

ROYAL COMMISSION ON THE MAORI COURTS

IN THE MATTER of Submissions made
on behalf of Whakatohea people
with regard to the Royal Commission
on the Maori Courts.

Mr Chairman, Sir Thaddeus McCarthy, K.B.E.
and Commission members.

I, TAIRONGO TE WIREMU AMOAMO, farmer, together with
Mr Edward Joseph Hayes, Foreman Ministry of Works and
Mr Claude Edwards, farmer, all of Opotiki, hereby wish
to make submissions to the Royal Commission on behalf
of ourselves and the Whakatohea people in general of the
Opotiki area.

These submissions we would like to explain Sir were
compiled as a result of an initial meeting of a group
of the Whakatohea people about this time last year and
since then we have endeavoured to pool our experiences
and what knowledge we have gained over the years in regard
to the Maori Land Court activities and functions, the
result of which is now before you in the hope that some
good will come from our efforts.

Each of us Sir are members of the Whakatohea Tribe,
active in matters affecting the Whakatohea people and
also members of the Whakatohea Maori Trust Board,
representing our respective hapu - Mr Claude Edwards
being the Chairman of the Board.

Mr Chairman Sir, may it please the Commission to hear
the following submissions:

21 August 1979.

ORDER OF REFERENCE - ITEM 1

"Whether or not any part of the jurisdiction of either of the Maori Courts could be better exercised by some other Court or tribunal, and whether or not the subject matter of any part of that jurisdiction could be better dealt with otherwise than by a judicial body"

To be able to put forward submissions to you on the above matters one must first try to understand the present role and functions of the Court as it is today. Our views on these aspects are as follows:

We see the Maori Land Court as a place where Maori land owners and Maori people as a whole, can find out what is happening to their lands; where the use and management of Maori lands is promoted; where disputes as to occupancy, ownership and the like are settled; where the rights of an individual owner are protected; where the rights of a body of owners such as Incorporations or Trusts are protected; where owners or non owners can be given a fair and reasonable hearing when dealing with solely owned lands and lands owned in multiple ownership; and where there is kept true and correct records of title, ownership and other relevant Maori land affairs.

Our overall outlook of the Court is such that we see the Court's objective is to retain Maori land in Maori ownership and to facilitate its utilization and management for the best advantage of the owners and to ensure the lands are maintained in good heart for the Maori generations of the future.

It is our view that to be able to fulfil its role and reach its objective the Court should be empowered with sufficient

authority or jurisdiction. We feel that if some of the jurisdiction of the Court was taken away and passed on to some other Court or Tribunal then the complete records of Maori land dealings would not be held in the one Registry. This of course would not be to the Maori people's advantage.

We also submit that already there is a Committee functioning in this district and its proposed work is one which we think was designed to assist the better use and management of Maori Lands. We refer to the Maori Land Advisory Committee. When Court meetings of owners fail for want of a quorum a report is made to the Maori Land Advisory Committee who, after consideration and supposedly consultation with the owners concerned, may make a recommendation to the Minister for proposals to be carried out for the utilization of the land.

The owners of the lands in such cases usually never hear what the outcome of the meeting of owners application is after the initial meeting which failed for want of a quorum and they consequently presume that nothing is being done with their land, or if there is, then the occupancy is purely one of informal tenure. On the approachment of the Department it is always stated that the matter is in the hands of the Maori Land Advisory Committee. On approach to the Maori Land Advisory Committee members they say the matter is in the hands of the Minister.

It is obvious to us that if the matter was handled right

through from start to finish by the Court, at least the owners could get some satisfaction of knowing what the outcome was.

In our Waiariki district no representative of our Whakatohea tribe (Opotiki) or even the Whanau Apanui tribe (East Coast Te Kaha) is on the District Maori Land Advisory Committee. We feel that for our area the Whakatohea Maori Trust Board should carry out the functions of the District Maori Land Advisory Committee as this Trust Board has the use and management of its tribal lands and the welfare of its people foremost in its activities. Should this power be extended to the Whakatohea Trust Board then its people will be represented in the administration of their lands rather than have some outsider or foreign body administering their lands for them.

