

Minor 29/3/95

Treaty impact workshop on next month

THE Treaty of Waitangi and its implications for the high country will be explored in a workshop in Queenstown next month.

Irihapeti Ramsden, cultural educator for Ngai Tahu and Rangitane, will lead the workshop which will discuss background to the treaty, its impact in 1995 and its relation to the high country.

The workshop, organised by the Southland Rural Education Activities Programme, is recommended for people who have an interest in the issues facing Aotearoa/New Zealand, and for people who have an interest in the high country.

The one-day workshop will be held at the Mountain View Lodge in Queenstown on Monday April 10, and costs \$30 per person.

For further information and enrolment, contact Alison Broad, Southland REAP, phone (03) 218 4389, or Sarah Barr, phone (03) 5 0094.

TOWARDS A LEARNING COMMUNITY

Continuing Education

The Future of New Zealand - Economic Directions

Tom Brooking, History; Geoff Kearsley, Tourism; Stuart McDougall, Economics
2 sessions, Tuesdays, 7-9pm, beginning 2 May, \$6.
Limited to 30.

Bioethics-(Life Ethics)

Alex Lautensach, John McMillan, Bioethics Research Centre
4 weekly sessions, Tuesdays, 6.30-8.30pm, 2 May, \$46.
Limited to 18.

Challenging Modern Media

Sue Tait, Anthropology
6 weekly sessions, Thursdays, 7-9pm, 6 April, \$66.
Limited to 18.

A Lay Persons Guide to Astronomy

Dale Watts, Physics/Dunedin Astronomical Society
6 weekly sessions, Wednesdays, 7.30-9pm, 3 May, \$56.
Limited to 20.

The Structure of the Human Body

John Dennison, Anatomy and Structural Biology
6 weekly sessions, Wednesdays, 7-9pm, 3 May, \$68.
Limited to 10.

Neighbourhood Biology: An Introduction

Mary Gardner, Marc Schallenberg, Henrik Moller, Zoology
6 weekly sessions, 1 field day, Wednesdays, 7-8.30pm, 5 April, \$84. Limited to 15.

The Treaty of Waitangi - How far have we come?

Hana O'Regan, Maori Studies
5 weekly sessions, Wednesdays, 7-8.30pm, 3 May, \$46.
Limited to 18.

Reflections of Ourselves: Exploring Recent New Zealand Films

Lisa Morton, English
5 weekly sessions, Mondays, 7-8.30pm, 24 April, \$38.
Limited to 16.

Take Charge of Your Career. Take Charge of Your Life - Margaret Merton

- Career/life planning for Women
2 sessions, Saturday 17, Sunday 18 June, 9.30am-4.30pm, \$152. Limited to 20.
- Career Development Workshop for Career Professionals
2 sessions, Friday 26, Saturday 27 May, 9am-4pm, \$178. Limited to 20.
- Introduction to Career Counselling
2 sessions, Thursday 13 July, 7.30-9pm; Friday 14, 9am-4pm. Limited to 30. \$148.

An Introduction to Jungian Psychology

Malcolm Cone, Management
8 sessions, Thursdays, 7.30-9.30pm, 6 April, \$74. Limited to 15.

Writing with Intent

Intensive weekend workshops aimed at serious writers. (beginners and more advanced.)
Michaelanne Forster (Drama), Paddy Richardson (Fiction), Tom Brooking (History and Biography), Bernadette Hall (Poetry), Philip Temple (Surviving and Succeeding as a Professional Writer).
Friday evening 7 April, 7-8.30pm; Saturday 8, Sunday 9 April 1995, 9am-4.30pm, \$196. Limited to 48.

Over 50's week long drama course

Smiling in the Spotlight

Chris Hilder
5 days. 12-16 June, 9am-4.30pm, \$258. Limited to 18.

The Medieval English Parish Church

Marjorie Maslen, Lenore Satterthwaite, History
2 days, Saturdays 8, 22 April 1995, 10am-4.30pm, \$54.
Limited to 15.

Discovering Dunedin's Architecture - Buildings Old and Newer

Geoff Hughes, Principals of Design and History of Art
1 day, Thursday 20 April, 9.30am-4pm, \$34. Limited to 22.

ENROLMENT FORM

I would like to enrol for _____ \$ _____

Name: _____

Address: _____

Phone: _____ Fax: _____

Payment (Cheques payable to University of Otago)

Cash Cheque Bankcard VISA Mastercard

Card Number



University of Otago
Te Whare Wananga o Otago

For further information contact Continuing Education
Unit, 90 St David Street, Telephone (03) 477 0345, Fax
(03) 479 8456.



RURAL EDUCATION ACTIVITIES PROGRAMME INC.

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*FMC / F+B / F+E
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C/-Southland Polytechnic
Private Bag 90114
Forth Street
INVERCARGILL
Telephone &
Fax (03) 218-4389

TREATY OF WAITANGI
& THE HIGH COUNTRY

This workshop is to explore the issues relating to the Treaty of Waitangi, and its implications for the high country. It will include learning about the background to the Treaty, and why it has an impact in 1995, and will relate this particularly to the high country.

The approach taken in the workshop will be based on the premise that while we bear no blame for what has happened in the past, we are responsible for what happens in the future. Discussion of the past is intended to bring a clearer understanding of present issues, not a sense of guilt.

The workshop is recommended for people who have an interest in the issues facing Aotearoa/New Zealand, and for people who have an interest in the high country.

WHERE: Mountain View Lodge Conference Room, Frankton Rd, Queenstown

DATE: Monday 10th April 1995

TIMES: 9.30am - 4.30pm

TUTOR: Irihapeti Ramsden, Ngai Tahu and Rangitane; Cultural Educator

COST: \$30.00 per person

NOTE: Morning and afternoon teas will be provided. Please make your own arrangements for lunch.

Inquiries to : Alison Broad, ph (03) 218 4389.

I pd to attend both session but 'shut out' by lack of comms on H.C. session.

REGISTRATION - TREATY OF WAITANGI & THE HIGH COUNTRY

NAME: _____ **PHONE:** _____

ADDRESS: _____

Please enclose ~~\$35.00~~ and return to: Southland REAP, Private Bag 90114, Invercargill
\$30

I distributed to everyone, as, despite being about the T & W, nothing factual about the T₁ only' assertions. Lots of emphasis on the D. of I.

The Treaty in English

Source: Treaty of Waitangi Act 1975; First Schedule.

HER MAJESTY VICTORIA Queen of the United Kingdom of Great Britain and Ireland regarding with Her Royal Favour the Native Chiefs and Tribes of New Zealand and anxious to protect their just Rights and Property and to secure to them the enjoyment of Peace and Good Order has deemed it necessary in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand and the rapid extension of Emigration both from Europe and Australia which is still in progress to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any part of those islands— Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to avert the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the native population and to Her subjects has been graciously pleased to empower and authorise me William Hobson a Captain in Her Majesty's Royal Navy Consul and Lieutenant Governor of such parts of New Zealand as may be or hereafter shall be ceded to her Majesty to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

ARTICLE THE FIRST

The Chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Preemption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective Proprietors and persons appointed by Her Majesty to treat with them in that behalf.

ARTICLE THE THIRD

In consideration thereof Her Majesty the Queen of England extends to the Natives of New Zealand Her royal protection and imparts to them all the Rights and Privileges of British Subjects.

W. HOBSON Lieutenant Governor.

Now therefore We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names, having being made fully to understand the Provisions of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof; in witness of which we have attached our signatures or marks at the places and dates respectively specified.

Done at Waitangi this Sixth day of February in the year of Our Lord One thousand eight hundred and forty.

[Here follow signatures, dates, etc.]

Translation of Maori Text

(by I H Kawharu in, "Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi" (1989) — a reconstruction of a literal translation)

Victoria, the Queen of England, in her concern to protect the chiefs and subtribes of New Zealand and in her desire to preserve their chieftainship and their lands to them and to maintain peace and good order considers it just to appoint an administrator one who will negotiate with the people of New Zealand to the end that their chiefs will agree to the Queen's Government being established over all parts of this land and (adjoining) islands and also because there are many of her subjects already living on this land and others yet to come.

So the Queen desires to establish a government so that no evil will come to Maori and European living in a state of lawlessness.

So the Queen has appointed me, William Hobson a captain in the Royal Navy to be Governor for all parts of New Zealand (both those) shortly to be received by the Queen and (those) to be received hereafter and presents to the chiefs of the Confederation chiefs of the subtribes and other chiefs these laws set out here.

The first

The Chiefs of the Confederation and all the chiefs who have not joined that Confederation give absolutely to the Queen of England for ever the complete government over their land.

The second

The Queen of England agrees to protect the chiefs, the subtribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages and all their treasures. But on the other hand the Chiefs of the Confederation and all the Chiefs will sell land to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent.

The third

For this agreed arrangement therefore concerning the Government of the Queen, the Queen of England will protect all the ordinary people of New Zealand and will give them the same rights and duties of citizenship as the people of England.

(Signed) W. Hobson
Consul and Lieutenant-Governor

So we, the Chiefs of the Confederation and of the subtribes of New Zealand meeting here at Waitangi having seen the shape of these words which we accept and agree to record our names and our marks thus.

Was done at Waitangi on the sixth of February in the year of our Lord 1840.

The Text in Maori

Source: The Treaty of Waitangi Amendment Act 1985: being amended First Schedule to 1975 Act.

KO WIKITORIA, te Kuini o Ingarani, i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga, me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira hei kai wakarite ki nga Tangata maori o Nu Tirani-kai wakaaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahikatoa o te Wenua nei me nga Motu-na te mea hoki he tokomaha ke nga tangata o tona lwi Kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kua ai nga kino e puta mai ki te tangata Maori ki te Pakeha e noho ture kore ana.

Na, kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aiane, amua atu ki te Kuini e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei.

Ko te Tuatahi

Ko nga Rangatira o te Wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu-te Kawanatanga katoa o o ratou wenua.

Ko te Tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu-ki tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te Wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te Wenua-ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

Ko te Tuatoru

Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini-Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

(Signed) WILLIAM HOBSON,
Consul and Lieutenant-Governor.

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu. Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

Ko nga Rangatira o te wakaminenga.

Whose injustice?

Tipene O'Regan on Ngai Tahu land claims

"The Ngai Tahu claim was not based on the Treaty, but on the Pakeha law of contract...in the South Island there was a breach of contract" (Tipene O'Regan, Chairman Ngai Tahu Maori Trust Board, *The Press* 11/6/93).

"[The Otago Fish and Game Council] is also quite correct in stating...that the Greenstone etc. pastoral leases are not the subject of a proven (specific) grievance, and are thus not lands wrongfully taken which should be returned. Unfortunately for Fish and Game, that does not snuff out Ngai Tahu's legal interest. This area was subject to land sales contracts where the Crown was obliged to set aside one tenth

of the land sold, and failed to ("reserves not awarded"). There is therefore justice in the Crown buying the land as it became available, with the cost for deduction from any settlement with Ngai Tahu" (*Mountain Scene* 4/11/93).
NOTE: The Ngai Tahu Trust Board only claimed before the Waitangi Tribunal that it was entitled to 'Tenths' under the Otakou (greater Dunedin) purchase. The Tribunal found that there was no such legal obligation on the Crown. All the lands supposed to be reserved to Ngai Tahu were in lowland and coastal locations between Kaikoura and Southland. The Tribunal confirmed that all the South Island high country was legally purchased by the Crown.

