

Copyright is owned by the Author of the thesis. Permission is given for a copy to be downloaded by an individual for the purpose of research and private study only. The thesis may not be reproduced elsewhere without the permission of the Author.

THE SEALORD DEAL: A FAILED ATTEMPT AT MODERNISATION

A thesis presented in partial fulfilment of the requirements for the degree of

Master of Philosophy in Development Studies at
Massey University

Evan Paul Moon
1997

ABSTRACT

This theses commences with a review of the salient features of Modernisation Theory , and the way in which this theory can be shaped to apply to the situation of Maori in New Zealand in the 1990s.

The next two chapters look at the history leading up to the Sealord Deal and consider this period of development in conjunction with issues of Maori sovereignty. The focus is on the problematic issues surrounding the definitions of sovereignty, and issues of rights and ownership which flow from these definitions.

Following on from this is a consideration of the Treaty of Waitangi as a reference point for establishing Maori rights to the fisheries, and how the provisions and principles of the Treaty have been applied through the mechanism of the Waitangi Tribunal.

Chapters five and six cover the evolution of the New Zealand fishing industry from the early 1980s up until 1992. Attention is paid in particular to the effect of the substantial restructuring of the fishing industry during this period on Maori participation in commercial fisheries.

The subsequent chapters analyse the content and nature of the Sealord Deal itself, the various responses from Maori and from politicians to the Deal, and consequences which flowed from the settlement. At this juncture, consideration is given to the divisions the Deal fostered among Maori, including the growing distinction between those Maori who identify as iwi Maori - basing their identity on ancestry, and those who perceive themselves as urban Maori - based on their present location.

Finally, this thesis concludes that the Sealord Deal did not only fail to meet the expectations of Maori, but also that it can be seen as a ineffectual

attempt on behalf of the Crown at achieving modernisation. By the end of 1992, most Maori were opposed to the Deal, and five years after the Sealord Deal was passed into law, issues relating to the allocation of benefits from the company have yet to be resolved.

ACKNOWLEDGEMENTS

Several people have provided assistance, in different ways, to enable the completion of this thesis. In particular, I am extremely appreciative for support and patience of my supervisor, Barbara Nowak, who provided careful and constructive criticism throughout the time I was working on this thesis.

Thanks are also due to Jim Nicholls, who was patient enough to listen to ideas and openly shared his own considerable knowledge on matters relating to Maori fisheries.

For the sake of discretion, some of those who offered information relating to the content of this thesis and who assisted in verifying certain facts will remain nameless, but their willingness to share material and ideas that may otherwise have been unavailable has made a valuable contribution to the content of this work

TABLE OF CONTENTS

Abstract	ii
Acknowledgements	iv
Table of Contents	v
Introduction	1
1 Theoretical Framework	5
A. Smelser, Rostow, and Hoselitz on Traditional Societies	5
B. The Nature of Transition to a Modern Industrial State	9
(a) Political Evolution	11
(b) Developments in the Educational Sphere	12
(c) Changes in Family and Community	13
C. The Product of Modernisation	15
(a) Responding to the Dislocation of Modernisation	16
D. Modernisation in Colonial Societies	17
(a) Colonial Economies	18
(b) Changes in Indigenous Society	19
(c) Requirements for Sustained Economic Growth	20
E. Conclusion	22
2 Maori Sovereignty and Concepts of the State	23
A. Introduction	23
B. Towards a Definition of Sovereignty	25
C. The Foundations of Sovereignty in New Zealand	26
(a) Concepts of Statehood and British Expansionism	26
(b) Maori 'Statehood'	33
D. The Existence of a Maori Legal System	38
E. Hierarchies of Sovereignty	41
(a) Level One	41
(b) Level Two	42
(c) Level Three	44
(d) Level Four	44
(e) Further Variations	45
F. Conclusion	46
3 The Historical Backdrop	48
A. Te Tiriti o te Moana - The Gift of the Sea	48
B. The Importance of the Maori Understanding of Land	53
C. Early European Observations	56
4 The Treaty of Waitangi	60
A. The Text and Legality of the Treaty	60

B.	Maori Perception of the Treaty	65
C.	The Relevance of a Written Document to Maori	66
D.	The Maori Belief in the Treaty as a Legal Document	68
E.	Maori Understanding of the Treaty's Provisions in 1840	72
F.	Maori Non-Signatories to the Treaty	75
G.	The Treaty and its Relevance to Maori Fishing Rights	79
H.	The Waitangi Tribunal	87
5	The Evolution of the New Zealand Fishing Industry	91
A.	The Fishing Industry prior to 1980	91
B.	Maori Involvement in the Fishing Industry	94
C.	The Restructuring of the Industry	99
D.	The 1984 Treaty of Waitangi National Hui	107
E.	The Fisheries Amendment Act 1986	109
F.	Motonui-Waitara and Muriwhenua	111
G.	The Maori Fisheries Act 1989	112
6	The Build-Up to the Deal: 1990 -1992	115
A.	Customary Fishing Rights	115
B.	Commercial Fishing Rights	116
C.	National's Policy Stance	120
D.	The Ngai Tahu Fisheries Case	121
7	The Sealord Deal	134
A.	Sealord Products Limited	134
B.	The Metamorphosis of the Maori Initiative	138
C.	The Ngai Tahu Sea Fisheries Report Released	143
D.	The Deed of Settlement	145
E.	The Grasp for a Mandate	150
F.	The Proposed Transaction	157
8	Aftershocks	159
A.	The Escalation of Concern	159
B.	Political Posturing	162
C.	The Deal Challenged	166
D.	The Waitangi Tribunal's Assessment of the Deal	169
E.	The Sealord Deal in Parliament	174
F.	International Escalation	180
9	The Implementation of the Settlement	185
A.	The Final Word from the Government	185
B.	The Operational Aspects of the Settlement	186
C.	The Decision on Allocation	189
D.	A Temporary Truce but no Solution	191
E.	The Development of an Allocation Policy	197
F.	The 1994 Hui at Orakei Marae	200