Already the Whakatohea Maori Trust Board has taken on an Executory or Administrative role in the Whakatohea Tribal area. A lands trust called the Ngati Ngahere Lands Trust has been mooted by the Court appointing the Whakatohea Maori Trust Board as the Executory Trustee together with owners Advisory Trustees. The whole concept of this lands trust is to promote the utilization and management of these lands and that it be done with as much owner involvement or participation as possible. The Whakatohea Maori Trust Board's role is one of maintaining, assisting and fostering the Advisory Trustees (or Runanga as they are called in the Trust) as the Runanga are the decision making body and the

Executory Trustees are the means whereby those decisions might be effected. This Trust has just been initiated and in time should show great potential as the people of Whakatohea are showing much enthusiasm on the new role their Trust Board is playing.

This Ngati Ngahere Lands Trust was a direct result of constant liaison between Title Improvement Officers, the land owners and Maori Elders of Whakatohea and in particular the members of the Whakatohea Trust Board. The project was of course initiated by the Court. It has become evident that land utilisation and management involvement by local or tribal orientated trusts or bodies is endorsing the fact that these Maori bodies are coming to the fore and that Maori land owners are welcoming this trend as it is enabling them to gain the experience of administering their own lands themselves.

As for the appointment of Agents to represent Maori owners on the compulsory acquisition of lands for public works and the like, these same local or Maori tribal orientated trusts or bodies could adequately fill the role. These Maori institutions are representative of the Maori people of the area and would have a good knowledge of local history and traditions which would be invaluable should the need ever arise to have certain matters raised pertaining to a taking for public works of land that might for example, unbeknown to the taking body, be an old Maori urupa.

Another aspect which has passed from the Court is the succession of Maori land interests of deceased owners who died after the 1st April 1968. The Registrars of the Court

have the statutory powers under section 81/1957 and 81A.

Under these sections the interests of the deceased are vested in an administrator and subsequently in the persons beneficially entitled.

This function should never have been taken away from the judiciary of the Court because, if there is an error or omission in the transaction and a person beneficially entitled to an interest is left out and the matter has been finalised by the Registrar, there is nothing that can be done to correct the situation. Not even an application to the Chief Judge under section 452 of the Maori Affairs Act 1953 can be made to amend it as this avenue can only be used in respect of rectifying an Order of the Court not an Order of the Registrar.

One of our main reasons why we consider the jurisdiction of the Court not to decrease but rather to increase is because all matters before a Court can be heard in open Court and not behind closed doors as would be the case should some functions be passed to the Registrar or some Administrative body. Our view is that all dealings in Maori land should be handled openly as was the case in the old days when land matters were settled upon by the Tribal Runanga on the Marae.

There is also the fact that one knows that all matters that come before the Court have been properly notified and that proper notice has been given to all interested parties and to those owners either directly or indirectly affected. This open approach and communication between the Court and the Maori people

is one which cannot be over-emphasised as so much of our lands have in the past been taken or sold without due regard to the wishes of the owners. This aspect also enables dissatisfied owners to come forward and seek relief from the Court over any grievance they may have.

For the reasons given above we therefore submit:

- 1 That no parts of the Court's present jurisdiction should pass to some other Court or tribunal.
- 2 That the Court's present jurisdiction be increased to better enable it to carry out its functions in respect of multiple owned lands.
- 3 That non-judicial bodies should not take on those responsibilities which are best performed by the Court.
- 4 That some functions of non-judicial bodies, such as the Maori Land Advisory Committee, should be passed over to existing local or tribal bodies or Maori institutions or Trust Boards.
- 5 That non-judicial bodies such as those mentioned in 4 above should be consulted on matters of land utilisation and management.
- 6 That these non-judicial bodies (as mentioned above) be consulted for their appointment, if they are willing, to act as agents of owners for the compulsory acquisition of lands and the like.
- 7 That succession to deceased owners be carried out by the Court and not the Registrar.

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That the present nature of the open forum of the Court and its insistence of proper notice to owners of matters coming before it be retained.

ORDER OF REFERENCE ITEM 2:

"The qualifications for, the methods of appointment of, and the promotion of, Judges of the Maori Courts"

In our view a Judge of the Maori Land Court should have a legal background to qualify for his appointment. We see a Judge as a person who interprets statutes and law and who applies those laws to cases before him.

