

CHAPTER 1

ADMINISTRATION OF NEW ZEALAND COMPANY TENTHS RESERVES

1.1 Introduction

This chapter covers the origins of trust administration of Maori reserves in New Zealand. It focuses on the administration of New Zealand Company tenths reserves, which were first established in the colonies of Port Nicholson and Nelson as part of a scheme of systematic colonisation. In 1842, formal responsibility for the tenths reserves was transferred to the Crown and became the earliest example of Crown administration of reserves in trust. A great deal has been written on New Zealand Company tenths reserves in recent years. Reports produced for the Wellington tenths claim (Wai 145) and Te Tau Ihu o te Waka a Maui (Wai 102) provide a detailed investigation of matters relating to tenths reserves in Wellington and Nelson and have been used for the purposes of this report.

This chapter restricts itself to an examination of the conception and early development of the administration of tenths reserves. We begin by briefly introducing the provision of tenths reserves inside the New Zealand Company's larger plan for settlement, then trace the transfer of company ideal into Government practice. In exploring the roots of trust administration, this chapter poses two underlying questions. First, we seek to determine whether the administration of reserves was undertaken with an explicit sense of trusteeship. The second question we should try to answer is, did the administration of reserves benefit Maori?

1.2 Origins of Tenths Reserves Administration

The origins of reserves administration lay in the background to the conception and allocation of reserves. In other parts of the world, where reserves had been created, not all were administered. The decision to administer reserves was taken by the New Zealand Company:

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1. These include: David Armstrong and Bruce Stirling, 'A Summary History of the Wellington Tenths: 1839–88, Crown Law Office, 1992 (Wai 145 rod, doc c1), p 251; Duncan Moore, 'The Origins of the Crown's Demesne at Port Nicholson, 1839–1846' (Wai 145 rod, docs e3–5), pts 1–3; Neville Gilmour (Wai 145 rod doc a10); S P Quinn, 'Report on Wellington Tenths Reserve Lands'; M J Mitchell, 'Administration of Nelson Native Reserves' (Wai 102 rod, doc a6b)

1.2 Trust Administration of Maori Reserves, 1840–1913

Reserves for Natives are very common things: they have been going on for three hundred years, and have never done any good yet. They were made by the old colonies in America. . . . the effect of that has been to isolate the Natives from the whites, and preserve them in a state of barbarism. The Company, having paid great attention to this subject, came to the conclusion that if the inferior race of New Zealand can be preserved at all in contact with civilised men it can only be by creating in civilised society a class of Natives who would retain the same relative superiority of position which they enjoyed in savage life. They determined, therefore, if possible, to make a native aristocracy, a Native gentry, and for that purpose to reserve lands as valuable property.²

New Zealand Company ideals for the systematic colonisation of New Zealand rested heavily upon distinctive views of the fabric of social organisation drawn from Victorian England, namely a vertical class society. In seeking to establish the essential foundations for a stable and prosperous new colony, the company planned to emulate the existence of a landed class of gentry, both for European immigrants and for Maori. In 1837, the New Zealand Association outlined the concept of ‘tenths’ reserves to be set aside for Maori as a basic component of a systematic European colonisation of New Zealand. In 1839, the arrangement was adopted by the association’s successor, the New Zealand Company, and conveyed in the company’s instructions to Colonel Wakefield: ‘[a] “portion of land equal to one-tenth of the whole” shall be reserved by the Company and held in trust by them for the future benefit of the chiefs, their families and heirs “forever”.’³

The allocation of company lands and tenths reserve entitlements was made by a lottery system. In this respect, Maori tenths were treated little differently from the selection of new colonists’ lands. This situation reflected the official thinking of the New Zealand Company and Government at the time that the decision over which pieces of land to be reserved for Maori would not be made by Maori, but determined according to other imperatives.

In all cases, the company expressed the view that the real payment and implicit benefit for Maori in terms of the land purchases would derive from the reservation of land for them in proximity to European settlement. The company initiated its activities with three land purchases from Maori on 27 September, 25 October, and 8 November 1839. The first deed followed the terms mentioned in Wakefield’s instructions above. However, the two subsequent deeds with Ngati Toa at Kapiti Island on 25 October, and with Ngatiawa at Queen Charlotte Sound on 8 November, neglected to specify the extent of reserve lands allocated. Barrett’s

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2. R Jellicoe, ‘Report on Native Reserves in Wellington and Nelson under the Control of the Native Trustee’, AJHR, 1929, g-1, p 5
 3. ‘New Zealand Company Instructions to Colonel Wakefield, Principal Agent of the Company’, May 1839, cited in Alan Ward, ‘A Report on the Historical Evidence: the Ngai Tahu Claim’, May 1989 (Wai 27 rod, doc t1), p 75; see also the 1839 Wellington deed of sale in H H Turton, *Maori Deeds of Land Purchases in the North Island of New Zealand*, Wellington, vol ii, 1887, p 95

translations to Maori increased the misunderstanding.⁴ From the outset, there appeared a degree of confusion in the allocation of tenths reserves.

In late 1840, the Crown guaranteed a Crown grant to company lands. On the subject of reserve lands, the arrangement stated:

It being also understood that the Company have entered into engagements for the reservation of certain lands for the benefit of the natives, it is agreed that, in respect of all the lands so to be granted to the Company as aforesaid, reservations of such lands shall be made for the benefit of the Natives by her Majesty's government in fulfilment of, and according to the tenor of, such stipulations: the government reserving to themselves, in respect of all other lands, to make such arrangements as to them shall seem just and expedient for the benefit of the Natives.⁵

This agreement was formalised into the royal charter of incorporation granted to the company on 12 February 1841. Both the initial agreement and the eventual charter of incorporation established the role of the company as an agent of the Crown, in so far as it had been granted official responsibility for the administration of Maori reserves inside those lands comprising New Zealand Company settlements. In addition, the agreement expressed the Crown's intention to manage reserve lands on behalf of Maori and for Maori benefit.

