the Native himself is prepared and able to carry out the work."[398] The implication here is first, that schemes would be used to consolidate the Crown's interests and second, that if Maori were not so inclined to work their land then it would be acquired by the Crown; after of course Maori had paid for the process of consolidation.

Under section 22 of the Native Land Amendment and Native Land Claims Adjustment Act 1927 no European who submitted his land to the Native Land Court to be involved in a consolidation scheme under section 6(2) of the Native Land Amendment and Native Land Claims Adjustment Act 1923 could withdraw it without the Court's consent.[399]

Section 23 amended section 7(7) of the 1923 Act by enabling the Crown to use funds out of the Native Land Settlement Account to purchase, (under Part XIX of the 1909 Act or section 109 of the 1913 Act), any interest in land, whether owned by Europeans or Maori, which is considered to be expedient to include in a consolidation scheme. Any land or interest acquired in this manner could be vested in any Maori or European by the Court.[400] The purchase of such areas would enable the Crown to more effectively consolidate their other interests. This is the first time provision was made for the Crown to actually purchase any land the Court deemed expedient to include in a scheme.[401]

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397 HR Balneavis to The Native Minister, 15/11/1927, pp. 1-2; MA 31/4.

398 NZPD Volume 216 1927, pp. 536-537. Document Bank I, p. 147-148.

399 Native Land Amendment and Native Land Claims Adjustment Act 1927 No. 67, p. 634. Document Bank I, p. 63.

400 *Ibid.*, p. 63.

401 The Urewera Lands Act 1921 also made some provision for this, in that it authorised the Minister of Lands to use money out of any fund available for the purchase or acquisition of Native land, to acquire on the Crown's behalf from Europeans any other land that was required to give effect to the said scheme. This land was be treated as if it were already owned by the Crown and be awarded by the Commissioners to Maori; Section 9(2), Urewera Lands Act 1921 No. 55, p. 451. Document Bank I, p. 44. Section 3(5) of the Native Land Amendment and Native Land Claims Adjustment Act 1921 enabled land owned by Europeans to be included in schemes if the Native Land Court thought it was advisable.

Section 24 of the 1927 Act amended section five of the Native Land Amendment and Native Land Claims Adjustment Act 1924 by adding that the Court could, by order, vest any area of Native land in the Crown, subject to payment by the Crown of a sum specified by the Court. Such land would be deemed to be a purchase or acquisition of Native land under the authority of the 1909 Act.[402] It does not state what would happen in the case of European land. The money payable would be paid to the local Maori Land Board for distribution to the persons entitled, subject to all necessary and proper deductions.

Section 25 enabled the Crown to liquidate rates during consolidation proceedings. It was proposed that Consolidation staff meet with Maori and local bodies to negotiate a rates compromise. In at least one instance Maori were told that a rates compromise was conditional on consolidation being carried out.[403]

In order to ensure this Coates stated that there would

> be a Judge of the Native Land Court appointed, and associated with him will be a member of the Lands Department and certain administrative officers who have been connected with the consolidation schemes already carried out in those districts I have referred to....Our aim is to elucidate the whole position and ascertain all the facts. When that has been accomplished the Native rating Act itself will be made to apply, and a solution of the problem will thus be provided.[404]

Coates firmly believed that “If we can get the schemes going” then “we shall be able to satisfy the local bodies by giving power in this Bill by which these

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Under section 6(2) of the Native Land Amendment and Native Land Claims Adjustment Act 1923 the Native Land Court could include other Maori, European or Crown land in a scheme then if it thought it was necessary.

402 Native Land Amendment and Native Land Claims Adjustment Act 1927 No. 67, p. 634. Document Bank I, p. 63.

403 Ngati Maniapoto; see p. 84 of this report.

404 NZPD Volume 216 1927, p. 537. Document Bank I, p. 148.

accumulated rates could be cleaned up." The Bay of Plenty, Rotorua, the King Country and North Auckland would be investigated first.[405]

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405 *Ibid.*

Chapter Seven

IMPLEMENTING THE SCHEMES, 1927-1928

Sustained pressure exerted by local bodies eventually led to the formation of the Native Lands Consolidation Commission in December 1927. Ngata, in close association with Balneavis, headed this commission. Ngata explained that this commission was “a volunteer body, that came together specially to deal with native problems north of Auckland and in the King Country.”[406] The commission had no statutory recognition, only the official backing of Coates.[407] “Its purpose was primarily to organise the carrying out of consolidation schemes in those special areas, and no where else”.[408] This commission was clearly the driving force behind consolidation. During December 1927 and January 1928 Ngata assembled a group to carry out the schemes. Clearly Ngata believed it was necessary to secure the services of good staff who were able to carry out negotiations with Maori and then work out detailed schemes for the Native Land Courts to approve. What Ngata basically did was to redistribute his East Coast staff. Chief Judge Jones, Native Department Under-Secretary, also organised staff for Ngata from the Public Service Commissioner.[409]

The commission initially concentrated on the Maori Land Districts of Waikato-Maniapoto, Taitokerau and to a lesser extent Waiariki[410] and Tairawhiti. This

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406 Ngata to Mr MacMillan, 7/5/1928; AAMK 869 1000c General file on consolidation. Document Bank II, p. 94.

407 JG Coates to Under-Secretary of the Native Department, 14/12/1927; *Ibid.* Document Bank II, p. 93.

408 Ngata to Mr MacMillan, 7/5/1928; *Ibid.* Document Bank II, p. 94.

409 Ngata to Buck 9/2/28; cited in Sorrenson (ed.) *Volume One*, pp. 68-69. Formal instructions were issued by Coates to the Under-Secretary of Native Affairs, 14/12/27; AAMK 869 1000c. Document Bank II, p. 93.

410 Tribal distribution was the basis for the seven consolidation schemes which had been implemented in this region by 1935 - Ngaiterangi, Arawa, Ngatiawa, Ruatoki, Whakatohea, Whanau-Apanui, Taupo. “The schemes are for the most part divided into sections or series and, in one case [Rotomahana-Parekarangi], a series is itself divided into sub-series. This division is influenced by a community of interests in more or less defined areas.” The

study discusses the initial implementation of schemes in the first two districts. Teams of consolidation staff headed by Ngata were selected and put to work in both areas. Without "the support of local Maori leaders, including Tau Henare (who had replaced [Peter] Buck as member for Northern Maori), Hoeroa Marumaru of Wanganui, the Jones brothers, Pei and Rotohiko, in the King Country, Taiporutu Mitchell and Tiweka Anaru of Rotorua, and Te Puea Herangi of Waikato" it is unlikely that the commission would have fared as well as it did. In areas where the older leaders were unco-operative "Ngata did not hesitate to use younger men who, like himself, had been educated at Te Aute or other church secondary schools.... But he was equally ready to work with leaders in the traditional mould, like Te Puea."[411]

Maori and local bodies were usually approached separately by the Consolidation commission and presented with consolidation schemes as a means of solving the problem of outstanding rates and survey liens and of providing Maori with a means to earn a regular income. It was in the Crown's interests to solve both of these problems - fragmented interests and outstanding debts. Consolidation was simply a means of killing two birds with one stone. The schemes were an attractive compromise for local bodies and were promoted as a measure by which Maori land, once consolidated, would be more easily identifiable, economically viable and so more easily rateable and saleable.

The commission sold the concept of consolidation to local bodies as a means of collecting rates in the future. The rates compromise does, in many cases, appear to have been agreed to in the expectation that future rates payments would be guaranteed. Consolidation would, in theory, provide Maori with a regular income with which to pay rates. In most of the areas visited Maori were initially receptive to this idea and local bodies were eventually persuaded to participate in the arrangement.[412] In May 1928 Ngata commented to Buck that although the

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Registrar of the Waiariki Maori Land Court decided the order in which these schemes were to be completed - Taheke and Ruatoki, then Rotomahana and Torere.

411 Sorrenson (ed.) *Volume One*, pp. 31-32.

412 Maori in the King Country are the exception to this. They argued that as a lot of their land had been taken under the Public Works Act last century that they were exempt from rates on

Commission was "highly unpaid, irresponsible and independent" that they radiated such "mana and prestige" that they were "able to talk with Cabinet Ministers on an equal footing - and to overawe local bodies, though these have all the law on their side and we none."[413]

Taitokerau Maori Land District

In November 1927 Judge FOV Acheson wrote to Coates requesting that consolidation schemes be carried out in Kaitaia, Ahipara, Herekino, Mangonui, Whangaroa, Kaeo, north-western and south-eastern Hokianga, Kaikohe, the Bay of Islands, Whangaruru, Whangarei, Dargaville and around the Kaipara Harbour. Acheson stated "that the Natives throughout the Tokerau District have awakened at last to the possibility of using their lands for dairying purposes," but "Upon the [Maori Land] Board explaining to them that their interests are too scattered and are held by too many owners, they ask the assistance of the [Native Land] Court and Board in securing Consolidation of interests." The Native Land Court was "satisfied that Consolidation Schemes are the essential preliminary to setting the Natives on their feet." Acheson went further by pointing out to Coates that "the converting of these lands into small dairy farms would solve the 'rating problem', in the North Auckland District within a very short time, as the Board would see that rates as well as Board interest were paid out of cream cheques." He also pressed "that no considerations of Departmental or Court convenience should be allowed to stand in the way of establishing many hundreds of Maori families as dairy farmers on their own lands".[414] In reply Coates recommended that schemes should "only be attempted for a start" in the Bay of Islands and Hokianga.[415]

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their remaining lands; *New Zealand Herald*, 13/4/1928; Minutes of King Country Consolidation Scheme meeting, April 1928, p. 2; MA 31/4. Document Bank II, p.147.

413 Ngata to Buck, 6/5/1928; cited in Sorrenson (ed.) *Volume One*, pp. 85-86.

414 FOV Acheson to Coates, 14/11/1927; MA 1 29/2 Tokerau Consolidation Volume One, 1926-1938. Document Bank II, pp. 95-96.

415 Coates to Under-Secretary Jones, 24/11/1927 on the back of a letter from FOV Acheson to Coates, 14/11/1927. Document Bank II, p. 97. This decision was communicated to Acheson by Jones, 13/12/1927; *Ibid*.

The commission planned to start their visits in the North in January 1928.[416] Their aim was "to achieve a reasonable measure of aggregation of the interests of individuals or of families or of associated manageable groups, so that in regard at least to local taxation liability should attach in as clear and as definite a manner as in the case of European holdings".[417] "A special staff was organized for the North Auckland District, and was attached to the Native Land Court Office at Auckland."[418] This group, comprising Ngata, Balneavis, William Cooper, (of Gisborne who was the Maori representative on the Confiscated Lands Commission), and Pei Te Hurunui Jones, conducted a preliminary survey of the North in early 1928. The district was divided into four areas - Mangonui, Bay of Islands, Hokianga and the Kaipara, a total area of 522 345 acres 3 roods and 11 perches. This scheme involved 10 counties and two Town Board districts, effecting 5 479 titles and 76 471 owners. It should be noted, however, that

> The name of any one individual might...occur in the titles of many blocks, either as an original owner or by succession, and these might be distributed over many counties. Again, the share of an individual or the shares of himself, his wife, his family might be so small in each of these blocks as to render them useless, unless they could be sold or leased.[419]

However, the number registered as owners did not necessarily reflect the number of people who this area had to support. Not everyone may have been recognised by the Native Land Court as having interests in this area, for instance minors and "landless" Maori; yet they quite possibly would still have been relying on those who did have interests for support. "Many blocks were owned by hundreds, even (occasionally) thousands of owners, making land development and management

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416 Ngata to Coates, 30/12/1927, p. 1; MA 31/4.
417 AJHR 1932 G.-10, p. 3. Document Bank I, p. 114.
418 *Ibid*.
419 Mangonui - Mangonui and Whangaroa Counties; Bay of Islands - Whangarei and Bay of Islands Counties and Kaikohe Town Board District; Hokianga - Hokianga County and Kohukohu Town Board District; Kaipara - Waitemata, Rodney, Otamatea, Hobson and Great Barrier Counties; AJHR 1932 G.-10, p. 3. Document Bank I, p. 114.

very difficult."[420] This is a factor which would have affected most schemes and needs to be taken into consideration.
In late January Ngata informed Coates of the "sad mess of the Ngapuhi lands" which he attributed to the actions of the Native Land "Courts of the past [who] have gone on subdividing these poor lands without regard to value, costs or the purpose of the partitions made."[421] In Mangonui, Whangaroa, Hokianga, and the Bay of Islands Maori-owned land was "of a very variable nature with a large area of poor country, now looked upon as waste land. Northern lands generally are difficult and costly of development and cannot stand too great an overhead of charges in addition to the cost of development."[422]