Conclusion	211
A. A Failed Attempt at Modernisation	211
B. An Uncertain Future	213
Glossary	217
Appendices	218
1. The Treaty of Waitangi	218
2. The Memorandum of Understanding	222
3. The Deed of Settlement	225
Bibliography	240
A. Books, Articles and Press Releases	240
B. Waitangi Tribunal Reports - Department of Justice	249
C. Legislation	250
D. Newspaper Articles	251
E. Letters	253
F. Speeches	254

LIST OF TABLES

Table 1	Growth in New Zealand's Fishing Industry, 1975 - 1986.	94
Table 2	Sealord's Markets for 1991 - 1992 Fishing Year.	135
Table 3	Sealord's Quota Holdings for 1992 - 1993 Fishing Year.	136
Table 4	The Financial Position of Sealord Products Limited	137
Table 5	Comparison of Sale Alternatives	158

LIST OF FIGURES

Figure 1	The Fisheries Commission's Interests	199
Figure 2	Total Assets of te Ohu Kai Moana	200

INTRODUCTION

One of the long-standing issues which have continued to nag successive New Zealand Governments is the settlement of claims made by Maori under the provisions and principles Treaty of Waitangi. Throughout the 1980s in particular, the increasing pressure from various sectors of the Maori community, the Waitangi Tribunal, universities, together with undercurrents of support from other groups in the country led to the Governments of the time resolving that something should be done, which by 1990 had evolved to something should be done once and for all.

With little precedent for large-scale solutions in this area, innovative responses were required. However, the opportunity for innovation in this context contained within it the prospect of private sector involvement where cultural imperatives could easily be sunk by profit motives. Thus, the Government's opportunity for innovation soon turned into the need for an escape route in the face of heightened expectations from those seeking restitution for past injustices perpetrated or sanctioned by the Crown. Allied to this theme of reparation was the broader issue of 150 years of increasing alienation of Maori resources which precluded Maori from the opportunity of participating in the development of these resources and the readjustment in attitudes towards these resources (from a traditional view to a modern capitalist one).

Just when it appeared as though an opportunity had opened up for Maori to have some of the fisheries resource returned to them, through an arrangement which became commonly known as the Sealord Deal, the predominantly Pakeha legislature apparently discovered that Maori are just as pluralistic as any other people. Consequently, the Government found

itself alternatively winning praise and receiving condemnation from various sectors of the Maori community.

Although the initial impetus for the Sealord Deal came from a recognition of the guarantees contained in the Treaty of Waitangi, by the time the Deal was concluded, it was clear that other interests had taken over - based on imperatives far less noble. The Maori community as a whole was split into two broad groups: those who thought that the Deal was 'better than nothing' and would go some way towards improving the socio-economic predicament of the Maori, and the other group, initially a small minority, who believed that the whole Deal was a violation of the Treaty of Waitangi and the traditional Maori world view (*te Ao Maori*), and was 'selling the Maori short' of what was rightfully one of their largest, and potentially most lucrative possessions as well as violating the spiritual elements of the resources in question.

Central to this analysis is the application of Modernisation theory to the Sealord Deal. The concepts of a traditional society, or a traditional group within society, undergoing an economic transition which has cultural and social as well as just economic implications, fit closely with the developments in the Deal.

In its broader context, the Sealord Deal was an initiative which necessarily involved a process of modernisation among iwi, the consequences effects of which would require not only economic reorganisation, but also, a redefinition of the attitudes towards traditional resources and their management. The tacit application of modernisation theory (along with some of its false premises) by the Crown seems to have been an underlying necessity for the full implementation of the fisheries settlement within what

amounts to the Maori nation (that is, the collection of iwi involved in the deal, in whatever capacity, representing the approximately 70 per cent of Maori who identify themselves with a particular iwi). The Sealord Deal became the device which, as part of a modernisation process, both developed and supplanted the traditional Maori approach to the fisheries resource.

There are also other strands of readjustment and modernisation running through the transitional requirement of the fisheries settlement. There is the enforced trend (enforced particularly by patterns of Maori urbanisation) for Maori to move from a regional based people, founded on hapu and iwi systems of social organisation, to a national unit, administered (in the case of the fisheries resource) by a centralised, Crown-appointed body which bypasses tribal delineations.

The confusion, divergence of opinions, and eventual stalemate over the Sealord Deal reflects these internal structural and moral struggles that Maori and the Government experienced. The Deal brought Maori in face-to-face contact with issues of development which up until that time they had, in a general sense, not encountered.

Viewed in this light, the Sealord Deal was not an isolated policy initiative of the 1990 National Government, but part of a larger and much longer process of modernisation affecting Maori. Indeed, the Sealord Deal was consistent with the 'Fiscal Envelope' policy of the 1990 National Government - a policy that persisted despite a majority of Maori eventually opposing it.

Many aspects of Modernisation theory, including different patterns of growth among the indigenous and the dominant (colonial) sectors of the community, the unevenness of these patterns of growth, the transformation of indigenous social institutions, and problems of social and economic dislocation, among many other features, were mirrored in the formation and workings of the Sealord Deal, and make it a useful case study in a failed attempt at Modernisation.