A Judge should be a person who has some understanding of Maori people, their customs and traditions, and need not necessarily be an expert in any special matters such as land utilisation or land valuations. If expertise in special matters is required then the Judge should be able to call on such help when it is needed. Land Utilisation Officers or Valuers and the like should be made available to the Court should the Judge need their assistance. We understand that Officers of the Maori Affairs Department are experts in these fields and that their knowledge of land use, valuations and management could be helpful to a Judge in arriving at a decision as to the best use etc. a block of land can be put to.

For cases such as recommendations for Maraes being set aside as Maori Reservations, the Maori Affairs Community Officers should be made available to report on the historical significance and tribal background of a proposed reservation and also the class of person for whom the reservation should be held.

Many reports as to the state of the land, which have been made by the Maori Affairs Departmental Officers, expert in their fields, are made to the Court. In many cases the

Officer who makes the report is not present at the time of hearing and the Maori owners have at times disagreed with some aspects of the report. Had the Officer been present at the hearing he would have been able to support his report or otherwise and the Judge would be able to better assess the application before him.

In our view a Judge should have an all round working knowledge and practical experience of the law as it applies to Maori land.

As to the method of appointment we think that Maori Councils should be approached to consider whether in their view there is a suitable person they know of who could make a suitable Judge.

As to the promotion of a Judge, there appears to be only one promotion and that is one to Chief Judge. Because a Chief Judge should be a person with practical experience of the workings of the Maori Land Court, he should be appointed from within the Maori Land Court Judges.

For the reasons given above we therefore submit:

- 1 That Judges should have a legal background and be appointed for their knowledge and experience in general law.
- 2 That Judges need not be experts in specialised fields such as land use, valuations or management but have a sound knowledge of the Maori people's nature, customary lore and traditions.

- 3 That provision should be made for Judges to call for expert and specialised assistance from Maori Affairs Departmental Officers or any other such persons.
 - 4 That provision be made for Maori Councils to submit nominations for appointment of Judges.
 - 5 That only a person appointed as a Judge can be appointed as a Chief Judge.
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ORDER OF REFERENCE ITEM 3:

"Whether and to what extent it is proper or desirable and practicable that Registrars of the Maori Courts perform judicial functions, and whether the appointment of appropriately qualified officers of the Maori Land Court to exercise subordinate judicial functions would be desirable, practicable, or convenient"

To our knowledge the Registrar of the Court is also the District Officer of the Maori Affairs Department; he is also the District Maori Trustee; he is also a member of the District Maori Land Advisory Committee.

The functions of a Registrar in so far as Court applications and other work associated with the Court are usually carried out by the Deputy Registrar. In our experience with the Court, matters are usually referred to the Deputy Registrar and not the Registrar. The Deputy Registrar, to our minds, is a person who has had experience and a sound background knowledge of the workings of the Court. Whether the Registrar or Deputy Registrar have any professional or legal qualifications we do not know.

However, because of the importance of the position and its status it could well be presumed that at least the Registrar if not the Deputy Registrar does hold some professional or legal qualification, especially since the Registrar's involvement in the Court is somewhat substantial.

We have already mentioned the Registrar's involvement in succession to those persons who have died after 1.4.1968, and that we think that his function in this aspect should be passed to the Court. Unless the Registrar or Deputy Registrar has

had some legal background or proper training, we cannot see how he could perform his duties with the same high standard that the Maori people have come to know had the same function been performed by the Court.

Another instance where, in our opinion, the Registrar's function should be passed to the Court is that which requires instruments of alienation not required to be confirmed by the Court, to be endorsed with a memorial that that instrument of alienation has been produced to the Registrar and has been noted in the records of the Court - we refer to section 233 of the Maori Affairs Act 1953.

How are the Maori people to know that the Registrar is doing the right thing in endorsing these alienation documents, especially since the owners could very well have thought that the document he was signing was, for example, a lease for seven years, but the document states that there is a right of renewal and that there is a compensation clause as well. These problems, we consider, could well be overcome if the Court held this jurisdiction.