1.3 New Zealand Company Administration

Even before the company had received Crown ratification for its actions in New Zealand, it directed the appointment of an official, Edmund Halswell, to oversee the allocation and administration of tenths reserves. The New Zealand Company secretary, William Hutt, was questioned about Halswell's position and duties before the Select Committee on the Colonisation of New Zealand. Hutt explained:

The Directors have appointed a gentleman, Mr Halswell, a magistrate of Middlesex, as commissioner for the management of those portions of land which the company have reserved for the benefit of the aboriginal inhabitants in that part of New Zealand where they [the company] have formed their first colony . . . It is proposed to create a trust for the administration of the lands, which are now very valuable.⁶

Following the select committee's prompt, Hutt announced that it was the company's intention to create a trust for the administration of the lands. The committee asked whether Halswell would seek Maori consent for the inclusion of land under Halswell's 'superintendence'. Hutt replied that:

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4. Cited in Alexander Mackay, 'Memorandum by A Mackay on Origin of New Zealand Company's "Tenths" Native reserves', AJHR, 1873, g-2b; see also Ann Parsonson (Wai 27 rod, doc p4), pp 29–31
 5. Vernon-Smith to Somes, 18 November 1840, Twelfth Report of the New Zealand Company, 26 April 1844, vol 1, (Wai 145 rod, doc a28), pp 85–8
 6. W Hutt to select committee, 24 July 1840, s 1096, GBPP, 1837–40, p 128

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the consent of the natives might possibly be asked; but there is no doubt that the natives would acquiesce without ceremony in a proposition which carried on the face of it an intention obviously beneficial to themselves.

It was further questioned whether the actual deed of trust would consist of an undertaking from all parties (settlers and Maori) to entrust the management to Halswell. Hutt's explanation stated simply that the trustees had yet to be appointed and that Halswell and eventually the trustees were all servants of the company. One member of the select committee raised the spectre that Halswell, as an agent of the company, could not represent a neutral trustee. Hutt dismissed the suggestion, however, by stating that:

in combining in his [Halswell's] person the duties of commissioner for the management of lands reserved for the natives, and of the servant of the company, they [the company] were taking a step which would carry their objects most beneficially into effect.

Halswell was appointed as 'commissioner for the management of the native reserves'. Later in October, the company issued instructions to Halswell, which outlined its reserves policy in further detail:

From the very commencement of its proceedings the Company determined to reserve out of every purchase of land from the Natives a proportion of the territory ceded, equal to a tenth of the whole, and to hold the same in trust for the future benefit of the chief families of the ceding tribes. The company did not, indeed, propose to make the reserves for the native owners in large blocks, as it has been the practice to make for the Indians in North America, because that plan tends to impede settlement, and to encourage savages to continue barbarous, living apart from the civilised community . . .

Such being the objects of the Company, the directors do not find it in their power to do more than to preserve the property by appointing a special officer to overlook it, as if it were the private property of the Company, but who will, of course, have no power whatever to alienate the same or any part of it . . . In managing the reserves you are to take into consideration the existing wants of the Native race and to point out those objects to which in your judgement the revenues of the reserves may be most fitly appropriated to the end of promoting the moral and physical well-being of the Native chiefs, their families and followers, to the utmost extent that these means will admit of . . . As the appropriation of land to purchasers proceeds it will become your specific duty to select an eleventh, or a quantity equal to one-tenth of the land appropriated from time to time to purchasers, as Native reserves. The directors desire to impress on you the importance of taking care, on such occasions, that the lands you may choose for the natives are the most valuable then open to appropriation.⁸

These guidelines are significant as they reveal some distinctive features of the company's approach to reserves administration, in particular, features which were

7. Ibid, s 1101, GBPP, 1837–40, p 128

8. New Zealand Company to Edmund Halswell, 10 October 1840, 'Appendix to Report from the Select Committee on New Zealand', GBPP, 1844, p 668

later inherited by successive administrations. At the time, the company defined its responsibility as no more than to preserve the property as though 'it were the private property of the Company'. This position established the idea that Maori reserves belonged to the company as its property, and not to Maori, as an ambiguous yet lasting precedent in the trust administration of reserves.

Halswell's instructions from the company re-emphasised the inalienability of reserved lands and stressed that reserves must be managed with the intention of benefiting Maori firmly in mind. An important part of this was the improvement of Maori 'moral and physical well-being'. The emphasis lay firmly on management, which included the payment of a financial annuity to Maori. European officials would manage revenue from reserves on behalf of Maori. Also, it was Halswell's responsibility to select lands from future land purchases to be allocated as Maori reserves.

On the strength of Hutt's testimony, it appears that the company was not concerned to consult with Maori over the formation of a trusteeship. Even so, before the company could institute a trust, administrative responsibility passed to the Crown.

1.4 Crown Administration, 1841

From the outset, the Crown looked to adopt the company approach to reserves. In August 1840 the Select Committee on the Colonisation of New Zealand made the following report:

That on all sales of land to be made by the Crown, and also in all cases of grants to be made under the special circumstances for which provision has been already suggested, reserves be made for the natives of a quantity equal to one tenth of the lands so sold or otherwise disposed of. Your committee are of the opinion that a plan of reserves, similar to that adopted by the New Zealand Company, would be attended with the most beneficial effects to the native race in New Zealand, and affords the best prospect of securing to them the benefits of civilisation. It appears highly desirable to create amidst the new colonial society, a class of natives who would possess the same relative superiority of position which they would have enjoyed in savage life, and who would not only be preserved from degradation themselves, but also be able to shield the inferior order of natives from wrong and oppression.⁹

Early the following year, the Crown made attempts to adopt the company approach as a model for the administration of reserves. As Alan Ward in his report to the Ngai Tahu Tribunal has noted, the company concept of 'tenths' was quickly overlaid by governmental control.¹¹ In early 1841, Halswell was appointed a Government Commissioner for Native Reserves as well as a Company Protector of Aborigines. His Government position was gazetted in May 1841.

9. 'Report of the Select Committee of the House of Commons regarding the Colonisation of New Zealand', 3 August 1840, GBPP, vol 1, 1837-40, pp ix-x

1.4 Trust Administration of Maori Reserves, 1840–1913

In arranging for the reservation of lands, the Government did not interpret ‘inalienability’ to prohibit the lease of reserves. And with the appointment of Halswell, the decision was made to lease some reserves, for the stated purpose of generating revenue to pay for administration. Hobson included Halswell in a committee with other officials, designed to oversee the lease of some of the reserves for up to seven years. This was changed again in April 1842, and Halswell was instructed to refrain from leasing disputed lands in Wellington.