The commission held their first meeting at Otiria in the Bay of Islands in early February. Ngata commented in a letter to Peter Buck that land in this area had "been very closely & very unwisely partitioned - we found we had to deal with 1274 different sections, and the same people occur in dozens of little pieces all over the Country, like volcanic ejecta spewed out of an irresponsible & devilish legal volcano."[423] The organisation of consolidation schemes was further complicated by "heavy charges on different blocks, some being loaded with treasury loans and others with survey charges or both, and all were liable for rates." Before the net value of interests could be established any liabilities against the land had to be assessed. Although the treasury loan had nearly been repaid and the Bay of Islands County Council was confident the Government would cancel survey charges, outstanding rates presented the commission with a complex problem. By 31 March 1928 the Bay of Islands County Council would have £16 000 of outstanding Native rates which would continue to accrue at £4 000 annually. Cooper argued "that the only solution of the Rating problem is the development of the land of the Natives to a point of production sufficient to enable him by what he produces to pay his rates. We therefore look to consolidation proceedings to

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420 Spiller, Finn and Boast, p. 162.
421 Ngata to Coates, 28/1/1928, p. 2; AAMK 869 1000c. Document Bank II, p. 99.
422 North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 2; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; MA 1 25/1/1 Survey liens and costs - land development. Document Bank II, p. 107.
423 Ngata to Buck, 9/2/1928; cited in Sorrenson (ed.) *Volume One*, p. 69. Also cited in Butterworth and Young, p. 73.

supply him with undisputed title, and with financial assistance enabling him to develop his lands with greater prospects of success."[424] The commission suggested that future rates be deferred until 31 March 1930 when it anticipated that consolidation schemes would be complete. The *Bay of Islands Luminary* reported that

> After that date the commission had promised the council that the titles would be individualised and that Maoris would be on exactly the same footing as Europeans and then properties could be sold for non-payment of rates. It was obvious that the concession was a very generous one as far as the natives were concerned, but as the council had only received about £100 last year from native rates it was also in their interests to make a compromise.[425]

Tau Henare, Kaka Porowini and Mr AE Bissett, Chairman of the Bay of Islands County Council, confirmed these arrangements. The Council was reported to be "pleased to assist the natives in arriving at a solution of the problem and that it now only remained for the Government to honour the arrangement as speedily as possible". Judge Acheson made an order authorising that £1500 be paid to the Bay of Islands County Council in settlement of all native rates to 31 March 1930, excluding Maori land in European occupation.[426] This money was paid out the Native Land Settlement Account and then charged accordingly against consolidation. The County Council's acceptance of this compromise was contingent on the fact that after 31 March 1930 Maori land would be rateable. This was later extended to 31 March 1931.[427] According to the *Bay of Islands Luminary* Judge Acheson commended the Bay of Islands County Council

> on its action in so assisting the Commission and removing a very serious obstacle to the consolidation scheme. He hoped that other

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424 Minutes of a Conference of Counties Delegates and Native land Consolidation Officers concerning the Native Rates compromise at Kaikohe, 24/10/1930, p. 2; MA 1 29/2 Volume One, 1926-1938. Document Bank II, p. 121.

425 *Bay of Islands Luminary*, 21/2/1928; MA 31/4. Document Bank II, p. 127.

426 The Motatau No 2 residue was charged with this payment.

427 Rates payments made to local bodies; MA 1 20/1/6 Rates and Consolidation Schemes.

> counties would follow the example and so expedite the work of consolidation. The Commission had a very big job before them, but special men had been set aside for the work and it was expected to have the consolidation work completed inside 12 months. Every Maori family would then have their farm and could milk for the factory, securing whatever assistance they wanted from the Board or the Native Trustee. They would then be in a position to pay rates which would probably be arranged to be paid by the Board and deducted from their milk cheques, and would feel that they were then on an equal footing with their Pakeha brethren and not usurpers of the road as many of them felt at present. Continuing the Judge said the natives would have to pay their rates after 31st March, 1930, or their lands would be liable to be sold.[428]

Consolidation then, came at an extremely high price. Colonel Allen Bell, Member for the Bay of Islands, shed some light on the reasons why Ngapuhi, Te Rarawa, Te Aupouri and the other tribes in this area may have agreed to this compromise with the Crown:-

> for the past 50 years the natives of Northland had been making a living at bush work, gum digging, and road and railway construction. Timber and gum had now about petered out as far as the native was concerned, and the back of road and railway construction would be broken within the next ten years. If nothing was done to place the native on his land, the Charitable Aid Boards and the Government would find themselves burdened with a large number of indigent natives. Under the consolidation scheme...it was proposed to...assist him [Maori] financially to embark in dairying or other farming pursuits.[429]

The *Northern Advocate* reported that

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428 *Bay of Islands Luminary*, 21/2/1928; MA 31/4. Document Bank II, p. 127.
429 The *Northlander*, 15/2/1928; *Ibid.*

> In the northern counties it was found that very little in rates had been recovered. Consequently the commission had come to the conclusion that it was best to square up by the transfer of some land to the Crown. It would take two years to do the work, but the commission could not go ahead with the consolidation scheme until a definite amount had been assessed for settlement of rates and survey liens to enable the owners to deal with their holdings."[430]

The commission met with the Mangonui County Council in Kaitaia in March 1928. In this area there were £5 521 of outstanding survey liens and outstanding rates of £10 000. Large areas of land in this region were of extremely low value. The Commission suggested a substantial writing off of rates in this county otherwise Maori would lose a large proportion of their land.[431] An agreement was reached whereby the Mangonui County Council accepted £3500 in settlement of rates. Although this was a higher settlement than the Bay of Islands County Council negotiated, the amount of each compromise was at the commission's discretion. Kaikohe Town Board and Whangarei County Council accepted cash to settle outstanding rates. Hokianga County Council wanted a larger sum than the Commission offered to settle their unpaid rates. They agreed to £4 500.[432]

In the Kaipara the area per head of Maori population was

> smaller than in any other Northern Scheme, being about 11 acres per head. Consequently there is greater difficulty to find a quid pro quo in spare land for awarding to the Crown in settlement of charges (Surveys, Rates &c) without encroaching unduly upon areas urgently required for their maintenance and betterment, the area of good land remaining being little chiefly small village holdings.

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430 *Northern Advocate*, 16/3/1928; *Ibid*. Document Bank II, p. 128.

431 *New Zealand Herald*, 15/3/1928; *Ibid*.

432 The Kaikohe Town Board and local Maori agreed to the sum of £150 in settlement of rates to 31 March 1930; *Northern Advocate*, 15/3/1928; *Ibid*. Whangarei County Council accepted £1750 in full settlement of outstanding rates; The *Sun*, 16/3/1928; *Ibid*; also cited in AJHR 1932 G.-10, p. 4. Document Bank I, p. 115.

> Selling in the past brought this position about, thus leaving with Natives now a residue barely sufficient.[433]

Hobson, Otamatea, Rodney and Waitemata County Councils all agreed to waive "more than six-sevenths of the rates due to them, having been actuated by their appreciation of the difficulties relating to the settlement of the Native lands in their district and a desire to further the scheme for the consolidation of Native interests now operating in their district."[434] Rates compromises were effected during 1928. Outstanding rates in the Whangarei district were settled to 31 March 1928, and in the case of other local bodies, except those in the Kaipara consolidation district, to the end of March 1930. Settlements in the Kaipara were to 31 March 1932. "The payments to the local bodies were made out of the Native Land Settlement Account, and were in fact purchases by the Crown of undivided interests in Native lands, which under the consolidation schemes would, with other interests acquired by the Crown in other ways be aggregated in compact areas in various parts of the North Auckland region."[435] When schemes were not completed within these time frames further rates compromises were discussed.[436]

Ngata later impressed upon Jones in September 1930 that "It should...be made clear to the Officers and the Counties Association that any basis of [rates] settlement proposed must have the approval of the Natives whose lands are concerned",[437] even though this was not technically required under the law.

Waikato-Maniapoto Maori Land District

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433 North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 1; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; MA 1 25/1/1. Document Bank II, p. 106.

434 Ngata to Mr Ransom, 6/10/1930, p. 1; *Ibid*. Document Bank II, p. 129.

435 AJHR 1932 G-.10, p. 4. Document Bank I, p. 115.

436 This was as a result of valuations in this area not being completed until April 1931. Minutes of a Conference of Counties Delegates and Native land Consolidation Officers concerning the Native Rates compromise at Kaikohe, 24/10/1930, pp. 1-7; MA 1 29/2 Volume One, 1926-1938. Document Bank II, pp. 120-126.

437 Ngata to Jones, 5/9/1930, p. 1; *Ibid*. Document Bank II, p. 131.

For land development purposes this area was divided into three districts - Waikato proper, the King Country and Hauraki. Consolidation schemes of a similar nature to that in the North were, however, only initially implemented in the King Country district. This was because approximately 20 000 acres in this district [Waikato-Maniapoto] belonged to Ngati Tuwharetoa; as a result it was "decided to distinguish that part now under consolidation by calling the scheme the: 'Maniapoto Consolidation Scheme.'"[438] This area, 407 124 acres 2 roods and 19 perches, effecting 6 122 titles and 26 580 owners; was divided into Waitomo, Otorohanga, Kawhia and Hauaroa schemes.[439] The commission began work in April 1928. Ngata selected "Pei Jones with his brother Mick" to undertake the schemes. Ngata anticipated some "difficulties with the Ratana element" in this region, and in an attempt to avert this he and Balneavis "rope[d] Pepene Eketone into the organisation".[440] Ngata was confident that this would "kill two or three birds with the one stone. His [Eketone's] association with the consolidating organisation should remove the last difficulty on the Maori side; it may help pull him away from Ratanaism, and may also disarm any Ratana move against Pomare at the next general election."[441] Ngata later described many of the difficulties in this region as "psychological".[442]

Valuations presented an early difficulty to the Commission. In this area the Valuations Department had grouped a number of Maori-owned areas under one assessment. "As these lands varied in quality and extent of improvements, the values of interests in each title for consolidation purposes could not be arrived at without distribution by special valuations."[443] Prohibition orders against the alienation of some land were passed in part to facilitate the valuation process.[444]

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438 PH Jones to Apirana Ngata, 5/9/1929, p. 1; MA 1 29/3/1 King Country Consolidation Part 2. Document Bank II, p. 134.

439 Waitomo - Waitomo and parts of Otorohanga and Taumarunui Counties, Te Kuiti Borough; Otorohanga - parts of Otorohanga and Waipa Counties and Otorohanga Town Board District; Kawhia - Kawhia and part of Raglan Counties; Hauaroa - parts of Taumarunui and Ohura Counties and Taumarunui Borough; AJHR 1932 G.-10, p. 16. Document Bank I, p. 123.

440 Coates to JC Rolleston, MP, 1/2/1928; MA 31/4.

441 Ngata to Coates, 30/12/1927, p. 2; *Ibid*. Ngata described Eketone as the head of the Ratana organisation on its business side; Sorrenson (ed.) *Volume One*, p. 70.

442 AJHR 1932 G.-10, p. 16. Document Bank I, p. 123.

443 *Ibid*.

444 *Ibid*., p. 17. Document Bank I, p. 124.

Outstanding rates in the King Country involved significantly larger sums than in te Taitokerau. The liabilities in this area were rates totalling £50 204, which would reach £63 941 by 31 March 1930. The Commission proposed a lump sum settlement for outstanding rates. A promise was also secured from the Government to substantially cancel survey liens totalling nearly £20 000.[445]

It was proposed to visit Ngati Maniapoto first and then to hold a conference "a few days later with the local bodies regarding outstanding rates, at which a compromise on the lines of arrangements made with the local bodies in the North Auckland District will be attempted."[446] In the King Country the Commission

> endeavour[ed] to persuade the King Country Natives to inaugurate a Consolidation Scheme in their territory with a view to the better utilization of their lands, and to confer with the Waitomo County Council with the object of arriving at a compromise in the amount of unpaid Native rates to be paid out of the Native Land Settlement account in the meantime and recouped later by an award of land set aside out of the Native interests in the lands comprised in the consolidation scheme.[447]

"The tribe [Ngati Maniapoto] true to its tradition put up a stubborn fight the elders as usual forming the vanguard."[448] Consolidation staff soon realised that "It was not an uncommon experience to find sections of the people hostile to any policy at variance with the procedures of the Native Land Court, to which they had become accustomed."[449] The elders "expressed their hostility to the proposals regarding rates. In general their views were based on alleged promises by former Ministers of the Crown that in consideration of the North Island Main Trunk Railway being put through the King Country Native lands within the territory would not be rated....The Chief further emphasised the fact that lands had been taken for

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445 *Ibid*.
446 Ngata to The Native Minister, 19/3/1928; MA 1 29/3/1 Part 2. Document Bank II, p. 143.
447 Coates to Rolleston, 27/3/1928; MA 31/4. Document Bank II, p. 144.
448 Ngata to Buck, 6/5/1928; cited in Sorrenson (ed.) *Volume One*, p. 86.

railway purposes and roads without compensation."[450] The commission pointed out that the Crown was legally entitled to take 5% of the area of a district without compensation for Public Works, that a consolidation scheme would reveal which lands should be exempt from rates, and that the remission of survey liens on a large scale, something which would be of great benefit to Ngati Maniapoto, was conditional upon a consolidation scheme being carried out.[451] In other words the Crown would only remit survey liens and arrange a rates compromise if Ngati Maniapoto agreed to a consolidation scheme. Although this isn't stated in legislation, in practice rates compromises or a remission of survey liens certainly appears to have been conditional on consolidation or land development being carried out.

