

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 Paradox of Maori Privilege: Historical Constructions of Maori Privilege circa 1769 to 1940.

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

Doctor of Philosophy

at Massey University, Manawatu, New Zealand.

Peter N. Meihana

2015

ABSTRACT

~

Today Maori are thought, by some, to be a privileged people. Not only are they considered to have been treated better than other Native peoples, it is also argued that they receive benefits that other New Zealanders do not. This thesis explores the 'idea' of Maori privilege. It argues that the notion of Maori privilege is not limited to the late twentieth and early twenty-first centuries; rather, it has a 'venerable' history the origins of which can be dated back to the eighteenth-century. The main argument of the thesis is that the notion of Maori privilege was central to colonisation in New Zealand.

The thesis focuses primarily on the period between 1769 and 1940. It identifies significant points in the development of the concept of Maori privilege, beginning with the arrival of James Cook in 1769. As a result of the Cook voyages Maori were again made known to Europe through their incorporation into European systems of knowledge. Consequently, Maori were 'intellectually' privileged, that is, they were deemed to be a certain type of savage, one worthy of protection. The Treaty of Waitangi was also widely cited as an important example of Maori privilege. For Britain, the treaty was, first and foremost, the means by which it acquired sovereignty over New Zealand and its people. It was reasoned that with colonisation taking place Maori interests would be best protected under English law; moreover, it was only by relinquishing their sovereignty that they could enjoy such a 'privilege'.

From 1840 the Crown looked to discharge its Treaty of Waitangi obligations. This thesis is primarily concerned with the way in which the Crown implemented article three, under which Maori were afforded the rights and privileges of British subjects. While given less prominence in scholarly analyses of the treaty than articles one and two, it was article three that increasingly framed the Crown's native policy. In the 100 years following the signing of the treaty, Government policies swung between extending 'royal protection' to Maori, while purportedly ensuring they received the 'rights and privileges of British subjects'.

The thesis divides Maori privilege into two interconnected categories. 'Official' privilege refers to Crown policy or initiatives that ostensibly protected Maori. The

second category, 'populist' privilege, refers to the discourse which framed any protective measures as unreasonably granting Maori rights over and above those afforded to European settlers. Furthermore, 'populist' privilege asserted that Crown initiatives aimed at protecting Maori, were, in fact, disadvantageous to them because their interests, so it was held, were best served through their adoption of European customs, laws and beliefs.

No matter the policy of the day it was framed as a 'privilege'. As this thesis will demonstrate, however, policies that purported to protect Maori still resulted in the alienation of their lands and their political and economic marginalisation. Even the very limited gains Maori may occasionally have secured elicited claims of 'populist' privilege and further contributed to Maori loss. Despite this, the view that Maori were an especially privileged people was, by 1940, deeply entrenched.

ACKNOWLEDGEMENTS

~

I began this thesis in 2008—it is with great satisfaction that I am now able to express my gratitude to those people who have assisted me over the last six-and-half years. I would like to thank my supervisors, Dr Geoff Watson and Professor Michael Belgrave. I have appreciated their professionalism and the pragmatic way in which they have approached the task. I would also like to thank my colleagues in the School of Humanities, and in particular, Associate Professor Kerry Taylor, for allowing me the opportunity to participate in the life of the School. This certainly enriched the doctoral experience.

During the writing of the thesis I discussed my ideas with numerous people, both within and outside of Massey University. Te Pouhere Korero (The Maori Historians Group), the Massey University New Zealand History Group, Te Ata Kura, Te Runanga o Ngati Kuia, and many of my fellow tribespeople, were all extremely generous with their time.

Doctoral study can be an all encompassing activity, and one that can create gaps in other aspects of life. To those family members who took up the ‘slack’, my pah people, the Pinkers, and especially Rina, a sincere thanks to you.

During the early stages of the thesis I received scholarships from Nga Pae o te Maramatanga and Te Mata o Te Tau for which I am grateful. Lastly, I would like to thank Tina Sheehan for her assistance in formatting the thesis.

Peter N. Meihana

June 2015

CONTENTS



	Page
ABSTRACT	i–ii
ACKNOWLEDGEMENTS	iii
TABLE OF CONTENTS	iv–v
ABBREVIATIONS	vi
INTRODUCTION	1
	2
The ‘idea’ of Maori Privilege	2
The Rise of ‘Anti-Treatyism’	11
Locating the ‘idea’ of Maori Privilege	16
CHAPTER ONE	36
Maori Privilege: the pre-History	36
Part I: ‘Knowing’ the Natives	37
Part II: Identifying the Dots	45
Part III: Joining the Dots	53
CHAPTER TWO	61
Privileged by Britishness	61
Part I: Privilege in the ‘Fragment’	62
Part II: Rhetoric of Obligation	73
Part III: Rhetoric of Benevolence	81
CHAPTER THREE	90
Privileged by Treaty	90
Part I: Addressing some Myths	91
Part II: The Privilege of British Sovereignty	95
Part III: Privilege in Practice	109
CHAPTER FOUR	120
Article Three Fulfilled?	120
Part I: The Privilege of Protection	121

	Part II: The Privilege of Private Property, 1852–1860	128
	Part III: The Privilege of War	132
	Part IV: The Privilege of Private Property, 1861–1865	135
	Part V: The Privilege of Citizenship	140
CHAPTER FIVE	The Privilege of Petitioning	148
	Part I: The Right to Petition	149
	Part II: Privilege and Paradox — The Privilege	151
	Part III: Privilege and Paradox — The Paradox	161
CHAPTER SIX	The Most Privileged People of All?	175
	Part I: The Privilege of Protection: from chaos to order	177
	Part II: The Privilege of Leasing	179
	Part III: Towards the Privilege of Free Trade	188
	Part IV: The Politics of Privilege	197
	Part V: The Privilege of Paternalism	200
CHAPTER SEVEN	Writing Privilege into History	207
	Part I: Making Privilege	208
	Part II: Using Privilege	217
	Part III: Celebrating 100 years of Privilege	224
CONCLUSION & EPILOGUE	Privilege Without End	230
	Part I: 200 Years of Maori Privilege	232
	Part II: Consolidating the Gains	238
BIBLIOGRAPHY		254

ABBREVIATIONS



AJHR	Appendices to the Journals of the House of Representatives
BPP	British Parliamentary Papers
DNZB	Dictionary of New Zealand Biography
JPS	Journal of the Polynesian Society
NZJH	New Zealand Journal of History
NZPD	New Zealand Parliamentary Debates

INTRODUCTION

~

It is difficult to say exactly when the idea for this thesis first took root; indeed, there are a number of events, incidents, and issues that have lent some impetus to a study of Maori 'privilege'. Most immediately, my involvement in the settlement of Ngati Kuia's Treaty of Waitangi Claim,¹ and, researching Ngati Kuia's connection to the Foreshore and Seabed Claim² raised questions about Maori privilege. Taking a slightly longer view, the early 1990s generated an interest in Maori-Crown relations generally. The Crown's Fiscal Envelope policy, the 'Sealords Deal', 'Moutoa Gardens', the chainsaw attack on One Tree Hill, and, the release of the movie 'Once Were Warriors' all coincided with my exposure to academic critiques of colonisation. These alternative accounts included Ranginui Walker's *Ka Whawhai Tonu Matou: Struggle without End*³ and Donna Awatere's *Maori Sovereignty*.⁴ Both helped explain what was then taking place, and for me, then an undergraduate student, brought claims of Maori privilege to the fore.

My interest in Maori privilege was also sparked by the 1995 publication of Stuart C. Scott's *Travesty of the Treaty*.⁵ Scott's book was not insignificant, indeed, within one year of publication *Travesty* had sold 18,000 copies in six print runs and was the subject of an episode of the current affairs show 60 Minutes.⁶ Scott wrote that 'the British treated the Maoris as gentlemen, in stark contrast to the treatment meted out to, say, the North American Indians or the Australian Aborigines'.⁷ Scott further wrote:

That the whole "pro-Maori" programme, beginning in 1975 and involving huge gifts and awards to Maori people, has been carried out by successive governments

¹ Wai 785: Te Tau Ihu (Northern South Island) Inquiry; Ngati Kuia Claim Wai 561.

² Peter Meihana, 'From Anakoha to New York: The Genesis of the Foreshore and Seabed Claim and the Marginalisation of Ngati Kuia', M.A. Thesis, Massey University, 2004.

³ Ranginui Walker, *Ka Whawhai Tonu Matou-Struggle Without End*, 2nd Edition, North Shore: Penguin Books, 2004. (First Published 1990)

⁴ Donna Awatere, *Maori Sovereignty*, Auckland: Broadsheet, 1984.

⁵ Stuart C. Scott, *Travesty of the Treaty*, Dunedin: The Campbell Press, 1995.

⁶ Stuart C. Scott, *Travesty after Travesty*, Christchurch: Certes Press, 1996, p. 8.

⁷ Stuart C. Scott, *Travesty of the Treaty-Towards Anarchy*, p.149.

without any reference to, or mandate from, the people of New Zealand generally, who are called upon to pay for this munificence.⁸

According to Scott, ‘all awards and gifts to the Maori represent money for nothing’.⁹ Before all of this, however, I was well aware that many in New Zealand held the view that Maori were in some way privileged, a view that did not correspond with my own life experience. Thus, the question of why Maori ‘privilege’ continues as a dominant feature in discussions about colonisation and race-relations in New Zealand, and what it has meant for Maori in practical terms seemed worthy of further examination.

The ‘idea’ of Maori Privilege

This thesis approaches Maori privilege from a position quite different to Scott and others, for whom it is an indisputable fact. Unlike Scott, the thesis takes as its starting point the proposition that Maori privilege is simply an ‘idea’—‘a thought, a theory; a way of thinking’.¹⁰ ‘Ideas’, according to James Donald and Stuart Hall, have ‘social roots and perform a social function’. They influence the way we think, they help ‘to explain, figure out, make sense of or give meaning to the social and political world’. Furthermore, ‘ideas do not occur, in social thought, one by one, in an isolated form’, rather, ‘they contract links between one another’. That is to say, our perceptions are structured according to the ideas we use to interpret the world. Donald and Hall thus argue that ‘social and political thought is not as open-minded, free-ranging, spontaneous and self-generated as we imagine’.¹¹ The approach taken in this thesis, then, is to treat Maori ‘privilege’ as an ‘idea’, something to be scrutinised.

⁸ Scott, *Travesty of the Treaty*, p. 155.

⁹ Scott, *Travesty of the Treaty*, p. 155.

¹⁰ *Oxford English Dictionary Online*, Oxford University Press: March 2014, <http://www.oed.com/view/Entry/90954?rskey=E3QU6o&result=1><http://www.oed.com/view/Entry/90954?rskey=E3QU6o&result=1>, retrieved 5/7/2014

¹¹ James Donald and Stuart Hall ed., *Politics and Ideology*, Open University Press: Milton Keynes, 1986, pp. ix–x.

What is meant by ‘privilege’? A common understanding of the term denotes ‘a right, advantage, or immunity granted to or enjoyed by an individual, corporation of individuals, etc., beyond the usual rights or advantages of others’. It can also refer to ‘an exemption from a normal duty, liability, etc’.¹² In their examination of how ‘privilege’ has been used in academic literature, Linda L. Black and David Stone note that the concept consists of five core components: ‘privilege is a special advantage; it is neither common nor universal’; ‘it is granted, not earned or brought into being by one’s individual effort or talent’; ‘privilege is a right or entitlement that is related to preferred status or rank’; ‘privilege is exercised for the benefit of the recipient and to the exclusion of others’; and, ‘a privileged status is often outside of the awareness of the person possessing it’.¹³

The Treaty of Waitangi also makes reference to certain ‘rights’ and ‘privileges’. In North America terms such as ‘rights’, ‘privileges’, ‘freedoms’, ‘liberties’, and ‘immunities’ had, by 1840, been in use for some time, and were often used interchangeably. In some instances ‘privileges’ replaced the term ‘immunities’ while ‘freedom’ sometimes replaced ‘franchise’. In 1689 the ‘rights and liberties’ of English subjects were declared in the Bill of Rights, though the source of these ‘rights and liberties’ is generally considered to be the Magna Carta of 1215. At this time the Magna Carta was concerned principally with feudal land tenure and the rights of the Barons; however, it was subsequently reissued and reinterpreted with more importance being placed on the rights of all English subjects. Over time the guarantee to property, liberty, and the security of life came to represent the essence of British subject hood.¹⁴

How are we to understand what was intended at 1840 when the ‘rights and privileges of British subjects’ were conferred on Maori? A recent study has considered the perspectives and intentions of those who framed the English text of the treaty; this included not only those on the ground who signed on behalf of the Crown, but

¹² *Oxford English Dictionary Online*, Oxford University Press: September 2015: <http://www.oed.com/view/Entry/151624?rskey=S1iONV&result=1> (accessed October 13, 2015).

¹³ Linda L. Black and David Stone, ‘Expanding the Definition of Privilege: The Concept of Social Privilege’, *Journal of Multicultural Counseling and Development*, vol. 33, October, 2005, pp. 243–255.

¹⁴ B.H. McPherson, *The Reception of English Law Abroad*, Brisbane: Supreme Court of Queensland Library, 2007, pp. 206–209.

officials in Sydney and London also.¹⁵ The phrase itself—‘rights and privileges of British subjects’—was not unique to article three; indeed, a 1825 agreement between Britain and the monarchs of Sherbro and Ya Comba (Sierra Leone) included such a passage,¹⁶ and similar language was deployed by Edward Gibbon Wakefield and the New Zealand Association.¹⁷ Although there has been little scholarship that has addressed exactly what such ‘rights’ and ‘privileges’ comprised, the view generally held is that the third article extended to Maori the benefits that came with the application of English law and that article three affirmed the policy goal of amalgamation.¹⁸ All of this must be taken into account when the considering the ‘idea’ of Maori privilege.

Another notion of privilege, central to this thesis, is what I have termed ‘intellectual’ privilege. Beginning in 1769 with the Cook expeditions Maori were incorporated into various schemes of progress and racial hierarchies. Having been rationally assessed as exhibiting certain civilised traits, Maori were deemed to be a superior savage. This ‘intellectual’ privileging of Maori was the first phase in the conceptual development of Maori privilege discourse; 1840, marks the beginning of phase two. By this time Maori were not only thought to be a superior savage, they were also deemed worthy of saving. Indeed, this was an argument put forward to justify Britain’s annexation of New Zealand.

With the promise of ‘royal protection’ and the ‘rights and privileges of British subjects’ the Treaty of Waitangi reflected Britain’s concern for Maori; the treaty can also be seen as a fulcrum between the intellectual privileging of Maori that had occurred since Cook and the privileges that would arise out of the Crown’s treaty obligations. The treaty was viewed as something unique in the history of race relations and in subsequent historical accounts was framed as an act of benevolence. Others, however, at the time and since, have argued that certain aspects of policy privileged Maori over other New Zealanders. Nevertheless, by 1940 the treaty was

¹⁵ Ned Fletcher, ‘A Praiseworthy Device For Amusing And Pacifying Savages? What the Framers Meant by the English Text of the Treaty of Waitangi’, Doctoral Thesis, University of Auckland, 2014, pp. xi-xii, p. 1033

¹⁶ Fletcher, ‘A Praiseworthy Device For Amusing And Pacifying Savages?’ p. 60, p. 1029.

¹⁷ Fletcher, ‘A Praiseworthy Device For Amusing And Pacifying Savages?’ p.580, p. 582, p. 1029

¹⁸ Fletcher, ‘A Praiseworthy Device For Amusing And Pacifying Savages?’ p. 129–130.

held to be the cornerstone of New Zealand's exceptional race-relations, and the belief that Maori were a privileged people was firmly entrenched in the national mythology.

