1951

NEW ZEALAND

REPORT OF ROYAL COMMISSION APPOINTED TO INQUIRE INTO AND REPORT UPON MATTERS AND QUESTIONS RELATING TO CERTAIN LEASES OF MAORI LANDS VESTED IN MAORI LAND BOARDS

Laid on the Table of the House of Representatives by Command of His Excellency

Royal Commission to Inquire Into and Report Upon Matters and Questions Relating to Certain Leases of Maori Lands Vested in Maori Land Boards

GEORGE THE SIXTH by the Grace of God, of Great Britain, Northern Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved Counsellor, SIR MICHAEL MYERS, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, and to Our Trusty and Well-beloved subjects HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS in respect of divers tracts or portions of Maori land now vested in certain Maori Land Boards under and subject to the provisions of Part XIV and Part XV of the Maori Land Act, 1931 (hereinafter referred to as the vested lands), leases have heretofore been granted which, amongst other things, confer upon the respective lessees, on the termination, by effluxion of time, of the leases or of any renewals thereof, rights to compensation for certain improvements

put upon the lands during the continuance of the respective terms and which are in existence or which are unexhausted on the termination thereof:

And whereas, many of the leases of the vested lands being about to expire, doubts have arisen touching the efficacy and justice of the existing provisions of law and the provisions of the leases aforesaid so far as they relate to the ascertainment of the amount of compensation payable to the lessees, the manner in which the liability for compensation shall be discharged, and otherwise:

And whereas the Government desires inquiry to be made into the matters and questions hereinafter set forth to the end that what is right, just, reasonable, and equitable shall be done as well to the beneficial owners of the vested lands as to the lessees thereof:

Now know ye that We, reposing trust and confidence in your impartiality, knowledge, and ability, do hereby nominate, constitute and appoint you, the said

Sir Michael Myers,
Hubert Maxwell Christie, and
Richard Ormsby

to be a Commission —

(1) To inquire and report whether there should be any modification of, or alteration in, the existing provisions of law or of the terms of the leases so far as they concern or relate to—

(*a*) The sort or character of the improvements in respect of which the lessees are entitled to compensation;

(*b*) The method of ascertaining the value of the improvements in respect of which the lessees are entitled to compensation; and

(*c*) The manner in which the liability for compensation for improvements shall be discharged:

(2) To inquire and report whether the incidence of the liability for compensation for improvements renders it necessary or desirable that the Maori Land Boards should be given, in respect of the vested lands, additional powers and authorities whether in relation to leasing or otherwise howsoever: and if it be reported that such additional powers and authorities should be so given, then to recommend, in detail, the nature and extent of such additional powers and authorities:

(3) Generally to inquire into and report upon such other matters arising out of the premises as may come to your notice in the course of your inquiries and which you consider should be investigated in connection therewith and upon any matters affecting the premises which you consider should be brought to the attention of the Government: and

(4) To make such proposals for the amendment of the law as you may think necessary or desirable for giving effect to any recommendations you may make on the matters and questions confided to you by these presents:

And We do hereby appoint you, the said

Sir Michael Myers

to be Chairman of the said Commission:

And for the better enabling you to carry these presents into effect, you are hereby authorized and empowered to make and conduct any inquiry under these presents at such times and places as you deem expedient, with power to adjourn from time to time and place to place as you think fit, and so that these presents shall continue in force, and the inquiry may at any time and place be resumed although not regularly adjourned from time to time or from place to place:

And you are hereby strictly charged and directed that you shall not at any time publish or otherwise disclose save to His Excellency the Governor-General, in pursuance of these presents or by His Excellency's direction, the contents of any report so made or to be made by you or any evidence or information obtained by you in the exercise of the powers hereby conferred upon you except such evidence or information as is received in the course of a sitting open to the public:

And you are hereby authorized to report your proceedings and findings under this Our Commission from time to time if you shall judge it expedient so to do:

And, using all due diligence, you are required to report to His Excellency the Governor-General in writing under your hands not later than the thirtieth day of June, one thousand nine hundred and fifty, your findings and opinions on the matters aforesaid, together with such recommendations as you think fit to make in respect thereof:

And, lastly, it is hereby declared that these presents are issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the authority of and subject to the provisions of the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council of the Dominion of New Zealand.

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this fourteenth day of November, in the year of our Lord one thousand nine hundred and forty-nine, and in the thirteenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

P. FRASER, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

Appointment of Another Member of the Royal Commission Constituted to Inquire Into and Report Upon Matters and Questions Relating to Certain Leases of Maori Land Vested in Maori Land Boards

GEORGE THE SIXTH by the Grace of God, of Great Britain, Northern Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved DOUGLAS JAMES DALGLISH, of Wellington, a Deputy-Judge of the Court of Arbitration, HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS by Our Warrant of date the 14th day of November, 1949, issued under the authority of the Letters Patent of His late Majesty dated the 11th day of May, 1917, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, the late Sir Michael Myers, and you the said Hubert Maxwell Christie, and Richard Ormsby were appointed a Commission to inquire into and report upon matters and questions relating to certain leases of Maori lands vested in Maori Land Boards:

And whereas the said Sir Michael Myers died after the members of the Commission had entered upon their labours but before they had made any report thereof, and it is desirable to appoint another member and a new Chairman of the said Commission:

Now know ye that We, reposing trust and confidence in your impartiality, knowledge, and ability do hereby nominate, constitute and appoint you, the said

Douglas James Dalglish,
Hubert Maxwell Christie, and
Richard Ormsby,

to be the Commissioners and members of the said Commission for the purposes and with the powers and subject to the directions, specified in the said Warrant:

And We do hereby appoint you, the said

Douglas James Dalglish,

to be Chairman of the said Commission:

And We hereby confirm the said Warrant and the Commission thereby constituted save as modified by these presents.

In witness whereof We have caused this Our Commission to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this 26th day of April, in the year of our Lord 1950, and in the 14th year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

E. B. CORBETT, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

Extending Period Within Which the Royal Commission Constituted to Inquire Into and Report Upon Matters and Questions Relating to Certain Leases of Maori Land Vested in Maori Land Boards Shall Report

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Northern Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved DOUGLAS JAMES DALGLISH, of Wellington, a Deputy-Judge of the Court of Arbitration, HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS by Our Warrant of date the 14th day of November, 1949, issued under the authority of the Letters Patent of His late Majesty dated the 11th day of May, 1917, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, the late Sir Michael Myers, and you the said Hubert Maxwell Christie, and Richard Ormsby were appointed a Commission to inquire into and report upon matters and questions relating to certain leases of Maori lands vested in Maori Land Boards:

And whereas the said Sir Michael Myers died after the members of the Commission had entered upon their labours but before they had made any report thereof, and it was desirable to appoint another member of the said Commission:

And whereas by Our Warrant of date the 4th May, 1950, you the said Douglas James Dalglish, Hubert Maxwell Christie, and Richard Ormsby, were appointed to be the Commissioners and members of the said Commission for the purposes and with the powers and subject to the directions specified in Our said Warrant first hereinbefore mentioned:

And whereas by virtue of Our Warrant first hereinbefore mentioned you are required to report not later than the 30th day of June, 1950, your findings and opinions on the matters thereby referred to you:

And whereas it is expedient that the time for so reporting in respect of the said matters should be extended as hereinafter provided:

Now, therefore, We do hereby extend until the 31st day of December, 1950, the time within which you are so required to report in respect of the said matters:

And We do hereby confirm the said Warrants and Commission save as modified by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this 28th day of June, in the year of our Lord, one thousand nine hundred and fifty, and in the fourteenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

E. B. CORBETT, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

Extending Period Within Which the Royal Commission Constituted to Inquire Into and Report Upon Matters and Questions Relating to Certain Leases of Maori Land Vested in Maori Land Boards Shall Report

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GEORGE THE SIXTH by the Grace of God, of Great Britain, Northern Ireland, and the British Dominions beyond the Seas, King, Defender of the Faith:

To Our Trusty and Well-beloved DOUGLAS JAMES DALGLISH, of Wellington, a Deputy-Judge of the Court of Arbitration, HUBERT MAXWELL CHRISTIE, of Wellington, Company Director, and RICHARD ORMSBY, of Te Kuiti, Farmer: GREETING:

WHEREAS by Our Warrant of date the fourteenth day of November, one thousand nine hundred and forty-nine, issued under the authority of the Letters Patent of His late Majesty dated the eleventh day of May, one thousand nine hundred and seventeen, and under the Commissions of Inquiry Act, 1908, and with the advice and consent of the Executive Council, the late Sir Michael Myers, and you the said Hubert Maxwell Christie, and Richard Ormsby, were appointed a Commission to inquire into and report upon matters and questions relating to certain leases of Maori lands vested in Maori Land Boards:

And whereas the said Sir Michael Myers died after the members of the Commission had entered upon their labours but before they had made any report thereof, and it was desirable to appoint another member of the said Commission:

And whereas by Our Warrant of date the fourth day of May, one thousand nine hundred and fifty, you the said Douglas James Dalglish, Hubert Maxwell Christie, and Richard Ormsby, were appointed to be the Commissioners and members of the said Commission for the purposes and with the powers and subject to the directions specified in Our said Warrant first hereinbefore mentioned:

And whereas by virtue of Our Warrant first hereinbefore mentioned you were required to report not later than the thirtieth day of June, one thousand nine hundred and fifty, your findings and opinions on the matters thereby referred to you:

And whereas by Our further Warrant of date the twenty-eighth day of June, one thousand nine hundred and fifty, the time within which you were so required to report was extended until the thirty-first day of December, one thousand nine hundred and fifty:

And whereas it is expedient that the time for so reporting should be further extended as hereinafter provided:

Now, therefore, We do hereby extend until the thirtieth day of June, one thousand nine hundred and fifty-one, the time within which you are so required to report in respect of the said matters:

And We do hereby confirm the said Warrants and Commission save as modified by these presents.

In witness whereof We have caused these presents to be issued and the Seal of Our Dominion of New Zealand to be hereunto affixed at Wellington, this sixth day of December, in the year of our Lord, one thousand nine hundred and fifty, and in the fourteenth year of Our Reign.

Witness Our Trusty and Well-beloved Sir Bernard Cyril Freyberg, on whom has been conferred the Victoria Cross, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, Knight Commander of Our Most Honourable Order of the Bath, Knight Commander of Our Most Excellent Order of the British Empire, Companion of Our Distinguished Service Order, Lieutenant-General in Our Army, Governor-General and Commander-in-Chief in and over Our Dominion of New Zealand and its Dependencies, acting by and with the advice and consent of the Executive Council of the said Dominion.

[L.S.] B. C. FREYBERG, Governor-General.

By His Excellency's Command—

E. B. CORBETT, Minister of Maori Affairs.

Approved in Council—

T. J. SHERRARD, Clerk of the Executive Council.

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INTERIM REPORT

To His Excellency the Governor-General Lieutenant-General Sir Bernard Freyberg, V.C., G.C.M.G., K.C.B., K.B.E., D.S.O.

MAY IT PLEASE YOUR EXCELLENCY,—

1. We have the honour to report that we have commenced the inquiry directed by Your Excellency's Commission of the 14th day of November, 1949, as confirmed in your Warrant dated the 26th day of April, 1950, appointing the present members of the Commission. We commenced public sittings in Wanganui on the 16th day of May, 1950, and continued our sittings there on the 17th, 18th, 19th, 22nd, 23rd, 24th, and 25th days of May, 1950.

2. We will have to continue the inquiry and hold further sittings in a number of other places and some time must necessarily elapse before we are in a position to present a final report to Your Excellency. In the meantime, however, we deem it desirable to report immediately in connection with the matters hereinafter more particularly referred to.

3. Various leases concerning which we are required to conduct an inquiry and make our report have been extended by section 13 of the Maori Purposes Act, 1948, and will expire on 30th June, 1950. Certain other similar leases will expire in the near future. Section 13 of the Maori Purposes Act, 1948, is as follows:—

13. Whereas there have arisen in relation to arbitrations required to be made for the purpose of determining the amount of compensation for improvements payable to lessees holding under leases of lands which are subject to Part XIV or Part XV of the principal Act certain questions of law and fact: And whereas it is desirable that the rights, powers, duties, and obligations of the lessors and the lessees under such of those leases as have recently expired, or which are about to expire, should be maintained pending the determination of the questions aforesaid and of other matters and questions arising out of the right to compensation for improvements: Be it therefore enacted as follows:—

(1) Where any subsisting lease of land subject to Part XIV or Part XV of the principal Act contains a provision to the effect that the lessee shall, on the termination by effluxion of time of the term thereby created, be entitled to compensation as therein provided, and the term of any such lease will, in accordance with the terms thereof, expire before the thirtieth day of June, nineteen hundred and fifty, the term of any such lease is hereby extended to the thirtieth day of June, nineteen hundred and fifty.

(2) Every such lease shall be read and construed as if the thirtieth day of June, nineteen hundred and fifty, were the date named therein for the termination thereof, and all the conditions, covenants, provisions, and agreements contained or implied in every such lease shall, so far as the same are applicable, apply to the term as so extended.

(3) Where any lease of land subject to Part XIV or Part XV of the principal Act contains a provision for compensation as aforesaid, and the term thereof has expired since the thirty-first day of December, nineteen hundred and forty-six, the term of any such lease shall be deemed to have been and the same is hereby extended until the thirtieth day of June, nineteen hundred and fifty; and the provisions of subsections one and two hereof shall, so far as the same are applicable, apply to the lease as so extended.

(4) Notwithstanding anything contained in any lease the term of which is hereby extended, any valuation required to be made for the purpose of determining the value of the improvements for which the lessee is entitled to compensation shall be lawfully and validly made if it is made at any time between the thirty-first day of December, nineteen hundred and forty-nine, and the thirtieth day of June, nineteen hundred and fifty; and the period in which application to the Court for the appointment of a receiver is required to be made, in accordance with section two hundred and eighty-seven of the principal Act, for the purpose of enforcing any charge for improvements, shall not commence to run until the thirtieth day of June, nineteen hundred and fifty.

4. In view of the time which must elapse before our final report can be considered and before any legislation which might be placed before Parliament to give effect to the recommendations in such report can be enacted, it is desirable, in our opinion, that the rights of the lessees under leases due to expire in the near future to continue in occupation of the land covered by the leases for some extended time should be definitely settled.

5. It came to our notice, however, during the course of an inspection of the vested lands in the Aotea Maori Land District, that marketable timber is being removed from some land held under lease extended by the legislation referred to above. Similar action may possibly be being taken in other cases. Under the provisions of the leases lessees were given the right to remove timber from the land, and, in fact, they were to a certain extent under an obligation to clear the land. The lease of the land on which we saw signs of the removal of timber being carried out at the present time provides that half the amount of the royalties received by the lessees in respect of the timber should be paid over to the Aotea District Maori Land Board for the beneficial owners of the land. We are of opinion that, in view of the specific provisions of subsection (2) of section 13 of the Maori Purposes Act, 1948, the lessee is within his legal rights in continuing to remove timber from the land held by him under a lease which has been extended by that section, and if a further statutory extension is granted in similar terms he will be entitled to continue to remove timber.

6. In view of the present uncertain position as to the future occupancy and use of the lands after any period of temporary extension of leases which may now be granted, we consider that it might eventually prove to be unfair to the Maori beneficial owners of the land to allow the value of the timber on the land to be further diminished if the cutting and removal of the timber is not to be followed by the clearing of the remaining bush and the sowing of pasture grasses. This is particularly so in view of the fact that, as one of the witnesses before the Commission stated, the cost of clearing bush after millable timber has been removed by a sawmiller is greater than the cost of clearing bush from which the millable timber has not been cut. We are not yet in a position to indicate what we consider should be the future occupancy or use of the land from which timber is being removed, and we feel, having considered the representations of counsel for the parties on this point, that some provision should be made whereby the Maori beneficial owners, if they are to be given possession of the land in the near future, should be adequately protected against the reduction of the value of their interest in the land by the removal of marketable timber thereon during any short period of temporary extension of leases hereafter granted. In our opinion provision should be made for a record to be kept of all marketable timber removed after the 30th June, 1950, so that if, after the whole matter has been investigated, it is considered that such an action is the fair and right thing to do, the whole of the timber royalties can be paid over for the benefit of the beneficial owners. It was suggested that the whole of the royalties should in the meantime be paid to the Maori Land Board to be held pending a final determination of the matter, but we do not consider this necessary in view of the fact that if the lessee is to give up possession at the end of the temporary extension of his lease he will probably be entitled to receive compensation for improvements in excess of the amount of royalties which have accrued during such extension.

7. We accordingly recommend that the following steps be taken pending the making and consideration of our final report:—

(*a*) That the leases affected by section 13 of the Maori Purposes Act, 1948, should be extended by Act of Parliament for a further period of twelve months;

(*b*) That leases of the same class which are due to expire before the 30th day of June, 1951, should be extended in the same manner to the 30th June, 1951; and

(*c*) That the legislation should provide that the lessees under all the leases which are so extended shall keep a strict account of all marketable timber removed from the land during the period of such extension, and shall within seven days after the end of each calendar month supply to the Maori Land Board sufficient particulars of the timber removed during that calendar month to enable a proper calculation to be made of the royalties payable in respect thereof.

We have the honour to be,

Your Excellency's humble and obedient servants,

D. J. DALGLISH, Chairman.
H. M. CHRISTIE, Member.
R. ORMSBY, Member.

Wellington, 19th June, 1950.

FINAL REPORT

To His Excellency the Governor-General, Lieutenant-General the Right Honourable Lord Freyberg, V.C., G.C.M.G., K.C.B., K.B.E., D.S.O.

MAY IT PLEASE YOUR EXCELLENCY,—

1. We have the honour to report that we have now completed the inquiry directed by Your Excellency's Commission of the 14th day of November, 1949, as confirmed in your Warrant dated the 26th day of April, 1950, appointing the present members of the Commission.

2. Considerable areas of Maori land in various parts of the North Island are vested in Maori Land Boards under and subject to the provisions of Part XIV or Part XV of the Maori Land Act, 1931, and are held and administered by the Boards in trust for the Maori beneficial owners. Throughout this report we will refer to these lands as "vested lands."

3. A considerable area of vested lands has been leased under leases which, amongst other things, confer upon the lessees the right on the termination by effluxion of time of the leases to receive compensation for certain permanent improvements put upon the lands by the lessees or their predecessors in title. In the Wanganui district (administered by the Aotea District Maori Land Board) a number of leases affecting nearly 100,000 acres of land have already expired but have been extended by statute pending some solution to the problems which are the subject of this report. The remaining leases of vested lands in the Wanganui district and all the leases of vested lands in the other districts are due to expire within the next few years. Under the present legislation the Maori Land Boards have no power to lease vested lands beyond 25th November, 1957.

4. Serious difficulty has arisen in the Wanganui district in connection with the compensation provisions of the leases which have already expired. It has been found that the value of the improvements will be very great in relation to the unimproved value, and it is anticipated that it will be extremely difficult, if not impossible, to raise sufficient funds, whether by way of mortgage or otherwise, to pay to the lessees the value of the improvements. Under the leases the lessees expected to receive payment for the improvements in cash, but if payment was not made in cash the only course open to them (apart from a right in certain cases to remain in possession until 25th November, 1957, pursuant to a special

provision contained in the leases) was to have a receiver appointed with power to lease the lands and pay the value of the improvements, without interest, out of the rentals received. This position would be unsatisfactory from the point of view both of the lessees and of the Maori beneficial owners. On the one hand, the lessees would not receive any interest on the value of their improvements pending payment therefor nor would they receive a sufficient sum of money in cash on their vacating possession of the premises to enable them to take up other properties. On the other hand, the Maori beneficial owners would receive no rentals whatsoever for a lengthy period nor would they be in a position to resume possession of their lands for the purpose of farming them in cases where they desired to do so. The position was further complicated by the fact that very important questions were raised as to the interpretation of the leases and the principles upon which the valuation of the improvements should be made, and as to whether the provision, contained in some of the leases, entitling the lessees to remain in possession until 25th November, 1957, was or was not *ultra vires*.

5. Under the circumstances, to use the wording of the recital in the Warrant appointing this Commission, "the Government desires inquiry to be made into the matters and questions" set forth in the Warrant "to the end that what is right, just, reasonable, and equitable shall be done as well to the beneficial owners of the vested lands as to the lessees thereof." This Commission was therefore appointed and directed by the Warrant of appointment—

(1) To inquire and report whether there should be any modification of, or alteration in, the existing provisions of law or of the terms of the leases so far as they concern or relate to—

(*a*) The sort or character of the improvements in respect of which the lessees are entitled to compensation;

(*b*) The method of ascertaining the value of the improvements in respect of which the lessees are entitled to compensation; and

(*c*) The manner in which the liability for compensation for improvements shall be discharged:

(2) To inquire and report whether the incidence of the liability for compensation for improvements renders it necessary or desirable that the Maori Land Boards should be given, in respect of the vested lands, additional powers and authorities whether in relation to leasing or otherwise howsoever; and if it be reported that such additional powers and authorities should be so given, then to recommend, in detail, the nature and extent of such additional powers and authorities:

(3) Generally to inquire into and report upon such other matters arising out of the premises as may come to your notice in the course of your inquiries and which you consider should be investigated in connection therewith and upon any matters affecting the premises which you consider should be brought to the attention of the Government: and

(4) To make such proposals for the amendment of the law as you may think necessary or desirable for giving effect to any recommendations you may make on the matters and questions confided to you by these presents.

It is to be noted that the scope of the inquiry of this Commission covers not only the leases in the Wanganui district already referred to but also all other leases of vested lands in any district which confer on the lessees rights to compensation for improvements.

6. We commenced public sittings at Wanganui on the 16th day of May, 1950. It was necessary, after the conclusion of our sittings there some nine days later, to sit also at Whangarei, Waipukurau, Te Kuiti, Rotorua, and Gisborne in order to ascertain the facts and to hear the representations of interested parties concerning the subject-matter of the inquiry in all districts where there are lands vested in Maori Land Boards under Part XIV or Part XV of the Maori Land Act, 1931. Details as to these sittings and as to the various parties who were represented before us will be found later in this report where we deal separately with each particular district. Our public sittings concluded at Gisborne on the 8th day of November, 1950. As in our opinion it was desirable

that certain steps should be taken in relation to leases due to expire before we would be able to complete our inquiry and make our final report, we presented an interim report on the 19th day of June, 1950, and section 8 of the Maori Purposes Act, 1950, was passed to give effect to the recommendations contained in that interim report.

7. We desire to thank counsel and others who appeared before us for the clear manner in which they presented the views of the various parties they represented. We particularly wish to join with counsel in expressing appreciation of the excellent work of the officials of the various Maori Land Boards in the preparation of schedules setting out the facts relating to the vested lands. Our thanks are also due to Mr. A. N. Harris who has acted as secretary for the Commission and has rendered every assistance to us in the task which we have had to perform. The shorthand reporters who reported the proceedings in the different centres had at times a difficult task in carrying out their duties; notwithstanding this they performed them most efficiently.

GENERAL INTRODUCTION

8. We deem it desirable, before entering into a detailed discussion of the problems in relation to the vested lands as we found them to exist, to say something of the history of the legislation relating to the vesting of the various areas in the Maori Land Boards.

9. For some years prior to 1900 questions of land-settlement generally had occupied the forefront of Colonial politics and the Maori land legislation of this period had been altered in accordance with the changing policies of the Governments of the day from time to time. The history of the legislation prior to 1900 and between 1900 and 1907 is dealt with in detail in a report made by the Royal Commission known generally as the Stout-Ngata Commission and consisting of Sir Robert Stout and Mr. A. T. Ngata (later Sir Apirana Ngata). The report to which we refer was dated the 11th July, 1907, and was published as parliamentary paper G–1c of 1907. The authors of the report say:—

> Events that followed in quick succession between 1892 and 1900—the wholesale purchase of Native lands under the pre-emptive right at prices that seemed inadequate, and under a system that appealed to the weaknesses and improvidence of the Maoris, the sudden introduction of settlers into hitherto virgin areas through the medium of the ballot-box, the necessity of providing roads and other means of communication with the new settlements and of providing by rates for their maintenance; the hampering restrictions against leasing, which, while retarding the utilization of unoccupied lands, allowed large areas of expired leaseholds to revert to the owners and to be subjected to costly and futile litigation; the delays in partitioning and surveying lands and in the completion of titles, to which delay Parliament contributed by legislative interference with the work of the Native Land Court; these and other circumstances conspired to create between 1897 and 1900 a bewildering state of affairs.
>
> Maori opinion was gradually consolidated in numberless meetings all over the North Island, and for the first time the Waikato confederacy, under the leadership of their hereditary chief and of their representative in Parliament, took an active part in Maori politics. Petitions setting forth general principles for the future administration of Native lands were presented year after year, and one numerously signed was presented to the late Queen Victoria on the occasion of her Diamond Jubilee. Though divided on many points, the tribes were unanimous in asking—
>
> (i) That the Crown cease the purchase of Native lands;
> (ii) That the adjudication, management, and administration of the remnant of their lands be vested in controlling Councils, Boards, or Committees composed of representative Maoris.

In 1897 a conference took place in Wanganui between the Native Minister of that day, Sir James Carroll, and assembled Maoris for whom Major Kemp, a very famous member of the Maori race, acted as spokesman. The object of that conference was to ascertain the best method of preserving Maori land for the

Maoris of that time and future generations. These petitions and this conference were followed, in 1900, by the passing of the Maori Lands Administration Act, 1900, the first of several Acts which provided for the vesting of the vested lands. The preamble to the Act recites the policy of the Legislature in placing it upon the statute-book. This preamble is as follows: —

Whereas the chiefs and other leading Maoris of New Zealand, by petition to Her Majesty and to the Parliament of New Zealand, urged that the residue (about five million acres) of the Maori land now remaining in possession of the Maori owners should be reserved for their use and benefit in such wise as to protect them from the risk of being left landless: And whereas it is expedient, in the interests both of the Maoris and Europeans of the colony, that provision should be made for the better settlement and utilization of large areas of Maori land at present lying unoccupied and unproductive, and for the encouragement and protection of the Maoris in efforts of industry and self-help: And whereas it is necessary also to make provision for the prevention, by the better administration of Maori lands, of useless and expensive dissensions and litigation, in manner hereinafter set forth:

10. The Maori Lands Administration Act, 1900, constituted Maori Land Councils in which Maori lands could be vested by the owners. The Act authorized the transfer of Maori land by way of trust to any Maori Land Council upon such terms as to leasing, cutting up, managing, improving, and raising moneys upon the same as might be set forth in writing between the owners and the Council. The Council had power to render inalienable such portions of the land as might be required for the occupation and support of the Maori owners and to make reserves for certain purposes, and had power to lease the balance of the land, subject to the provisions of the instrument creating the trust, upon such terms and conditions as to the Council might seem fit. Regulations were issued under the Maori Lands Administration Act, 1900, prescribing forms, conditions, and covenants of leases to be executed under that Act. These regulations when first issued contained no provision for the payment of compensation to lessees for permanent improvements effected by them, but by an amendment to the regulations enacted on 24th August, 1903, regulation 78A was inserted making certain provisions for compensation for permanent improvements. The terms of regulation 78A will be found in the section of this report which deals particularly with the vested lands in the Aotea Maori Land District (para. 22, *post*). Question was subsequently raised as to the validity of this regulation, but by section 19 of the Maori Land Amendment and Maori Land Claims Adjustment Act, 1920, the regulations and leases granted under the Maori Lands Administration Act, 1900, and under the Maori Land Settlement Act, 1905, were validated. The only district in which the Maori Lands Administration Act, 1900, was substantially used was the Aotea Maori Land District where about 100,000 acres of Maori land was voluntarily vested in the Aotea District Maori Land Council. In the Tairawhiti Maori Land District some small areas were vested in the Maori Land Council under this Act.

11. The Maori Land Settlement Act, 1905, was the next major statute providing for the vesting of Maori lands, but before that statute was passed sections 34 and 35 of the Maori Land Laws Amendment Act, 1903, provided for the vesting in the appropriate Maori Land Council for administration under the Maori Lands Administration Act, 1900, of certain lands in respect of which the Crown had discharged survey mortgages. The Maori Land Settlement Act, 1905, provided for the appointment of Maori Land Boards in each district. These Boards, which were constituted differently from the Maori Land Councils under the Maori Lands Administration Act, 1900, took over the functions and became the successors of those Councils. This 1905 Act provided that any Maori land in the Tokerau Maori Land District or in the Tairawhiti Maori Land District which in the opinion of the Native Minister was not required

or not suitable for occupation by Maori owners could be vested by Order in Council in the appropriate Maori Land Board to be administered for the benefit of the Maori owners in accordance with the Act. The Act provided that the Board could render inalienable any portion of the land for the use and occupation of the Maori owners or for such other purposes as might be considered expedient, and the Board was empowered to lease the balance of the land for any term or terms not exceeding in the whole fifty years. Provision was made that at the expiration of the fifty years, and upon discharge of all incumbrances affecting the land or the income thereof, the Board, if requested by the Maori owners so to do, could recommend that the title to the Board be annulled by Order in Council, and upon the issue of such Order in Council the land revested in the Maori owners. The leases issued by the Board were to contain such powers, conditions, and covenants as, subject to regulations, the Board thought fit. The Act was to form part of, and be read together with, the Maori Lands Administration Act, 1900, and, accordingly, the same regulations applied to the leases under the Maori Land Settlement Act, 1905, as applied to the leases under the Maori Lands Administration Act, 1900. The next statute providing for the vesting of lands was the Maori Land Settlement Act Amendment Act, 1906, which authorized the Governor in Council to vest lands in any Maori Land Board: (*a*) Where the lands had not been properly cleared of noxious weeds; or (*b*) where they were not properly occupied by the Maori owners but were suitable for Maori settlement. The lands vested in any Board under this last-mentioned Act were to be dealt with in accordance with the provisions of the Maori Land Settlement Act, 1905.