After holding an all-night meeting Ngati Maniapoto "authorised the Consolidation Committee to ask for a total remission of outstanding rates", suggesting £13 000 in settlement of all outstanding rates. "The tribe favoured a compromise with the Crown in regard to Survey liens, and would support the carrying out of a Consolidation Scheme."[452] Compromises were made with all local bodies except the Mangapu Drainage Board to 31 March 1930. Waitomo and Kawhia Counties later extended this to 31 March 1931 after realising the difficulties confronting the Native Department.[453] All of the rates compromises and any future arrangements were validated by section 16 of the Native Land Amendment and Native Land Claims Adjustment Act 1928. Consolidation in this district was initially carried out under section six of the Native Land Amendment and Native land Claims Adjustment Act 1923.[454]

Despite reaching this initial agreement and rates compromise Jones reported in 1929 that the "task of getting the Natives' confidence has proved a formidable

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449 AJHR 1932 G.-10, p. 16. Document Bank I, p. 123.

450 Minutes of King Country Consolidation Scheme meeting, April 1928, p. 2; MA 31/4. Document Bank II, p. 147.

451 *Ibid*., pp. 2-3. Document Bank II, pp. 147-148.

452 *Ibid*., pp. 3-4. Document Bank II, pp. 148-149.

453 The Mangapu Drainage Board was a recently constituted body. As a result its commitments were fixed to meet the interest and a 1% sinking fund on a loan which had been sanctioned by the Local Bodies' Loans Board; AJHR 1932 G.-10, p. 17. Document Bank I, p. 124.

one; aggravated to a large extent by the inherent attitude of suspicion of these people."[455] In May 1930, after returning from a trip to Auckland, Jones discovered that "George Turner, our worst anti consolidation agitator persuaded N'Mahuta that our work was not in their interests. On our return we were told to pack up, and that they preferred and intended to take their troubles to the Native Land Court. It took me two days to convince them that they were being misled, and I am hopeful that we will be able to dispose of their most urgent matters."[456] On the Tahoroa Block at Kawhia "there were considerable disputes among the owners regarding the subdivision of the land and resulting in promiscuous fencing over portions thereof."[457]

A substantial remission of survey liens

In each consolidation scheme a fundamental matter was

> the assessment of the nett value of the interest of each Native owner. This cannot be ascertained until the liabilities upon that interest are defined absolutely to the last penny and allowance made therefore. In the main these liabilities are (a) Survey liens held by the Crown and (b) Rates....
>
> It is clear that there must be a heavy writing off of survey liens in the low valued lands of North Auckland and South Auckland including the Bay of Plenty....The reason is that the cost of survey has no relation to the value of the land surveyed, but depends on the nature of the work to be undertaken....
>
> The matter is urgent because unless some decide step forward is taken towards a settlement the consolidation schemes, of which there

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454 Coates' application to the Native Land Court for Consolidation, 23/3/1928; MA 1 29/3/1 Part 2. Document Bank II, p. 153.
455 PH Jones to Apirana Ngata, 5/9/1929, p. 5; *Ibid*. Document Bank II, p. 139.
456 Jones to Ngata, 20/5/1930, pp. 1-2; *Ibid*. Document Bank II, pp. 155-156.
457 Ngata to Coates, 26/5/1930; *Ibid*. Document Bank II, p. 157.

are fourteen in progress affecting twenty counties,..., must be halted and in some cases abandoned.

The Crown had been awarded Maori land "for rate payments already made to local bodies under the late Government".[458] In mid-March 1928 Ngata informed Coates of his concerns over large amounts of outstanding survey liens in the North and in the King Country.[459] In the North outstanding survey liens totalled

> £50,000, of which 1/3 is interest. Probably £70,000 is involved in the South Auckland Land District, 1/3 again being interest. Between the two districts about £80,000 principal sum is involved.
>
> In our opinion the Consolidation Schemes offer the only chance of a definite and comprehensive solution of the Native Land problem in the most difficult province of all, and a total remission in the Northern peninsula is desirable, if not in the South Auckland as well. This would help enormously in the compromises re rates and enable us to use a larger area and surplus Native lands to build loan funds for the Maori Land Boards. The survey of consolidated sections will be heavy enough expense on the new titles.[460]

The solution to this problem involved Maori extinguishing outstanding charges against the land.

> In all consolidation Schemes now in progress, which with three exceptions (East Opotiki and Matakaoa Counties and Mohaka) are in the North Auckland and Auckland Land Districts the officers of the Native department who have been engaged on Consolidation work since the beginning of 1928 report that they cannot proceed further until the question of survey liens is determined.

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458 Ngata to Mr Ransom, 6/10/1930, pp. 1-2; MA 1 25/1/1. Document Bank II, p. 129.
459 Ngata to Coates, 16/3/1928; MA 31/4. Document Bank II, p. 159.

Ngata advised the Coates' Government "to agree to a comprehensive writing off" of survey liens.[461] In March 1928 a conference was held in Auckland to discuss outstanding survey liens with respect to the implementation of consolidation schemes. This was attended by DH McLeod, Minister of Lands, and KS Williams, Minister of Public Works, representing the Crown; the Chief Surveyors of the North and South Auckland districts and Mr Darby from the Auckland office; and by Ngata and Henare representing Maori, consolidation schemes and the Native Department. This dual representation role makes it difficult to distinguish how Ngata and Henare were able to represent both Maori and the Native Department, without creating a conflict of interest.

This Conference recommended that interest on survey liens in the King Country, Rotorua, Taupo, Ruatoki and Te Kaha should be written off, two thirds of the principal should be written off, and the remaining one-third should be taken in awards of land to the Crown. Ngata pointed out to McLeod that the Native Land Court had been instrumental in the "scattering of interests" and had introduced the evils of individual ownership such as partition and succession. Ngata identified these as being "at the bottom of rating and taxation difficulties". They caused the owners to be unable to utilise their lands properly, and made it difficult and expensive for the Crown to acquire land for settlement. Ngata suggested to the Minister that a remission of survey liens would greatly assist the completion of consolidation schemes.[462] This would also enable the Crown to acquire land for settlement with less difficulty and expense.

In November 1930 Government officials from the Lands and Survey Department, the Native Department and Treasury met to discuss the question of survey liens and "whether or not remissions of the whole or part of the accumulated charges should be made in order that the charges might be extinguished and thus open the way to consolidation and development of Native Lands by freeing them of

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460 *Ibid*.

461 Ngata to Mr Ransom, 6/10/1930, p. 1; MA 1 25/1/1. Document Bank II, p. 129.

462 He suggested that this remission be a charge on the Native Land Settlement Account. Ngata to Min of Lands, 16/9/1929, pp. 1-4; *Ibid*. Document Bank II, p. 169-172.

encumbrances."[463] In a letter to Peter Buck, Ngata stated that this was "the first conference between these three offices, and was immensely helpful in clearing away misunderstandings and educating the two pakeha Departments in the difficulties of the Native Department."[464]

This conference reported that outstanding rates and survey liens had delayed consolidation in many cases. Although section 32 of the Native Land Amendment and Native Land Claims Adjustment Act 1927 provided for the remission of survey liens where the Court saw fit Ngata recognised that this was inadequate for a problem that was nation-wide. Ngata advocated "the introduction of Legislation to provide a simpler method of dealing with the problem in a comprehensive manner."[465]

As a result sub-committees were formed to investigate North Auckland, King Country, Bay of Plenty-Rotorua-Taupo, and Hawkes Bay-Gisborne-Bay of Plenty districts.[466] Each Sub-Committee found that a large number of previous surveys had "no economic value either as regards the lands surveyed or their owners..., many of the survey liens are now found to be unsuitable for fencing lines and the sections found to be not economically large enough for farming". Each Sub-Committee recognised and recommended "the need for compromise on and settlement of, this all important question affecting our Native lands."[467] The Lands Department felt that in future "In consolidated areas provision for the payment in

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463 Survey liens on Native lands affected by consolidation schemes - as to providing a basis of settlement of; O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930, p. 2; *Ibid*. Document Bank II, p. 102.

464 Ngata to Buck, 17/11/1930; cited in MPK Sorrenson (ed.) *Na To Hoa Aroha. From Your Dear Friend. The correspondence between Sir Apirana Ngata and Sir Peter Buck, 1925-50. Volume Two, 1930-32*, Auckland, 1987, p. 80.

465 Survey liens on Native lands affected by consolidation schemes - as to providing a basis of settlement of; O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930, p. 1; MA 1 25/1/1. Document Bank II, p. 101; also cited in AJHR 1932 G.-7, p. 3. Document Bank I, p. 127.

466 North Auckland, King Country, Bay of Plenty-Rotorua-Taupo, Hawkes Bay-Gisborne-Bay of Plenty, (Gisborne district). Survey liens on Native lands affected by consolidation schemes - as to providing a basis of settlement of; O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930, pp. 2-3; MA 1 25/1/1. Document Bank II, pp. 102-103.

467 Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930, pp. 3-4; *Ibid*.

advance of the cost of surveys should be made. Prior to survey, the Chief Surveyor should report upon the approximate cost of the work contemplated, taking into account the use of old surveyed lines or computed boundaries."[468]

In the North Auckland district in the Kaipara it was recommended that the Crown remit all of the interest, £1329 8s 4d, and three quarters of the principal, £1534 11s 0d. In Mangonui, Whangaroa, Hokianga and the Bay of Islands survey liens had already been discharged on some of the more productive land. The remaining land was generally of a "poorer class" and "undeveloped".[469] Ngata informed the Government that if they

> insisted upon extracting from the land the amounts charged, especially in the Northern Maori District, for survey liens, it might as well take the whole territory, for there was owing from £50,000 to £60,000 on land known to be of low value. Then we should have had the problem of a horde of landless Ngapuhi wandering around the country not with guns, as in the case of their ancestors a hundred years ago, but making just as great a nuisance of themselves as then.[470]

This Sub-Committee recommended for Mangonui, Whangaroa, Hokianga and the Bay of Islands that "the maximum survey liens charged on any land should not exceed 5 per cent of the unimproved value. All amounts in excess of that percentage" should be remitted. All "lands valued at 15/- per acre and under...should be totally relieved of all existing survey liability, also lands in the nature of reserves, (historical, communal areas, urupas &c.)" The Sub-Committee "estimated that £11,000 would remain due, to be satisfied by an award of land of

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Document Bank II, p. 103-104; also cited in AJHR 1932 G.-7, p. 4. Document Bank I, p. 128.

468 Suggestions by the Lands and Survey Department in regard to future surveys and the collection of survey liens attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; MA 1 25/1/1. Document Bank II, p. 105.

469 North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 2; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; *Ibid*.

470 NZPD Volume 219 1928, p. 951. Document Bank I, p. 150.

that value to the Crown, leaving the balance of £35,937: 0: 0 to be remitted."[471] This would be quite a large area given the value of Maori land in this district - furthermore this was Maori land which would be unavailable for consolidation.

In the Tairawhiti district the Sub-Committee recommended the remission of survey liens to varying extents.[472] In the King Country and Bay of Plenty the respective Sub-Committees attempted to assess the capacity of each block to bear survey liens and interest. They recommended that each block should not carry more than 5% of the unimproved value of the land, with maximum and minimum charges per acre. All charges under £1 should be remitted in cases where the value of the land does not exceed 15/- per acre.[473]

In the King Country the Sub-Committee recommended that two-thirds of the sum due for principal and interest combined, £12 862 12s 2d, be remitted, leaving one-third, £6431, to be paid.[474] In the Bay of Plenty the Sub-Committee recommended all of the interest and two-thirds of the sum due for principal be remitted, £6872, leaving one-third to be paid. In both cases the Sub-Committees suggested that "The amounts found payable to the Crown to be liquidated in cash or land, or partly by one method and partly by the other." Furthermore that a policy be formulated where provision is "made for payment in advance of the cost

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471 The £11,000 would cover the remission of all Crown liens (i.e. possible omissions in the Schedules are included), including private liens taken over; North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 3; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; MA 1 25/1/1. Document Bank II, p. 108.

472 Survey Liens on Native Lands: Report of Sub-Committee dealing with lands in the Tairawhiti District, pp. 1-2; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; *Ibid*. Document Bank II, pp. 114-115.