Although this thesis examines the period from 1769 to 1940, much of its focus is on the one hundred years from 1840 to 1940. The nexus between Maori, settler, and the Crown during this time was the land. However, and although not insignificant, article two and its land guarantee are not the primary concerns here. Rather, attention is centred largely on article three, as it was the third article that ultimately framed policy and native land law. In order to understand how the different notions of privilege interacted to influence policy it is useful to identify the relevant sources and examine the assumptions that underpin them. By way of arranging the various sources I have made an analytical distinction between what I have termed 'official' and 'populist' forms of privilege. The argument I want to make here is that 'official' privilege(s) are always subject to claims of 'populist' privilege.

'Official' privilege refers to laws, institutions, and policies that purportedly protect Maori interests. Claims and assertions of 'official' privilege are predicated on the assumption that Maori have been especially well treated, particularly when compared to other Native peoples. Principally the reserve of the Crown, the imperial government, the settler parliament, and their respective officials, sources of 'official' privilege include: Acts of parliament; proclamations; parliamentary speeches; reports of commissions of inquiry; and national literature. It will become apparent that what were often framed as 'privileges' were essentially 'rights' that all British subjects in New Zealand had, if they met the prescribed criteria.

'Populist' privilege refers to the claims and assertions that arise in response to 'official' privilege, and in particular, any Crown policy, action, or institution that restricted settler access to Maori land and resources, e.g. the Protectorate of Aborigines or leasing. Colonial newspapers, parliamentary speeches, especially by members outside government, and evidence presented before commissions of inquiry often contained expressions of 'populist' privilege. As Tony Ballantyne has noted, 'writing was a central element of colonial political culture, and political opinion was

articulated through and shaped by letters to the editor, private correspondence, sermons, committee meetings and pamphlets'.¹⁹

A central argument of this thesis is that Maori 'privilege' has a long and enduring history. The assertions, claims, and arguments put forward by Scott and other anti-Treatyists, demonstrates that Maori privilege still resonates in the twenty-first century.²⁰ The thesis also argues that regardless of the position Maori held, whether they were demographically and militarily powerful, as was the case at 1840, or whether their power had been usurped by the colonial state, as was the case at 1940, they were invariably deemed to be a privileged and favoured people.

A question that this thesis seeks to answer is why, despite the fact that Maori have been stripped of their lands and resources, does the belief in Maori privilege persist? The answer, in part, rests on New Zealand's supposed egalitarian and utopian foundations and the extent to which these ideas have helped shape the New Zealand identity. Philippa Mein Smith, in her discussion of James Cook, concludes that it is not surprising that 'the foremost Cook scholars have been New Zealanders'. As a founding ancestor Cook was 'an ideal model for the classroom'. He was a 'self-made man' of 'humble origins'; moreover, 'he rose to fame through merit' and 'upgraded homely virtues to evoke professionalism and skill'.²¹ A characteristic of the New Zealander, writes Michael King, is his 'fiercely egalitarian instinct'.²² Indeed, 'most New Zealanders', writes King:

Whatever their cultural backgrounds, are good-hearted, practical, commonsensical and tolerant. Those qualities are part of the national cultural capital that has in the past saved the country from the worst excesses of chauvinism and racism seen in other parts of the world.²³

The 'egalitarian instinct' of the New Zealander can be traced to what Kerry Howe has termed the 'western cultural memory'. It is here, writes Howe, that the discourses

¹⁹ Tony Ballantyne, 'The State, Politics and Power, 1769–1893', in Giselle Byrnes, ed., *The New Oxford History of New Zealand*, South Melbourne: Oxford University Press, 2009, p. 109.

²⁰ I deal further with Scott and others in my discussion on 'anti-Treatyism' later in the introduction and in the epilogue.

²¹ Philippa Mein Smith, *A Concise History of New Zealand*, Cambridge: University of Cambridge Press, 2005, pp. 25–26.

²² Michael King, *The Penguin History of New Zealand*, Auckland: Penguin Books, 2004, pp. 507–508.

²³ King, *The Penguin History of New Zealand*, p. 518.

that have shaped European thought are to be found. Pre-eminent among these is the Judeo-Christian tradition of 'paradise', where the progenitors of humankind once resided.²⁴ As Europe began colonising the globe the idea of paradise began to be associated with a tropical island, while in other variations of this tradition the island became the setting for a political utopia.²⁵ Dominic Alessio writes that New Zealand's landscape and climate, 'distance from Old World Europe', its 'late settlement *vis a vis* other settler societies' and its 'reputation for radical political experimentation' contributed to the 'paradise myth emerging as one of its dominant tropes'.²⁶ Politics and race were important to the New Zealand version of utopia and it is for this reason that we see the use of 'Brown Britons' and 'Better blacks' in paradise discourse.²⁷ By the middle of the nineteenth-century the English perceived of themselves 'as being in something of a constitutional Promised Land'.²⁸ Moreover, it was at this time, writes Paul McHugh, that New Zealand was embarking on its own political journey and it was claimed that theirs would be a 'better' constitution.²⁹ As James Belich writes, 'the Pakeha paradise complex offered a bewildering array of heavens on earth'.³⁰

It is also important to note the role played by 'populism' in the colonisation of New Zealand, and the creation of a Pakeha identity. 'Colonial populism', writes Belich, was rooted in the 'folk utopias of Old Britain and Old Ireland'; it was 'a feature of the ethos of expansion' and was 'not peculiar to any particular neo-Britain'.³¹ In New Zealand populism 'indicated a set of firmly held convictions about the way life should be lived' and 'quickly congealed into a "populist compact" or "Pakeha treaty"'. The first article of the treaty was 'egalitarianism', though 'not the absence of class but the absence of extreme class distinctions, class oppression and direct gentry rule'. 'Class harmony, the absence of conflict' constituted article two and, lastly,

²⁴ Kerry Howe, *Nature, Culture, and History—The 'Knowing' of Oceania*, Honolulu: University of Hawaii Press, 2000, p. 8.

²⁵ Howe, *Nature, Culture, and History*, p. 118.

²⁶ Dominic Alessio, 'Promoting Paradise: Utopianism and National Identity in New Zealand, 1870–1930', *NZJH*, 42:1, 2008, p. 22.

²⁷ Alessio, 'Promoting Paradise', pp. 23–24.

²⁸ Paul McHugh, 'A History of Crown Sovereignty in New Zealand', in Andrew Sharp and Paul McHugh eds., *Histories Power and Loss—Uses of the Past—A New Zealand Commentary*, Wellington: Bridget Williams Books, 2001, p. 189.

²⁹ McHugh, 'A History of Crown Sovereignty in New Zealand', p. 193.

³⁰ James Belich, *Paradise Reforged—A History of the New Zealanders from the 1800s to the Year 2000*, Auckland: Allen Lane: Penguin Press, 2001, pp. 22

³¹ James Belich, *Making Peoples—A History of the New Zealanders from Polynesian Settlement to the End of the Nineteenth Century*, Auckland: Allen Lane: Penguin Press, 1996, p. 332.

article three held ‘that collective, and therefore individual progress should be continuous’. These ‘informal myths of settlement’ placed ‘limits’ on the power of the ruling gentry. The ‘enemies of populism’, writes Belich, were ‘absentee capital, absentee landlords, boardroom conspiracies, “money power”’.³² Maori were certainly not absent, but the commonly held view was that they did not utilise their lands in accordance with European standards, and were therefore a barrier to progress. As such they too can be added to the list of ‘enemies’.

Maori ‘privilege’ threatened this notion of egalitarianism. Historically it was asserted that legislation designed to protect Maori interests, although it ultimately hastened Maori land loss, afforded privileges over and above the average European citizen. How, in a society founded on egalitarianism and thoughts of utopia, can privilege of any type be tolerated? By way of answering this question it is useful to consider another very Kiwi ideal—‘fair play’. The settlement of treaty claims, to take a contemporary example, is on one level an acknowledgement of the rights (and obligations) Maori communities have accrued over many generations of occupation. Yet for Scott and other anti-Treatyists they are but an example of Maori privilege. To ignore historical grievances would be to undermine what it means to be a New Zealander, that is to say, it wouldn’t be ‘fair’. ‘Fair play’ and privilege can, however, operate simultaneously. By settling treaty claims it can be argued that New Zealand taxpayers have not only funded the settlements but have in the process negated their own egalitarian principles for the benefit of Maori. The point to note here is that throughout the entire treaty claims/settlement process the Crown has relinquished little of its power.

Numerous other ideas, or what W.H. Oliver has called ‘mental furniture’, would be transplanted in New Zealand.³³ Here they would be reconfigured in such a way as to find expression in notions of Maori privilege. To further understand how and why this process occurred and why Maori ‘privilege’ has been entrenched in the national culture requires further explanation. Louis Hartz, in *The Founding of New Societies*, writes that European expansion resulting in settlement was a process of

³² Belich, *Paradise Reforged*, pp. 22–23.

³³ W.H. Oliver, *The Story of New Zealand*, London: Faber and Faber, 1960, p. 269.

‘fragmentation’.³⁴ For Hartz, the ‘mechanism of fragmentation’ is a simple one: ‘a part detaches itself from the whole, the whole fails to renew itself, and the part develops without inhibition’.³⁵ Due to its isolation the ‘fragment’ must do what it can so that ‘wholeness’ is ‘recaptured’, it must, ‘by bootstrap necessity’, ‘convert’ all that it has into a ‘new nationalism’.³⁶ As time distances the ‘fragment’ from the ‘homeland’ the ‘new nationalism’ becomes more important, deployed by ‘new generations’ to further detach themselves from Europe, and provision the ‘fragment’ with a ‘set of symbols for the conquering hero to use’.³⁷ The ‘psychological metamorphoses of the fragment’ thus provides the ‘citizen’ with a ‘glowing sense of nationhood, a national anthem to sing and to communicate to his children’.³⁸

All of this is not to say that ‘fragmentation’ and the creation of new societies are ‘exhausted by an ideological category’. Hartz notes, ‘there are a wide variety of factors alien to ideology which can twist it out of shape’.³⁹ ‘No fragment’, writes Hartz, ‘comes out of Europe a pure ideological archetype, and even if it did, it would inevitably be modified by the imperial relationship and racial encounters’. Nevertheless, as Hartz proceeds to explain, ‘the value of the European ideological categories is not that they fit completely, but that they give us a point of analytic departure’.⁴⁰

Hartz and his fellow contributors do not address New Zealand per se; however, others have applied ‘fragmentation’ theory to some degree. James Holt, for instance, noted that such an approach may be of some use to students of New Zealand history. While ‘it is not difficult to find flaws in a thesis as bold and as sweeping as this one’, the question, writes Holt, was not whether the fragment thesis ‘tells us the whole truth but whether it contains an essential truth’.⁴¹ Erik Olssen likewise writes, ‘nobody any longer thinks that Louis Hartz’s claim that the entire character of each

³⁴ Louis Hartz, *The Founding of New Societies—Studies in the History of the United States, Latin America, South Africa, Canada, and Australia*, New York: Harcourt, Brace & World, Inc., 1964, p. 3.

³⁵ Hartz, *The Founding of New Societies*, pp. 9–10.

³⁶ Hartz, *The Founding of New Societies*, p. 11.

³⁷ Hartz, *The Founding of New Societies*, p. 14.

³⁸ Hartz, *The Founding of New Societies*, p. 19.

³⁹ Hartz, *The Founding of New Societies*, p. 5.

⁴⁰ Hartz, *The Founding of New Societies*, pp. 27–28.

⁴¹ James Holt, ‘Louis Hartz’s Fragment Thesis’, *NZJH*, 7:1, 1973, pp. 4–5.

New World society can be explained by the timing of first settlement and the nature of the colonizing fragment, but the idea has its uses'.⁴²

To what extent, then, can 'fragmentation' explain the role of 'privilege' in the colonisation of New Zealand? The thesis argues that Maori 'privilege' is an example of what Hartz terms 'psychological metamorphoses of the fragment', a configuration of the 'mental furniture' transplanted here as a result of 'fragmentation'. Britain in the 1830s is here considered to be the 'whole' from which the New Zealand 'fragment' extricated itself. This Britain, in the wake of the Reform Acts and the abolition of slavery, considered itself to be 'enlightened' and 'benevolent'. Moreover, it was a Britain that perceived itself as having certain responsibilities and obligations.

In the decades that followed 1840, that is to say, as the 'fragment unfolded', the belief that Maori were a privileged people became increasingly entrenched. The assumption was that colonisation in New Zealand was in some way unique, and to some extent it was. Article three envisaged the amalgamation of Maori under English law. In doing so, Maori would enjoy the privileges that came with being a British subject. However, as this thesis seeks to demonstrate, article three, and its apparent privileges did little to prevent Maori land loss, if anything it facilitated it. Thus, the thesis argues that Maori 'privilege' is a misnomer, a paradox that can more correctly be termed 'settler' privilege.

Maori 'privilege' is fundamentally a European concern. Its essential ingredients are to be found within the western intellectual tradition which through the process of 'fragmentation' was transplanted here. Because of this, and because the thesis has an historic focus, I have deployed language and phraseology that may today be considered outdated, or even inappropriate. However, in the period from 1840 to 1940 certain terms were in common usage: 'Native', 'native', 'tribe', 'settler', and 'European'. The use of these terms also highlights the position taken in this thesis, that is, Maori share with other 'Native' peoples a history of colonisation in which 'native' policy led to their dispossession and the privileging of the 'settler' population.

⁴² Erik Olssen, 'Where to From Here? Reflections on the Twentieth-century Historiography of Nineteenth-century New Zealand', *NZJH*, 26:1, 1992, p. 74.

The Rise of Anti-Treatyism

Since 1975 there has been a proliferation of books, essays, and speeches that advance the notion of Maori privilege. According to Richard Hill this kind of material has emerged out of a particular context. Hill writes that the Maori Renaissance of the 1970s and 1980s resulted in the Treaty of Waitangi entering public discourse and, subsequently, efforts were made by government departments, the courts, and other organisations to incorporate the treaty into policy and practice. A response to these developments was ‘anti-Treatyism’—a term used by Hill to describe the ‘beliefs and works of opponents of modern developments in Treaty relationships and, more broadly, race/ethnic relations’. In his analysis Hill contextualises and methodically deconstructs anti-Treatyism, identifying its primary assertions, the assumptions on which these assertions are based, its contradictions, and ultimately its flaws.⁴³

Anti-Treatyist texts share in common the view that Maori are privileged both in relation to other Native peoples and other New Zealanders. Like Scott, Canterbury University law lecturer, David Round, argues that ‘Maoris may consider themselves fortunate to have been colonised by the British, who...were largely humane and generous, compared with the French or Dutch, Germans or Belgians’.⁴⁴ In a recent opinion piece Round further asserts that ‘New Zealand is indeed a deeply racist country’ and that racism lies in ‘a race-based political party, racially-selected Parliamentary seats and members, a special racial electoral roll, race based sports teams, schools and units within schools, television stations, government departments, trusts and financial assistance galore, legal recognition of racial privilege, treaty indoctrination on every conceivable occasion’.⁴⁵

It is perhaps to be expected that claims of Maori privilege are most visible in the political sphere. Don Brash’s January 2004 Orewa speech, entitled ‘Nationhood’,

⁴³ Richard Hill, *Anti-Treatyism and Anti-Scholarship: An Analysis of Anti-Treatyist Writings*, Wellington: Treaty of Waitangi Unit, 2002.

