

‘A Proud Thing To Have Recorded’: The Origins and Commencement of National Indigenous Political Representation in New Zealand through the *1867 Maori Representation Act*

PAUL MOON

Abstract

In 1867, the New Zealand House of Representatives passed the *Maori Representation Act*, which entitled Māori males aged twenty-one and over to vote for a Māori member of the House. This article traces the constitutional origins of the Act, and concludes with a survey of the initial responses in some Māori communities to the passage of the legislation. What is evident in this analysis is that the Act was driven by various motives, ranging from pacifying Māori hostility, to the desire by some legislators to secure a parliamentary presence for Māori in order to make the House more representative.

Introduction

In 1840, the British Crown concluded the Treaty of Waitangi with around 540 Māori chiefs. This heralded the commencement of direct colonial rule through governors, who presided without the aid of any representative assembly. The passage of the 1852 *New Zealand Constitution Act*, however, gave New Zealand a bicameral parliament, which came into being in 1854. However, over the next decade, Māori continued to be largely excluded from the legislative process, even though some of the statutes passed by the early New Zealand parliaments affected Māori land, often adversely.

Just over a decade after New Zealand acquired its own parliament, consideration began to be given by some of the country’s politicians to the possibility of the indigenous Māori population having representation in the lower house – the House of Representatives. The purpose of this article is to survey the events leading up to establishment of the four Māori seats through the provisions of the 1867 *Maori Representation Act*, and the aftermath of the Act’s passage. Consideration is given to the reasons that led to the creation of the seats, the opposition to their formation, their early role in New Zealand’s constitutional arrangements, and a sample of Māori reaction to their inception in the period immediately following the enactment of the legislation.

Although there is a small body of existing literature on the creation of the four Māori seats most of the works have a broader focus, and relate the 1867 legislation to developments in the latter half of the twentieth century. A prominent example is Sorrenson’s research on the seats, which was incorporated into a report on the future of Māori seats issued by a Royal Commission in 1986.¹

The significance of this work is that it adds to the existing literature on the early history of the Māori seats, and the focuses on the reaction in the Māori electorates to the immediate wake of the passage of the 1867 Act, and the first election in which Māori could vote for Māori members of Parliament. The political ramifications of this are also explored, as are the effects the legislation had in encouraging Māori to adapt their perception of the role of hapu and iwi within a new and imposed political framework.

The Legislative and Constitutional Background to the Act

The demand by the New Zealand Government to have more control over its own structure and operation was relentless almost from the time that the 1852 *Constitution Act* was passed. This echoed to some extent the even earlier insistence on a more strident form of autarchy for

the country that had been voiced by New Zealand Company representatives since the early 1840s.²

The first significant British response to requests by a New Zealand governor for a greater degree of self-government had come in the form of the 1852 *New Zealand Constitution Act*. Although various constitutional justifications were advanced in support of this measure, the colony's changing demographics were also a major consideration for British legislators.³ Whereas in 1840, Europeans made up about two per cent of the country's population, provincial statistics in 1853 reveal that there were 31,272 Europeans in the country, and around 56,400 Māori, meaning that the European portion of the population had risen to thirty-five per cent of the total.⁴ However, this shift was not due entirely to rising immigration rates. The Māori population at the same time was tilting towards a steep decline, which also had political implications.

Evolving population shifts during the decade continued to exert an influence on the thinking of some officials. In 1859, the magistrate Francis Fenton churned through the available official statistics on the number of Māori, and suggested that their decline could be attributed to the 'want of fecundity of the females ... the extreme mortality among the children, the great paucity of births, together with a rate of mortality of both adults and non-adults far higher than any average known in temperate climates'.⁵ Fenton was worried that:

'the decline of the numbers of the people appears at the present rate of decrease to be very rapid, there is reason to fear that a population which has once reached such a state of decrepitude as that exhibited by the Māori inhabitants of this country will, from causes strictly intrinsic, proceed to its final catastrophe at a greatly accelerated pace, unless, indeed, the causes of decay be ascertained and removed'.⁶

Yet, it was precisely the colony's rapidly changing demographic patterns – particularly the decreasing Māori population, together with the burgeoning number of immigrants – that had made the system of rule-by-governor increasingly cumbersome by the early 1850s.

The idea of New Zealand having a democratic system of rule required a shift in how the colony viewed the purpose of its government. The role of the country's administration would go, theoretically at least, from being an instrument restraining people to an instrument by which the people would be able to restrain the government.⁷ Colonies marching towards greater self-government was still a comparatively new development in the British Empire at this time, and so precedent was still fairly thin on the ground. There were, however, some general themes for constitutional reform in the colonies that were finding favour with British officials by the 1850s. These included a bicameral legislature, a system of regional states or provinces, and the primacy of a central government. To these elements were added specific consideration of New Zealand's circumstances, – particularly the fact that the indigenous Māori population was still (just) the majority in the country when the 1852 *Constitution Act* was being drafted, and the fact that there was no great popular chorus in the colony demanding more representative government at this time. The daily grind of forest-felling, farm-forming, and struggling to put enough food on the table for the family preoccupied the minds of most settlers.