473 Survey Liens on Lands within the King Country Consolidation Scheme, p. 1. Document Bank II, p. 110; and Survey Liens on Lands within the Bay of Plenty Consolidation Scheme, p. 1. Document Bank II, p. 117; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; *Ibid*.

474 Survey Liens on Lands within the King Country Consolidation Scheme, p. 2; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; *Ibid*. Document Bank II, p. 111.

of future surveys both for the purposes of Partition of Native Lands and for definition of areas vested in Natives on consolidation."[475]

Ngata approved all of this Conference's suggestions "in general terms" and if approved by Cabinet agreed to "take up their consideration and application in detail, as legislation may be required to give full effect thereto."[476] The Secretary to Treasury, AD Park, informed the Acting Minister of Finance that the proposal was "to write off lump sums equivalent to all interest charges and 57 per cent of the principal. To facilitate consolidation it is proposed to accept lump sums with respect to each scheme, but these amounts have been arrived at more or less on the basis of the land's economic capacity as measured by recent Government valuations."[477]

In December 1930 Cabinet agreed to accept lands in part settlement assessed at £33 359, to write off interest totalling £37 859, and to write off survey liens principal of £44 153, (57%).[478] Often one block, commonly referred to as a 'sinker' block was accepted by the Crown in settlement for survey liens. This also happened with rates compromises. It was recommended that 31 March 1931 be the date "on which all interest would cease to accrue and thus allow the charge to represent fixed amounts and simplify the handling of the figures and settlement of same.[479] Furthermore, the Lands and Survey Department "agreed to accept hill tops, forest lands, sand dunes - areas [which are] unfit for settlement but are nevertheless assets in the hands of the Crown."[480]

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475 Survey Liens on Lands within the King Country Consolidation Scheme, p. 2. Document Bank II, p. 111; and Survey Liens on Lands within the Bay of Plenty Consolidation Scheme, p. 2. Document Bank II, p. 118; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; *Ibid*.

476 Ngata to the Acting Prime Minister, 18/11/1930; MA 1 25/1/1. Document Bank II, p. 164; AJHR 1932 G.-7, p. 2. Document Bank I, p. 126.

477 AD Park to the Acting Min of Finance, 29/11/1930; MA 1 25/1/1. Document Bank II, pp. 165-166; AJHR 1932 G.-7, p. 1. Document Bank I, p. 125.

478 These recommendations were approved by Cabinet on 2/12/1930. Under Secretary to Native Minister, 27/7/1931; MA 1 25/1/1. Document Bank II, p. 167.

479 EP Earle to Chief Surveyor, 11/5/1931; *Ibid*. Document Bank II, p. 168; Under Secretary to Native Minister, 27/7/1931; *Ibid*. Document Bank II, p. 167.

480 Ngata to Buck, 17/11/1930; cited in Sorrenson (ed.) *Volume Two*, p. 80.

The consolidation of blocks that were already economically viable

Not only were blocks that were small and uneconomic included in schemes but in some cases blocks that were already economically viable and providing their owners with an income were included. Legislation on consolidation did not prevent land that was already profitable from being included in schemes. Consolidation schemes often created conflict “where they sought to disrupt what was solely an economic unit to which the social and economic justification for consolidation could not be used.” Often such units were adjacent to fragmented blocks and, as a result, “would be vulnerable wherever a consolidation scheme was prepared”.[481]

Although this case, Manutuke Consolidation Scheme, lies outside the period covered by this study it illustrates a very valid point.[482] Manutuke is a country settlement on the Poverty Bay flats, 13km south-west of Gisborne. A meeting of Maori owners and their representatives at Manutuke in December 1958 resolved to ask the then Minister of Maori Affairs, the Honourable Walter Nash, to initiate a consolidation scheme in this area. On 26 November 1959 Nash directed the Maori Land Court, under section 195(1) of the Maori Affairs Act 1953, to prepare a scheme with respect to Maori land in this area. This scheme affected an area of 22 000 acres and involved 550 titles and around 6 000 owners. Some owners had interests in more than 30 blocks. It was proposed to reduce the number of titles to 230. The interests of owners would either be re-apportioned into blocks or absorbed into one of four Incorporations. A public inquiry was held at Manutuke on 9 November 1968 and at Gisborne on 12, 13 and 20 November 1968. A number of objections were addressed by the Court and on 14 July 1969 Judge Haughey recommended that the scheme be confirmed.

Included in this scheme was a block of 44 acres owned by Tarita Meihana and two of her cousins. She discovered the inclusion of this land in October 1967 while attending a meeting a Muriwai. At this meeting “She strongly opposed the

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481 PG McHugh, *The Fragmentation of Maori Land*. Legal Research Foundation Inc, Publication No. 18, 1980, p. 24.
482 *Ibid*., pp. 24-27.

proposal to take her land and amalgamate it with the Pakowhai Incorporation." Against her wishes the Crown proceeded to include this area in the Pakowhai Incorporation.[483] Having no success in the Maori Land Court, in May 1979 Meihana appealed to the Supreme Court.[484] All of Meihana's complaints were economic. She asserted that as a result of the Crown's actions she had

> 1. Suffered a loss of income from the inclusion of her land in the scheme;
> 2. lost control over a useful and potentially valuable area of flat cropping ground;
> 3. was deprived of access to another valuable block of flat land comprising 19a:2r:05p in the ownership of the applicant and others;
> 4. lost control over land which adjoined another 4½ acres with frontage to Tawiri Road owned by the applicant and others;
> 5. has now been placed as a minority shareholder in an Incorporation in which she will have no effective control and the profits of which area small.[485]

So although consolidation schemes had allegedly been implemented to enable fragmented and scattered interests in Maori land to be brought into production they also prejudicially affected land that was already economically viable. This is an issue which should explored in specific case studies.

Leases

The situation with regard to leases requires some examination in areas where consolidation schemes were implemented. It was found in numerous cases in the King Country "that leases are still registered against the titles but the lessees have actually abandoned the properties." Abandoned leases not only delayed

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483 Although this land was originally classified as "European land owned by Maoris", on 1 April 1968 the Maori Affairs Amendment Act 1967 changed this definition to make it, in effect, European land. Under this same Act European land could not be included in consolidation schemes after 1 April 1968; *Ibid*., p. 25.

484 Meihana's affidavit was lodged in the Gisborne Supreme Court on 8/5/1979; cited in McHugh, p. 26.

consolidation, but they also incurred an additional expense against consolidation schemes. Earle communicated these difficulties to Jones, stating that it was "necessary to have the position of these defunct leases cleared up before the Officers proceed to an allocation of interests." Lease that were registered under the Land Transfer Act caused the most problems as they could only be removed from the title by re-entry. Lease that were not registered needed "to be caveated to prevent registration."[486]

The agitation of lessees of Native lands in the King Country led to the "setting up of the Native Leases Commission, and the submission made before the Commission by the Lessees had a hampering influence on the field work. The owners of these blocks, and persons agreeable or desirous of locating their interests in leased lands now prefer to await the outcome of the Commission's recommendations before deciding what to do with their interests."[487]

Easier said than done: trying to complete the schemes

By October 1928 11 schemes, at Tuparoa, Waiapu, Mohaka, Northern Waiapu, Apanui, Ruatoki, Arawa, King Country, Bay of Islands, Mangonui and at Hokianga, had been implemented in four Maori Land Districts.[488] It had taken the Commission three months "to man these schemes properly," and it was estimated that they would take two years to complete.[489] Ngata was confident that "with the staff in charge of those schemes and the businesslike way in which they are tackling the problems, there will in two or three years' time be a very much better position in connection with Native titles, the outlook of the Natives themselves, and the European occupier of the lands".[490]

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485 Paragraph 15 of Meihana's affidavit; cited in *ibid.*, p. 26.

486 Earle saw no reason why Consolidation Officers could not effect these and charge the cost, £2:3:0, to the Consolidation Scheme. Jones agreed that these could be paid by the Board and recovered from the native Land Settlement Account; Earle to Jones, 24/4/1930; Jones to Earle, 30/4/1930; MA 1 29/3/1 Part 2.

487 PH Jones to Apirana Ngata, 5/9/1929, pp. 4-8; *Ibid.*

488 Ngata to The Native Minister, 1/10/1928; AAMK 869 1000c.

489 Ngata to Mr MacMillan, 7/5/1928; *Ibid.* Document Bank II, p. 94.

490 NZPD Volume 219 1928, p. 951. Document Bank I, p. 150.

"The early 1930s were years of depression, and it was unlucky timing that the 1929 legislation coincided with the onset of a severe national economic contraction."[491]

> In areas such as the Hokianga, where little Maori land remained, there was no more income to be had from land selling. Many Northland Maori had worked in the kauri gum industry, but this collapsed in the 1930s. Most millable native forest had been cleared and the onset of depression meant retrenchment by local authorities and farmers, so that former sources of wages for rural Maori families fell sharply. For these reasons community leaders such as Whina Cooper supported and welcomed Ngata's land development schemes.[492]

At no time does the Crown appear to have undertaken a survey to investigate whether consolidation schemes were, in fact, in the best interests of the Maori they affected. As a result the decision by the Crown to implement a scheme was often not in the best interests of the Maori. One such case is at Waima. Here consolidation was implemented in an attempt " to provide farm blocks for as many people as possible during the depression". This

> resulted in the restriction of farm size and caused the hurried placement of ill-prepared persons to farm the land. Although these persons had first-hand experience in...timber-milling, scrub clearing and burning, grassing and manuring, roading and fencing - their experience in the commercial aspects of farming was still limited. Many lacked the necessary experience, skill and judgment in farming and marketing, the foresight to provide surpluses of the capital and products for future needs, diligence in the acre and maintenance of equipment and patience in working for future prosperity.[493]

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491 Spiller, Finn and Boast, p. 164.

492 *Ibid.* Also see JP Koning and WH Oliver, 'Economic Decline and Social Deprivation in Muriwhenua 1880-1940', Waitangi Tribunal Record of Documents, WAI 45, #I8.

493 PW Hohepa, *A Maori Community in Northland*, Wellington, 1970, pp. 65-66.

Neither the scheme in the King Country or in the Taitokerau were anywhere near completion by the end of 1931. In October 1930 William Cooper estimated that schemes in the Taitokerau district would take a further three years to complete.[494] In September 1933 Acheson informed Jones that "serious inconvenience" and "much trouble among the Natives" was a result of consolidation not having been completed in the Kaipara. In this area the Court was "experiencing the repercussion through frequent exparte applications for injunctions arising out of threats of threats of damage or personal violence." On the 14 September Acheson "received a telephone message from Paikea [Wiri Henare] to say that he had just been assaulted and thrashed."[495] In October Louis W Parore of Dargaville informed Coates that "The Maori people of this district feels [sic]... their many Native land matters are being left in abeyance too long. With the result, there exists ill feeling among the different families, whereas the finality of these matters would settle the disputes."[496]

In 1935 consolidation still had not been completed.[497] As a result local bodies continued to accrue outstanding amounts of Native rates. More alarming, however, was a report from Judge Acheson to Under-Secretary Pearce in March 1935 describing some of the repercussions of consolidation schemes not having been completed in the North. Acheson reported that

> In some cases there have been acts of violence involving danger to life. For instance, fresh trouble broke out at Waimamaku on the return of Busby Leef, acquitted of the murder of his cousin arising out of an unsettled consolidation dispute over land. The Police were apprehensive of a further slaying. I paid a special visit and settled the matter, but I cannot do this every time as there are too many cases and most of them cannot be settled except under a comprehensive consolidation scheme.

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494 Minutes of a Conference of Counties Delegates and Native land Consolidation Officers concerning the Native Rates compromise at Kaikohe, 24/10/1930, p. 2; MA 1 29/2 Volume One.

495 Acheson to Jones, 14/9/1933; MA 1 29/2/2 Volume 2. Document Bank II, pp. 208-209.

496 Louis W Parore to Coates, 10/10/1933; *Ibid.* Document Bank II, p. 211.

497 Acheson to Under-Secretary GP Pearce, 11/3/1935; MA 1 29/2.

> Further, the unrest amongst Native owners whose lands have been allocated to nominated occupiers under Development and who have not yet received allocations for themselves threatens the security of the Department for some of its advances. If the Department attempts to exercise its full statutory powers on behalf of the nominated occupiers, trouble will quickly come to a head. This may no doubt be coped with if limited to the cases already known about, but the danger is that a landslide of trouble may occur in certain districts if the patience of the people becomes exhausted by the continued delay. On the recent circuit I noticed quite a change of feeling at a number of centres where nothing has been done since the first consolidation meetings held years ago.[498]

As at 31 December 1936 a total of 522 287 acres of "Native" land were under consolidation in the Taitokerau, involving 6 583 blocks. Of this area only 81 135 acres had been finally consolidated. Most of the work had evidently been finished for the remaining 441 000 acres. There was a separate card for each owner "in North Auckland showing all his share interests in land their values. Also data lists with names, shares, and values have been prepared for every Native block in the North." In order to complete consolidation in this area more topographical sketches, final consolidating conferences between Maori and consolidation offices, final sittings of the Native Land Court and some administrative work had to be done.[499]

Despite this consolidation continued to be delayed, causing Acheson to remark in May 1937 that it would take a further two or three years to complete,[500] although MV Bell considered that there was no certainty that this would happen. In June EP Earle, the Registrar of the Native Land Court in Auckland even suggested that consolidation in this district should be "the subject of an enquiry by a special

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498 Acheson to Under-Secretary Pearce, 11/3/1935; *Ibid.,* Document Bank II, p. 213. This is a different piece of correspondence than the above citation.