⁴⁴ David Round, *Truth or Treaty—Commonsense Questions about the Treaty of Waitangi*, Christchurch: Canterbury University Press, 1998, p. 63.

⁴⁵ David Round, <http://breakingviewsnz.blogspot.co.nz/2012/02/david-round-enemy-of-nationhood.html>, retrieved 29/04/2013

while not universally accepted, was well received.⁴⁶ Lagging in the opinion polls National took the opportunity to revive its fortunes by deploying notions of Maori privilege. According to Brash the last 20 years had seen the ‘Treaty wrenched out of its 1840s context and become the plaything of those who would *divide* New Zealanders from one another, not unite us’. ‘Too many of us’, claimed Brash, ‘look back through utopian glasses, imagining the Polynesian past as a genteel world of “wise ecologists, mystical sages, gifted artists, heroic navigators and pacifists who wouldn’t hurt a fly”’. It was nothing like that. Life was hard, brutal and short’. He goes on to say that ‘too many Maori leaders are looking backwards rather than towards the future. Too many have been encouraged by successive governments to adopt grievance mode’. ‘We are one country with many peoples, not simply a society of Pakeha and Maori where the minority has a birthright to the upper hand’.⁴⁷

*Twisting the Treaty—A Tribal Grab for Wealth and Power*⁴⁸ is a recently published and publicised articulation of anti-Treatyism. Significantly, none of the book’s contributors are trained historians, whom they in fact despise.⁴⁹ Nor are they experts in te reo Maori or custom—nevertheless they proceed as if they were. The book addresses what its contributors see as the corruption of New Zealand society. Their aim is:

To inform the public of the harm that the Treatyists are inflicting on what was once the finest nation in the world but is now heading down the dangerous path of having important rights determined by race, with all those who are not of part-Maori blood being relegated to an inferior position.

For this to happen:

If New Zealand is to remain true to the democratic and egalitarian principles on which it developed, then all race based laws and funding must be abolished and what John Ansell calls a “colour blind” state must be restored.

If this were to happen it:

⁴⁶ Harry A Kersey, Jr., ‘Policy Change and Maori Political Resurgence: An American View of the 2005 Election in Aotearoa – New Zealand’, Wellington: Treaty of Waitangi Research Unit, 2006.

⁴⁷ Don Brash, 27 January 2004, http://www.national.org.nz/files/orewarotaryclub_27jan.pdf, retrieved 29/042013.

⁴⁸ Hugh Barr, Mike Butler, Peter Cresswell, Bruce Moon, John Robinson, David Round, *Twisting the Treaty—A Tribal Grab for Wealth and Power*, Wellington: Tross Publishing, 2013.

⁴⁹ Barr et al, *Twisting the Treaty*, pp. 295–305.

Would be of benefit to everyone, including Maoris, who would be forced to stand on their own feet like other New Zealanders and would probably be pleasantly surprised at what they are able to achieve once they take personal responsibility for their own lives.⁵⁰

The authors of *Twisting the Treaty*, as with other anti-Treatyists are, so they claim, ultimately concerned with the future. Yet curiously a number of chapters begin with a brief summary of Maori society before British intervention. According to mathematician and physicist, John Robinson, ‘1830s Maori society was in turmoil, and disintegrating’.⁵¹ Bruce Moon, who ‘installed the first computer in a New Zealand university’⁵² writes: ‘with endemic warfare, bloody conquest, cannibalism, infanticide (especially of female children) and slavery, Maori society had become pathological’.⁵³ Peter Cresswell, architect, former editor of *Free Radical*, and libertarian states that Maori culture ‘was a culture on its knees. It was the tragedy of the commons. It was starvation, slavery and warfare’.⁵⁴

According to the authors of *Twisting the Treaty* all of this was to change with the arrival of British sovereignty. Writes Robinson: ‘this was a great event for many Maori, none more so than the slaves who became free men and women. Intertribal attacks and cannibalism became unlawful’. For this, states Robinson, ‘we can all be truly proud’.⁵⁵ For anti-Treatyists the past is quite simple: Maori society was violent and chaotic and set for self-destruction; wise chiefs recognised the seriousness of the situation and asked the British Crown for protection; the Crown was at first reluctant to intervene but driven by a sense of benevolence it entered into a treaty for the cession of Maori sovereignty; in return, Maori received ‘royal protection’ and the ‘rights and privileges of British subjects’. Thus, anti-Treatyists are not anti the Treaty of Waitangi per se. In fact, they assert they are its greatest advocates. However, the treaty that they advocate is a treaty that saw Maori surrender their sovereignty. For

⁵⁰ Barr et al, *Twisting the Treaty*, p. 9.

⁵¹ Robinson, *Twisting the Treaty*, p. 17.

⁵² Barr et al, *Twisting the Treaty*, p. 3.

⁵³ Moon, *Twisting the Treaty*, p. 27.

⁵⁴ Cresswell, *Twisting the Treaty*, p. 58.

⁵⁵ Robinson, *Twisting the Treaty*, p. 26.

anti-Treatyists, the treaty promised little more than the ‘colour blind’ application of the law. As the following chapters demonstrate things were not to be that simple.⁵⁶

Twisting the Treaty and other anti-Treatyist texts reveal nothing new about New Zealand’s past. Regardless of the authors’ claims to the contrary, what they have written is far from original; they simply restate and perpetuate a certain version of history. Little recognition of Maori power and initiative is ever considered, although of course anti-Treatyists are quick to assert that wise chiefs, having realised the severity of the situation, decided to give away their sovereignty. All of this is not to say that Maori society was unaffected by European contact, Maori have always demonstrated a propensity to adopt aspects of European culture, but this should not be interpreted as a rejection of Maori culture. European culture and technology have always been used to meet customary ends.

Although anti-Treatyism can be located in a specific place and time—after 1975—one of the characteristics of anti-Treatyism is its preoccupation with ‘true history’, that is to say, history written in the nineteenth and early twentieth-centuries. Unlike recent histories these works, according to anti-Treatyists, are free of revisionist interference and, therefore, speak for themselves. ‘True history’ can be found in un-contextualised statements from Maori politicians who seemingly concur with expropriatory government policy and here Apirana Ngata is often cited. For instance, in *Twisting the Treaty* Ngata is referred to as a ‘True Patriot’.⁵⁷ Such an accolade was due to comments made by Ngata in 1922:

Some have said that these confiscations were wrong and that they contravened the articles of the Treaty of Waitangi. The Government placed in the hands of the Queen of England, the sovereignty and the authority to make laws. Some sections of the Maori people violated that authority...The law came into operation and land was taken in payment.⁵⁸

Anti-Treatyists fail to consider the political world in which Ngata was navigating. Moreover, even a cursory examination of Ngata’s speeches and letters, some of which will be discussed in later chapters, shows that he was a relentless advocate of

⁵⁶ Moon, *Twisting the Treaty*, pp. 27–51.

⁵⁷ *Twisting the Treaty*, first insert.

⁵⁸ Apirana Ngata, *The Treaty of Waitangi: An Explanation—Te Tiriti o Waitangi, he whakamarama*, Christchurch: Published for the Maori Purposes Fund Board, 1963, p. 15. (First published in 1922)

Maori rights. One does indeed wonder what anti-Treatyists would have to say about Ngata's position in relation to Maori petroleum rights:

If oil should be struck on the East Coast, honourable gentlemen will have, session after session, Maoris coming here praying for compensation for their rights. They will be praying for compensation for rights confiscated. They have been doing that for the last seventy years with respect to other rights, and in regard to oil rights they will come down session after session and ask for some recognition of the rights that have been taken away by the Crown, supposedly in the public interest.⁵⁹

In summary, then, the anti-Treatyists adhere to a particular version of history. They are convinced that colonisation saved Maori, not only from themselves, but from some other less humane coloniser. According to the anti-Treatyists, the 'rights and privileges of British subjects' imparted to Maori in 1840 were—for a people who had nothing to begin with—a great privilege. For these privileges Maori are expected to be eternally grateful to the British/the settler/the New Zealander/the Kiwi taxpayer and indeed the anti-Treatyist for pointing out the error of their savage, greed driven ways. Moreover, this history legitimates the anti-Treatyist worldview and the social, political, and economic privileges they enjoy.⁶⁰

The view that Maori are privileged among Native peoples is not strictly the reserve of anti-Treatyists. According to Ngati Kahungunu scholar and activist, Moana Jackson, there exists in New Zealand a 'dominant cultural ethos' that holds the colonisation of this country to have been 'qualitatively' better than elsewhere.⁶¹ One does not have to search far for this 'cultural ethos'. In 1971 Keith Sinclair observed that while race-relations in New Zealand were not perfect:

There is in New Zealand no apartheid, no social colour bar, no segregation in public transport or in living areas. Maoris get the same pay as white people for the same

⁵⁹ NZPD, 1937, volume 249, p. 1044.

⁶⁰ Other examples of anti-Treatyist texts include: Robin Mitchell, *The Treaty & The Act*, Christchurch: Cadsonbury Publications, 1990; Walter Christie, *Treaty Issues*, Christchurch: The Wyvern Press, 1997; Walter Christie, *A Race Apart*, Auckland: The Wyvern Press, 1998.

⁶¹ Moana Jackson, 'Sovereignty as Culture, Maori, Politics, and Culture as Sovereignty', A brief discussion paper prepared for the 1995 Global Cultural Diversity Conference, Sydney, Australia, from http://www.immi.gov.au/multicultural/_inc/publications/confer/12/speech56a.htm, retrieved 9/06/2006

job. There is relatively little social prejudice against Maoris and even less open prejudice.⁶²

Sinclair identified a number of factors to explain the differences between New Zealand and other settler societies; however, the factor that he attached ‘most weight’ to was the ‘Anglo-Saxon attitudes at the time New Zealand was annexed’. Although he did not develop his position further he did note that there ‘are always at least two people in a racial situation’, and that the ‘Maori contribution to improving race relations by the end of the century was of major importance’.⁶³

In 2001 Hugh Laracy, then Associate Professor of History at Auckland University, also argued the case for British benevolence. He argued that ‘considering small mercies, it might not be impertinent to suggest that they (Maori) were better off in finding such opportunities under British rule’.⁶⁴ In his *History of New Zealand* Michael King was disposed to write that ‘by the turn of the twenty-first century...all the country’s institutions were bending slowly but decisively in the direction of Maori needs and aspirations’.⁶⁵ Belich, who argues for a qualified version of Maori privilege, writes that ‘in the history of race relations in settler societies, you take your good news wherever you can get it’.⁶⁶ Scholars outside New Zealand are also of the opinion that Maori have been particularly well treated. Canadian scholar, Robin Winks, has gone so far as to formulate a hierarchy of oppression, or in the case of Maori, a hierarchy of privilege that places Maori at the top, followed by First Nations Canadians, then Native Americans, and lastly, Aboriginal Australians.⁶⁷

Locating the ‘idea’ of Maori Privilege

There have been some critiques of Maori ‘privilege’. Hill touches on it in his analysis of anti-Treatyism, but it is not his chief concern. Research has been undertaken that

⁶² Keith Sinclair, ‘Why are Race Relations in New Zealand better than in South Africa, South Australia or South Dakota?’ *NZJH*, 5: 2, 1971, pp. 121.

⁶³ Sinclair, ‘Why are Race Relations in New Zealand better than in South Africa, South Australia or South Dakota?’ p. 127.

⁶⁴ Hugh Laracy, ‘Was Colonisation Really That Bad’, *History Now—Te Pae Tawhito o Te Wa*, 7:1, 2001, p.12.

⁶⁵ Michael King, *The Penguin History of New Zealand*, Auckland: Penguin Group, 2003, p. 502.

⁶⁶ Belich, *Paradise Reforged*, p. 215.

⁶⁷ Robin Winks, *The Relevance of Canadian History: U.S. and Imperial Perspectives*, Toronto, 1979, p.23.

counters claims of Maori ‘privilege’ by highlighting social, political, and economic inequalities.⁶⁸ Those researching ‘whiteness’ or deploying critical whiteness theory discusses Maori privilege also, though again it is not the primary focus.⁶⁹ Following the 2005 general election, in the wake of Orewa, more scholarly attention was given to Maori privilege. Critiques have addressed notions of Maori privilege in the context of ethnic relations, quite often in connection to the foreshore and seabed controversy, and nearly always in response to Brash’s Nationhood speech.⁷⁰ Others have examined government policy and the extent to which the ‘rhetoric of race’ was used by National to reframe the Maori/non-Maori relationship from one based on ‘indigeneity’ to one of ‘race relations’. In doing so, Maori disadvantage could be explained not by historical experience but by personal characteristics. The significance of this, so it is argued, is that policies geared to improve Maori wellbeing could then be subjected to claims of racism and privilege.⁷¹

Maori ‘privilege’, then, has received some scholarly attention and historians have certainly discussed privilege and its role in the colonisation of New Zealand. However, while historians at various points in their works acknowledge there is a perception that Maori were privileged, there has been no a sustained study of Maori privilege as a discourse in its own right nor have historians traced how the concept evolved over time and the various ways in which it was deployed. The intention of this thesis is to address the gap in the historiography. It does this, in part, by bringing together many well-known sources and reorganise them in a way that sheds more light on the notion of Maori privilege.

In terms of laying the foundations of Maori ‘privilege’ the 1840s and 1850s were crucial, thus, the studies of scholars such as Ian Wards, Peter Adams, and Alan Ward remain relevant, although now several decades old. In his examination of the period

⁶⁸ Belinda A.E. Borrell, Amanda S. Gregory, Tim N. McCreanor, Victoria G.L. Jensen, Helen E. Moewaka Barnes, ‘It’s Hard at the Top but It’s a Whole Lot Easier than Being at the Bottom: The Role of Privilege in Understanding Disparities in Aotearoa/New Zealand’, *Race/Ethnicity: Multidisciplinary Global Contexts*, 3:1, Autumn 2009.

⁶⁹ See: Timothy McCreanor, ‘When Racism Stepped Ashore: Antecedents of Anti-Maori Discourse in Aotearoa’, *New Zealand Journal of Psychology*, 26:1, June 1997, pp. 36–44.

⁷⁰ Natacha Gagne, ‘On the Ethnicisation of New Zealand Politics: The Foreshore and Seabed Controversy in Context’, *The Asia Pacific Journal of Anthropology*, 9:2, 2008, pp. 123–140; Dominic O’Sullivan, ‘Needs, Rights and “One Law for All”: Contemporary Debates in New Zealand Politics’, *Canadian Journal of Political Science*, 41:4, 2008, pp. 973–986.

⁷¹ Keith Barber, ‘Indigenous Rights or Racial Privileges: The Rethoric of Race in New Zealand Politics’, *The Asia Pacific Journal of Anthropology*, 9:2, 2008, pp. 141–156.

from 1832 to 1852 Wards argues that historians have attached ‘a far greater importance to humanitarian theories of the mid-nineteenth century than is warranted’ and ‘concluded that however strong were the theories of the evangelicals and humanists’ the annexation of New Zealand differed ‘only in the solution found for the legal obligations that had been accumulated in an earlier period of indifference’.⁷²

Perhaps more than any other history this thesis draws on Ward’s *A Show of Justice*. In his assessment of official native policy during the nineteenth-century Ward arrived at the conclusion: ‘the colonisation of New Zealand, notwithstanding the Treaty of Waitangi and humanitarian idealism, was substantially an imperial subjugation of a native people’.⁷³ Indeed, notions of Maori privilege would mask the realities of colonisation, or as Adams puts it: ‘the belief prevalent today that the treaty enshrined a true equality between the races, powerfully illustrates the degree to which a historical myth can serve as a cloak against the cold wind of reality’.⁷⁴

Another useful text is Angela Ballara’s *Proud to be White—A Survey of Pakeha Prejudice in New Zealand*. Using a variety of sources, including newspaper articles, diaries, and official documents, Ballara traces ‘the permutations of eurocentric racial prejudice in New Zealand society, and to study their effects in the community’.⁷⁵ Her discussion of Maori ‘landlordism’ is of particular interest as it highlights aspects of both ‘populist’ and ‘official’ privilege in the debates about the leasing of Maori land and the way in which they interact to justify the dispossession of Maori.⁷⁶

It should be noted that some works, while certainly useful, have a tendency to argue the pros and cons of particular forms of colonisation. A still often cited text is John A. Williams’ 1969 book *Politics of the New Zealand Maori—Protest and Cooperation, 1891–1909*. Williams concluded that ‘the Maori people did not face the harsh discrimination and exploitation experienced by non-European peoples in other

⁷² Ian Wards, *The Shadow of the Land—A Study of British Policy and Racial Conflict in New Zealand 1832–1852*, Wellington: Government Printer, 1968, p. ix.