12. As there was still insufficient Maori land being made available for settlement, the Stout-Ngata Commission was appointed early in 1907 to inquire and report, *inter alia*, as to how areas of Maori lands which were unoccupied or not profitably occupied could best be utilized and settled in the interests of the Native owners and the public good. As a result of the report of that Commission, dated 11th July, 1907, which we have already referred to, the Native Land Settlement Act, 1907, was passed. This Act provided that in cases where the Stout-Ngata Commission reported that any Native land was not required for occupation by the Maori owners and was available for sale or leasing, the Governor by Order in Council could declare the land to be subject to Part I of the Act. The scheme of Part I of the Act was that the land became vested in the Maori Land Board which divided the lands into two approximately equal portions, one of which was for sale and the other for leasing. The leasing provisions of the Native Land Settlement Act, 1907, provided that leases of lands vested under that Act were to be in a prescribed form and that every lease and every renewal thereof should terminate within fifty years after the coming into operation of the Act, which was on 25th November, 1907. The Act, in section 29, contained a specific provision as to the lessee being entitled to the valuation of improvements. This section provided that every lease, the term whereof exceeded ten years, should confer on the lessee a right to the valuation, on the termination of the lease by effluxion of time, of all substantial improvements of a permanent character (as defined by the Land Act, 1892) put upon the land during the continuance of the lease and unexhausted on the termination thereof. It was provided that the amount of every such valuation should be payable out of the revenues received by the Board from the land after the termination of the lease and should be a charge upon those revenues, but the section also contained a provision authorizing the retention of moneys out of the revenues received during the currency of the lease for the purpose of establishing a sinking fund to be applied at the

expiration of the lease in payment of the amount of the valuation of the improvements. Provision was also made in the Native Land Settlement Act, 1907, for the revesting of the land in the Maori owners at the expiration of the fifty years if certain conditions were fulfilled.

13. The various statutory provisions between 1900 and 1906 departed from the principle of the voluntary vesting of Maori lands in the Maori Land Councils or their successors, the Maori Land Boards. But while departing from the principle of voluntary vesting the Legislature appears in the important cases to have adopted the principle that the Maoris should not be permanently deprived of their land. We find that in section 20 of the Maori Land Claims Adjustment and Laws Amendment Act, 1904, there was a prohibition against the granting of any lease equivalent to a lease in perpetuity as defined by the Land Act, 1892, except with the consent of the Governor who had to be satisfied that the land was of such inferior quality or was so situated as not to be disposable on any other tenure, and we find that under section 8 of the Maori Land Settlement Act, 1905, leases of the lands vested under that section could not be granted for any term or terms exceeding in the whole fifty years. The Stout-Ngata Commission consulted the wishes of the Maori beneficial owners before making any recommendations as to land being available for sale or leasing and, with few exceptions, the recommendations that land should be vested for leasing purposes were in accordance with the wishes of the Maori owners of the respective blocks (Report G–1G of 1909, p. 3). The recommendations were made with the knowledge that the Native Land Settlement Act, 1907, provided that every lease and every renewal thereof granted under the Act should terminate within fifty years after the coming into operation of the Act, that is to say, within fifty years after 25th November, 1907. When lands in the Wanganui district were vested pursuant to the Maori Lands Administration Act, 1900, the deeds of trust of most of the lands in that district contained a limitation of forty-two years on the power of leasing, and, as mentioned above, the Maori Land Settlement Act, 1905, and the Native Land Settlement Act, 1907, both restricted leases to a maximum of fifty years. It thus appears to have been the intention of the Legislature and of the Maoris at the time when in the first decade of the present century the vested lands with which we now have to deal were vested in the Maori Land Councils (or their successors, the Maori Land Boards), that the period of vesting should be limited, and that the lands should return to the Maori beneficial owners in due course. It was made clear to us that, generally speaking, the Maori beneficial owners of to-day want this intention carried out and the lands returned to them or used for their own occupation.

14. The Native Land Act, 1909, was the next Act of importance to be passed. The various statutory provisions previously enacted whereby lands could be vested in the Maori Land Boards for leasing were included in Parts XIV and XV of the Act. Part XIV of the Act dealt with the lands vested pursuant to the reports of the Stout-Ngata Commission under the Native Land Settlement Act, 1907, and Part XV dealt with the lands vested pursuant to the Maori Lands Administration Act, 1900, the Maori Land Settlement Act, 1905, and various other statutory provisions of less importance. The provisions of Part XIV as to the leasing of lands which were subject to that Part of the Native Land Act, 1909, were applied to lands which were subject to Part XV of the Act, and since the commencement of that Act the powers of leasing to Europeans have been the same whether the land was under Part XIV or under Part XV. The leasing provisions applicable to lands under both of those Parts of the Act were contained in sections 257 to 267 of the Act. So far as they are material

to the inquiry by this Commission they provided that the land could be leased by the Board for any term that the Board thought fit, with or without a right of renewal, but every lease and every renewal thereof must terminate not later than fifty years after 25th November, 1907. Every lease was to be in a prescribed form and to contain such terms, covenants, and conditions consistent with the Act as were authorized by regulations, and there was a provision that every lease the term whereof (including the term of any renewal under a right of renewal) was not less than ten years should confer upon the lessee a right to compensation at the end of the lease or renewed lease for all substantial improvements of a permanent character put upon the land during the continuance of the said term. This provision was contained in section 263 which was as follows:—

(1) Every such lease the term whereof (including the term of any renewal thereof under a right of renewal) is not less than ten years shall confer upon the lessee a right to compensation, on the termination of the lease or of any such renewed lease by effluxion of time, for all substantial improvements of a permanent character (as defined by the Land Act, 1908, or any other Act amending or substituted therefor and in force at the time when the improvements were effected) which are put upon the land during the continuance of the said term and are unexhausted on the termination thereof.

(2) The amount of compensation so payable shall be determined in manner provided by the lease.

(3) The compensation so payable shall not be recoverable from the Board as a debt, but shall constitute a charge on the land demised and upon all revenues received therefrom by the Board after the termination of the lease and of any renewal thereof.

(4) Any such charge shall be enforceable by the Native Land Court by the appointment of a receiver in the same manner as in the case of a charge imposed by an order of that Court under this Act.

(5) For the purpose of providing a fund for satisfying any such charge the Board shall from time to time during the currency of the lease and of any renewal thereof set aside, out of the revenues received from the land, such sum as the Native Minister from time to time directs.

(6) Moneys so set aside shall be invested, together with the interest arising from such investment, in manner prescribed, and shall at the expiration of the lease and of every renewal thereof be applied in payment of the amount of compensation payable under this section.

(7) If the amount so set aside, together with the accumulations of interest thereon, exceeds the amount of compensation so payable, the excess shall be paid by the Board to the persons then entitled to the revenues of the land.

Section 264 of the Act, which was designed to overcome difficulties often met by valuers of to-day in ascertaining just what improvements had been put upon the land during the material period, provided that a lessee making improvements was entitled to have particulars of the nature of the improvements and of the state of the land before the improvements were made placed on record by the Board. We found that this provision had rarely been used by any lessee. So far as lands subject to Part XV (but not to Part XIV) were concerned, the land could be farmed by the Board for the benefit of the owners. (s. 292).

15. The Native Land Act, 1909, and its amendments, were consolidated in 1931 in the Act now known as the Maori Land Act, 1931. Parts XIV and XV were in all material respects the same as the same parts of the 1909 Act, and section 263 quoted above was re-enacted in the same terms as section 327 of the 1931 Act, except that the reference to the Land Act, 1908, was altered to a reference to the Land Act, 1924. Subsequently, in 1933, the reference to the Native Minister in subsection (5) was altered, and the Board of Maori Affairs is now the authority which would give any direction referred to in subsection (5).

16. The provision that all leases should terminate within fifty years after the coming into operation of the Native Land Settlement Act, 1907, having been applied generally to all leases under Parts XIV and XV of the Native Land Act, 1909, we find that, apart from a few exceptional and isolated cases, all leases of vested lands expire not later than 25th November, 1957. This limitation on the leasing powers of the Maori Land Boards has created a difficulty inasmuch as certain lands which are at present unleased cannot now be leased because no suitable tenant can be found who is prepared to take a lease of unimproved land for so short a period as seven years.

17. Under the Maori Lands Administration Act, 1900, the Maori Land Councils had not less than five members including not less than two and not more than three Maoris who were to be elected, and at least one other Maori appointed by the Governor, but the Maori representation practically disappeared in 1905 when Maori Land Boards were set up and took over the functions of the Maori Land Councils. The Maori Land Boards as set up in 1905 consisted of three members—namely, a president and two other members of whom at least one had to be a Maori. The requirement that there should be a Maori on each Maori Land Board ceased to operate with the coming into force of the Native Land Amendment Act, 1913, and the present constitution of Maori Land Boards is that they shall consist of two members, one of whom is the Judge and the other the Registrar of the Maori Land Court district which coincides with the district of the Maori Land Board. The elimination of Maori representation on the Board which administers the Maori lands is a departure from one of the conditions which existed at the time of the voluntary vesting of the lands by the Maoris in the Aotea Maori Land District, and in the case of that district was a matter critically commented upon.

AOTEA MAORI LAND DISTRICT

18. The Commission commenced its public sittings at Wanganui on 16th May, 1950, and sat on that day and on following days to hear evidence and submissions concerning vested lands in the Aotea Maori Land District, which is otherwise referred to in this report as the Wanganui district. Mr. N. M. Izard appeared for the Aotea District Maori Land Board. Sir Alexander Johnstone, K.C., and Mr. J. S. Rumbold appeared for the majority of the beneficial owners of lands in the district. Mr. I. Macarthur acting for certain other beneficial owners of lands in the district did not appear at the public hearing, but subsequently made written submissions on behalf of his clients. Mr. A. D. Brodie and Mr. J. B. Jack appeared for the Aotea Lessees' Association representing the interests of the majority of the lessees in the district, and Mr. C. E. Taylor appeared on behalf of a particular lessee of certain lands in the district. Mr. Taylor confined his submissions to the particular property in which his client was interested and requested that in that particular case the Commission would favourably consider recommending that the Crown take over the property.

19. The area of vested lands in this district leased by the Board amounts to approximately 115,209 acres, which is held by various lessees under some 230 separate leases. In addition, an area of approximately 11,806 acres of

vested lands, which is known as the Morikau Farm, is farmed by the Aotea District Maori Land Board on behalf of the beneficial owners. The following sets out particulars in relation to the vested lands which are leased:—

Block in Which Situated.	Area.	Original Rentals in First Term.	Present Rentals in Second Term.	Valuation at Time of Renewals of Leases.	
				Improvements.	Owners' Interest.
	A. R. P.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Ohotu 1, 2, 3, and 8	62,444 1 0·8	4,131 7 2	2,807 18 1	321,842 0 0	68,847 5 11
Morikau 2 ..	14,330 3 34	1,177 5 6	165 8 3	43,528 0 0	3,983 0 0
Waharangi 1–5 ..	10,146 2 34·5	904 3 10	262 9 8	18,650 0 0	2,491 0 0
Paetawa ..	3,226 0 0	167 15 0	48 0 0	8,217 5 0	3,645 16 0
Otiranui 2 and 3	1,296 3 28	134 5 2	23 6 0	3,320 0 0	466 0 0
Rakautaua 2B ..	50 0 0	152 10 0	82 10 0	..	1,650 0 0
Raetihi 3B 2, 4B, &c.	4,377 0 23·7	1,318 8 5	256 4 7	31,710 1 6	3,176 11 0
Retaruke 1, 2, 4B..	1,164 3 10	68 1 3	42 17 0	3,225 0 0	857 0 3
Retaruke 4c ..	1,387 2 22·7	57 16 8	29 10 0	2,163 0 0	240 0 0
Tauakira, &c. ..	9,117 0 2	468 3 8	262 17 7	27,148 0 0	5,136 0 0
Wharetoto ..	7,668 0 0	87 10 0	20 5 0	555 0 0	405 0 0
	115,209 1 35·7	8,667 6 8	4,001 14 2	460,358 6 6	90,897 13 2

20. Apart from the Rakautaua Block, which was vested in 1909, and the Retaruke Blocks, which were vested in 1912, all the vested lands were vested in the Aotea District Maori Land Board before the end of 1907. The first five areas mentioned above were originally vested pursuant to the Maori Lands Administration Act, 1900, in the Board's predecessor, the Aotea District Maori Land Council, by deeds signed by the Maori owners in 1902 and 1903.

21. Between 1903 and 1905 the Aotea District Maori Land Council arranged for the survey and subdivision of the Ohotu Blocks and other adjacent vested lands, and the first invitation to settlers to take up leases of any of the vested lands was published in 1903. Only five tenders were accepted at this time, but two of the leases were forfeited for non-payment of rent before the second public offer of land for leasing was made towards the end of 1904. In the other three cases leases were substituted on much the same terms as the other leases which were granted following the second public offering of leases.

22. The failure to interest the public in the first offer of the Ohotu Blocks was apparently due to a number of factors. At about that same time Crown lands were being opened up for selection and the terms upon which the Crown lands were being offered were more attractive than the terms upon which the Ohotu lands were offered. In the opinion of the Aotea District Maori Land Council, as recorded in its minutes, the term of the lease was too short, lack of roading was a factor, and the conditions as to residing on the land were unpopular and not understood by many who were in search of land. The Council also decided presumably in order to make the leases more attractive to prospective settlers, that the tenants should be entitled to receive the value of the permanent improvements at the end of the second period of twenty-one years for which the lands were being offered and, apparently at the suggestion of the Aotea District Maori Land Council, the regulations under the Maori Lands Administration Act, 1900, were altered in 1903, after the failure of the

first offer of the Ohotu lands for leasing, by the insertion of Regulation 78A which was the subject of a considerable amount of discussion before us at the hearing in Wanganui. This regulation was as follows:—

78A. In any case where a lease is granted with a right of renewal for *one* further term only, not exceeding twenty-one years, the Council shall, on the expiration of such further term, or on the expiration of the original term, or in the case of a lease where the right of renewal is perpetual, on the expiration of any term, if the right of renewal has in any case been surrendered or otherwise determined, weight the land with the value of the improvements of the outgoing tenant on again offering it for lease; or the Council may in its discretion retransfer the land to the Native owners on payment of the value of the improvements and all other charges to which the land may be lawfully subject. The value of such improvements, or the balance thereof after deducting any amounts which may be due to the Council by the outgoing lessee, shall, when recovered by the Council, be paid over to him.

In 1904 when discussions were taking place preliminary to the making of the second offer of lands for leasing, the European members of the Aotea District Maori Land Council did their best to get agreement by the Maori members to the offering of the land on lease with perpetual rights of renewal. The Maori members would not, however, agree to this. Accordingly, when the second offer was made to the public towards the end of 1904 the terms of the tender, which included clause 78A of the regulations, specifically stated that tenders were invited "for a term of twenty-one years with right of renewal for a further term of twenty-one years and payment to the lessee of the value of improvements on his going out of possession at the expiration of either term." Between 1904 and 1907 most of the land in the Ohotu Blocks was taken up under lease either from the Aotea District Maori Land Council or from the Aotea District Maori Land Board which took over the functions and responsibilities of the Council on the coming into operation of the Maori Land Settlement Act, 1905. All the leases granted in respect of vested lands prior to the commencement of the Native Land Act, 1909, which came into force on 31st March, 1910, were granted under the regulations made under the Maori Lands Administration Act, 1900, and its amendments. The leases were for a period of twenty-one years and contained a right to a further term of twenty-one years. The rental for the first term was fixed by tender and for the second term was to be 5 per cent. of a valuation carried out in terms of the lease.

23. Although the lessees of the lands originally leased before 31st March, 1910, now hold under leases executed at or after the expiry of the first-term leases, there was considerable discussion before us as to the meaning of the first-term leases granted before 31st March, 1910. This discussion took place because the present leases are, presumably renewals of the first-term leases, and the meaning of the first-term leases might perhaps govern the interpretation of the present leases, although on this point there is considerable doubt. Mr. Brodie, for the lessees, argued that the first-term leases were perpetually renewable subject to a right to the beneficial owners to pay off the value of the improvements at the end of forty-two years and resume possession of the land. Sir Alexander Johnstone, for the Maori beneficial owners, argued that the leases were for a period of twenty-one years with a right of renewal for not more than one further term, and he cast grave doubts on the meaning sought to be ascribed by counsel for the lessees to regulation 78A and other regulations incorporated in the leases. He further argued that under the regulations the assessment of the value of permanent improvements for purposes of compensation should not be by arbitration but should be by proceedings similar to those taken for determining a claim for compensation for land taken under the Public Works Act. In support of his argument that the leases were perpetually renewable Mr. Brodie laid great stress on what had been said on several

occasions by Mr. T. W. Fisher who was a member of the Aotea District Maori Land Council and of the Aotea District Maori Land Board at the time the leases were granted and who subsequently became Under-Secretary of the Native Department. For example, at a hearing by a Parliamentary Committee in 1911 of petitions by Ohotu lessees concerning their leases, Mr. Fisher, on the question as to what would happen at the end of the second term of twenty-one years as to the valuation for improvements, said "The position is clear: the block was leased on a perpetual right of renewal except that at the end of the second term (forty-two years from date of original lease) the Native owners have the option of paying up the value of the improvements in the whole block, when it would be reconveyed to them; therefore the lessee will get the whole of his improvements: failing the payment at that period, the right of renewal exists in perpetuity." (Parliamentary paper I–3B of 1911, p. 10.) While in our view it is not our function to give a strict legal interpretation of the first-term leases, nevertheless we have come to the conclusion that Mr. Fisher's view as to what would happen at the end of the second term of twenty-one years and, in particular, as to the right of renewal existing in perpetuity was not based on a legal interpretation of the documents, but was based on the expectation that at the end of the period of forty-two years the Maori beneficial owners of the land would be unable to find the money required to meet the value of the improvements for the whole block and that accordingly the lessees would have to be given further leases. We consider that the submission of counsel for the Maori beneficial owners that the first-term leases were for a period of twenty-one years with only one right of renewal is correct. As to the question raised concerning the procedure for valuing the permanent improvements for purposes of compensation, we are inclined to agree with the submissions of counsel for the beneficial owners as to the meaning of the regulations incorporated in the first-term leases on this point.

24. It is clear that the terms of the first-period leases granted prior to 31st March, 1910, were regarded as unsatisfactory by the tenants from a date very shortly after the leases were first entered into, and they took steps by petitions to Parliament and otherwise over a period of years to obtain an amendment to the law with a view to enabling them to acquire the freehold of the land held by them under lease or to acquire a more satisfactory form of lease clearly giving them a perpetual right of renewal. The Parliamentary Committee which sat in 1911 and which is above referred to was sitting to consider petitions by the Ohotu lessees asking that they be given a right to obtain the freehold. Deputations have waited on different Ministers of the Crown over a period of years. The Maori owners throughout this time have strenuously opposed any suggestion that perpetual rights of renewal should be granted or that the lessees should be granted any right to purchase the freehold. The last substantial attempt on the part of the lessees in this direction was made in 1936 when draft legislation was prepared on their behalf and submitted to a meeting of the Maori owners which was called for the purpose by the Aotea District Maori Land Board. This meeting rejected the lessees' suggestions.

25. When the time arrived for the granting of leases for the second period of twenty-one years in renewal of leases granted prior to 31st March, 1910, discussions took place between the legal representatives of the Aotea District Maori Land Board and of the lessees concerning the form which the leases should take. The legal advisers to the parties found difficulty in relation to the form to be used because there had been substantial alterations to the law concerning the leases of lands vested under Part XV of the Native Land Act, 1909, in particular

by the statutory prohibition against leasing beyond 25th November, 1957, and the inclusion of the statutory provision concerning compensation for improvements. Further, many of the regulations which were implied in and endorsed upon the leases for the first term of twenty-one years were no longer applicable. Ultimately, a special form of lease was settled and used for the leases for the second period of twenty-one years in renewal of the earlier leases of the Ohotu and other blocks which had been originally leased before 31st March, 1910. Mr. J. B. Jack, who at this time was acting as solicitor for the lessees during the discussions concerning the form of renewal lease, stated in evidence that the then solicitor to the Aotea District Maori Land Board and he were agreed that legislation would ultimately be necessary to straighten out the tangle in connection with the leases. However that may be, the fact is that leases were signed in the special form settled between them without any reservation concerning future action to be taken to clarify outstanding points. This form of renewal lease was discussed before us and criticised by counsel for the Board, counsel for the lessees, and counsel for the Maori beneficial owners, and it is abundantly clear that if the parties to these leases were forced to rely upon their strict legal rights under the leases, substantial and involved questions of law would have to be settled before those rights could be determined. For example, in dealing with interpretation generally, it would be necessary in all probability to decide the extent to which these leases could be said to be in renewal of the former leases and the extent to which the interpretation of these leases would be governed by the earlier leases. Although these renewal leases contained a recital stating that they were in renewal of the former leases, nevertheless they contained elements which were not in the original leases and omitted provisions which were in the original leases. As there is no express provision in these new leases conferring on the lessees a right to compensation for improvements, it would appear that it was intended that section 263 of the Native Land Act, 1909, giving a right to compensation for improvements, was to be implied. If that is the case, then apparently the leases were intended to be leases under the terms of the Native Land Act, 1909, and not renewals of the leases granted under the earlier legislation. This would raise the question immediately as to the extent to which improvements carried out before the granting of the renewal lease could be taken into account under section 263 of the Native Land Act, 1909. Furthermore, there is a provision in the renewal leases that if the Board is unable at the expiration of the lease to pay the compensation payable to the lessee under the provisions thereof, then the lessee may continue in possession of the land as a tenant from year to year until the compensation is paid, but in no case is he to be entitled to remain in possession under this provision beyond 25th November, 1957. As already mentioned, there is no express provision in the lease conferring on the lessee a right to compensation, and it is arguable that the clause giving the right to hold over is *ultra vires* and therefore inoperative at least in so far as the original lessees under the renewal leases are concerned, although the fact that the leases were registered under the Land Transfer Act, 1915, might confer enforceable rights on purchasers for value. If the renewal leases were to be treated as separate contracts distinct from the original leases, then the question would arise as to whether the provisions of the Native Land Act, 1909, required public advertisement as a preliminary to the granting of leases of vested lands should have been complied with.

26. Having regard to the legal complications which would be involved in determining the exact rights and responsibilities of the parties under these renewal leases, we were pleased to have the acknowledgment which in our view was fairly and reasonably given on behalf of the Maori beneficial owners, that

they agreed that the lessees with leases in the form which we have been discussing were entitled to fair compensation—"fair and honest and just" compensation—in respect of permanent improvements of a substantial character put on the land by the lessees and still in existence at the time the land is resumed on behalf of the beneficial owners.

27. Although most of the vested land in the Aotea Maori Land District was vested in the Aotea District Maori Land Board prior to 31st March, 1910, the date when the Native Land Act, 1909, came into operation, a considerable number of leases were first granted after that date. These leases were in the form prescribed by the appropriate regulations under the Native Land Act, 1909, and contained provisions relating to the right to compensation for improvements. Although section 263 of the Native Land Act, 1909, itself states that the leases confer a right to compensation, the prescribed form of leases nevertheless expressly included the right. The leases provided that for the purpose of determining the amount of compensation to which the lessee was entitled for improvements, the improvements were to be valued by two valuers, one to be named by the Board and the other by the lessee, and in the case of their disagreement, then by an umpire to be chosen by the valuers previously to entering upon the consideration of the matters referred to them. Every such reference to valuers was to be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1908. On the expiry of these leases, new leases were given in substitution therefor in accordance with the appropriate regulations under the Maori Land Act, 1931. These leases also contained express provision for compensation for improvements and for the valuation of the improvements. In the case of leases originally granted under the Native Land Act, 1909, the provisions in connection with the right to compensation for improvements and the valuation of improvements were the same under the renewal leases as under the original leases. No questions were raised at the hearing concerning the meaning of these leases, but the hearing was conducted on the basis that the criticisms which we discuss later concerning the question of valuation of improvements under the leases granted prior to 31st March, 1910, and the renewals thereof, applied similarly to the valuation of improvements under these later leases.

28. Under the form of the leases granted prior to 31st March, 1910, the rental for the renewal term of each lease was to be determined following a valuation of the fee-simple of the land included in the lease (*i.e.*, the capital value) and a valuation of all substantial improvements of a permanent character made by the lessee during the term and then in existence on the land. These two items were to be valued by arbitration, and the new lease for a further term of twenty-one years was to be at a rental equal to not less than 5 per cent. on the gross value of the lands after deducting therefrom the value of the substantial improvements of a permanent character. Put briefly, the rental for the new term was to be 5 per cent. of the "residue value" of the land, such value being arrived at by deducting the value of the substantial improvements from the fee-simple value of the land. Normally, it could reasonably be expected that the unimproved value of land would increase with the provision of amenities such as roads, telephones, schools, railways, &c., and particularly should this be so in cases such as the lands in the Ohotu and other blocks leased by the Aotea District Maori Land Board in the first decade of the present century when the only access to the lands was by dray road or pack-horse track. Notwithstanding the fact that a considerable number of the leases were taken up at the original upset rentals which were based on the then unimproved value as estimated by the surveyors,

when the value of the land was assessed by arbitration according to the "residue" method prescribed by the lease some twenty-one years later, the rentals were less than in the original term. In the case of the Ohotu blocks the original reserved rentals for the first term amounted to a total sum of £4,131 7s. 2d., while the reserved rentals for the second term assessed in accordance with the residue method of valuing the land amounted to only £3,450 10s. 6d. Taking the whole of the vested lands in the Wanganui district, including the Ohotu blocks, the total rentals for the first-term leases amounted to £8,667 6s. 8d. per annum while the rentals for the second term amounted to only £4,874 11s. 9d. If the effect of the National Expenditure Adjustment Act, 1932, and the mortgagors and lessees relief legislation is taken into account, further reductions amounting to £872 17s. 7d. per annum must be allowed for, reducing the present actual rentals to £4,001 14s. 2d. being little more than 46 per cent. of the rentals in the first term. It was generally accepted by counsel and witnesses that a substantial reason for the apparent decrease in the value attributed to the land was that the values attributed to improvements had increased above the cost of the improvements. This tendency for the value attributed to land to fall when it has been arrived at by the residue method mentioned above was discussed at some length in the report of the Royal Commission appointed to inquire into and report upon the operation of the law relating to the assessment of rentals under leases of the West Coast Settlement Reserves. This report (parliamentary paper G–1 of 1948) in dealing with the position of those leases in cases where they had fallen due for renewal for a third term, has this to say in paragraphs 23 and 24:—

23. There was, of course, no difficulty in fixing the rental for the first term of twenty-one years because the lands were actually in an unimproved state or were deemed to be so in the case of converted leases by reason of the payments made by the lessees representing the value of improvements. The position at that time was therefore that the unimproved value was, in substance, the capital value: the two things were really one and the same. Nor was there any difficulty in the way of fixing the rent for the second term—that is to say, the term of the first renewal—because all the improvements on the land had been effected, or were deemed to have been effected, during the previous twenty-one years (the first term), and for all practical purposes the difference between the value of the improvements and the capital value of the land would be, or would approximate, the then real value of the land to the lessor or, as we would call it to-day, the "unimproved value" as defined by the Valuation of Land Act, 1925.

24. The difficulty came in later years when the rental for the third term—*i.e.*, the second renewal term—fell due for assessment. In the meantime costs of labour and material had risen many-fold, so that if the lessee was to be entitled to deduct all his improvements, including the felling and clearing of bush and scrub and grassing at their value at the time of the assessment, and the rent was to be fixed on the basis of the residue left after deducting the improvements from the capital value, the rents, instead of increasing, would, or might, be very seriously reduced. Indeed, there have been cases in which valuers called by the lessee have endeavoured to set up a valuation of improvements actually in excess of the capital or gross value of the land, though it is only fair to say that such valuations have not been adopted by arbitrators or umpire. It is this factor which was not foreseen by the authors of the Act of 1892 and the Legislature which enacted that Act. Upon the assumption that the basic idea of the plan was that the lessor should own the land and the lessee the improvements, the tendency of the working of the Act of 1892 under the changed economic conditions would be to raise the value of the improvements far beyond their original cost, and to depress the value of the lessor's interest and correspondingly reduce the rent, although in fact the real "unimproved value"—that is to say, the market value of the land—if considered without improvements at the time of valuation might be much higher than at the time of the previous assessment of rent.