499 AJHR 1937-38 G.-9, pp. 6-7.

500 Acheson to Under-Secretary ON Campbell, 20/5/1937; MA 1 29/2.

committee to include an experienced officer of the Survey Department with a view to a report being made and a definite policy being laid down as to future action."[501] In September RF Ellis, the Secretary of the Taheke Maori Labour Committee informed Acting Native Minister, Frank Langstone, on behalf of Maori at Taheke, Kaikohe, Waima, Otawa and Waima North that

> many of These People who have been appointed [farm] Units, and have waited years to have Their farms finalised, and it would appear They are waiting in vain, other interest holders on Units farms are sick of waiting to have Their interests located elsewhere, are now Taking advantage of The year's of hard work and expenditure of These (Units). Govn [sic] loans are now wasted on This Unit scheme, as Past owner's are grazing Their stock on These propertys [sic] and Units will not work. Their farms untill [sic] they have Been finalised, This, as you must admit, means a terrible drop in returns from Loans, and will mean stock will be sold to repay The year's of hard work on These farms, This trouble is rife, Through-out The North. This matter can easily be avoided if Consolidation would only come to the north and clean This serious matter up....This state of affairs very soon is going to lead to Blood-Shed,.... Supervisors and Police are running about the Country Trying to Bring Peace Between Units and interest holders But to no avail.[502]

Langstone attributed these delays to increased "Departmental activity since then [1935] in the District, that despite a large increase in the staff, it has not been possible to arrange for these officers to devote their whole efforts to consolidation work." He emphasised that land development schemes were "the first consideration" and that consolidation would "be pushed forward as speedily as time and circumstances will permit."[503] In their annual report the Native

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501 Registrar of the Native Land Court, Auckland, to Under-Secretary Campbell, 7/6/1937, pp. 1, 3; *Ibid.*

502 RF Ellis to Acting Minister of Native Affairs, 21/9/1937; *Ibid.* Document Bank II, pp. 214-215.

503 F Langstone to RF Ellis, 10/11/1937; *Ibid.* Document Bank II, p. 216.

Department cited a “lack of trained staff” as the reason for delay.[504] In February 1938 Acheson accused the Native Department of “purposely delaying Tokerau Consolidation in order not to have too great a volume of Tokerau Development on its hands.”[505] He, however, emphasised that “In the great majority of Tokerau cases affected by Development” that it was of

> no use proceeding with title surveys until the titles themselves have first been settled by Consolidation....Upon completion of Consolidation in any district the suitable areas are immediately available as safe security for Development loans, they area ready for undisturbed occupation and full development, and they are ready for title surveys.
>
> ....I can only repeat that the Native Land Court has a definite Consolidation duty to perform under unrepealed legislation, that the Tokerau Natives practically unanimously desire Consolidation more than they desire anything else, that the present administrative restrictions are causing serious unrest and friction right throughout the North, and that the Court is being prevented at present by the Department from reasonably and effectively carrying out its Statutory duty.[506]

Acheson told ON Campbell, Under-Secretary to the Native Department, “that no one in the Auckland office believes that the Native Department really wishes and firmly intends that Tokerau Consolidation shall proceed” and that this was “the root of the whole trouble.” He described Earle's assistance with consolidation as “farcical”.[507]

In 1938 the Native Department reported that consolidation had “been continued during the year where possible, and some progress has been made, although with

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504 AJHR 1936 G.-9, p. 2.
505 Acheson to Under-Secretary, 7/2/1938, p. 2; MA 1 29/2.
506 Acheson to Under-Secretary, 7/2/1938, pp. 1-3; *Ibid.* Document Bank II, pp. 217-219.
507 Acheson to Under-Secretary, 21/2/1938, pp. 1-2. A difference of opinion causing the Registrar to tell Acheson to "go to hell" in October 1937 lead to a standoff which also contributed to delaying consolidation; Acheson to the Under-Secretary, 19/9/1938; *Ibid.*

the demands of other activities the specialised staff available has been at a minimum and insufficient to cope with the work in the four different scheme areas (Mangonui, Hokianga, Bay of Islands, and Kaipara). The best progress has been made in the Mangonui area, where a Consolidation Officer has been most regularly at work. In other parts little further progress has been possible, particularly in the Hokianga area, where generally no officer has been available."[508] The work continued in 1939, however, due to the demands of other activities and absences due to illness,

> the small specialised staff available has been at a minimum and inadequate to cope with the work in the four different scheme areas... With the additional trained staff now being made available, consolidation activity will be accelerated, but the progress must be necessary gradual for the reason that the grouping of scattered interests in land requires the full-time services of officers experienced in the intricate procedure and their numerical replacement by untrained men.[509]

In 1942 the Department reported that schemes were "making good progress" and that a committee had been appointed to assist the Court.[510] In 1945 staff were still concentrating on finishing the schemes before any new ones were begun.[511]

The situation was not any better in the King Country where by 1935, with "the exception of the Consolidation of the interests of the Hetet family and a few Blocks vested in the Crown", consolidation had not been completed. This was attributed to "difficulties in apportionment of survey charges".[512] Representations were made to the Acting Native Minister in Te Kuiti

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508 AJHR 1938 G.-9, p. 5. Document Bank I, p. 139

509 *Ibid.*, p. 6. Document Bank I, p. 140.

510 *Ibid.,* 1942 G.-9, p. 3.

511 *Ibid.,* 1945 G.-9, p. 4.

512 Registrar of the Native Land Court in Auckland to Under-Secretary of the Native department, 28/6/1935; MA 1 29/3 Waikato-Maniapoto District Consolidation.

> as to the necessity of pressing forward with the consolidation of interests in native lands in the King Country. The Natives asked that the work should be proceeded with at once as the position was most unsatisfactory because by reason of incompleteness of their Titles, those of them who desired to commence farming were unable to do so.[513]

This also caused local bodies concern regarding the ability of Maori to pay rates from the agreed dates.[514] In November 1929 Jones advised Earle that it was "very unlikely that Consolidation will have sufficiently advanced to justify the whole of the Native sections being placed on the Rate Roll at the 31st March 1930; and it would, I consider, be preferable for the Borough to accept from time to time as the work proceeds lists of blocks on which rates are to be levied."[515]

The main problem consolidation staff had in Te Kuiti borough was with valuations. Jones informed Earle that

> the general opinion is that the valuations now available are excessive compared with the revised valuations obtaining in the surrounding Counties. Consolidation proposals so far brought to my notice involve interests outside the Borough as well, and it is obvious - except where the parties accept the valuations now available - that it would not be equitable to adopt the available Borough valuations as a basis for any exchanges.[516]

In 1937-38 the Native Department reported that the Native land Court had been hampered in the completion of schemes by a lack of experienced staff. The work was now in the position "where all interests dealt with have been accounted for and is in such a state that the process of consolidation may be recommenced

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513 Acting Under-Secretary of the Native Department to the Registrar of the Native Land Court in Auckland, 24/6/1935; *Ibid.*

514 GH Tate, Te Kuiti Borough Council, to Native Minister, 18/10/1929; Town Clerk, Taumarunui Borough Council to Native Minister, 19/2/1931; Town Clerk, Otorohanga County Council to Native Department, 6/5/1931; MA 1 29/3/1 King Country Consolidation.

515 Jones to Earle, 5/11/1929; *Ibid.*

when the time is considered to be opportune."[517] In 1939 the Native Department reported that although work had not yet been proceeded with there was "no demand by Native owners for schemes on an extensive scale" although "in several instances circumstances have arisen where strictly limited consolidation would clarify titles and assist in the solution of local problems due to unsatisfactory tenures."[518] In 1940 the Department reported that the main ground work for the schemes had been completed, with the necessary surveys being carried out and final orders being drawn up.[519]

In both the Waikato-Maniapoto and Taitokerau districts a job Ngata had estimated could be completed in two years was still in progress in some areas 20 years later. To complicate matters even further owners continued to die causing succession orders to be issued and thus beginning the messy process of the fragmentation of interests all over again.

During Ngata's questioning before the Commission of Inquiry into Native Affairs in July 1934, Chairman, GP Shephard, commented that

> Consolidation seems to me at the moment to have practically broken down. It has not been working for several years past. One man told us that it would take five years to put through the consolidation of the Hokianga district, and for practical purposes a consolidation that takes five years is not much good, with people dying and so on.

On being asked how he envisaged the future of consolidation, Ngata replied that "We must go on with it. It is the only thing to do to reduce the magnitude of the problem." Ngata appears to have been utterly convinced that the consolidation of titles was the final solution. Shephard then commented that

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516 PH Jones to Registrar, Auckland, 5/11/1929; *Ibid.*

517 AJHR 1937-38 G.-9, p. 7. Document Bank I, p. 138; *Ibid.,* 1938 G.-9, p. 6; *Ibid.,* 1939 G.-9, p. 7.

518 *Ibid.*

519 *Ibid.,* 1940 G.-9, p. 6.

> Consolidation is really an invention of yours....By arranging family groups in particular areas and collecting scattered interests you gathered them into compact areas, and you got perhaps an individual or family group, and it seems to me that you contemplated that the system might be used for farming purposes and that these people who were in the consolidated title would be able to get advances for farming.[520]

Shephard certainly appeared to have grasped that the consolidation would only provide a short-term solution as long as the principle of succession continued to be applied, commenting that once "The natives start to inter-marry and take an interest in the block, and therefore consolidation itself has no end."[521] Ngata openly admitted to not having considered changing the laws of succession.[522]

Crown involvement: benevolence or self-interest?

Although consolidation schemes have been depicted as an enormously benevolent gesture by the Crown towards Maori, the Crown had a vested self-interest in sorting out the problem of fragmented interests. The schemes enabled the Crown to play a considerably more active and direct role in the reorganisation of Maori land titles. After consolidation subsequent Crown purchases were not only much easier but also more economically viable. The *Poverty Bay Herald* pointed out to its readers in 1925 that

> the Crown has also derived considerable gains from the work [consolidation]. Throughout the whole of Poverty Bay the Crown has scattered interests. Through the consolidation schemes, these are being gradually grouped together into substantial blocks, which are then opened up for selection by settlers.[523]

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520 Ngata's evidence before the Commission of Inquiry 1934, p. 1964; MA 87/2.
521 *Ibid.*, p. 1965.
522 *Ibid.*, p. 1972.
523 *Poverty Bay Herald*, 9/1/1925; cited in MA 31/3. Document Bank II, p. 77.

A significant drop in Maori land purchasing following Coates' appointment as Native Minister in 1921, forced the Government to confront the problem of outstanding rates and survey liens. Because survey liens and rates were a first charge on the land the Government had not been compelled to do anything about these problems as long as large scale Maori land purchasing continued. "Under Coates the amount of money...was steadily allowed to drop until land purchasing ceased to be a significant activity of the [Native] Department. In its place Coates pursued a policy of vigorous title reform to try to put Maori into a position to farm their own lands."[524] As soon as land purchasing slowed down, non-payment of rates gained momentum and became a major political issue. In 1917 the *Northern Advocate* remarked that if all outstanding rates could be collected the amount "would probably be enough to solve the whole main-roading problem."[525] Recessions in 1920/21 and again in 1928 caused local bodies to exert increasing pressure on the Crown on an almost North Island wide basis.

A series of correspondence between the Commissioner of Crown Lands and the Under-Secretary for Lands in 1926 reveals that the Crown only appeared to be prepared to allow consolidation schemes when the Crown stood to benefit. This is the key reason why consolidation initially proceeded in the Urewera, Taitokerau and Waikato-Maniapoto districts. In September 1926 the Commissioner of Crown Lands informed the Under-Secretary for Lands that

> On reviewing this position I recommend that no action be taken to give effect to the request of the natives. The Crown sections in Blocks IX and XIII Takahue Survey District and portions of Pukepoto No.4 are good forest lands, and portion[s] are already Provisional State Forest.
>
> It will be necessary to conserve the area for climatic purposes and as a means of flood prevention for the rich swap areas lying between Lake Tangonge and the Ahipara - Kaitaia Road. The other Crown Land sought, Sections 34, 36 and 38 comprise sandhills and flats rich in gum.

