

CHAPTER 4

THE DEMISE OF THE LAND COUNCILS, 1904 TO 1905

The administrative role which the new Maori Land Councils were called upon to carry out did not necessarily lend itself to rapid action. As James Carroll later noted:

it was frequently impossible for [Maori Land Councils] . . . to move for the reason that there were many owners to the titles, making concerted action difficult and in many cases impossible.¹

That the large numbers of owners on many titles might slow things down should of course have been foreseen in 1900: certainly no one should have been surprised when this problem became apparent. Where action was possible, however, it could take a good deal of time to draw up deeds of trust and obtain the necessary signatures, while questions about title and survey problems always had the potential to impose further delays. Even in the Aotea Land District, where Maori proved much more willing to vest their lands than elsewhere, such requirements meant that none of this property was ready for leasing until 1903.²

Further, Maori freehold lands which were unoccupied or unused at this point in time were as likely as not to be of poorer quality or located off the beaten track – or both. It might well be necessary for the land council to carry out a good deal of preparatory work before the land could be leased at a reasonable rental. The land councils, however, were intended to be self-supporting bodies – meaning that they were expected to fund their operations out of the various fees which they were empowered to collect.³ By 31 March 1903 the total income from fees for all of the land councils put together was only £253 15s 6d. By 10 October 1905 the total had risen to only £768 16s 4d.⁴

The 1900 Act had anticipated such difficulties – at least to the extent that it made provision for the land councils to borrow money for use in:

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1. Confidential letter of 27 April 1909 from Carroll to Prime Minister, MA 16/1.
 2. See AJHR, 1907, G-1a, p 11. See also S Katene, 'The Administration of Maori Land in the Aotea District, 1900–1927', MA thesis, Victoria University of Wellington, 1990, chapter 2 for a detailed discussion of the work involved.
 3. See *New Zealand Gazette*, 7 January 1901, no 1, p 9, for the scale of fees set down in the land council regulations.
 4. See AJHR, 1903, G-8, p 2 and 1905, G-8. Elections and salaries to 31 March 1903 cost some £3064 17s 4d, but these expenses were paid out of the consolidated fund (see AJHR, 1903, G-8).

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perfecting the title to the said land, or to any other lands owed by the same Maoris, and . . . in cutting up, surveying, roading, opening up, preparing, and advertising such land for lease, or generally improving such land or any other land of the same owners.

But there were restrictions. In the first place the owners had to agree in writing, in the instrument vesting the land in question in the council, that it could be used as security for such loans. Secondly, the Maori Land Councils could only borrow from Government institutions. They had no authority to borrow privately without permission.⁵ It would appear that these provisions were less than adequate to meet the demands placed on the land councils. As Seddon himself observed in 1904, these bodies suffered many difficulties as a result of ‘want of funds for preliminary and other necessary incidental expenses’. He noted that:

If the policy which the [1900] Act lays down is to get a fair trial it will be necessary for Parliament to grant some temporary financial assistance to place the various [Land] Councils in full working-order.⁶

In other words, the land councils were seriously under-resourced for the execution of their principal task of making vested lands available for leasing. (This proved to be a persistent problem. In 1909, when the definitive Maori Land Board legislation was being put in place, W H Herries would complain that ‘You have this elaborate system of taking over land, surveying, roading and cutting it up, and you do not give the Maori Land Boards any money to do it with’).⁷ But even where the requisite funds were available these preparations naturally took time. It would not have been unreasonable to expect that several years would be required before vested lands would be become available leasing in any significant quantity.

At the root of many of these problems, though, lay the fact that the Maori Land Councils simply did not have much land under their control to work with. Substantial amounts of Maori land were not immediately vested in the land councils. As Table I.1 shows, only 48,135 acres were transferred in 1902 and 50,528 acres in 1903. And almost all of this (some 96 percent) was located in a single land district. The Aotea Land Council aside, it was not a promising start. Sir Robert Stout and Apirana Ngata would comment in 1907 that ‘The Act of 1900 was doomed to fail’, because Maori landowners were unwilling to entrust their lands to the Maori Land Councils.⁸ Landowners allegedly ‘objected to being deprived of all authority and management of their ancestral lands’, and were much more interested in matters of ownership per se than settlement (the title to much ‘idle and unproductive’ land, they noted, being in dispute at this time).