It is our view that from the contact and liaison that we have with the Officers of the Maori Land Court and Title Improvement Officers that they are doing a great deal of work for our people. At meetings of owners, whether formal Court meetings under Part XXIII or informal, there usually is shown a sense of understanding of the Maori people and their advice as to the various aspects of Maori land have always been well received. However, much of our confidence in these departmental officers

is gained because of the understanding that they represent the Maori Land Court more so than the Department of Maori Affairs or the Maori Trust Office. The knowledge that these officers represent the Court allows the Maori people to feel that whatever they decide upon at a meeting must be confirmed by the Maori Land Court at an open Court hearing. At that hearing, which would be advertised, further relevant matters of a case could be brought out, the true position could be assessed and the right decision can be made by the Court.

What we would like to see are more Court and Titles Officers being present at our meetings, advising on title and other related matters and conducting our meetings so that a true and proper record of the meeting is kept. This of course would put a greater burden of work onto those Officers responsible, who we believe have already more than enough work on their hands. These meetings we refer to should first be sanctioned by the Court so that, if necessary, the owners can be guided by any advice that the Court may give and also be aware or made known of information that, in the Court's view, the owners should know about.

The Registrar, because of the many caps he wears - District Officer, Registrar, Maori Trustee, Member of Maori Land Advisory Committee - cannot, we consider, always properly and faithfully perform his duties in the best interests of the Maori people. The Registrar, as the District Officer, is in charge of the administration of the various sections of his department - housing, community services, development and

field supervisors, building inspectors, Maori Trust Office, accounts and Court and Title Improvement - together with the several sub-offices in his district.

Conflicting interests among the Maori Trustee, Registrar and District Officer could easily occur. To overcome this we consider that the Court and Titles sections should be a separate body or division under the control of a Registrar who does not carry other responsibilities, as the present Registrar does. The Registrar would then be responsible for the running of the Court and could, together with the Judge, ensure that the Maori people's needs are properly being catered for in so far as their association with the Maori Land Court is concerned. By this way also there would be more contact between the Registrar and the Maori people and the Court could advise direct and assist in the actual administration of the Court in respect of matters brought before it.

For the reasons given above we therefore submit:

- 1 That the Registrars should not perform further duties of a judicial nature but rather relinquish those duties, presently being performed by them, that should fall within the jurisdiction of the Court.
- 2 That the Court and Titles section of the Maori Affairs Department be a separate entity under the control of a Court Registrar.
- 3 That Court and Titles Officers be authorised to act as recording officers at Maori owners' meetings, whether formal or informal, and that in each case they act in

accordance with the Court's directions.

ORDER OF REFERENCE ITEM 4

"Whether and to what extent it is proper or desirable and practicable that Commissioners be appointed pursuant to and in accordance with the present statutory provisions relating thereto, or on some other basis, to exercise any part of the jurisdiction of the Maori Courts"

We consider that no part of the Court's present jurisdiction should be passed over to a Commissioner. However, if a Commissioner is appointed to carry out some functions of the Court then he should be a person of the same calibre and have the same standard of qualifications as those which apply for the appointment of a Judge.

ORDER OF REFERENCE ITEM 5

"The administrative procedures and the organization and the management of the Maori Courts, including the places appointed and the frequency and times of sittings for the despatch of business and the arrangement of the business thereof, and the provisions of adequate and appropriate staff for servicing those Courts"

We consider that before the Court can properly function it must be provided with an efficient clerical and administrative staff adequately trained in the business carried out by the Court. It has been our experience that this has not always been the case. We see a need where more staff could be utilized on the Court and Titles sections to carry out the type of work presently undertaken in respect to land utilization, management and control.

There are many blocks of our Maori land in Whakatohea area and at Whakatane and Te Kaha areas which are lying idle and unproductive but which are accumulating land rates. Many of these lands are informally occupied by an adjoining farmer or squatter, who is paying no rent, sometimes paying no rates, and generally running the land down. The Titles staff of the Department could in these cases implement title improvement schemes to have the land formally leased for farming or cropping and the like. Section 438/53 trusts could be brought into being to have the lands utilized. Meetings with the owners could be arranged to discuss what course of action should be taken against the occupier for his past use and occupation of the land. Overall schemes of amalgamation of several of the small uneconomic titles could be arranged so that the resultant large block could support a farming or forestry

venture. These are some of the things that we consider could be done to our lands.