⁷³ Alan Ward, *A Show of Justice—Racial ‘Amalgamation’ in Nineteenth Century New Zealand*, Auckland: Auckland University, 1995, p. 308. (First printed 1973)

⁷⁴ Peter Adams, *Fatal Necessity—British Intervention in New Zealand 1830–1847*, Auckland: Auckland University Press, 1977, p. 15.

⁷⁵ Angela Ballara, *Proud to be White—A Survey of Pakeha Prejudice in New Zealand*, Auckland: Heinemann Publishers, 1986.

⁷⁶ Ballara, *Proud to be White*, pp. 76–81.

parts of the world'.⁷⁷ Such comments are not uncommon in what are otherwise essential texts. This thesis refrains from making such comparisons because it trivialises the loss experienced by all Native peoples; moreover, it perpetuates a process of subjugation and dispossession. To assert that Maori are in some way privileged is to assume, that is to say—'know'—that one people's oppression is better or worse than that of another and is itself an act of dispossession.⁷⁸

In 2014 the Waitangi Tribunal released *He Whakaputanga me te Tiriti—The Declaration and the Treaty*. Because Maori 'privilege' is predicated on the assumption that Maori gave up their sovereignty the report is of some significance. First, it specifically addresses the question of whether or not rangatira at Waitangi, Waimate, and Mangungu ceded sovereignty to the Crown. While the Tribunal found that an 'agreement was reached', it was of the opinion that 'at no stage...did rangatira who signed te Tiriti in February 1840 surrender ultimate authority to the British'.⁷⁹ Second, by way of arriving at this conclusion the Tribunal addresses assumptions that have long perpetuated the notion of Maori privilege. For instance, the 'threat' of a French invasion⁸⁰ and Maori population decline.⁸¹ Last, the report considers, along with evidence from claimants and the Crown, the relevant historiography and scholarship that has accumulated over a number of decades. Accordingly, the Presiding Officer noted that 'while some may see our conclusions as radical, they are not. In truth, our report represents continuity rather than dramatic change'.⁸²

The report is also significant because, as the Tribunal noted, it was in the Bay of Islands and Hokianga that 'many of the earliest encounters occurred between European explorers and Maori...the missionaries came first to the Bay of Islands and Hokianga, and it was in these areas that trade and European settlement first

⁷⁷ John A. Williams, *Politics of the New Zealand Maori—Protest and Cooperation, 1891–1909*, Seattle: University of Washington Press, 1969, p 146.

⁷⁸ Edward Said, *Orientalism*, London: Penguin Books, 1991 (First Published 1978). Said cites Arthur Balfour's speech to the House of Commons on 13 June 1910: 'We know the civilisation of Egypt better than we know the civilisation of any other country. We know it further back; we know it more intimately; we know more about it', p. 32.

⁷⁹ *He Whakaputanga me te Tiriti—The Declaration and the Treaty*, Lower Hutt: Legislation Direct, 2014, pp. xxi–xxiii.

⁸⁰ *He Whakaputanga me te Tiriti*, pp.330–332.

⁸¹ *He Whakaputanga me te Tiriti*, pp. 232–239.

⁸² *He Whakaputanga me te Tiriti*, p. xxii.

flourished'.⁸³ It was from here, too, that many of the images and representations of Maori, on which notions of 'privilege' are built, emanated. European observations of northern Maori would in turn contribute to a corpus of images that would be extrapolated to include all Maori: privilege does not discriminate. The argument to be made here is that 'privilege' was an idea to which all Maori were subject. Some tribes were certainly treated differently by the Crown, as was the case in some land 'purchases'; nevertheless, all tribes were considered the beneficiaries of the Treaty of Waitangi, 'royal protection' and the 'rights and privileges of British subjects' and all tribes experienced significant alienation of land.

Maori privilege, and this is a central argument of this thesis, is critical to colonisation in New Zealand. What is meant by terms such as 'colonisation' and 'imperialism' and how they are to be used here requires further explanation. The question as to when colonisation began is also important. One could, pointing to the Romans, the Mongols, the Aztecs, the Incas, and the Ottomans, argue that colonisation is simply part of the human condition. Such an argument is certainly useful for the anti-Treatyist for whom Maori are but another wave of colonist.⁸⁴

In *Postcolonialism—An Historical Introduction* Robert Young writes that imperialism historically took 'two major forms: the Roman, Ottoman and Spanish imperial model and that of late nineteenth-century Europe'. Initially, Empire was restricted to a single land mass, as in the case of the Chinese, the Moors, and the Romans. From the sixteenth-century, however, technological advancements enabled Europe to expand beyond its geographical boundaries: 'ships were the key to colonization'. According to Young, imperialism 'operated from the centre as a policy of state' and was 'typically driven by ideology'.⁸⁵

The term 'colonisation' was first used by Europeans to describe the movement of peoples who sought better economic, religious, or political opportunities while maintaining 'allegiance to their own culture'. According to Young, colonisation did not signify 'the rule over indigenous peoples, or the extraction of their wealth';

⁸³ *He Whakaputanga me te Tiriti*, p. 4.

⁸⁴ John Ansell, a well-known anti-Treatyist, is a supporter of Martin Doutre who argues for the existence of a pre-Celtic people that inhabited New Zealand before Maori. See: Matthew Dentith, <http://all-embracing.episto.org/2012/09/06/ansell-and-doutre/>, retrieved 1/3/2015

⁸⁵ Robert J. C. Young, *Postcolonialism—An Historical Introduction*, Oxford: Blackwell Publishers, 2001, pp. 16-17.

however, ‘in most cases it also involved the latter...a by-product of the former’.⁸⁶ Colonialism, writes Young, ‘functioned as an activity on the periphery, economically driven’, and often difficult to control.⁸⁷

As to when colonisation began, scholars typically affix the date at 1492. According to Linda Tuhiwai Smith ‘there is one particular figure whose name looms large, and whose spectre lingers, in indigenous discussions of encounters with the West: Christopher Columbus’.⁸⁸ Gaurav Desai and Supriya Nair similarly write that the ‘discovery of the New World portends the emerging dominance of western Europe’ but note also that other events signified a shift in power, including the defeat of the Moors in Spain.⁸⁹ It is perhaps useful to note the distinction made by Marxists between earlier and latter forms of colonisation. Colonisation in the wake of Columbus is often connected with the growth of capitalism as it was the colonies that provided the materials, labour, and a market for European goods. Ania Loomba writes that regardless of the ‘variety of techniques and patterns of domination’ the result was an ‘economic imbalance’ that fueled European capitalism:

We could say that colonialism was the midwife that assisted at the birth of European capitalism, or that without colonial expansion the transition to capitalism could not have taken place in Europe.⁹⁰

Since World War Two an area of academic inquiry has developed that critiques colonialism and imperialism. Anna Green and Kathleen Troup write that ‘postcolonial historical writing began when the experience of imperialism and colonialism began to be questioned’. These postcolonial histories, by ‘emphasizing the culture and agency of the colonized’, challenge ‘western narratives which focus upon modernization, the building of the nation-state and economic development’.⁹¹ According to Young, post-colonialism is based on the assumption ‘that many wrongs,

⁸⁶ Young, *Postcolonialism*, p. 20.

⁸⁷ Young, *Postcolonialism*, pp. 15–16.

⁸⁸ Linda Tuhiwai Smith, *Decolonizing Methodologies—Research and Indigenous Peoples*, Dunedin: University of Otago Press, 1999, p. 20.

⁸⁹ Gaurav Desai and Supriya Nair eds, *Postcolonialisms—An Anthology of Cultural Theory and Criticism*, New Brunswick: Rutgers University Press, 2005, p. 13.

⁹⁰ Ania Loomba, *Colonialism/Postcolonialism*, New York: Routledge, 1998, pp. 2–4.

⁹¹ Anna Green and Kathleen Troup, *The Houses of History—A critical reader in twentieth-century history and theory*, Manchester: Manchester University Press, 1999, p. 278.

if not crimes, against humanity are a product of the economic dominance of the north over the south'.⁹²

Perhaps more than any other scholar it is Edward Said who has contributed most to the development of postcolonial theory. In his seminal work, *Orientalism*, Said critiques what he describes as 'the corporate institution for dealing with the Orient—dealing with it by making statements about it, authorizing views of it, describing it, by teaching it, settling it, ruling over it'.⁹³ In doing so, Orientalism 'puts the Westerner in a whole series of possible relationships with the Orient without ever losing him the relative upper hand'. This Said terms 'positional superiority'.⁹⁴ Furthermore, Said writes that Orientalism cannot be understood without it being examined as a 'discourse'.⁹⁵ Although discourse is more readily associated with Michel Foucault it was, according to Peter Childs and Patrick Williams, Said's use of Foucault that has been most useful to post-colonialism.⁹⁶ 'Discourse', explains Said, is:

A regulated system of producing knowledge, within certain constraints, whereby certain rules have to be observed, to think past it, to go beyond it, not to use it, is virtually impossible because there is no knowledge that is not codified in this way about that part of the world.⁹⁷

Maori privilege can indeed be understood in this way. Like the 'Semitic Maori' and the 'Aryan Maori',⁹⁸ the 'privileged Maori' was the creation of the western intellectual tradition. By incorporating Maori into already established knowledge systems European observers came to understand Maori; they were 'discovered' not only in a literal sense but also in an intellectual sense. Since the time of James Cook observers have noted that Maori exhibited many 'civilised' characteristics; Maori were subsequently deemed worthy of protection and that without tutelage would

⁹² Young, *Postcolonialism*, p. 6.

⁹³ Said, *Orientalism*, p. 3.

⁹⁴ Said, *Orientalism*, p. 7.

⁹⁵ Said, *Orientalism*, p. 3.

⁹⁶ Peter Childs and Patrick Williams, *An Introduction to Post-Colonial Theory*, London: Prentice Hall, 1997, p. 229.

⁹⁷ Said, <http://www.youtube.com/watch?v=tIF5ED-gE5Y&NR=1>, retrieved 8/3/2013

⁹⁸ M.P. K Sorrenson, *Maori Origins and Migrations: The Genesis of some Pakeha Myths and Legends*, Auckland: Auckland University Press, 1979; K.R. Howe, *The Quest for Origins: Who Discovered and Settled New Zealand and the Pacific Islands*, Auckland, Penguin, 2008.

remain in their present state of savagery. Indeed, one of the myths about colonisation in New Zealand is that Maori invited it. As Said aptly writes:

Neither imperialism nor colonialism is a simple act of accumulation and acquisition...both are supported and perhaps even impelled by impressive ideological formations that include notions that certain territories and people *require* and beseech domination.⁹⁹

Ludmilla Jordanova also writes that discourse ‘implies that there is a more or less coherent worldview behind the texts, and that the ideas they express have palpable effects’.¹⁰⁰ The idea of Maori privilege certainly reflects a particular worldview, and it is not without consequences. It is an example of how, in Said’s words, the ‘will to exercise dominant control in society and history has...discovered a way to clothe, disguise, rarefy, and wrap itself systematically in the language of truth, discipline, rationality, utilitarian value, and knowledge’.¹⁰¹ Today the discourse of Maori privilege helps sustain the view that Maori ceded sovereignty to the Crown, that colonisation was an act of benevolence, and that today New Zealand is being held to ransom by a Maori elite supported by a corrupt political system.¹⁰²

‘Imperialism’ is another term that requires some explanation. In *Culture and Imperialism* Said writes that ‘imperialism means the practice, the theory, and the attitudes of a dominating metropolitan centre ruling a distant territory’; the result of imperialism is colonialism, or ‘the implanting of settlements on distant territory’.¹⁰³ In this thesis ‘colonisation’ is used to denote settlement, and, ‘the practice, the theory, and the attitudes’ once associated with imperialism. It can certainly be said that New Zealand is no longer ruled from Britain, but as the thesis argues, the ideologies that led to its annexation in 1840 have persisted to the present, including the belief that Maori are a privileged people.

Colonialism inevitably brought the coloniser into contact with different peoples and cultures, which in turn demanded a variety of colonial practices. Such variation has also presented problems for the development of theoretical approaches to

⁹⁹ Said, *Culture and Imperialism*, p. 8.

¹⁰⁰ Ludmilla Jordanova, *History in Practice*, London: Arnold, 2000, p. 81.

¹⁰¹ Said cited in Childs and Williams, *An Introduction to Post-Colonial Theory*, pp. 229–230.

¹⁰² Barr et al. *Twisting the Treaty*, pp. 340–341.

¹⁰³ Edward Said, *Culture and Imperialism*, London: Vintage, 1994, p. 8.

colonialism. A question posed by Young is whether or not ‘colonialism constituted a system of sorts that can be discussed, assessed and criticized—or could be resisted—according to general theoretical and discursive principles’. Young writes that Said was integral in developing such a theory by demonstrating how the ‘habitual practices’ and the effects of colonialism ‘could be analysed conceptually and discursively’. However, Young also notes that Said’s ‘own discourse was so inclusive as to make no distinction between colonialism and imperialism, or the different forms that they took’.¹⁰⁴

The ‘tendency towards homogenization’ was not exclusively Said’s doing: ‘there are other, legitimate historical reasons for it’. Young writes that post-colonialism is also heavily influenced by Franz Fanon. Writing about French colonialism it was Fanon, following Sartre, who ‘developed an analysis of colonialism as a single formation’, which was later ‘deployed upon examples drawn from the history of the British Empire’. While this ‘franglais mixture’ has allowed for the development of new theories and tools for interpreting colonialism it has drawn some criticism from empiricist historians who argue that it leads to ‘generalizations with little historical knowledge of the actual specifics of colonial history’. Here Young counters by citing Fanon’s observation that colonial administrators tended to ‘regionalize, split up, divide and rule’; in doing so, states Young, ‘modern historians are only repeating colonialism’s own strategy’.¹⁰⁵

Young agrees that from the perspective of the coloniser there is indeed considerable diversity in the ways in which colonies were ‘acquired and administered’. For historians writing about British colonial history: ‘the British Empire was nothing if not heterogeneous’. From the perspective of the colonised, however, such diversity was ‘rather more academic’. Young thus considers that the difference between postcolonial and empiricist historians has less to do with the formers’ supposed ‘ignorance of the infinite variety of colonial history from the perspective of the colonizers’ than their identifying with the ‘subject position of anti-colonial activists’.¹⁰⁶

¹⁰⁴ Young, *Postcolonialism*, pp. 17–18.

¹⁰⁵ Young, *Postcolonialism*, p. 18.

¹⁰⁶ Young, *Postcolonialism*, p. 19.