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524 Butterworth and Young, p. 72.
525 *Northern Advocate*, 7/9/1917; cited in MA 31/4.

> No doubt the natives are actuated in making this request by the desire to work the gum areas and to dispose of the timber rights on the Crown land,
>
> Moreover, to entertain a proposal of this nature, would be to establish a dangerous and cumbersome precedent and would result in other requests to the Crown to dissipate their present consolidated areas among numerous native blocks, the residues after the eyes had been picked out by Europeans.[526]

Although the Commissioner of Crown Lands appears to have been concerned with the conservation value of the area, Jones, Under-Secretary of the Native Dept, acknowledged that this report "is not at all sympathetic to the desire of the Natives." He suggested that the Native Land Court also report on the matter.[527] Jones informed Hehi Rapihana, (who had made the request), that the report of the Commissioner of Crown Lands "points out that to give effect to your request would leave the Crown in possession of the scattered Native Blocks in place of its present consolidated areas". "Under these circumstances" Jones stated that it was "not possible to give effect to the request of your Chamber as to exchange of scattered interests in Native lands for consolidated blocks of Crown land."[528]

The consolidation of Karakanui A2, B and C

This section examines the consolidation of Karakanui A2, B and C; part of the Komiti or "J Series" in the Kaipara Consolidation Scheme. These blocks are situated in Otamatea County on the banks of the Arapaoa River. It was decided to proceed with the consolidation of these blocks [Karakanui, Ohauroa and Waihaua] in 1929 as it was deemed "adviseable and desirable to deal with the several areas

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526 Commissioner of Crown Lands to Under-Secretary for Lands, 1/9/1926; MA 1 29/2 Volume One. Document Bank II, pp. 220-221.

527 Jones to Native Minister, 13/9/26. Note on the back of a memo, Coates to Hehi Rapiahuna, 25/3/1926; *Ibid.*

528 Jones to Hehi Rapihana, 17/9/1926; *Ibid.* Document Bank II, p. 222.

having a community of interest without awaiting the completion of the scheme as a whole".[529]

In February 1929 WH Toka, on behalf of Ngati Whatua, informed Coates that "at a meeting held at Otamatea It was unanimously carried...to approach you to arrange with Tau Henare or the Consolidation Officer that the first sitting hence of the Consolidation Commission to be held at Otamatea Maori Settlement". He also stated that the people "were very anxious to start."[530] In late February Coates informed Ngata of these developments.[531] John Thomson, Native Land Purchase Officer at Tokaanu, was "placed in charge of the field work in connection with this scheme".[532] Ngata took the necessary steps and applied to the Native Land Court in April "to prepare a scheme of Consolidation of Lands owned by Natives within the Counties of Otamatea and Hobson and known as the Kaipara Consolidation Scheme."[533]

On 30 September 1929 a sitting of the Native Land Court, consisting of Judge Acheson, J Thomson and Paraone Kena, was held at Otamatea. It was reported that "A large number of Natives have attended, including the leading Natives from the Karakanui, Pouto, Port Albert, Komiti, Batley, Otamatea and Otara districts." At this sitting the Court "explained the consolidation position, and no objections whatever have been raised by any Natives. They are all keenly interested in the Consolidation Scheme, and are anxious to have it pressed forward, so that they may be put into a position to work their lands."[534] The Court had made a preliminary investigation of

> the areas near Batley, Port Albert, Taroa, Otara, Karakanui etc, but nothing definite has been settled as to locations except in the Karakanui district.

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529 Judge Acheson to the Native Minister, 2/11/1929; MA 1 29/2/2 Kaipara Consolidation Scheme Volume 1, 1929-1932. Document Bank II, p. 173.

530 WH Toka to Coates, 10/2/1929; *Ibid.* Document Bank II, pp. 175-176.

531 Coates to Ngata, 22/3/1929; *Ibid.*

532 Jones to John Thomson, 22/3/1929; Jones to Mr Dillon, 22/4/1929; *Ibid.*

533 Jones to Mr Dillon, 22/4/1929; *Ibid.* Document Bank II, p. 177.

534 Kaipara Consolidation Minute Book 1(K), p. 55. Document Bank II, pp. 178-179.

> The Court and the Consolidation Officers visited the Karakanui district, and inspected the Waihaua, Ohauroa and Karakanui blocks, and, by agreement of all parties interested & represented, decided upon family locations.
> The arrangements made in these three blocks are really in confirmation and elaboration of previous arrangements made by the Court and Board in connection with the Waihaua Dairy Scheme. The three blocks are affected by an "Incorporation". In the opinion of the Court adequate provision has been made for protecting the interests of all Natives interested in the three blocks, and matters are in order now for the preparation of a provisional Consolidation Scheme practically limited to the three blocks.
>
> No objections whatever have been raised by any Natives interested, and the Court is satisfied that the owners have been sufficiently represented. Kohi Hemana and other Port Albert Natives have specially approved of the arrangements.[535]

At a sitting of the Native Land Court in Auckland on 2 November 1929 these arrangements were provisionally confirmed and an application under section six of the Native Land Amendment and the Native Land Claims Adjustment Act 1923 was sent to Ngata.[536]

The following arrangements were made with regard to Karakanui A2, B and C. It was proposed to consolidate Karakanui A2, (24 acres 3 roods 0 perches) and Karakanui C (18 acres 2 roods 0 perches) to be called Karakanui A3 (43 acres 1 rood 0 perches). An area "at the front to be set aside by Court for Hari Manukau or as a landing Reserve as shall be decided by Court on formal hearing later." The outright owner of Karakanui A3 would be Mate Manukau or Matehuirua Slade (married name). The interests of the other owners would be relocated as follows:

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535 *Ibid.,* p. 56. Document Bank II, pp. 180-181,

536 *Ibid.,* p. 57. Document Bank II, pp. 182-183. Application from the Native Land Court to the Native Minister, 2/11/1929.

Heneriata Mita Matiu goes into Waihaua
Pirongia Hemana & Ihaia family go into Hukatere B 1B[537]
Maati Manukau goes into Waihaua
Ina Waiti (Manukau) goes into Ohauroa
Meinata family go into Makarau
Kupenga Rawhiti go into Makarau
Hiria Paratene at present into Karakanui A2 but subject to removal to Makarau if desired.[538]

Karakanui B (32 acres 2 roods 0 perches) would become Karakanui A2, a block of exactly the same size and boundaries. The owners of this block would be Hene Paratene Hemana and his daughter, Hiria Hene Paratene. The remaining owners would have their interests relocated in the following way:

Hetariki P Hemana to Makarau
Ratapu P Hemana to Oruawharo
Ngawiki P Hemana to Waihaua
Pirongia Hemana & Ihaia family to Hukatere
Kohi & Kanahia Hemana & minors to Oruawharo
Heta Wikiriwhi family to Waihaua & Oruawharo
Hemana P Hemana desires interest in Waikato
Rawhiti & Ehetere go into Oruawharo
Weneti family go into Oruawharo[539]

Karakanui A2 had been incorporated with Ohauroa B and Waihaua No. 1 in September 1927. The Court "suggested that on the making of final consolidation orders" this incorporation should "be wound up."[540] Thomson submitted this scheme to Ngata for his approval in mid-November. He stated that "All these

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537 This is the same block that was proposed to be vested in the Crown as part of the rates compromise; Thomson to Jones, 11/8/1930; MA 1 29/2/2 Volume One. Document Bank II, p. 202.
538 Kaipara Consolidation Minute Book 1(K), p. 204. Document Bank II, p. 190.
539 *Ibid.,* p. 205. Document Bank II, p. 191.
540 *Ibid.,* p. 208. Document Bank II, p. 192.

subdivisions are very suitable for small dairy farms, being all ploughable land. The only draw-back is the water supply but this can be overcome by sinking wells or constructing dams....Lots 6 and 7 [Karakanui B and Karakanui A2 and C] are all in grass and are ring fenced."[541] This scheme was confirmed in the *New Zealand Gazette* on 16 January 1930.[542] In June 1930 the Crown gazetted their intention to develop Karakanui A2, B and C under section 23(3) of the Native Land Amendment and Native Land Claims Adjustment Act 1929. This notice further stipulated "that no owner shall, except with the consent of the Native Minister, be entitled to exercise any rights of ownership in connection with the land affected so as to interfere or obstruct the carry-out of any works undertaken or to be undertaken under the said sub-section (3)."[543]

These three blocks were also affected by outstanding rates and survey liens. Rates compromises for Otamatea County were discussed with a "Large gathering of Natives, including many leaders such as Hone Eruera, Wiri Henare Toka, Tapihana Paikea, Kawhi Kena & others" at a sitting of the Native Land Court at Otamatea in March 1930. The Court stated that "whilst on journey from Dargaville to Otamatea on Saturday 24th, it held a meeting with the Waihaua, Karakanui and Ohauroa Natives (Hori Manukau, Rata Wiapo and a dozen others)." At this meeting the "Rating compromise was fully explained to them, and they all approved." On explaining the compromise to Maori at this second meeting their representatives, Wiri Henare Toka and Kawhi Kena, stated that "We all understand the position. We agree to the compromise."[544] The compromise they had agreed to was £400 for the whole County. Thomson sent the Native Department the following information outlining the rates compromise for Otamatea County[545]:-

County	Unpaid rates	Estimated rates, for 2 yrs to 31/3/32	Total rates to 31/3/32	Compromise agreed upon	Amount to be remitted

541 Thomson to Jones, 13/11/1929; MA 1 29/2/2. Document Bank II, p. 194.
542 *New Zealand Gazette*, 16/1/1930, p. 100; cited in *ibid.* Document Bank I, p. 157.
543 *New Zealand Gazette*, 19/6/1930, p. 1983.
544 Kaipara Minute Book 17, p. 140. Document Bank II, pp. 194-195.
545 Thomson to Jones, 28/3/1930; MA 1 29/2/2. Document Bank II, p. 198.

Otamatea	£1762: 6: 6	£905: 10: 8	£2667: 17: 2	£400: -: -	£2267: 17: 2

However, the Native Department had not been consulted about this compromise and raised some objections about this lack of consultation.[546] The rates arrangement was eventually confirmed under Section 25 of the Native Land Amendment and Native Land Claims Adjustment Act 1927 by Judge Acheson. He proposed that Native freehold land to the value of £400 be vested "in the Crown for the purpose of liquidating liabilities for rates due or payable to the Otamatea County Council".[547] Jones presumed that the Court was satisfied that land was "available under the Consolidation Scheme to recoupe [sic] the Crown in respect of the payments."[548] It was proposed that the Crown accept Hukatere B 1B, (477 acres), valued at £475, in satisfaction of these charges that amounted to £400.[549] Whether this block was taken, and if so, whether the Crown recompensed Maori £75 should be explored.

There were also outstanding survey liens in Otamatea County. In 1928 Ngata had drawn Coates' attention to this fact in the North generally.[550] Ngata advised the Coates' Government "to agree to a comprehensive writing off" of survey liens.[551] The Sub-Committee for North Auckland, (that was formed at the Conference held in Auckland to discuss survey liens in November 1930), found that there was £696 7s 0d plus interest to 31 March 1930 of £457 11s 8d owing to the Crown in respect of survey liens in Otamatea County.[552]

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546 Note a bottom of schedule showing county rates to be remitted from Balneavis to Jones, 17/3/1930; Jones to Thomson, 24/3/1930; *Ibid.*

547 Minutes of Meeting of Native Land Purchase Board, 6/6/1930; Order of the Native Land Court, 24/3/1930. A letter from Jones to Earle, 10/6/1930, states that this compromise had been effected under section 16 of the Native Land Amendment and Native Land Claims Adjustment Act 1928; *Ibid.*

548 Jones to Earle, 10/6/1930; *Ibid.*.

549 In this instance Hukatere B 1B was the sinker block; Thomson to Jones, 11/8/1930; *Ibid.* Document Bank II, p. 204.

550 Ngata to Coates, 16/3/1928; MA 31/4. Document Bank II, p. 159.

551 Ngata to Mr Ransom, 6/10/1930, p. 1; MA 1 25/1/1. Document Bank II, p. 129.

552 North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 2; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 12/11/1930; *Ibid.* Document Bank II, p. 107. Different figures have been found for Otamatea County, namely £728 4s 5d plus interest to 31 March 1930 of £477 17s 1d owing to the Crown in respect of survey liens; Thomson to Jones, 26/3/1930; MA 1 29/2/2 Volume One. The figures in the main text have been used as they were the figures the remission was calculated on.

