

## CHAPTER 7

# CONCLUSION

This report has surveyed at a general level the development of Crown policy towards reserves and lands restricted from alienation. It has dealt in some detail with the administration of the removal of restrictions on the alienability of land. The limits of this policy have been explained.

From an early point, the Crown's pressing concern was to register Maori landownership, to identify and protect from alienation the land that Maori needed, and to acquire the rest for disposal. These objectives are restated in official correspondence, parliamentary debates, preambles to Acts, and reports by committees:

Whereas there are large areas of Native lands of which some are unoccupied and others partially and unprofitably occupied: And whereas it would be to the benefit of the Natives themselves and to the advantage of European settlement if prompt and effective provision were made whereby such lands should be profitably occupied, cultivated, and improved . . .

The ideas expressed in those phrases could have been written at almost any time in the period under consideration. The passage comes from the terms of the Inquiry into the question of Native Lands and Native Land Tenure, undertaken by Sir Robert Stout and Apirana Turupa Ngata in 1907.

The statement that 'only those lands which the Maoris themselves will usefully occupy, will remain or be allowed to remain to them' expresses a characteristic attitude. Again, it comes from the end of the period, and it was a slogan of the Young Maori Party. Though adopted in their case to encourage the development and farming of lands by the Maori owners, the view was one that was widely held in these years by Pakeha politicians. With this we are back at the opening question, which is central to an inquiry into the Crown's policy on reserves and restricted lands. What lands do Maori need?

In the inquiries which the Stout–Ngata commission was directed to make, some old patterns reappear. Maori interests in land were to be reconciled with 'the public good.' The notion of occupation and use was behind questions about setting aside land for Maori. In the charge given to the commission, there was another familiar note:

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1. AJHR, 1907, G-1, p i
  2. I L G Sutherland (ed), *The Maori People Today*, Wellington, 1940, p 138

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And you are directed so to frame your reports as to facilitate prompt action being taken thereon, and in particular to furnish in such reports such details as to the lands available for European settlement as will enable Parliament, if it deem fit, to give immediate legislative effect to such parts of your reports.

The Stout–Ngata commission was in some respects yet another exercise in the Crown’s effort to establish what lands were in occupation and use. What was new in the Stout–Ngata report was the emphasis placed on the encouragement and training of Maori to become, in the words of the commissioners, ‘industrious settlers’. They scathingly reviewed the failure in the past of the legislature to do anything positive to help Maori with the development of their land. The proliferation of laws had, on the contrary, infinitely complicated land tenure. For Maori, the consequence of not fulfilling expectations had been that they were ‘not deemed worthy to own any land except the vague undefined area reserved for “use and occupation”.’

The test for the imposition and removal of restrictions had been ‘sufficiency of land.’ This had not served to protect Maori patrimony in land on any significant scale. The point where the Crown was prepared to intervene protectively was at the individual level. The Native Land Act of 1873 represented an intention to secure communal land as long as it was required, but that Act largely failed. Thereafter, much depended on how the Native Land Court, as well as the Government, was prepared to view restrictions on titles.

In 1891, T W Lewis, a long-serving member of the Native Department, pointed to a major contradiction in the restriction process. He stated that it was a very common thing for land to be put under restriction. But he also pointed out that under the current law there was no such thing as absolute inalienability.

The Crown’s policy on removal of restrictions from inalienable lands, including reserves, was administered paternalistically in many cases by the Native Office. The files on the removal of restrictions in the early 1880s show there was a great diversity of economic circumstances. No single policy could have dealt adequately with the range of situations. Mistakes were made, but there was an effort to deal with each case on its merits. Quite apart from any irregularities or flaws in the process, the policy itself was narrowly conceived. It was not intended to preserve substantial areas of land in Maori ownership.

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3. AJHR, 1907, G-1, p ii

4. AJHR, 1907, G-1c, p 15

5. Ibid

6. ‘Report of the Commission appointed to enquire into the subject of the Native Land Laws’, AJHR, 1891, G-1, p 156