The Contracts

The area was purchased by the Crown under the 'Kemp' and 'Murihiku' agreements (extracts below)—

Kemp Deed (Canterbury, inland Otago) 12 June 1848

Know all men. We the Chiefs and people of the tribe called the "Ngaitahu" who have signed our names & made our marks to this Deed on this 12th day of June 1848, **do consent to surrender entirely & for ever** to William Wakefield the Agent of the New Zealand Company...the whole of the lands...(the condition of, or understanding of this sale is this) that **our places of residence & plantations are to [be] left for our own use, for the use of our Children, & to those who may follow after us,** & when the lands shall be properly surveyed hereafter, we leave to the Government the power & discretion of making us additional Reserves of land, it is understood however that the land itself **with these small exceptions becomes the entire property of the white people for ever.**

We receive as payment Two Thousand Pounds...

Murihiku Deed (Southland) 7 August 1853

Let all the Nations know. We the chiefs and all the people of all the lands lying within the boundaries hereunder written, derived through our ancestors from whom it descended to us...have written our names and marks as the act of consent of us, for ourselves, for our relations, for our families, for our heirs now living, and our descendants who shall be born after us, entirely to give up all those our lands which have been negotiated for, the boundaries of which have been described...to Her Majesty the Queen of Great Britain, her heirs and successors for ever, **as a lasting possession for her or for the Europeans...**

And whereas **we have agreed entirely to give up our land within the boundaries hereunder...** the Commissioner for extinguishing Native Claims...agrees that he will pay us the sum of two thousand pounds sterling...

Now these are the boundaries of the land which have been alienated; **...[and] all the lands within those boundaries, with the anchorages and landing places, with the rivers, the lakes, the woods, and the bush, with all things whatsoever within those places, and in all things lying thereupon.**

All the lands, and all other things above enumerated, and which lie within the boundaries above recited, have been **entirely surrendered** to Her Majesty the Queen for ever and ever.

The Minister of Justice on the Treaty of Waitangi

"As subjects of the Crown...all New Zealanders have rights under the Treaty" Hon. Doug Graham, *Otago Daily Times* 31 March 1993.

"...the Crown would want to ensure that any transfer to Maori of any Crown-owned asset would not directly prejudice any third party, including the New Zealand public, since any further injustice would also be in breach of the Treaty" Hon. Doug Graham 17 August 1992.

Hands off Greenstone Valley!



Government is on the brink of giving a nationally important recreation area to a private developer. The Greenstone, Caples and upper Mararoa valleys, and surrounding mountain lands near Queenstown, are close to being given to the Ngai Tahu Maori Trust Board. Ironically the injustice this would create for most New Zealanders would be in breach of the Treaty of Waitangi. Private ownership or control has the potential to restrict access to only those willing and able to pay entry or user charges. It would also give impetus to the privatisation of South Island's high country pastoral leasehold lands for tourism purposes. This simply cannot be allowed to happen.

The valleys are nationally and internationally acclaimed tramping, fishing and hunting areas.

Public Access New Zealand believes that the only way to secure public use of these outstanding places is to add them to adjoining national park and conservation areas. PANZ also believes that Government should be using state-owned enterprise lands for settlement of *proven* aspects of Ngai Tahu's land claims rather than *unrelated areas of high public interest* such as the Greenstone Valley.

"Hands off the Greenstone Valley" is a message directed at Government.

Te Tau O Te Reo Maori

Each year seems to be the year of something or other: "The year of the child", "the family", "women", etc. Some of them have been local extensions of international initiatives and some just local.

Now the Government has declared 1995 "Te Tau O Te Reo Maori" (Maori Language Year) and a budget has been allocated to Te Taura Whiri i Te Reo Maori (the Maori Language Commission) to support various activities designed to increase the numbers and quality of Maori language speakers.

A number of groups and institutions throughout the country are also supporting it with scholarships and other initiatives.

Many will say, "So what; Maori issues are (a) only for Maori and (b) thrust down our necks all too often. Why have Maori been getting so damned uppity?" Well, I guess even that's some improvement, 100 years ago it would be: "why are the NATIVES getting so damned uppity?"

However, many such attitudes are carry-overs from a lack of education (or indeed mis-education) about things Maori in New Zealand.

I'm sure that the politically correct would prefer me to say "Aotearoa/New Zealand" — an increasingly popular name these days — but I object to it on the grounds that its use, too, is a result of a misunderstanding. In traditional times Aotearoa was the North Island only. People like our MP for Southern Maori, H. K. Tairaroa, off to a sitting of Parliament in Wellington, would say that he was off to Aotearoa. North Island Maori probably didn't question it since they were in Aotearoa regardless of which way it was used.

The term most commonly used by Maori, for the whole country, was the transliteration, "Niu Tiren". Maori were not a single nation and therefore had no words which reflected unity. Unity is only necessary in relation to others and, in overall terms, there were no others; only in relation to the iwi (tribe).

The whole point about Maori Language Year is that there is currently a significant resurgence in te reo. Many, many more people, of all ages, both Maori and non-Maori, are learning Maori. In some families it has been lost for several generations and a great deal of dignity was lost with it. Why, even a sheep has its own reo.

Most Maori today do not have their own reo and many speak substandard English as well. Mind you, I've heard some non-Maori who speak pretty badly too but they're not so likely to be remarked upon.

Indeed, to what extent is today's poor English the idiom of tomorrow? The "may/can" battle is all but lost and I suspect that to most people "infer" and "imply" are the same thing. So, isn't the usage and understanding of the

MAORI COMMUNITY NEWS

CONTRIBUTED BY PHYLLIS STEVENS

majority of language users the main determinant for acceptability? I suspect that we are just being pedantic when we insist on super-correctness just for its own sake.

All languages change; anybody who has read Shakespeare can easily see that. Even in my lifetime I've been aware of many changes. Until some 10 to 15 years ago "choice" was only a label which was pinned to the best tomatoes in the greengrocers'. Now, it's a strong expression of approval (popularised by Billy T. James. "Damned Maori, take their language off them and they start to change ours").

To return to the relationship between language and dignity, studies have shown that a major contributing factor to the poor socio-economic position of Maori is the loss of identity and therefore self-esteem.

Policies of assimilation have failed; they have merely further marginalised the Maori minority. You cannot just decree that a people change their set of values and wait for it to happen.

One wonders what the attitude of non-Maori New Zealanders would have been had the allies lost World War II and New Zealand been colonised by non-English speakers. Yes, we are all New Zealanders. But some of us are male New Zealanders and some are female; some are Protestant and some are Catholic, just as some of us are Maori and some are not.

All New Zealanders can confidently expect that improvements in Maori language will produce, in time, a concomitant improvement in the socio-economic position of Maori. An increase in self-sufficiency will reduce the load on welfare services. Accordingly, Maori Language Year must be seen as a positive contribution to the long-term economic future of this country which we share.

(The above article was contributed by a member of the local Maori community)

Fiscal envelope

Te Puni Kokiri is presently holding "pre-hui" to inform people about the Crown's proposals regarding the "fiscal envelope".

The Ngai Tahu Maori Law Centre proposes to hold a workshop (March 4, 5, to be confirmed), before the regional hui held by Te Puni Kokiri at Christchurch (March 25).

The object of the workshop is to inform and stimulate discussion on the fiscal envelope. Submissions will be formulated.

An initial planning meeting on the proposed workshop will be held for those people interested in:

- (a) Assisting with or presenting topics.
- (b) Providing viewpoints for further discussion and possible inclusion in the workshop.
- (c) Providing information that may be included in the workshop.

The planning meeting will be on Wednesday, February 15, 6pm, Ngai Tahu Maori Law Centre, 177 Leith St. Dunedin (in the Dunedin Taxis building).

Please contact Deborah Baird at the cen-

tre on 477-0855 to register your interest in attending the planning meeting, or to comment on the proposed workshop.

Fishing regulations

Article by Bennett Richardson
working for the
Ngai Tahu Maori Law Centre

The Sealords settlement in 1993 not only affected commercial fisheries but will impact on customary fisheries also. Under the Settlement Act, new regulations are to be passed which will govern how mataitai fisheries are to be regulated. Mataitai fisheries are to be areas of coastline which can be set aside for Maori customary fishing. The regulations will determine the powers and functions of these areas and are said to be important in giving expressions to Tino Rangitiratanga.

At a hui at Pipitea Marae on May 28 last year, a decision was made about the process for choosing the persons who are to represent iwi in the formulation of these new regulations. The iwi representatives are to make up half of a working party, of eight, the other half being Crown representatives.

A collective of iwi, hapu and marae representatives have already met to nominate persons to be on the working party. When both Crown and iwi representatives are finalised, the work of formulating the regulations on marine fisheries will begin. This is estimated to occur in February 1995. The procedure for freshwater fisheries regulations will be different. The date when the customary fishing regulations will be complete has not been stated.

He panui

The Otakou Runanga wish to advise the local Maori community that the following hui are being held:

A total immersion hui will be held at Arowhenua from March 5-8, 1995. For inquiries contact Tahu Potiki, PO Box 5529, Dunedin.

A Hui Tikanga will be held at Tuahiwi, Christchurch, on April 13 and 14. For inquiries contact Aroha Reriti Crofts telephone (03) 388-4588. This is for the attention of Kai Tahu iwi only.

A hui will be held at the Otakou Marae on February 28 at 6.30pm for the purpose of discussing the social and welfare needs of Maori children in the Otakou rohe.

The hui will be co-ordinated by Tahu Potiki — Kai Tahu, Kati Mamoe, PO Box 5529, Dunedin. (025) 382-873 or Koa Marshall, Ngai Tahu Maori Trust Board, PO Box 13-046, Christchurch, telephone (025) 334-370 or (03) 366-4344.

The February meeting of the Otepoti branch of the Maori Women's Welfare League will be held at the Araiteuru Marae in the Pura Pura Whetu Room, February 22, at 7.30pm. For inquiries contact the secretary, Maureen Temaiharoa, 487-9697.

9.50 am 'Demain' 10/4/95

Alison Bo

To give info - a good sound base of info.

Elizabeth

Inehapeti Raudem. - Colae Bay -> Part King.

Rangi te mahara (to share thoughts) S'led c. Bot.
(waitaha) 'tanga whenua'

being around 1200 yrs (earliest dated 1000 yrs)

1889 English father.

nominal for neo-denial environments / need to live together

B need-based issues teacher.

Treasury in list / anthropology of cross-cultural
- can't produce fine detail

- agenda - how we get on with each other
- not a trader in guilt, need to understand.
- interested in creative solutions.