In 1846, an attempt to introduce a constitution for New Zealand had failed. Admittedly, it had proposed a complex system of municipal councils, and provincial and general assemblies, all manned by a lumbering bureaucracy, but there was no sense of urgency for such an elaborate constitutional edifice, and although legislation for its creation was passed by the British Parliament in 1846, the New Zealand Governor at the time, George Grey, refused to bring it into effect in the colony.⁸

Instead, Grey lobbied for a simpler form of government – one more suited to the robust demands of the colony, and with less of the constitutional filigree that the 1846 Act possessed. In August 1851, Grey wrote to the Colonial Secretary in reply to earlier correspondence from London. He stated that he was convinced that the desire of the British Government to ‘promote the welfare of the inhabitants of these Islands’ was such that it was ‘ready instantly to forego the form of constitution proposed [in 1846] ... if a better one can be presented’.⁹ And a better constitution was not long in coming. The Governor had drafted a report for the Colonial Office on the sort of government institutions New Zealand required ‘in order that the present state of these islands, and the condition of the several races inhabiting them, for whom representative institutions are to be provided, may be clearly understood’.¹⁰

Grey’s vision of representation for the ‘several races’ living in the country evidently excluded Māori. Indeed, New Zealand’s indigenous population were portrayed almost as obstacles to the civilized advancement of the colony:

‘The wide intervals between these European colonies [settlements] are occupied by a native race, estimated to consist of one hundred and twenty thousand (120,000) souls, a very large proportion of whom are males capable of bearing arms. These natives are ... skilled in the use of their weapons, and take great care of them; they are addicted to war’.

Grey went on at length about the danger Māori supposedly posed to British settlements in the country, but hoped that if assimilation continued to occur, Māori could ‘by prudent measures [be] brought under one form of constitutional government, which might equally foster and promote the really common interests of both races’.¹¹ Ironically, only a few years earlier, Grey had gone to some effort to convince colonial officials in England that the colony’s Māori were turbulent and resistant to British rule.¹² His new position – that Māori might be brought relatively easily into the pale of civilization – was one that found quick favour with British politicians and humanitarian groups.¹³

New Zealand’s geography was another major consideration that Grey tackled in his recommendation to London. In parts of the North Island, there was ‘no overland communication, except for foot passengers ... between the different settlements’, with mountain ranges and ‘wide, parped, and dangerous rivers’ posing ‘an almost insurmountable barrier’.¹⁴ Given the difficulties of transport, any intricate system of government which required representatives to move frequently around the colony to attend meetings would be impractical.

Accordingly, he advised the Colonial Secretary that any attempt to form a general legislature from such a widely dispersed set of communities as existed in New Zealand at the time would almost certainly fail ‘because there are as yet no persons in these islands who have the means or leisure, to enable them to abandon their own affairs ... to discharge their senatorial duties. Even if payment was made to such persons to remunerate them for their expenses whilst travelling and absent from home, they still could not afford to neglect their own affairs during so long an interval of time’.¹⁵ Grey’s stated preference was for more powerful municipal institutions – ones which would exercise both considerable legislative and executive powers.¹⁶

Much of this seems to have been a pretext by Grey to maintain his authority as Governor, and have as little of that authority as possible diluted by any representative body. He wrote in 1851 to his superiors that by reserving substantial powers to the governor, ‘Great Britain would retain the means of promoting in every desirable way the interests and welfare of all Her Majesty’s subjects’ in New Zealand.¹⁷

On receipt of Grey's lengthy suggestions, and with the backing of a sympathetic Colonial Office, on 30 June 1852, the *New Zealand Constitution Act* was passed in the British Parliament (and came into effect in New Zealand the following year).¹⁸ There was some opposition to the Act in the House of Commons, but as Sir William Molesworth observed, the only alternative to the proposed *Constitution Act* was to pass another piece of legislation which would suspend the *1846 Constitution Act* for a further year – something that was becoming untenable given the growing settler population in New Zealand and the corresponding increase in trade between Britain and the colony.¹⁹

The statute came into law with broad support in the House of Commons, and created six Provincial Councils based in Auckland, New Plymouth, Wellington, Nelson, Canterbury, and Otago (two more were added later in the decade: Hawkes Bay in 1858 and Marlborough the following year). These replaced the two provinces that had previously existed in the colony.²⁰ The Act also brought into being a bicameral legislature comprising of an elected House of Representatives and an appointed upper house: the Legislative Council.

As for the entitlement to vote, this was limited to males from the age of twenty-one who owned property with a net value of at least fifty pounds (or sufficient equity in a leasehold property, or owned a property in a town).²¹ Women were excluded from voting (as they were throughout the rest of the world at this time), but in practice, so too were almost all Māori. The provision for land ownership as a prerequisite to the entitlement to vote excluded the vast majority of Māori whose land was still in communal possession. So while Māori were still (just) the majority in the country, in the 1853 election – the first held under the provisions of the *Constitution Act* – of the 5,849 voters enrolled throughout the colony, only three hundred (approximately five per cent) were Māori.²² The only way by which Māori could be better enfranchised under the Act was if their lands were converted from communal ownership to individual title. This was part of Grey's assimilationist hope, despite the rupturing to the fabric of Māori society that such a shift would inevitably cause.