The Chief Protector of Aborigines, George Clarke, issued Halswell with further instructions entitled ‘Respecting Management of Native Reserves’ on 28 September 1841.¹² Clarke notified Halswell that a committee had been established in order to preside over the acceptance of tenders. The committee comprised the following people: the chief magistrate (Murphy), the company protector (Halswell) and the Crown prosecutor for the southern district (Hanson). Clarke’s guidelines given to Halswell laid out the formal requirements for the lease of reserves:

The document alluded to has already instructed you that certain of the lands reserved by the New Zealand Company for the benefit of the aborigines at Wellington, shall be let on lease for periods not exceeding 7 years in the following manner:

You will forward an advertisement of all lands to be let, to this office, for insertion in the government gazette, at least one full month prior to the day fixed for leasing them, stating that tenders for renting the proportions of land therein described will be received by you on a certain day. This advertisement will also cause to be inserted in the local papers. Your advertisement will further state the terms on which the leases will be granted, namely, – quarterly payments of rent, and an advance on the first year’s rent in the shape of a fine equal to ten percent thereon . . . you will cause a schedule of the whole to be made, and forward them with your reasons for accepting or declining them, to this office together with a notice for insertion in the *Gazette*. You will pay into the hands of the Colonial Treasurer, every quarter, without deduction or delay, all sums received by you on account of the reserves.¹³

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10. Some origins of the Crown’s position on reserves can be found in a pamphlet prepared by Standish Motte, a prominent member of the Aboriginal Protection Society lobby in Britain. The pamphlet was entitled: ‘Outline of the System of Legislation for securing Protection to the Aboriginal Inhabitants of all Countries Colonized by Great Britain.’ Motte’s proposals specified ‘an adequate reserve of territory for the maintenance and occupation of the aborigines and their posterity’ to be vested in an Aborigines Board of Protection and inalienable, even by lease. The document also highlighted Maori needs in terms of education, training, and medical care. It proposed the establishment of a fund to cater for these objectives, quite separate from reserved lands. Instead of deriving this land from the aborigines’ occupation land, it was to come from an additional ‘five percent of the sum derived from the sale of crown lands’. Furthermore, all penalties incurred or land forfeited because of breaches of the protection laws were also to go to the fund and ‘in further aid, a certain amount of land in British colonies be at once set apart for the special purposes of the fund.’: pamphlet, pp 15–16, co 209/8, pp 426–441, NA, cited in Ward, ‘Report on the Historical Evidence’ (Wai 27 rod, doc t1), p 77
 11. Ward, ‘Report on the Historical Evidence’, p 76
 12. George Clarke to E S Halswell, 28 September 1841, encl 3, Turton, (Wai 145 rod, doc a26), p d-1
 13. Colonial Secretary to Halswell 24 December 1841, cited in Alexander Mackay, ‘Report on Native Reserves’, AJHR, 1873, g-2b, p 11

From these detailed instructions, it is apparent that a concerted effort was made to regulate leases. The revenue from leases was paid directly to the Colonial Treasurer, and credited as part of a ‘native trust fund’. A researcher in the Wellington tenths claim (Wai 145), Duncan Moore, has argued that unless the company had intended to pay the reserve rents directly to the rangatira, then there was little difference between Hobson and Clarke’s provisions and those maintained by the company: ‘They merely removed ultimate authority for the scheme’s management from the Company’s agent and director and gave it to the Crown’s Chief Protector and Governor.’¹⁴ Still, the use of the term ‘trust’ in the title of the fund raises the obvious issue: to what extent had the actual nature of administration changed to reflect a trusteeship? After the select committee’s inquisition, we might also question whether Maori were consulted about the formation of a trust, the appointment of particular trustees, the use of particular lands for lease, and the allocation of funds.

The Colonial Treasurer held the purse strings of the reserves’ fund. Hobson made early use of the potential income by arranging advances for particular purposes. As Moore has noted: Hobson approved advances of £210 to cover the salary of a medical officer and assistant; £10 for medicines; £20 for a raupo dispensary (ironically this was just prior to the Raupo Houses Ordinance 1842 which prohibited the construction of raupo dwellings inside cities); £15 for interpreting for the police magistrate; and £90 to operate the protectorate office. These expenses were ‘charged as a debt to the Colony from the Native Trust Fund, to be paid from its first receipts’.¹⁵

Confusion surrounded the apparent coexistence of two sets of administration. The overlap and contradiction were embodied in the position of Halswell, who, as protector for the company and the commissioner for the Crown, was required to submit dual reports in 1841 and 1842.

In Halswell’s first report on 29 November 1841, he stated that the management committee¹⁶ was in a state of deciding the first leases after receiving several tenders. The early discussion centred around Barrett’s lease of a native reserve section at Pipitea (town acre 514). Barrett had obtained preferential use of the land through his marriage to Te Wharepouri’s daughter Rawinia. He erected a hotel on the site, which quickly fell into¹⁷ debt, and by mid-1841, creditors sought the hotel and rights in the reserve land. Barrett requested the reserves committee to secure his right to lease the land. However, the committee’s position was immediately threatened, as one member of the committee, R D Hanson, was also one of the hotel’s creditors. Hobson intervened and adjudged that:

The allotment on which Barrett stands is purely a Native reserve and was given to Barrett by Colonel Wakefield on the plea of his having married a native woman . . . My intention is not to expose to public competition the allotment on which Barrett’s

14. Wakefield to Directors, 11 February 1842, co 208, pp 48–49 (Wai 145 rod, doc e3), p 137

15. Shortland to Halswell, 24 December 1841, ia 4/271, pp 34–35 (Wai 145 rod, doc e3), p 137

16. Ibid, p 138

17. Julie Bremner, ‘Barrett’s Hotel: The Victorian Rendezvous’, *The Making of Wellington*, 1990, p 153

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hotel is situated, but whoever holds the hotel may pay an equitable ground rent for the benefit of the Natives.¹⁸

Halswell's second report to the Government on 17 February 1842 confirmed that Barrett's lease was Maori reserve land. He also commented on the difficulty of obtaining investors interested in leasing Maori reserves for only short periods of seven years. Halswell was instructed in April 1842 to refrain from further leases, partly as a result of problems associated with Barrett's lease, but also as a result of a more general level of confusion surrounding the nature of administration.

A critic of this earliest Crown administration, Crown prosecutor R D Hanson, was quick to highlight what he saw as two essential injustices in the reserves scheme. First, Hanson held the nature of the original purchases as unjust. In addition, he felt the style of administration forced Maori into a position where they would have neither residences, nor cultivations 'without an abandonment, not merely of their present habitations, but of their present modes of life'.¹⁹ He saw the only options of redress in legislation. Solutions would need to allow Maori the right to choose their own reserves as sites for occupation, something which would not 'harm' Pakeha settlement necessarily.