Although colonisation is about the taking of land and resources it is also about the imposition of a new economic, political, and cultural order. It is here, as an artefact of culture, that the idea of Maori privilege can also be located. Said is again useful. In discussing how power operates in society Said cites Antonio Gramsci. Gramsci makes ‘a useful analytical distinction between civil and political society’. The latter consists of the central bureaucracy, the police, and the army—their role within the polity is ‘direct domination’. Civil society is made up of ‘voluntary affiliations’ such as schools, unions, and families. It is here that culture is located and where certain ideas predominate, some more than others. This ‘cultural leadership’ Gramsci terms hegemony and it is, according to Said, ‘an indispensable concept for any understanding of cultural life in the industrial West’.¹⁰⁷

The influence of Césaire, Fanon, and Said is certainly discernible in the writing of a number of Maori scholars and their Native counterparts in other ‘former’ colonies. Although blurred, due to certain historical differences, one can nevertheless visualise a kind of ideological genealogy connecting those deploying postcolonial theory. Both the vertical and horizontal relationships reveal much about how colonisation is understood and articulated by Native scholars. This can, for example, be readily seen in a common lexicon. Smith hopes that what she has written will provide others with space in which the indigenous presence is privileged and where words such as: ‘colonialism’, ‘decolonization’, and ‘self-determination’¹⁰⁸—terms that are to be found throughout Césaire, Fanon, and Said—are emphasised.

This raises a number of questions, particularly when we consider that the language used by Fanon, in the context of Algerian liberation, finds resonance with Maori today. Calls for decolonisation and self-determination could imply that we are not yet post-colonial. Walker, in the preface of the second edition of *Ka Whawhai Tonu Matou—Struggle Without End*, comments that on hearing the term ‘post-colonialism’ for the first time Hawaiian nationalist Haunani Trask stated, ‘Have they left yet?’ Walker replied: ‘with the Government’s expropriation of Maori customary rights to the foreshore and seabed by legislative fiat, it would seem not, and so the struggle

¹⁰⁷ Said, *Orientalism*, p. 7.

¹⁰⁸ Smith, *Decolonizing Methodologies*, p. 6.

without end continues'.¹⁰⁹ However, the term 'post-colonialism', for scholars such as Giselle Byrnes, 'does not signal an end to colonisation or imply that we have somehow left the colonial past behind'; rather, 'it is a perspective that critiques and seeks to undermine the structures, ideologies and institutions that gave colonisation meaning'.¹¹⁰

While it can be said that post-colonialism has made a significant contribution to historical scholarship, and is certainly useful in understanding Maori privilege, Smith suggests that we remain cautious. She writes that there is a 'sneaking suspicion' among indigenous academics that post-colonialism has become a means of 'reinscribing or reauthorizing the privileges of non-indigenous academics'.¹¹¹ The argument I wish to advance here is that the notion of privilege, the belief that Maori are better off than other Native peoples, has found theoretical robustness in the concept of 'agency'. Post-colonialism no longer proposes binary models of encounter where colonisation is understood in terms of the colonised and the coloniser, where power resides solely with the latter. A consequence of this shift has been the emergence of new histories.

In 1977 Kerry Howe noted the contribution of Pacific historians in questioning the idea of 'fatal impact', the idea that 'European entry into the Pacific had very destructive consequences for the islanders and their cultures'. Howe argued that 'a survey of how Europeans have portrayed the "savage" in culture contact situations is essentially a study of what these writers have imagined happened to islanders, and not necessarily of what actually took place'.¹¹² Modern Pacific historians, wrote Howe, no longer consider 'fatal impact' sustainable given the 'great amount of evidence to the contrary'.¹¹³

In her 1981 chapter, 'The Pursuit of Mana', Ann Parsonson advanced the case for continuity and resilience in Maori society. Colonisation, argued Parsonson, did not lead to the discarding of old institutions. At 1890, as had been the situation a century

¹⁰⁹ Walker, *Ka Whawhai Tonu Matou*, pp. 7–8.

¹¹⁰ Byrnes, ed., *The New Oxford History of New Zealand*, p. 9.

¹¹¹ Smith, *Decolonizing Methodologies*, p. 24.

¹¹² Kerry Howe, 'The Fate of the "Savage" in Pacific Historiography', *NZJH*, 11:2, 1977, p. 137.

¹¹³ Howe, 'The Fate of the "Savage" in Pacific Historiography', p. 151.

before, every hapu was preoccupied with ‘the maintenance of claims to resources as against those of rivals, of claims of social precedence, the issue of challenges and settling insults’.¹¹⁴ Moreover, as ‘new ways of pursuing traditional social and economic rivalries came to hand, they were taken up with unabated vigour’.¹¹⁵ The pursuit of mana, according to Parsonson, was epitomised in the selling of land— ‘initially Maoris saw in sales a unique opportunity for vindicating their claims to land’.¹¹⁶

Angela Ballara, responding to Parsonson, questioned the extent to which the ‘pursuit of traditional goals’ had led to land alienation.¹¹⁷ Parsonson’s interpretation, wrote Ballara, had ‘presented...the Maori squarely in the foreground, with European activity in this respect merely a stage on which Maori chiefs performed in pursuit of *mana*’.¹¹⁸ While acknowledging that this was certainly a ‘factor’, it was not, argued Ballara, the only one. Pointing to earlier research she argued that social and economic factors ‘left Maoris little opportunity to retain their lands even if they were opposed to its disposal’.¹¹⁹ Ballara also commented that historians, including Parsonson, were right in challenging the idea of fatal impact, however, ‘the pendulum has swung on occasion a little too far the other way’.¹²⁰

Maori agency is aptly demonstrated in James Belich’s *The New Zealand Wars*.¹²¹ Belich’s account argued for a radical reinterpretation of nineteenth-century conflict in New Zealand. It was, writes Deborah Montgomerie, ‘a rare instance of a 1980s revisionist military history that self-consciously analysed the racial discourse evidenced by military conflict’.¹²² According to Belich ‘the dominant interpretation’ of the wars ‘was the product of a dialectic between events and preconceptions’. Moreover, these preconceptions ‘were related to the body of thought known as

¹¹⁴ Ann Parsonson, ‘The Pursuit of Mana’, in W.H. Oliver and B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University, 1981, p. 162.

¹¹⁵ Parsonson, ‘The Pursuit of Mana’, pp. 142–143.

¹¹⁶ Parsonson, ‘The Pursuit of Mana’, p. 149.

¹¹⁷ Angela Ballara, ‘The pursuit of mana: a re-evaluation of the process of land alienation by Maori, 1840–1890’, *JPS*, 91:4, 1982, p. 523.

¹¹⁸ Ballara, ‘The pursuit of mana: a re-evaluation’, pp. 520–521.

¹¹⁹ Ballara, ‘The pursuit of mana: a re-evaluation’, p. 522.

¹²⁰ Ballara, ‘The pursuit of mana: a re-evaluation’, p. 520.

¹²¹ James Belich, *The New Zealand War—and the Victorian Interpretation of Racial Conflict*, Auckland: Penguin Books, 1988. (First Published 1986)

¹²² Deborah Montgomerie, ‘Reconnaissance: Twentieth-Century War History at Century’s Turn’, *NZJH*, 37:1, 2003, p. 62.

Victorian ideas of race'.¹²³ Belich examined the battle scenes—which were not sites of Maori military defeat—and deconstructed the contemporary British accounts; and in doing so, further fractured the myth of fatal impact. There was, wrote Belich, a refusal to accept the fact that a Native people could compete with an advanced western power—the 'expectation of victory' often 'proved so strong that it simply overshot the evidence'.¹²⁴

Belich also discussed the 'legend of New Zealand race relations'. The 'legend', wrote Belich, consists of three 'component parts': the myth of the 'Dying Maori', the 'Aryan Maori', and the 'myths of the New Zealand Wars'. Emphasising 'inevitability' and downplaying war and Maori success in it, the 'legend' portrays a pattern in race-relations that saw Maori sink to a place of despair, but were then saved through 'enlightened Pakeha policy'.¹²⁵ While Belich maintains that there is an 'element of truth' here, 'the race-relations legend is dangerously inaccurate'. According to Belich, 'a more important cause of Maori durability was the limit their resistance imposed on British victory'.¹²⁶

It is now generally accepted that the colonised also possess power and exercise agency in a variety of ways. As will be shown in the following chapters Maori did not passively accept colonialism, they actively resisted it. By engaging with the coloniser and participating in the processes of government Maori leaders attempted both to mitigate the impact of colonisation as well as to advance the interests of the communities to which they belonged. The mechanisms put in place to facilitate Maori engagement, that is, the privileges bestowed on Maori at 1840, certainly allowed them to articulate their grievances and concerns. However, when overstated agency can conceal the impact of colonisation. Indeed the so-called privileges imparted to Maori at 1840, while allowing space for Maori to articulate their concerns, did little to stem the loss of land or preserve Maori authority—if anything the opposite prevailed.

¹²³ Belich, *The New Zealand Wars*, p. 321.

¹²⁴ Belich, *The New Zealand Wars*, p. 312.

¹²⁵ Belich, *The New Zealand Wars*, p. 300.

¹²⁶ Belich, *The New Zealand Wars*, p. 310.

In New Zealand post-colonialism owes much to the work of Peter Gibbons.¹²⁷ Gibbons argues that during the first half of the twentieth-century some historians were discussing New Zealand in terms of a 'nation' with reference to its British origins 'commending, explicitly or implicitly, its colonial foundations'. It was later asserted, and in particular by Keith Sinclair, that New Zealanders had transcended these origins, achieving independence and national identity. It was in this way that the 'nation' became the 'primary narrative', and colonisation an 'episode' in the nation's past.¹²⁸

One feature of histories written from a 'nation' perspective is their comparative elements. In making a case for comparative ethnohistory Deborah Montgomerie acknowledges the 'dominant model' it has inherited from imperial history, one where the scholar is sent out to find 'kinder, gentler imperialisms'. According to Montgomerie such studies became either 'exercises in national self-castigation...or self-congratulation'. The latter were conducted by scholars 'convinced their forebears practiced comparatively benign imperialism' and tended to occur as part of 'developing national histories'.¹²⁹ Comparisons made between Canada and the United States and between Australia and New Zealand often conformed to this kind of analysis. The challenge, writes Montgomerie, is to 'rescue comparative history';¹³⁰ it needs 'to move beyond the search for good, or less bad imperialisms' that seek to condemn those who expropriated lands by 'conquest and occupation' while congratulating those who preferred 'treaty or land purchase'.¹³¹

Reflecting on Gibbons' work, Giselle Byrnes and Catharine Coleborne write that postcolonial scholars have for some time viewed the 'nation' with suspicion.¹³² It was Gibbons who proposed that a different approach to the past be considered, one where the 'nation', as the focal point of inquiry, be disrupted in favour of 'other explicatory frameworks'.¹³³ Gibbons argues that the historians' preoccupation with

¹²⁷ Giselle Byrnes & Catharine Coleborne, 'The Utility and Futility of the 'Nation' in Histories of Aotearoa New Zealand', *NZJH*, 45:1, 2011, p. 2.

¹²⁸ Gibbons, 'Cultural Colonization and National Identity', *NZJH*, 36:1, 2002, pp. 5–6.

¹²⁹ Montgomerie, 'Beyond the Search for Good Imperialism: the Challenge of Comparative Ethnohistory', *NZJH*, 31:1, 1997, p. 157.

¹³⁰ Montgomerie, 'Beyond the Search for Good Imperialism', pp. 156–157.

¹³¹ Montgomerie, 'Beyond the Search for Good Imperialism', p. 160.

¹³² Byrnes & Coleborne, 'The Utility and Futility of the 'Nation' in Histories of Aotearoa New Zealand', p. 3.

¹³³ Peter Gibbons, 'The Far Side of the Search for Identity', *NZJH*, 37:1, 2003, p. 39.

the ‘nation’ and ‘national identity’ not only hinders our understanding of history,¹³⁴ but texts that suggest ‘national identity’, ‘nationhood’, or ‘nationalism’ as anything other than an ‘ideological construction’ are in fact ‘colonizing texts’.¹³⁵ Chris Hilliard argues too that ‘reflective cultural nationalist writing which sought to make Pakeha culturally at one with “the land”’ are as ‘colonizing’ as polemic tracts against Maori.¹³⁶

In his account of New Zealand’s non-fiction literature, Gibbons writes that ‘part of the task of literary history is to explore textual genealogies’. The difficulty, though, is where to begin, as ‘all texts reformulate pre-existing texts, all writing is rewriting, and the horizon of beginnings recedes beyond New Zealand’. Gibbons writes that non-fiction writing here was conditioned by the ‘extension of European power into non-European territories’:

Writing in and about New Zealand was henceforth involved in the process of colonisation, in the implementation of European power, in the description and justification of the European presence as normative, and in the simultaneous implicit or explicit production of the indigenous peoples as alien or marginal.¹³⁷

Gibbons divides New Zealand’s non-fiction literature into five broad sections. ‘The Archive of Exploration, 1642–1840’, describes how explorers, missionaries, and traders ‘textualized’ New Zealand before formal annexation. ‘The Literature of Invasion, 1840–1890’, was the product of ‘colonists who were “settling” the country’¹³⁸ and is primarily concerned with ‘three interrelated subjects: the indigenous inhabitants, the natural phenomena and resources of New Zealand, and accounts of European settlement experiences’.¹³⁹ ‘The Literature of Occupation, 1890–1930’, reflected ‘a shift in cultural perceptions for a considerable number of European New Zealanders’. Whereas for earlier writers New Zealand had been a place of ‘exile’, it was now a place of ‘habitation’. Now “native born” colonists tried to ‘depict themselves as indigenous people; and, in order for them to “belong” they

¹³⁴ Peter Gibbons, ‘Cultural Colonization and National Identity’, pp. 5–6.

¹³⁵ Gibbons, ‘Cultural Colonization and National Identity’, p. 14.

¹³⁶ Chris Hilliard, ‘Stories of Becoming—The Centennial Surveys and the Colonization of New Zealand’, *NZJH*, 33:1, 1999, p. 3.

¹³⁷ Peter Gibbons, ‘Non-Fiction’, in Terry Sturm ed., *The Oxford History of New Zealand Literature*, 1st Edition, Auckland: Oxford University Press, 1991, pp. 27–29.

¹³⁸ Gibbons, ‘Non-Fiction’, p. 29.

¹³⁹ Gibbons, ‘Non-Fiction’, p. 34.

had to ‘regard the place and its phenomena not as alien but as normal’.¹⁴⁰ ‘The Literature of National Identity, 1930s–1980s’, saw the beginning of a new literary endeavor. ‘The purpose of the exercise’ was much the same as it was for their predecessors: ‘to take colonization a stage further and inhabit the land more completely than hitherto’. Those looking to construct a national identity could incorporate the works of the previous generation; however, unlike their predecessors the new generation of writer could ‘pay less attention to Maori subjects’.¹⁴¹

Colonisation, like all cultures, is organic and multilayered and writing is both an expression of, and a vehicle for this ongoing process. As such, Gibbons’s chronology provides a convenient way of organising the chapters in the thesis. Chapters One and Two fall within the period 1642–1840 (‘The Archive of Exploration’) and discusses the intellectual framework, that is, the ‘ideological scaffolding’ that supports the discourse of Maori privilege. Chapter One—‘Maori Privilege: the Pre-History’—is divided into three parts. Part I—‘Knowing the Natives’—examines the processes by which Europeans came to ‘understand’ Maori and how in doing so constructed Maori as a certain type of ‘savage’: a superior savage. This initial intellectual privileging of Maori was a necessary precursor to ‘official’, and subsequently, ‘populist’ forms of privilege. It would be later argued that as a superior savage Maori were worthy of protection. Part II—‘Identifying the Dots’—discusses how Britain’s experience in North America shaped colonial policy in New Zealand and how this contributed to the construction of Maori as a uniquely privileged people. Part III—‘Joining the Dots’—addresses the assumption that colonisation in New Zealand was a ‘break from the past’ and argues, contrary to this assumption, that colonisation here was in fact a continuation of an evolving process of dispossession.