For the New Zealand Company – a private land-trading and settlement company that had been operating in New Zealand since the 1830s, and that along with its subsidiaries had been involved in establishing settlements in Wellington, Nelson, Christchurch Dunedin, Whanganui, and New Plymouth, nothing less than a replacement constitution would do. Company representatives feared that the power of the provinces (which they equated in the case of many of the provinces with the power of the Company) would eventually drain away as the central branch of government consolidated its influence in the colony. The Legislative Council – whose members would be appointed by the Governor – became the primary target of criticism by the Company. The Legislative Council only had the power, according to one of the founders of the Canterbury Settlement, John Godley, of refusing to pass the Governor's laws. 'I leave you to imagine how much chance there was of *that* ever happening', he suggested, 'when three out of the seven members were the Governor's own paid servants, and the other three nominated by him, and holding their seats at his pleasure, while he himself was to possess a casting vote'.²³

Godley's argument may have sounded technically correct, but he substantially overestimated the influence of the Legislative Council in the greater scheme of government.²⁴ It was the House of Representatives where the *Constitution Act* vested the greatest measure of political power. This was not enough to stop the Company attacks, though. The then-newspaper editor and fellow founder of the Canterbury settlement, William Fox, was even less convinced than Godley that the new system of government would reflect the will of the colony's inhabitants. 'Pure unmixed despotism' would be the defining characteristic of the new regime, Fox predicted.²⁵ Together with Godley's warnings, the Company settlements were roused in opposition to the proposed changes.

One of the most contentious aspects of the 1852 *New Zealand Constitution Act* was the way it dealt with how Māori should be accommodated in the new system of government – an issue that had polarized views both within the colony and back in Britain. Tucked away in sections 71 to 73 of the Act was the British Government’s response to the fact that Māori still occupied an important demographic and territorial space in the country. The opening paragraph of section 71 set the tone for the way in which Māori would be regarded by the New Zealand state:

Whereas it may be expedient that the Laws, Customs, and Usages of the Aboriginal or Native Inhabitants of New Zealand, so far as they are not repugnant to the general principles of Humanity, should for the present be maintained for the Government of themselves, in all their relations to and dealings with each other, and that particular districts should be set apart within which Laws, Customs, or Usages should be so observed. It should be lawful for Her Majesty ... from time to time to make Provisions for the purposes aforesaid, any repugnancy of any such Native's Laws, Customs, or Usages, to the Law of England or to in any part thereof.²⁶

At first glance, it looked as though Māori would be permitted to live as they always had (at least in certain areas of the country) provided that they did not commit any ‘repugnant’ acts (a reference principally to rape and murder). Sir John Parkington, the Secretary of State for Colonies, stressed in a despatch to Grey on 16 July 1852 that the Governor would maintain the authority to designate certain districts as places where ‘the customs and usages of the natives may be preserved’, and where Māori would be exempted ‘from the common law of the settled portions of New Zealand’.²⁷ Far from usurping Māori sovereignty, the Act actually allowed for a degree of Māori political autonomy. This not only would hopefully nurture goodwill among Māori communities, it would also reduce the considerable costs likely to be incurred by a blanket imposition of colonial rule throughout the country.

Fox was critical of the provisions for Māori in the Act, however, claiming that the race was destined for ‘extinction’ and did not deserve any special treatment. The gradual process of Māori adapting to European ways would ‘not rescue the race’, he wrote. Before the benefits of European influence bore fruit, he suggested that ‘scrofula and consumption, the drudgery and degradation of the women, will have done their work: the race will be gone ... doom awaits the New Zealander [Māori]’.²⁸ Godley pitched in with his conviction that Māori ought not to have any rights under the *Constitution Act* at all, insisting that they were ‘wholly incapable of understanding the simplest rudiments of the questions on which their votes will be brought to bear’.²⁹

The counterpoint to such regressive views of Māori was found in England, where Parkington saw the future path of Māori heading in the direction of assimilation rather than extinction. ‘Nearly the whole nation has now been converted to Christianity’, he pronounced to the House of Commons:

They [Māori] are fond of agriculture, take great pleasure in cattle and horses; like the sea, and form good sailors; have now many coasting vessels of their own, manned with Maori crews; are attached to Europeans, and admire their customs and manners; are extremely ambitious of rising in civilisation and becoming skilled in European arts.³⁰

The success of the 1852 Act in granting New Zealand a considerable degree of self-government soon led to requests for even more local say in how the country was run. The British Government was eventually persuaded of the need for a greater degree of autonomy in the colony, and in 1857 passed the *New Zealand Constitution Amendment Act*, which gave

the New Zealand Parliament authority to amend all but a few entrenched sections of the 1852 Act.³¹ In the administrative evolution that followed, responsibility for Māori affairs drifted from the British to the colonial government.³²

However, this shift to more localized authority over issues affecting Māori proved to be of little advantage for New Zealand's indigenous population. The passage of two Native Land Acts in the first half of the 1860s were part of a concerted effort by the Colonial government to accelerate the process of placing Māori land under individual title.³³ They were the prelude to a much more certain process of land alienation, but also, as it happened, a setback for the unity of tribes and the structures of authority in which they functioned. Technically speaking, Māori would be entitled to vote once they met the necessary land-owning requirements, but the process of land registration ground very slowly, and as these Acts were passed during a period of war, in many parts of the North Island, land registration as a prerequisite for qualifying to vote in general elections was at the bottom of the list of anyone's concerns.

Māori Omission from National Politics in the 1850s and 1860s

The wars of the 1860s revealed another dimension to the place of Māori in the political landscape the colony. They may have been instigated by disputes over territory, but accompanying Māori anxiety over the alienation of their land was a similarly acute sense that traditional tribal political authority was rapidly crumbling away. This decay had been under way since at least the early 1840s (and arguably before), but had become more noticeable by the late 1850s, resulting in a range of responses as some Māori communities attempted to grapple with complex shifts in the balance of the power that were occurring in the colony.