In the case of the leases in the Wanganui district the changed economic conditions have been such that even at the end of the first term of the leases the increases in the costs of improvements have been such as to reduce very seriously the residue value of the land.

29. The method of assessing the rentals for the renewals of leases which were first granted after 31st March, 1910, was not the same as that prescribed in the case of the earlier leases. The later leases provided that the yearly rentals for the renewals thereof should in each case be 5 per cent. of the unimproved value of the land at the time of the renewal, such value to be ascertained by valuation by two valuers and in the case of their disagreement by an umpire, such reference to the valuers being deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1908. There was no definition of what was meant by "unimproved value" in the leases, and the same tendency for the unimproved value of the land to fall was found in the case of land first leased after 31st March, 1910, as was found in the case of land originally leased before that date.

30. The residue method of arriving at the unimproved value of land was the method that was originally prescribed by the Government Valuation of Land Act, 1896, but as that method was found not to work satisfactorily the law was altered in 1912 so far as Government valuation of land was concerned by the Valuation of Land Amendment Act, 1912. Since the commencement of that Act the principles under which Government valuers have fixed the unimproved value of land and the value of improvements have been those that now operate under the Valuation of Land Act, 1925. There was, at Wanganui, general agreement that it would be fair and reasonable for the unimproved value of the vested lands to be ascertained in accordance with the principles laid down by the Valuation of Land Act, 1925, and we think that it is proper that we should say that it is our impression that the cogent arguments contained in the report of the Royal Commission relating to the assessment of rentals under the leases of the West Coast Settlement Reserves materially assisted towards the acceptance of the desirability of applying the principles of the Valuation of Land Act, 1925, to the assessment of the values of the vested lands.

31. The leases which entitle the lessee to receive compensation for his improvements provide that for the purpose of ascertaining the amount of the compensation the improvements shall be valued by two valuers, one to be named by the Board and the other by the lessee, and in the case of their disagreement then by an umpire, the reference to valuers being deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1908. The improvements in respect of which compensation is to be paid under the provisions of the leases are "substantial improvements of a permanent character." In the case of the renewal leases replacing those originally granted prior to 31st March, 1910, this phrase is defined as meaning and including "reclamation from swamps, clearing of bush, gorse, broom, sweetbrier, or scrub, cultivation, planting with trees or live hedges, the laying-out and cultivating of gardens, fencing, draining, making roads, sinking wells or water-tanks, constructing water-races, sheep-dips, making embankments or protective works of any kind, in any way improving the character and fertility of the soil or the erection of any building." The Native Land Act, 1909, and the Maori Land Act, 1931, which apply to leases originally granted under those Acts and to renewals thereof, define the phrase "substantial improvements of a permanent character" by reference to either the Land Act, 1908, or the Land Act, 1924. The definitions under those Acts differ from one another and also from the definition quoted above, but the differences are not material for the purposes of this inquiry and report. There is no definition of the phrase "value of improvements" expressed or implied in any of the leases, and the Maori Land Board and the Maori beneficial owners feel that if the valuation of improvements

for the purpose of assessment of compensation were to proceed in much the same way as it has done on the valuations for the purposes of renewals of leases there would be little or no equity left to the Maori beneficial owners and they would be unable to finance the payment of compensation for improvements. With this view we are in substantial agreement. We consider, however, that in the past insufficient attention has been paid to certain factors in relation to the clearing of bush which are discussed later in this report (paras. 119–121).

32. Actually there is only one case in which valuers have proceeded under the terms of any of the leases to assess the value of improvements for the purposes of compensation on the expiry of one of the renewal leases. The experience in this case indicates that there are substantial grounds for fear on the part of the Maori beneficial owners that the methods used in arriving at the value of improvements will achieve results which will make it most difficult for them to find the money to pay the value of improvements to the lessees. The particular case in question is the case of a lease of Sections 3, 4, and 5, Block 9, Karioi Survey District, being part of Ohotu Block No. 8. The three sections in question were the three sections which were taken up on the first offer to the public of land in the Ohotu blocks. Each section was leased separately. The original leases were for a period of twenty-one years from 16th June, 1903, at rentals amounting to a total sum of £189 18s. 2d. per annum. On 4th August, 1924, a valuation was made for the purposes of renewals of these leases, and the fee-simple was assessed at £17,000, the value of the improvements being assessed at £13,460, and the owners' interest being valued at £3,540. The three leases were, on the renewal, amalgamated into one lease, and the rental under this lease for the second twenty-one years from 16th June, 1924, was £177 per annum, being 5 per cent. of £3,540. On the expiry of the second term in 1945, this being the first lease to expire, the arbitrators and their umpire proceeded to consider the question of the value of the improvements. As a result of their valuations the following value was arrived at on 2nd May, 1945:—

	£
Fee-simple value	31,472
Value of improvements	29,016
Value of land	2,456

It will thus be seen that the effect of this valuation was to depress the value of the owners' interest in the land by £1,084 as between August, 1924, and May, 1945, being a reduction from £3,540 to £2,456. This particular land has very substantial improvements erected thereon, and it was common ground that the improvements were substantially in excess of the requirements of the land for farming purposes. The lessees, in addition to farming the land in question together with adjacent land, also farm other lands in the neighbourhood and carry on a substantial sawmilling business. The land in question not only contains the headquarters for all their farming activities in the neighbourhood, but also contains a workshop and repair facilities which are used in connection with the sawmilling business carried on some distance away. We think it can be safely assumed that the valuation made in 1945 was first a valuation of the fee-simple and then a valuation of the substantial improvements, and that the residue after deducting the value of the improvements from the fee-simple value was recorded as the value of the land. It may well be, from what one of the valuers said in evidence, that the valuers considered the improvements to be of higher value than shown and that they reduced the valuation of the improvements because they "recognized there must be some interest for the Natives to be fair to them," but, nevertheless, the valuation of the land was arrived at by the residue method.

33. The principles of valuation under the Valuation of Land Act, 1925, are different from this. The "capital value" of the land within the meaning of the Valuation of Land Act, 1925, is the sum which the owners' estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to require. "Unimproved value" of land is the sum which the owners' estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to impose, and if no improvements (as defined in the Act) had been made on the said land. The term "improvements" is defined and, without going into detail, it may be said to include, generally speaking, all work done or material used at any time on or for the benefit of the land by the expenditure of capital or labour by any owner or occupier thereof in so far as the effect of the work done or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation. The most important definition, however, is the definition of "value of improvements." This expression is defined as meaning "the added value which at the date of valuation the improvements give to the land." If the valuation referred to in the last preceding paragraph had been made under the Valuation of Land Act, 1925, the method of approach to the valuation would have been different in that the unimproved value of the land would have been ascertained first, then the improvements would have been valued, and the sum of the unimproved value and the value of improvements so ascertained should agree with the fee simple or capital value of the land. Under the residue method of valuation the value of the improvements is deducted from the capital value of the land, and if substantial improvements have been erected on the land beyond those necessary to obtain the best use of the land then the unimproved value of the land is automatically depressed below the proper figure. Looking at the respective values of land and improvements according to the valuations for the purposes of the renewals of the leases, the position at that time was that improvements represented over 83 per cent. of the capital values and it can, we think, be assumed that in most cases that percentage would be higher at the present time if the same method of valuation as was then used is used again. We consider that the valuation of the land and of the improvements under the principles of the Valuation of Land Act, 1925, would place the values on a more correct basis and, if anything, would be likely to reduce the percentage of the capital value which would be ascribed to improvements as compared with the residue method of valuing. The method of valuing under the Valuation of Land Act, 1925, seems to us to be the appropriate way to arrive at the respective values of land and improvements. Later in this report, under the heading "Valuations," we deal with the detailed application of the principles of land valuation to the assessment of the unimproved value and the value of improvements (paras. 112 *et seq.*).

34. In quite a number of cases lessees holding leases of vested lands are farming as one unit lands held under two or more leases, and in a number of cases they are also farming vested lands in conjunction with freehold lands owned by them. In some of these cases substantial farm buildings and other improvements have been constructed on one of the pieces of vested land, and if the land and improvements are valued in respect of each lease separately, there is every possibility that the improvements so erected on one piece of land and used for the farming of two or more pieces of land would be regarded as being more than is required for the most satisfactory farming of the one piece

of land. Counsel for the lessees directed attention to this difficulty and quoted one case to us where a farmer holds land under three separate leases which he is farming as one unit in conjunction with certain freehold land also owned by him. The total area of the leasehold land is 1,025 acres 3 roods 9 perches, and, except for some small sheds, the dwelling and woolshed, &c., are all erected on a small area of 79 acres 1 rood 23 perches held under one of the three leases. If the improvements on that piece of land are to be valued as being used solely for that land, then in all probability the value of the improvements would have to be written down on the basis that the land was over-improved. The converse case exists in the case of the lease referred to earlier (para. 32) where the valuation of the improvements on the expiry of the renewal period in 1945 was £29,016 and where the lands were originally held under three separate leases. In that case the buildings are almost all erected on one of the three sections. The present lease covers the three sections, although originally there were three separate leases. In that case it is clear that the valuation of the improvements on the one section can be made having full regard to the fact that the two other sections are farmed as one unit with the section on which the improvements are erected. Counsel for the beneficial owners, however, expressed the view that the consolidation of the three leases into one at the time the renewal was granted has operated substantially to the detriment of the beneficial owners when it comes to the assessment of compensation as, although the buildings as they stand to-day are more than are necessary for the farming of the three sections held under the one lease, they would nevertheless be even more uneconomic when regarded as being buildings erected for the farming of only one section. This problem and the problem which might arise if possession of only part of the lands leased is resumed on behalf of the owners are referred to later in this report (paras. 116, 117, 140).

35. Under section 327 of the Maori Land Act, 1931, and under section 263 of the Native Land Act, 1909, it is provided that the compensation for improvements shall not be recoverable as a debt but shall constitute a charge on the lands and upon all revenues received therefrom by the Board after the termination of the lease or of any renewal thereof. Under the special form of renewal which was settled and signed in connection with the renewal of the leases originally granted before 31st March, 1910, there is a similar provision to the effect that the compensation does not constitute a debt but constitutes a charge upon the land and upon all revenues received therefrom by the Board after the termination of the renewal term of the lease. This charge is enforceable under the provisions of the Maori Land Act, 1931, and under the provisions of that Act it is necessary in order that the charge may be enforced to apply to the Maori Land Court for the appointment of a receiver for the enforcing of the charge, and the receiver has the power of leasing the land and paying from the rentals received by him the amount of the compensation due under the charge. The receiver's powers of leasing do not enable him to lease for a term longer than twenty-one years, and there is no provision whereby the creditor would be entitled to receive any interest on the amount outstanding under the charge. If under the contract a lessee has to take steps to recover his compensation once it has been assessed by arbitration, it is necessary for him to apply for a charging-order and have a receiver appointed. The receiver appointed by the Court would then offer the land for lease by public tender or public auction. The land would be offered for lease in its fully improved state and the lessee would not have any prior right to take up the lease. If he was an unsuccessful tenderer, or an unsuccessful bidder at auction, then he would be required to give up

possession of the premises and accept the balance of the rental, after the deduction of the receiver's charges, as it becomes payable in full settlement of the capital amount owing to him for compensation. He would be placed in the unfortunate position of not having any cash immediately payable to him with which he could acquire another property for farming. From the point of view of the beneficial owners they would not receive anything whatsoever from the land during the whole of the period during which it was necessary to pay over the rentals to the present lessee for compensation for his improvements. From the point of view of the beneficial owners and also from the national point of view there is every possibility that towards the end of such a lease the tenant, having no interest in the improvements and having no right to a renewal, would fail adequately to carry out his covenants of good husbandry and that the property would go back and lose productivity. All parties were agreed that it would be unfortunate if no solution could be found to the problems before the Commission and the lessees were as a result left to take steps to recover compensation in the manner just described.

36. Mr. Brodie, counsel for the lessees, made a number of proposals to meet the various problems. The more important of these proposals were as follows:—

(*a*) The vesting of the vested lands in the Maori Land Board and the Board's leasing powers should be extended indefinitely.

(*b*) New leases should be granted in substitution for the present leases, the new leases being for twenty-one years with rights of renewal for successive terms of twenty-one years subject to the right of the lessors to resume possession of the premises at the end of the present term or at the end of any subsequent term of twenty-one years, paying compensation for improvements to be determined as mentioned below. A lessee whose farm comprises lands in more than one lease should have the option of consolidating his leases into one lease.

(*c*) If the lessors do not resume possession and pay compensation at the end of the present term the rental for new leases to be fixed in the manner propounded under the West Coast Settlement Reserves Amendment Act, 1948.

(*d*) If the lessors do resume possession and pay compensation at the end of the present term of the leases, the amount of such compensation to be assessed as provided by the present lease, that is to say, by two valuers or their umpire under the Arbitration Act, 1908.

(*e*) For the purposes of the assessment of compensation for improvements where one lessee is farming lands comprised in more than one lease, all the leases are to be treated as being consolidated.

(*f*) Compensation for improvements in the event of the lessor's resuming possession and paying compensation at the end of any future term to be fixed by the same tribunal as would fix the rent for any subsequent term under the lease then expiring.

37. Sir Alexander Johnstone, counsel for the Maori beneficial owners, on the other hand strenuously opposed the suggestion that there should be any extension of the leases, and he put forward the following proposals on behalf of the Maori beneficial owners:—

(*a*) The vested lands should be resumed by the lessor at the end of the present term of lease and reasonable compensation for improvements should be paid.

(*b*) The compensation for improvements so to be paid should be assessed by a tribunal. Counsel for the Maori owners indicated that he thought that the Land Valuation Court would be an appropriate tribunal.

(*c*) For the purposes of assessing compensation for improvements each lease should be taken separately—consolidation of leases for the purposes of assessing compensation was opposed.

(*d*) Having regard to the fact that the provisions admittedly implied or contained in the existing leases provided for payment by instalments during the operation of a charge in the event of cash not being forthcoming, consideration could well be given to compounding the compensation and paying the compensation on the basis of the present value of the instalments likely to be received from a receiver during the period necessary to repay the full amount of compensation.

(*e*) Consideration should be given by this Commission to methods whereby the necessary amount of compensation could be raised by mortgage, it being pointed out that it has been the practice of the Board of Maori Affairs in suitable cases to find up to 100 per cent. of the value of a security in order to assist Maoris to work their land.

38. Suggestions were put forward by Mr. Hoeroa Marumaru on behalf of the Maori beneficial owners as to the future use by or for the benefit of the Maoris of the vested lands after possession had been resumed by the Maori Land Board. Mr. L. J. Brooker, the Administrative Officer of the Aotea District Maori Land Board, also put forward his personal views as to the future use of the lands assuming that a way can be found for the lessees to receive their compensation. Both Mr. Marumaru and Mr. Brooker visualized the establishment of a trust to administer the lands, though their suggestions differed in detail. This is dealt with later in this report (para. 102).

39. Mr. I. Macarthur put in written submissions, after the hearing had been concluded, on behalf of a group of Maoris who claimed to speak for Maori owners beneficially entitled to shares in the Ohotu blocks representing between 5,000 acres and 6,000 acres. His clients to a substantial extent agreed with the submissions made by Sir Alexander Johnstone—for example, they agreed that present lessees are entitled to receive reasonable compensation for improvements, and they agreed with the submission that a judicial tribunal should fix that compensation. The main point that Mr. Macarthur stressed on behalf of his clients was that the Maori owners should be enabled to sell their interests in the vested lands so that they might, if they wished, obtain immediately what equity is left after payment of compensation for improvements. The Maori beneficial owners on whose behalf these submissions were made considered that the proceeds of such sales could be applied with advantage by them in respect of their own farms or otherwise for their benefit. They agreed, however, that all such moneys should be disbursed by a proper controlling authority. It was pointed out that in many cases the owner's individual share was very small indeed and moreover some of the owners lived in different parts of New Zealand and a few of them were actually in Australia. Quite a number of the beneficial owners had their own farms in areas some distance away from the lands under discussion. Comments were also made by Mr. Macarthur as to the future use of the land including the possible establishment of a trust scheme for the administration of the whole or part of the lands as suggested by Mr. L. J. Brooker, the Administrative Officer of the Aotea District Maori Land Board.

40. The principal submissions made for our assistance by Mr. Izard on behalf of the Aotea District Maori Land Board were as follows:—

(*a*) The present contract between the Board and the lessees clearly contemplates that no lease should extend beyond 25th November, 1957, and that in the event of non-payment of compensation for improvements all that the lessee is entitled to is a charge on the land and on the revenues therefrom. Upon the appointment of a receiver to enforce the charge, the receiver can lease for periods up to twenty-one years at a rack rent, and the rent is accumulated until sufficient is received to pay off the compensation without interest. Meantime the owners get no rent, but at the end of the leasing they get the land back free from all liability. Therefore it may be reasonable for the lessees to be required to accept for payment in cash the present value of the amount of their compensation paid over a period of years.

(*b*) The definitions of "improvements," &c., in the Valuation of Land Act, 1925, as amended by subsequent legislation, should be substituted for the definitions in the leases. The principles of valuation under that Act should be applied. Improvements on one section should not be spread over other sections leased by the same lessee.

(*c*) In assessing compensation payable to the lessees account should be taken to some extent of the fact that rents over recent years have been too low.

TOKERAU MAORI LAND DISTRICT

41. The Commission sat at Whangarei on 18th July, 1950, and on following days to hear evidence and submissions concerning vested lands in the Tokerau Maori Land District which may be approximately described as including the whole of the land north of the City of Auckland. Mr. C. Palmer appeared on behalf of the Tokerau District Maori Land Board and also, at the special request of the Maoris interested as beneficial owners in the Motatau No. 2 Block and of one of the owners of the Te Karae Block 2E 1B, presented their evidence to the Commission. Mr. Trimmer, with whom Mr. A. H. Steadman was associated, appeared on behalf of the Maori beneficial owners of the Paremata-Mokau Block. Mr. Hall Skelton appeared for the Maori beneficial owners, generally, of the Te Karae Blocks. Mr. Lamb appeared for groups of lessees interested in the Motatau No. 2 Block and the Paremata-Mokau Block and also for three individual lessees interested either in the Tutaematai Block or in the Mangawhero Block. Mr. Kirkpatrick appeared for most of the lessees of the Te Karae blocks. Mr. Meredith appeared for the Lands and Survey Department in connection with a portion of the Te Karae No. 3 Block of which the Crown is the lessee and which has been sublet to certain tenants under a small-farms scheme. Mr. Guy appeared for the subtenants under the small-farms scheme.

42. The total area of land which at one time or another has been vested in the Tokerau District Maori Land Board under Part XIV or Part XV of the Native Land Act, 1909, or the Maori Land Act, 1931, amounts to approximately 219,224 acres. Of this area 31,106 acres have been revested in the owners, 29,690 acres have been sold to the Crown, and 18,727 acres have been sold to private individuals. Approximately 30,790 acres are at the present time leased, but not all of this area is leased with provision that the lessee on the expiry of the lease will receive compensation for his improvements. At the present time areas amounting to approximately 108,909 acres still vested in the Tokerau District Maori Land Board are not leased. They comprise

lands which are either occupied by the Maori beneficial owners or are not suitable for occupation. The largest of these areas is situated in the extreme north of the North Island and comprises the Parengarenga and Pakohu blocks, containing together 57,306 acres. Apart from a right for a glass company to take sand from portion of this area the only use to which it is put at the present time is casual grazing.

43. The following gives particulars of the vested lands which are leased under some fifty leases upon terms which provide for payment to the lessees, at the termination of the leases, of compensation for their improvements:—

Block in Which Situated.	Area.	Latest Government Valuations.		
		Capital Value.	Unimproved Value.	Value of Improvements.
	A. R. P.	£	£	£
Kakaraiea (including islands)	1,000 0 0	1,390	595	795
Te Karae Blocks 3 and 4	3,113 0 13	20,770	5,175	15,595
Mangawhero I, K, L, P, Q, and R ..	461 2 23	1,425	520	905
Motatau Block 2	8,525 2 33·9	65,025	14,225	50,800
Opito	147 0 32	390	110	280
Otakanini (Lot 10)	477 3 0	3,520	1,300	2,220
Paremata-Mokau	5,276 3 30	22,960	5,425	17,535
Te Tio	407 0 23·2	1,125	515	610
Tutaematai B 2B	587 0 2·4	2,660	655	2,005
	19,996 1 37·5	119,265	28,520	90,745

44. The lands were vested in the Board or in its predecessor, the Tokerau District Maori Land Council, at varying dates, but all were vested prior to 31st March, 1910, being the date when the Native Land Act, 1909, came into operation. All the blocks which are leased were vested pursuant to Orders in Council made under the Maori Land Settlement Act, 1905, or as a result of recommendations of the Stout-Ngata Commission. Some of the land in the Te Karae blocks and most of the land in the Otakanini Block was originally leased under leases arranged before 31st March, 1910, and when the Otakanini leases fell due for renewal steps were taken by way of Court proceedings to determine the rights of the lessees to have a clause inserted in the leases for the renewal term making provision for compensation for improvements. As a result of these proceedings the renewal leases of the lands in the Otakanini Block were issued without any right being given to the lessees to receive compensation at the end of their leases for improvements put on the land by them. The only Otakanini land which is at present leased with a clause giving rights to compensation for improvements is land which was originally leased after 31st March, 1910. This is the only part of the Otakanini Block included in the above schedule. The position in relation to the Te Karae lands which were first leased prior to 31st March, 1910, is different. The leases originally issued did not appear to contain the true bargain according to the abstract of conditions of leasing, which were advertised at the time the leases were offered to the public for tender, and representations having been made to the Maori Land Board along these lines the Board issued to the respective lessees, with one exception, new leases in substitution for the original leases. These new leases were in the printed form applicable to leases subject to section 263 of the Native Land Act, 1909, and therefore purported to give the right to compensation conferred by that section. Although the term originally offered including the period of renewal extended beyond November, 1957, the lessees

agreed to accept a right of renewal which would expire within the period permitted by section 262 of the Native Land Act, 1909. Subsequently, these leases were duly renewed in a form conferring rights to compensation for improvements. The lessee of section 58 who did not obtain a new lease in substitution for the original lease, was held by the Court of Appeal (in Court proceedings taken to determine his rights) to be in a similar position to the lessees of the Otakanini Block who had taken up leases prior to the commencement of the 1909 Act. The matter was taken up by the lessee of Section 58 and by the other lessees whose interests might possibly have been adversely affected by the decision of the Court of Appeal and by section 11 of the Maori Purposes Act, 1946, the leases were validated and the Board was authorized and directed to issue a lease to the lessee of Section 58 upon the same terms as had been given to the other lessees who originally took up their leases prior to 31st March, 1910. In the result, therefore, all the lessees of the Te Karae blocks now have rights to compensation for improvements, whether their leases were originally entered into prior to 31st March, 1910, or not, so long as the leases are for terms of at least ten years.

45. All the leases of vested lands in this district which confer upon the lessee a right to receive compensation for improvements confer rights in accordance with the provisions of section 263 of the Native Land Act, 1909, or section 327 of the Maori Land Act, 1931.

46. The difficulties in relation to the valuation of the lands at the time of the renewal of leases did not arise in this district to the same extent as in the case of the lands in the Wanganui district, but it is clear from an examination of the latest Government valuations that on the expiry of the leases there is every possibility that in a substantial number of cases where the Maori beneficial owners may desire to enter into possession of their land and where the lands may be very suitable for their occupation there will be difficulty in arranging the necessary finance. In other cases, of course, where the land is unsuitable for Maori occupation the same problems as to the future of the land will arise as arise in other districts. For the assistance of the Commission the various counsel who appeared before us made a number of submissions and suggestions. We also had the benefit of a very helpful statement from Judge Prichard, who is the Judge of the Maori Land Court sitting in this district and who is the President of the Tokerau District Maori Land Board.

47. Judge Prichard suggested that at least three years before the end of each lease the Board and the beneficial owners should get together and consider the future use of the land, having regard to the amount of compensation likely to be payable to the lessee and having regard to whether the Crown would lend the money or whether the money for payment of the compensation would otherwise be available. He suggested, further, that the valuation of improvements for the purposes of compensation should be on the basis laid down by the Valuation of Land Act, 1925, and that there would be no injustice to the lessees if this were done. Judge Prichard expressed his agreement with the suggestion made by Mr. Lamb (para. 51, *post*) as to a tribunal being set up for the purpose of settling valuations of improvements as being a proposal which would provide a skilled body to deal with the

matter and would give uniformity. Judge Prichard made the following suggestions to deal with cases where compensation for improvements is, for any reason, not able to be paid, or where the land is unsuitable for Maori occupation:—

(*a*) The vested lands should remain vested in the Board with powers of leasing, such leases to be for successive periods of twenty-one years with perpetual rights of renewal, subject, however, to the right of the Board to resume on behalf of the Maori beneficial owners at the end of any period of twenty-one years in payment of compensation; but—

(*b*) In any such future lease there should be some limit placed on the improvements for which compensation should be payable.

(*c*) These leases should be put up for tender.

We are inclined, however, to agree with the submission made by one of the counsel representing lessees that the existing lessees should have the prior right to take up these leases notwithstanding that in putting up the leases for tender they would be protected for the value of their improvements. Judge Prichard also made certain other submissions as to the powers of the Maori Land Court in relation to consolidation and as to the encouragement of sales of small interests in Maori land, matters which are dealt with later in this report (paras. 131, 132).

48. So far as the various Maori interests which were represented before us are concerned, it is clear that there is a general desire that the land should be returned to the Maoris. We were pleased to note that in this district some Maoris are already making preparations to meet the financial responsibilities with which they will be faced at the termination of the leases in providing for payment of compensation to the present lessees. One witness stated that he wanted his land returned to him and he was prepared to pay for the lessee's improvements—providing a fair amount of the compensation out of his own moneys. He and another Maori witness made the point that although they wanted present improvements to be maintained they did not want any further substantial improvements added. One witness who gave evidence on behalf of the Maori owners of the Motatau No. 2 Block asked that where owners were able to make their own financial arrangements for payment of compensation for the lessees' improvements they should have complete freedom to do so, but that in every other case the compensation should be paid by loan from the State and, where desirable, the land should be put under a development scheme under Part I of the Maori Land Amendment Act, 1936. He suggested that where land is put under a development scheme, the tenants or occupiers to be put upon the land after it was developed should be selected by the owners in consultation with the Department of Maori Affairs, and he also suggested that the tenants or occupiers should be allowed to buy out the interests of other owners who were not able to go into occupation. This witness considered that the value of improvements should be based on what a prudent farmer will pay which, in his opinion, would be the added value derived from the improvements, not the cost thereof; the valuation of the improvements should bear some relationship to the usefulness of the improvements to the property. He also expressed the opinion that the owners should not be required to pay for fencing-posts, &c., taken off the property itself.

49. Messrs. Trimmer and Steadman, acting for the beneficial owners of the Paremata-Mokau Block, in their submissions dealt with some matters which were outside the scope of our inquiry and which, therefore, we have not investigated. So far, however, as their submissions related to matters within the scope of our inquiry they can be summarized as follows:—

(*a*) They conceded that the contracts entered into by the Tokerau District Maori Land Board as trustees for the owners should be honoured and that compensation should be paid to the lessees.

(*b*) The amount of such compensation should be determined by the Judge of the Land Valuation Court with whom should be associated two assessors, one to be appointed by the Maori Land Board and the other by the lessees.

(*c*) The basis of valuation should be the present-day value on the open market of the respective holdings as individual units, regard being had to the principal purpose for which the unit is being used—elaborate and unnecessary improvements should be depreciated from replacement value and where applicable some set-off should be made for land which has been allowed to revert.

(*d*) Consideration should be given by the Maori Land Board to the question of what areas are suitable for Maori settlement and the wishes of the owners should be consulted as to the use and occupation of those areas as dwelling-sites or small farms.

(*e*) Where lessees are to be allowed to remain in possession, then the lessees should buy the land and pay the value thereof in cash.

50. Mr. Hall Skelton, on behalf of Maori owners of Te Karae Block, stated that the Maoris wanted their land back and did not want it administered in any way by the Maori Land Board; they would prefer to rely upon the guidance of local successful pakeha farmers. In Mr. Skelton's submission, if any compensation is to be paid then it should be paid by the Government and not by the Maoris. This submission was based upon an attack upon the administration of the land and upon the legislation under which the vesting originally took place. The attack, however, was in such terms as to lose any force which it might otherwise have had if it had been couched in more moderate terms. Under the circumstances we have not inquired into any of the general and somewhat wild allegations made by Mr. Skelton which, in any event, related to matters entirely outside the scope of our inquiry. Mr. Hall Skelton also made the following submissions:—

(*a*) If any of the land were to be placed under a development scheme, then the Maoris should be put upon land which is fully developed in the same way as pakeha discharged servicemen are.