Chapter Two—‘Privileged by Britishness’—is divided into three parts. Part I—‘Privilege in the Fragment’—explains how the humanitarian ethos, prevalent at the time of the New Zealand fragment’s extrication from Britain, provided colonial administrators, missionaries, humanitarians, and colonial reformers with a rhetoric by which their respective activities could be undertaken, and justified. Part II—‘The Rhetoric of Obligation’—examines the historic milieu from which humanitarianism emerged, and, its place within the New Zealand ‘fragment’. Part III—‘The Rhetoric

¹⁴⁰ Gibbons, ‘Non-Fiction’, p. 52–53.

¹⁴¹ Gibbons, ‘Non-Fiction’, pp. 69–70.

of Benevolence’—demonstrates humanitarianism’s fluidity, and in particular, its ability to meet the imperatives of the coloniser while maintaining a façade of protecting Maori. The objective of chapters One and Two is to show that the ‘idea’ of Maori privilege is fundamentally a European discourse, firmly rooted in the western intellectual tradition.

Chapters Three, Four, and Five cover the period from 1840 to 1890 (‘The Literature of Invasion’) and discuss how notions of privilege framed native land policy. Chapter Three—‘Privileged by Treaty’—examines the public life of the Treaty of Waitangi between 1840 and 1847. During this 7-year period the treaty was debated in the New South Wales Assembly, was the subject of a House of Commons Select Committee inquiry, and was noted in a Supreme Court decision. It was during this time too that ‘official’ and ‘populist’ forms of Maori privilege began to feature in the colony’s political culture. It was declared on numerous occasions that Maori, having been extended ‘royal protection’ and imparted with the ‘rights and privileges of British subjects’, were a particularly privileged people. What is discernible, however, is that the provisions of the treaty, and therefore the protections and rights and privileges Maori had been given, were not fixed. The Crown had to meet the demands of a growing settler population and it is at this juncture that ‘official’ and ‘populist’ forms of Maori privilege began to emerge.

Chapter Four—‘The Firm Hand of Privilege’—considers the way in which the Crown and the settler parliament discharged its treaty obligations from 1847 to 1867. The view long held by the Crown was that the greatest threat to Maori was land speculation. The inclusion of a pre-emptive clause in the Treaty of Waitangi was regarded as a protective measure. From 1858 the Crown’s policy was challenged by the settler parliament, which sought to abolish pre-emption and replace it with a system of free trade in land. The chapter is divided into five parts. Part I—‘The Privilege of Protection’—discusses the Crown’s land purchase policy from 1847 to 1858. Part II—‘The Privilege of Private Property, 1852–1860’—traces the development of the settler parliament’s native policy. Part III—‘The Privilege of War’—discusses the Waitara purchase. Part IV—‘The Privilege of Private Property, 1861 to 1865’—examines the Native Land Acts 1862 and 1865. What is discernible during this period is the way in which notions of privilege were used to support or

undermine policy. What is evident, however, is that regardless of policy, be it ‘protection’ or ‘individualisation and free trade’, the outcome for Maori was land loss.

Part IV—‘The Privilege of Citizenship’—discusses the Maori Representation Act 1867, which established the original four Maori parliamentary seats. Today the Maori seats frequently come under attack by those who view them as a clear example of Maori privilege. However, at the time of their inception they were seen variously as: a means of meeting the Crown’s article three obligations; a way of maintaining the balance between North and South Islands in the House of Representatives; a way of channeling the ‘native mind’ or dissipating any negative feelings following the land wars; and a means of responding to British critics at ‘home’ who criticised the conduct of the New Zealand government during the so-called New Zealand wars. The creation of the Maori seats was also framed as the ‘highest privilege’ that could be extended to Maori.

Chapter Five—‘The Privilege of Petitioning’—examines the period from 1870 to 1900. Following their admission to the House of Representatives Maori quickly took up the other privileges of citizenship. Maori dissatisfaction with native policy and in particular that pertaining to the operations of the Native Land Court resulted in a flurry of petitions to parliament; Maori were also successful in securing the appointment of commissions of inquiry which nearly always included a Maori commissioner. The chapter is divided into three parts. Part I—‘The Right to Petition’—discusses the origins of petitioning and its place within the constitution. Part II—‘Privilege and Paradox—The Privilege’—examines some of the petitions placed before the House during this period. Part III—‘Privilege and Paradox—The Paradox’—argues that despite the privilege of petitioning, Maori received little satisfaction in the Crown’s response to the recommendations made; moreover, it did little to repress the settler desire for land, if anything, it further entrenched the belief among the settlers that Maori had been imparted with their article three rights.

Chapter Six—‘The Most Privileged People of All?’—examines the period from 1890 to 1910 (‘The Literature of Occupation, 1890–1930’). At the end of the nineteenth-century it was claimed that Maori were the most privileged of all Native peoples. Yet, in the first 60 years of colonisation, that is to say, after 60 years of privilege, Maori

had been left with 8 million of the roughly 63 million acres that make up the islands of New Zealand. The chapter demonstrates how during 20 years of Liberal rule notions of Maori privilege were used to justify the dispossession of Maori. The chapter is divided into five parts. Part I—‘The Privilege of Protection: From Chaos to Order’—traverses the Liberal government’s legislative programme, and in particular its decision to resume pre-emption over Maori land. Part II—‘The Privilege of Leasing’—discusses the introduction of the Maori Lands Administration Act 1900. The Act was an attempt at preserving the free-hold title of Maori land through leasing, a scenario that caused much resentment among the settler population. Part III—‘Towards the Privilege of Free Trade’—examines the Opposition’s response to leasing, and in particular, the degree to which leasing was seen to be privileging Maori. Part IV—‘The Politics of Privilege’—argues that notions of Maori privilege, as a result of the emergence of political parties, acquired increased utility. Part V—‘The Privilege of Paternalism’—is, strictly speaking, outside the focus period of the chapter. It assesses the 1934 Commission of Inquiry into the Native Affairs Department which led to the resignation of Apirana Ngata, the first Native Minister from a Maori electorate. It is included here because it was as Native Minister that he was able to put into operation the land development schemes conceptualised during Liberal rule.

Chapter Seven—‘Writing Privilege into History’—surveys New Zealand’s non-fiction literature between 1840 and 1940. As noted above, 1840 saw the inauguration of Maori into the British Empire, a privilege that by 1940 had become a central feature of New Zealand’s national story. This chapter discusses how this was achieved in New Zealand’s non-fiction literature. Part I—‘Making Privilege’—deals with Advice Books. Part II—‘Using Privilege’—discusses William Pember Reeves’ *Long White Cloud*. Part III—‘Celebrating Privilege’—examines the 1940 centennial surveys. What is discernible throughout the various works is the notion that colonisation was predestined, and that it brought order to a chaotic Maori world. This scenario is vital in the construction of Maori ‘privilege’. Furthermore, these kinds of texts are today cited by anti-Treatyists who refer to them as the ‘true’ history of this country, that is to say, history that has not been reinterpreted by the revisionist historian.

The conclusion and epilogue together demonstrate the strength and durability of Maori 'privilege'. The intellectual privileging of Maori before 1840 and the consequential imparting of the 'rights and privileges of British subjects' ultimately led to the colonisation of New Zealand—by privilege. Maori loss and Maori 'privilege' were in fact one and the same. Owing to space limitations the period from 1940 to the present is not discussed in the main body of the thesis, it is, however, briefly discussed in the epilogue. What is clearly evident is that in the late twentieth and early twenty-first centuries Maori 'privilege' still has utility.

CHAPTER ONE



Maori Privilege — the pre-History

In 1840 ‘Her Majesty Victoria Queen of the United Kingdom and of Great Britain and Ireland’ extended to ‘the Natives of New Zealand Her royal protection and...all the Rights and Privileges of British Subjects’. Since then the Treaty of Waitangi has come to symbolise British benevolence and the ‘uniqueness’ of the New Zealand’s history. It is, then, towards 1840 that this chapter heads. By way of arriving at this apparently seminal moment in the history of colonisation the chapter identifies and examines those discourses that came to justify European expansion. It is argued that in New Zealand these discourses helped frame a particular version of history and that its re-telling has perpetuated notions of Maori privilege. The chapter argues, moreover, that in New Zealand ‘privilege’ and colonisation are synonymous.

The chapter is divided into three parts. Part I—‘Knowing the Natives’—discusses how European observers used predetermined systems of classification, racial hierarchies, schemes of progress, and more significantly, stadial theory, as a way of ‘knowing’ Maori. As a result of European theorising Maori were deemed to be a particular type of savage, that is to say, a superior savage worthy of protection. This intellectual privileging had little to do with Maori per se; rather, Maori were simply seen as being more European-like when compared with other Native peoples. Significantly, it was the construction of Maori as a superior savage that was used to justify colonisation. Part II—‘Identifying the Dots?’—examines aspects of colonisation in North America and addresses the often asserted claim that British colonisation in New Zealand was different, more benevolent, than colonisation elsewhere. Part III—‘Joining the Dots’—traces the connections between British colonial policy in North America and those policies developed in New Zealand.

Part I — ‘Knowing’ the Natives

The first recorded encounter between Maori and European took place in 1642 when the Dutchman, Abel Tasman, arrived in Te Taitapu at the north-western end of the South Island. The Dutch presence in the Pacific was part of a wider process of European expansion that began with the Spanish and Portuguese and can be directly linked to the changing geo-political circumstances in Europe. Tasman’s visit is remembered primarily for its brevity. Following the death of four crewmen Tasman hastily departed bestowing the name—‘Murderers Bay’—to the area in memory of the incident. Though brief, the violent nature of this first encounter began an archive of representations and images of Maori that when required could be deployed to justify European actions.¹ Maori and European would not meet again for 127 years.

In 1769 Maori were privileged to make the acquaintance of the British Empire in the person of James Cook. It is pertinent to note that the British were not alone, the French were here too. However, the ‘massive French contribution to European knowledge of New Zealand’, like Cook’s less than exemplary treatment of Maori, has been largely silenced by the ‘Anglicising legend’. As noted in the introduction, Cook holds a special place in the national memory. He was, writes Belich, ‘the first of a Pakeha pantheon of deified ancestors’, his ‘humble birth, his quiet pragmatism, his trumping of a bunch of intellectuals made him the prototype of an archetype’.²

Cook visited New Zealand on three occasions between 1769 and 1777, marking the start of an increased British presence in the Pacific.³ When Cook left Plymouth in August 1768 he made for Tahiti where he had been instructed to observe the transit of Venus; from here he was to travel west in search of terra australis incognita, study its people, and if it was uninhabited, to annex it. If unsuccessful in locating the great southern continent he was to make for New Zealand.⁴ The composition of the crew, which included an astronomer and two botanists, Joseph Banks and Dr. Daniel Solander, reflected the expedition’s scientific imperatives. As the preeminent Cook

¹ Anne Salmond, *Two Worlds—First Meetings between Maori and Europeans 1642–1772*, Auckland: Penguin Books, 1991, pp. 75–84.

² Belich, *Making Peoples*, p. 122.

³ Salmond, *Two Worlds*, p. 95.

⁴ J.C. Beaglehole, *The Discovery of New Zealand*, 2nd Edition, London: Oxford University Press, 1961, pp. 25–26.

historian, J.C. Beaglehole wrote, ‘the flora of New Zealand indeed was to be introduced to science under notable auspices’.⁵

Cook’s arrival in the Pacific would see the beginning of the first phase of privileging Maori through the development of a system of classification of Polynesian peoples. Cook sighted New Zealand on 7 October 1769 and then proceeded to circumnavigate and chart its shores,⁶ confirming that it was not part of a large southern landmass. Beaglehole writes that Cook and Banks ‘faithfully recorded what could be found out in so short a time, from so limited a number of landings and encounters, about the interior and the people’. Cook’s observations led him to write, ‘in short was this Country settled by an Industrious people they would very soon be supply’d not only with the necessaries but many of the luxuries of life’. He went so far as to suggest the Bay of Islands or the River Thames as suitable sites for a settlement.⁷ Cook, therefore, privileged New Zealand as a natural paradise, but one requiring European settlement. According to McLintock it was this ‘very favourable impression’ that provoked Cook into taking possession of New Zealand, first at Mercury Bay on 15 November 1769⁸ and then at Queen Charlotte Sound on 31 December 1770.⁹

During his second voyage Cook extended the process of classification. Having on his first voyage determined that New Zealand was an ideal place for settlement he now considered in more detail its human inhabitants, and in particular how they compared with other Pacific peoples. Cook arrived in New Zealand in 1773, stopping first at Dusky Sound before moving onto Queen Charlotte Sound. He later visited Tahiti, Huahine, Raiatea, Tonga, Rapanui (Easter Island), Niue, and the Marquesas Islands. Included in his crew was John Reinhold Forster who had replaced Banks as the expedition’s naturalist.¹⁰

Forster’s observations were published as *Observations made during a voyage round the world*.¹¹ He identified ‘two great varieties’ of ‘human species’. The first inhabited Tahiti, the Society Isles, the Marquesas, the Friendly Isles, Easter Island, and New

⁵ Beaglehole, *The Discovery of New Zealand*, pp. 25–26.

⁶ McLintock, *Crown Colony Government in New Zealand*, p. 6.

⁷ Beaglehole, *The Discovery of New Zealand*, pp. 59–60.

⁸ Beaglehole, *The Discovery of New Zealand*, p. 36.

⁹ Beaglehole, *The Discovery of New Zealand*, p. 49.

¹⁰ A.H. McLintock, ed., *An Encyclopaedia of New Zealand*, volume 1, Wellington: Government Printer, 1966, p. 392.

¹¹ Johann Reinhold Forster, *Observations Made during a Voyage Round the World*, Nicholas Thomas, Harriet Guest, Michael Dettelbach, ed., Honolulu: University of Hawai’i Press, 1996.

Zealand. These people were ‘fair, well limbed, athletic, of a fine size, and a kind benevolent temper’. The peoples of New Caledonia, Tanna, and the New Hebrides constituted the second variety. They were ‘blacker’ with ‘hair just beginning to become woolly and crisp’, and a ‘body more slender and low, and their temper, if possible more brisk’.¹²

For Forster ‘the most beautiful variety of the first race’ came from Tahiti and Society Isles. ‘Next in beauty’ were the people of the Marquesas¹³ followed by the Friendly Isles, who were a ‘little inferior, if not equal in beauty to those of the Marquesas’. ‘Inferior in every respect to those already-mentioned’ are ‘the Natives of Easter Island’.¹⁴ With regard to Maori Forster pays particular attention to tattooing, cannibalism, and the ill treatment of women which was ‘common in all barbarous nations’. Nevertheless, Maori were ‘men of sound understanding, and have taste and genius; as proofs of which may be mentioned, their curious carvings, and other manufactures’.¹⁵

As to ‘manners’, Forster again ‘ranks’ the Tahitians and Society Islanders highly and ‘certainly, for many reasons superior to the cannibals in New-Zeeland’. Even further removed in Forster’s assessment were the ‘rambling, poor inhabitants of New-Holland’ and the ‘unhappy wretches of Tierra del Fuego’. Unlike the people of these places, those of Tahiti and the Society Islands were ‘most happy and susceptible of enjoyment and improvement’. Giving rise to this state of existence was the culmination of many factors, ‘everything contributes to connect and to form them for a higher degree of enjoyment’, wrote Forster. Climate, geography, a common language, government and instruments of law as well as sharing similar religious beliefs and morals lent to a happy existence.¹⁶

Forster’s work was later utilised by Johann Friedrich Blumenbach who incorporated Island peoples into his hierarchy of man.¹⁷ Blumenbach divided humanity into five categories: Caucasian, Mongolian, Ethiopian, American, and Malay, which included Pacific Islanders. Blumenbach’s primary criterion was ‘beauty’, and he ‘allotted the

¹² Forster, *Observations Made during a Voyage Round the World*, p. 153.