As has been mentioned the compromise for the Kaipara was dealt with separately as the area per head of Maori population was so small. As a result it was difficult "to find a quid pro quo in spare land for awarding to the Crown in settlement of charges (Surveys, Rates &c) without encroaching unduly upon areas urgently required for their maintenance and betterment, the area of good land remaining being little chiefly small village holdings." In August 1930 Thomson communicated to Jones that

> The Kaipara natives are now very anxious to begin farming if given sections unencumbered under consolidation, so that each is given title to his own section. If, however, the full amount of these liens are made charges against the sections affected, the handicap on the natives will be very severe.[553]

As a result one area was taken in remission for all the survey liens at this time.[554] While the Crown certainly congratulated itself on this benevolent gesture, taking one large block rather than a number of much smaller ones would been suited the Crown much better. The Sub-Committee recommended that the Crown accept a quarter of the principal, £511: 10: 0, and remit the remaining three quarters, £1534 11s 0d, and all of the interest, £1329 8s 4d. The offer was "for the Crown to receive land to [the] value of £511: 10: 0....The land offered to the Crown is part of Pouto 2E 2, approx. 1,700 acres."[555] In December 1930 Cabinet agreed to this remission.[556] It was recommended that 31 March 1931 be the date "on which all

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553 Thomson to Jones, 11/8/1930; *Ibid.* Document Bank II, p. 203.

554 North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 1; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; MA 1 25/1/1. Document Bank II, p. 106.

555 North Auckland Survey Liens Compromise: Report of the Subcommittee, p. 2; attached to Summary of the report of the Conference on Survey liens on Native lands, O'Donnell, Shephard and Darby to Under Secretary, Native Department, 13/11/1930; *Ibid.* Document Bank II, p. 107.

556 These recommendations were actually approved on 2/12/1930, but appear in later correspondence; Under Secretary to Native Minister, 27/7/1931; *Ibid.* Document Bank II, p. 167.

interest would cease to accrue and thus allow the charge to represent fixed amounts and simplify the handling of the figures and settlement of same.[557]

In September 1932 Thomson communicated to Acheson that in Series "J" the settlement of the Karakanui Blocks had been "effected by the Board resulting in thirteen suppliers to the Dairy Factory."[558] After this date the series were readjusted, with Karakanui Blocks now located in series "B".[559] In December 1939 the Consolidation Officer reported to the Registrar of the Native Land Court in Auckland that Karakanui A2 had gone to Hone Paratene Hemana and Hiria Hone Paratene, and that it was under development. Karakanui A3 had gone to Matehuria Slade and was also under development.[560]

Further research could investigate whether the other owners were, in fact, relocated to the stated areas, how disruptive this was for them, whether there were any disputes either between Maori or between Maori and the Crown, whether the incorporation was "wound up" and if the Crown benefited in any way.

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557 EP Earle to Chief Surveyor, 11/5/1931. Document Bank II, p. 168; Under Secretary to Native Minister, 27/7/1931; *Ibid.* Document Bank II, p. 167.

558 Thomson to Acheson, 9/9/1932, p. 14; MA 1 29/2/2 Volume One.

559 Thomson to Acheson, 9/9/1932, p. 2; *Ibid.*

560 Consolidation Officer to Registrar of the Native Land Court in Auckland, 28/12/1939, p. 3; MA 1 29/2/2 Kaipara Consolidation Scheme Volume 2, 1932-1939. Document Bank II, p. 207.

Chapter Eight

CONSOLIDATING THE LEGISLATION, 1928-1931

This chapter surveys the legislation concerning land consolidation schemes and land exchange from 1928 to 1931.

The Native Land Amendment and Native Land Claims Adjustment Act 1928 was passed following the Native Land Consolidation Commissions visits to the Taitokerau and King Country. These amendments appear to have been an attempt to enable consolidation schemes to be implemented more easily in the future.

Section eight amended section 124 of the principal Act by giving the Native Land Court power retrospective power to make an order of exchange vesting European land or interest in any Maori. This seems to suggest that this had, in fact, been happening although it hadn't been in the Court's jurisdiction to do so until now.[561]

Section nine amended section 7(5) of the 1923 Act by enabling the Court, with the consent of the Maori owner, to order that any land or interest in land be allotted, awarded or appropriated to the Crown subject to payment of a sum as the Court may direct. This sum would be paid by the Crown out of money available for the purchase or acquisition of Native land. Money payable could be paid to a Maori Land Board for distribution or with the consent of the owners to be held by the Maori Land Board and administered upon such trusts as the Court shall direct.[562] This is the first time it is explicitly stated that the consent of Maori was necessary

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561 Native Land Amendment and Native Land Claims Adjustment Act 1928 No. 49, p. 606. Document Bank I, p. 65.

562 *Ibid.*

for the Crown and local bodies to have Maori land vested in them in order to effect rates and survey liens compromises and remissions.

Section 10 amended section 5(1) of the 1924 Act by allowing the Court from time to time to vary, amend or readjust the relative interests in which any land is held by the owners.[563] It is not specified whether consent was required to do this. This basically meant that the Native Land Court could make changes and without having to consult the owners. Section 11 amended section 5(9) of the 1924 Act to read that the Court could assess what is fair to be paid to the owner and may secure payment except in the case of a gift.[564]

Section 16 made further provision for the settlement of claims for rates on Maori lands. It did not explicitly state whether compromises could only occur when consolidation was being or would be carried out. This is interesting considering that Ngati Maniapoto co-operated under duress. It was stated that it was desirable there should be some statutory power in addition and alternative to the power of remission contained in section 113 of the Rating Act 1925 enabling local authorities to accept by way of a lump sum or otherwise any sum by way of compromise and in full satisfaction of any claim they may have for the rates levied by local bodies on Native land or land owned or leased by Maori. As a result local authorities were able to accept by resolution a sum in full payment and satisfaction of all rates due to the local authority which were owned or leased by Maori. A compromise so effected could extend and apply to rates levied in the future to such a period as is stated in the resolution. In every such case the rates for the specified period shall be deemed to be paid and it shall not be necessary for a local body to make a claim for them. Such a compromise could provide for the exception of any special class or classes of land owned or held by Maori, as stated in the resolution passed by a local body. The amount received by a local body was deemed to be apportioned over the various properties the settlement was for, or in the case of future rates intended to be levied. No Maori was liable for any rates due to a local authority in respect of which a compromise has been

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563 *Ibid.*

564 *Ibid.*, p. 607. Document Bank I, p. 66.

effected. This section applied to compromises made by local bodies before and after the passing of this Act.[565] Once again this imposed new conditions on arrangements that had already been made.

Towards the end of 1928 Coates realised that retaining the three Maori seats could be critical for the Reform Party to win the election. This was probably a key motive behind his continued support of consolidation and land development schemes. This was manifested in £250 000 that was made available to assist Maori farmers and to solve land grievances.[566]

The following year more amendments were passed under the Native Land Amendment and Native Land Claims Adjustment Act 1929. Under section 27 the power to vest Native land or any land owned by Maori in the Crown in order to carry out a consolidation scheme, (under sections six and seven of the 1923 Act), could be exercised even if the land was vested in a Maori Land Board under parts XIV or XV of the principal Act or vested in a corporate body under part XVII of the 1909 Act.[567]

Under section 28, during any proceedings before the Court in relation to any Native land the Court could, if it thought it expedient, order that certain land be freed and discharged from a lien, charge or claim, and this would be effected by an order. When making such order the Court could impose the condition that a sum of money be paid by or on behalf of the owners of the said land. The local Maori Land Board was to pay this to the person entitled.[568] The main function of this Act, however, was to set up Ngata's land development schemes. As a result trained consolidation "staff were diverted to the new activity".[569]

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565 *Ibid.*, pp. 608-609. Document Bank I, pp. 67-68.
566 Ngata to Buck, 6/5/1928, Maori Purposes Fund Board Papers, MA 51/26; cited in Butterworth, 'The politics of adaptation', p. 266.
567 Native Land Amendment and Native Land Claims Adjustment Act 1929 No. 19, p. 93. Document Bank I, p. 69.
568 *Ibid.*, pp. 93-94 Document Bank I, pp. 69-70.
569 AJHR 1937-38 G.-9, p. 5.

In December 1928 Ngata became Native Minister when United won enough seats to form a government. "Ngata pressed ahead with his land development schemes, using state funds, shifting consolidation staff straight onto development work and initiating schemes all over the country - wherever he could find under-developed Maori land and local communities willing to work it. There was seldom any lack of enthusiasm since the new schemes provided work for unemployed or under-employed men, women and children, who worked as communal groups... Ngata was even successful in persuading tribes who had long remained unco-operative...to embark on land development. His most notable success in this respect was with the supporters of the King movement in the Waikato".[570]

During a discussion of the Native Land Amendment and Native Land Claims Adjustment Bill Ngata pointed out that the Crown had applied "the system called consolidation of titles" in order to settle titles to Maori land.[571] He stated that

> For the last half-century the policy has been for the Native Land Court to attempt to individualise the title of an individual Native; and the thing had got into a hopeless mess, as a Maori was entitled only to cut out his piece in each block in which he happened to be interested, and, in very few blocks had he sufficient to make it worth while cutting out those interests,....The alternative was to assemble his interests in one area or in as few areas as possible,... so that it would be worth his while to develop the land or it would be worth while for a European to acquire it.[572]

Ngata seems to suggest that what was of paramount importance was to put Maori land in a position where it could be profitably occupied and utilised, preferably by Maori, but if not then by non-Maori.

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570 Sorrenson, 'Ngata, Apirana Turupa', p. 361.
571 NZPD Volume 226 1930, p. 612. Document Bank I, p. 151.
572 *Ibid.*

The Native Land Amendment and Native Land Claims Adjustment Act 1930 further facilitated consolidation schemes in areas where the land had outstanding rates and/or survey liens. Ngata argued that it was

> no use members of the House talking by and large of the settlement of Native land without getting right down to tin-tacks as to what is meant by that; and necessarily that must be a definite settlement of the title and its liabilities, and the putting of the Maori-...-on such a footing-...as will enable him to deal with his lands, or farm them if he is so disposed.[573]

Consolidation schemes would enable Maori land to be individualised and enable it to be held on the same basis as European land. Section 13 enabled the Native Minister to arrange with any local body for the payment in full settlement of outstanding and future rates on lands owned or leased by Maori within their districts. This was more specific than the 1923 provision which simply stated that the Crown and a local body could enter into a compromise.[574] Any sums would be agreed upon by the Native Minister and the local body; the consent of Maori concerned not being required. Section 16 of the 1928 Act applied to every such compromise. A certificate between the Native Minister and the local body constituted legal proof of such an arrangement. The agreed sum would be paid from the Native Land Settlement Account. This amount was paid to the local Maori Land Board, who paid it to the local body. The Maori Land Board could inquire into the amount said to be due and correct any error.[575]

The payment of money by the Crown constituted an equitable charge on the land or interest in land affected by the rates due. Such amount could be recovered from the persons who were liable for the rates under section 424 of the 1909 Act or any other Act to the contrary provided that this did not exceed the amount levied on such lands in the compromise plus any interest approved by the Minister

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573 *Ibid.*, p. 614. Document Bank I, p. 153.
574 Section 7(5), Native Land Amendment and Native Land Claims Adjustment Act 1923 No. 32.
575 Section 13(1), (2), (3); Native Land Amendment and Native Land Claims Adjustment Act 1930 No. 29, p. 113. Document Bank I, p. 71.

of Finance. The Native Minister or a person appointed by him could apportion among the lands included in a compromise the amount paid to a local body. A certificate could be granted from time to time imposing a charge or charges upon different portions of land or interests in land affected by the rates compromised, together with interest as approved by the Minister of Finance. Technically this meant that the Native Minister could keep charging an area until the whole area was charged to the Crown and the Crown could then acquire it. The amount charged was at the Native Minister's discretion. The total amount to be recovered by the Crown could not be less than the amount paid to the local body, suggesting that it could be more than that amount. If there is a shortage in the amount to be recovered by the Crown then the local Maori Land Board paid the difference to the Crown. On or after any subsequent partition or exchange the Court could apportion the charge as it thought fit. Any charge could be enforced by the Native Land Court on application from the Native Minister. The Court could exercise all powers conferred on it under section seven of the 1923 Act and its amendments, providing that it was not necessary to have a consolidation scheme proposed, formulated, approved or carried out. A payment under a compromise under this section operated as if it were a payment in full for such rates on the lands effected.[576]

In the House Ngata stated that the Native policy of the current Government was "to settle the titles of Native lands and to promote their development and settlement." He meant to achieve this by placing them in a position where Maori could sell, lease or farm their land. Ngata firmly believed that such a position could be achieved by a consolidation of titles.[577] These, however, could not be fully implemented until outstanding charges on the land had been settled. There were also approximately £300 000 of outstanding survey liens on Maori land in the North Island. As with rates compromises the proposed settlements with respect to survey liens were promoted as being conditional upon consolidation schemes being carried out. These, however, would be on a district-by-district basis. Ngata explained that once outstanding charges had been assessed then the value of

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576 Sections 16(4a), (5), (6), (7), (8); *Ibid.,* pp. 113-115. Document Bank I, pp. 71-73.
577 NZPD Volume 226 1930, p. 612.