1.5 Shift of Administration, 1842

On 27 July 1842, Lieutenant-Governor Willoughby Shortland replaced Halswell and the existing commission with a formal reserves trust.²⁰ He vested authority for the administration of Maori reserves in three individuals, the chief justice (Sir William Martin), the Protector of Aborigines (George Clarke), and Bishop Selwyn. Shortland explained the purpose to Clarke a day earlier:

With a view to the most efficient administration of this property for the benefit of the Native race, it appears desirable that all the reserves so made, or to be made, by the New Zealand Company, and any moneys which may prove from time to time to be disposable out of funds so to be set apart, after defraying the expenses of your establishment, should be vested in one set of trustees possessing the confidence of Government and the New Zealand Company.²¹

Shortland's actions signalled the beginning of a formal trust administration of Maori reserves. Again, however, Maori do not appear to have been consulted over the formation of a trust, and other problems were to emerge. Hobson died soon afterwards in September 1842, and Shortland (the Acting Governor) declined to

18. Hobson Memorandum, nd, ia 1, p 329 (Wai 145 rod, doc e3), p 140

19. Hanson/Society for the Protection of Aborigines, 24 May 1842, *Extracts from the New Zealand Gazette and Wellington Spectator*, p 27, (Wai 145 rod, doc e3), pp 154–155

20. Duncan Moore provides a detailed narrative account of the changes in administration. Refer Duncan Moore (Wai 145 rod, doc e3), pp 144–148

21. Colonial Secretary to Chief Protector, 26 July 1842, encl 9, Turton (Wai 145 rod, doc a26), p d-3

formalise the new arrangement. Shortly after, the chief justice resigned from his position due to an apparent conflict of duty.

Administration continued, in spite of a lack of legislation. In each area the Crown appointed a local agent to assist the trustees. Henry St Hill was appointed to Wellington, while J T Wicksteed and Henry Thompson filled positions in Taranaki and Nelson, respectively. Thompson, in his other capacity as resident magistrate for Nelson, was a major protagonist and, ultimately, a casualty of an attempt to arrest Te Rauparaha at Wairau in 1843. Alexander MacDonald of the Union Bank of Australia assumed the Nelson position until January 1845. In each case, the nature of the administrative arrangements appears to have been haphazard, owing to a general level of confusion among the trust members, and, as Hanson had highlighted, the uncertain status of the reserve titles themselves. An example of the misunderstandings surrounding administration was mentioned by Wicksteed in a letter to William Wakefield in 1844: 'I believe nothing has been done to cure the defect in the Bishop's powers, which is of itself sufficient to stop advantageous leasing of the reserves.'²²

Despite issuing general directions to Thompson in 1842, in the absence of a legislative²³ sanction, the bishop himself appeared uncertain of his ongoing authority. In 1843, he complained that he had:

received no other authority than the official letter of the late Governor, and that all agreements entered into by him, or agents under his authority,²⁴ must be subject to the provisions of an Ordinance in Council hereafter to be enacted.

From 1842 to 1848, only five official leases were entered into.²⁵ Claimant historian Neville Gilmore has concluded that the:

reserve scheme, pushed by the Company as an important element of its scheme of colonisation, was rendered ineffectual largely by ineffectual government administration. . . . The balance of the town lands was either alienated without official consent or lay fallow.²⁶

Our concern here is not to expand at length on the intricacies of the administration of a few reserves, but to draw out the origins of administration.

22. J T Wicksteed to Colonel William Wakefield, 22 January 1844, encl 11, Turton (Wai 145, rod, doc a26, d-4)

23. Bishop of New Zealand to H A Thompson, 6 September 1842, encl 2, in Mackay, 'Papers Relative to Native Reserves in the Southern Island', *Compendium*, vol 2, pp 267–268

24. Selwyn Report, 28 February 1846, g-19/1, pp 38–46, cited in Wai 145 rod, doc e4, p 309

25. These sections were: Barrett's lease (as already mentioned); Section 636 on Tinakori Rd; reserves 6 and 7 in the 'Town district' and section 26 Ohiro. These sections returned a total lease of £79 5s: Wai 145 rod, doc a11, p 255

26. Neville Gilmore, 'Evidence' (Wai 145 rod, doc a11), p 57

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1.6 Confusion over the Status of Tenths Reserves

Much of the early administration was confounded by levels of confusion surrounding the status of reserves and the Government's policies of allocating reserves, something outside the scope of this report. The issues are raised in more detail within specific claim inquiries in Wellington and Nelson. Still, it is useful to touch upon the existence of confusion and explore the extent to which it influenced administration, and was, in turn, influenced by the absence of formal statutory directions from the Government.

Essentially, confusion arose out of the confluence of trust and Government approaches to the allocation of reserves. As mentioned earlier, the company envisaged tenths to be for the benefit of the leading families. The Crown, by contrast, sought revenue from reserve leases, providing that 'essential lands were to be exempted altogether' from the original sale or inclusion within an administrative scheme.²⁷ According to Ward, 'both purposes were miles apart from Maori concern to retain direct control of their most valued lands, either for traditional usages or for their own commercial arrangements'.²⁸

In the transition from company to Government administration, confusion arose as to whether tenths reserves were intended as a site of occupation or as a form of endowment. This ambiguity weighed heavily upon potential administration. In allocating reserves, the company selected some reserves on sites already occupied by Maori. Such allocations contradicted the Crown's policy to exempt places of occupation (essential lands) from sale completely. Yet once the company had made early reserve allocations, the Crown was unable to remedy the situation easily.²⁹ And, as a result, administration became complicated by the existence of two sets of standards, one applied over the other.

In the example of the Nelson reserves, Grant Phillipson comments that confusion 'persisted well into the 1840s and prevented the establishment of the tenths on a sound basis for the performance of either of these functions [endowment or occupation]'.³⁰ The trustees themselves appeared more than aware of the deficiencies, as Bishop Selwyn noted in 1845:

The general decline of the settlements 'made it difficult to let lands upon lease' and there was an original ambiguity in the whole plan, by which it was left uncertain whether the reserves were for the actual occupation of the Natives, or intended to be let to English settlers, and the proceeds to be applied to the maintenance of Native institutions.³¹

27. Moore, (Wai 145 rod, doc e4), p 304

28. Alan Ward, 'Draft Report on the Legal and Administrative Regimes Affecting the Porirua and Petone Reserves', research report for the CCJWP (Wai 145 rod, doc a44), pt b, p 3

29. Refer also to Nelson examples, Mitchell, 'Administration of the Nelson Native Reserves' (Wai 102 rod, doc a6b), pp 14–15

30. Dr Grant Phillipson, *The Northern South Island*, 2 pts, Waitangi Tribunal Rangahaua Whanui Series (working paper: first release), June 1995, pt 1, p 112

31. Cited in Alan Ward, 'Draft Report on the Legal and Administrative Regimes Affecting the Porirua and Petone Reserves', research report for the CCJWP (Wai 145 rod, doc a44), pt b, p 3

In the mid-1840s, two attempts were made to clarify the categorisation of reserves through the Spain commission and McCleverty awards. Neither achieved this object, and, in the continuing absence of definitive legislation, a certain degree of confusion remained.