- people contribute, on local info?

Sue Bennett SC Bot. - James Te Anau / enviro. consult.

Rangi - hold trust to this level.
- claims 'my people' have traveled across of most leads
- will be revealed in time.

Sue Edwards (Alge).

Don Clark (Carrick Pen) - 'one low' man.

John Miller
Emerson.

10-41 am.

typical of 'colonial' education system.

- a neo-colonial country.
- NZ so recent in NZ hist.
- always related to land.

154 yrs not able by enough to dev. 'identity'

- kiwi - sport, rec.
- fern.

60% of pop. decimated in 60's

511,000 now

215,000 at 1840

Treaties of W - 2 treaties.

interacts only for last 25 yrs (rural migration)
new unity generators (of federal envelope).

'Māori' - colonial name ('ordinary', 'normal').
Nga ta hupotiki (simple general term).

- dif. c

- the name of news 'contuls'
up until 1880's called against 'Maori'.

7 canoes version made up by Percy Smith.

- linguistic record
- edgers - c. 14 daty.
- + traditions.
- origin 1st coast of China.
- some colour codes as Asians.

- migration (not resource motivated)
(hundreds of journeys - both directions)
- food ship' wrecked at Maerahi

7200 'ship' names over 200 years.
(fine - vikings)

c. 1800 AD

'indigenous' 'only found in a dew in a place'

(^{news} - ~~that~~ groups become 'indigenous'.
includes 'kiri')

Tangeta scheme - a political status.

'Colonisation' - management of ^{economic} 'tax' base.
neo-C - setting up systems (education)

only 8 weeks for training (fighting system).
- no infantry

only fighting was 'ritual'
- all charged with musket.

- not physically pers. to fight. - did not lose
- training more efficient. Tech. for war.
- setting old 'scores'.

~~the~~ only one law (cf. 'professional' laws)
// M. 'law'

~~the~~ law challenged

s. 71 ~~of~~ Cons Act. (M. law).
- repealed 1986.

colonial sec. not established - because it is being
challenged.

wanted a 'trade' treaty - wanted metal.
- sovereignty already declared.

T. a deal for future (a prescription for future)
- suppressed
- then appeared in 1986 in law.
not a legal doc / a moral doc.

1835 Declaration of Independence; (Juss Busby) ^{of us}

(-claimed v. organized education system.
overhead (3 paras.)

after disease / pop. decimation - where resources remain, pop. recovered eg. Somalia.
→ ~~at~~ down to 35%.

30,000 British troops in mass.

'Elizabeth' brig - Stewart:

if didn't have Treaty - would revert to Declaration of Independence.

p.m.

not ideal 'teachy' country; [Queen reluctant to rule]
 [denied that cheap next to England.]
 analogy simily to WW2 - prepare for invasion
 - armed conquest scenario! (at war). (the STRIPES us 'shop')

NZers nervous (in one hit!)
 - then had to negotiate

↑
(NZers)

-(M.) not very powerful.

- all property taken away!
 - general disruption of land & culture / loss of
 ~~study~~ study / health etc / poverty

some (sheep)
 - must lose hope - will negotiate.

experience of lig taken over:

have
 then 53 legal dep. of 'Maori'
 - now can define themselves.

Def. of 'M' left to admittly official in hospitals.
last electoral roll

223,978 identified as M - as rest of other descent.
- (only a few are full blooded).

T. only tool M have got.

Missing schools commenced in 1844 - taught in M.
- alphabet 1819
- now praddy lots of lawyers / middle class.
- 'we' have 41 deltas now.

- many M. more literate than Pakeha.
(Church Mission Society)
- brought trade / agric. skills.

Treaty breaches drove M into poverty.
(land confiscation / mass) 1850's ->

Moana Jackson - a massive change agent (lawyer)
- almost no money
- receives death threats
- almost single-handedly changing law.

'reclamation' educate v. inst. for NT.

Duff - intelligent but untrained
- no analytical skills / knee-jerk.
- if given nt. info will make a decision

[In USA now multi-cultural govt. employers]

80% of M in suburban areas.
1945 'overlustration' of rural 'flight'.

turn

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'reclamation' educate v. inst. for NT.

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- no analytical skills / knee-jerk.
- if given rt. info will make it decision

[In USA now multi-cultural govt. employers]

80% of M in urban areas.
1945 'overpopulation' of rural 'flight'.

time

Declaration of Indep. - overheads x 2

1835 onwards M complaints about missionaries aggring land.

Capt. Stewart - Aberona - brought in Nth Island
Maori with muskets

- outrage
- still NZIs (known as)
Tui Nui.

~~the~~ no protection for M shipping / piracy.
∴ need of legal identity
- in north of NI → Declaration

M. did not go into T. with closed mind
~~and~~ hundreds of treaties with each other

- lawless Pakeha need control
- selected flag → ~~subvert~~ international sovereignty.
- terribly imp^t. statement.

28 Oct - Independence Day - only down to Thames.
- more imp^t than T.

"had to come down" - fire on One Tree
1840 - 250,000 M.
1896 - 39,000 M.

- acknowledged T. subordinated D of I.
Wakefield Pressure

T 2 versions - overhead that couldn't be read

- not all that complicated
- what was read out was M version
- M understood M version.

Contra Preferentium - the big coloured
1877 T suppressed - taken to Privy Council.

1974 T of W Act
- both versions.

main differences

Preamble - protect
Act - Kawenataunga (~~gover~~ appointed of Governor).

(would come in)

Paul Newman - just one translation

Official 'Translator' every one uses.
- WT quidy doc. - ask Trib. for copy.

Act II Tea ra ngatanga (= 5-019 1000 h
Total chiefdoms with
control. |
self determination)

Art III rights & privileges

1877 T of W suppressed in law.
- make business for settlers.

20 yrs when T was enforced - M prospered.
1852 colonial govt - all problems.

1862 ^{MP} 4 M. seats when M outnumbered Pab.

- ~~dist~~ ced sovereignty - only generance.

Overcome land accupata - clavied HC never sold.
- civil mors reduced NT numbers
W Trib. prodom Pab. / Crown PL Bill.

WT funding - just one set of funding

Rangi

1860-80 600,000 acres land back by Waitaha.

only 1000 ha returned (on Waikato Island) since W Trib.

want an economic asset substance that may be
cant be finite land (blue greenies)
... confer. from Inoua.



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24 April 1995

TREATY OF WAITANGI & THE HIGH COUNTRY

To all workshop participants,

Greetings. Enclosed is a collection of resource material relevant to the workshop held in Queenstown on April 10th. I trust that you will find this useful.

As discussed at the workshop, we are hoping to organise a follow-up workshop during the winter months. This would involve a panel of people to whom specific issues could be addressed. Irihapeti and I are making contact with possible panel members, and we are hopeful that such a workshop can be arranged.

We will be in contact with you further, when details of this workshop have been finalised.

didn't contact me!

Regards,

Alison Broad
Community Education Organiser

WAI TE TIRITI O WAITANGI.

TE KUPU WHAKATAKI Ko Wikitoria te Kuini o Ingarani i tana mahara atawai ki ngā rangatira me nga hapū o Nu Tirani i tana hiahia hoki kia tohungia ki a rātou o rātou rangatiratanga me to rātou wenua a kia mau tonu hoki te rongu ki a rātou me te Atanoho hoki kua wakaaro ia he mea tika kia tukua mai tetahi rangatira hei kai wakarite ki ngā Tangata Māori o Nu Tirani kia wakaetia e ngā rangatira Māori te Kawanatanga o te Kuini ki ngā wāhikatoa o te wenua nei me ngā motu – nā te mea hoki he tokomaha ke ngā tangata o tona lwi kua noho ki tenei wenua a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kau ai nga kino e puta mai ki te tangata Māori ki te Pākehā e noho ture kore ana.

Na kua pai te Kuini kia tukua ahau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo ngā wāhi katoa o Nu Tirani i tukua aiane i mua atu ki te Kuini e mea atu ana ia ki ngā rangatira o te wakaminenga o ngā hapū o Nu Tirani me era rangatira atu enei ture ka Kōrerotia nei.

KO TE TUARUA Ko te Kuini o Ingarangi ka wakarite ka wakaee ki ngā rangatira, ki nga hapū, ki ngā tangata katoa o Nu Tirani, te tino rangatiratanga o o rātou wenua o rātou kainga me o rātou taonga katoa. Otiia ko ngā rangatira o te Wakaminenga me ngā rangatira katoa atu, ka tuku ki te Kuini te hokonga o era wāhi wenua e pai ai te tangata nona te wenua, ki te ritenga o te utu e wakaritea ai e rātou ko te kaihoko e meatia nei e te Kuini hei kaihoko mona.

KO TE TUATORU Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini. Ka tiakina e te Kuini o Ingarangi ngā tangata Māori katoa o Nu Tirani. Ka tukua ki a rātou ngā tikanga katoa rite tahi ki ana mea ki ngā tangata o Ingarangi.

Na, ko matou ko ngā rangatira o te Wakaminenga o ngā hapū o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko ngā rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu. Ka tangohia ka wakaetia katoatia e matou. Koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te ono o ngā ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

KO TE TUATAHI Ko ngā rangatira o te Wakawinenga me ngā rangatira katoa hoki, kihai i uru ki taua Wakaminenga, ka tuku rawa atu ki te Kuini o Ingarangi ake tonu atu te Kawanatanga katoa o o rātou wenua.

• TREATY OF WAITANGI: A LITERAL ENGLISH TRANSLATION OF THE MAORI TEXT •

Signed at Waitangi February 1840, and afterwards by about 500 chiefs.

VICTORIA, the Queen of England, in her kind (gracious) thoughtfulness to the Chiefs and Hapus of New Zealand, and her desire to preserve to them their chieftainship and their land, and that peace and quietness may be kept with them, because a great number of the people of her tribe have settled in this country, and (more) will come, has thought it right to send a chief (an officer) as one who will make a statement to (negotiate with) Maori people of New Zealand. Let the Maori chiefs accept the governorship (KAWANATANGA) of the

Queen over all parts of this country and the Islands. Now, the Queen desires to arrange the governorship lest evils should come to the Maori people and the Europeans who are living here without law. Now, the Queen has been pleased to send me, William Hobson, a Captain in the Royal Navy to be Governor for all places of New Zealand which are now given up or which shall be given up to the Queen. And she says to the Chiefs of the Confederation of the Hapus of New Zealand and the other chiefs, these are the laws spoken of.

THIS IS THE FIRST

The Chiefs of the Confederation, and all these chiefs who have not joined in that Confederation give up to the Queen of England for ever all the Governorship (KAWANATANGA) of their lands.

THIS IS THE SECOND

The Queen of England agrees and consents (to give) to the Chiefs, hapus, and all the people of New Zealand the full chieftainship (rangatiratanga) of their lands, their villages and all their possessions (taonga: everything that is held precious) but the Chiefs give to the Queen the purchasing of those pieces of land which the owner is willing to sell, subject to the arranging of payment which will be agreed to by them and the purchaser who will be appointed by the Queen for the purpose of buying for her.

