

1865

Page 3. The Native Land Court

(Taonui, R., 2012b)

Native Lands Acts 1862 and 1865

The Native Lands Acts 1862 and 1865 established the Native Land Court. This freed up more land for purchase by settlers as it individualised Māori land title. Justice minister Henry Sewell described the aims of the court as, 'to bring the great bulk of the lands in the Northern Island ... within the reach of colonisation' and 'the detribalisation of the Māori – to destroy, if it were possible, the principle of communism upon which their social system is based and which stands as a barrier in the way of all attempts to amalgamate the Māori race into our social and political system.'¹

Native Land Court

Although many Māori were willing land-sellers, the operations of the Native Land Court led to deep dissension among Māori and also contributed to serious health and social problems.

Any 'interested Māori person' could apply for a Native Land Court hearing, and speculators often convinced individual Māori to sell land before its other tribal owners knew of the sale. The Native Land Court's hearings were frequently held some distance from tribal homelands, requiring landowners to travel and accommodate themselves in another territory. They also had to pay court costs, survey costs and legal fees. The Ngāti Kahungunu chief Renata Kawepo won a series of cases against land speculators in Hawkes Bay, but then had to sell much of the land to pay his legal and living costs.

In 1883 the *New Zealand Herald* wrote, 'No one knows when the [land] block in which he is interested will be called, so that all he can do is wait with patience until his turn comes. In this very waiting, weeks and sometimes months are passed, and unless the lands in which they are interested are of considerable value, more money is expended in securing them than they are worth.'²

The '10-owner rule'

According to Māori custom the group who occupied a block of land held decision-making rights over it. The Native Land Court did not uphold this custom.

In its early years the court often awarded ownership of land areas of less than 5,000 acres (2,023 hectares) to a maximum of 10 named owners, although many more might claim ownership. In 1873 the '10-owner rule' was abolished, and all those with interests in the land became equal owners. However, their descendants also inherited legal ownership, whether they could still claim occupation rights or not, so shares became tiny as the number of owners increased over succeeding generations.

MP Robert Bruce declared that 'we could not devise a more ingenious method of destroying the whole of the Maori race than by these land courts. The natives come from the villages in the interior, and have to hang about for months in our centres of population ... They are brought into contact with the lowest classes of society, and are exposed to temptation, the result is that a great number contract our diseases and die.'³

Native Rights Bill 1894

The Native Rights Bill 1894 was drafted with the help of Te Kotahitanga, a pan-tribal Māori unification movement, and it was tabled in Parliament by Māori MPs. It sought the abolition of the Native Land Court, the right of Māori to make their own land laws, and Māori control of reserved lands and land development. At the first reading all non-Māori MPs walked out of the debating chamber. Parliament rejected the Bill in 1896. One Māori MP, Wi Pere, reflected that 'This Bill seeking mana will not be granted until all the land has been alienated, whereupon there will be no place left for its application.'⁵

Doing it hard

In 1885 the *New Zealand Herald* observed the effects of the Native Land Court: 'men and women have abandoned all work and all industrious occupation. ... for the most part they have for years past lived in tents, or slept on the ground with the shelter merely of a break-wind. They have been made to do this by having to run from one part of the country to another after Land Courts. They have had to live on wretched watery food, such as potatoes, and the only relief from the utter misery of their surroundings is in getting drunk. What wonder is it that they should die of consumption like rotten sheep, and that the children born of them should "linger out a short life?"'⁴

Footnotes:

1. *New Zealand Parliamentary Debates*, 1870, vol. 9, p. 361.
2. *New Zealand Herald*, 8 December 1883.
3. *New Zealand Parliamentary Debates*, 1885, vol. 52, p. 515.
4. *New Zealand Herald*, 1 August 1885.
5. Quoted in R. J. Walker, 'The genesis of Maori activism.' *The Journal of the Polynesian Society* 93, no. 3 (1984), p. 273.

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