1.7 Spain Commission

Actions and events in Nelson demonstrated ongoing difficulties with the allocation and administration of reserves. Land Claims Commissioner William Spain's assessment of the company's claims in the Nelson region revealed that in common with the company's activities in Port Nicholson, the larger portion had not been alienated and that Maori did not consent to alienate pa, cultivations, and burial grounds.³² Spain made the final award for Nelson:

saving and always excepting as follows: All the pas, burying places, and grounds actually in cultivation by the Natives, situate within any of the before-described lands hereby awarded to the Company as aforesaid, the limits of the pas to be the ground fenced in around their native houses including the ground in cultivation or occupation around the adjoining houses without the fence . . . and also excepting all the native reserves upon the plans hereunto annexed . . . the entire quantity of land so reserved for the Natives being one-tenth of the 151,000 acres hereby awarded to the said Company . . .³³

Spain's decision reinforced the Crown's distinction between areas of Maori occupation (essential lands to remain in customary title) and the 15,100 acres of tenths (elevenths) reserves as endowments.

For all that, in many cases Spain's awards were paid only weak adherence. This was well demonstrated by the examples of reserve allocations in the Nelson and Golden Bay areas.³⁴ The Crown's failure to properly and consistently direct the establishment of reserve lands can be considered both a cause of and a product of an ineffective trust administration. In the example of the Nelson rural tenths, the Crown attempted to remedy what Spain found to be a shortfall in the number originally allocated. It duly proposed that reserves set aside in the Crown's 1847 Wairau Valley purchase would compensate for the original shortfall. Yet, despite the plan, without adequate administrative protection these reserves were subsequently purchased by the Crown in 1853 and 1854.

Alexander Mackay later appraised the damaging effects of losing land intended for tenths reserves upon the evolving trust administration. In an 1877 report on native reserves at Nelson and Greymouth, he argued:

32. William Spain to Shortland, 12 September 1843, 'Report of Mr Commissioner Spain', encl 2, GBPP, 1844, vol 2, pp 291–307

33. William Spain, 'Report', encl in FitzRoy to Stanley, 8 April 1846, cited in Jellicoe, AJHR, p 29

34. Phillipson, pp 116–125

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The Trust estate would have been in a much better position now to meet the numerous demands upon it had care been taken in the early days to secure for it the full complement of land contemplated by the scheme of the New Zealand Company . . . It will be seen by the foregoing particulars that a loss of fully £3000 per annum has occurred owing to the several circumstances that have interfered with the interests of the Trust estate since the commencement of the Nelson settlement.³⁵

1.8 Native Trust Ordinance 1844

FitzRoy replaced Shortland as Governor in 1843. Once aware of the confused and informal nature of existing trust arrangements, FitzRoy sought to legislate. In 1844, he ceased to recognise the existing trustees and introduced a native trust Bill to the Legislative Council. The Bill was passed as the Native Trust Ordinance 1844, and it represented the first piece of official trust legislation. Its enactment signalled a desire on the part of the Government to tidy up the loose and inefficient state of reserve administration, highlighted in previous criticisms, for example those of Bishop Selwyn.

The preamble to the ordinance reveals the objectives as part of a broader aim of ‘beneficial colonisation’ through assimilation. Indeed, it was one of the earliest statements of Government policy towards Maori in terms of assimilation and amalgamation:

And whereas great disasters have fallen upon uncivilised nations on being brought into contact with colonists from the nations of Europe, and in undertaking the colonisation of New Zealand Her Majesty’s Government have recognised the duty of endeavouring by all practical means to avert the like disasters from the Native people of these Islands, which object may best be attained by assimilating as speedily as possible the habits and usages of the Native to those of the European population. And whereas provision hath been made for the appropriation of certain lands and moneys for the purposes aforesaid, and it is expedient, for the better administration of the said lands and moneys, that Trustees should be appointed in whom the same shall be vested.³⁶

Previous trustees were absorbed into a larger panel of trustees created under the Native Trust Ordinance. FitzRoy gave little recognition to the earlier existence of trustees. The new trustees were known as trustees ‘for Native Education and Improvement in New Zealand’. Five were appointed, including: the Governor; the Attorney-General; the bishop of New Zealand; William Spain as Land Claims Commissioner; and the Chief Protector of Aborigines.

Lands to be administered under the terms of the ordinance were outlined in section 5:

35. A Mackay, ‘Report on Native Reserves in Nelson and Greymouth’, 6 August 1877, AJHR, 1877, g-3a, p 1

36. Preamble, Native Trust Ordinance Act 1844

The property real or personal which shall from time to time be granted conveyed devised bequeathed or given to ‘The Trustees for Native Education in New Zealand,’ shall be holden by them upon the trusts hereinafter declared.

The ordinance further specified the uses of the reserves under trust administration (s 5):

Upon trust that the said Trustees shall apply the rents issues and proceeds thereof in the establishment and maintenance of schools for the instruction of the Native people in the English language, and for a systematic course of industrial and moral training in English usages and English arts, and in the providing for the relief of the sick, and generally in such a way as may be most conducive to the bodily and spiritual welfare of the Native race and to their advancement in the scale of social and political existence; such schools, provision for the relief of the sick, religious instruction, or other advantages, not being exclusively confined to persons of one particular religion.

While the ordinance borrowed on practices already used in the administration of lands, it established features which would be found in later legislation. All property was vested in the trustees. In turn, the trustees were granted authority to lease or exchange lands. Section 7 stated:

It shall be lawful for the Trustees for the time being to let the same or any part thereof upon lease of any nature and upon any such conditions as to the Trustees may seem fit, for any term not exceeding ninety-nine years, to take effect in possession, at the best yearly rent that can reasonably be gotten for the same, without taking any fine or premium for the making of such a lease.

At the same time, provisions were included to protect reserves from mortgage and eventual alienation (s 6):

And whereas it is desirable that all property real or personal which shall be at any time granted or conveyed devised bequeathed or given to the said Trustees upon the trusts hereinbefore declared, shall remain vested in the said Trustees for the time being free from any charge or encumbrance whatsoever, and be managed laid out and invested by them in such manner as that the best yearly income which can be reasonably be made to arise therefrom may be available for the purposes of this Ordinance.