THIS IS THE THIRD

This is the arrangement for the consent to the governorship of the Queen. The Queen will protect all the Maori people of New Zealand, and give them all the same rights as those of the people of England.
WILLIAM HOBSON, Consul and Lieutenant-Governor

Now, we the Chiefs of the Confederation of the Hapus of New Zealand, here assembled at Waitangi, and we, the chiefs of New Zealand, see the meaning of these words and accept them, and we agree to all of them. Here we put our names and our marks.

THE FOURTH ARTICLE

Two churchmen, the Catholic Bishop, Pompallier and the Anglican Missionary William Colenso recorded a discussion on what we would call religious freedom and customary law. In answer to a direct question from Pompallier, Hobson agreed to the following statement. It was read to the meeting before any of the chiefs had signed the Treaty.

E mea ana te Kawana ko ngā whakapono katoa o Ingarani, o ngā Weteriana, o Roma, me te ritenga Maori hoki e tiakina ngatahitia e ia.

Translation:
The Governor says that the several faiths (beliefs) of England, of the Wesleyans, of Rome, and also Maori custom shall alike be protected by him.

• ENGLISH VERSION •

PREAMBLE

Her Majesty, Victoria, Queen of the United Kingdom of Great Britain and Ireland, regarding with her Royal Favour the Native Chiefs and Tribes of New Zealand, and anxious to protect their just Rights and Property, and to secure to them the enjoyment of Peace and Good Order, has deemed it necessary, in consequence of the great number of Her Majesty's Subjects who have already settled in New Zealand, and the rapid extension of Emigration both from Europe and Australia which is still in progress, to constitute and appoint a functionary properly authorised to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any

part of these islands. Her Majesty therefore being desirous to establish a settled form of Civil Government with a view to averting the evil consequences which must result from the absence of the necessary Laws and Institutions alike to the Native population and to Her Subjects has been graciously pleased to empower and authorise me William Hobson, a Captain in Her Majesty's Royal Navy, Consul, and Lieutenant-Governor of such parts of New Zealand as may be or hereafter shall be ceded to Her Majesty, to invite the confederated and independent Chiefs of New Zealand to concur in the following Articles and Conditions.

ARTICLE THE FIRST

The chiefs of the Confederation of the United Tribes of New Zealand and the separate and independent Chiefs who have not become members of the Confederation, cede to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of Sovereignty which the said Confederation or Individual Chiefs respectively exercise or possess, or may be supposed to exercise or to possess over their respective Territories as the sole Sovereigns thereof.

ARTICLE THE SECOND

Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof, the full exclusive and undisturbed possession of the Lands and Estates, Forests, Fisheries, and other properties which they may collectively or individually possess, so long as it is their wish and desire to maintain the same in their possession; but the Chiefs of the United Tribes and the Individual Chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate, at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.

ARTICLE THE THIRD

In consideration thereof, Her Majesty the Queen of England extends to the Natives of New Zealand Her Royal Protection and imparts to them all the Rights and Privileges of British subjects.
W. Hobson, Lieutenant-Governor

Now therefore, We the Chiefs of the Confederation of the United Tribes of New Zealand being assembled in Congress at Victoria, in Waitangi and We the Separate and Independent Chiefs of New Zealand claiming authority over the Tribes and Territories which are specified after our respective names having been made fully to understand the Provision of the foregoing Treaty, accept and enter into the same in the full spirit and meaning thereof. In witness of which, we have attached our signatures or marks at the places and the dates respectively specified.

Done at Waitangi, this sixth day of February in the year of Our Lord, one thousand eight hundred and forty.

AS YOU CAN SEE, THERE ARE TWO TREATIES: THE MAORI TREATY, (INCLUDING ITS TRANSLATION INTO ENGLISH), AND THE ENGLISH VERSION.

WHICH TREATY IS THE REAL ONE?

Both. There are 512 signatures but only 30 are on an English version. The rest are all on the Maori Treaty. The Waitangi Tribunal is instructed to have regard to both Maori and English versions as both have signatures.

IS THE TREATY LEGAL?

Yes, but like other treaties, the Treaty of Waitangi is not directly enforceable by the courts unless Parliament has so directed in an Act of Parliament.

This has happened in some but not all areas of law. Parliament has set up the Waitangi Tribunal to hear and report on claims that the Treaty has been breached.

WHAT HAPPENS WHEN THE TWO TEXTS ARE INTERPRETED DIFFERENTLY?

In International law, in any ambiguity the *contra proferentum* principle applies. This means that a provision should be interpreted against the party who drafts it and that the indigenous language text takes precedence.

DECLARATION OF THE INDEPENDENCE OF NEW ZEALAND

1. We, the hereditary chiefs and heads of the tribes of the Northern parts of New Zealand, being assembled at Waitangi, in the Bay of Islands, on this the 28th day of October 1835, declare the Independence of our country, which is hereby constituted and declared to be an Independent state, under the designation of the United Tribes of New Zealand.
2. All sovereign power and authority within the territories of the United Tribes of New Zealand is hereby declared to reside entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity, who also declare that they will not permit any legislative authority separate from themselves in their collective capacity to exist, nor any function of government to be exercised within the said territories, unless by persons appointed by them and acting under the authority of laws regularly enacted by them in Congress assembled.
3. The hereditary chiefs and heads of tribes agree to meet in Congress at Waitangi in the autumn of each year, for the purpose of framing laws for the dispensation of justice, the preservation of peace and good order, and the regulation of trade; and they cordially invite the Southern tribes to lay aside their private animosities and to consult the safety and welfare of our common country, by joining the Confederation of the United Tribes.

4. They also agree to send a copy of this Declaration to His Majesty the King of England, to thank him for acknowledgement of their flag; and in return for the friendship and protection they have shown, are prepared to show, to such of his subjects as have settled in their country, or resorted to its shores for the purposes of trade, they entreat that he will continue to be the parent of their infant State, and that he will become its Protector from all attempts upon its independence.

Agreed to unanimously on this 28th day of October, 1835, in the presence of His Britannic Majesty's Resident.

[Here follows the signatures or marks of thirty-five Hereditary chiefs or Heads of tribes, which form a fair representation of the tribes of New Zealand from the North Cape to the latitude of the River Thames]

English witnesses -

(Signed) Henry Williams, Missionary, C.M.S.
George Clarke, C.M.S.
James Clendon, Merchant
Gilbert Mair, Merchant

I certify that the above is a correct copy of the Declaration of the Chiefs, according to the translation of Missionaries who have resided ten years and upwards in the country. and it is transmitted to His Most Gracious Majesty the King of England, at the unanimous request of the chiefs.

(Signed) JAMES BUSBY
British Resident at New Zealand

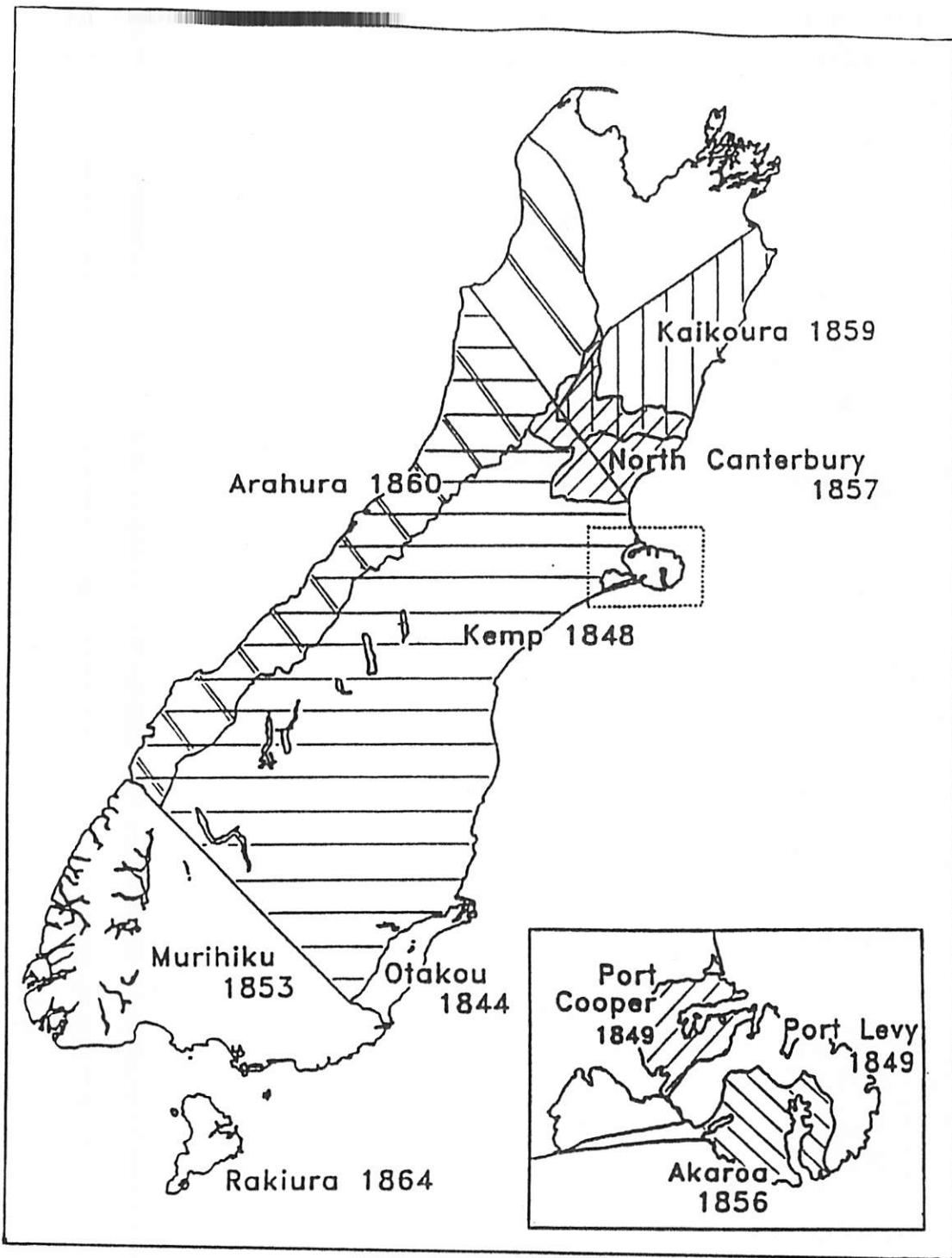


Figure 1.1: The Ngai Tahu purchases according to the deeds and deed maps. Many of these purchases overlapped each other. The Kemp purchase overlapped with the Kaikoura, North Canterbury and Arahura purchases, while the North Canterbury purchase also overlapped with Kaikoura.