By having these lands utilized it would reduce the question of idle unoccupied Maori land, non payment of rates and help in the eradication of the noxious plants and noxious animals problem. It would also help in the retention of Maori land in Maori ownership and not only provide an income for the owners but also could provide employment.

To complete many of these utilization schemes in most cases would involve the survey of the land and initial finance to carry out the schemes proposals. The Department about eight years ago had its own survey section which used to service the Court. This survey section has been absorbed into the Lands and Survey Department. The reinstatement of the survey branch of the Department would greatly improve the operation of land utilization by having our Maori lands properly completed by survey.

As to the aspect of finance for land use schemes, we consider that money should be made available from a fund to be set up and used specifically for title improvement schemes. The type of scheme that these funds could be used for would be Maori housing subdivisions and roading together with farming, cropping, fruit growing and the like.

When the Court is approached on land use matters, advice is given that the matter raised would be referred to the appropriate officer handling such cases and that investigations

as to the title position, ownership, state of the land, rates position and so on will be made. In some cases there are long delays in getting the proposed scheme off the ground. We believe that these delays only occur because of the work load of the officers concerned. The simple remedy of course would be to increase the number of staff in Court and Titles. But not only that, the special skills of the officers in conducting the owners' meetings, compiling detailed research data and other such matters for the Court and owners' benefit, should be recognised.

The Court sits at Opotiki and Te Kaha area usually every three months. This frequency we consider is sufficient to cater for the needs of the people. However, should cases which have to be acted on straight away come up, special sittings of the Court can be made. In cases where agents are appointed under Part IX, these are handled by the Court in Chambers and rightly so. Such cases usually demand immediate action if the agent wishes to file objections to proposed takings by Ministry of Works or Local Authorities, in time before the closing date for objections.

We consider that the Court should sit at Maraes, but not at all times. The venue of the Court would of course depend upon the availability of Courthouses and Maraes and also the nature and circumstance of the case which the Court has before it. An instance where an application to appoint trustees and recommend that certain areas be included in an existing Maori reservation would we consider, be an appropriate case to hear and determine on a Marae Court venue.

In many cases also both Court sittings and Owners' meetings should be held in weekends or at times convenient to the people.

The accommodation of the Maori Land Court Offices in the Waiariki District is, we consider, something to be desired. We refer to the Rotorua District Office. Approximately six years ago the Department moved to new premises from the ground floor to the first floor of the annex of the large Government Departmental Office Building. Because of this move our older and weaker generation find it very difficult trying to climb the stairs to get to the Court and Titles counter. We consider that the Court and Titles office should be placed on the ground level of that building as, of all the counters in the Department, the Court and Titles counter would be one of the most frequented especially so by our Maori elders, many of whom are fearful of the lift provided on the other side of the building.

It has been our experience also that on approach to the Court and Titles counter one is served usually by a very young and inexperienced counter clerk. To try and convey and explain what is wanted from the office can sometimes be a trying experience. We consider that at all times the officer responsible for Court counter enquiries be one who is experienced and properly trained to give more efficient service to all the public and in particular, to our older Maori people.

For the reasons given above we therefore submit:

- 1 That more emphasis be placed on land utilization projects and the promotion of land production, management and control.

- 2 That staff numbers be increased by experienced and adequately trained staff to carry out the work on land utilization and that their specialist talents be better recognised and recompensed.
- 3 That the survey section be reinstated with the Court and Titles section.
- 4 That a fund be set up to be used specifically for Land Utilization projects.
- 5 That the present system of venue and frequency of Court sitting are adequate.
- 6 That the Court and Titles office counters be on ground floor and that officers servicing them be experienced and adequately trained in Court and Titles work.
- 7 That there be provision for Court sittings and owners meetings to be held on weekends at times convenient to the people.