In 1855, the Ngati Rangiwewehi chief Te Rangikaheke had expressed his doubts that the legislative process (as it was at that very early stage in the colony's self-government) could ever meet the needs of Māori. 'There is no recognition of the authority of the native people', he wrote, 'no meeting of the two authorities ... Suggestions have been made (with a view to giving natives a share in the administration of affairs), but to what purpose? The reply is, this island has lost its independence, it is enslaved, and the chiefs with it'.³⁴ Te Rangikaheke then suggested that the local tribal leaders debate whether to participate in a broader pan-tribal organization opposing colonial rule, or to go for an alternative option which upheld 'the separate dignity and independence' of individual tribes.³⁵ Most of the attempts by Māori in the early to mid-1850s to coalesce into new political forms seldom gained momentum, and later tended to be concealed – at least from European gaze – by all the sound and fury of the wars that a succession of Māori communities fought with the Crown in the following decade.

War was the most visible and dramatic of these reactions, but it was not waged at the expense of alternative expressions of dissatisfaction with colonial rule and the desire for greater autonomy from government interference. One of the most significant of these – in terms of scale, influence, and longevity – was the King Movement (also known as Kingitanga). The Anglican missionary John Morgan – who had followed closely the rise of Kingitanga – later reported on the reasons for the formation of this Māori political body:

The origin of the King movement was, first, a land league to prevent the sale of land by aboriginal owners to the Government, or the private sale of such land to individuals of the European or Pakeha race; secondly, a desire to stop the rapid advance of European colonisation; thirdly, a desire to introduce a code of laws suited to their own requirements; fourthly, and chiefly, a desire to establish first in the Waikato, and afterwards gradually in all Maori districts, an independent sovereignty over all Maori and European residents in such districts.³⁶

The reason Morgan gave for the inception of this organization was that many Māori 'saw with fear the rapid advance of European colonization and the earnest desire of the Pākehā to obtain possession of their lands. They also noticed what they considered the confined bounds to which some tribes who had sold land were reduced'.³⁷

However, it was not just a case of one tribe battling for its political sovereignty alone. A pan-tribal approach was believed necessary to give the King Movement even a semblance of the political strength that the Crown exercised in the colony. Those Māori who affiliated themselves with Kingitanga also aired their anxiety that 'as their own numbers were being so rapidly diminished by death, that unless European colonization could be arrested the white settlers would in a few years greatly outnumber them, and that then the Treaty of Waitangi would be set aside, and their lands seized by the English Government'.³⁸

This was the state of things in the 1850s. The outbreak of war in the following decade only intensified this feeling among some Māori (and it should be stressed there was great antipathy towards the idea of a Māori king among many tribes) that their cherished sovereignty was being sapped by the encroachments of the Crown. So ingrained had this sensation of declining power become that it became in itself an object worthy of fighting for – a fact that the colony's governments of the 1860s were not oblivious to.

In 1860, there had been a gathering of chiefs at Kohimarama, in Auckland, convened by Governor, where ideas about the role of Māori sovereignty and the authority of the Crown were debated among attendees, while further north, the early stages of what would become known as the Kotahitanga (unity) movement were under way in and around Kaikohe as Māori there sought their own alternative to the King Movement.³⁹ These and other reactions to the advent of British colonization (including the establishment of fusion faiths such as Pai Marire and Nakahi), were all indications that the process of Māori assimilation into the ways of the European was not only slowing, but that it was mutating into new forms which were spurred on by the desire to maintain autonomy or even independence from the Crown.

Representation in Parliament was the obvious solution to at least some of the concerns that were leading to separatist Māori bodies emerging, but as long as so few Māori met the threshold of entitlement to vote, this looked unachievable in the foreseeable future. Still, though, a seam of altruism continued to be tapped by some politicians who were keen that Māori not be shunted completely to the periphery of the colony's political life.⁴⁰ Cynics later argued that the principle of power-sharing was becoming increasingly necessary 'if only to pacify Maori', although in itself, the idea of Māori representation in Parliament in the late 1860s was hardly a significant force for pacification.⁴¹

The Prelude to Māori Parliamentary Representation

By the mid-1860s, the possibility that Māori might occupy some position in the House of Representatives was beginning to filter through the colony's Māori communities. For most, it was a possibility that seemed remote and that lacked allure. In 1864, the Native Minister, James Fitzgerald, sought the opinion of around half a dozen chiefs on the issue of Māori representation, and received letters claiming support for the initiative. This one, from Pohipi Tukairangi, is typical:

Friend Mr. Fitzgerald, this is our word to you and your companions, that you may open the doors of the Parliament to us, the great discussion house of New Zealand, for we are members of some of the tribes of this island. Let us be ushered in, so that you may hear some of the growling of the native dogs without mouths...[which are currently] not allowed to have a voice in public affairs, so that eye may come in contact with eye and tooth with tooth of both Maori and European.⁴²

A few letters (many suspiciously almost identical in some phrases) was hardly a resounding mandate to press ahead with the idea of Māori seats, but it was used by the Minister to further his case.

Fitzgerald argued in 1865 that the status quo with respect to Māori representation was unjustified on philosophical grounds. ‘Two rules are deeply fixed in my mind’, he wrote to a colleague.