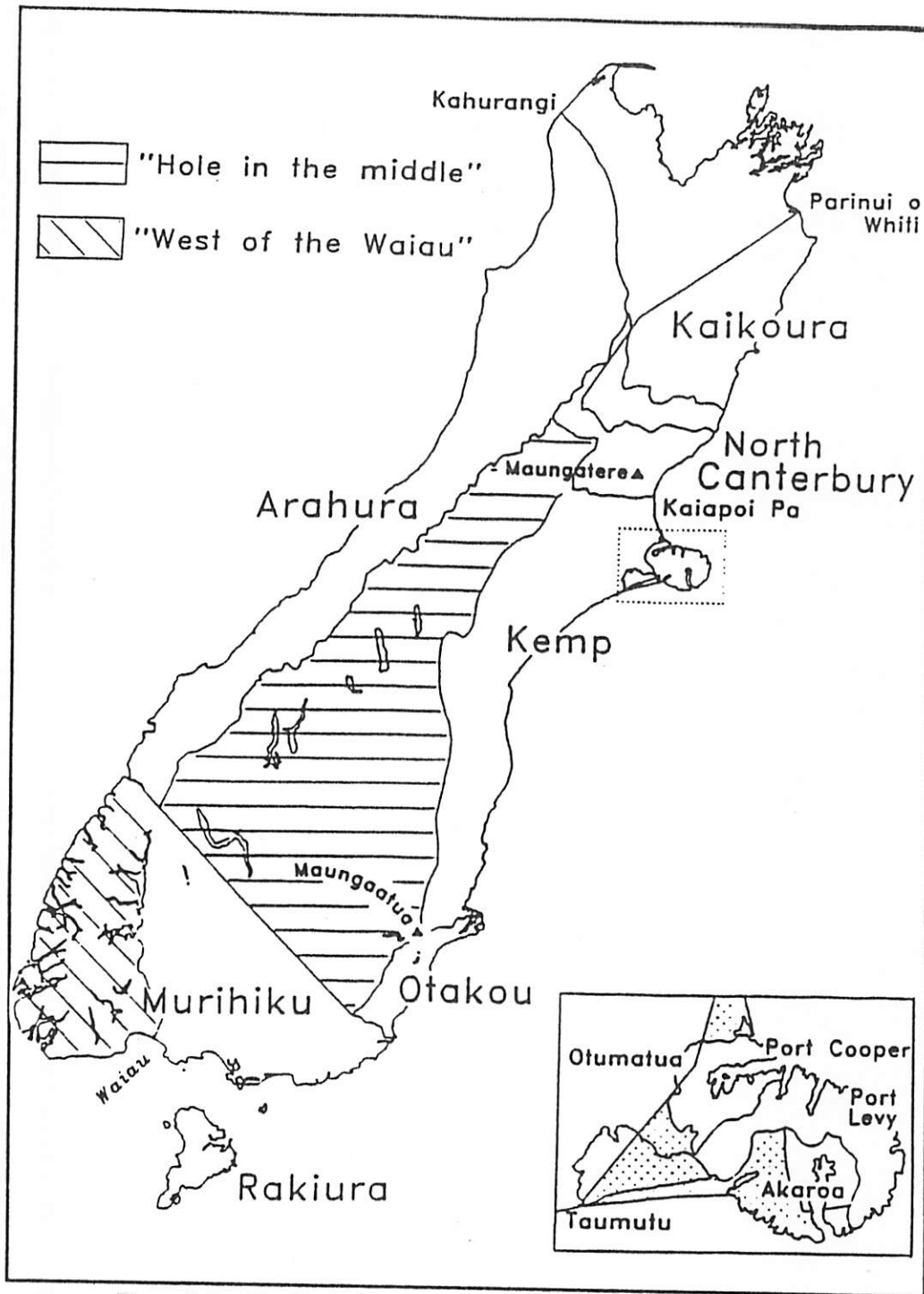


Figure 1.2: The Ngai Tahu purchases, showing the areas which the claimants maintained were not included by the tribe in the original agreements. The claimants maintained that substantial areas—the “hole in the middle”, the land west of the Waiiau River in Southland and parts of Waihora and Banks Peninsula—have never been purchased by the Crown.

2.4. The Kemp Purchase Summary

Introduction

Kemp's purchase was the largest block of land ever bought by the Crown. Its 20 million acres made up almost a third of the country's land area, although some of this overlapped with later purchases. The purchase must also be one of the most controversial. Maori complaints began within months of the deed being signed. In the last 142 years the agreement has been the subject of numerous petitions, parliamentary inquiries, Royal commissions and court proceedings.

In 1906, 1944 and 1973 Parliament enacted a number of measures to provide some form of relief or settlement. Despite the many inquiries, this is the first opportunity the tribe has had of having the Kemp purchase examined in terms of the Crown's Treaty obligations by a tribunal constituted for that purchase.

The purchase was negotiated by Henry Tacy Kemp on 12 June 1848, following earlier discussions between Ngai Tahu rangatira and Governor Grey in February. However the agreement was not implemented by Kemp, but by a second Crown commissioner, Walter Mantell. Kemp had been instructed to identify and survey all the land reserved from the sale, before the sellers signed a deed. He did not do this. Instead he made several promises about various kinds of lands which would be reserved to Ngai Tahu. These lands were described in the deed as:

Ko o matou kainga nohoanga ko a matou mahinga kai, me waiho maric mo matou, mo a matou e tamariki, mo muri iho i a matou; a ma ta Kawana whakarite mai hoki tetahi wahi mo matou a mua ake nei a te wahi e ata ruritia ai te whenua nga Kai Ruri (L9:17) (see appendix 2.2)

This was translated at the time by Kemp as:

our places of residence & plantations are to [be] left for our own use, for the use of our Children, & to those who may follow after us when the lands shall be properly surveyed hereafter, we leave to the Government the power & discretion of making us additional Reserves of land ... (L9:416-418)

The Maori understanding of the agreement, as recorded in the original Maori deed, goes beyond Kemp's translation. From this and other evidence of the time, it is clear that Ngai Tahu agreed to sell much of their land to the Crown on their understanding that their villages and homes, their gardens and their natural food resources would be retained by them, as well as substantial additional lands.

Mantell was not present when Ngai Tahu consented to the purchase, but in implementing the agreement, he insisted on a narrow and parsimonious definition of its terms despite protracted Ngai Tahu protest. He substantially reduced the areas of land for Ngai Tahu from the large areas they considered they were entitled to have had reserved. He refused to recognise their reservation of lands for mahinga kai, the natural resources of their hunting and gathering economy. At the end of his mission, Mantell had allowed the setting aside of only 6359 acres out of 20 million. Kemp's failure to secure to Ngai Tahu the lands they reserved from the sale prior to finalising the agreement, compounded by Mantell's high handed conduct, reduced Ngai Tahu's remaining lands to a pitiful remnant of their previous vast territory.

Not only was the outcome approved by his superiors, Lieutenant-Governor Eyre and Governor Grey, but Mantell was rewarded with further commissions to purchase land from Ngai Tahu.