5. Statutes, 1900, no 55, s 29(3)–(7)

6. See Seddon’s comments in ‘Financial Statement’, AJHR, 1904, B-6, p xvii.

7. NZPD, 15 December 1909, p 1105

8. AJHR, 1907, G-1c, p 7

Table I.1: Lands vested in Maori Land Councils and boards under the 1900 Act, 1902–1909 (Source: AJHR, 1910, G-10.)^a

Year	Acreage vested	Maori Land Council (or Board)	WM	WR	TR	IK	AO	Total vested (cumulative)
1902	48,135	TO					48,135	48,135
1903	50,528		693	3277			46,558	98,663
1904	76,493	57,306	18,065		1122			175,156
1905	61,494		49,656		700		11,660	236,650
1906	89,187	42,656			39,331		7200	325,837
1907	45,671	19,536			11,863	977	13,295	371,508
1908	23,725	22,848			409	468		395,233
1909	1133			240	893			396,366
Ttl 1902–05	236,650	57,306	67,892	3277	1822	0	106,353	
Ttl 1906–09	159,716	85,040	0	240	52,496	1445	20,495	
Ttl 1902–09	396,366	142,346	67,892	3517	54,318	1445	126,848	396,366

a. All totals are for calendar, rather than financial years. The abbreviations used for individual land boards are TO = Tokeroa; WM = Waikato–Maniapoto; WR = Waitariki; TR = Tairāwhiti; IK = Ikaroa; AO = Aotea. The land boards used, it should be noted, were those in existence when the data was collected – after the revisions accompanying the Native Land Act 1909 (see below). The Waikato–Maniapoto figures, for example, incorporate those for the Waikato and Tuwharetoa–Maniapoto (formerly Hikairo–Tuwharetoa–Maniapoto) Land Councils and boards.

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The stability and efficacy of the land council-based system, Stout and Ngata pointed out, were also open to question from an early stage. As far as the owners were concerned:

Experience had not convinced them of the stability of legislative enactments, and they suspected that the new policy was only another attempt to sweep into the maw of the State large areas of their rapidly dwindling ancestral lands.

Nor were many of the less-suspicious convinced that vesting land in the land councils offered any significant benefits, for:

They had not yet been convinced, as European lessees or purchasers knew to their cost, of the expense, delays, and uncertainty attending alienations by direct negotiation; that, in all these bargains the fair value of the alienated land was discounted by these elements in the mind of the European negotiator.

Given the long-term loss of control over land which necessarily went with vesting, it should hardly have come as a surprise that many owners would want to wait and see how the Maori Land Council experiment was going to work out before committing themselves. Many landowners may also have been wary of the new system because they did not understand how it worked.⁹

It is one thing, however, to say that the 1900 system for Maori land administration was flawed – as was undoubtedly the case – and quite another to conclude that it was ‘doomed’ from the start. For one thing, Stout and Ngata’s remarks are unfair to the extent that they place the onus for the apparent failure of the experiment solely on the attitudes of Maori landowners. It is, I would suggest, abundantly clear that settler impatience generally, compounded by the manoeuvrings by politicians of both races, made a very substantial contribution to the apparent failure of the 1900 system. In any case it is open to question whether Maori held the same view of the land councils in 1904 or 1905 as they had in the beginning.

By the end of 1903 only 98,663 acres had been vested in these bodies. In 1904, though, some 76,493 acres were transferred by the owners, and in 1905 another 61,494 acres were vested in the land councils, making a total of 236,650 acres vested by the end of the latter year. The increase may well have represented the beginning of a swing in Maori opinion in favour of the 1900 system, once landowners had had a chance to see how it would work.¹⁰ This seems to have been Seddon’s view at the time. Without underplaying the problems being encountered,

9. See R J Martin, ‘Aspects of Maori Affairs in the Liberal Period’, MA thesis, Auckland, 1956, p 112

10. There were certainly many Maori complaints about the land council system during this period (see, for example, J A Williams, *Politics of the New Zealand Maori: Protest and Cooperation 1891–1980*, Auckland University Press–Oxford University Press, Auckland, 1969, pp 119–120), but it is difficult to know how the extent to which they represented opposition to the system as a whole. For what it is worth, my impression at this stage is that by 1904 to 1905 there was a trend in support of land councils as useful institutions which could be improved. testimony given to the Native Affairs Committee in 1905 on the subject seems to support this idea, insofar as the Maori witnesses were calling for the reform rather than the abolition of the land council system: see, for example AJHR, 1905, I-3b, p 20.