(*b*) So far as the assessment of compensation is concerned, the Maoris themselves and not the Maori Land Board should have the right to nominate any representative for any tribunal to assess compensation.

(*c*) In referring to the special problem in relation to the small-farms area occupied by subtenants under the Crown, which is discussed in paragraph 53 (*post*), Mr. Hall Skelton suggested that it might be possible for an arrangement to be made direct with the Maori beneficial owners to give each of the tenants of the small farms the right to continue in occupation during his lifetime.

51. Mr. Lamb, on behalf of the various lessees, stated that the lessees were prepared to carry out their contracts and, if compensation was paid, they would yield up the land in accordance with the contract. He agreed that compensation should be based on what a reasonable man would pay for

the improvements. If compensation for the improvements was not, however, forthcoming, then the lessees were vitally interested, and he made the following submissions as to what should be done in those circumstances:—

(*a*) The lessees should be given new leases for twenty-one years with perpetual rights of renewal for further periods of twenty-one years, subject, however, to the right of the Maori owners to resume the land at the end of any period upon payment of compensation for lessee's improvements.

(*b*) The assessment of compensation for improvements should not be by arbitration under the Arbitration Act, 1908, but should be by a judicial tribunal which, as the amounts of compensation would be very large, might well be presided over by a Supreme Court Judge who should have associated with him two assessors, one to be appointed by the Maori Land Board and one to be a lessees' assessor, it being contemplated that separate assessors would be appointed for each Maori Land District.

52. Mr. Kirkpatrick, appearing for most of the lessees of Te Karae Block, drew attention to the fact that the Maori beneficial owners were mostly away from the district and had not taken any interest whatsoever in farming the block. It was true that some likely Maoris were living on the block in areas which were not leased, but they were not endeavouring in any way to farm the land. This put the block, in his opinion, in a different position from the other blocks which were discussed at Whangarei. If the Maoris wanted to be put on the land, then he submitted that the Crown should take over the Maoris' interest in the block and should transfer to them another block of unoccupied Crown land of equal value such as, for example, a block mentioned by him in the Omahuta district, thus enabling the Maoris to be settled on land without disturbing the productivity of the Te Karae Block in the hands of the present lessees. He asked that the lessees should be allowed to purchase the land occupied by them, and that if this were not done, then they should have further leases of the land as submitted by Mr. Lamb.

53. Although in this report we have endeavoured to deal with the problems which have come before us in a general way so as to cover all the separate cases which have been placed before us, we feel that we should deal specially with the position of part of Te Karae No. 3 Block, the lease of which was acquired by the Crown some years ago and which, together with other lands of the Crown, has been leased under a small-farms scheme to a number of lessees. It appears that the Small Farms Board acquired from a Dr. Smith certain lands which included vested lands held by him under lease from the Tokerau District Maori Land Board. The Small Farms Board then subdivided the total area into a number of small farms, some of which are situated wholly within the area of leasehold land and others of which are situated partly within the leasehold area and partly on Crown land. In view of the confused state of the title the tenants have been unable to obtain any registerable lease particularly as they were promised a tenancy under the Small Farms Act, 1932–33, with a right to acquire the fee-simple. It was admitted by Mr. Meredith, on behalf of the Crown, that there is no doubt that when the small farms were leased the Crown held out to the tenants the anticipation that the Crown would be able to give them proper tenure and comparatively lengthy leases, the Crown relying on being able to acquire from the Maoris the piece of land which was held under lease from the Maori Land Board. The acquisition from the Maoris of this piece of land would have enabled the Crown to give proper title and proper leases, and there is no doubt that that was the understanding on both sides. This is admitted in a letter signed

by the then Minister of Lands, the Hon. Mr. F. Langstone, on 8th August, 1938. The letter stated that every endeavour was being made at that time to finalize the acquisition of the interest of the Maoris in the Native leasehold land but difficulties were being encountered. A further twelve to thirteen years has passed and the land has still not been purchased by the Crown. Mr. Meredith placed the facts before us and stated that it was the desire and intention of the Crown to complete the matter in order to give a proper title to the small-farm tenants, the difficulty up to the present time being the acquisition of the Maori interests in the land which the Crown was still hopeful of acquiring. Mr. Guy, on behalf of the small-farm tenants, submitted that the Crown should take steps to acquire the land and give a proper tenure to the small-farm tenants, who have been more than fifteen years without it, and that the tenure should be that envisaged under the Small Farms Act, 1932–33. In our view the position is such that a responsibilty rests on the Crown to take steps at the earliest possible moment to put in order the title of the Crown tenants and thus remedy the situation created by the foolish action of the Small Farms Board in subdividing and settling tenants on the land without first putting the titles in order. In the past it has been the endeavour of the Lands and Survey Department to acquire the freehold of the whole of the lands in the Maori lease which had been taken over from Dr. Smith. Until the commencement of the Land Act, 1948, there was a power to acquire the land compulsorily which successive Governments did not exercise. This power of compulsory acquisition ended with the commencement of the Land Act, 1948, and we are not prepared to recommend that it should be specially re-enacted to enable the land to be acquired compulsorily. We consider that the situation can be adequately met by a different approach to the problem. In this report we are recommending that, in cases where compensation is not paid to the existing lessees for their improvements, the lessees shall have rights to receive new leases which, subject to certain qualifications, are to be perpetually renewable. In the case of the land we are discussing it appears to us from an inspection of the area and an examination of the recent valuations and reports that this is not a case where the Maori owners will be able to finance payment of the improvements and, accordingly, lessees of this land should be able to obtain further leases as contemplated by this report. We feel that the difficulties in relation to the small-farm areas which are partly on Maori leasehold land and partly on Crown land can be met by arranging a series of exchanges with the Maori owners whereby some of the small-farm areas will become wholly Crown land and other areas will become wholly Maori leasehold land. We think that it should be possible to arrange a series of exchanges of Crown land for Maori land and *vice versa* by negotiation, and that if the Maoris are approached in a proper spirit agreement should be reached. Payment of a sum of money by way of equality of exchange may be necessary. Such a series of exchanges would be beneficial to the Maoris as well as to the existing Crown tenants. The Maoris would obtain proper satisfactory legal road access to areas of small-farm leasehold which at the present time have no satisfactory road access so far as the land within Maori ownership is concerned. The small-farm tenants who by the series of exchanges would be brought wholly within Crown land should obtain the leasehold tenure originally contemplated, and those who find themselves wholly within Maori land should be given leases direct from the Tokerau District Maori Land Board for the areas occupied by them. These last-mentioned leases should be for the balance of the term of the present head lease which was acquired by the Crown from Dr. Smith and should provide for compensation for improvements effected since the land was first leased; any interest of the

Crown in the improvements can be protected by a mortgage to the Crown. The lessees under these new leases should have the rights which will be conferred by the legislation passed to give effect to the recommendations in this report so far as obtaining leases for further terms is concerned. Thus the most serious complaint made by the Crown tenants that they have no legal title will be met. As in our view the series of exchanges contemplated by us would be fair and would not deprive the Maori owners of the ownership of land, we feel justified in recommending that in the event of a failure to arrange the exchanges by negotiation steps should be taken under section 4 of the Maori Purposes Act, 1940, to obtain an order of exchange from the Maori Land Court so as to achieve the result contemplated by us in the foregoing portions of this paragraph.

IKAROA MAORI LAND DISTRICT

54. The Commission sat at Waipukurau on the 22nd and 23rd August, 1950, for the purpose of hearing evidence and submissions concerning vested lands in the Ikaroa Maori Land District. This district may be approximately described as including Wellington, Wairarapa, and Manawatu, and Hawke's Bay as far north as the Mohaka River. Mr. A. G. Hercus appeared on behalf of the Ikaroa District Maori Land Board. Mr. A. E. Lawry appeared on behalf of the lessees of vested lands. Mr. R. F. Mackie appeared on behalf of certain of the Maori beneficial owners of the vested lands.

55. The area of vested land in this district is approximately 1,646 acres and it is held by various lessees under ten leases. The vested lands are situated in two different blocks and the following schedule shows the total area and other particulars of the land in each block:—

Block.	Area.	Rentals, First Term.	Present Rentals in Second Term.	Valuation at Time of Renewals of Leases.	
				Improvements.	Unimproved Value.
	A. R. P.	£ s. d.	£ s. d.	£	£
Rakautatahi	1,453 3 12	422 1 0	324 19 4	6,638	8,071
Sections 6 and 7, Block V, Aohanga S.D.	192 0 0	34 8 0	30 18 0	1,723	618
	1,645 3 12	456 9 0	355 17 4	8,361	8,689

56. The Rakautatahi blocks were vested in the Ikaroa District Maori Land Board as the result of recommendations of the Stout-Ngata Commission contained in a report of 16th August, 1907 (paper G–1E of 1907). These blocks were first leased by the Board before the Native Land Act, 1909, came into force. The original leases were for twenty-four years from 1st January, 1910, and the present leases run from 1st January, 1934, and expire on 25th November, 1957. Each of the present leases declares that the lessee shall be entitled, on the termination of the lease, to compensation for improvements effected by the lessee or his predecessors in title during the original or renewed term and unexhausted at the end of the renewed term. The provisions as to the method of valuing for the purpose of determining the amount of compensation are similar to those contained in leases granted under the 1909 Act. Sections 6 and 7 of Block V, Aohanga Survey District, became vested in the Ikaroa District Maori Land Board after the Native Land Act, 1909, had come into force, and those sections were first leased under that

Act. Section 263 of that Act providing for compensation for improvements accordingly applied, and the present lease is in the form prescribed by the appropriate regulations and contains an express provision entitling the lessee to compensation for improvements and providing for assessment of the compensation in the same manner as in the other leases in this district, although in this case, as in the case of numbers of leases in the Wanganui district where a printed form was used, no specific reference is made to improvements effected during the first term of the lease. The land in the Aohanga Survey District is different from most of the other vested lands in that the Maori owners of the land do not live on or near the land, and no representations were made to us by the Maori owners of that land.

57. The Ikaroa District Maori Land Board is the only Board which has set aside any rents to provide a fund towards compensation for improvements. The Board at the time when the leases were renewed took out a sinking-fund policy with the Government Life Insurance Office to meet part of the amount of compensation which the lessees would become entitled to at the expiry of the leases. The amount of the premium under this policy is paid out of the rents as they are received by the Board and is equivalent to about one-quarter of the rents. As a result of this action by the Board, substantial sums will be available in respect of each piece of leased land towards the sum required to meet payment of compensation for improvments. In view of the fact that Aohanga leases do not expire until 1954 and the leases of the Rakautatahi blocks do not expire until 1957 it is difficult to determine with any certainty what the position is likely to be at the end of the leases. When the leases expire the position as to the valuations of land and improvements may be substantially different, but it is felt that in some cases at least it will not be possible to raise on ordinary terms and from ordinary sources sufficient money to enable the compensation to be fully paid and the land to be stocked sufficiently for it to be taken over and farmed by or on behalf of the Maori owners.

58. In the course of the hearing of representations concerning the Ikaroa district our attention was drawn to the fact that the interests of the beneficial owners of the land are all very small. No owner appears to have an interest sufficiently large to give him an area of land which, by itself, would be of any use for farming. We have examined the list of beneficial owners of the vested lands in this district and schedules showing the amounts of rentals distributed to them. These very clearly exemplify the chaotic state into which the ownership of Maori land is rapidly developing with the passage of time. As each member of a generation dies his interest in the land is divided amongst the members of his family, and we find that as the years go by the number of owners increases and the size of their respective shares diminishes. In the Rakautatahi 5B Block, where a rental of £9 19s. 9d. is distributed twice a year, there are about ninety owners, and some of the interests are so small that several of those who are beneficially interested in the land receive only 1d. at each distribution. Originally, the beneficial interests in this block were divided into thirteen shares. To-day, with the passage of time, some of the owners are entitled to no more than 1/420th part of one share. As the total area is just over 300 acres those interests on an acreage basis would represent about 9 perches (*i.e.*, less than 1/16th of an acre). In some of the other Rakautatahi blocks the shares are so small that quite a number of the beneficial owners receive less than 2s. per annum out of the rents. In the case of the Aohanga rents a similar position is found and a considerable number of the owners receive less than 2s. with each distribution of rents, which is made once in every two years.

59. In this district as in other districts the Maoris who were represented before us made it clear that it was their desire to have the land back for farming by the Maoris themselves. As already mentioned it is quite apparent that no individual Maori would have an interest sufficiently large to make a separate economic unit. But it was the desire of the Maoris that the lessees should be paid their compensation and that the land should be farmed either by or for the benefit of the Maoris.

60. Mr. R. F. Mackie, counsel for the Maori owners, directed attention to the fact that the rentals were reduced by statute in 1932, and that after the leases had been renewed substantial reductions were made in certain cases by order of the Court of Review. The rentals as reduced by the Court of Review still continue to be the rentals payable notwithstanding the improvement of the times. Counsel for the Maori owners also directed our attention to the small interests of the Maoris and the need for consolidation and rearrangement of the interests. This aspect of the matter is dealt with later in our report (para. 132).

61. Mr. A. E. Lawry, counsel for the lessees, submitted that there should be no change in the sort or character of improvements, or in the method of valuing improvements, provided for in the lease. On the assumption that sufficient funds cannot be found to pay the lessees the full amount of their compensation in cash Mr. Lawry made the following submissions:—

(*a*) Negotiations should be entered into between the lessees and the owners with a view to the lessees, in appropriate cases, buying the land, and power should be given to the Maori Land Board, if the lessees and the owners cannot agree on the terms of sale, to lay down the terms of sale in cases where, in the opinion of the Maori Land Board, the land should be sold.

(*b*) Failing a sale of the land, the land should continue to be administered by the Board on behalf of the Maori owners and further leases should be granted to the existing tenants at rentals fixed by a Valuation Board comprising a nominee of the lessees, a nominee of the Board, and the Valuer-General, or his representative, the last mentioned to act as chairman. These new leases should contain provisions similar to those in the present leases save that compensation for further improvements should perhaps be payable only in respect of improvements agreed to by the Maori Land Board. It was suggested that it might be of advantage to the Maori owners if the new leases were auctioned or put up for public tender, but if that was done some sort of prior right, which was not very clearly defined should be given to the existing lessee.

62. Mr. A. G. Hercus, counsel for the Ikaroa District Maori Land Board, made various suggestions for our assistance, including the following:—

(*a*) A recommendation could well be made for the passing of legislation providing what factors were to be taken into account and what methods were to be adopted in making valuations of improvements for compensation purposes, and that provision should be made therein to the effect that the compensation to which a lessee might become entitled should not in any case be more than the difference between the capital value of the land at the end of the lease determined in accordance with the provisions of the Valuation of Land Act, 1925, and the value of the owners' original interest in the land as at the commencement of the first lease with an adjustment for differences in monetary values between the two dates, such adjustment to be assessed by the Government Statistician.

(*b*) There should be a right to go to the Land Valuation Court for a final decision on any matters of valuation.

(*c*) When the valuation of improvements for compensation purposes has been ascertained there should be a right given to the beneficial owners to compound their liability for compensation in cash on the basis of the present value (calculated at 4 per cent.) of an annual payment equal to 5 per cent. of the capital value of the land at the end of the lease for a number of years sufficient to pay the full amount of the compensation.

(*d*) Immediately the amount of compensation is determined the Maori owners should be consulted to ascertain their wishes concerning the land. It was suggested that the following options could be considered by the Maori owners as to the future of the land:—

(i) Whether the lessee should be paid his compensation by a compounded cash payment.

(ii) Whether the land should remain vested in the Board for lease to Europeans.

(iii) Whether the land should be sold.

(iv) Whether the land should be partitioned between the owners and the lessee on the basis that the lessee is awarded on the partition land and improvements to the value of the compounded cash payment to which he would be entitled.

(v) Whether some portion of the land should be sold to assist in the payment of compensation.

(vi) Whether the land should be used as a training ground for young Maori farmers.

(*e*) Any new leases given to Europeans should provide for a revision of the rentals at intervals of seven years or ten years.

(*f*) As to the suggestion of counsel for the lessees concerning the sale of the land by the Board, it was submitted on behalf of the Board that no power should be given to the Board to enforce a sale upon unwilling Maori beneficial owners, as this would look as though the Board were taking steps to confiscate Maori land.

WAIKATO-MANIAPOTO MAORI LAND DISTRICT

63. The Commission sat at Te Kuiti on 12th and 13th September, 1950, to hear evidence and submissions concerning vested lands in the Waikato-Maniapoto Maori Land District. The Waikato-Maniapoto Maori Land District may be approximately described as including all the land between Auckland in the north, Taumarunui in the south, the Coromandel Peninsula and Matamata in the east, and the coast in the west. Mr. C. Palmer appeared on behalf of the Waikato-Maniapoto District Maori Land Board, Messrs. P. S. Page, J. F. Trapski, K. W. Low, and B. Malone represented various lessees of different pieces of vested land. Mr. F. O. R. Phillips represented the Maori owners of some of the vested lands and Mr. G. Elliott represented the Maori owners of certain other pieces of vested land. In addition, several of the Maori beneficial owners spoke on their own behalf. We also received written submissions from the Northern King Country Sub-province of Federated Farmers.

64. The total area of land which at one time or another has been vested in the Board under Part XIV or Part XV of the Native Land Act, 1909, or the Maori Land Act, 1931, amounts to approximately 199,148 acres. Of this, areas amounting to 10,843 acres have been revested in the owners, 103,085 acres have been sold to the Crown, and 34,679 acres have been sold to private

individuals. Areas amounting to approximately 14,940 acres are at the present time leased, but not all of it is leased with provision that the lessee, on the expiry of the lease, will receive compensation for his improvements. At the present time approximately 35,478 acres are vested in the Waikato-Maniapoto District Maori Land Board but are not leased. One of the main blocks which is not leased is the Maraeroa C Block which contains 13,727 acres. This block is subject to timber-cutting rights which originally were to expire on the 25th day of November, 1957, being the last day up to which timber-cutting rights could be granted pursuant to section 346 of the Maori Land Act, 1931. As the timber-cutting operations on the block could not be properly and satisfactorily completed by that date the timber-cutting licence has been extended to the year 1970 pursuant to special statutory authority granted by section 24 of the Maori Purposes Act, 1949. Many of the other areas in the district which have not been leased have been occupied by Maoris, some have been leased temporarily, and others are not suitable for farming purposes. The following gives particulars of the vested lands which are leased under some twenty-seven leases upon terms which provide for payment to the lessees at the termination of the leases of compensation for their improvements:—

Block in Which Situated.	Area.	Latest Government Valuations.		
		Capital Value.	Unimproved Value.	Value of Improvements.
	A. R. P.	£	£	£
Kinohaku East	129 0 5·4	152	83	69
Maraetaua	903 2 25·4	11,031	2,371	8,660
Tangitu S.D., Blocks VIII, IX, XI, and XII	3,453 1 37	13,453	3,988	9,465
Rangitoto-Tuhua 67D	709 0 0	377	177	200
Tuhua S.D., Blocks II and VI ..	2,133 0 23	13,005	595	12,410
Turoto B 2B	49 0 0	380	140	240
Wharepuhunga 14B	3,602 3 6·4	38,225	12,465	25,760
	10,980 0 17·2	76,623	19,819	56,804

65. The various blocks of Maori land were all vested in the Board as a result of recommendations made by the Stout-Ngata Commission. Most of the leases were arranged after 31st March, 1910, being the date when the Native Land Act, 1909, came into operation, and any questions in relation to rights of compensation for improvements in connection with this district relate to the provisions of section 263 of the Native Land Act, 1909, and section 327 of the Maori Land Act, 1931.

66. The criticisms voiced at Wanganui in relation to the valuation of the lands in the Aotea Maori Land District at the time of the renewals of the leases did not arise in the Waikato-Maniapoto District as the rentals for the renewals were to be a percentage of the unimproved values of the lands according to the Government valuations in force at the time of the renewals. It is clear, however, that in a number of cases where the Maori beneficial owners may desire to enter into possession of their lands and where the lands may well be suitable for their occupation there will be difficulty in arranging the necessary finance. In other cases, of course, where the land is unsuitable for Maori occupation the same problems as to the future of the land will arise as arise in other districts. A further difficulty which also occurs in other districts, but to which our attention was particularly drawn in this district, arises from the fact that the subdivisions made by the Board for leasing

purposes differ considerably in many instances from the subdivisions of the lands made by the Maori Land Court for the purposes of partitioning the interests of the various owners and there is a good deal of overlapping, there being, generally speaking, no close relationship between the Maori Land Court subdivisions and the Board subdivisions. The difficulty will occur if one group of owners is in a position to pay compensation and desires to resume possession of their lands while another group of owners interested in a different area covered by the same lease is not able to find the compensation or may not desire to resume possession of their lands. Difficulty may also occur in connection with the apportionment of compensation liability as between different groups of owners where compensation is paid under a lease covering lands owned by more than one group of owners.

67. Counsel for the various lessees, while concerned principally with the special circumstances of their clients, made various proposals of general import. Mr. Page adopted generally the proposals made by Mr. Brodie at Wanganui (para. 36, *ante*), but he made a further suggestion that an effort should be made in appropriate cases to arrange that the lessees' improvements and the owners' interest should be valued and the land partitioned between the lessee and the owners in proportion to their interests as ascertained in the valuation. Messrs. Malone, Trapski, and Low all supported the proposition that the acquisition of the freehold by the lessees should be facilitated and that, in the alternative, the lessees should be given a satisfactory form of leasehold tenure. In addition, Mr. Low submitted that there should be no departure whatsoever from the rights to compensation conferred by the leases which, in his submission, included the right to receive payment of compensation as a lump sum in cash at the termination of the lease.

68. Mr. Phillips, counsel for the Maori owners of various blocks of vested lands, submitted that the owners should be asked immediately for their views as to the future of the lands. In his submission uneconomic units should be leased again or sold, and the economic units, if suitable for settlement by Maoris, should be used for that purpose, otherwise the existing leases should be renewed. In those cases where it was proposed to settle Maoris then, if possible, the ownership of the land should be simplified, by consolidation of the titles or otherwise, so that the owners or one of them could farm the lands. He also referred to certain procedural matters which are dealt with later in this report (paras. 131, 132). Mr. Elliott, on behalf of the owners of certain other blocks, in dealing with the question of valuation, submitted that consideration should be given to the low cost of the improvements when they were originally put on the land and to the fact that, in the view of the Maori owners, the lessees had derived considerable benefits from their improvements. He suggested that a round-table conference between the lessees and the Maori beneficial owners could probably find a solution to this matter. He suggested that if the lands were to be relet for a further period they should be relet to the present lessee and half the rent should go to the owners and half should be set aside as a sinking fund to wipe out the compensation. Failing the reletting of the lands, then the interests of the owners could perhaps be sold to the lessees. Mr. Elliott also made representations on behalf of the owners of the Maraeroa C Block which, as already mentioned (para. 64), is subject to timber-cutting rights. He stated that the Maoris wanted the land revested in the owners for the purposes of the immediate settlement of such parts thereof as contained no timber or as had been cut out by the millers. The Maori owners desired to be incorporated for the purposes of managing their block. It is to be pointed out, however, that the owners have certain rights under the existing legislation to make application to have the land revested,

and they do not appear to have exhausted the remedies available to them. As any recommendations which we might make as to the extension of the Board's powers of leasing beyond 1957 might affect lands which are not subject to leases at the present time, we have taken into account the representations which Mr. Elliott made as to the views of his clients concerning the future of their lands. One Maori witness, speaking on behalf of himself and other beneficial owners of one of the blocks of vested land which is subject to a lease conferring a right to compensation for improvements, submitted that lessees who bought during the slump or at a time when prices were low should not have the benefit of the present full value of improvements when they did not pay that amount for the improvements.

69. The Northern King Country Sub-province of Federated Farmers submitted that it was essential that arrangements be made as to the disposal of vested lands at the earliest possible moment; that the land must necessarily be revested after 1957 with Maori Land Boards; and that the powers and policies of those Boards should be revised to enable the granting of fair and equitable leaseholds designed to develop and keep the land in good heart and at the same time ensure a reasonable return to the Maori owners from the properties concerned.

70. Mr. J. H. Robertson, the Administrative Officer of the Waikato-Maniapoto District Maori Land Board, stated that the Board was generally in agreement with the views expressed by Judge Prichard, President of the Tokerau District Maori Land Board (para. 47, *ante*). Mr. Robertson stated that in the opinion of the Waikato-Maniapoto District Maori Land Board no injustice would be done to the lessees if the basis of valuation were that laid down in the Valuation of Land Act, 1925, and if the amount of the valuation were to be fixed by some statutory tribunal. He expressed views similar to those of Judge Prichard in relation to most matters dealt with by Judge Prichard, but as to the land not suitable for occupation by Maoris Mr. Robertson made a suggestion that the leases for further periods be put up for tender at an upset rental of 5 per cent. of the unimproved value loaded with the valuation of improvements which would be paid to the outgoing tenant. In most cases the Board felt that the outgoing tenant would be the successful tenderer and no money would pass. He suggested also that there should be an upper limit placed on the amount of compensation payable under future leases. Other suggestions were made concerning receivers' powers.

71. Mr. Palmer, counsel for the Board, made the following general submissions concerning matters referred to in the Order of Reference:—

(1) As to the value of improvements—

(*a*) The value should be measured by the benefit of the improvements to the land and not merely by the cost of the improvements.

(*b*) Justice would be done to all parties if the valuations are made in the terms of the Valuation of Land Act, 1925, and its amendments. To a certain extent leases in this district were tied to that Act in that the renewal rentals were assessed by reference to unimproved values under that Act.

(2) As to the method of ascertaining the value of improvements—

(*a*) Private arbitration as contemplated by the leases would be unsatisfactory.

(*b*) A tribunal of some standing should be established for the purpose. If the matter went to the committees associated with the Land Valuation Court more than one committee would be called on to deal with matters in this district, and it would be better to have one single body dealing with the matter in the district.

(3) As to the manner in which compensation for improvements should be discharged—

(*a*) Where the owners can pay the compensation they should be permitted to do so and have a right to the return of their land.

(*b*) Where the land is suitable for occupation by the Maoris and the Department is prepared to finance the property the matter could be dealt with by bringing the lands under a development scheme under Part I of the Maori Land Amendment Act, 1936.

(*c*) Where the land is not suitable for the time being for farming by the Maoris the Board should be given statutory power to lease for further terms of twenty-one years with perpetual rights of renewal for successive terms of twenty-one years, subject, however, to a right to resume possession for the benefit of the Maori owners at the end of any period of twenty-one years on payment of compensation of a limited nature.

(4) Meetings should be held some time before 1957 between the owners and the Board, and, where necessary, the lessees, with the object of ascertaining whether the land should be taken over by the owners in 1957 and, if not, how it should be dealt with.

(5) The Board's powers of leasing should be extended beyond 1957 and likewise its powers of granting licences in respect of timber, flax, &c., should be extended.

Mr. Palmer also made submissions concerning some miscellaneous matters. These matters are amongst those dealt with later in this report (paras. 129 *et seq.*).

WAIARIKI MAORI LAND DISTRICT

72. The Commission sat at Rotorua on 15th September, 1950, to hear evidence and submissions concerning vested lands in the Waiariki Maori Land District which covers the Rotorua and Bay of Plenty area. Mr. J. J. Dillon, Administrative Officer of the Waiariki District Maori Land Board, presented a statement of the position of the leases of vested lands in the district. Mr. I. D. Jack appeared for the Public Trustee as trustee in an estate which was the lessee of one piece of land and a sub-lessee of another piece of land. Mr. E. Roe appeared on behalf of three sub-lessees.

73. The vested lands in the Waiariki Maori Land District fall into two distinct classes. The first class comprises lands subject to Part XIV of the Maori Land Act, 1931, which were vested in the Board pursuant to recommendations of the Stout-Ngata Commission. The second class, which includes the majority of the vested lands, comprises lands which were originally under the Thermal Springs Districts Act and which, pursuant to section 4 of the Thermal Springs Districts Act, 1910, were declared to be subject to Part XV of the Native Land Act, 1909. There are some thirty-six leases affecting an area of 5,400 acres of vested land in this district. Most of the leases will expire in 1959 and 1960, pursuant to rights created before the land became subject to Part XV of the Native Land Act, 1909. In practically all cases there is a specific limit on the amount of the liability for compensation for

improvements. In some cases the liability is limited to a specified sum of money, and in other cases is limited to an amount of £2 per acre. In only two cases is there no limitation upon the liability for improvements and in those cases, judging by the Government valuations made not more than six years ago, the amount of the improvements does not exceed two-thirds of the total capital value of the land. Under the circumstances it would appear that when the leases expire little difficulty will be experienced in this district in arranging the necessary finance to enable the contracts to be carried out by the payment to the lessee of the value of his improvements or the limited sums to which he is entitled in respect of his improvements. It was the view of the Waiariki District Maori Land Board that the contracts should be adhered to.