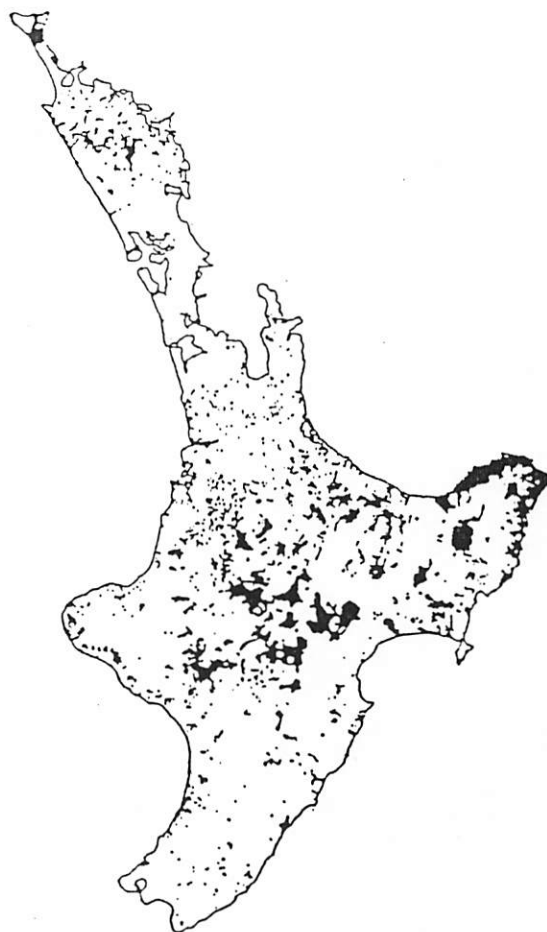
Claimants' grievances

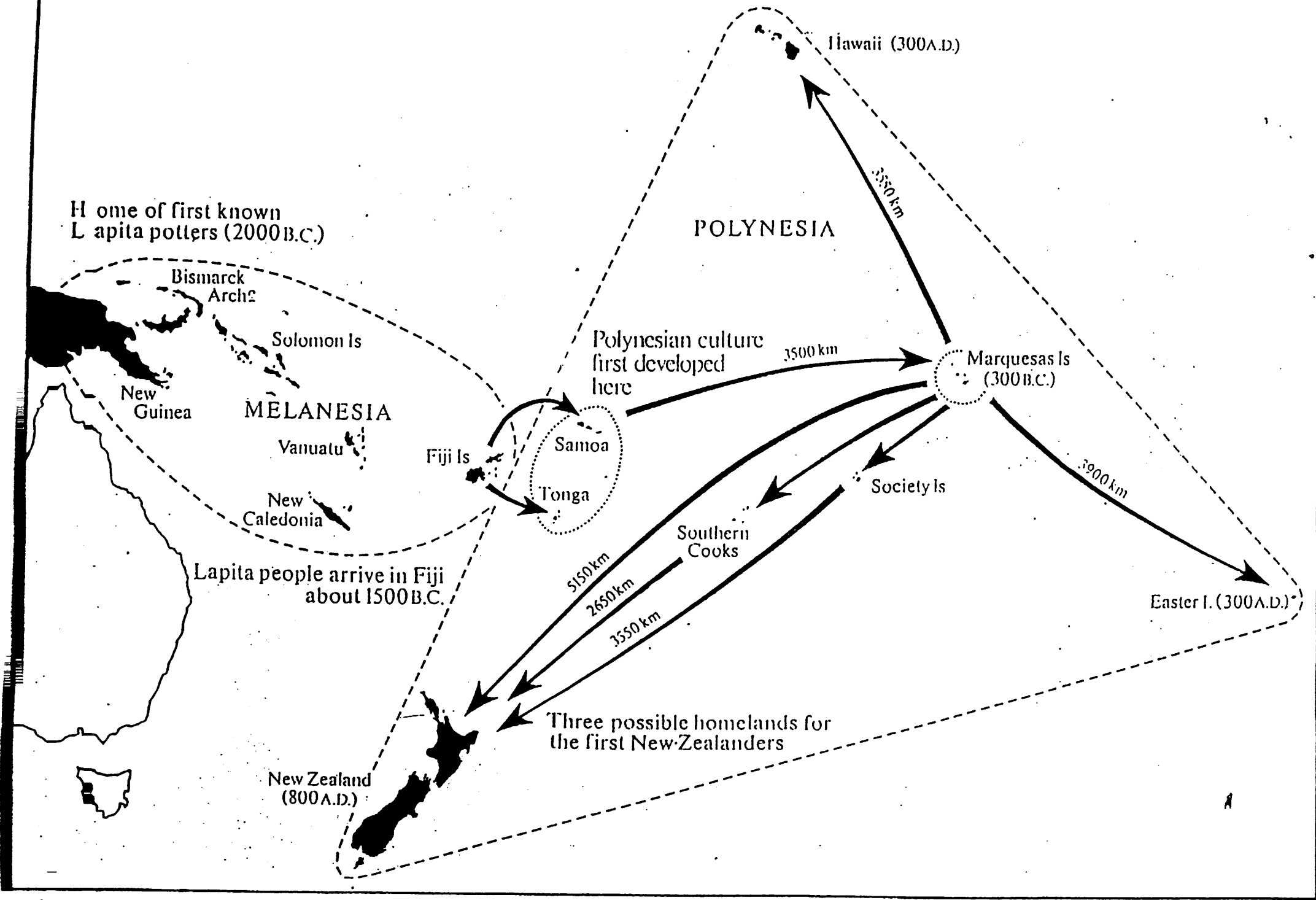
The claimants filed 11 grievances on this purchase. The first concerned the impact of the Wairau purchase, negotiated by Grey with Ngati Toa the previous year. It was claimed that by including Kaiapoi in this purchase, Ngai Tahu were forced to part with Kemp's block on unfavourable terms (no 1). The next grievance alleged that the Crown failed to provide ample reserves for their present and future needs and that their mahinga kai were not reserved (no 2). They complained that a block between the Waimakariri and Kowhai Rivers was not reserved to them (no 3). The Crown, they alleged, imposed an interpretation of the boundaries of the block which went well beyond what Ngai Tahu are said to have agreed to (no 4). The claimants argued that Ngai Tahu agreed to sell only the plains to the foothills, and not over to the west coast. They also claimed that the eastern boundary of the block excluded Kaitorete and much of Waihora (Lake Ellesmere). Several ordinances or enactments were also the subject of complaint. These included the New Zealand Company Land Claims Ordinance (1851) (no 5), the Canterbury Association Amendment Act 1851 (no 6), the Native Land Act 1865 (no 7) and the Ngaitahu Reference Validation Act 1868 (no 8). They also complained that while Europeans were granted lands under the Lands for Settlements Acts, the Crown failed to do the same for Ngai Tahu (no 10) and finally, that when the Crown provided lands for Ngai Tahu under the South Island Landless Natives Act 1906, these were not in Kemp's block and were much inferior to those provided to Europeans (no 11). This last grievance is dealt with in a later section of the report (20.7.1-3).

North Island land in
Maori ownership
1860...

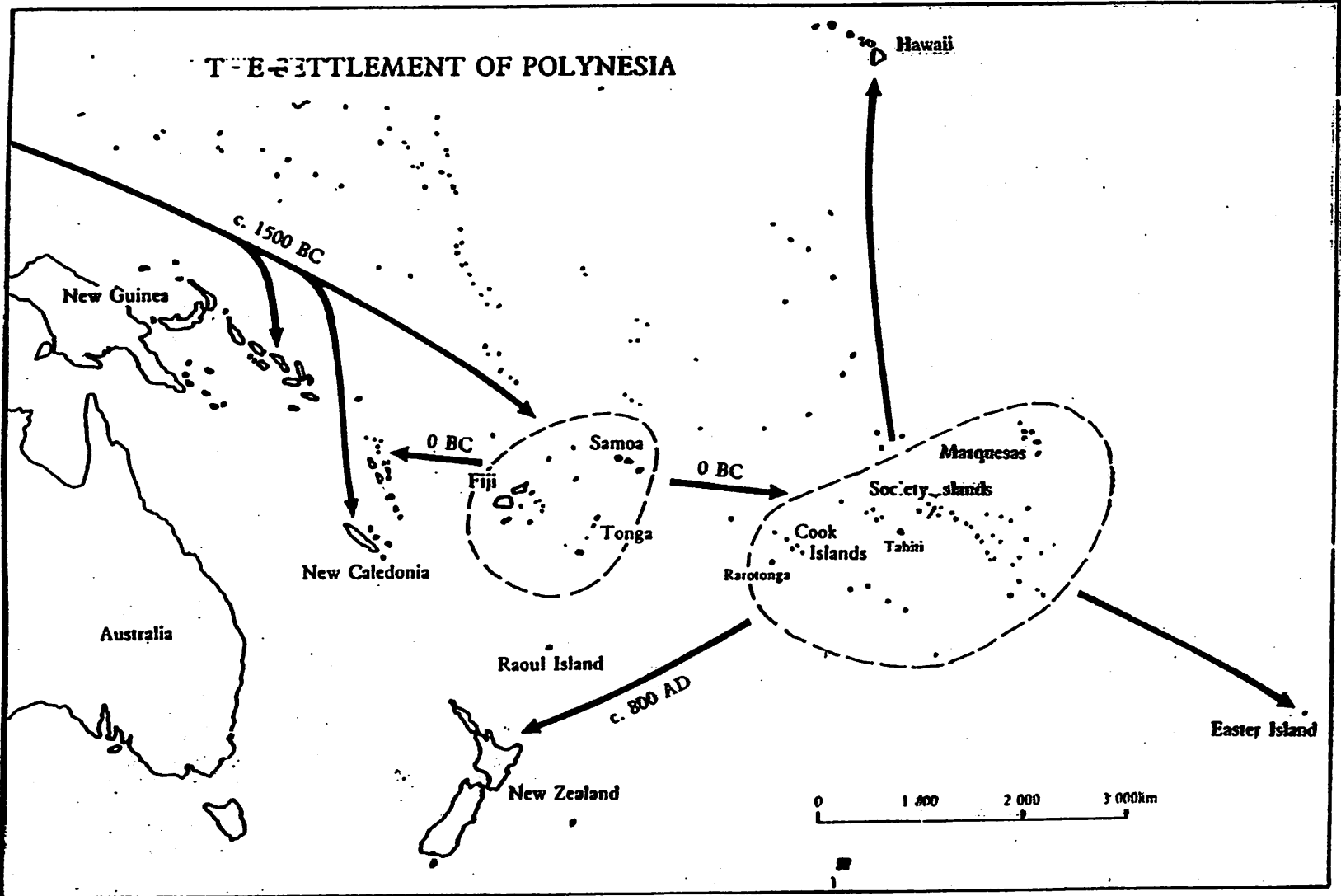


...1960

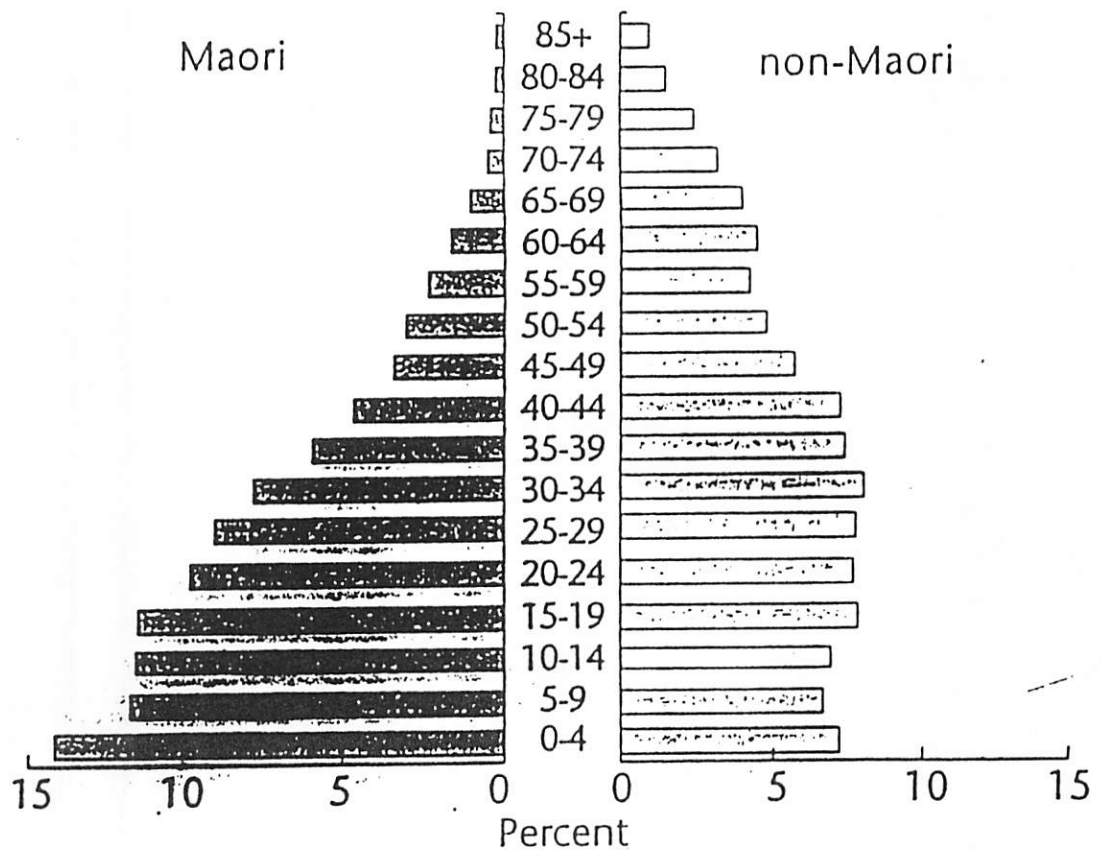




THE SETTLEMENT OF POLYNESIA



Maori and non-Maori in Aotearoa New Zealand, 1991
Age Distribution of New Zealand Population, 1991