Maori land held by each individual could be determined and located in a specified area which would then be surveyed. No opposition to these measures was voiced by Maori members or other Members in the House.

The Native Land Act 1931 consolidated Maori land legislation dating from 1909. The definitions of European, Crown and Native customary land remained the same as they had been under the 1909 Act. The definition of Native freehold land altered slightly. When any Native land was acquired by a Maori Land Board it was deemed to be Native freehold land. Although European land was still classed as European land when it was vested in any manner in a Maori for an estate in fee-simple, under exchange or consolidation European land became Native freehold land when vested in a Maori.[578]

Part VII of the Native Land Act 1931 addressed Consolidation and Exchange, indicating the shift in policy.[579] In a letter to Peter Buck, Ngata wrote that "The provisions regarding Consolidation of titles...patiently built up over the years are brought together for the first time.[580] This part of the Act was also separated into two sub-parts, exchange, sections 155-160, and consolidation, sections 161-168.[581] For the most part these provisions were a consolidation of all current provisions.[582] Importantly, section 131(1) of the 1909 Act was still in place as section 162(1). So as late as 1931 exchange did not have to be for the benefit of Maori owners, Maori could become "landless" as a result of exchange, the interests being exchanged did not have to be approximately equal under the definition of this Act, money did not have to be paid to make an exchange equal and the consent of all Maori owners was not necessary.

Although as Ngata stated in 1930 "the Native Minister... must have the good will of the Natives who own the land in order to arrive at an amicable arrangement wherever possible. In disputed cases the Native Land Court is called upon to deal

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578 Native Land Act 1931 No. 31, pp. 165-166. Document Bank I, pp. 75-76.

579 In the 1909 Act this section was simply titled "Exchange".

580 Ngata to Buck, 12/11/1931; cited in Sorrenson (ed.) *Volume Two*, p. 235.

581 Exchange, pp. 202-203; Consolidation, pp. 203-209; Native Land Act 1931 No. 31. Document Bank I, pp. 77-84.

582 See Appendix 3, pp. 129-130.

with the matter. Working, then, on tribal lines, the officers, before they can arrange a compromise with the local body, must have the general consent of the Native owners towards this element in the settlement."[583] This is an interesting statement considering that under section 13(1) of the Native Land Amendment and Native Land Claims Adjustment Act 1930 the Native Minister could arrange with any local body for the payment in full settlement of outstanding and future rates on lands owned or leased by Maori within their districts, and the consent of Maori concerned was not necessary. The consent of Maori to consolidation was probably more important on a practical level in terms of relocating families and developing the consolidated areas.

In 1931 Ngata presented a report to the House concerned "with the efficient occupation of lands by the Maori". In it he re-iterated previous definitions of consolidation, although this time highlighting that interests would be located "by virtue of their genealogical relationships" if possible. The extent to which this happened is something that should be investigated in specific studies. In addition to outstanding rates and survey liens, unpaid title fees could also be awarded to the Crown under section 162 (5b) of the principal Act. Ngata also pointed out to Members that consolidation provided an opportunity "to make the new holdings conform to modern requirements, practicable fencing boundaries, access, water-supply, aspect, and so forth; also to adjust the roading of the area". Ngata commented that the Crown had benefited from consolidation in its purchase of undivided interests "and private owners have succeeded in improving their boundaries or in collecting round their holdings isolated Native interests purchased by them." Consolidation further enabled "a complete stocktaking to be made of the Native-land titles within the scope of a scheme", lands to be classified for local taxation purposes and organised the title in such a way that owners would be able to farm, sell or lease their new blocks.

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583 NZPD Volume 226 1930, p. 613. Document Bank I, p. 152.

Conclusion

By 1931 consolidation of titles had been applied "to Native-owned lands in five counties on the East Coast and in the Bay of Plenty, five in the King-country, and to practically the whole of the Native lands north of Auckland."[584] "The undertaking of consolidation schemes in every district where considerable areas of land still remained to the tribes, the extension of the lending operations of the Native Trustee and Maori Land Boards, combined to attract the Maori youth to the land." While the consolidation of titles was regarded as the most effective and enduring method "as a solution of Native-land difficulties, [it] was in its nature - involving as it did extensive preparation of data, agreements, and adjustments among thousands of owners on a tribal scale, and expensive surveys - too slow to keep pace with the [Pakeha and Crown] demand that lands should be brought into use."[585]

Consolidation schemes by no means provided a long-term solution to the fragmentation of interests, but more of a short-term fix. This assumes, however, that after consolidation had been implemented that land would remain in Maori ownership, and thus still subject to the application of the principle of succession. Consolidation implemented a system which had the effect of subordinating Maori ancestral ties to the land, whilst enabling Maori land to be profitably occupied and utilised. As Coates stated during the implementation of the Urewera scheme - "the underlying principle of consolidation of interests is the extinction of existing titles and the substitution of another form of title which knows no more of ancestral rights to particular portions of the land." Under this scheme Maori were divided into 150 groups and were forced to be affiliated with not more than three groups and to relinquish ancestral rights in all other groups.

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584 AJHR 1931 G.-10, p. ii.
585 *Ibid.*, p. iv.

Although consolidation schemes may have been a seemingly effective short-term solution for grouping scattered interests in an economic way, they do not appear to have been beneficial in the long-term to Maori owners. Consolidation caused a major dislocation of the tribal unit in some areas. In one case in te Taitokerau families living on the east and west coasts were unaware of each other's existence as a result of consolidation in this area in the late 1920s and 1930s.[586] In some cases consolidation caused factionalism between individuals and families who did and did not want to be involved in schemes, and who disputed locations and boundaries. As has been noted in the Urewera scheme one block became known as Apitihana, “opposition”, suggesting that consolidation was not widely approved of, despite official reports to the contrary. At Waima, in Northland, “many individuals refused to sell or to exchange their fragmented land interests.”[587]

Although schemes were promoted as way for Maori to gain a measure of economic control they actually precipitated the alienation of more Maori land, both through purchase and in lieu of other costs, for example rates and surveys liens. As a result schemes became yet another vehicle whereby the Crown was able to instigate the alienation of Maori land, but in a much more convenient and economically viable manner. Often it seems the Crown only appeared to be prepared to allow consolidation schemes when it stood to benefit. This is the key reason why consolidation initially proceeded in the Urewera, Taitokerau and Waikato-Maniapoto ahead of other districts.

Schemes enabled the Crown to play a considerably more active and direct role in the reorganisation of Maori land titles. They organised and defined titles in an easily identifiable and an economic way. This enabled the Crown to purchase discrete blocks and not scattered interests as had previously been the case. The Crown was able to establish secure titles to all land involved in the schemes. Subsequent Crown purchases were therefore not only much easier but also more economically viable. For example, as the *Poverty Bay Herald* pointed out to its readers in 1925 “Throughout the whole of Poverty Bay the Crown has scattered

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586 Personal communication, Tahi Tait, 17/11/1995.

587 Hohepa, p. 65.

interests. Through the consolidation schemes, these are being gradually grouped together into substantial blocks, which are then opened up for selection by settlers."[588]

This report assumes that once Maori land was consolidated that it would remain in Maori ownership, and would continue to be subject to the application of the principle of succession. This being the case instead of addressing the Native Land Court's application of this principle, which was the crux of the problem, the Crown attempted to regroup interest holders in a variety of ways, one of which was consolidation. Consolidating Maori interests only alleviated the problem of fragmented interests in the short-term rather than providing a long-term solution and was effective in introducing a whole range of new problems for the Crown and Maori to contend with. The Crown failed to appreciate that consolidation could only ever be a short-term solution as long as the Native Land Court continued to apply the principle of succession. If, however, land went out of Maori ownership then the Crown had found a very effective solution to the problem of fragmented interests and uneconomic shares, thus enabling these areas to be profitably occupied and utilised.

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588 *Poverty Bay Herald*, 9/1/1925; cited in MA 31/3. Coates' personal consolidation file. Document Bank II, p. 77.

APPENDIX 1

NATIVE MINISTERS

1891-1940

Name	Ministry	From	To
John Ballance	Ballance	24/01/1891	27/04/1893
AJ Cadman	Ballance	04/02/1891	01/05/1893
Richard Seddon	Seddon	01/05/1893	06/05/1893
W Pember-Reeves Richard Seddon	Seddon Seddon	20/06/1893 06/09/1893	06/09/1893 21/12/1899
James Carroll	Seddon	21/12/1899	21/06/1906
James Carroll	Hall-Jones	21/06/1906	06/08/1906
James Carroll	Ward	06/08/1906	28/03/1912
WDS MacDonald	MacKenzie	28/03/1912	10/07/1912
WH Herries	Massey	10/07/1912	12/08/1915
WH Herries	National	12/08/1915	25/08/1919
WH Herries	Massey	25/08/1919	07/02/1921
JG Coates	Massey	09/03/1921	14/05/1925
JG Coates	Bell	14/05/1925	30/05/1925
JG Coates	Coates	30/05/1925	10/12/1928
AT Ngata	Ward	10/12/1928	28/05/1930
AT Ngata	Forbes	28/05/1930	22/09/1931
AT Ngata	Forbes coalition	22/09/1931	01/11/1934
GW Forbes	Forbes coalition	01/11/1934	06/12/1935
MJ Savage	Savage	06/12/1935	27/03/1940

APPENDIX 2

UNDER-SECRETARIES TO THE NATIVE DEPARTMENT 1906-1944

Judge Edgar	June 1906-January 1907
Judge TW Fisher	February 1907-October 1916
CB Jordan	November 1916-December 1921
Judge RN Jones	January 1922-November 1933
GP Pearce	December 1933-May 1935
ON Campbell	May 1935-February 1944

APPENDIX 3

Native Land Act 1931 No. 31

Part VII Exchange and Consolidation

<u>Exchange</u>

s155 1) Same as section 124 1909 No. 15.
2) Combination of section 8, 1928 No. 49 and section 124 1909 No. 15.
3) Same as section 124 1909 No. 15.
4) Same as section 8 1928 No. 49.

s156 Same as section 125 1909 No. 15.
s157 Same as section 126 1909 No. 15.
s158 Same as section 127 1909 No. 15.
s159 1) Same as section 128 1909 No. 15.
2) Same as section 12 1912 No. 34.
s160 Same as section 129 1909 No. 15.

<u>Consolidation</u>

s161 1) Same as section 6(1) 1923 No. 32.
2) Combination of 1923 section 6(2) 1923 No. 32 and its amendment section 22 1927 No. 67.
3) Same as section 6(3) 1923 No. 32.
4) Same as section 6(4) 1923 No. 32.
5) Same as section 6(5) 1923 No. 32.
6) Same as section 6(6) 1923 No. 32.

s162 1) Same as section 7(1) 1923 No. 32.
2) Same as section 7(2) 1923 No. 32.
3) Same as section 7(3) 1923 No. 32.
4) Same as section 7(4) 1923 No. 32.
5a) and 5b) Collectively the same as section 7(5) 1923 No. 32.
5c) Same as section 9 1928 No. 49.
6) Same as section 7(6) 1923 No. 32.

7) Combination of section 7(7) 1923 No. 32 and its addition section 23 1927 No. 67.
8) Same as section 7(8) 1923 No. 32.
9) Same as section 7(9) 1923 No. 32.
10) Same as section 7(10) 1923 No. 32.
11) Same as section 7(11) 1923 No. 32.
12) Same as section 7(12) 1923 No. 32.
13) Same as section 7(13) 1923 No. 32.
14) Same as section 7(14) 1923 No. 32.
15) Same as section 7(15) 1923 No. 32.
16) Same as section 7(16) 1923 No. 32.
17) Same as section 7(17) 1923 No. 32.

s163 1) Combination of section 5(1) 1924 No. 45 and section 10 1928 No. 49.
2) Same as section 5(2) 1924 No. 45.
3) Same as section 5(3) 1924 No. 45.
4) Same as section 5(4) 1924 No. 45.
5) Same as section 5(5) 1924 No. 45.
6) Same as section 5(6) 1924 No. 45.
9) Same as section 5(9) 1924 No. 45 and its amendment section 11 1928 No. 49.
10a) and b) Same as section 24 1927 No. 67. This is an addition [section 5(12)] to section 5 1924 No. 45.

s164 Same as section 25 1927 No. 67.
s165 Same as section 7 1924 No. 45.
s166 Same as section 5(11) 1924 No. 45.
s167 Same as section 132 1909 No. 15.
s168 Same as section 27 1929 No. 19.

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MA 1 29/2/2	Kaipara Consolidation scheme, Volume 2, 1932-1939
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