74. On behalf of the Public Trustee, Mr. Jack submitted that it was questionable whether the terms of section 327 of the Maori Land Act, 1931, permit a maximum amount of compensation to be fixed. We do not propose to give consideration to this legal question but propose to accept the leases at their face value so far as limits of compensation are concerned. However, apart from any legal technicality, Mr. Jack submitted that there should be no limitation as a matter of fairness in view particularly of the fact that having regard to present-day standards the limit fixed many years ago was grossly inadequate and no incentive to a lessee to farm the property in a satisfactory manner. Mr. Jack further submitted that the lessees should be given a right to obtain a renewal of their leases. Mr. Roe, who appeared for sub-lessees, admitted that his clients had no direct standing so far as the inquiry was concerned as they had no contract with the Board but only a contract with lessees from the Board. However, he supported Mr. Jack's submission that the limitation on the right of compensation provided a grossly inadequate sum of compensation.

75. Immediately before the hearing commenced Mr. Dillon investigated the exact position concerning the leases in which the Public Trustee and Mr. Roe's clients were interested and found that the land had, pursuant to section 10 of the Native Land Amendment and Native Land Claims Adjustment Act, 1922 (now section 353 of the Maori Land Act, 1931), been revested in the Maori owners. The land was revested and partitioned amongst the Maori owners on 23rd February, 1925. These particular lands are, therefore, no longer vested lands. Mr. Dillon stated that there were other blocks in the same position but he had not made a full and complete investigation and could not state exactly how many of the blocks which were subject to the thirty-six leases had been revested in the Maori owners. The reason for the matter having been overlooked until this stage was that on the revesting of the land in the Maori owners provision was made that the Board should continue to exercise the powers of lessor, and the Board has so continued and has received the rents and dealt with them accordingly. The facts thus disclosed raise the question whether leases of lands which have been revested in the Maori owners under section 353 of the Maori Land Act, 1931, or the earlier similar legislation, should be subject to any legislation passed as a result of the recommendations of the Commission. In the particular circumstances in the Waiariki Maori Land District it will probably be found that by reason of the limit on compensation the owners will be in a position to refinance and pay out the compensation, possession being resumed by them or on their behalf and the leases terminated on the expiry date thereof. However, as our recommendations contemplate a statutory variation of the rights and liabilities of the parties as to compensation and as to extensions of leases in the case of leases of lands now vested in Boards under Part XIV or Part XV of the Maori Land Act, 1931, this question will need to be dealt with in relation to leases granted by Boards at the time when the lands

were so vested even though those lands have now ceased to be vested in the Boards. In our opinion our recommendations should apply not only to leases of land which remains vested in a Maori Land Board under Part XIV or Part XV of the Maori Land Act, 1931, but also to every lease of land which is no longer so vested if the lease confers a right to compensation for improvements and either was granted when the land was vested land or is in substitution for or renewal of a lease so granted. It seems to us that it would be unfair if a lessee was placed in a different position from a lessee of neighbouring land who holds under an identical lease merely because, since the leases were granted, the land in one of the leases has been revested in the owners.

TAIRAWHITI MAORI LAND DISTRICT

76. The Commission sat at Gisborne on 7th and 8th November, 1950, to hear evidence and submissions concerning vested lands in the Tairawhiti Maori Land District which covers the Wairoa, Gisborne, and East Coast districts. Mr. K. G. Scott and Mr. S. Hardman appeared for the Tairawhiti District Maori Land Board. Mr. K. A. Woodward appeared for the Maori owners of three of the blocks of vested lands. Messrs. R. A. Wilson, G. J. Jeune, and G. M. O'Malley appeared for various lessees of vested lands. We also heard representations from one of the Maoris interested in the Rangatira 3A 1 Block.

77. Parts of the vested lands administered by the Tairawhiti District Maori Land Board were originally vested in the Tairawhiti District Maori Land Council pursuant to Deeds of Trust under the Maori Lands Administration Act, 1900. Most of the remainder of the lands were vested in the Board by various Orders in Council made pursuant to section 8 of the Maori Land Settlement Act, 1905. One block of vested land, the Anaura Block, was vested in the Board pursuant to section 4 of the Maori Land Settlement Act Amendment Act, 1906, which provided that land which in the opinion of the Native Minister was not properly occupied by the Maori owners but was suitable for Maori settlement might be vested in the Board and dealt with under the Maori Land Settlement Act, 1905, the leasing power in that particular type of case being limited to leases to Maoris. All the vested lands which we have to consider in the Tairawhiti Maori Land District therefore come under Part XV of the Maori Land Act, 1931.

78. In the great bulk of cases when the land was originally leased by the Board it was leased to various Maori owners who had interests in the blocks concerned. Since the leases were originally granted some of the leases have been transferred to pakehas, but in this district the great bulk of the leases are still held either by the original Maori lessee or by his descendants or successors. This leads to a certain amount of community of interest between the lessee himself and the Maori owner or body of owners of the block concerned.

79. One area where leases were originally granted to Maoris but subsequently became vested in pakehas comprised a substantial portion of the Anaura Block. The Maori Land Board took over the lands from the then lessees in 1929 and it is now farming on behalf of the Maori owners of the Anaura Block some 4,433 acres of the block. In addition, the Board is farming as part of the Anaura Station an area of approximately 1,380 acres which is held by the Board on lease from the owners of an adjacent block. Despite an initial setback, owing to the slump period from 1930 to 1936, the farming operations of the Board have been very successful. Substantial sums have in the last twelve years been distributed to the owners by way of dividend or used for communal purposes. According to figures supplied to us the station profits during the period 1st April, 1940, to 31st March, 1950, amounted to an average annual sum of £4,065, or 14s. per acre.

At the hearing this profit was compared with the rentals, which average 3s. 2d. per acre, from the other parts of the block that are leased as showing how much better off the Maoris would be in farming their own land than in leasing it. But it has to be borne in mind that the 3s. 2d. per acre is the return received based on a lease of unimproved land while the 14s. per acre profit is earned by fully improved land and by the extra capital represented by the stock and implements on the station. Counsel for the Board stated that it did not want to assume to itself the duties of a stock and station agent or of a farmer. In so far as the Anaura Station was concerned, the Board entered into it at the request of the people and to salvage the property in the slump period and it had been a convenient method of farming since that time.

80. The area of vested lands in this district which are leased and in respect of which the lessees may have rights to receive compensation for improvements amounts to approximately 7,824 acres. The following schedule sets out particulars in relation to these lands:—

Block in Which Situated.	Area.	Original Rentals in First Term.	Present Rentals.	Government Valuations on Renewals of Leases.	
				Unimproved Value.	Improvements.
	A. R. P.	£ s. d.	£ s. d.	£	£
Ahirau 1 and 2 ..	739 2 0	76 14 6	100 0 0	2,515	2,710
Anaura	3,125 3 18·6	738 5 4	496 2 8	10,095	12,050
Whatatutu 1A	57 1 17·9	6 0 0	15 8 0	385	270
Hauomatuku 9B and 9C..	70 2 16	26 8 0	26 8 0	270	255
Rangatira 3A 1 ..	83 0 0	103 15 0	27 0 0	1,035	995
Kumukumu	52 1 2	55 10 0	41 16 2	725	700
Matakuhia	393 1 0	19 14 0	19 12 0	490	1,475
Mangapoike	2,140 3 17	201 19 5	240 16 0	6,020	14,325
Paeroa..	872 0 16	184 9 2	216 4 8	5,345	4,700
Hinewhaki East ..	39 1 20	24 0 0	9 12 0	230	205
Ohuia	250 2 0	62 12 6	56 16 4	975	965
	7,824 2 27·5	1,499 7 11	1,249 15 10	28,085	38,650

It is not possible to be sure as to the position in some cases owing to the fact that in certain cases the tenant apparently did not complete any new lease when the time arrived for the renewal of the original lease, and in other cases it appears that the occupiers in possession of the properties either do not hold under a registered lease or are holding pursuant to some assignment of lease which has not been either consented to by the Board or registered. The schedule, however, gives an approximate picture of the position in this district where some thirty to thirty-four leases are involved.

81. We found in this district general agreement by counsel for Maoris and pakehas alike that, to quote one of the counsel representing lessees, "the relations between the owners and the lessees and between the Board and the lessees have been most happy and amicable and have totally lacked any feeling of hostility or bitterness." It appears that for many years the relationship between the Board and its predecessors in office on the one hand and the Maoris and pakeha lessees on the other hand has been of the happiest, and that all matters confronting them and calling for determination have been satisfactorily settled by reason of that amicable association. Whenever any serious difficulty has arisen there has been consultation between the parties in an endeavour to settle the matter and this procedure appears to have worked very satisfactorily. In this district the lessees

and the owners have got together and already one or two leases have been arranged with assembled owners under Part XVIII of the Maori Land Act, 1931, to take effect on the expiry of the present leases. Counsel for the Board stated in this connection that the Board felt that recourse should be had more frequently by lessees to the provisions of Part XVIII of the Act which, he said, operates very satisfactorily in the Tairawhiti Maori Land District. Generally speaking, it was the view of all counsel that the existing provisions of the Act as applied to the leases in question were working smoothly and that there should be no sweeping changes, but at the most only minor changes.

82. It appears that Government valuations under the Valuation of Land Act then in force were used for the assessment of rentals at the time the leases fell due for renewal, and from the evidence produced before us it appears probable that on a private arbitration in this district valuers would value improvements by reference to the added value they give to a property—in other words, the principles of the Valuation of Land Act, 1925, would probably be followed. That being the case, counsel saw no need to make any alteration in relation to matters of valuation although it was suggested by Mr. Scott, appearing for the Board, that it might be of assistance if in our report we set out the principles to be followed by valuers in arriving at the "unimproved value," "capital value," and "value of improvements" in respect of any property. We have not considered it necessary or desirable to deal with these terms exhaustively; nevertheless we have found it necessary to discuss them at some length later in this report (paras. 114 *et seq.*). It may be that in one or two isolated cases the value of improvements will be such, when considered in relation to the capital value of the property, as to make it difficult to raise the necessary amount to pay compensation therefor, but, judging from the Government valuations placed before us, the value of improvements should in most cases be found to be not more than two-thirds of the total capital value.

83. Notwithstanding the fact that counsel did not anticipate serious difficulty in this district in carrying out the terms of the leases they nevertheless made a number of suggestions in relation to minor matters. These suggestions, relating to matters touching the lending powers of Boards and the law relating to incorporated owners, are dealt with later in this report (paras. 134, 144). So far, however, as the question of the leases of vested lands is concerned, the main submissions of counsel are summarized below.

84. Mr. Scott for the Board submitted that all matters outstanding were capable of solution. The leases constituted a contract and the Board intended to honour its obligations under the contract so far as it was financially able and so far as the law permitted. He pointed out that each lease must be considered separately as the statutory forms have been departed from in some cases for special reasons and in some cases in this district at least the present occupiers appear to have lost their rights by omitting to take proper steps such as by obtaining a renewal of their lease to protect their interests. He stated that the Board suggested that in cases where compensation is due and incapable of being immediately discharged, the land should be leased back to the lessee for a limited period sufficient to build up the equity of the owners to a figure which would enable the financing of the amount of compensation by normal lending bodies. It was felt by the Board that this further lease in such a case should be in the usual form of lease granted by a receiver. Alternatively, though the Board did not press this as a possible solution, the land affected could be brought under the provisions of Part I of the Maori Land Amendment Act, 1936. Mr. Scott further pointed out that the order of reference dealt merely with lands vested under Parts XIV and XV of the Maori Land Act, 1931. So far as the Tairawhiti Maori Land District was concerned the same difficulties which confront Part XIV

and Part XV leases appear to be equally applicable to leases of land under Part XVI of the Act, and it might well be that in the future similar difficulties would arise in respect of Part XVI leases. Mr. Scott informed us that in the Tairawhiti Maori Land District the incorporation of owners under Part XVII of the Maori Land Act, 1931, generally speaking is a success and lands which have been incorporated and are in fact controlled by an active committee of management with adequate supervision, particularly in so far as accounting is concerned, have been successful and the owners have very materially benefited. It was accordingly suggested by the Board that in cases where farm lands for some reason have become uneconomic they should, where location and configuration permit it, be grouped into economic units and incorporated. Mr. Scott also submitted that consideration should be given by this Commission to the making of a recommendation to the Government to the effect that the time has come when all rent reductions, whether pursuant to the National Expenditure Adjustment Act, 1932, or the mortgagors and lessees relief legislation, should be cancelled, and further that provision should be made to the effect that all past rent reductions and rent remission should be offset against any compensation which might be payable. With reference to this last-mentioned aspect of the matter we notice that in this district certain rent reductions or remissions made by the Court of Review were to be offset against any compensation for improvements which might subsequently be payable. These provisions made by the Court of Review should stand and be given effect to, but we do not feel that there should be any further set-off of rent reductions or remissions against compensation.

85. Mr. Woodward, on behalf of Maori owners, stated that the owners desired the contracts in the leases to be carried out, the owners having no intention of granting further leases. So far as compensation for improvements is concerned the owners are prepared to pay the compensation legally payable, but Mr. Woodward suggested that for the sake of certainty there should be a definite rule laid down that the improvements should be valued in accordance with the principles set out in the Valuation of Land Act, 1925. He suggested that the value of improvements should be ascertained not by arbitration under the Arbitration Act, 1908, but by a permanent committee or tribunal consisting of a nominee of the lessors and a nominee of the lessees with a permanent chairman who, it was suggested, should be a magistrate. Such a tribunal would be satisfactory to the Maori owners and would eliminate any possibility of dissatisfaction. It was the owners' desire to meet any liability for compensation by payment in a lump sum. In cases where a lump-sum payment could not be found, and this would only be in one or two instances as things stood at present, greater powers of leasing should be given to the Board. The owners did not favour the land being put under a development scheme, their principal reason being that they considered that it did not indicate any possibility of an early return of the land to the owners. Mr. Woodward submitted that all the vested lands were suitable for occupation and farming by Maori owners and their nominees and that the owners should be able to look to the Government, through the Maori Affairs Department, to provide the necessary funds to pay off the compensation, and that the land should then be leased to such persons as the Maori Land Board may think fit, preferably to the owners themselves, the land being charged with the payment of the amount of the compensation advanced by the Government. It should be the aim of the Legislature to return all vested Maori lands to the Maori Land Boards on behalf of the owners as soon as possible with the ultimate aim of establishing Maoris or groups of Maori owners as the actual farmers of their own lands under the control of the Board or otherwise as the Board might think fit. We were informed by Mr. Scott that the owners of Mangapoike No. 1 Subdivision had recently met and desired the return of their land so that

it could be farmed by a consultative committee of the owners under the Maori Land Board. It was suggested that certain compensation-moneys arising out of the Kauhouroa confiscation might be made available for the farming of the lands. These moneys are those referred to in section 29 of the Maori Purposes Act, 1949. This, however, is a matter of detail outside the general scope of our inquiry and it seems to us to be something which should be done only after the persons interested in the land and those interested in the administration of the compensation-moneys referred to have been adequately consulted as to their wishes and agreed to the proposal.

86. Mr. Wilson, representing lessees in several blocks of land, claimed that there should be no alteration whatsoever to the rights and liabilities of the parties. There should be a variation only if an injustice of the grossest kind was imminent and that did not appear to be the position in the Tairawhiti district. If compensation were not to be paid in cash and it was proposed to relax the provisions of the contract in favour of the owners then, he submitted:—

(*a*) The law should be altered to give further leasing powers; and

(*b*) Interest at a reasonable rate should be paid to the lessees on any unpaid compensation if the present lessee does not get the new lease or if the rent under the new lease is assessed on the capital value.

87. Mr. Jeune was concerned principally with the interests of a particular family holding a lease in the Anaura Block. The family is also interested in the block as owners and its interests are substantial enough in Mr. Jeune's submission to justify the partitioning of an area which would constitute in itself an economic farming unit. Mr. Jeune submitted that the existing leases should be extended so that all the leases expired at the one time and the future of the block could be considered as a whole. It was his submission that in appropriate cases such as that which he represented there should be a partition into family groups which would be allowed to farm their own lands after incorporating where necessary under the appropriate provisions of the Maori Land Act, 1931.

88. Mr. O'Malley, acting for lessees in the various blocks, also submitted that there should be no changes made in the law. The leases in his submission were clear and at the time the leases were given the rights of the parties were clearly set out in the Native Land Act, 1909, and in the leases. If, however, the Commission decided that any alteration was necessary to the law, then Mr. O'Malley supported the submission of Mr. Wilson that there should be provision for payment of a reasonable rate of interest upon the amount of the charge for improvements owing to the present lessee. Mr. O'Malley further submitted that if any further leasing powers are given to the Board, then the first person to be considered should be the existing lessee.

GENERAL COMMENTS

89. We have approached the consideration of the various problems in connection with the vested lands with certain guiding principles in mind. These guiding principles are as follows:—

(*a*) Existing contracts should, if possible, be carried out. There should be no variation of existing contracts beyond what is absolutely necessary.

(*b*) Most of the vested lands were originally vested, and the legislation as to the leasing thereof was enacted, on the basis that the lands should ultimately be returned to the Maori beneficial owners.

(*c*) The ideal to be sought after in resuming any vested lands at the termination of the leases should be to enable Maoris to settle on the land and farm it.

(*d*) From the point of view of the beneficial owners, and also from the national point of view, no steps should be taken which would be likely to lead to a deterioration in the condition and productivity of the vested lands.

90. We were much impressed by the evidence of what has been done in the last twenty years towards the development of Maori lands and the settlement thereon of Maori farmers by the Board of Maori Affairs and by the Maori Land Boards and the Maori Trustee. The principal legislation under which Maori land is developed and Maori farmers are settled on separate farms or units is Part I of the Maori Land Amendment Act, 1936. This legislation provides that the Board of Maori Affairs may declare any Maori land to be subject to the legislation and thereafter the Board of Maori Affairs may develop and improve the land and may farm the land. The Board may also assist in or supervise or manage the development, improvement, or farming of the land by the owners or occupiers thereof and may train and educate Maoris in the development, improvement, and farming of land or in any other industry related thereto. The Board is also empowered to use any land subject to the legislation as a base farm for breeding, raising, holding, or depasturing stock for use on any other land that is subject to the legislation or for experimental or educational or demonstrational purposes or for any other purposes connected with the Board's powers and functions under the legislation. The legislation appears to us to be complete and adequate to enable all necessary steps to be taken in respect of any of the vested lands which are resumed on behalf of the owners whereby the land may, if necessary, be further developed and Maori farmers may be assisted in their farming operations on the lands by the provision of any necessary finance and by the guidance and supervision given by experienced farm supervisors employed by the Department of Maori Affairs. Under Part I of the Maori Land Amendment Act, 1936, a considerable area of land has been developed and approximately one thousand eight hundred individual or unit farms have been established on the areas which are subject to the legislation. In addition, a number of areas subject to the legislation are farmed as stations. The magnitude of the operations on the land subject to the legislation can be seen from the fact that the butterfat-production from the land (including the unit farms) amounted to over 6,291,000 lb. of butterfat (equivalent to 3,370 tons of butter) for the year ended 31st March, 1950. Over 6,800 bales of wool were produced in the same period.

91. In the course of the development of the Maori lands which are subject to the legislation referred to in the last paragraph Maori labour is mainly used. The supervision work is done by officers of the Department of Maori Affairs and there is a substantial percentage of persons of Maori blood among those occupying positions of responsibility, such as overseers, foremen, farm-managers, and supervisors. In the course of the farming activities on the land subject to the legislation any Maori youth who shows an interest is given every encouragement to progress. Training areas have been established in connection with the settlement of Maori ex-servicemen, and apart from the training of Maori ex-servicemen, steps are being taken in various districts to train young Maoris as farmers in order that they should have the necessary knowledge and experience before being placed upon unit farms developed under the legislation. The Director of Maori Land Settlement informed us that the Department of Maori Affairs had some very good Maori farmers under its supervision. The

Department is gradually relaxing control over the best of the Maori farmers who have been working under its supervision with the idea of getting them to carry the responsibility themselves, and the very best of them are now working independently and free of supervision. Admittedly, some of the Maori people who are farming require constant supervision, but as the years go by and the Maori people see the opportunity of returning to their land under a satisfactory tenure it is anticipated that the younger Maori people will look towards the land and, given encouragement and help, they will become good and self-reliant farmers.

92. We see no reason to hold the view which appears to be held by some of those who gave evidence before us that Maoris do not make efficient farmers. In the course of our inspections of farm lands in various districts we saw lands which were being farmed by Maoris and lands which were being farmed by pakehas in the same locality. Some very good farms seen by us were farmed by Maori farmers and some of the farms which we saw being farmed by pakehas were not up to the same standard by any means. It seems to us that it is substantially a matter of training and experience and there is no reason why the Maori farmer given encouragement and advice should not make a complete success of his farming operations if he has any love for the land. The interest taken by the Maoris in farming and the progress made by them towards efficiency and independence at the present time differs in various districts. For example, in the North Auckland district there was evidence of a keenness to get on the land which was not apparent to the same extent in other districts. In that district there are eight hundred units established under development schemes pursuant to Part I of the Maori Land Amendment Act, 1936. These comprise nearly half the total number of units established in the whole of New Zealand and whenever a unit property is available there is no lack of applicants for it. In the Te Kuiti area, on the other hand, there is not the same keenness to get on the land. We were informed that the demand for land by Maori ex-servicemen in the Waikato-Maniapoto district was disappointing. Only about a dozen had been settled and although another twenty-five to thirty had been graded a lot of them did not seem very anxious to go on their own. We think, however, that given encouragement the Maoris will become more interested in settling on the land. It may in some districts take time to bring about the right outlook on the subject, but the fact that at the present time few of the younger Maoris may be interested in farm work in a particular district is not to us an adequate reason why the Maoris should be deprived of their lands by having them leased to pakehas on a tenure which would prevent the Maoris from resuming possession when they are able and willing to do so.

TERMS OF CONTRACT

93. The first matter to be considered is the meaning of the leases. The intention of the parties and the meaning of the leases in the case of lands first leased after the commencement of the Native Land Act, 1909, is, in the majority of cases, fairly clear, but, as explained in the section of this report dealing with the Aotea Maori Land District (paras. 25, 26), many doubts have been raised as to the meaning of the present leases in the case of lands in that district which were first leased before the commencement of that Act and as to the validity of some of the clauses in those leases. Having regard to these doubts and to the legal difficulties which stand in the way of getting a clear definition of the rights of the parties under these leases, and having regard also to the terms of the warrant of appointment of this Commission, we feel free to make such recommendations as to us seem fair, reasonable, and equitable for the

solution of the difficulties which have arisen and which, in our opinion, are likely to arise in the next few years even although some of those recommendations might depart somewhat from express terms of the leases concerning which there may be little or no doubt. We consider that the proposals contained in this report should apply to leases which are renewals of leases given after the commencement of the Native Land Act, 1909, as well as to renewals of the earlier leases. This will ensure uniformity, and, so far as any of the leases are concerned, the recommendations in this report do not depart from the express contract more than is necessary to achieve a fair, reasonable, and equitable solution of the difficulties both present and future.

94. From an examination of the search-notes presented to us in each district it appears that the terms of some of the leases providing for compensation for improvements are not sufficiently definite on the question of what improvements they are intended to cover. The renewal leases in the special form settled in the Wanganui district in respect of the leases granted before the commencement of the Native Land Act, 1909, do not contain a specific provision conferring on the lessees a right to compensation for improvements. It appears to have been assumed that the position was covered by section 263 of the Native Land Act, 1909 (set out in para. 14, *ante*). We consider that the rights of these lessees should be clearly defined by a statutory provision declaring that each of the present lessees under those leases is entitled to receive compensation in respect of improvements (as defined in accordance with this report) which were effected by him or by any of his predecessors in title at any time since the land was first leased to the present lessee or to a predecessor in title of his. We consider that this statutory provision should also provide for compensation for improvements effected during the period of any extension of the existing lease by section 13 of the Maori Purposes Act, 1948, as amended by section 8 of the Maori Purposes Act, 1950, or by any legislation passed following this report. The provision for compensation for improvements contained in certain other current leases is in accordance with the form prescribed under the regulations which provides for compensation for improvements put on the land during the continuance " of the term hereby created (or of any renewal thereof) " whereas the provision in question would have been better expressed, in the case of leases which are renewals of earlier leases, if it had been rewritten to make it clear that the right to compensation for improvements applies in respect of improvements carried out during the present term and also during the term of the lease of which the present lease was a renewal. We consider that there can be no question, in view of the terms of section 263 of the Native Land Act, 1909, which was in operation when these leases were granted, but the lessees' rights to compensation for improvements should relate to improvements effected during the original term as well as during any term granted in renewal thereof. It would be desirable in view of the wording of the present clause in these leases that a general statutory provision should be enacted declaring the exact extent of the improvements in respect of which all lessees of vested lands are entitled to compensation. The provision suggested above in respect of the renewal leases in the special form settled in the Wanganui district should, in effect, be extended to cover all the current leases of vested land under which there is any right to compensation for improvements.

95. A detailed examination of the search-notes, followed by an inspection of some of the current leases, discloses that any general declaration of the rights of lessees to compensation for improvements will have to be accompanied by some special provision to deal with anomalies. The following are examples of anomalous cases which will require special consideration:—

(*a*) In several cases where a lease has been surrendered by arrangement and two new leases issued, each new lease being for part of the land under the surrendered lease, we find that no special provision has been made to cover the improvements effected before the surrender of the lease. The new leases cannot be said to be in "renewal" of the surrendered lease and the situation does not appear to be covered satisfactorily by section 327 of the Maori Land Act, 1931.

(*b*) In some cases where the original lessee did not exercise his rights of renewal, or a lease was terminated by re-entry, the present lease (or the lease of which the present one is a renewal) was taken by tender subject to payment of a loading for improvements on the property, thus giving the successful tenderer a proprietory interest in the improvements effected during the original term. The current lease, however, confers a right to compensation only for those improvements that have been effected during the current term. This anomaly may be covered, in part at least, by section 329 (2) of the Maori Land Act, 1931.

There are also various types of provision in relation to compensation for improvements which have to be considered and the effectiveness of these provisions must be preserved. The following are the most important types of provision:—

(*c*) A declaration that an improvement of a particular type is not an improvement for which compensation is to be paid (*e.g.*, felling timber).

(*d*) A declaration that specified improvements or improvements of a specified value belong to the lessor at the commencement of the lease.

(*e*) A provision restricting the total amount, or the amount per acre, which may be payable for compensation.

(*f*) In the Tairawhiti Maori Land District when the Court of Review postponed or reduced rent it provided in some cases that the arrears might be charged or set-off against compensation for improvements.

There are also cases where, notwithstanding the provisions of section 263 of the Native Land Act, 1909, and section 327 of the Maori Land Act, 1931, there are leases of vested lands for a term of not less than ten years and yet the lessee is not entitled to any right to compensation for improvements. They fall into the following main classes:—

(*g*) Leases granted before the commencement of the 1909 Act, without any right of renewal, and still in force.

(*h*) The Otakanini leases referred to in paragraph 44 (*ante*).

(*i*) Leases granted by receivers for the purpose of enforcing the charge for improvements effected by lessees under earlier leases.

(*j*) Leases entered into under section 333 of the Maori Land Act, 1931, under which no compensation is payable for improvements.

96. While it will be possible to frame the legislation so as to cover some of the matters referred to in the separate subparagraphs of the last preceding paragraph, they cannot all be adequately dealt with. We therefore consider that the legislation should provide that if any question arises as to whether or not a lessee is entitled to compensation or as to the improvements in respect of which he is entitled to compensation that question should be submitted for

decision to the same tribunal as, under the recommendations of this report, would determine the amount of compensation. It should further be provided by the legislation that the tribunal should have power to decide the question in such manner as in equity and good conscience it thinks fit.

FUTURE OF VESTED LANDS

97. It seems to be the general feeling of the Maoris in all the districts that possession of their land should be resumed by them or on their behalf. Various ways in which their lands could be dealt with were submitted to us, but the evidence which we had from individual Maori owners was mostly devoted to their wishes in relation to the particular piece of land in which they had an interest. Quite apart from the practical impossibility of this Commission making specific recommendations in relation to each particular case mentioned to us, many of the cases related to lands which were subject to leases with several years still to run and circumstances might alter considerably before the leases expire. The consideration of the problems to be faced in these individual cases has, however, enabled us to recommend the adoption of a procedure which should ensure that the wishes of the owners are ascertained, and the particular circumstances of each case considered, before a decision is made as to the future of the land.