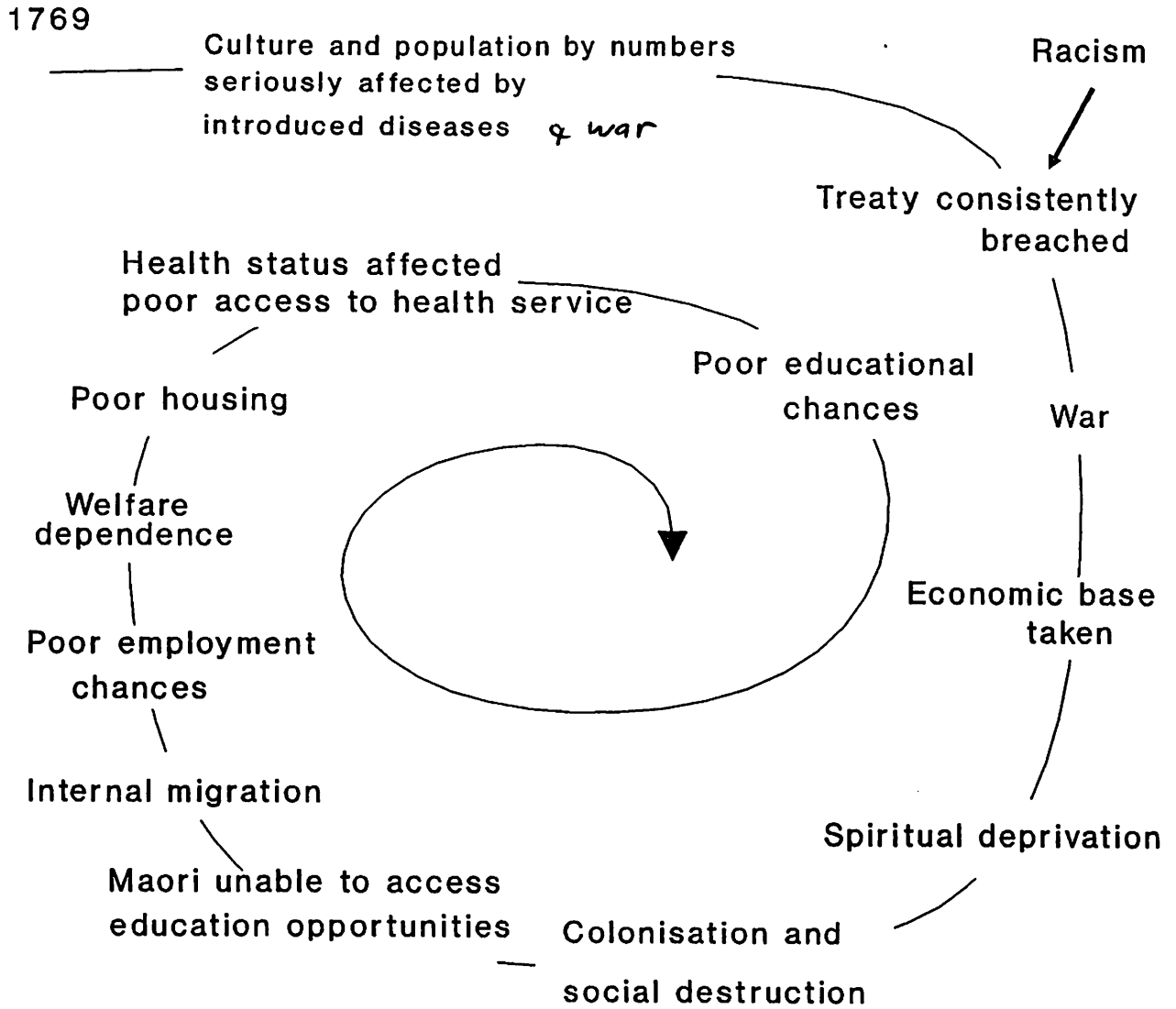


Mixed Origin population

Source: Statistics New Zealand, 1991 Census



Poverty Spiral - Maori



From **Lame DUCK** TO **TOOTHLESS** **TIGER**

The Waitangi Tribunal is hailed as the institution to settle Maori grievances against the government, but the government has been whittling away the Tribunal's powers. Jane Kelsey, an Auckland law lecturer, explains what's been going on.

For seven years after its creation in 1975, the Waitangi Tribunal was a lame duck.

Then, the Motunui claim in 1982 brought it to life. Under the inspirational guidance of Chief Judge Edward Durie, doing justice to the claimants took priority over technical legal arguments.

Knowledge of kaumatua was valued ahead of Pakeha historians and experts. Sterile legal procedures gave way to marae kawa. Claimants were encouraged to take part, and the Tribunal explored and backed Maori views on the Treaty. But the Tribunal lacked the personnel, resources and powers to do the job properly.

In February 1984, as the Hikoi descended on Waitangi, Geoffrey Palmer promised that a future Labour Government would extend the Tribunal's powers back to 1840, expand its membership, and increase its resources.

Many Maori and some Pakeha applauded. At last, justice might be done under the Treaty. Others wondered whether this would end up as yet another broken promise.

By the late 1980s, these fears were proving right. The Tribunal was being pressured from within and without. It became increasingly legalistic, bureaucratic and Pakeha-dominated.

Its new power to make binding recommendations on state-owned enterprise land raised the stakes enormously. Government and bureaucracy tightened their grip, and the Tribunal shifted further away from Maori influence.

The Tribunal was still overloaded and under-resourced. Lack of funds made it hard for the members to complete reports. There were constant public attacks by politicians, vested interests and the

media - and there were threats to have its procedure and findings reviewed in higher courts.

Those courts made their view clear. The Tribunal is not a proper court, and judges will decide how much weight to give to its reports.

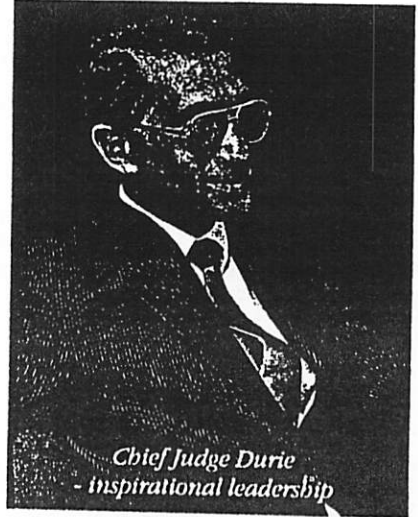
There were tensions over how far the Tribunal should compromise. As the government moved more and more towards direct negotiations, the Tribunal stepped back from making specific recommendations. It said it would limit itself to fact-finding and upholding or rejecting claims.

By 1990, the Tribunal seemed paralysed. Except for a mediated claim over the Waitomo Caves (to clear the way for the Tourist Hotel Corporation sale), no major reports were released for two years between August 1988 and the October 1990 election. There was speculation that the massive Ngai Tahu report was being held back to avoid pre-election fallout. In fact, it was released shortly after the election.

Labour seemed happy with how things stood. The Tribunal allowed Maori to air their grievances and the Government had no obligation to act. But costs, delays, bureaucracy, and the lack of Government commitment to carrying out the recommendations were making claimants unhappy.

Under National, the Tribunal has struggled to survive. It has always been attacked by Pakeha, who saw it as pro-Maori. But Maori criticisms were also mounting. The Tribunal tried to respond in its report on Te Roroa.

Its recommendation that the Crown should 'use its best endeavours' to secure land currently held by Pakeha farmers and return it to the claimants, caused an uproar. The debate was



mischievous and inaccurate. The report on Ngai Tahu fisheries added fuel to the fire. Some critics wanted the Tribunal abandoned. Others wanted its powers curbed.

The message was clear. The Tribunal was expected to show restraint or the Government would make sure it did. This year, the Government is removing the Tribunal's power to make recommendations relating to privately-owned land. This wasn't legally necessary. But it was what many rural Pakeha voters wanted to hear.

By now it's clear that the Tribunal will never be allowed to complete the task it was established to do. Most of its time is spent on last-minute applications to intercede, usually unsuccessfully, to prevent further sales of state assets, or to settle disputes between claimants themselves.

The Government's latest strategy - to settle all claims over the next five years within a limited budget - sounds the death-knell for the Tribunal as anything more than a back-stop for the government-controlled negotiation process. ■

MANA No 3 August/September 1993.

Waitangi Workshops

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WHAT MAORI MIGHT REASONABLY HAVE EXPECTED TO HAPPEN

- **That they would remain the majority, with an ongoing trickle of migrants rather than a flood;**
- **Limited British settlement areas where British law would apply - Maori in British areas would observe British law;**
- **The bulk of the country still belonging to the tribes, which would rule themselves as they wished, with some Pakeha settlers there by agreement and observing Maori law;**
- **The Queen, though the Governor, controlling the behaviour of Pakeha toward Maori, and fairly mediating/arbitrating between the groups as needed;**
- **Tribes would continue to learn and apply new technology in their own ways, with tribal enterprise and Pakeha enterprise developing alongside each other; with Maori well able to compete and to supply many Pakeha and export needs.**

WHAT MAORI PROMISED AND WERE PROMISED

In te Tiriti o Waitangi which they were offered and signed:

- A governor (whose purpose, according to the preamble, would be to carry out the Queen's wish to preserve for the chiefs and hapu their chieftainship and their land, and to maintain peace with Maori in the face of increasing British settlement);
- Full chieftainship (authority, autonomy etc) over their lands, villages and other taonga (precious things, both tangible and intangible - including language, beliefs, social systems etc, much the same as the broad meaning of culture);
- Land, as the prime economic resource of the country, to be sold only if the owners chose to sell, and at a mutually agreed price;
- Royal protection;
- The same rights as the British who were settling among them.

WHAT MAORI ACTUALLY GOT

- **Sovereignty exercised by and for Pakeha;**
- **An imposed Pakeha government making laws for all without reference either to Te Tiriti or to Maori needs;**
- **The deliberate undermining and destruction of Maori authority and social systems;**
- **Minority status;**
- **Alienation of vast areas of land by confiscation, "agreements" made under duress, and discriminatory laws designed to transfer the land and resources to Pakeha and to deny Maori an effective voice;**
- **Wars of conquest launched against them by governments;**
- **The destruction by these means of Maori enterprise and decision making, and the creation of cycles of dependence and poverty;**
- **Widespread racial discrimination against them.**

IF TREATY HAD BEEN HONOURED

No land wars - no casualties (Waikato - Bay of Plenty).

Prosperous development would have continued as economy moved forward.

Economic base retained. Profitable earnings from supplying settlers needs. Could have been built upon.

Maori could have afforded medical care in Victorian system.

Population would have increased and Maori would have appeared throughout settler culture as merchants, politicians and significant power holders.

Greater representations, negotiation throughout all decision making areas. Education, legal system and health systems would all have been negotiated and would have included the Maori reality as a norm.

**WHAT MIGHT TE TIRITI OF WAITANGI MEAN
FOR NOW AND THE FUTURE?**

- **Self-determination for Maori in specifically Maori matters;**
- **Recognition and support for Maori leadership and structures;**
- **On issues, plans and visions which affect both Maori and Tauwi and where Maori express particular needs or concerns, decisions genuinely negotiated on equal terms;**
- **Return of Crown-controlled resources unjustly alienated from Maori owners and negotiated compensation to Maori for such resources which are no longer in Crown control;**
- **Compensation for past and present dependency, poverty and discrimination by policies aimed at equity, including affirmative action in training, job appointments etc until there is real equity;**
- **Recognition of Maori as tangata whenua, not as one ethnic minority among others, and of Maori language, traditions and beliefs as having a major place in the institutions of Aotearoa/New Zealand.**

MANA TANGATA, MANA WHENUA, MANA WAIRUA

(A People making decisions for themselves, managing their own resources, with their own self-esteem and spiritual identity.)

**The Rowan Partnership
21 November 1990**

Maori Grievances and the Private Land Issue

Following is an extract from the speech given by John Kneebone, a former president of Federated Farmers, at the Federated Farmers annual conference in May. Mr Kneebone was not speaking as a member of the Waitangi Tribunal.