¹³ Forster, *Observations Made during a Voyage Round the World*, pp.154–155.

¹⁴ Forster, *Observations Made during a Voyage Round the World*, pp. 157–158.

¹⁵ Forster, *Observations Made during a Voyage Round the World*, pp. 158–159.

¹⁶ Forster, *Observations Made during a Voyage round the World*, p. 239.

¹⁷ Howe, *Nature, Culture, and History*, p. 34.

first place to the Caucasian' who he considered 'the most handsome and becoming'. Placed below the Caucasian, side by side, were the Malay and the American. The farthest removed from the Caucasian were the Ethiopian, who sat below the Malay, and the Mongolian who sat below the American.¹⁸ Blumenbach's final hierarchy thus resembled a triangle.¹⁹

The Cook voyages, then, saw the Pacific and its peoples systematically incorporated into European knowledge systems. David Mackay writes that attempts in 'developing a universal system of classifying plants' were made during the seventeenth-century, however, the 'breakthrough' came in the 1730s as a result of Carl von Linné's (Carolus Linnaeus²⁰) work. This 'triumph of empiricism', writes Mackay, imposed 'order and reason' on what had been 'incomprehensible chaos'.²¹ According to Peter Bowler, Linnaeus was 'convinced' that nature could be rationalised and made knowable to man. Central to Linnaeus' proposition was a system of classification based on the sex organs of plants. K.R. Howe writes that although 'rigid' and 'predetermined', and eventually replaced,²² the 'Linnaean classificatory scheme' enabled a plant previously unknown to Europeans to be 'located' and 'understood'.²³

Since the time of Francis Bacon, science had enabled overseas expansion, created trade and, writes Richard Drayton, satisfied 'intellectual curiosity'. By the eighteenth-century it had become apparent that nature had 'shared her secrets with the British' and the 'responsibility' of sharing 'universal knowledge', like Christianity, came to justify 'imperial outreach'.²⁴ There are three points I want to labour here. The first is the centrality of hierarchy and classification, not only to the development of natural science, but to the Western intellectual tradition generally. C.A. Patrides goes so far as to say, 'The history of Hierarchy is the history of

¹⁸ Johann Friedrich Blumenbach, 'On the Natural Variety of Mankind', in Robert Bernasconi and Tommy L. Lott, ed., *The Idea of Race—Readings in Philosophy*, Indianapolis: Hackett Publishing Company, 2000, pp. 27–28.

¹⁹ Ernest Cashmore, *Encyclopaedia of Race and Ethnic Studies*, London: Routledge, 2004, p. 167.

²⁰ Linne also referred to himself as Linnaeus reflecting the Latin nomenclature he used when naming plants.

²¹ David Mackay, *In the Wake of Cook—Exploration, Science & Empire, 1780–1801*, Wellington: Victoria University Press, 1985, p. 12.

²² Peter J. Bowler, *The Norton History of the Environmental Science*, New York: W.W. Norton & Company, 1992, pp. 162–163.

²³ Howe, *The Quest for Origins*, p. 29.

²⁴ Richard Drayton, 'Science, Medicine, and the British Empire', in Robin Winks ed., *The Oxford History of the British Empire—Historiography*, Volume V, Oxford: Oxford University Press, 1999, pp. 264–265.

Occidental thought'.²⁵ Like hierarchy, classification served as a means of establishing 'order in things and in thought'. This, writes Pierre Speziali, is 'the aim of every classification'.²⁶ Forster's observations of Pacific peoples and Blumenbach's hierarchy of man are an expression of this tradition. The strength and resilience of that tradition can be further seen in Forster's division of Pacific peoples into two categories, later termed Melanesia and Polynesia, which, writes Howe, 'helped establish a framework of Pacific anthropological discourse that has lasted virtually to the present'.²⁷

The observations made during the Cook expeditions were conducted utilising the most advanced tools and methodologies of the day. However, as M.P.K. Sorrenson writes, 'ethnographers nearly always found in Maori culture what they expected to find; their expectations were kindled by the prevailing anthropological theories of the day'.²⁸ While observers were able to elicit new 'knowledge' and understanding, the 'control', that is to say, the standard against which Maori were measured, was, and remains, the culture and society of the classifier. That Maori were considered to be a superior type of savage had little to do with any intrinsic value or worth of the culture or society to which they belonged. Maori were privileged with the status of superior savage simply because they were perceived to be more like Europeans than other Native peoples. Lastly, and this is the crux of my argument, hierarchies of privilege, stated and implied, are rooted in the same intellectual tradition as those hierarchies and classifications deployed at the time of Cook. In every case the referent point is European and it is the classifier/coloniser who determines and bestows the privilege.

The 'knowledge' generated through the process of classification was used to position indigenous peoples on established hierarchies or locate them in various schemes of progress. Anne Salmond writes that encountered 'exotic groups' were explained in familiar terms. The 'savage' could be depicted as 'bestial', the precedence for which was to be found in medieval descriptions of animals and notions of demons. The 'savage' could also be 'innocent', a 'child of Nature', who would inherit the 'biblical

²⁵ C.A. Patrides, 'Hierarchy and Order' in *Dictionary of the History of Ideas—Studies of Selected Pivotal Ideas*, volume II, New York: Charles Scribner's Sons, 1973, p. 434.

²⁶ Pierre Speziali, 'Classification of the Sciences', in *Dictionary of the History of Ideas—Studies of Selected Pivotal Ideas*, Volume I, New York: Charles Scribner's Sons, 1973, pp. 462–463.

²⁷ Howe, *Nature, Culture, and History*, p. 34.

²⁸ Sorrenson, *Maori Origins and Migrations*, p. 58.

Garden of Eden'. Such conceptions of the 'savage', writes Salmond, were significant in the development of 'evolutionary schemes' describing the 'transition from savagery to civilisation'. Significantly, philosophers in Britain had, due to 'rapid changes in technology and material conditions', arrived at the conclusion that 'property' was central to 'progress'. Without it there would be no 'industry' and without 'industry' men would forever remain savages. According to Salmond this led to a 'judgment in favour of civilisation that was never seriously disturbed thereafter'.²⁹

The idea that most influenced European understandings of Maori during the eighteenth-century, and indeed into the nineteenth-century, found its most forceful expression in the Scottish Enlightenment. Scottish Enlightenment thinkers, like those of the European Enlightenment generally, drew their inspiration from earlier scholars. According to French scholar Jean Le Rond d'Alembert (1717–1783) it was Francis Bacon (1561–1626), Rene Descartes (1596–1650), Isaac Newton (1642–1727), and John Locke (1632–1704) who 'prepared from afar the light which gradually by imperceptible degrees would illuminate the world'.³⁰ The Scots shared the Enlightenment view that ignorance gave rise to superstition, but when subjected to reason, superstition would fall by the way.³¹ In this respect science was a 'powerful weapon'; moreover, Newton's contribution was 'both a model and a challenge' for the Scots who, writes Christopher Berry, sought 'to achieve for the moral or social sciences what he had done for natural science'.³²

Underpinning the Scottish Enlightenment was a view that 'humans are naturally social, and this sociality expresses itself institutionally'. Enlightenment social theory was characterised by a need to explain 'causes' and 'effects' and, in particular, why 'institutional expression is not uniform'.³³ The Scots, writes Berry, drew on three sources: 'the contemporary world of "civilised" Scotland and Europe, the contemporary "savage" world of the Americas, Asia and Polynesia, and the world described by the ancient authors'. Of these sources, only the first can be known from 'personal experience' and so, to ensure the theorist was not at the 'mercy of

²⁹ Salmond, *Two Worlds*, pp. 95–97.

³⁰ Jean Le Rond d'Alembert, cited in Christopher Berry, *Social Theory of the Scottish Enlightenment*, Edinburgh: Edinburgh University Press, 1997, p. 3.

³¹ Berry, *Social Theory of the Scottish Enlightenment*, pp. 5–6.

³² Berry, *Social Theory of the Scottish Enlightenment*, p. 52.

³³ Berry, *Social Theory of the Scottish Enlightenment*, pp. 70–71.

propaganda, deception and misrepresentation’, the Scots employed what we would now call the ‘comparative method’.³⁴ With these empirical foundations theorists of the Scottish Enlightenment expounded a history that told the story of human progress.

Scottish Enlightenment theorists, such as Adam Smith, postulated a stadial theory of human development whereby all societies passed through four stages: ‘hunter’, ‘shepherd’, ‘agriculture’, and ‘commerce’. Each stage was determined by the ‘mode of subsistence’ a society was engaged, that is to say, the extent to which they cultivated nature.³⁵ In *History of America* William Robertson clearly articulates this view. ‘In every part of the earth, the progress of man hath been nearly the same; and we can trace him in his career from the rude simplicity of savage life, until he attains the industry, the arts, and the elegance of polished society’.³⁶ For Robertson, ‘every enquiry concerning the operations of men when united together in society, the first object of attention should be their mode of subsistence. Accordingly, as that varies, their laws and policy must be different’. The ‘institutions’ of societies who rely on fishing and hunting for subsistence and have ‘yet acquired but an imperfect conception of any species of property’ will be, according to Robertson, ‘simple’ when compared with those who cultivate the soil with ‘regular industry’.³⁷

Robertson also considered that the ‘mode of subsistence’ was not the only factor that determined a society’s degree of civilisation. It was an axiom of the Scottish Enlightenment that in the final stage—‘commercial’—the notion of property was most refined. The connection between the institution of property and progress was spelt out by Smith, who also argued that with property came the desire to exchange. This view was to have a profound effect on how Europeans viewed Native peoples. Those thought to be receptive to Europeans and interested in acquiring European objects, such as the Tahitians, were viewed in a positive light, while those who

³⁴ Berry, *Social Theory of the Scottish Enlightenment*, pp. 61–62.

³⁵ Nathaniel Wolloch, *History and Nature in the Enlightenment: Praise of the Mastery of Nature in Eighteenth Century Historical Literature*, Burlington: Ashgate, 2011, pp. 92–93.

³⁶ William Robertson, *The History of America*, Volume II, Book IV, London: A. Strahan, Printers-Street, 1803, p. 30.

³⁷ Robertson, *The History of America*, p. 111.

demonstrated a lack of interest in such things, like the Terra del Fuegians, were deemed less civilised.³⁸

Maori, then, aside from their tattooed bodies and their purported poor treatment of women, were deemed to be intelligent and enterprising and therefore relatively civilised, at least compared with the Terra del Fuegians. The Maori propensity to progress was later noted by Ernst Dieffenbach, New Zealand Company naturalist:

Of all the nations of the Polynesian race, the New Zealanders show the readiest disposition for assuming in a high degree that civilization which must be the link to connect them with the European colonists, and ultimately to amalgamate them.³⁹

Progress, among other things, was dependent on ‘intercourse with more civilized neighbours’. This was not unknown to Europeans; indeed their own history recalled the defeat of a ‘despotic’ yet ‘refined’ Roman Empire at the hands of a ‘vigorous’ though ‘rude race of conquerors’. The ‘victors’ quickly assimilated the ‘civilized habits’ of those they had conquered and henceforth ‘advanced rapidly from their earlier barbarity’. In New Zealand Maori were often compared with early Britons, that is, Victorians in their ‘infancy’. Such ideas emanated from ‘glowing reports’ of New Zealand’s ‘suitability’ for propagating plants and farming animals imported from Britain.⁴⁰ Due to ‘their isolation from outside civilising influences’ it was believed that Maori had progressed as far possible. Dieffenbach thus wrote:

They are a people, decidedly in a nearer relation to us, than any other; they are endowed with uncommonly good intellectual faculties; they are an agricultural nation, with fixed domicile, and have reached the farthest point of civilization which they possibly could without the aid of other nations, and with the example of history.⁴¹

Before formal colonisation Maori had been classified, placed in racial hierarchies, and their potential for progress had been established. However, the conclusions drawn from such investigations were far from ‘objective’. Dieffenbach’s observations, like Forster’s, took as their referent point European culture and society. Forster, according to Nicholas Thomas, did not ‘merely describe the manners and

³⁸ Thomas, ‘Hodges as Anthropologist and Historian’, p. 29.

³⁹ Ernest Dieffenbach, *Travels in New Zealand*, Christchurch: Capper Press, 1974, p. 139 (First published 1843).

⁴⁰ Pat Moloney, ‘Savagery and Civilisation’, *NZJH*, 35: 2, 2001, p. 157.

⁴¹ Cited in Moloney, ‘Savagery and Civilisation’, p. 157.

customs that had been witnessed, but analysed them from the standpoint of Enlightenment social theory'.⁴² This was the context in which Maori were made known to Europe.

The intellectual privileging of Maori since 1769 was to have significant influence on native policy in the decades after 1840. Following careful observation it was concluded that Maori were a superior savage and should be protected. In affording Maori a treaty that guaranteed to them 'royal protection' and the 'rights and privileges of British subjects' the 'superior savage' became the 'privileged Maori'. The paradox of Maori privilege, as the following chapters demonstrate, was that the 'Rights and Privileges' that were intended to protect Maori interests became the most effective means of separating them from their lands and resources.

Part II — Identifying the Dots

An assumption that underpins the notion of Maori privilege is that the colonisation of New Zealand was some-how different, some-how better than occurred elsewhere. Historians divide British imperialism into two separate empires; the second empire, of which New Zealand was a part, is considered more humane and enlightened than the first.⁴³ Part II questions this view and argues that colonial practices in New Zealand were less a break from the past than a continuation of what went before. Indeed, the situation as it transpired in New Zealand has similarities to North America. 'Discovery' led to the incorporation of Native peoples into European knowledge systems; the exploitation of resources drew Native peoples into European capitalism; and legal doctrines evolved to take account of the Native presence. Moreover, as power shifted from the Native population to an ever-increasing settler population, land and resource loss ensued.

In 1960 the New Zealand historian, W.H. Oliver, wrote that the New Zealand of the mid twentieth-century, and whatever it might become, is 'a variant of British

⁴² Nicholas Thomas, 'Hodges as Anthropologist and Historian' in Geoff Quilley and John Bonehill eds., *William Hodges 1744–1797, The Art of Exploration*, New Haven: Yale University Press, 2004, p. 28.

⁴³ David Hackett Fischer, *Fairness and Freedom-A History of Two Open Societies, New Zealand and the United States*, New York: Oxford University Press, 2012, pp. 68–94.

experience'. The English, the Scottish, the Irish, and the Welsh, being the ancestors of the New Zealanders, brought with them 'the mental furniture of their homelands'. Over time, the 'importations' of the settlers, their 'needs', 'beliefs', 'habits', and 'institutions' 'withered', 'flourished', or took on 'unexpected forms'.⁴⁴ James Belich is right when he says Britain's history 'is our history too'.⁴⁵ There is also a valid argument to include, as part of 'our history', the history of Europe. In order to understand the Treaty of Waitangi and its purported privileging of Maori we first need to consider the historical context in which treaties of this type developed. The Treaty of Waitangi has its antecedents in European history.