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he thought there was room for optimism. ‘The difficulties arising out of want of funds . . . and the prejudices against new departures, which have hitherto beset the opening-up of the lands by the [Land] Councils’, the Premier told the House in 1904, ‘are gradually disappearing’.¹¹ (These comments, it must be noted, were made in a context of conceding that changes were needed to give the land council system ‘a fair trial’.)

Moreover, to say in 1907 that the Maori Land Council-based system was doomed to fail, suggested that it had in fact been a complete failure. This might be true if the sole criterion was the amount of vested land actually leased by these bodies. Early leasing statistics are in rather short supply, but one report indicates that by late 1906, when some 286,184 acres of land had been vested in the land councils and boards, only 56,333 acres (19.7 percent) had been leased.¹² Although the latter figure had almost doubled by July of 1907, to 102,984 acres, this was not a particularly inspiring record.¹³ But the leasing of vested land was not the Maori Land Councils’ only function.

Under the terms of the 1900 Act, these bodies were also responsible for expediting the determination of titles for customary lands, by way of the Papatupu Block Committees. It seems that, in some areas at least, a good deal of useful work was done. Stout and Ngata had been ‘given to understand that this method of investigation had ignobly failed’. Yet they noted in 1908 that the results in the Tokerau Maori Land District had been ‘astonishing’. The activities of the block committees had led to titles being determined for 101,534 acres of land out of the 175,393 dealt with.¹⁴ Much had also been accomplished in the Tairāwhiti District.¹⁵ Altogether, Maori had obtained titles to some 347,711 acres through the land councils by 1905.¹⁶ Such work undoubtedly eased the way for more Maori lands to be put to productive use. The land councils also had the final say in all private leases of Maori land. Statistics, again, are not easy to come by, but one source notes that by late 1906 they had approved of private leasing arrangements involving at least 139,441 acres of land.¹⁷

The Maori Land Councils thus leased or approved the leasing of more than 190,000 acres of Maori land over the period 1901 to 1906. This was not a great deal in itself, but it should be noted that during the same period the Crown had acquired a further 398,302 acres of Maori land through purchases resulting from

11. AJHR, 1904, B-6, p xvii

12. Memorandum entitled ‘Native Matters’, in NA MA 16/1 (‘Native 2/5’). Internal evidence indicates that this was prepared late in 1906, in the middle of the financial year.

13. Return of Maori Land Board statistics by Under-Secretary of Native Department, dated 13 July 1907, NA MA 16/1. Some 339,304 acres had been vested in the boards by this time.

14. AJHR, 1908, G-1j, p 8

15. According to Ngata, the titles for some 109,000 acres had been investigated, although 87,000 had had to be referred to the land court due to ‘a technical defect in the [Land] Board’s confirming order’; AJHR, 1908, G-i, p 16.

16. ‘Return of 10 October 1905’, AJHR, 1905, G-8

17. Memorandum entitled ‘Native Matters’, in National Archives, MA 16/1

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negotiations which had been initiated before the passage of the 1899 Act.¹⁸ Stout and Ngata commented in 1907 that:

There is no doubt in our minds that the [1900 legislation] . . . by tying the hands of the Crown in the further acquisition of Native lands, by restricting the leasing of those lands and by substituting a system depending for its success on the willingness of the Native owners to vest areas in the administrative bodies constituted, created a deadlock and a block in the settlement of the unoccupied lands . . . [at a time when] the vigorous settlement of Crown lands under the Land Act and the Land for Settlements Act exhausted the available supply of lands available for close settlement.¹⁹

The same accusation – that the Maori Land Council system held back European settlement by locking up Maori land – had often been heard in 1904 to 1905. It had formed the centrepiece of the attacks on the Government’s Maori land policy (launched by friends as well as foes) which led to major alterations in the 1900 legislation.²⁰ Given that in excess of half a million acres of Maori land were either leased or sold while this ‘deadlock’ was supposedly operating, however, there are grounds for suggesting that the problem was as much one of perception as of reality.

18. AJHR, 1901–1906, G-3; total for ‘area finally acquired’ for the period 1 April 1900 to 31 March 1906.

19. AJHR, 1907, G-1c, p 7

20. See Williams, p 123. The other main elements of the assault were the accusation that Maori were not paying their fair share of local rates and taxes, and that the Government’s policy did not truly protect Maori because it did not encourage self-reliance through individual labour.