1. To expect men to respect law who don’t enjoy it is absurd. 2. To try and govern a folk by our courts and at the same time to say that our courts shall take no cognisance of their property is amazing folly. Two-thirds of the Northern Island is held under a tenure which is ignored by our law. Is it possible to govern any people by a law which does not recognize their estate in land?⁴³

However, Fitzgerald remained cautious about the precise means by which Māori would appear in the House of Representatives. Instead of devising an alternative himself, he guided the *Native Commission Act* through Parliament in 1865. The resulting commission – made up of a maximum of 35 Māori and 5 Europeans – was charged with reporting to the Governor on options for Māori to be temporarily enfranchised until such time as their land was converted into individual title, and on ascertaining which Māori ought to be made eligible to participate in elections.⁴⁴

The interruption of a General Election and the subsequent change of government meant that the Commission never met to report on options for Māori enfranchisement. Moreover, the goodwill shown by a few politicians in this period towards the idea of Māori representation in Parliament was continually overshadowed by an opinion from the Imperial Crown Law Office in 1859 which all but ruled out the possibility of Māori being eligible to vote unless they possessed individual title to land.⁴⁵ The opinion had been sought by the New Zealand Parliament in 1858 at the behest of some members who felt that there needed to be a way for Māori to have their voice heard in the colony’s legislature.⁴⁶

One of the more unusual suggestions to emerge around this time came from an Auckland member, George Graham, who proposed that Māori be granted universal male franchise (without any of the property restrictions that applied to European voters) but with the purpose of electing five European members whose task it would be to represent specifically Māori interests in the House. It was a form of proxy representation, but one which found little favour among other politicians.⁴⁷

It was Donald McLean (now a Member of the House of Representatives for the Napier Electorate) who put his mind to this problem of a lack of Māori representation in Parliament and stitched together what he thought would serve as a makeshift solution for the short-term. As far as McLean and many of his colleagues were concerned, the option of continuing to exclude Māori from Parliament – especially given the growing signs of Māori dissatisfaction with their absence from any role in governing the country – was no option at all. McLean was passionate on this issue, telling Parliament that Māori were ‘a people paying taxes, and owners of three-fourths of the territory of the North Island’, and on these bases alone, ‘they should feel that the Legislature itself was not closed against them.’ And the fact that the country’s increasingly diminutive Māori population was paying £45,000 in tax a year was reason in itself for a formal Māori presence in Parliament.⁴⁸ The mid-eighteenth-century slogan from the American colonies – ‘no taxation without representation’ – echoed loudly in this argument. Privately, Fitzgerald acknowledged that his views on Māori representation might lead some of his colleagues to look on him ‘as a dreamer and a theorist’, but this was no reason in his view to change his opinion.⁴⁹ It was certainly a departure, though, from the way in which almost all the world’s other colonial legislatures tackled the issue of indigenous representation at this time.⁵⁰

The fact that Māori land was still mainly communally held should not be an obstacle to participation in elections, McLean believed – a point acknowledged in the preamble to his Bill: ‘owing to the peculiar nature of the tenure of Maori land ... the Native Aboriginal inhabitants of ... New Zealand have heretofore with few exceptions been unable to become registered as electors or to vote at the election’.⁵¹ The solution ‘for the better protection of the interests of Her Majesty’s subjects of the native race’ was for ‘special representation’ of Māori in the House of Representatives and the colony’s Provincial Councils.⁵²

The Legislative Nature of Indigenous Representation in 1867

The *Maori Representation Act* allowed for Māori males aged twenty-one and over (including ‘half-castes’) to vote for a Māori member of the House of Representatives. Significantly, this right was conferred without the property provisions which continued to apply to Europeans for the next twelve years.⁵³ The definition of Māori, however, was jumbled in the legislation. Only full-blooded Māori could stand for election, whereas both full-blooded Māori and ‘half-castes’ were eligible to vote.⁵⁴ Further potential confusion was added by the tendency to assign those with less Māori blood to the general role.⁵⁵ Exactly what constituted a Māori was thus made more intricate for the purpose of electing candidates to Māori seats.⁵⁶

The country was divided into four Māori electorates, each of which would elect one member (with the only provisos being that the elected member be male and not have a serious criminal record). The final section of the legislation made the interim nature of the Māori seats plain, with the Act continuing in force for just five years after its passage, after which time the Māori seats would be removed.⁵⁷

Ostensibly, the motives of McLean and his colleagues seemed noble, but the haste with which they advanced the principle of Māori representation in Parliament from idea to actuality seems unusual, at least outwardly. After all, another politician, Dillon Bell, pointed out in the debate on the *Maori Representation Bill* that there was little urgency for its passage because ‘the Maoris [sic] would find it impossible to take part in debates’.⁵⁸ It also appears, on the surface, that that the five-year limit for the Māori population to have sufficient rights in privately-owned property to put them on a par with the colony’s European voters was ambitious to an unrealistic extent. Certainly, many Māori showed sustained reluctance in this period for converting their land holdings to individual title, and a mere five years was unlikely to produce a profound change in that thinking.

The fact that the *Native Rights Act* (passed just two years before the *Maori Representation Act*) specified that Māori would be ‘taken and deemed to be a natural-born subject of Her Majesty to all intents and purposes whatsoever’, made the rush to establish Māori seats in Parliament even more inexplicable, regardless of the high degree of goodwill among some of the advocates of Māori representation in Parliament.⁵⁹ One member of the House, Harry Atkinson, was open in his view that special representation for Māori through legislation was entirely unnecessary.⁶⁰ It was just the matter of the passage of time – until Māori land titles had shifted from the collective to individual – that stood in the way of Māori having the same franchise as Europeans.