ORDER OF REFERENCE ITEM 6

"Whether and to what extent any part of the business of the Maori Courts could be dealt with more properly or conveniently ex parte, or otherwise than at a duly appointed and formal sitting of the Court, or without the necessity of notice to other parties"

In respect of the above item, we consider that because of the complex nature of our Maori land title ownership there is a real need to have matters properly advertised and all parties notified. To see an application for a particular block notified in the Court panui is in some cases sufficient notice. We believe that Maori people like to know what is happening with their lands - hence they should be notified.

Many multiple owned lands are owned by family groups or hapus and there is always concern when one of that family or hapu sells his shares, especially if the purchaser is the Maori Trustee through conversion. Many owners think that only another owner in the block can purchase the Maori Trustee's shares, but that is not the case. The Maori Trustee (conversion) we have found, can sell his shares to any Maori or descendant of a Maori or to a Maori Incorporation or to the Crown or to a Maori Trust Board or to a Trustee of the land concerned - We refer to section 152 of the Maori Affairs Act 1953 and its amendments. These Maori Trustee conversion transactions are not done through the Court. We consider that it should.

In some instances there is no need for notification such as an application to the Court for the issue of a Survey

Requisition. The Court would simply receive the application and all being well, sign the Requisition for Survey in Chambers.

However, we consider that where parties or owners have been notified of a particular application and no objection has been raised by anyone, then such applications need not be heard in open Court. But in every case that comes before the Court, the Court should use its discretion as to whether the matter can be dealt with in open Court or ex parte in Chambers.

For the reasons given above we therefore submit:

- 1 That the Court should be empowered to use its discretion in any case it thinks fit, as to whether or not a matter can be dealt with ex parte or in open Court.
- 2 That where the Court has not used its discretion as in 1 above, then the application should be properly advertised and all parties notified of the time, place and date that the application will be heard by Court.
- 3 That in matters concerning the transactions of the Maori Trustee Conversion, there should be provision that they be transacted through the Court.
- 4 That the practice of treating applications for survey requisitions ex parte be continued.

ORDER OF REFERENCE ITEM NO. 7

"The relationship between the Maori Courts and their staff with persons who attend the Courts (whether as applicants, parties, witnesses or otherwise) and whether and to what extent changes in the facilities and administrative procedures of the Courts are necessary or desirable to improve that relationship and better meet the convenience of such persons"

Under this item we wish to advise that overall the relationship between the Court and the people has built up over the years and has become very close. Court and Titles Officers have become familiar faces in the Court. In many instances information of Court and Title matters given by these officers can be wholly relied upon as to its accuracy, simply because the Officer supplying such information has a reputation of knowing his job.

Many of our people rely on the honesty and good faith of the Court Officers. When applications for partition or vesting or exchange are being done many owners are somewhat confused when it comes to filling out the forms. We consider that more emphasis should be given to the assistance of Maori clients in completing correctly and filing application forms.

Succession applications for persons who died before 1.4.1968 are another case where Court Officers can be very helpful. The preparing of family arrangements and explaining share valuations and the alienations of the blocks are areas where more assistance is required. If assistance is not forthcoming the Maori people would either do the work themselves and in all probability do it wrongly, or they would seek the assistance of a solicitor. Costs for this legal aid could

be very expensive even to the extent that it would not be worth carrying out the transaction. There is also the possibility that the solicitor who might handle the work could, in fact, know very little of the Maori Land Court proceedings and the owner would therefore not get much satisfaction.

What has also helped, we have noticed, is the present process of having one's application set down to be heard on a certain day and time. This has overcome the all day wait on the first day of Court to try and have your application heard. Many times our people have turned up on the first day to have their application heard only to find that it cannot be fitted in and is set down for another day. In most cases the owners take days off work needlessly which can be avoided if Court fixtures were made and owners were notified of them. The present practice we consider should continue.

When applications are heard and the Court adjourns the decision, it would help if the owner or applicant concerned was given a copy of the decision or a letter setting out the outcome. The parties concerned would then be in a position to carry out what the Court has directed, or know whether their case was successful.

For the above reason we therefore submit:

- 1 That the relationship among the Court, its Officers and the Maori people is good and should be maintained.
- 2 That Court and Title Officers be made available to

assist in the completion of all Court applications.