98. In certain cases referred to in evidence and submissions heard by us the beneficial owners are already making provision whereby at the termination of the present leases of vested lands in which they are interested they will have or be able to raise sufficient moneys to enable them to pay off the value of the lessees' improvements. As the expiry dates of the leases come nearer it will be found that there are quite a number of cases like this. We consider that the recommendations contained in this report concerning the definition of the right to compensation for improvements, the principles of valuing improvements, and the tribunal for settling differences as to compensation for improvements should apply to those cases, but that otherwise the terms of the leases should be carried out if the beneficial owners wish to pay off the lessees' compensation and are financially able to do so. The procedure to cover this is set out in our recommendations (para. 151, *post*). It may well be that some, but not all, of the beneficial owners of vested land which is subject to lease wish to pay off the compensation and resume the land. It may be possible to give effect to their wishes by partition and consolidation of interests, but the question whether or not this can be satisfactorily done must be carefully considered in each case in the light of its particular facts, and the Maori Land Court can deal with this aspect of the matter in the exercise of its normal jurisdiction as to consolidation and partition. In cases where some, but not all, of the beneficial owners of vested land which is subject to lease desire to resume the land and are in a position to pay the lessees' compensation it will be necessary for them to take steps in the normal way to have their interests partitioned. Unless, on a partition, their interests are substantial enough to cover the whole of the land in a lease, they will be unable to obtain possession of their land freed from the lessee's interest therein except by special arrangement with the lessee or under a scheme which provides for the whole of the land in the lease to be resumed on behalf of the beneficial owners.

99. We consider that steps should be taken some time before the leases of the vested lands are due to expire to ascertain the wishes of the beneficial owners as to the future of the lands. In order that the matter can be adequately discussed with the owners it would be necessary first of all for an assessment

to be made of the amount of compensation which would have to be paid to the lessees if the land were to be resumed. An inspection of the area should be made by qualified persons and its possibilities from the point of view of development and settlement of Maori farmers should be thoroughly investigated. These things should be done by the Maori Land Board and when the Board has investigated the prospective liability for compensation for improvements and the potentialities of the land, the Maori beneficial owners should be called together and the whole position placed before them and their wishes as to the future of their land ascertained. In some cases it will be found that although the Maoris desire that the land should be resumed for their occupancy or for their benefit, the land would not be suitable for development for that purpose or the liability for compensation for improvements thereon would be too great a burden for payment thereof to be undertaken immediately. All these questions will have to be thoroughly investigated, and if it is impossible to find sufficient finance for the payment of compensation for improvements and to enable the land to be stocked and developed, then there seems to us to be no option but that the land should be leased for a further period. If the finance can be arranged, then, unless it is decided to give the lessees the options referred to in paragraph 103 *(post)*, the recommendations contained in this report concerning the definition of the right to compensation, the principles of valuing improvements, and the tribunal for settling differences as to compensation for improvements should apply, but otherwise the terms of the leases should be carried out. The procedure to cover this is set out in our recommendations (para. 151, *post*). If the finance can be arranged and it is decided that the lessees' compensation will be paid off, the question of the most suitable way of dealing with the land will have to be thoroughly investigated and it is, in our opinion, desirable that, wherever possible, an agreement should be reached with the majority of the Maoris as to the manner in which the land should be developed and dealt with.

100. There is a substantial body of legislation contained in the Maori Land Act, 1931, and in the Maori Trustee Act, 1930, and in the amendments to those Acts, which is available for use in giving financial assistance to the Maori owners to enable compensation to be paid to the lessees and for use in assisting in the farming of the lands or in the development and subdivision of the lands into economic holdings for the settlement of Maori farmers. Maori Land Boards are authorized to lend moneys for various purposes under sections 99 *et. seq.* of the Maori Land Act, 1931, and the Maori Trustee has somewhat similar powers of lending. These powers are exercised subject to certain lending limits, but if the land is brought under Part I of the Maori Land Amendment Act, 1936, finance can be arranged through the Board of Maori Affairs which has extensive powers of lending and is not tied to any margin. It may advance whatever sums it considers right and proper. The powers in relation to development schemes under this last-mentioned legislation are more fully discussed in paragraph 90 *(ante)*. This machinery already exists and there appears to be no need for it to be amended or extended. We think it will be found that in most cases where it is desired to resume vested lands and develop and subdivide them for the settlement of Maori farmers there is adequate legislation to enable the matter to be dealt with. We do not consider it to be necessary to say more in connection with this aspect of the matter as in our view there is ample legislation in existence to enable finance to be arranged and the land to be developed in suitable cases.

101. With the large number of beneficial owners in the case of most of the vested lands there can be no hope of establishing more than a few of the owners on the land and it must in each case be left to the Maori Land Court to recommend which Maoris are the most suitable occupiers. The number of Maori applicants would vary in each case and the desire of the Maoris to farm their

and varies in each district. For example, it is anticipated that in the North Auckland district where almost half of the unit farms established under development schemes are situated there would be no lack of suitable applicants. In the Te Kuiti district on the other hand there seems to be some lack of interest by suitable Maori ex-servicemen and it might be difficult at the present time to get a number of suitable applicants there. This aspect of the matter would need to be gone into carefully before any decision to resume the land is taken.

102. In a small number of cases it was suggested on behalf of the beneficial owners that they desire vested lands to be resumed and farmed on their behalf rather than have them subdivided for the purpose of settling owners or their nominees on them. In the Wanganui district, for example, Mr. Marumaru, the principal Maori witness, having in mind the profitable working of the Morikau Station managed by the Aotea District Maori Land Board on Morikau No. 1 Block and parts of adjacent blocks, on behalf of the owners, suggested that a trust commission should be set up with a view to paying off the value of the lessees' improvements and assuming possession of the Ohotu blocks on behalf of the beneficial owners. The aims of this trust commission would be "to preserve to the Maori owners for all time the mana and fee-simple" of the lands and to preserve for the benefit of the Maori owners "the revenue and continued occupancy of their lands." It would be a further aim of the trust commission "to encourage the young Maori to undergo farm training with a view to taking up land under this trust" and to encourage Maori people away from the towns and on to the land. With those aims in view the trust commission would classify the land according to its best use. In so doing consideration would be given *(inter alia)* to the suitability of the land for a training-farm or for farming as a station similar to Morikau. Development would be undertaken where deemed necessary and where deemed desirable land might be leased to pakehas as well as to Maoris. Various necessary and incidental powers were also mentioned. Mr. L. J. Brooker, the Administrative Officer of the Aotea District Maori Land Board, in putting forward his personal views as to the future use of the lands, also suggested that a Trust might be established and might perhaps farm a substantial area as stations similar to Morikau Station. It may well be that it would be desirable and to the ultimate benefit of the Maori beneficial owners that a scheme such as was visualized by these witnesses should be established, but we do not feel that it is part of our function to make any specific recommendation as to this scheme. We will, however, make two comments on it before leaving the subject. First, we are of opinion that the institution of such a scheme as that propounded should be proceeded with only if it is the wish of the majority of the owners and is financially practicable and, second, we feel that the establishment of such a scheme might militate against the re-establishment of suitable Maoris on the land. Our reason for this second comment is that, because of the financial success of the Morikau Station, which comprises some of the best land of its class in the district, the tendency would be to endeavour to achieve the same success with the Ohotu blocks and to farm the land in large blocks or stations in the hope of ensuring the greatest possible income to the beneficial owners by that means. We consider that any scheme for the resuming of the vested lands should have as its ultimate aim the establishment of Maori farmers on the land wherever possible.

103. Section 263 of the Native Land Act, 1909, which is now section 327 of the Maori Land Act, 1931 (providing for the right to compensation for improvements—see para. 14, *ante*), in our view contemplates a cash payment at the termination of the lease and we think that most lessees at the time of taking up their leases expected that at the end of their leases they would receive cash

payments. Nevertheless, it has always been clear on a reading of the Act that if the full amount of the compensation is not paid in cash at the expiration of the lease the only remedy which the lessee has under the legislation is to enforce a charge on the land and the revenues received therefrom. This charge is enforceable through the Maori Land Court by the appointment of a receiver who would be able to lease the land and apply the revenue therefrom (after deduction of expenses) in satisfaction of the charge. No provision is made in the Act for the holder of the charge to receive any interest on the amount due to him. The disadvantages of this position to the lessee are obvious particularly if the receiver leases the property to some person other than the existing lessee. In such a case the existing lessee would find himself without a farm and without the necessary finance in cash to enable him to buy an interest in some other farm. He would have to be content to receive the amount of his compensation, without interest, by instalments over a long period of years as the receiver gets in the rental from the property. The present lessee would certainly be in a better position if instead of receiving the instalments he received the present value thereof in a lump sum. The amount of the present value of the instalments which the present lessee would get from a receiver would depend on a number of factors such as the proportion which the value of the improvements bears to the capital value, the rental receivable by the receiver and the percentage on which the present value is calculated. Assuming for the sake of example, however, that the net rent is 4½ per cent. of the capital value, after allowing for the receiver's expenses, and that the value of the improvements represents 80 per cent. of the capital value, then, taking £1,000 of capital value as a base on which to make the calculations, rent of £45 per annum would take nearly eighteen years to pay the value of the improvements amounting to £800. The present value of £45 per annum payable by half-yearly instalments until the amount thereof equals the value of improvements is £547 when calculated at 4½ per cent. or £569 when calculated at 4 per cent. In this example, therefore, it will be seen that the present value would be approximately 13s. 8d. in the pound when calculated at 4½ per cent. and 14s. 3d. in the pound when calculated at 4 per cent. If the value of improvements amounted to 90 per cent. of the capital value, rental at £45 per annum would take twenty years to pay the value of improvements. The present value of this would be £589, or 13s. 1d. in the pound, when calculated at 4½ per cent. and £615, or 13s. 8d. in the pound, when calculated at 4 per cent. If the net rental is less than 4½ per cent. of the capital value, the present value of the instalments receivable would be less than the amounts mentioned above. Having regard to this fact and to our opinion that in most cases where the value of the improvements is less than 80 per cent. of the capital value and the land is suitable for the settlement of Maori farmers it will be found possible to finance the payment of the whole of the value of the improvements, we consider that it would be reasonable to suggest that on a compounding for cash of the instalments likely to be received through the appointment of a receiver 13s. 4d. in the pound would be a fair figure to take as a basis. In view of the position in which lessees would find themselves if compensation is not paid in full in cash at the end of their leases and in view also of the fact that if a receiver were to be appointed the Maori beneficial owners would not receive any moneys from the property for a long period, we think that it would be fair to all parties if in those cases where there is not a pressing

need to resume the lands immediately, the Maori Land Board, instead of paying to a lessee in cash the whole value of the lessee's improvements and resuming possession on behalf of the Maori beneficial owners, offered to the lessee the option of either:—

(*a*) Accepting a cash payment of two-thirds of the full value of his improvements in full settlement of his rights under the lease on giving up possession at the end of his lease; or

(*b*) Accepting a further lease for a period of fifteen years from the end of the present lease, such further lease to be at a rental of 5 per cent. of the value of the owners' interest in the land and to include a provision that the land may be resumed at the end of the further period on payment in cash of an amount equal to two-thirds of the then value of the lessee's improvements, and that if the land is not then resumed on behalf of the beneficial owners the lessee will have the right to a new lease for twenty-one years with rights of renewal, &c., as in the cases referred to in the next succeeding paragraph.

We think it possible that in some cases lessees will be prepared to accept the first of these two options thus allowing some of the lands to be resumed on behalf of the Maori beneficial owners immediately on the expiration of the present leases.

104. A substantial area of the vested lands which are leased with provision for compensation for improvements comprises lands which are not suitable for farming by Maori owners or their nominees or in respect of which suitable provision will not be able to be made at the termination of the present leases to pay in cash the amount of compensation payable to the lessees. In all the cases falling in this class something must be done to ensure the continued occupancy of the lands, otherwise the Maori beneficial owners will suffer loss of income and the country will suffer through the loss of productivity. As already pointed out, Maori Land Boards have no power to lease lands under Part XIV or Part XV of the Maori Land Act, 1931, beyond 25th November, 1957. If the lands were revested in the Maori beneficial owners subject to the existing leases, those owners, acting through a meeting of owners where necessary, could grant further leases to the existing lessees on terms to be arranged between the parties. If difficulty were experienced in agreeing upon terms, then the lessees would be entitled to a charging-order for the compensation payable to them and the Maori beneficial owners would for a substantial period of time be without any income whatsoever. We consider that it is better, therefore, for a general rule to be laid down to apply to all cases where the compensation for improvements is not paid in full in cash or where the lessees are not offered the options referred to in the last preceding paragraph. In all these cases we consider that the lessees must be offered further leases of the land. The leases should be offered to the lessees and not put up for auction or for public tender as the lessees have a very substantial interest in the land by virtue of their right to compensation for the improvements. The leases should be for a further term of twenty-one years with rights of renewal from time to time for further periods of twenty-one years subject, however, to this important qualification, that at the end of any period of twenty-one years the land may be resumed by or on behalf of the Maori beneficial owners on payment to the lessee of compensation for his improvements on the basis described later in this report (paras. 114–124). This right to terminate the leasing will thus be available every twenty-one years so that in the event of any change of circumstances rendering it desirable that the land should be resumed on behalf of the Maori beneficial owners that can be done and effect can be given to the original purpose of the vesting of the lands.

105. As the right to this further lease is something new we consider it proper to recommend that the lease should be subject to somewhat different terms from those which have applied to the present leases. As explained later in this report (para. 124), we consider that the clearing of original vegetative cover, so far as it may be an improvement, should, after a period of time, be deemed to become part of the owners' interest in the land. For that reason we consider that the annual rental instead of being 5 per cent. of the unimproved value should be 4½ per cent. of the value of the owners' interest in the land, but as our recommendation as to the merging of the bush clearing, &c., in the owners' interest in the land will not take complete effect until the expiration of the next period of leasing, at the earliest, we consider that the rentals for the next period should not be less than the rentals for the present period of the lease. Moreover, in view of the very substantial reductions generally found in the rentals for the present terms of the leases as compared with the rentals for the original terms which commenced when the lands were substantially unimproved and the localities in which they are situated were undeveloped, we consider that notwithstanding that rentals in the future are to be calculated on the basis of 4½ per cent. per annum, the rentals should never be less than those of the present leases except where the lessee is able to show that the value of the owners' interest in the land has depreciated owing to any cause not reasonably within the control of the lessee or his predecessors in title. A number of the present leases when originally entered into provided for rentals in excess of those which at present apply. This is due to the operation of the National Expenditure Adjustment Act, 1932, and the Mortgagors and Lessees Rehabilitation Act, 1936. When we say that the rentals under future leases should not be less than the rentals under the present leases we are referring to the rentals originally reserved in the present leases, before any reductions took effect by virtue of the National Expenditure Adjustment Act, 1932, or any order of the Court of Review under the Mortgagors and Lessees Rehabilitation Act, 1936, or any earlier "relief" legislation.

106. In this connection special consideration has been given to the case of the leases of the Ohotu and other blocks in the Wanganui district which have already expired but which are running on by virtue of statutory extensions contained in section 13 of the Maori Purposes Act, 1948, as amended by section 8 of the Maori Purposes Act, 1950. Part III of the National Expenditure Adjustment Act, 1932, which reduced the rents of leases then in force, states that the purpose of that Part of the Act in relation to reduction of rents, was "to effect reductions . . . in rents . . . commensurate with the reductions in salaries and wages made by or pursuant to Parts I and II of the Finance Act, 1931, and by Part I of this Act." The reductions in salaries and wages referred to have long since been restored and the purpose for which the Act was passed reducing rentals has therefore completely disappeared. Taking this fact and also the changed economic circumstances of the country into account we consider that the rentals under the leases which have expired and which have been extended by statute should be restored to the original rates as from the respective dates when the leases would, but for the statutory extension, have expired. As to the Mortgagors and Lessees Rehabilitation Act, 1936, it is stated in that Act that the general purpose of the Act in relation to farmer applicants was to retain them in the use and occupation of their farms and to make such adjustment of their liabilities as would ensure (*inter alia*) that the rent of any leasehold property did not exceed the rental value of that property, and that after allowing for all normal current expenditure and providing for the maintenance of themselves and their families in a reasonable

standard of comfort the applicants might reasonably be expected to meet their liabilities as they became due either out of their own moneys or by borrowing on reasonable terms. Having regard to the present economic position in New Zealand we consider that no rental payable in respect of vested lands should continue at a reduced rate fixed by the Court of Review beyond the period for which the lease was granted, being the period contemplated by the Court of Review at the time it made the order reducing the rent.

107. When the wishes of the beneficial owners are consulted it is possible that cases may be found where the owners do not express any desire that the land should be resumed on their behalf although the land might be suitable for development and for the settlement of Maoris thereon. In such a case, if suitable arrangements can be made to finance the payment in cash of the amount of compensation payable to the lessees, then the Board of Maori Affairs should, we think, give consideration to the question whether steps should be taken to bring the land under Part I of the Maori Land Amendment Act, 1936, and pay the compensation to the lessees. If steps are not taken in that direction or if it is not possible to make suitable financial provision to pay in cash the amount of compensation payable to the lessees, then we consider that the land should remain under the management of the Maori Land Board and a further lease should be given to the lessees on the same conditions as in the case of the leases referred to in paragraph 104 of this report.

108. During the various hearings our attention was drawn to the position of substantial areas of vested lands which are not subject to leases conferring rights to compensation for improvements, and which, therefore, are not within the main terms of our Order of Reference. We think that the position of these other lands should be brought to the attention of the Government and that we should indicate our views as to the future of these lands and the necessity for legislative action to be taken in connection therewith. The lands to which we refer fall into three main classes:—

(*a*) Lands which are being farmed by Maori Land Boards under section 358 of the Maori Land Act, 1931. These include the Morikau Station in the Aotea Maori Land District and the Anaura Station in the Tairawhiti Maori Land District.

(*b*) Lands which are subject to leases which do not confer any right to compensation for improvements.

(*c*) Lands which are subject to timber-cutting licences or other types of licences granted pursuant to section 346 of the Maori Land Act, 1931.

It appears from an examination of Parts XIV and XV of the Act that although certain powers of the Maori Land Boards in respect of lands vested in them under those Parts cease as at 25th November, 1957, not all their powers cease at that date. It also appears that the lands remain legally vested in the Boards until they are revested in the beneficial owners pursuant to section 352 or 353 of the Act. Section 352 of the Act provides that as soon as practicable after 25th November, 1957, each Maori Land Board shall transfer the vested lands to the persons beneficially entitled thereto, but the Boards are not to take any steps pursuant to the directions contained in the section unless they have the previous sanction of the Governor-General in Council and no such sanction is to be given unless the Governor-General is satisfied—

(i) That the persons beneficially entitled to the land desire it to be revested in them;

(ii) That the land is not subject to any lease, licence, or contract to purchase; and

(iii) That no moneys are charged on the lands or on the revenues thereof.

Section 353 provides for the revesting of any vested lands in the beneficial owners by an order of the Maori Land Court to be made on the application of the Minister of Maori Affairs. Any vesting under section 353 may be subject to leases or licences, &c., granted by the Board previous to the revesting and the Court, for the purpose of giving effect to the revesting, may partition the land among the owners. It can be assumed that no revesting would take place under section 352 or section 353 of the Act without the wishes of the beneficial owners being consulted.

109. On our reading of the Act the power of a Board to manage vested land as a farm conferred by section 358 of the Act operates so long as the land remains vested in the Board. Its power to farm the lands does not terminate on 25th November, 1957. It is thus clear that if the beneficial owners desire the Board to continue to farm vested lands on their behalf the Board may do so. It would also appear that if beneficial owners desired the Board to do so, the Board could farm other vested lands after the 25th November, 1957. It does not appear necessary that any legislation be passed to enable Boards to continue to farm lands after 25th November, 1957, but the owners should be consulted to ascertain their wishes and this should be done at an early date.

110. The powers of Maori Land Boards to lease lands vested in them under Part XIV or Part XV of the Maori Land Act, 1931, clearly cease as at 25th November, 1957. That being so it follows that unless present lessees, who are holding under leases which do not give a right to compensation for improvements, can make arrangements with the owners for further leases to be granted by the owners they must give up possession of the properties occupied by them not later than 25th November, 1957. As was pointed out by Judge Prichard at the hearing at Whangarei the Otakanini Block requires careful consideration in this connection. There are some three hundred owners of portion of the Otakanini land and most of that land is leased without any compensation clauses. It would be very regrettable if when the present leases expire no new leases have been arranged and the owners could, as it were, squat on the lands without a proper determination of their rights of occupancy being made. The land at the present time is in good heart and it would be most unsatisfactory if the land was allowed to revert because there was no individual responsible for the proper farming of it. We are firmly of the opinion that if any Maori Land Board finds that land of this type, which would be eminently suitable for the settlement of Maoris, is likely to deteriorate because no proper system of occupancy of the lands is settled, the Board should recommend to the Board of Maori Affairs that steps be taken immediately to bring the lands under Part I of the Maori Land Amendment Act, 1936. If that is done, then proper authority will exist which will enable the lands to be satisfactorily settled thus preserving for the benefit of the owners the productivity of the lands. There may be other lands which are not suitable for Maori settlement and which at the present time are leased under leases which do not confer a right of compensation for improvements. In our opinion each Maori Land Board should consider the position of all the vested lands which are subject to lease even though the lessee has no right to compensation for improvements. If any land which is not suitable for Maori settlement is at present being properly farmed by the present lessee, the Maori Land Board should endeavour to arrange for new leases to be given to the present lessee or to some other suitable lessee. In any case where a Maori Land Board is unable to arrange for a new lease to be given to a suitable lessee and it appears that the land has already become, or is likely to become, neglected or is not likely to be farmed or managed diligently or used to the best advantage in the interests of the

owners or in the public interest, the Board should be empowered with the prior approval of the Board of Maori Affairs to lease the land for a further period beyond 25th November, 1957. We have examined Part III of the Maori Purposes Act, 1950, and considered whether the best way to deal with the matter might be to extend that Part to cover the type of case we are now discussing, but we consider it would be better to confer the leasing power on the Maori Land Boards for two reasons, namely:—

(*a*) The land is already vested in the Board and the adoption of Part III of the Maori Purposes Act, 1950, would consequently involve complicated machinery provisions to put the title into the position contemplated by that Part; and

(*b*) We feel that a lease along the lines contemplated by this report (para. 104, *ante*) would be preferable to that contemplated in the said Part III.

111. Maori Land Boards clearly cannot grant licences to take timber, &c., from lands vested in them under Part XIV or Part XV of the Maori Land Act, 1931, after 25th November, 1957. The time which is left before that date is reached is so short that few persons could take up and satisfactorily work a licence which would expire so soon. In our view it would not be proper to authorize a Maori Land Board to grant a licence affecting vested lands which would run beyond 25th November, 1957, otherwise than with the consent of the beneficial owners, and accordingly we do not recommend any alteration in the law which limits the date up to which licences may be granted.

VALUATIONS

112. The original leases of the vested lands provided for valuations for two purposes—namely, for assessing rentals for renewals and for assessing compensation for improvements. We have formed the opinion that in some cases the valuation of the lessor's interest in the land for purposes of assessing rentals on renewals of leases has acted unfairly against the interests of the Maori beneficial owners, and there is every reason to feel that if the present principles and methods of valuation are followed in the future unfair results are likely to follow in a large number of cases. In some cases the leases provided that the annual rentals for the renewal periods were to be 5 per cent. of the unimproved value of the land as shown in the Government valuation roll under the Valuation of Land Act. In other cases the renewal rental was to be 5 per cent. of the unimproved value, but no method of ascertaining that value was prescribed. In the greatest number of leases, however, the annual rentals for the renewal periods were to be 5 per cent. of the unimproved value at the time of renewal and specific provision was made for the ascertainment of that value. In the case of leases given before the commencement of the Native Land Act, 1909, the unimproved value of the land was to be ascertained by what has been described earlier in this report (para. 28) as the residue method of valuing land (*i.e.*, the market value of the fee-simple of the land was to be ascertained, the improvements were to be valued and the rental was to be 5 per cent. of the balance arrived at by deducting the value of improvements from the value of the fee-simple). In the case of leases which made specific provision for the ascertainment of the unimproved value and which were granted after the commencement of the Native Land Act, 1909, there was no definition of the meaning of "unimproved value," but it was provided that the unimproved value was to be ascertained in the same manner as the value of improvements was to be ascertained for compensation purposes. These last-mentioned leases defined "improvements" by reference to the Land Acts and we feel that this

reference to the ascertainment of the value of improvements combined with the definition of "improvements" might have led valuers to use the "residue method" of arriving at the unimproved value, particularly in districts where there were leases in operation which had been granted before the commencement of the 1909 Act.

113. The second purpose for which valuations are required to be made under the leases of vested lands is for the purpose of determining the amount of compensation to be paid for improvements. The clause dealing with this valuation is common to almost all leases and is in the form laid down by regulations made under the Native Land Act, 1909. The clause is as follows:—

> For the purpose of determining the amount of compensation to which the lessee is so entitled the said improvements shall on the said expiration of the said term (*or* renewed term) be valued by two valuers, one to be named by the Board and the other by the lessee and in the case of their disagreement, then by an umpire to be chosen by the valuers previously to entering upon the consideration of the matters referred to them. The valuers or their umpire shall have power to decide any question which may arise in the course of their valuation and in particular any question as to what improvements are proper subjects of valuation according to the true intent and meaning of these presents. Every such reference to valuers shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1908.

Certain of the renewal leases issued after 1931 contain the further statement that "Any such valuer and/or umpire may proceed and act on their or his own knowledge and information as valuers are used to do without the necessity of hearing parties or taking evidence." The compensation to which the lessee is entitled is compensation for "all substantial improvements of a permanent character (as defined by the Land Act, 1908, or any other Act amending the same or substituted therefor and in force at the time when the improvements are effected)." It is to be noted that "value of improvements" is not defined and there are no principles laid down under which the valuation of the improvements is to be made. The valuation required to be made for the purposes of compensation is a valuation of improvements *simpliciter*—there is no reference to capital value or unimproved value and there is no requirement that in ascertaining the value of improvements for compensation purposes the capital value or the unimproved value shall be ascertained or taken into account.

114. It is clear that in valuing improvements the estimated cost of effecting similar improvements at the date of the valuation may be resorted to as a test of value. Although a rise or fall in the cost of material or labour may be considered to be so fleeting as to have no appreciable effect on the value, yet where, as at the present time, there is a continuing tendency for costs to increase, the tendency is for the present costs to be given considerable weight by the valuers. The effect of these increasing costs in relation to such items as bush clearing, gorse and scrub cutting, and fencing has led to a very substantial increase being attributed to the value of improvements. This increase would, in our opinion, be likely to be greater in proportion than the increase which has taken place in the market value of the fee-simple. Consequently, the value attributed to the land (that is the unimproved value) shows a tendency to drop. This tendency would be most marked where the residue method of valuing is followed. In our opinion, however, the unimproved value of land should, generally speaking, tend to rise with the provision of modern amenities in the district in which the land is situated. Particularly should this be so where the comparison is being made with unimproved values at a time when the district was practically in a state of nature, with no substantial roads, or other means of modern communication. The provision of roads, schools, electric lighting, regular transport services, and other amenities should tend to increase the unimproved values of land on which rentals for renewal purposes have been based. Admittedly there are circumstances, such as general deterioration of

and in a district or severe economic depression, which might cause unimproved values to drop either permanently or for a period, but such a drop in unimproved values would be accompanied by a drop in capital values, and in our opinion when capital values are rising this should be reflected to a certain extent at least in an increase in the unimproved values.

115. We consider the unimproved value of land should be as defined in the Valuation of Land Act, 1925—namely, "The sum at which the owners' estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to impose, and if no improvements had been made on the said land." This, in our view, means the value of the land as if it were in its natural state, but assuming all the other land in the district had been improved to its then state or, to use the phraseology of the Full Court in *Cox* v. *Public Trustee*, 1918) N.Z.L.R. 95; G.L.R. 55, the value of the land at the date of valuation "in its natural state as for the time being affected by extrinsic circumstances, but not by what has been done to it or upon it in the shape of improvements of any kind." The phrase "extrinsic circumstances" is exemplified in the judgment of the Full Court by reference to "public roads or railways, public systems of drainage, increased settlement in the neighbourhood, public services brought within reach, or other causes to which the tenant does not contribute."

116. Improvements should, in our opinion, never be valued at a greater amount than their worth to the property. If they are uneconomically wasteful, that is if the property is over-improved, by the erection for example of too many buildings or of too much or too expensive a type of fencing, then the value to be attributed to the improvements must be less than what would be attributed to them if they were on another property and were the ideal type, size, and quality required for the best use of that other property. In valuing improvements valuers should have regard to what is required in order to make the best use of the land on which the improvements are effected, and if in the opinion of the valuers the improvements which have been carried out are too expensive or too substantial then it is, in our opinion, the duty of the valuers to write down the value of the improvements to a figure commensurate with the size and nature of such improvements as are required to make the best use of the land bearing in mind, however, the chattel value which the improvements may have if removed from the property. This raises a difficulty in cases where improvements erected on one piece of land are used in connection with other land.