Another feature of the Act that requires a second, closer look is the number of Māori seats it brought into being.⁶¹ At the time that the Act passed into law, Māori would have been entitled to over twenty seats in the House of Representatives if these seats were allocated on the basis of the respective populations of Māori and Europeans in the country.⁶² When looked at from this angle, the Māori seats could be seen as a means of allowing Māori to have a presence in the House without ever being in a position to wield any influence in proportion to their numbers in the country.

In short, the Act served variously to pacify some Māori (whose cooperation with rather than antagonism towards the Government was undoubtedly beneficial to the country), to assist in the further assimilation of Māori, to safeguard the interests of settlers as the acquisition of Māori land continued, to undermine the strength of any separatist or independence movements, and to assuage Colonial Office concerns about the way in which the New Zealand Government had engaged in the confiscation of Māori land after 1865.⁶³

Regardless of motives, though, McLean maintained the line in public about the higher purpose of his initiative. With one eye firmly fixed on how posterity would record his accomplishment, he told Parliament that ‘it would be a proud thing to have recorded, by the future historian of New Zealand, that the Anglo-Saxon race in this Colony had extended to its aboriginal inhabitants the highest privilege which it could confer, namely a participation in the Legislature’.⁶⁴ Or perhaps that should have been second highest – the highest privilege being reserved for representative participation. The Native Department at this time treated the idea of Māori being elected to Parliament in special Māori seats as ‘a matter of public relations and goodwill [rather] than a serious attempt at democratic representation’, and seemed unconcerned that a Māori presence in Parliament would have any material effect on the workings of the legislature.⁶⁵ This acknowledgement was possible the principal factor that ensured the survival and continuation of the Māori seats long after it was envisaged by the drafters of the Act that the seats would be abolished.⁶⁶

Official Impressions of Māori Responses to the Legislation

Whether the seats were there to safeguard Māori interests or to serve those of Europeans is a matter open to conjecture. However, the reaction of many Māori communities to the legislation creating Māori seats was not one of unreserved enthusiasm. In 1868, the Government organized for a series of reports to be written about the ‘social and political state of the natives in various districts’, which offered a first-hand account of sentiment in these settlements in the immediate wake of the creation of Māori seats.⁶⁷ One magistrate wrote frustratingly that although Māori in his region had had the benefits of representation in Parliament explained to them in detail, the response was ‘great apathy’.⁶⁸ A magistrate in Russell similarly noted that Māori were ‘utterly indifferent’ to the prospects for representation.⁶⁹ One reason proposed for this lack of interest was that there were no immediate benefits from having a member in the House. Indeed a magistrate at Maketu observed that if each tribe had their own representative, there might be more interest.⁷⁰ However, as it stood, the Māori electorate were pan-tribal constructs which (to some extent ironically) eroded further traditional tribal-based authority in favour of new forms of Māori power, and excited ‘the usual tribal jealousy’.⁷¹ As another observer put it, Māori ‘do not understand how a Native of one tribe can represent another tribe’.⁷² A degree of pessimism about Māori politicians struggling with their English was also raised as a potential concern, and contributed to muted interest generally in the usefulness of the Māori seats.⁷³

In their early years of existence, more lustre was removed from the Māori seats by the fact that many of the elected members ‘lacked the political acumen or the verbal skills to influence the outcome of legislation pertaining to the Maori race’.⁷⁴ It was not until the turn of the twentieth-century that a new generation of articulate and educated Māori entered the House of Representatives.⁷⁵

However, despite the flat reception that the Act apparently received in many Māori communities, in 1872, the legislation was amended to extend the temporary five-year timeframe for the existence of the seats for a further five years. In 1876, the seats were made a permanent fixture, until such time as the General Assembly saw it fit to remove them.⁷⁶ There were occasional mumblings of dissent from some politicians in the early years of the

twentieth-century about the existence of the seats – including a suggestion from Sir James Carroll that the seats be abolished altogether.⁷⁷ However, the arguments in favour of removing the seats were overcome by those in favour of their retention, and the Māori seats consequently survived the crucial early decades of their existence and became an established part of New Zealand parliaments.⁷⁸ Additionally, whilst some politicians insisted that the franchise was being granted to ‘a people utterly unable to appreciate it ... and who were totally incapable of legislating either for themselves or others’, over time, the Māori members became one of the principal voices for Māori in Parliament.⁷⁹

Conclusion

Given that Pākehā representation in the government of the country was just over a decade old, the inclusion of four Māori seats in the House of Representatives was a comparatively early initiative in the nation’s constitutional history. And for all the convoluted motives behind the legislation, the fact that a Māori voice could be heard in the main legislative organ of the state was a crucial innovation which anticipated the continued role of Māori in the running of the country. And in extending the initial five-year duration of the Māori seats that the Act prescribed, the Government tacitly acknowledged that the assimilationist project was not going to succeed to its fullest extent, and that a distinct Māori voice would remain in the country’s body politic. The belief that Māori and settlers constituted ‘one harmonious union ... and were rapidly and invisibly forming but one people’ was increasingly looking like little more than wishful thinking – especially as the wars between these two peoples continued to scar the country during the 1860s.⁸⁰

The *Maori Representation Act* may have been, as Premier Edward Stafford suggested, a device to ‘elevate the condition of the Maoris [sic] and to induce them to live in harmony with European institutions’, but to the same extent, it guaranteed a Māori perspective in Parliament – one which continued to be heard a century and a half later.⁸¹ There were still discrepancies with the legislation, including the fact that until 1937, there was no secret ballot, with voters in the Māori electorates going to polling stations in elections and showing support by a show of hands.⁸² However, the principle of a reserved place for Māori in Parliament persisted and gradually became an accepted and even lauded (although never universally so) part of the nation’s parliamentary system.⁸³

¹ M.P.K. Sorrenson, "A History of Maori Representation in Parliament." in *Report on the Royal Commission on the*

Electoral System (Wellington: Government Printer, 1986), Appendix 2.