The Native Trust Ordinance received royal confirmation. Governor Grey, however, after taking over from FitzRoy in November 1844, refused to gazette the Ordinance and thereby denied its implementation. The Native Trust Ordinance, in common with other early enactments, included a clause (s 28) stating its own terms of implementation:

This Ordinance shall not come into operation until it shall have received the Royal confirmation, and until such confirmation shall have been notified accordingly in the *New Zealand Government Gazette* by order of His Excellency the Governor of New Zealand for the time being.

1.9 Trust Administration of Maori Reserves, 1840–1913

While the first of the requirements was fulfilled, the second was not. And, therefore we might conclude that the ordinance did not become an active law of the land, where it otherwise might have.

Some early commentators explained the failure to implement the ordinance as due to sectarian differences over the planned form of the religious instruction.³⁷ The failure to implement the Native Trust Ordinance proved ultimately detrimental to reserves administration. Still, it is debateable whether the ‘lapse of effort meant that there was no agency to take responsibility for the management of the reserves’, as the Crown Congress Joint Working Party maintains.³⁸ Either way, no further legislation for the administration of Maori reserves was introduced until 1856.

1.9 Mid-1840s Administration

After the failure to implement the 1844 ordinance, and the earlier dissolution of the trust, no further action was taken to substitute other formal arrangements for the administration of reserves:

The trustees who were nominated, however, gradually ceased to act at all, and in the meantime many partial arrangements had been entered into with settlers for the occupation of portions of reserves, but, as these arrangements were not legally binding, the agreements were either kept or not, as best suited the interests of the occupants, and very few rents were paid.³⁹

We might characterise this period as a hiatus in administration.⁴⁰

Later, Selwyn criticised the condition of reserve administration:

By this [Native Trust] Fund, we hoped that schools, hospitals, hostelries, would be built; that every useful art would be taught; every habit of civilisation introduced; and the whole social character of the people changed for the better. As one of the first trustees of Native reserves and Funds, I am sorry to be obliged to report that not one of these objects has been accomplished; or rather, that not one has ever been attempted.

When Governor Hobson appointed the Chief Justice and myself as joint Trustees of the Native Funds, he acknowledged to me that a balance of four thousand pounds (£4000) was due to the Natives, being the surplus of 15 percent upon the produce of the land sales, after payment of the Protector’s Establishment.

This sum, he said, had been swallowed up in the necessary expenses of the colony; though the instructions were imperative that the surplus ‘must’ be invested. It was

37. Later in 1873, when similar problems affected reserves legislation, Walter Mantell explained that the 1844 Ordinance had lapsed due to sectarian differences: Mantell, 26 August 1873, NZPD, 1873, p 622; see also Jellicoe, AJHR, 1929, g-1, p 35.

38. Robyn Anderson, ‘Historical Overview of Wellington Region’, *Crown Congress Joint Working Party Report on Wellington Lands*, 1993, p 66

39. R Jellicoe, ‘Native Reserves in Wellington and Nelson under the control of the Native Trustee’, AJHR, 1929, g-1, p 35

40. Refer Phillipson, p 113

suggested: first, that Colonial Interest, and then that English Interest, might be allowed to the Credit of the Trust: this he said could not be guaranteed; but that a grant of £200 should be made to enable the trust to commence its operations.⁴¹

Selwyn's comments bear out the reality that trust administration was bound by the Government's heavy economic constraints in the 1840s.

1.10 Administration under Grey, 1846–52

The task of maintaining administration in the interim might have passed to George Clarke as Native Protector. Yet, Grey effectively abolished the protectorate as he jettisoned the approaches followed by FitzRoy in favour of his own more forcefully direct approaches. Grey's reserves policy leaned heavily towards incorporating Maori into the mechanics of the State. The earliest evidence of this approach was in his personal momentum for the establishment of schools and hospitals which would serve not only Maori but also Europeans, for example, the Education Ordinance 1847. Still, Grey's approach to Maori reserves was clouded by continued confusion over the status of tenth's reserves. Crown researchers for the Wellington tenth's claim, Bruce Stirling and David Armstrong, verify this point:

The confusion surrounding the ultimate disposal of the Company's reserves; ie whether they were there to serve as occupation or endowment land, also seems to have affected Grey's perception of the issue.⁴²

1.11 McCleverty Awards, 1847

The Colonial Office responded to Grey's concerns about the status and administration of Maori reserves by commanding Lieutenant McCleverty to conduct the adjustments and award Crown grants to reserves assigned to Maori. McCleverty's awards in 1847 again forged the distinction between lands for Maori occupation to remain in customary ownership and the tenth's reserves vested in the Government.⁴³ The confusion between Crown and company views of reserves continued to some extent until the New Zealand Company went into receivership in 1851. An example of contrasting views of the status of reserves was the Attorney-General Daniel Wakefield's opinion in 1850 that native title remained unextinguished over an unassigned reserve since it had never been purchased, and

41. Selwyn Report, 28 February 1846, Governor Series 19/1, pp 34–8 (Wai 145 rod, doc e3), p 146

42. David Armstrong and Bruce Stirling, 'A Summary History of the Wellington Tenth's: 1839–88', Crown Law Office, 1992 (Wai 145 rod, doc c1), p 251. Grey expressed his views on the situation facing Maori reserves in Port Nicholson in a memorandum to the Colonial Office. He indicated that the first step towards clarifying any confusion should be the definition and surveying of reserve lands: Grey to Coates, 14 September 1846, GBPP, 1847, pp 610–612.

43. A claimant historian states that the McCleverty awards created two classes of native reserves: S P Quinn, (Wai 145 rod, doc e13) p 8

1.12 Trust Administration of Maori Reserves, 1840–1913

therefore, the Crown's administrative control was constrained.⁴⁴ However, none of the McCleverty awards was brought under trust administration.

