

Merit

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Moot: *Native Land Court: an issue of the past or the present?*

Argument: *Do you believe that the Native Land Court 1865 was only significant at the time or has it remained significant today? Pick a side and argue why supported with historical evidence.*

The Native Land Court was a legal system established by the Native Lands Act of 1865 which allocated traditionally community owned Maori land to individual titles holders based on the rulings of the court itself (NZ History, 2021). This conversion of land ownership enabled the sale of communal land by a small group of no more than ten owners as set out by the court, which allowed for quicker sales to Pakeha with less community input required. Judges across the country including the first Judge Francis Fenton who served until 1882. The name was changed alongside the structure of the system in 1954 to the Maori Land Court. It has remained a significant factor throughout New Zealand history until the present day as the land loss for Maori people to help English colonialism continues to impact economically on the Maori community to this day. Institutional racism against the native population of New Zealand was also perpetuated during and following the Native Land Court, with the discrimination continuing to impact outcomes today, including in the health industry.

The ongoing effects of land loss for Maori through colonisation in New Zealand by Britain has caused the Native Land Court to remain a significant aspect in our post-colonial history. So despite the absence of active settler colonialism in present-day New Zealand, society today is still heavily shaped by the violent and cruel past of unfair land deals. It has disadvantaged Maori as a whole by robbing many of a chance to have generational wealth.

Firstly, creating the court was another stepping stone for the eventual total imposition of British domination of New Zealand as following different versions of the Native/Maori Land Court also obeyed the pattern of oppression as set out in the Native Lands Act. It revealed a consistent, malicious effort to eliminate the traditional Maori way of life by forcing an individualistic European society on New Zealand as a means to efficiently expand the colonial British Empire. As the original Native Lands Act explicitly states how the court is intended “to encourage the extinction of such proprietary customs” for the apparent purpose of “regulation for the descent of such lands” (Dilksbury, 1865). This is a false pretence that was used to avoid intense scrutiny by the wider public at the time, which historians view as a front for the obvious true purpose of aiding the transfer of land from Maori hands into the ownership of Pakeha settlers. In Bryan Gilling’s 1993 essay, he states that “the Native Land Court was the most direct manifestation of the British legal system” for “many years”, describing this conclusion as “beyond argument”. As Gilling was a post-doctoral fellow in the Faculty of Law at Victoria University, he has good authority to discuss the historiography of Maori land law. Using his experience alongside the evidence provided, he concludes that the court throughout its history has almost always favoured Pakeha attitudes towards land, by “supporting unquestionably the desirability of ultimately absorbing Maori land into the common estate”. Understanding the context and

intention behind the law through the primary and secondary evidence given above is extremely important for the analysis of the land loss that followed. It shows how the land lost by Maori was not simply the result of unfortunate circumstances, but the well-executed consequence of a system doing exactly as intended. This bias is significant to note, as it establishes the lens in which historians should view British actions towards Maori during this period. Without clear instances of British intent to rob Maori such as the example of the Native Land Court, attempts to repair the damage of unfair land deals may not have happened, which would worsen the situation for current Maori.

Another way in which the land loss caused by the Native Land Court has demonstrated how it has remained significant is the continuance of worse economic outcomes for Maori resulting from decreasing land ownership. By limiting the amount of owners for a plot of land to ten (NZ History, 2021), it was suddenly far easier for Maori to sell their land as most of the potential opposition was not even involved in the process. Losing this land has meant that opportunities for generational wealth for Maori have been greatly reduced by the often unfair transfers to Pakeha hands. As argued by Richard Boast and LL Black, a Professor of Law and LLB research assistant respectively, the “application of the ten-owner rule by the Court had, and continues to have, very substantial impacts on Maori people” (2011). This sentiment is reinforced by statistics collected by Stats NZ, which gave the median wealth of a Pakeha person as \$114,000, compared to the median wealth of Maori as \$23,000 (2016). The primary source on racial wealth inequality today demonstrably proves that there is a drastic difference in economic situations between Maori and Pakeha. A large reason for this is the lack of generational wealth passed down by way of inheriting land as the portion of Maori owning land was greatly reduced. Boast and Black evidence their claim about the importance of the Court today by conducting an in-depth analysis of their case study for the law in operation, the Hawkes Bay area. The Native Land Court assigned the area previously known as Heretaunga which “entirely comprised” the city of Hastings to “just one ten owner block”. Today, it is a “very valuable winemaking and orcharding region”, that the successful claimants sold “within a few years” for unfair prices or “store goods”. Had the Native Land Court not transferred control of the land from an entire iwi to ten individuals, it would have been far more difficult to sell and would potentially still be tribal land that could provide much-needed income for Maori today. Therefore, the Native Land Court has remained significant in New Zealand by the economic impact that land loss continues to have on the Maori population.

Overall, the long-lasting impact of the land loss caused by the Native Land Court has meant it has remained a significant factor in our country’s history. Understanding how the British colonial side completely intended for it to begin a drastic transfer in land ownership is valuable for a historian as it influences how they should view British colonial actions at the time. Boast and Black’s analysis of the court’s effect in Hawkes Bay shows how owners were influenced to sell their land for cheap, robbing their descendants of potential wealth. This reveals itself in present day wealth statistics, where Pakeha possess drastically more individual wealth than Maori. Land loss is certainly the largest factor supporting the Native Land Court’s significance, as it was a drastic change that is still influencing the present day.

Institutional racism against Maori in New Zealand was furthered by British creation of the Native Land Court, which continues to negatively impact them today in areas like the health industry. Throughout the history of the colonial period in New Zealand, British settlement and colonisation has had vastly negative effects on the health outcomes of Maori people. The

imposition of foreign systems such as the Native Land Court has caused historical trauma due to land alienation, economic impoverishment and forced social change, which continues to cause mental and physical health issues for Maori people today. In a Science Direct article by Rowan Thom and Arthur Grimes, a masters student and professor respectively, the pair state that the “vast majority of land alienations” in New Zealand resulted from “Crown purchases” and “the decisions made through the Native Land Court[s]” (Thom and Grimes, 2022). The intergenerational trauma in the article is therefore directly or indirectly caused by the Native Land Court. As a result of a single health system that “is modelled upon European lines”, health outcomes are not “equitable” for Maori because of the bias against Maori schools of thought in healthcare. A similar sentiment is shared by the professor Helen Barnes, who concludes that “through land alienation” the welfare of Maori people have been impacted until today, continuing to degrade over “more than seven generations” (Barnes, 2019). As the main cause for land alienation was the Native Land Court, this furthers the argument that it has remained a significant factor in New Zealand today. The negative outcomes in health for Maori as supported by the above historians is not as significant of a consequence of the Native Land Court today compared to the land loss or economic impacts, as it is a reasonably tenuous link to make in comparison

Conclusion

In conclusion, the Native Land Court has remained a significant aspect in New Zealand’s history that still affects present day society. It established a pattern of historic discrimination that has had a massive influence on how New Zealanders view British action during the period of colonisation, which has influenced politicians to conduct reparations that would not happen without the Native Land Court. Drastic land loss for Maori also resulted from the court, which significantly impacts wealth inequality between Pakeha and Maori today, with the average Pakeha person possessing over five times the individual wealth of a Maori person today. The Native Land Court has also impacted health outcomes, with the systemic inequalities today negatively affecting Maori in our health industry. These specific cause and effects illustrate how the Native Land Court has remained a significant factor in New Zealand’s present society, with many individuals feeling the flow-on consequences of the system currently.

Bibliography

For the purpose of brevity, the bibliography provided by the student has been removed.