² As an example, see Henry William Petre, *An Account of the Settlements of the New Zealand Company*, (London:

Smith, Elder, 1842), 38-9.

³ Lindsay Cox, *Kotahitanga: The Search for Maori Political Unity* (Auckland: Oxford University Press, 1993), 36.

⁴ Arthur S. Thomson, *The Story of New Zealand Past and Present, Savage and Civilized*, vol. 2 (London: Murray,

1859), 325.

⁵ Francis Dart Fenton, *Observations on the State of the Aboriginal Inhabitants of New Zealand* (Auckland: W.C. Wilson, 1859), 28.

⁶ *Ibid.*, 59.

⁷ Paraphrase of P. James, cit. C. Bailey and J. Taylor, "Preferences for Government Size and their Effect on Labor-

Leisure Decisions," *Economics Bulletin*, 8, no.5 (2005): 1.

⁸ Keith Sinclair, *A History of New Zealand* (Auckland: Penguin, 1988), 88-9; Waitangi Tribunal, *Maori Electoral*

Option Report, Wai- 413 (Wellington: Brooker's, 1994), s.2.2

⁹ "G. Grey to Grey, August 30, 1851," in *The Constitution Act: Together with Correspondence between the Secretary of State for the Colonies and the Governor-in-Chief of New Zealand in Explanation Thereof* (Wellington:

R. Stokes, 1853), 35.

¹⁰ *Ibid.*, 36.

¹¹ *Ibid.*, 36-41.

¹² Alan Ward, *A Show of Justice: Racial Amalgamation in Nineteenth Century New Zealand* (Toronto: Australian

National University Press, 1973), 90.

¹³ William L. Renwick, "Self-Government and Protection: A Study of Stephen's Two Cardinal Points of Policy in

their Bearing upon Constitutional Development in New Zealand in the Years 1837-1867" (master's thesis, Victoria

University of Wellington, 1961), 114.

¹⁴ *The Constitution Act*, 42.

¹⁵ *Ibid.*, 43.

¹⁶ *Ibid.*, 44-5.

¹⁷ *Ibid.*, 55.

¹⁸ W.K. Jackson and G.A. Wood, "The New Zealand Parliament and Maori Representation," *Historical Studies: Australia and New Zealand*, 11, no.43 (1964): 383-96.

¹⁹ The cost to the British Treasury was one issue that gave rise to opposition to the Bill. *New Zealand Spectator and*

Cook's Strait Guardian, August 21, 1852, 3; Sir William Molesworth, who would become a Colonial Secretary for a

brief period in 1855, was one of the opponents of the Bill in the House; As an example, the value of exports from

New Zealand to Britain between 1849 and 1850 had risen by £10,000. *New Zealand Spectator and Cook's Strait Guardian*, August 21, 1852, 3.

²⁰ *The London Gazette*, December 29, 1846, no. 20687, 5997.

²¹ S.7, New Zealand Constitution Act 1852.

²² Waitangi Tribunal, *Maori Electoral Option Report, Wai- 413*, s.2.

²³ John Robert Godley, "Lecture on the New Zealand Constitution Act." in *A Selection from the Writings and Speeches of John Robert Godley*, ed. James Edward FitzGerald (Christchurch: Press Office, 1863), 124.

²⁴ Paul Moon, *The Edges of Empires: New Zealand in the Middle of the Nineteenth Century* (Auckland: David Ling

Publishing, 2009), 67.

²⁵ William Fox, *The Six Colonies of New Zealand* (London: John W. Parker & Son, 1851), 109.