1.12 Reserves Management

After 1845, the administration of Nelson tenths reserves stalled. Between January 1845 and 1848, the Government failed to administer reserves in any official sense. On 18 February 1848, the superintendent of Nelson, M Richmond, complained to the Colonial Secretary about the condition of the trust reserves in Nelson:

On looking into the affairs of the Native Reserve Trust of this settlement, I regret to say that I find them in an unsatisfactory state, nothing appears to have been done or anyone authorised to act since Mr McDonald gave up the charge in January 1845. The result is that there are rents and moneys due, sums to pay, the Native Hostelrys fast crumbling to ruins, and land both in the town and country, from which a revenue might be derived lying waste.⁴⁵

We must not view Maori as simply passive victims of Government indecision over reserves. Newspaper reports in the *Nelson Examiner* demonstrated that Maori managed their own reserves:

so deranged was the trust which had been appointed to take charge of this property, that nothing was done with it, and the Natives at the Motueka undertook, in several instances, to lease and sell parcels of the reserves in that district on their own account . . .⁴⁶

We should note that the Native Land Purchase Ordinance 1846 had already prohibited Maori from leasing tenths land to anyone, including other Maori, without a grant or permission from the Government.⁴⁷

In 1848, amidst calls for the regulation of Port Nicholson and Nelson reserves, Lieutenant-Governor Eyre directed Alfred Domett to gazette the termination of the former trusts of native reserves in favour of newly constituted 'boards of management' in Nelson and Port Nicholson. Eyre explained the need for a new administration:

The Trustees who were nominated however having found many obstacles to the execution of their Trust gradually ceased to act at all and at last formally resigned: in the meanwhile many private arrangements were not legally binding, the agreements were either kept or not as best suited the interests of the occupants and very few rents

44. Attorney-General Statement, 17 July 1850, o/c 1/1041, cited in Wai 145 rod, doc a37, p 35

45. Superintendent of Nelson to Colonial Secretary, 18 February 1848, cited in Mackay, *A Compendium of Official Documents, Relative to Native Affairs in the South Island*, vol 2, 1873, p 273

46. *Nelson Examiner*, nd (Wai 102 rod, doc a6b), p 28

47. 'An Ordinance for the prevention, by summary proceeding, of unauthorized purchases and leases of land': Native Land Purchase Ordinance, 16 November 1846.

were ever paid. This state of things being most unsatisfactory and having from various causes continued for a considerable length of time.⁴⁸

Colonel McCleverty, Henry St Hill, and Justice Chapman were appointed to administer Port Nicholson reserves, while Poynter, Carkeek, and Tinline constituted the Nelson board of management.⁴⁹ Eyre issued instructions for the new boards of management on 15 June 1848. These guidelines corroborated Grey's views of the public ownership of reserves. The Government would retain control of the reserve lands in its own hands, acting on the advice of the boards of management, without Maori input.⁵⁰

Eyre's 24 June memorandum outlined the proposed work of the boards of management. As noted elsewhere, Eyre argued against the formation of an inalienable trust. Instead, tenths reserves were placed under the direction of members of a board of management. Managers were not charged with the responsibility of protecting the lessors in the same way as trustees. Influential in Eyre's decision was the need to make provision for essential public acquisition of tenths reserve lands:

circumstances have made it desirable that in some instances total alienation of the land should be sanctioned, as for ordinance purposes, to provide sites for hospitals, for churches, for public offices, or for other indispensable objects of general and public utility: the government having no land left in the province of New Munster available for such important and available [sic] purposes . . . It may fairly be assumed, therefore, that it would only be reasonable and just that the Government, having done so much for the Natives, and being left without any lands whatever to appropriate to public objects, should reimburse themselves from the lands originally set apart as reserves to be formed for the benefit of the Natives.⁵¹

As a forerunner to public works acquisitions, a number of tenths reserve lands were taken for ostensibly 'public' purposes. The situation was pronounced in Wellington's case. Duncan Moore has noted, in reply to Crown assertions in the Wellington tenths claim:

With this [generosity] as its basis of claim, in the early 1850s, the Crown granted away many of the most valuable [in the present context] Native reserves to Wellington Hospital, Wellington College, and to Wellington Cathedral; it used rents on Native reserves at Wellington to compensate colonists for removing from disputed lands at Taranaki, and it sliced pieces off Native reserves at Wellington to round-off neighbouring colonists' grants.⁵²

48. Eyre to Colonial Secretary, 13 June 1848 (Wai 145 rod, doc a40), pp 191–192

49. Wai 145 rod, doc a40, pp 191–192

50. Eyre to Domett, 15 June 1848 (Wai 145 rod, doc a40), p 317

51. Eyre to Domett, 23 June 1848, 'Memorandum Relative to the Native Reserves', encl 2, in no 13, Mackay, *Compendium*, vol 2, p 279

52. Duncan Moore (Wai 145 rod, doc e3), pt 1, p 11

1.13 Trust Administration of Maori Reserves, 1840–1913

On 6 October 1848, Colonial Secretary Domett issued directions to the commissioners on the boards of management directing the lease and sale of any reserved lands. Domett remarked, however, that the initiative to sell and lease lay with the Maori owners. Government involvement began after Maori had made a decision to sell or lease the lands and had approached the Native Secretary for that purpose. Domett listed further concerns to be exercised in these cases:

The Government are willing to accede to their wishes and allow of their either letting or selling lands which are in their possession, subject to the following conditions: First, that the Government is satisfied that the land proposed to be parted with is not necessary for themselves; secondly, that the arrangements or terms to be made are such as meet the approval of government; thirdly that all money received for lands sold shall be paid to the Government and reinvested in such lands elsewhere as the Natives may desire to have, instead of those sold; fourthly, that leases be made for short periods only, and due security given for punctual payments of the rents, which may be received by the Natives themselves . . . His Excellency will feel obliged by your undertaking the general superintendence and direction of any such transactions upon the principles laid down in the foregoing conditions.⁵³

Despite the absence of trusteeship, Domett's instructions convey a sense of fiduciary duty. This early recognition of Maori rights to decide the direction of administration for each reserve was significant, though this ought to be measured against practice in the cases of individual reserves in order to establish whether boards of management operated in this manner.

All reserve finances were delivered to the Colonial Treasurer. Once deposited, all costs of administration were defrayed from a native reserve fund held by the Colonial Treasurer.⁵⁴

1.13 Boards of Management, 1850–56

Detailed studies of individual administrations lie outside the scope of the present report. Bearing this in mind, the following section examines general administrative practice in order to question whether the above provisions for management boards were followed.