- 3 That the present practice of Court making fixtures for applications to be heard be continued and encouraged.
- 4 That Court and Title information be given freely in all cases to Maori Owners.
- 5 That copies of Court minutes and outcome of Court applications be supplied to owners and parties concerned.

ORDER OF REFERENCE ITEM 8

"The desirability or otherwise of parties being represented by Counsel in every case or in any class of cases before either of the Maori Courts"

It is our experience with the operation of the Court and the duties it performs for the people that sometimes it is necessary for our Maori people to be represented by Counsel. It is obvious that when highly contentious cases are being contested between parties and there is argument about the law on the matter, that if the Maori owner is not represented by Counsel he would be at an immediate disadvantage. Aspects as to the legality of a document or whether or not a certain piece of land which appears on plan as a legal road is, in fact, a road when research into the Court records does not reveal any Court Roadway Orders, are cases where Maori owners should be represented by Counsel. If, in such cases, they are not represented, then we consider that the Court should insist on Counsel representation.

On the other hand however, there are also many cases when representation is not necessary. Such cases would be successions, appointment of trustees for Maori Reservations and for minors, vesting applications for land interests and for vesting of house sites. We consider though that in any case before the Court the Maori owners or any other person should not be denied the opportunity of being represented by Counsel if he so desired.

In many cases the Court Officers assist the Maori people in the prosecution of their applications and this is a service

much appreciated.

For the above reasons we therefore submit the following:

- 1 That the Court should be empowered to appoint or direct that Counsel representation be made available for unrepresented parties.
- 2 That every person should not be denied the opportunity of being represented by Counsel in Court if he so desired.
- 3 That assistance by Court Officers in the prosecution of applications be *provided*.

ORDER OF REFERENCE - ITEM 9

"Any other matters that may be thought by you to be relevant to the general objects of the inquiry"

Throughout our whole submission we have portrayed the image that the Court should be given more authority and that the Registrar's authority to carry out certain judicial functions should be stopped and returned to the Court. We consider that the Court would be better serviced if the Court and Titles staff directed more or the whole of their attention to the needs and requirements of the Judges in matters which come before them. We believe that the Court Judges, and in particular our own Judge of this district, always looks after the interests of the Maori owners but more so always gives the owners or other interested parties every opportunity to state his case, with or without legal representation.

However we can see that the Court cannot operate without the assistance and co-operation of the staff of the department. Such staff must be properly trained in the dealings and procedures of the Court to be of any real help.

The Court could also be helped to a great extent if some kind of programme or seminar on Maori land Court procedures and the types of applications available and how to implement them, etc., were run for the Maori people and any other interested person. Such types of classes could also be held for the benefit of lawyers and Government local authority personnel. Many lawyers around know very little about Maori Land Court law and this is also the case with people in

local County Councils who are involved a great deal in Maori land aspects such as laying out of Roadways, putting in pylons, issuing rates notices, etc.

Many problems exist because the land is in multiple ownership - quorums cannot be obtained because owners are deceased or no owners addresses are available, or there are absentee or missing owners, or simply because many owners just don't bother to turn up to meetings because they know their shareholding by itself is so small it would not be worth the trouble. We consider that some form of trust for groups of people - families, hapu - should be set up to counter the ever fragmentation of shares. Business with such trusts can be easily carried out with little expense and time.

We consider that the Court and Titles division should be separated from the department but still retain a working liaison with the sections of the department as submitted at page 14 herein. We would not like to see the Court and Title sections come under any other department such as the Justice Department unless of course specific provisions are agreed on before the change. Such provisions as the special nature or character of our Maori Land Courts be retained and not be absorbed in any way into the Magistrate's Court system.

Our association with the Maori Land Court is a long standing one and many of us have come to know and realise its worth

and we don't want to see it disappear.

If other departments might service the Court better than what it is being served now then steps should be taken to ensure the Maori Affairs Department services the Court in the future in the most efficient way. Our thinking on this is that if the Court's needs and requirements are not being catered for then surely the Maori people as a whole are not being properly catered for and will become deprived of their rights to have their lands better utilised, managed and maintained for the benefit of New Zealand and more particularly for the Maori generations of the future.

[BAJZ A1708/36n]