117. Our attention was drawn to a number of cases where farm buildings were erected on one piece of leasehold land of comparatively small area, but these buildings were used for the farming of a substantial area of land held under several leases of vested lands and, in some cases, including also freehold lands owned by the lessee of the vested lands. Various valuers were invited in giving evidence before us to say what practice they would adopt in valuing the improvements in such a case. It was clear to us that there was no general practice in such a case. In Wanganui we were informed by a valuer who had acted in at least one arbitration in relation to vested lands that he and his fellow valuer had agreed that the improvements would have to be valued as belonging to no more than the land in the one lease. He explained that this would mean that in some cases the value of the improvements would have to be written down as being uneconomic for the area of land in the lease even although they might not be uneconomic having regard to the total area of the leased lands used as the one farm. Another valuer, who was speaking from considerable experience as a Government valuer making valuations under the Valuation of Land Act,

stated that he would endeavour to do what he considered to be a fair thing and would have regard to the total area in the one ownership being farmed as one unit in assessing the economic value of the improvements. At Whangarei, Maori witnesses expressed themselves as holding the definite view that each lease should be considered separately in making valuations. The same view was submitted at Wanganui by counsel on behalf of the Wanganui Maoris. We do not consider that this would be entirely fair to the lessees as it would be open to the beneficial owners to resume occupancy lease by lease, as they become due, of land held under several leases and farmed by one man, thus obtaining an economic benefit from the improvements for which they had not paid. When leases of land farmed in one farm become due at widely different dates different circumstances may apply at the times when consideration is being given to the question of whether or not the possession of the land should be resumed on behalf of the owners. Where, however, there are leases of land farmed in one farm which become due at or about the same time the question of resumption or further leasing of that land can be considered in relation to all those leases at the same time and we are recommending that in any such case the same action as to resumption or further leasing should be taken in respect of each of those leases (paras. 140, 154, *post*). We consider that it should be right and proper for valuers to have regard to the whole of the lands farmed in the one farm which are leased under leases coming within this recommendation, that is to say, leases which expire at or about the same time. We have given consideration to the question as to whether regard should be had to the separate beneficial ownerships of the vested lands in cases where a lessee is holding separate leases of lands which are in different beneficial ownerships. On examining the position of beneficial ownership in relation to the various leased lands we find that there are cases where one lease covers lands which are beneficially owned by two or more different groups of Maoris. Having regard to the fact that the legal ownership of all the vested lands is in the name of the Maori Land Board and that at the time the lands were leased the tenants would not know of the differences in beneficial ownership, we have abandoned any thought of limiting the question of valuing the improvements by reference to the lands beneficially owned by any one group of Maoris.

118. As, in our view, improvements should be valued according to their worth and as, therefore, in valuing any improvement of a class particularly specified in the Land Act in force at the time the improvement was effected the valuer would have to consider whether or not it added to the value of the property, we consider that there is no real need to define improvements by reference to a list such as is specified in the Land Act. In our view it would be preferable to define improvements for which compensation is to be paid along the lines of the definition contained in the Valuation of Land Act, 1925, subject, however, to one qualification—namely, that we do not consider that the beneficial owners should be called on to pay compensation for improvements paid for by the occupier by way of special rates on loans raised for the purpose of constructing within a county any road, bridge, irrigation works, water-races, drainage works, or river-protection works. We consider, accordingly, that the definition of improvements as contained in the Valuation of Land Act, 1925, is too wide to that extent.

119. A considerable amount of evidence was placed before us and representations were made by various parties in connection with the valuation of invisible improvements. Particular reference was made to the question of the methods and principles under which the clearing of land and the stumping of land should be valued, and we found that valuers were not agreed among themselves as to the methods to be adopted and the principles to be applied in

the valuing of bush-clearing and stumping. The Full Court in *Cox* v. *The Public Trustee (supra)*, stated that the value of an improvement such as clearing must "be determined by relation to the original state of the land on which it has taken place, and it would be proper for the arbitrators or valuers to inquire and ascertain what that original state was. *The value of such an improvement is not appreciable without this knowledge.*" [The italics are ours.]

120. After a long passage of years it becomes increasingly difficult, if not impossible, for valuers to ascertain the original state of the vegetative cover of the land at the time it was originally cleared. From the sale plans in connection with the advertising for tenders on the first leasing of the land some rough indication of the nature of this vegetative cover can be obtained, but inasmuch as the estimated present-day cost of clearing the land is a factor which is considered by a valuer in estimating the value of the clearing of the land it becomes necessary for the valuer to obtain a fairly exact picture of the nature and density of the bush or other vegetative cover which had to be cleared. Forty or more years ago when the land was cleared the work may have been done by the lessee himself or by contract. Contracts for felling bush preliminary to burning usually provided that all trees of certain sizes or of certain varieties should be felled. The contractor would go over the land in which the felling was to take place, estimate the extent and difficulty of the work to be done, and fix a price for the work at so much an acre according to his view of the bush at that time. It is a fact that even although the specifications for felling bush were the same, prices sometimes materially differed in adjacent blocks of land because of variations in the density of the bush or in the size of trees or in the number of trees of a particular variety. This illustrates the difficulty which must face valuers in estimating the value of bush-clearing by reference to its possible cost at the present time. The importance of this factor is shown by reference to its possible effect on rentals, for if the rental is fixed at 5 per cent. of the unimproved value a difference of £1 per acre in the valuation of bush-clearing would make a difference of 1s. per acre per annum in the amount of rental. Thus a small difference in the valuation of this item would make a substantial difference in rentals in cases where rentals at the present time are as low as 1s. per acre per annum.

121. We feel that the value of bush-clearing will become increasingly difficult to estimate with the passage of time. To a certain extent valuers are assisted in estimating the nature and density of the bush by the stumps which are still evident at the time of the valuation, but with the passage of time or with possible stumping activities this evidence disappears. To a certain extent also valuers are forced to rely on the information which they receive from the lessees and other persons. This information would be reliable, and given by some one with detailed knowledge of the circumstances, so long only as the lessee who took up the land in its virgin state or some other person with an intimate knowledge of the land at the time it was cleared continued to be available to give the information. Another difficulty which is met in estimating the value of bush-clearing is that work of that kind is rarely done to-day—in some districts it is many years since any considerable amount of it has been done—and thus it is almost impossible to assess what the present cost of the work would be. Moreover, modern mechanical methods have become available in recent years after bush-clearing has ceased, and to make a proper estimate of present-day costs of bush-clearing a valuer would have to take into account this factor concerning which he can know little or nothing. One example of the effect of the use of modern mechanical methods is that areas which because they were comparatively flat cost more to clear of bush by the methods in use years ago would probably

now cost much less to clear. It is fairly clear that having regard to the lack of detailed knowledge of the original state of the land and to the absence of any measuring-rod by which to assess costs, or value, of bush-clearing any valuer's estimate of the value of bush-clearing must be guesswork.

122. We heard a considerable amount of evidence from witnesses in various places as to the recoupment by lessees of the costs of bush-clearing out of the extra returns received in the years immediately following the burning of the bush. It was generally acknowledged that following a good bush-burn the growth is very considerable and the land would in the first few years carry considerably more stock than it would do in later years. Before land is cleared of any bush it has a natural fertility which is maintained by the rotting of vegetation. After the bush is cleared and the residue is burnt preparatory to the sowing of pasture a substantial covering of fertile ash is left. Both the natural fertility and the bush which has been burnt to provide this covering of fertile ash are part of the owners' interest in the land. All that the lessee has done up to the stage where he sows the pasture is to convert the property of the owner into a state where it can be productive. It was generally agreed by valuers that reversion of cleared country to scrub and fern completely offsets the value of the bush-felling. In our opinion if the natural fertility and the value of the covering of fertile ash from the bush-burn are taken from the soil, then the value of the owners' property is substantially reduced and the loss to the owners should to that extent be set-off against the lessee's claim to have improved the land by clearing the bush. The disappearance of the natural fertility and the valuable fertile ash is a substantial step towards the reversion of the property—it is only by the restoration and maintenance of fertility by the use of artificial fertilizers and proper farming methods that complete reversion of the land is avoided. The valuer values what he sees to-day and he assesses the fertility of the land according to its present state subject to an allowance for cases where proper farming methods are not used. In our opinion he omits to take into account the asset which the owners have lost and of which the lessee (or his predecessor in title who cleared the bush and first farmed the land) received the benefit. We think that this is a factor to which adequate consideration has not been given in the past by valuers. We were told by witnesses with experience of clearing bush country that in cases within their own experience the extra returns received during the first years following the burning of the bush very quickly paid for the whole of the cost of clearing and sowing the land. One witness stated that he has known cases where the whole of the cost of clearing and sowing the land has been recovered in the first two years. It seems clear that, generally speaking, after a period of fifteen to twenty years the benefits received from the bush-burn have disappeared, but during that period the extra returns received owing to the higher carrying-capacity of the land have more often than not more than paid off the cost of bush-clearing. It seems to us that if a valuer proposes to value bush-clearing on the basis of, say, £5 an acre because in his opinion it would cost that amount to clear the land to-day, then he should offset against that cost such proportion thereof as can be recovered by extra returns from carrying or fattening extra stock during the first few years after the bush is burnt, those extra returns representing the benefit which the lessee would have from the owners' asset in the fertility which has, in fact, been lost. In each case this would be a matter to be taken into account as a question of fact.

123. The question of the value to be given to the removal of stumps from the land was also discussed before us. It appears clear, however, that valuers generally regard the stumping of land as important only during such period as it would take for nature to do the work in the rotting of the stumps. This

seems to us to be the proper principle to apply but, with all evidence as to the size and kind of trees removed, it might be difficult to estimate accurately the time that nature would have taken.

124. In view of the difficulty which we have experienced in determining exactly the methods and principles followed by valuers in assessing the value of bush-clearing, in view of the fact that the passage of time will make the assessment of the value of bush-clearing more and more a matter of guesswork, and in view of our opinions expressed in the last four preceding paragraphs, we consider that the clearing of bush and other original vegetative cover (including stumping) should, in the case of new renewable leases of vested lands, be regarded as being gradually absorbed into the owners' interest in the land so that at the expiration of fifty years from the clearing of the bush or other vegetative cover it shall cease to have a value as a lessee's improvement and any value derived therefrom should be regarded as being part of the owners' interest in the land.

125. The complaints about the operation of the valuation provisions of the leases which we heard in the various districts other than the Tairawhiti district were based on a consideration of the results which have in the past followed valuations carried out under the leases. The results, which have been unfortunate from the point of view of the Maori beneficial owners, may not have been entirely due to the principles of valuation adopted by the valuers but may have been partly due to the procedure adopted at arriving at the values. Although the leases granted before the commencement of the Native Land Act, 1909, provided that the valuations for renewal purposes should be made by arbitration under the Arbitration Act, later leases provided for a valuation by two "valuers" and in the event of their disagreement by an umpire, and although it is declared by the leases that the reference to valuers shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act, 1908, nevertheless the procedure followed would be for the umpire to make his independent valuation in the event of the two valuers disagreeing. There may have been some doubts as to this being the appropriate procedure, but those doubts have certainly been resolved in the latest leases which were granted under the Maori Land Act, 1931, for in those leases it is declared that any valuer or umpire may proceed and act on his own knowledge and information without the necessity of hearing parties or taking evidence (para. 113, *ante*). Thus it will be seen that the umpire's valuation could have been made without any consideration being given to the valuations made by the two valuers appointed by the parties and the umpire's valuation could accordingly have been higher than either of those two valuations or lower than either of the valuations. We have no evidence that this actually took place in the case of any of the vested lands, but it is clear that it could have happened as is evidenced by the fact that it actually occurred in more than one of the cases particularly referred to in the report of the Royal Commission appointed to inquire into and report on the operation of the law relating to the assessment of rentals under leases of West Coast Settlement Reserves where similar provisions applied (see parliamentary paper G–1 of 1948, para. 78). Under the Public Bodies' Leases Act, 1908, this could not happen as it is provided in the Schedules to that Act that the duty of the umpire on reference to him of any question shall be to consider the respective valuations of the two arbitrators in the matters in which their valuations do not agree and then to make an independent and substantive valuation which shall

be the decision of the umpire, but in giving his decision on any question so referred to him the umpire shall in every case be bound to make a valuation not exceeding the higher and not less than the lower of the valuations made by the arbitrators respectively.

126. Apart from the Tairawhiti district, where the system of private arbitration seems to have been working satisfactorily, it was agreed in most districts that it would be desirable for a tribunal of standing to be set up for the purposes of assessing the compensation payable on the resumption of the land. It was generally submitted on behalf of lessees that the tribunal should, in addition to the chairman, have as members one person nominated by the Maori Land Board as representing the interests of the beneficial owners and one person selected from nominations made by the lessees as representing the interests of the lessees. It was contemplated that a separate tribunal might be established for each Maori Land District. We consider that it is desirable, in view of the amounts likely to be involved, that a tribunal of standing should in cases of disagreement determine the value of improvements for compensation purposes. A very substantial total sum will be involved and it would be wrong if different principles were applied in different cases with consequent unequal results in the valuation of the improvements. If the whole of the valuations for compensation purposes of the improvements on the vested lands were being made at approximately the same time there might be good grounds for setting up a special tribunal to deal with the matter, but in view of the fact that some valuations of improvements will take place within the next few years and some, under the recommendations contained in this report, will not take place for fifteen years, while others may take place at intervals of twenty-one years after the expiry of the present leases, it is desirable that the tribunal to settle the value of the improvements should be a permanent tribunal. There is not, in our view, any justification for setting up a special permanent tribunal, and we consider that the appropriate tribunal to deal with the question of compensation for improvements is the Land Valuation Court. We are of this opinion notwithstanding that the parties to the proceedings will not have nominees sitting on that Court.

127. In view of the fact that we are recommending the issue of new renewable leases for some of the vested lands the question of the procedure for valuing the owners' interest in the land for rental purposes becomes of importance. We have given careful consideration to the desirability of continuing to use some system of arbitration under the Arbitration Act, 1908, for this purpose. It is apparent to us that if the owners' interest in the land was to be valued for the purpose of assessing rental by valuers nominated by the parties, or their umpire in the event of a disagreement, some provision such as that appearing in the schedules to the Public Bodies' Leases Act, 1908, should be inserted to ensure that an umpire would not independently make a valuation which in the opinion of both the valuers nominated by the parties is too high or too low. Further, if private arbitration under the Arbitration Act, 1908, is to be used, then we incline to the view that it should not in the event of disagreement be by valuation by the umpire but should be by a proper arbitration procedure under which the umpire would hear evidence of values and submissions on behalf of the parties on the questions at issue. We consider, however, that in view of the unfortunate experiences of the past it is preferable to depart entirely from the present procedure, and from private arbitration.

128. We have carefully considered the procedure suggested by the Royal Commission appointed to inquire into and report upon the operation of the law relating to the assessment of rentals under leases of the West Coast Settlement Reserves (parliamentary paper G–1 of 1948) and the provisions of the

West Coast Settlement Reserves Amendment Act, 1948, passed to give effect to the recommendations of that Commission. We have also carefully considered the procedure laid down by the Land Act, 1948, for the assessment of rentals under renewable leases granted under that Act. With due respect to the members of the Royal Commission referred to, we think that the procedure under the Land Act, 1948, is preferable, and we consider that the rentals for the renewable leases of vested lands to be granted in the future under the recommendations contained in this report should be fixed by a procedure similar to that contained in Part VIII of the Land Act, 1948. Stated briefly, the procedure would be that the Maori Land Board would assess the value of the owners' interest in the land, and if the lessee disagreed with that valuation and could not arrive at an agreement with the Board as to the value to be adopted the matter would be referred to the Land Valuation Court for its decision. The new lease would then be at an annual rental equal to 4½ per cent. of the value of the owners' interest in the land (para. 105, *ante*).

MISCELLANEOUS MATTERS

129. In the course of our hearings it was pointed out that quite a number of lessees who have been faced with doubts concerning their future rights of occupancy of vested lands after the expiry of current leases have by negotiation with the owners arranged to purchase the land or to obtain new leases direct from the owners, the necessary documents being executed either by the owners, if they have had the lands revested in themselves to enable effect to be given to contracts so negotiated, or by the Maori Land Board after a meeting of assembled owners. It appears clear that more use could be made of the existing machinery in the Maori Land Act, 1931, particularly Part XVIII of the Act dealing with the powers of assembled owners. We are satisfied that much could be achieved by negotiation, particularly where there is a good relationship between the Maori beneficial owners and the lessees. We desire to point out that it is always open to the parties to seek a solution of their difficulties by negotiation. The recommendations in this report as to the future of the vested lands and as to the steps to be taken are not intended to prevent the parties from arriving at some other solution by negotiation and agreement. For example, by agreement it might be arranged, as suggested by one of the counsel at the Te Kuiti hearing, that the lessee's claim for compensation for his improvements should be met by partitioning the property leased according to the value of the respective interests of the owners and the lessee. Other ways of resolving the difficulties of the parties may suggest themselves and may be able to be brought into effect by agreement between the parties. Maori Land Boards should endeavour in all cases to seek a settlement agreeable to the parties.

130. In seeking a solution by agreement and also in the future administration of vested lands, Maori Land Boards are likely to meet certain problems which we consider we should examine. We accordingly propose in this section of our report to refer to some of these problems and to various other matters which are of a minor nature or which arose only indirectly in the course of our inquiry.

131. *Differences Between Lease Boundaries and Court Subdivisions.*—In quite a number of cases we found that one lease covered land owned by more than one group of owners. The rent is at present being apportioned between the groups of owners, but when the question of compensation for improvements arises there will be a very difficult and much more serious problem as to apportionment. Further, the different groups of owners may well have different

ideas as to the extension of the lease. It is most desirable that this state of affairs should be brought to an end as early as possible. In some districts active steps are being taken to bring about a uniformity between the Court boundaries on partitions and the boundaries under the leases. This activity should be intensified and in those districts where little or nothing is at present being done action should be commenced immediately towards the desired end. Shortage of qualified staff is a problem which will have to be faced, but, apart from that, it appears desirable that the Maori Land Court's powers as to partition and consolidation should be subjected to a careful examination and overhaul. We were informed that a re-enactment of the Maori Land Act, 1931, with amendments is contemplated and that the Court's powers will accordingly come under review. We note that by section 5 of the Maori Purposes Act, 1950, the law has already been amended to extend the powers of the Court as to partition in one respect along lines advocated before us, and this amendment will be very helpful. Although we are not in a position to make specific recommendations for the further amendment of the law in this connection as sufficient material was not placed before us, we nevertheless formed the definite opinion that attention should be specially directed to the following matters:—

(*a*) Consideration should be given to amending section 150 of the Maori Land Act, 1931, to give powers of cancelling partition orders registered under the Land Transfer Act, 1915 (compare section 162 as to powers on a consolidation and section 529 as to powers on a readjustment of boundaries).

(*b*) Consideration should be given to increasing substantially the limit of £25 up to which value an interest in Maori freehold land may be exchanged by order of the Maori Land Court pursuant to the proviso to section 158 (*e*) of the Maori Land Act, 1931, as enacted by section 9 (1) of the Maori Purposes Act, 1946.

132. *Multiplicity of Owners.*—We have already referred to the way in which the numbers of beneficial owners of vested lands have increased (para. 58). This tends to make negotiations with the Maori owners a little more difficult, but in some cases the increase in the number of owners has been so great that the beneficial interest of many of the individuals has become so small as to be worthless either as an income-producing asset or, if it could be partitioned, as land on which to carry on farming operations or on which to reside. The multiplicity of owners and the smallness of interests in particular blocks might to a certain extent be mitigated by schemes of consolidation directed to amalgamating the whole of a small owner's interest in several blocks in one of those blocks. Attention to the matters referred to in the last preceding paragraph would help to make this easier to achieve. But further steps must be taken. We consider that the absolute prohibition against the alienation (otherwise than by will) of a beneficial interest in vested lands (s. 259 of the Maori Land Act, 1931) should be relaxed. We note that this prohibition has been relaxed in respect of beneficial interests in lands vested in the East Coast Commissioner and also (s. 60 of the Maori Purposes Act, 1950) in respect of beneficial interests in lands in the Wi Pere Trust. A similar relaxation in respect of beneficial interests in vested lands would enable beneficial owners who have small interests to sell or assign their interests to other beneficial owners. Judge Prichard informed us that in the Tokerau district owners who were selected to occupy lands which were under Part I of the Maori Land Amendment Act, 1936, were encouraged to acquire the interests of others who were owners in the same block. We think that this is a good practice which should be authorized and

encouraged in the case of vested lands. In some cases, however, the multiplicity of interests is so great and the size of the individual interests is so small that it would be practically impossible for an individual to hope to acquire a worthwhile interest in the land by direct negotiation. In such cases, where ownership has in effect ceased to be individual ownership and become group ownership, we think that consideration could well be given to creating something in the nature of an endowment. It may be desirable to amend section 422 of the Maori Land Act, 1931, to enable this to be done—for example, by giving power to assembled owners to resolve that the land be alienated to the Maori Trustee (or some other suitable person or body) upon the trusts to be described in the resolution. The reduction of the number of Maori owners in cases where the land is held by the owners for a legal estate in fee-simple would also be assisted if section 258 of the Maori Land Act, 1931, were amended to permit the alienation of the interest of any Maori owner as tenant in common to any of the other Maori owners or to any of his children or other descendants without the necessity of holding a meeting of assembled owners or obtaining the consent of the Governor-General in Council.

133. *Rates.*—Strong representations were made to us at the hearing in Whangarei concerning the question of rates on Maori lands. It appears that in the Tokerau district, where Maori lands are being farmed under development schemes and milk or cream is being supplied to a dairy factory, an arrangement has been entered into for regular payments at the rate of ½d. per pound butterfat to the local body for rates. The Chairman of the Hokianga County Council expressed fears that if the land went back to the Maoris there might be a falling off of rate payments. In other districts also a similar fear was expressed, and it was stated that if any land which was resumed by the Board was placed under a development scheme pursuant to Part I of the Maori Land Amendment Act, 1936, rates would cease to be paid at least while the land was being developed for closer settlement. Past experience no doubt justified this fear. In our view it would be wrong for lands which are at present paying rates to be placed under a development scheme and be developed at the expense of the local-body rates. The administrative practice as to the payment of rates before a block under development becomes profit-earning does not appear to be definitely settled, but we are informed that it is usual, where the annual accounts show a loss or an insufficient profit but it is necessary that rates be paid in order that the local body will maintain the access road to the area under development, to make a grant in lieu of rates conditional upon the local body expending an equivalent sum on the road or roads in question. We do not consider that this is adequate, and we accordingly recommend that if any land is placed under a development scheme under Part I of the Maori Land Amendment Act, 1936, at a time when payments have been in the immediate past regularly made on account of rates, then the payment of equivalent or greater amounts on account of rates should be continued until the property has been developed and becomes income-earning.

134. *Incorporation of Owners.*—In Gisborne we heard representations concerning the law in relation to incorporations of owners under Part XVII of the Maori Land Act, 1931. This Part of the Act is used to a substantial extent in the Tairawhiti Maori Land District where there are a number of incorporations of owners successfully farming the lands of the members of the body corporate. There appears, however, to be some need for a slight amendment of the law in relation to the preparation and filing of accounts in order to deal more adequately with what are referred to colloquially as "one-man incorporations." Sections 405 and 406 of the Maori Land Act, 1931, deal with the lodging and audit of accounts. It was suggested by counsel for the Maori Land Board, and in his

suggestion he was supported by other counsel with experience of incorporations of owners, that legislation should be enacted requiring all incorporations of owners under Part XVII of the Act to file with the Registrar of the Maori Land Court of the district where the lands are situated not later than the last day of July in each year a balance-sheet and profit and loss account for the year ended the last day of May immediately preceding, such account to be duly audited by a public accountant before being filed with the Registrar. If any incorporation of owners failed to file accounts as required by this provision, the Registrar of the Court should be authorized to apply to the Court for a winding-up of the body corporate and for the revesting of the land in the beneficial owners. We put forward the suggestion as a proposal meriting serious consideration, but do not make any specific recommendation in relation to the matter for the reason that no evidence was placed before us in relation to the problem of one-man incorporations.

135. *Extent of Compensation for Improvements.*—We are recommending that, in the new renewable leases of vested lands to be granted in the circumstances referred to in this report, full compensation shall be payable for the lessee's improvements subject to the proviso that the clearing of the original vegetative cover shall no longer be considered in assessing the value of improvements fifty years after the work has been done (para. 124). Before deciding to make this recommendation we gave consideration to two other ideas placed before us in relation to compensation for improvements and we think that in view of the importance of this matter it is desirable that our views on these other ideas should be stated:—

(*a*) It was suggested by several counsel appearing before us that compensation in respect of improvements hereafter effected should be payable to the lessees only for improvements approved or agreed to by the Maori Land Board as lessors. We have not adopted this suggestion as we consider that it could well have the effect of seriously and unreasonably restricting the use to which the lessee could put his land. He might, for example, desire to adopt "advanced" methods of farming and for that purpose to erect special structures. If the Maori Land Board refused to approve of these improvements the farmer might be hampered in the development of the land and it may well be that his "advanced" ideas would be those generally adopted a few years later. If, however, the "advanced" ideas proved to be worthless ones the structures erected would probably also be worthless or have a chattel value only, and if the valuation of those structures as improvements proceeded upon a proper basis they would not be valued at any greater sum than their worth as an improvement to the property or as chattels.

(*b*) The second suggestion in relation to improvements is the suggestion adopted in Part II of the Maori Purposes Act, 1950. Under that Part the amount of compensation payable for improvements at the end of the lease is to be 75 per cent. of the value of the improvements unless some other figure has been specially agreed to. In our view the discounting of compensation for improvements to a figure 25 per cent. below their value must tend to retard proper maintenance of improvements in the later years of the lease. If, for example, a farm building or a fence has become so dilapidated that it requires almost complete reconstruction, the lessee will hesitate to expend a substantial sum in the last few years of the lease when he knows that the compensation which he will receive for that building or fence will be only 75 per cent. of its

value. We think that the position concerning compensation for improvements is best met by paying the full value of all improvements except those of a specified class or classes, and in this report we are accordingly recommending the payment of the full value of the improvements other than the clearing of the original vegetative cover.

136. *Sinking Fund to Meet Compensation.*—In our view it is essential that sinking funds should be established with a view to having moneys available to assist in meeting compensation for improvements at the end of the next term of the lease or at some future date. Some of the difficulties which are being encountered, or are likely to be encountered, by the Maori beneficial owners who desire their lands to be resumed on their behalf would have been substantially eased if there had been a sinking fund established over the past twenty-one years. We recommend that each Maori Land Board should give careful consideration to the establishment of a sinking fund in the case of every lease of vested lands granted in the future, and that the establishment of a sinking fund by a Board should not be dependent on a direction from the Board of Maori Affairs under section 327 (5) of the Maori Land Act, 1931.

137. *Records of Improvements.*—It is quite apparent that very great difficulty will be met by valuers in ascertaining what was the exact state of any land and the improvements thereon at the time when the land was first leased. We have already referred to this in relation to the question of bush-clearing (paras. 119 *et seq.*). It is most essential that there should be full and adequate records of the state of the land and the nature and extent of improvements thereon in every case. Particularly will it be necessary in view of our recommendation that the clearing of bush or other original vegetative cover shall progressively cease to be a lessee's improvement over a period of fifty years from the time the work is done. Records should be made at regular intervals of the state of the land so far as these items are concerned. We accordingly recommend that steps be taken immediately to collect all information at the present time available as to the state of each piece of vested land at the commencement of each leasing period as far back as the first period of leasing in respect of which the present lessee is entitled to compensation for improvements. We also recommend that valuers and inspectors should make detailed reports on the extent, nature, and condition of the various improvements on the land at the present time and at the commencement of each new leasing period and at intervals of not more than seven years thereafter.

138. *Inspections.*—It appears that owing to lack of staff certain of the Maori Land Boards have been unable to make regular inspections of the vested lands in order to ensure that the covenants of the leases are being carried out by the lessees. It also appears from the reports which were presented to us concerning the vested lands that some of the present lessees are failing to carry out their covenants. We are of opinion that regular inspections should, in the future, be made on behalf of the Maori Land Boards, and that the inspectors should make reports in writing which should be placed on record for future reference. The reports should be in substantial detail so that a different inspector may be able at a subsequent date to ascertain the extent of deterioration or improvement which has occurred in the interim. The Boards should examine the reports carefully from time to time and should be diligent in seeing that the lessees carry out their covenants.