Studies of the board's management of the Wellington tenths have focused on the acquisition of urban tenths land for public purposes as proof of ongoing mismanagement. After Moore, researchers have closely⁵⁵ examined Crown claims of previous generosity as a justification for acquisition. Quinn, for example, argues the claimants' position in the Wellington tenths claim: 'this settlement was not

53. Domett to Native Reserve Commissioners, 6 October 1848, encl 21, in H Turton, *An Epitome of Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, vol 2, Wellington, 1883, p d-14 (Wai 145 rod, doc a26)

54. Alfred Domett to Native Reserve Board, 26 December 1850, encl 26, in H Turton, p d-16 (Wai 145 rod, doc a26)

55. Moore, vol 1, pp 10–11

generous because the 1846–7 award of these items was not anything which Maori had not already been granted in the 1844–6 settlement.’⁵⁶

Given the apparent absence of Maori complaint against the board’s administration in Wellington, Quinn further suggests that Maori only protested instances where the Crown interfered with the management of McCleverty reserves assigned to particular hapu – tenths reserves were expected to be administered on their behalf by the Crown in trust.⁵⁷ He indicates that reserves management proceeded on the assumption that the Crown was able to administer Maori lands better than Maori could, but still, he shows that no Maori complaints survived in the written record. Certainly, if Domett’s instructions were followed and Maori were offered first decision over their reserves, it is arguable whether Maori would have protested at all. From this we might conclude two points. First, Maori had been informed that a trust would manage the tenths reserves on their behalf. Secondly, in order to ascertain whether Maori did contest Crown claims of management of the trust, a much more detailed search of surviving sources is required.

Other research in the Wellington tenths inquiry has demonstrated that boards of management leased some of the Wellington reserved lands at below market rents. Patricia Berwick cites examples of Pipitea and Mount Cook reserves leased during the early 1850s ‘at a nominal or peppercorn rental’.⁵⁸ Berwick claims these examples represent leases tailored for European lessees at the expense of the Maori ‘beneficial’ owners. As a consequence, the rental incomes were unable to meet the accumulated costs and hence provided Maori lessors with no financial return to repay any debts. This is a significant charge against the original pledge of trust administration for the beneficial owners.

Similar tight pecuniary restrictions were imposed on the Nelson tenths reserves. In December 1849, Domett instructed Richmond:

With regard to any expenses connected with the administration of the Native Reserve Estate, His Excellency observes that it will be absolutely necessary that they be met in all cases by the receipts of the Trust, and not try the advances of the General Revenue . . . The one great point to bear in view being that until the debts and liabilities of the Trust are provided for no works of utility or improvement ought to be undertaken.⁵⁹

In Nelson, there were fewer public acquisitions,⁶⁰ and the nature of the administration appears more ‘trust-worthy’. For example, in one case, the Nelson

56. Quinn, pp 4–5

57. Quinn, p 23. Here there is inconsistency in Quinn’s arguments.

58. Patricia Berwick, ‘The Trusteeship and Administration of the Tangata Whenua Reserve Lands of Whanganui-a-Tara’ (Wai 145 rod, doc e10), p 13

59. Colonial Secretary to Superintendent of Nelson, 12 December 1849, encl 22, Mackay, *Compendium*, pp 282–283

60. Indeed, Richmond the Resident Magistrate referred to the administration as a ‘Board of Trust’, although he was alone in this practice: for example, Richmond to Colonial Secretary, 23 April 1849, encl 18, Mackay, *Compendium*, p 281.

1.14 Trust Administration of Maori Reserves, 1840–1913

board of management declined the request of⁶¹ the New Zealand Company agent for the exchange of a tenths reserve in Motueka.

In 1853, management of Nelson tenths reserves was transferred from the board to a single individual, the Commissioner of Crown Lands, Major Richmond. During this changeover of administration, Governor Grey granted a large area of 918 acres 5 perches of tenths reserves at Motueka to the bishop of New Zealand for the purpose of a school. Thomas Brunner, chosen to select the Whakarewa lands in 1854 (and later a trustee under the Native Reserves Act 1856), denounced the action as a breach of the Treaty.⁶² Yet the bishop's grant remained. After 1853, the provision of a single Commissioner of Crown Lands represented a loose attempt to provide for trust administration.

We might make some general observations on the nature of administration provided by the management boards from 1848 to 1856. From the evidence cited, in particular Eyre's instructions for the establishment of the boards, there were obvious weaknesses in the mode of administration proposed and practised. This failure to provide effective trust administration ran counter⁶³ to earlier promises to Maori regarding the formation of a trust administration. Domett's instructions provided for Maori consultation on administration, yet without a case-by-case study of individual reserves, it is difficult to conclude whether this eventuated.

1.14 Conclusions

The early period from 1840 through until 1856 was notable for its failure to implement effective legislation which could guide the trust administration of Maori reserves. Having stated this, it should be questioned whether legislation was an essential prerequisite for trust administration. From the origins of the Crown's involvement in reserve lands, it expressed a conviction that a trusteeship was essential in order to administer Maori reserves effectively. Furthermore, under Shortland and FitzRoy, the Crown attempted to progress trust administration without legislation. Yet the efficacy of trust administration was compromised by the lack of administrative support, in particular, the unavailability of funds to pay for the administration. Grey rejected FitzRoy's Native Trust Ordinance and sought to pursue a more domineering approach, which culminated in the rejection of trust administration in favour of boards of management. Alan Ward has commented: 'During the 1840s and 1850s, the administration of the tenths was characterised by

61. Mitchell (Wai 102 rod, a6b), p 31; refer also Management of Native Reserves to Superintendent, 16 August 1849, Mackay, *Compendium*, vol 2, p 282

62. Mackay's *Compendium*, vol 2, p 304. Mackay himself hazarded the following incrimination: 'It would appear that the grant by His Excellency to the Bishop of New Zealand, of certain portions of the trust Estate at Motueka as an endowment for an industrial school, was made about the time that the Board of Management ceased to exist, and immediately before the writs for our constitutional Government were returned, and just on the expiration of the Governor's power to make them': Mitchell, p 32.

63. Refer to earlier select committee discussion. Also claimant researcher Moore mentions pledges made to Maori respecting reserves, pp 14, 163.

inaction, confusion and ad hoc arrangements as the Company concept was reworked and overlaid by government.⁶⁴

We also need to assess if early reserves administration provided benefits to Maori. Trust administration appears to have occurred without consultation with Maori. In the confusion surrounding the allocation and recognition of the legal status of reserves, reserves were sometimes chosen for Maori in unfamiliar locations and leased out to Europeans without Maori involvement, while Maori themselves were forbidden under the Native Land Purchase Ordinance 1846 to lease their own lands, except with the endorsement of the Crown. Ironically maybe, the boards of management offered more administrative involvement to Maori, although it is difficult to discern whether this was realised in practice.

Administration fluctuated between trusteeship and management, and it was not until 1856 that the form of reserves administration was formalised in legislation and implemented.

64. Alan Ward, *A Show of Justice: Racial 'Amalgamation' in 19th Century New Zealand*, revised edition, Auckland, Auckland University Press, 1995, p 88