I believe I am here because of your concerns and fears for the security of tenure of the land you farm. I understand and identify with your anxiety, for like you, I and my family are totally dependent on the integrity of the title to the land we farm.

I know that much of your anxiety derives from the recent recommendations made by the Waitangi Tribunal in its Te Roroa report, some of which concerns land in private ownership here in Northland.

I cannot discuss the Te Roroa report because the Tribunal, of which I am a member, is still sitting. However, I do want to talk about the land and about the Tribunal process, the impact of which reaches into every household and affects every citizen.

But before I start, it might be helpful if we all take a deep breath, stand back a pace or two from the action, and ask the simple question – what are the facts? Facts, as you know, very rapidly prove to be elusive. We are left in most situations with often conflicting evidence. It is very important that we remind ourselves of that simple truth. For that reason, I'd like you to listen objectively to what I have to say and then stack that up against your set of facts and reach your own independent conclusion.

There is nothing more corrosive to public confidence in a process if the community is left in the dark as to how it works and how it is likely to affect them. For reasons which I cannot explain, better qualified people than I show a profound reluctance to explain fundamental procedures, and in particular the reasons why the Crown will and must guarantee titles it uses to land.

We should remember that any claim is only a claim until it is proven. At the same time, the sooner everyone acknowledges the sanctity of a Crown-guaranteed title and stops scare-mongering and grandstanding for the media, the more expeditiously we can get on with the job of investigating claims.

Once a title is issued by the Crown, it is *guaranteed* by the Crown. If any financiers are, as reported, threatening to retrieve credit advanced and secured to land to which a Crown title has been issued, I can only comment that they must have very scant knowledge of land law, and some pretty unprofessional lending criteria. If any of you are so affected, I suggest you take your business to a financier who understands the business.

Maori land owners are not the only citizens who discover to their horror that the Crown has issued a title and sold land that was not the Crown's to sell. My father fell victim to such human error in the 1960s and it took 11 years of dogged persistence, with absolutely no assistance from the Crown agency responsible, to have the situation rectified. But for the cooperation of the purchaser, who agreed to sell the land back to the Crown, and then on to my father, that case would possibly still be in the 'too hard' basket along with umpteen other claims.

The significance of this is two-fold – no system is infallible; all systems are subject to human error. But because of the down-stream flow-on effect of human

error in the land title issuing business, the issuing authority, always – I repeat always – stands by its action and guarantees that title.

The corollary to this is that the original owner is seriously disadvantaged. Once a title is issued, the integrity of everything that relies on that title – mortgages, family homes, domestic and international commerce – depends entirely on the sanctity of that title.

History tells us that governments for all of the above reasons do not, in fact cannot, renege on a title. If the title is in your name you are secure. If the title is not in your name, even though you may never have agreed to sell, or been paid, you are very insecure. This is the genesis of the greater part of the human unrest we see on our TV screens every night in all regions of the world. A problem as old as civilisation.

The only way such a dilemma can be resolved, if a claim is proven beyond reasonable doubt, is for the title issuing authority, in our case the Crown, to purchase the land back, but the owner *must* be a willing seller. Claimants, be they Pakcha like my father, or Maori, may have the satisfaction of their claim being justified but also have the frustration of waiting decades before the titleholder is willing to sell.

The Tribunal and Maori leadership is on record as having stated repeatedly 'there is no point in resolving one grievance by creating another'. For that reason you will not find the Tribunal making recommendations to the effect that land in private ownership be 'compulsorily' acquired and handed over to claimants where a claim has been proven, because the effect would do just that – create another grievance.

In any dispute resolution process, there are never any winners. Everyone has to compromise and most of us do not find that an easy process. No land owner is immune to an intervention into their land. It is most important to understand that there is much less likelihood of a government intervention to satisfy a Waitangi Tribunal claim than there is from a road re-alignment, an energy transmission route, a riparian strip or the bad luck of having some native trees growing on your property which assume the status of a national shrine.

There have been recent comments that the problem is with the legislation, that the Tribunal shouldn't have the power to make recommendations about land in private ownership. I think that it is neither feasible nor practical to attempt to put the clock back and say Waitangi Tribunal legislation was a mistake. We always knew that the questions being dealt with by the Tribunal were tough ones. That was the reason for establishing the Tribunal in the first place. It's only now, after 17 years, that the Tribunal is starting to hit its straps in response to the elected government's desire to have all claims addressed by the turn of the century, that we have a focusing on these tough questions. Knowing all that, we shouldn't now be surprised at the tough answers needed.

The thing is that these claimants are not foreigners or aliens, but citizens of this country who can trace their ancestry back for generations to establish their residential qualification. The same as most of us can. They are real people, friends, relatives and neighbours, and their grievances are not going to evaporate. After 150 years they haven't evaporated, they are not going to go away. Therefore their grievances must be laid upon the table for all to see.

Treaty Claims and the Conservation Estate

Genuine recognition of the Treaty of Waitangi and the claims which flow from it is a challenge that faces all New Zealand society, environmentalists or not. The principle challenge, of course is to recognise the injustice of past action and the need to settle past grievances in a fair and just manner.

The challenge specifically to conservationists and the environmental movement is to recognise that Maori are not merely another interest group to be consulted, but partners with the Crown through the Treaty. For example, it is for Maori, not the environmental movement, to decide what mechanism (co-management, the kind of representation on official bodies, ownership, etc.) adequately recognises their mana under the Treaty. It means a recognition that where land has been unjustly confiscated or appropriated in the past, returning it to Maori is not a question of privatisation, but rather a question of returning it to its rightful owners.

Like the Crown, this means reviewing our own relationships with iwi in the light of Treaty obligations and in re-examining our strategies for the protection of the environment. As public interest groups, we should ensure that we are consulted on the outline of the Crown's negotiating position. This is part of our role of keeping the Government accountable, but we also need to recognise that the final details of the claim settlement are a matter of negotiation only between the Crown and the claimants.

This may feel to many of us in the environmental movement like a loss of power. But it is also an opportunity. Practices adopted overseas illustrate that there should be no reason to believe that Maori ownership of areas of the conservation estate would be in conflict with conservation principles.

Joint title and co-management, practices which have met both conservationist and indigenous people's concerns in Australia for example need to be explored. In the Northern Territory the Uluru National Park is legally owned by its traditional Aboriginal owners, leased back to the government conservation agency for a period and under conditions agreed by both parties, and managed by a board on which Aboriginal traditional owners, conservation, government and tourism interests are represented and on which Aboriginal people are in a majority. Granting of Aboriginal ownership was and remains conditional upon Aboriginal consent to the existence of a national park on their land.

The benefits to conservation agencies are that there is better access to Aboriginal knowledge of land management; there is assistance in ecological research and interpretive information; and visitor experience of the park is enhanced. There is benefit to the wider community because of the maintenance of Aboriginal culture, employment and management opportunities for Aboriginal

people, and the opportunity for them to participate in mainstream Australian social and economic life while remaining on their traditional lands and engaged in Aboriginal as well as European activities.

In Kakadu National Park, the co-management agreement means the park is again leased back to the governing conservation authority. The Aboriginal owners receive a percentage of park income, and the authority has agreed to promote Aboriginal employment, protect areas of significance and to take steps towards Aboriginal administration, management and control of the park. Aboriginal involvement has also been important in the preservation of species and the collection of information on the behaviour distribution and habitat of species. The Board of the Park includes 10 Aboriginal people nominated by traditional owners, the Director and General Manager of the Conservation Authority, an employee of the Tourist Commission and a person prominent in nature conservation.

In New Zealand, co-management and joint title are concepts which have real potential to contribute to the positive resolution of Maori claims over conservation land. There is no reason to fear these concepts. The present representation of Maori on Conservation Boards moves some way towards co-management and it has not resulted in a massive down-grading of the conservation estate, or restricted public access. Indeed, Maori have frequently been seen as conservation allies.

As conservationists who have fought for and obtained the protection of key parts of the conservation estate, we do not feel at all slighted by the concept of co-management or joint title. In fact, we welcome the opportunity to work in true partnership with tangata whenua on lands of conservation importance.

As New Zealand continues to resolve the injustices of past dealings with Maori and their land, it is inevitable that further claims to conservation estate, both its land and resources, will arise. The problem will not be resolved by conservationists adopting a fearful and defensive attitude towards modern concepts of sharing the mana of ownership and of management. As our Australian conservation colleagues have demonstrated, protection of our wild places is not incompatible with meeting indigenous aspirations. To retain our position as effective defenders of nature we will increasingly require open minds, a commitment to biculturalism and a sense of responsibility to help solve any injustices that the creation of the conservation estate might rest on.

Cindy Kiro - Greenpeace

Annette Lees - Maruia Society

Clive Monds & Susi Newborn - Friends of the Earth

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WHAT CAN WE DO?

AS INDIVIDUALS

- Keep learning about the issues (Mana News at 6.08pm on National Radio, Te Iwi newspaper etc for Maori views, Treaty Times and lots of other places for updates from Pakeha allies, plus many books now) - try to look at issues as a partner and ally for Maori, not as an opponent.
- Check out local issues - try to dig below the surface and the official versions.
- Work at pronouncing Maori personal names and place-names correctly.
- Learn some of the key Maori words that are regularly used in conversation in English or Maori (see appendix in Michael King, Being Pakeha) - not to show off but to understand.
- Try to build contacts with Maori people and attend appropriate Maori occasions in ways that support or assist without taking energy that Maori need for their own people.
- Maintain our own self-respect and integrity, don't allow ourselves to be manipulated by guilt or by others - Maori or Pakeha.
- Find other Pakeha allies, support them and be supported by them - eg Network Waitangi groups (formerly Project Waitangi).
- Look for opportunities to support Maori projects etc., for example by regular automatic payments, however small.
- Recognise that whatever we do will be wrong for someone - let's be open to feedback and learn from it if it's justified - check it out with others.
- Question stereotypes, assumptions etc in ourselves.
- Let other Pakeha know we don't accept their stereotypes, assumptions etc, but without putting them down or trying to convince them - simply being a witness that there are other views is important.
- Don't allow ourselves to be baited into unwinnable arguments
- Ask questions and raise issues.
- Don't speak for Maori or set up as an expert in Maori matters among other Pakeha.
- Concentrate on Maori needs as they see them - try to by-pass our own views, our need to be needed or accepted or influential or in the know.
- If we're told stories that put Maori down or blame them, let's remember that not all Maori have to be saints, that it's easy to find single issues or anecdotes either way, and that we need to keep an eye on the issues that lie under the surface.
- Without trying to copy Maori or coopt Maori culture, look for some of the things we can learn from Maori approaches, for example to grieving, decision-making, group support and accountability - look for the strands in Pakeha culture which match these approaches, or develop new ones.
- If there are demonstrations, marches etc, consider whether we feel able to be there in support - whether to take part (if we are welcome), to be witnesses if needed, or to help with food, child care or whatever else.