139. *Removal of Timber.*—Our attention has been directed to the fa that in certain lands in the Wanganui district millable timber is at preser being cut and removed from the land. The leases of the lands from which th timber is being removed have expired and are running on by virtue of statutory extension under section 13 of the Maori Purposes Act, 1948, a amended by section 8 of the Maori Purposes Act, 1950. These leases provid for the payment of a royalty to the Maori Land Board in respect of millabl timber removed from the land and the removal of the timber can therefor be said to be contemplated by the lease. The leases also contain a covenant fo good husbandry. It may well be that if the leases expire and the lands ar resumed by the Maori Land Boards the lessees would be liable for failure t carry out the covenant of good husbandry inasmuch as while the remova of timber as a preliminary to the clearing and grassing of the land is clearly contemplated and permitted, nevertheless the removal of the timber without the completion of clearing and grassing reduces the value of the land. Whether it is a breach of covenant or not, the lessee on giving up possession would, in respect of this particular portion of the land, be handing back land deprived of a substantial asset in the standing timber which has stood there until the last two or three years before the land was handed back. In our opinion, if the land in the leases referred to is resumed by the Board without any further lease being granted, then the whole of the royalty payments received by the lessees in respect of timber removed since the original expiry date should be paid to the Maori Land Board and not merely that portion of the royalty payments which is required to be paid in accordance with the terms of the lease, unless the lessee has completed the work of clearing and grassing the area from which the timber has been removed.

140. *Amalgamation of New Leases.*—Certain difficulties as to valuations which arise where a lessee is holding land under more than one lease have already been referred to (para. 117). We consider that it would be unfair if a lessee were placed in a position of having land under one lease resumed on behalf of the beneficial owners while lands held under other leases which form part of the same farm are not resumed, and it could be unfair to the Maori beneficial owners if a lessee elected not to renew a lease of part of his farm which would be uneconomic to handle on its own. Where leases fall due at or about the same time little difficulty arises and provision should, in our opinion, be made that if any land is to be resumed then if another lease of land in the same farm expires within a period of seven months previously or subsequently the land in that lease also shall be resumed. Where leases fall due at widely different dates, however, there appears to be no option but to treat each lease separately. This is not as unfair to the lessee as may at first appear, because when he acquired the leases he knew that the leases would become due at different dates and that he had no right of renewal—if he examined his leases he would have understood that at the end of his tenure he would find his farm gradually reduced in area as each lease became due. We consider, nevertheless, that where leases are to be renewed under the recommendations in this report with further rights of renewal (but subject to rights of resumption at the end of any period of renewal) steps should be taken to amalgamate as far as possible all the leases in each farm so that all the land in the one farm unit would be covered by one lease. The effect of this would be to improve the tenure from the lessee's point of view, and from the beneficial owners' point of view this certainty of tenure should be reflected in better maintenance as compared with the position which would be likely to be found towards the end of separate leases when a lessee would be uncertain

as to the future of his farm. The amalgamation of leases should, however, only be by agreement between the lessee and the beneficial owners. The position should be considered when the first lease of land in a farm falls due and amalgamation of the leases should then, if possible, be arranged. To enable amalgamation of leases to take place it will be necessary to provide legislative authority to enable any Maori Land Board and any lessee who holds under two or more leases to agree to a surrender of the leases and the issue of a new lease in lieu of the surrendered leases, such new lease to be for a period to be agreed upon but not extending beyond the expiry date of the surrendered lease which was due to expire last. Any such new lease should be carefully worded so as to protect rights to compensation.

141. *Tenancy Act, 1948.*—As the rentals under the leases to be issued in the future pursuant to the recommendations contained in this report will be fixed according to valuations settled, in the case of dispute, by the Land Valuation Court, we consider that the provisions of the Tenancy Act, 1948, should not apply in respect of those leases.

142. *Further Extension of Current Leases.*—A substantial number of leases have been extended by section 13 of the Maori Purposes Act, 1948 (as amended by section 8 of the Maori Purposes Act, 1950), to 31st December, 1951, and further leases are due to expire within a short period thereafter. Some time must necessarily elapse before Maori Land Boards can make the valuations and hold the meetings necessary to ascertain the wishes of the beneficial owners as to the future of their lands, and thereafter the Board must take the further steps contemplated by this report before new leases can be granted or the lands can be resumed. Under the circumstances these leases will have to be extended for a further period. We consider that there should be a further definite extension of all leases until 30th June, 1953, and that the legislation enacted to give effect to this report should provide that if the appropriate notice is not given at least twelve months before that date the leases should continue thereafter until such date as may be fixed in each case by the Maori Land Board in the notice to be given by the Board as to its intention in relation to the lease. We suggest that the date to be fixed in any case should be not earlier than twelve months after the notice is given. The date for the resumption of any land should, of course, be such as to cause the least possible interference to farming operations.

143. *Consultative Committees.*—It has been interesting to us to see the different relationships in various districts as between the Maori beneficial owners, the Maori Land Board, and the lessees. In the Tairawhiti district the relationships were of the best. In the Wanganui district the opposite applied. In Wanganui complaints were made concerning the lack of consultation between the Board and the Maori beneficial owners, and in that district also we found that the lessees had formed an association for the purpose of protecting and furthering their interests. On the other hand, in Gisborne we were informed that when difficulties arose the President of the Board made it his business to confer with representatives of the Maori owners and to attend meetings of owners in order to settle any difficulties, and it appeared that in that district the lessees were in many cases themselves Maoris and the relationship between the lessees and the Maori beneficial owners was good. We are forced to the conclusion that it is most desirable that there should at all times be a channel of communication and consultation, where consultation is desirable, between the Maori Land Boards and the beneficial owners. We are of opinion that consultative committees should be set up through which the Maori beneficial owners can be informed as to what is being done and can express their views. Consultative committees could be set up for districts or parts of districts or, in the case of substantial blocks such as the Ohotu blocks in the Wanganui

district, for the blocks. In our opinion each consultative committee should comprise representatives of the Maori beneficial owners and a representative, or representatives, of the Maori Land Board, and should also have as a member a practical pakeha farmer with knowledge of the district or area. It is not our intention that this consultative committee should have any specific powers of direction, but it should be called together at regular intervals and at other times when desirable in order that through the Maori members of that committee the beneficial owners may be advised of what is being done in connection with their lands and in turn may draw the attention of the Board to any matters which they think should be considered.

144. *Lending Limits of Maori Land Boards.*—Maori Land Boards may advance moneys on mortgage, but they do not lend in excess of the usual three-fifths margin. Even in cases where the Maori owners are able to find the whole of the balance of the money required to pay the compensation for the improvements, a very substantial sum would still need to be found for the purchase of the necessary farm stock. It was suggested at the hearing in Gisborne that an extended power to lend on stock should be conferred on Maori Land Boards. It was pointed out that if land is under a development scheme under Part I of the Maori Land Amendment Act, 1936, the whole of the cost of the stock might be found by the Board of Maori Affairs. It was therefore suggested that power should be given to Maori Land Boards to advance the whole of the money required to purchase stock where the lessee's compensation is paid off and the amount secured on mortgage on the freehold land does not exceed three-fifths of the value thereof, provision being made to give to a Board making such an advance on stock full control and supervision of the land. We think that consideration could well be given to the question whether the provision of such a lending power is necessary or desirable, but we refrain from making a specific recommendation as to the matter, as we think some experience of the administration of the scheme for resumption of the vested lands on behalf of the Maoris is necessary before the desirability of the provision can be assessed.

145. *Sub-leases.*—Representations were made at Rotorua on behalf of certain sub-lessees and, although their case does not come within the scope of our inquiry, we consider it advisable to draw attention to it. Provision for the payment of compensation for improvements is included in leases for the purpose of giving inducement to lessees to improve their holdings. In the case brought to our notice, the holder of a lease in which provision for compensation for improvements was included sub-let the property to a number of sub-lessees for a term which expires twenty-four hours before the expiry of the head lease. No provision appears to have been made for any compensation to be paid to the sub-lessees for any further improvements effected by them. Under such an arrangement the incentive contained in the head lease in the provision for payment of compensation for improvements ceases to be effective, and any good husbandry clause could only require the sub-lessee to maintain the property in reasonable order. We are of opinion that this is not in the interests of the owners where a property is only partly improved. In the case of a fully improved property no harm would be done by granting consent to a sub-lease, but where a property is only partly improved the granting of a sub-lease without the incentive of ultimate payment for improvements could operate against the best interests of the owners. We are aware that in most leases there is a provision that the lessor may not arbitrarily or unreasonably refuse to consent to a sub-lease, but, nevertheless, we suggest that as far as possible care should be taken to ensure that no sub-leases are assented to by a Board unless the provision for payment of compensation for improvements remains effective.

146. *Part XVI Leases.*—In the Wanganui district some of the leases of lands vested in the Board under Part XIV or Part XV of the Maori Land Act, 1931, have been given to Maoris on forms prescribed for leases under Part XVI of the Act. The forms under Part XVI of the Act contain a provision as to compensation for improvements similar to that contained in leases under Parts XIV and XV, and it is our intention that the recommendations of this report in relation to vested lands and to compensation for improvements should apply in respect of these leases. There are, however, a substantial number of cases, particularly in the Tairawhiti district, of leases of land vested in Maori Land Boards under Part XVI of the Maori Land Act, 1931. These leases of land vested under Part XVI contain provisions as to compensation for improvements as authorized by section 371 of the Maori Land Act, 1931. We think it desirable that consideration should be given by the Government to the circumstances of these Part XVI leases and to the desirability of amending by statute the provisions of those leases as to:—

(*a*) The improvements in respect of which compensation is payable;

(*b*) The principles upon which those improvements should be valued for compensation purposes; and

(*c*) The method of settling differences on questions of value of improvements.

We think that it will be found desirable, for the sake of uniformity if for no other reason, that our recommendations as to these matters so far as leases of land vested under Part XIV or Part XV are concerned should be adopted for Part XVI leases.

147. *Powers of Receivers.*—It was suggested by several counsel that the receivership provisions of the Maori Land Act, 1931, should be carefully considered and that amendments should be made thereto. Apart from a suggestion made by counsel in Gisborne to the effect that if the beneficial owners were to have benefits conferred upon them by the legislation proposed as a result of this report the lessees should have the right to receive interest on any moneys being recovered on their behalf by a receiver, we have had no specific suggestions placed before us for the amendment of the receivership provisions of the Act. In view of the fact that we contemplate that the adoption of the recommendations in this report should render the use of receivers unnecessary in respect of vested lands, we do not propose to make any recommendation concerning the powers of receivers.

148. *Costs.*—Mr. Palmer, counsel for the Tokerau District Maori Land Board and for the Waikato-Maniapoto District Maori Land Board, requested that we should make a recommendation that the costs of the Maori Land Boards in connection with this inquiry should be met not out of the income from the vested lands but out of the joint fund of the Head Office of the Department of Maori Affairs. This we assume to mean in effect that the costs should be borne by the Consolidated Fund. We have given careful consideration to this request but are not prepared to make any recommendation as to how the costs of the Maori Land Boards should be met.

RECOMMENDATIONS

149. Having covered the whole of the subject-matter of our inquiry in detail and expressed our views as to the various matters placed before us we propose to set out our recommendations in this section of our report. Before doing so, however, we wish to point out again that interested parties may at any time by negotiation and agreement seek and arrive at a suitable solution to their problems outside the general scheme visualized hereunder (para. 129, *ante*).

150. We recommend that each Maori Land Board should, not more than three years and not less than eighteen months before the expiry of each lease which confers on the lessee a right to compensation for improvements (and immediately in cases where such leases are due to expire within the next eighteen months):—

(*a*) Assess the value of the lessee's improvements on the land;

(*b*) Give consideration to the possible future uses of the land for Maori settlement, either with or without prior development;

(*c*) Give consideration to questions of financing payment of the amount of compensation for lessees' improvements and to the financing of any possible Maori settlement (para. 100, *ante*); and

(*d*) Call a meeting of the owners to discuss the action to be taken in connection with the land and to ascertain the wishes of the owners as to the future of the lands. (As to future use of vested lands, see paras. 97 *et. seq., ante*).

This being a matter of administration does not appear to require legislation.

151. We recommend that legislation be enacted to provide that if the owners desire to have possession of the land resumed on their behalf immediately upon the termination of the present lease and are agreeable to the payment in cash of the full value of the lessee's improvements, and if the Maori Land Board is satisfied that sufficient money will be forthcoming to enable the Board to make payment of the full amount of the value of the improvements in cash on the resumption of the land:—

(*a*) The Board shall notify the lessee (not later than twelve months before the expiry of his lease) of its intention to resume the land at the expiry of the lease and of the amount the Board is prepared to pay to the lessee as compensation for his improvements.

NOTE.—In the case of a lease which is running on under statutory extension or which is due to expire earlier than twelve months after notice is given, the notice should state a date on which it is intended by the Board to resume possession, being not earlier than twelve months after service of the notice. The lease in such a case would be deemed to be extended to the date so mentioned (para. 142, *ante*).

(*b*) If the lessee is not satisfied with the amount of compensation offered he may, within four months after service of the notice on him, give notice to the Board that he requires the Board to submit the question of the amount of compensation for his improvements to the Land Valuation Court for determination (paras. 125, 126, *ante*).

(*c*) If the lessee fails to advise the Board within the four months aforesaid that he desires the question submitted to the Land Valuation Court for determination, he shall be deemed to have agreed to accept in full settlement of his rights to compensation for improvements the amount which the Board stated that it was prepared to pay for his improvements.

(*d*) Possession of the land is to be delivered up and payment of the compensation for the improvements is to be made on the date of the expiry of the lease or on the date specified in the Board's notice, as the case may be, or, if the amount of the compensation for improvements is not finally determined by decision of the Land Valuation Court before that date, then on the 30th day of June next thereafter or on such earlier date as may be agreed between the lessee and the Board, the lease to be deemed to be extended to that date.

(*e*) Adjustment should be made for appreciation or depreciation in value of improvements after valuation and before the lessee gives up possession.

152. We recommend that legislation be enacted to provide that if the owners desire to have possession of the land resumed on their behalf at or as soon as possible after the termination of the present lease and are agreeable to the payment in cash of two-thirds of the value of the lessee's improvements and the granting of the following option to the lessee, and if the Maori Land Board is satisfied that sufficient money will be forthcoming to enable the Board to make a payment of two-thirds of the full amount of the value of the lessee's improvements in cash on the resumption of the land:—

(*a*) The Board shall notify the lessee (not later than twelve months before the expiry of his lease) of its desire to resume the land and of the valuation of the improvements and that the Board offers an option to the lessee of either—

(i) Immediate payment in cash of two-thirds of the value of his improvements on giving up possession of the land in full settlement of his rights to compensation for his improvements; or

(ii) A lease for a further fifteen years with payment at the end of that period of two-thirds of the then value of the lessee's improvements in full settlement of his rights to compensation for his improvements (para. 103, *ante*).

NOTE.—The note to paragraph 151 (*a*) would apply also to the cases coming under this paragraph.

(*b*) The lessee shall, within four months after service of the notice on him, notify the Board whether he desires to receive immediate payment in cash or take a further lease for fifteen years as mentioned in sub-paragraph (*a*) hereof. If he desires to receive immediate payment in cash, he shall have the right to require the Board to submit the question of the value of the lessee's improvements to the Land Valuation Court for determination (paras. 125, 126, *ante*).

(*c*) If the lessee fails to advise the Board within the four months aforesaid as required by subparagraph (*b*) hereof, he shall be deemed to have accepted the option of receiving immediate payment in cash of two-thirds of the value of his improvements as mentioned in subparagraph (*a*) hereof and to have agreed to accept the Board's valuation of the improvements as stated in the notice given by the Board under that subparagraph.

(*d*) Subparagraphs (*d*) and (*e*) of paragraph 151 should apply to cases under this paragraph where the land is being resumed on behalf of the owners.

(*e*) Every lease for a further period of fifteen years under this paragraph shall be at an annual rental of 5 per cent. of the value of the owners' interest in the land, provided, however, that such rental shall not be less than the rent originally payable under the present lease.

NOTE.—Provision should be made for the establishment of a sinking fund to help to pay for the improvements at the end of the fifteen years (para. 136, *ante*).

(*f*) Towards the end of the further period of fifteen years the Maori Land Board should confer with the Maori owners on the basis set out in paragraph 150 and if they desire to resume possession and the funds are available a procedure similar to that set out in paragraph 151 should be followed, two-thirds of the value of the improvements to be paid over to the lessee on his giving up possession. The Board may, however, notify the lessee that, instead of paying two-thirds of the then value of improvements in cash to him, it offers him a lease of the land, such lease to be

on the same terms as those set out in paragraph 153 hereunder, that is to say, the lease is to be for a period of twenty-one years with perpetual rights of renewal for further terms of twenty-one years with the right to the owners to resume possession at the end of any term of twenty-one years on paying in cash the full value of the improvements (para. 103, *ante*).

153. We recommend that legislation should be enacted to provide that if the owners of the land do not desire to have possession of the land resumed on their behalf or if the Board is satisfied that there will not be sufficient money available to enable the Board to make payment in cash of the necessary amount by way of compensation for the lessee's improvements, the Board shall (by notice given to the lessee not later than twelve months before the expiry of the present lease) offer to the present lessee a further lease of the land upon terms and subject to conditions which shall include the following:—

(*a*) The lease shall be for a period of twenty-one years.

NOTE.—In the case of a lease which is running on under statutory extension or which is due to expire earlier than twelve months after notice is given, the notice should state a date, being not earlier than twelve months after service of the notice, to which the present lease shall be deemed to be extended (para. 142, *ante*).

(*b*) The lease shall confer perpetual rights of renewal for further terms of twenty-one years subject, however, to the right of the Board to resume possession at the end of the first term of twenty-one years or at the end of any subsequent term of twenty-one years upon payment in cash of the full value of the lessee's improvements. The procedure for such resumption and for settling any questions as to the valuation of improvements shall be as described in paragraph 151 (*ante*).

(*c*) The annual rent shall be 4½ per cent. of the amount of the value of the owners' interest in the land at the beginning of each term, but shall not be less than the rent originally payable under the present lease, subject to a saving clause to allow a reduction in the rent below that minimum amount in any case where the value of the owners' interest in the land has depreciated owing to any cause which was not reasonably within the control of the lessee or of his predecessors in title (para. 105, *ante*).

(*d*) If the Maori Land Board and the lessee are unable to agree as to the value of the owners' interest in the land for the purpose of assessment of the rental, then the question of the value of that interest shall be submitted to the Land Valuation Court (paras. 127, 128, *ante*).

(*e*) For the purpose of ascertaining the rental payable in respect of any renewable lease granted under this paragraph and for the purpose of ascertaining the amount of compensation which may be payable for the lessee's improvements on the resumption of the land under any such renewable lease, if the clearing of bush or other vegetative cover from the land would but for this provision be regarded as a lessee's improvement to the land for which the lessee should be compensated, then it shall be deemed to become wholly part of the owners' interest in the land at the expiration of fifty years from the carrying-out of such clearing, and during the said fifty years it shall progressively cease to be treated as a lessee's improvement and be deemed progressively to become part of the owners' interest in the land (paras. 124, 135, *ante*).

The procedure in respect of the offer of the lease, subsequent renewals, and incidental matters should be similar to the procedure laid down in Part VIII of the Land Act, 1948, in respect of renewals of leases of Crown land under that Act. Our reasons for recommending the granting of further leases will be gathered from a consideration of the earlier portions of this report (see, in particular, paras. 104, 105). As to the special class of cases referred to in paragraph 107 (*ante*), the legislation should allow action to be taken by the Maori Land Board in appropriate cases either under paragraph 151 or under paragraph 152, whichever, in the opinion of the Board, is to be preferred.

154. We recommend that the legislation should provide that if pursuant to paragraph 151 or paragraph 152 or paragraph 153 hereof a Maori Land Board either gives notice to any lessee of its intention or desire to resume possession or offers to the lessee a further lease of the land in any lease and the lessee is farming that land as part of a farm which includes other adjoining vested land held by the lessee under another lease which is due to expire at the same time as, or within a period of seven months before or after the expiry date of, the lease of the lands in respect of which notice is given, then the Board should give the same notice and take the same steps as to the resumption or further leasing of that other vested land as in the case of the first-mentioned land (paras. 117, 140, *ante*). For the purposes of this paragraph lands should be deemed to adjoin notwithstanding that they are separated by a road, street, railway, river, or stream.

155. We recommend that the legislation should include a declaration of the rights of present lessees of vested lands to receive compensation for improvements. This declaration should be along the lines which we have indicated in paragraph 94, and should have regard to the matters mentioned in paragraph 95. The legislation should provide that if any question arises as to whether or not a lessee is entitled to any compensation or as to the improvements in respect of which he is entitled to compensation, that question should be submitted for decision to the Land Valuation Court which should have power to decide the question in such manner as in equity and good conscience it thinks fit (para. 96, *ante*).

156. We recommend that the legislation should also provide that for the purpose of ascertaining the value of a lessee's improvements, in connection with the assessment of compensation for those improvements, and for the purpose of ascertaining the value of the owners' interest in any land, the terms hereinafter defined shall have the meanings ascribed to them in the following definitions:—

(*a*) "Improvements" on land means all work done or material used at any time on or for the benefit of the land by the expenditure of capital or labour by any owner or occupier thereof in so far as the effect of the work done or material used is to increase the value of the land, and the benefit thereof is unexhausted at the time of valuation; but does not include work done or material used on or for the benefit of the land by the Crown or by any statutory public body, except so far as the same has been paid for by the owner or occupier by way of direct contribution (para. 118, *ante*).

NOTE.—This must be read subject to the provisions of subparagraph (*e*) of paragraph 153 *(ante)* so far as assessment of rentals or compensation for improvements under new renewable leases is concerned.

(*b*) "Value of improvements" means the added value which at the date of valuation the improvements give to the land (para. 116, *ante*).

(*c*) "Unimproved value" of any land means the sum which the owners' estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to impose, and if no improvements (as hereinbefore defined) had been made on the said land (para. 115, *ante*).

(*d*) "Capital value" of land means the sum at which the owners' estate or interest therein, if unencumbered by any mortgage or other charge thereon, might be expected to realize at the time of valuation if offered for sale on such reasonable terms and conditions as a *bona fide* seller might be expected to require.

The legislation should also provide that if a lessee is farming vested land held by him under a lease as part of a farm which includes other adjoining vested land held by him under one or more leases in respect of which, pursuant to the recommendation contained in paragraph 154 (*ante*) the Maori Land Board is required to take the same steps as to resumption or further leasing as it proposes to take in respect of the first-mentioned land, and if the lands have been farmed as part of the same farm continuously since before the passing of this legislation, then the lands and the improvements thereon and the owners' interest therein shall be valued as if the lands were all held under the one lease. For the purposes of this provision lands shall be deemed to adjoin notwithstanding that they are separated by a road, street, railway, river, or stream.

157. We recommend that the legislation should provide that nothing in the Tenancy Act, 1948, should apply in respect of leases pursuant to the foregoing recommendations (para. 141, *ante*).

158. We recommend that legislation be enacted to provide that where the original expiry date of any lease has already passed but the lease is running on by virtue of section 13 of the Maori Purposes Act, 1948, as amended by section 8 of the Maori Purposes Act, 1950, or where any lease expires before the land is resumed or a new lease granted under the foregoing recommendations, then, in any case where the rental originally reserved under the lease has been reduced by the operation of the National Expenditure Adjustment Act, 1932, or the Mortgagors and Lessees Rehabilitation Act, 1936, or any other "relief" legislation, the lessee shall, while he continues in occupation of the land without a new lease being granted to him, be liable to pay as from the original expiry date of the lease the rental originally reserved under the lease, notwithstanding the provisions of the Tenancy Act, 1948 (para. 106, *ante*).

159. We recommend that the legislation to give effect to the foregoing recommendations should extend to cover leases of lands which were formerly vested lands in every case where the present lease was granted while the land was vested in a Maori Land Board or where the present lease is in substitution for or renewal of a lease so granted (para. 75, *ante*).

160. The vested lands affected by the foregoing recommendations are those which are leased under leases which confer on the lessees rights to compensation for improvements. As to all other vested lands, we recommend that each Maori Land Board should examine the position of the other vested lands under its administration and, as early as possible, call meetings of owners to ascertain the wishes of the owners as to the future of their lands. We have given an indication of our views as to these lands earlier in this report (paras. 108–111, *ante*).

161. We recommend that legislation be enacted along the lines suggested in paragraph 110 (*ante*) so as to give Maori Land Boards power, with the prior approval of the Board of Maori Affairs, to lease on renewable leases of the type referred to in paragraph 153 (*ante*) any vested lands which have already become, or are likely to become, neglected or which are not likely to be farmed or managed diligently or used to the best advantage in the interests of the owner or in the public interest.

162. We recommend that steps should be taken as far as possible to bring about a uniformity between Maori Land Court boundaries on partitions and boundaries under leases of vested lands (para. 131, *ante*).

163. We recommend that legislation be enacted for the following miscellaneous purposes:—

(*a*) To authorize a person having a beneficial interest in vested land to dispose of the whole or any part of his beneficial interest, by way of sale or gift, to any of his children or other descendants or to any other beneficial owner (para. 132, *ante*).

(*b*) To enable two or more leases of vested lands to be surrendered and a new lease to be issued to the same lessee in lieu thereof, such new lease to be for a term to be agreed upon but not extending beyond the expiry date of the surrendered lease which was due to expire last (para. 140, *ante*).

(*c*) Further extending all leases of vested lands which confer rights to compensation for improvements until 30th June, 1953, and thereafter, where necessary, until such date as may be fixed by the Maori Land Board by notice (in accordance with paragraph 151 (*a*), 152 (*a*), or 153) being a date not earlier than twelve months after the notice is given (para. 142, *ante*).

(*d*) Providing that in any case where timber has been, or is hereafter, removed from any vested land since the date when the lease thereof originally expired (or would have expired but for statutory extension) and possession of the land is resumed on behalf of the owners without a further lease being granted the whole of the royalties received by the lessee in respect of the timber shall be paid to the Maori Land Board unless the lessee has, before giving up possession of the land, completed the work of clearing and grassing the area of land from which the timber has been removed (para. 139, *ante*).

164. We recommend that consideration be given to the enactment of legislation for the following miscellaneous purposes:—

(*a*) Amending section 150 of the Maori Land Act, 1931, to give power to cancel partition orders which have been registered under the Land Transfer Act, 1915 (para. 131, *ante*).

(*b*) Increasing substantially the limit of £25 contained in the proviso to section 158 (*e*) of the Maori Land Act, 1931, as enacted by section 9 (1) of the Maori Purposes Act, 1946 (para. 131, *ante*).

(*c*) Enabling assembled owners to create an endowment (para. 132, *ante*).

(*d*) Amending section 258 of the Maori Land Act, 1931, to simplify in certain cases the alienation of an interest in land where there are more than ten owners (para. 132, *ante*).

(*e*) Amending sections 405 and 406 of the Maori Land Act, 1931, as to the lodging and audit of the accounts of incorporations of owners (para. 134, *ante*).

165. We recommend that in the future administration of vested lands the following matters should receive particular attention from the Maori Land Boards:—

(*a*) The desirability of establishing a sinking fund to help to meet compensation for improvements at some future date (para. 136, *ante*).

(*b*) The collection and recording of full information as to improvements on vested lands from time to time (para. 137, *ante*).

(*c*) The need for regular inspections of and reports on leased lands (para. 138, *ante*).

(*d*) The setting-up and use of consultative committees as visualized by paragraph 143 (*ante*).

(*e*) The careful consideration of sub-leases presented for consent in order to ensure that as far as possible the provision for payment of compensation for improvements will remain effective (para. 145, *ante*).

166. We recommend that it be adopted as a principle of the administration of development lands under Part I of the Maori Land Amendment Act, 1936, that if rates have been paid in respect of any of those lands before they were brought under Part I, then the payment of an equivalent or greater amount should continue to be made on account of rates notwithstanding that the land is not profit-earning (para. 133, *ante*).

167. We would draw attention here to the fact that we have made suggestions in paragraph 53 (*ante*) as to the manner in which certain special problems in relation to some "small-farm" subtenants in Te Karae No. 3 Block can be met. If legislation is enacted as recommended in the foregoing paragraphs of this report, no special legislation will be necessary to deal with that particular matter.

168. We recommend that consideration should be given by the Government to the position of leases under Part XVI of the Maori Land Act, 1931, with a view to adopting in respect of those leases some of the recommendations in this report (para. 146, *ante*).

CONCLUSION

169. In this report we have not answered *seriatim* the various questions into which Your Excellency's Commission directed us to inquire, but we think that we have nevertheless covered all the ground and that we have set out our views and recommendations as to all the questions.

We have the honour to be,

Your Excellency's humble and obedient servants,

D. J. Dalglish, Chairman.
H. M. Christie, Member.
R. Ormsby, Member.

Wellington, 19th June, 1951.

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