- ²⁶ S.71, New Zealand Constitution Act 1852.
- ²⁷ *The Constitution Act*, 71.
- ²⁸ Fox, *The Six Colonies of New Zealand*, 60-3.
- ²⁹ Godley, "Lecture on the New Zealand Constitution Act," 160.
- ³⁰ *Taranaki Herald*, October 20, 1852, 2.
- ³¹ New Zealand Constitution Amendment Act 1857; John Wilson, "New Zealand Sovereignty: 1857, 1907, 1947, or 1987?," *Political Science*, 60, no. 2 (December 2008): 41-4.
- ³² Waitangi Tribunal, *Maori Electoral Option Report, Wai- 413*, s.2.2
- ³³ Native Land Act 1862; Native Land Act 1865.
- ³⁴ *Great Britain Parliamentary Papers, 1860*, London, 1860, 181.
- ³⁵ *Ibid.*
- ³⁶ B. Wells, *The History of Taranaki: A Standard Work on the History of the Province* (New Plymouth: Edmondson & Avery, 1878), 167-8.
- ³⁷ *Ibid.*
- ³⁸ *Ibid.*
- ³⁹ *Proceedings of the Kohimarama Conference, Comprising Nos. 13 to 18 of the 'Maori Messenger'* (Auckland: Printed by W.C. Wilson for the New Zealand Government, 1860), 1-48; Paul Moon, *Ngapua: The Political Life of Hone Heke Ngapua, MHR* (Auckland: Penguin, 2006), 45-50.
- ⁴⁰ S. McClelland, "Maori Electoral Representation: Challenge to Orthodoxy," *New Zealand Universities Law Review*, 17 (June 1997): 272-291. A contrary view has been proposed by T. Dahlberg, 'Maori Representation in Parliament and Tino Rangatiratanga,' *He Pukenga Korero*, 2, no.1 (1996): 63. Also see New Zealand Parliamentary Library, *The Origins of the Maori Seats* (Wellington: Parliamentary Library, May 2009), 7.
- ⁴¹ Augie Fleras, "From Social Control Towards Political Self-Determination? Maori Seats and the Politics of Separate Maori Representation in New Zealand," *Canadian Journal of Political Science*, 18, no.3 (September 1985): 555.
- ⁴² P. Tukairangi, November 30, 1864, in "Letters from Native Chiefs to Mr. Fitzgerald M.H.R. Relative to their Admission into the General Assembly," in *Appendices to the Journals of the House of Representatives* (AJHR), 1864, I, E-15, 3.
- ⁴³ "Fitzgerald, J. to Richmond, J. C., August 25, 1865," in *The Richmond-Atkinson Papers*, vol.2, ed. G.H. Scholefield (Wellington: Govt. Print., 1960), 178-9, cit. Claudia Orange, *The Treaty of Waitangi* (Wellington: Allen & Unwin, 1987, 176.
- ⁴⁴ Native Commission Act 1865. Also see S. McClelland, "Maori Electoral Representation: Challenge to Orthodoxy," 272-291; *Otago Daily Times*, August 4, 1865, 6.
- ⁴⁵ AJHR, 1860, I, E-07, 7-8.
- ⁴⁶ *Ibid.*, 1.
- ⁴⁷ Sorrenson, "A History of Maori Representation in Parliament," B-18.
- ⁴⁸ New Zealand Parliamentary Debates (NZPD), vol.1, 1867, 336, 458.
- ⁴⁹ Ward, *A Show of Justice*, 208.
- ⁵⁰ Fleras, "From Social Control Towards Political Self-Determination?," 553; A. McRobie, "Ethnic Representation: The New Zealand Experience," in 'Maori Representation in Parliament', occasional paper no.14, ed. E. Stokes (University of Waikato, Hamilton, 1981), 2-14.
- ⁵¹ Preamble, Maori Representation Act 1867.
- ⁵² *Ibid.*
- ⁵³ Keith Sinclair, *Kinds of Peace: Maori People After the Wars, 1870-85* (Auckland: Auckland University Press, 1991), 87.
- ⁵⁴ Fleras, "From Social Control Towards Political Self-Determination?," 555.
- ⁵⁵ *Ibid.*
- ⁵⁶ Ironically, the first candidate to stand for the Northern Maori electorate was F.N. Russell, a half-caste. Sorrenson, "A History of Maori Representation in Parliament," B-20.
- ⁵⁷ Maori Representation Act 1867.
- ⁵⁸ NZPD, vol.1, 1867, 461.
- ⁵⁹ Native Rights Act 1865.
- ⁶⁰ NZPD, vol.1, 1867, 517.

-
- ⁶¹ C.J. Irons Magallanes, "Indigenous Political Representation: Identified Parliamentary Seats as a form of Indigenous Self-Determination." in *Unfinished Constitutional Business? Rethinking Indigenous Self-Determination*, ed. B.A. Hocking (Canberra: Aboriginal Studies Press, 2005), 106-17.
- ⁶² Shelia McClean, "Maori Representation, 1905-1948" (master's thesis, University of Auckland, 1950), 4.
- ⁶³ A. McRobie, "Ethnic Representation: The New Zealand Experience," 5-6; Fleras, "From Social Control Towards Political Self-Determination?," 555.
- ⁶⁴ NZPD, vol.1, 1867, 459.
- ⁶⁵ Ward, *A Show of Justice*, 209.
- ⁶⁶ This aspect is canvassed in R. Ngatata. Love, "Policies of Frustration: The Growth of Maori Politics in the Ratana/Labour Era" (PhD thesis, Victoria University of Wellington, 1977).
- ⁶⁷ AJHR, 1868, I, A-04, 1868.
- ⁶⁸ *Ibid.*, 5.
- ⁶⁹ *Ibid.*, 8.
- ⁷⁰ *Ibid.*, 12.
- ⁷¹ *Ibid.*, 17.
- ⁷² *Ibid.*, 24.
- ⁷³ *Ibid.*, 15.
- ⁷⁴ Fleras, 559.
- ⁷⁵ These included James Carroll and Hone Heke Ngapua in the late-nineteenth-century, and Apirana Ngata, Peter Buck, and Maui Pomare at the start of the twentieth-century.
- ⁷⁶ S.F. McClean, 'Maori Representation', 7.
- ⁷⁷ NZPD, vol.134, 1905, 36-7.
- ⁷⁸ Leslie Lipson, *The Politics of Equality: New Zealand's Adventure in Democracy* (Chicago: University of Chicago Press, 1948), p.3.
- ⁷⁹ Sorrenson, "A History of Maori Representation in Parliament," B-20.
- ⁸⁰ B.J. Dalton, *War and Politics in New Zealand, 1855-1870* (Sydney: Sydney University Press, 1967), 12.
- ⁸¹ NZPD, vol.1, 1867, 459.
- ⁸² This system was finally replaced with the *Electoral Amendment Act 1937*.
- ⁸³ Keith Jackson, *New Zealand: Politics of Change* (Wellington: Reed Education, 1973), 67.