In 1824 the German scholar Leopold von Ranke wrote that when 'the purple of Caesar passed to the Teutonic races' six nations emerged: the Spanish, the French, and the Italian, 'in which the Latin element predominated', and the German, the English, and the Scandinavian, 'in which the Teutonic element was conspicuous'. Although they were always at war, the Europeans 'sprung from the same or closely allied stock; are alike in manners, and similar in many of their institutions: their internal histories precisely coincide, and certain great enterprises are common to all'. These 'great enterprises', wrote Ranke, were 'the migration of nations, the crusades, and the colonization of foreign countries'. Ranke then asks, 'what can knit together individuals or nations into a closer relationship than a participation in the same destiny, and a common history?'⁴⁶ One of Europe's first 'great enterprises' was the colonisation of the Americas.

A recurring feature of imperialism was treaty making, which delineated rights and privileges, and, asserted ownership of territories. P.J. Marshall writes that Europeans, since the time of Christopher Columbus, regarded the Americas 'as a continent subject to their imperial domination'. Such confidence is evident in the Treaty of Tordesillas 1494, which apportioned the newly 'discovered' lands to Spain and Portugal. The Iberians were in turn supplanted as the preeminent imperial power by the Dutch, the French, and the British.⁴⁷ In North America British claims to

⁴⁴ Oliver, *The Story of New Zealand*, pp. 268–269.

⁴⁵ James Belich, *Making Peoples—A History of the New Zealanders from Polynesian Settlement to the End of the Nineteenth Century*, North Shore: Penguin Books, 2007, p. 16.

⁴⁶ Leopold von Ranke, *History of the Latin and Teutonic Nations 1494 to 1514*, London: G. Bell and Sons, Ltd, 1915, pp. 1–3.

⁴⁷ P.J. Marshall, 'Europe and the Rest of the World' in T.C.W. Blanning, ed., *The Short Oxford History—The Eighteenth Century*, Oxford: Oxford University Press, 2000, pp. 219–220.

sovereignty were substantiated by the ‘right of discovery’ and, as Ken Coates writes, by ‘occasional landfalls’ in Hudson Bay and the Arctic islands.⁴⁸ In May 1497, with Letters Patent from Henry VII,⁴⁹ John Cabot⁵⁰ departed for North America in search of the north-west passage. Cabot was followed in 1534 by Jacques Cartier, under the patronage of Francis I of France. Neither Cabot nor Cartier found the fabled passage to Asia; however, Cartier was to make two more voyages in which he explored the coast of Newfoundland and the St. Lawrence River.⁵¹

Although competition between European powers ignored the fact that the Americas already belonged to somebody else, Europe could not ignore the Native presence indefinitely. In time they would choose to conclude treaties with Native peoples. Although Cartier’s expedition did not result in French settlement it did draw attention to the rich cod fisheries off the south Newfoundland coast and in the Gulf of St Lawrence.⁵² The English were also attracted by fish. According to Niall Ferguson, of the 149 people who departed South Hampton on the *Mayflower* in 1620 only one third were Pilgrims; the majority were aiming to ‘make good rather than be godly’. He writes that it was ‘not so much the absence of bishops and other relics of Popery, but the presence, in large quantities, of fish’ that made New England so attractive.⁵³

During the second half of the seventeenth-century a religious war at home saw France’s influence wane and it was not until this ended that France could again look towards North America. By this time French fishermen were trading in another commodity: beaver fur.⁵⁴ The beaver was used in the manufacturing of broad brimmed hats and their popularity was such that they had been hunted to extinction in Western Europe.⁵⁵ The fur trade, for both the English and the French, depended on forging relationships with Native tribes. By the early seventeenth-century the French

⁴⁸ Ken Coates, ‘The “Gentle” Occupation—The Settlement of Canada and the Dispossession of the First Nations’, in Paul Havemann, ed., *Indigenous Peoples Rights in Australia, Canada, & New Zealand*, Auckland: Oxford University Press, 1999, p. 144.

⁴⁹ ‘Letters Patent to John Cabot, March 5 1496’, in Henry Steele Commager ed., *Documents of American History*, New York: Appleton-Century-Crofts, 1973, p. 5.

⁵⁰ Coates, ‘The “Gentle” Occupation’, p. 144.

⁵¹ Kenneth McNaught, *The Penguin History of Canada*, London: Penguin Books, 1988, p. 21.

⁵² McNaught, *The Penguin History of Canada*, p. 9.

⁵³ Niall Ferguson, *Empire: How Britain Made the Modern World*, Victoria: Penguin Group, 2008, p. 62.

⁵⁴ McNaught, *The Penguin History of Canada*, p. 22.

⁵⁵ Eccles, *The Canadian Frontier 1534–1760*, pp. 19–20.

had established a 'commercial alliance' with the Algonquin and Huron⁵⁶ of the Ottawa River and upper Great Lakes, while the Iroquois were trading with the English along the Hudson River.⁵⁷

In North America monopolising the fur trade was a way in which imperial powers could drive prices down. With expectations of making large profits an increasing number of European ships set out for North America. Native traders, however, were quick to realise the intricacies of the market and waited for more than one buyer so they could drive prices up.⁵⁸ To rectify this inconvenience Henry IV granted charters to French businessmen.⁵⁹ A 10-year monopoly was granted to Pierre Du Gua in 1603 on condition he establish a permanent settlement.⁶⁰ In 1670 Charles II granted the Hudson's Bay Company a royal charter giving it a monopoly over the fur trade and the right to govern the Bay area.⁶¹ The French and British now competed for a greater share of the market, forcing traders to look further west in order to gain an advantage.⁶² According to Kenneth McNaught, 'fur was to be the dominant force throughout the entire history of New France'.⁶³

Competition for beaver pelts would inevitably draw Native tribes into a 'larger European power struggle'.⁶⁴ During these conflicts, and for reasons of their own, Native peoples associated themselves with either one of the belligerents. Howard Peckham writes that when war officially broke out in Europe in 1689 French and British colonists 'were counting heavily on Indian allies and calculating sharply the impact of Indian enemies'.⁶⁵ From 1689 to 1763 Native tribes fought in four wars, each war an extension of a European conflict,⁶⁶ and each conflict was concluded by a treaty between the respective imperial powers.

⁵⁶ W.J. Eccles, *The Canadian Frontier 1534–1760*, New York: Holt, Rinehart and Winston, 1969, p. 6.

⁵⁷ McNaught, *The Penguin History of Canada*, p. 25.

⁵⁸ Eccles, *The Canadian Frontier 1534–1760*, pp. 19–20.

⁵⁹ McNaught, *The Penguin History of Canada*, p. 22.

⁶⁰ Eccles, *The Canadian Frontier 1534–1760*, p. 20.

⁶¹ McNaught, *The Penguin History of Canada*, p. 33.

⁶² Coates, 'The "Gentle" Occupation', p. 114.

⁶³ McNaught, *The Penguin History of Canada*, p. 22.

⁶⁴ Eccles, *The Canadian Frontier 1534–1760*, p. 6.

⁶⁵ Howard Henry Peckham, *The Colonial Wars 1689–1762*, Chicago: University of Chicago Press, 1964, p. 23.

⁶⁶ Peckham, *The Colonial Wars 1689–1762*, pp. 25–26.

The situation as it occurred in New Zealand was slightly different from North America. In New Zealand neither Britain nor France had a role in pre-1840 conflict, which was essentially a Maori affair. The so-called ‘musket wars’ were inter-tribal encounters driven by customary imperatives, although it should not be forgotten that muskets were procured from Europeans who were in the Pacific on an imperial mission. During the New Zealand wars of the 1840s and 1860s there was but one imperial power—Britain—France had long since passed as a threat to Britain’s dominance. In these wars some tribes fought alongside the Crown, others remained neutral, and others actively resisted. Why tribes made the decisions they did is complicated, though according to Belich the maintenance of tribal mana was always the primary factor.⁶⁷ In New Zealand the most important monopoly was of course not beaver. However, via the Treaty of Waitangi’s pre-emptive clause Britain did monopolise another valuable commodity: land. As will be discussed below it was in fact the North American precedent that would inform British native policy in New Zealand.

Notwithstanding obvious differences New Zealand and North America have in common the practice of treaty making. ‘King William’s War’ (the War of the League of Augsburg), the first imperial war to be fought in North America,⁶⁸ was concluded by the Treaty of Ryswick 1697.⁶⁹ Ryswick returned to the English and the French respectively, ‘all Countrys, Islands, Forts and Colonys wheresoever situated...’ that they ‘...did possess before the Declaration of this present war’.⁷⁰ Beginning in 1702, ‘Queen Anne’s War’⁷¹ (the War of Spanish Succession)⁷² was eventually concluded in 1713 by the Treaty of Utrecht.⁷³ Under those provisions relating to North America, Louis XIV was to cede to Britain large areas of land formally claimed by France.⁷⁴ Britain was now ‘unquestionably Europe’s dominant naval power’⁷⁵ while in Europe

⁶⁷ Belich, *The New Zealand Wars*, p. 211–214.

⁶⁸ Peckham, *The Colonial Wars 1689–1762*, pp. 25–26.

⁶⁹ Peckham, *The Colonial Wars 1689–1762*, p. 52.

⁷⁰ Treaty of Ryswick 1697, cited in Fred L. Israel, ed., *Major Peace Treaties of Modern History 1648–1967*, Volume I, New York: Chelsea House Publishers, 1967, p. 147.

⁷¹ Peckham, *The Colonial Wars 1689–1762*, p. 60.

⁷² John A. Lynn, ‘International Rivalry and Warfare’ in Blanning, ed., *The Short Oxford History—The Eighteenth Century*, p. 192.

⁷³ Peckham, *The Colonial Wars 1689–1762*, pp. 73–74.

⁷⁴ ‘Treaty of Utrecht 1713’ cited in Israel, ed., *Major Peace Treaties of Modern History 1648–1967*, pp. 207–210.

⁷⁵ Ferguson, *Empire: How Britain Made the Modern World*, p. 30.

France was but one of many powers. From 1714 to 1744 Europe experienced the longest period of peace of the seventeenth and eighteenth-centuries.⁷⁶

French and British rivalry for North America would eventually be decided by the 'Indian and French War'. While coinciding with the 'Seven Years War' in Europe, fighting in North America began earlier and it was here that the 'essential aspects of the Anglo-French conflict' were located.⁷⁷ When war broke out in Europe and India, the British suffered a number of defeats; however, when Louisbourg was taken in 1758 the tide began to turn in Britain's favour. The French were next driven out of India and in September 1759 Quebec surrendered ending the war in North America.⁷⁸

Over the next 100 years Britain, the new ascendant, would acquire extensive overseas territories. As a result of these acquisitions Britain developed patterns of dealing with Native peoples that would in the end shape the experiences of Maori in New Zealand. Peace in North America was eventually concluded by the Treaty of Paris 1763. Under its terms 'his most Christian Majesty cedes, and guaranties to his Britannick Majesty, in full right, Canada, with all its dependencies, as well as the Island of Cape Breton, and all the other Islands and Coasts, in the gulph and river of St. Laurence'.⁷⁹ Britain, having secured territories from France, and Spain, was now faced with the problem of what to do with them. Competing interests made the development of a permanent policy difficult. Ray Allen Billington writes that:

Ministers, with no precedents to build upon, must devise a system that would satisfy jealous provincials, greedy traders, land-hungry speculators, English merchants, rabid imperialists, sentimental humanitarians, and individualistic frontiersmen.⁸⁰

Of these interest groups the most influential were land speculators and fur traders. Land speculators pressed for land in the west to be opened up for settlement. New land companies were established while others petitioned to have their grants renewed. Prominent individuals such Benjamin Franklin and George Washington also looked to advance the interests of land speculators. Franklin petitioned the

⁷⁶ Lynn, 'International Rivalry and Warfare', p. 184.

⁷⁷ Lynn, 'International Rivalry and Warfare', p. 199.

⁷⁸ Benjamin W. Labaree, *America's Nation-Time: 1607-1789*, Boston: Allyn and Bacon, Inc, 1972, pp. 144-148.

⁷⁹ 'Treaty of Paris 1763' cited in Israel, ed., *Major Peace Treaties of Modern History 1648-1967*, p. 308.

⁸⁰ Ray Allen Billington, *Westward Expansion—A History of the American Frontier*, 3rd Edition, New York: The Macmillan Company, 1967, p. 133.

Crown to establish new colonies in the upper Ohio while Washington became the ‘principal promoter’ of the Mississippi Company. Fur traders, on the other hand, supported by merchants and humanitarians, argued that permanent reservations be created for the Native population.⁸¹ These tensions, as will be discussed in chapter two, would also be seen in New Zealand.

The acquisition of Native territories would also see the development of another element of colonial policy that would be deployed in New Zealand: the notion of ‘royal protection’, a concept that was to be later presented as a privilege enjoyed by Maori, but can be dated back to at least June 1763. At that time a plan was presented to George III whereby a boundary was to be drawn along the Appalachians running east at New York and Georgia and to the west at Virginia. Settlement west of this line was forbidden in order to protect the Native peoples. Furthermore, to circumvent any resentment among the settlers three more colonies were to be created: Quebec, West Florida, and East Florida.⁸² The situation on the frontier hastened the need for action. News of an uprising—‘Pontiac’s Rebellion’—reached the British government in August and on 7 October the British issued its Royal Proclamation.⁸³ Under its provisions ‘four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada’ would be established. These colonies in time would be granted the powers to ‘summon and call general assemblies’. Until then ‘all persons inhabiting in, or resorting to, our said colonies, may confide in our royal protection for the enjoyment of the benefit of the laws of our realm of England’. Royal protection was also extended to the Native peoples:

And whereas it is just and reasonable, and essential to our interests and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them...

‘Protection’ of Native interests, an important principle of the Royal Proclamation, would also be asserted in relation to Maori in New Zealand. Taking cognizance that ‘great Frauds and Abuses have been committed in the purchasing lands of the

⁸¹ Billington, *Westward Expansion*, pp. 133–136.

⁸² Billington, *Westward Expansion*, p. 137.

⁸³ Billington, *Westward Expansion*, pp. 139–140.

Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians’, the Royal Proclamation declared that:

No private Person do presume to make any purchase from the said Indians of any Lands reserved to the said Indians, within those parts of our Colonies where We have thought proper to allow Settlement: but that, if at any Time any of the Said Indians should be inclined to dispose of the said Lands, the same shall be Purchased only for Us, in our Name.⁸⁴

Keetoowah Cherokee scholar, Ward Churchill, writes that the Royal Proclamation incensed the settlers, many of whom had ‘speculative interests in the legally proscribed area’. With the imposition of a tax to recuperate the costs of the war against France the settlers ‘reacted with barely restrained hostility’. These were the ‘dynamics’ that would eventually lead to open rebellion against the Crown; until then the settlers would vent their frustration on ‘Indians, especially those who were weakest, most proximate, and friendliest to whites’. For instance, in December 1763 the “Paxton Boys”, a group of Scotch-Irish immigrants, exterminated the Christian Conestoga people of Lancaster County, Pennsylvania, while in the Delaware Valley settlers attacked a community of Lenni Lenapes. Such was the violence exacted on the Moravian converts that the government of Pennsylvania had to relocate them to Province Island, Philadelphia. While in exile 50 died of disease. Following their return home the Lenni Lenapes faced further harassment until 1782 when they were eventually eradicated.⁸⁵

One of the cornerstones of Maori privilege is the belief that Maori have been the fortunate recipients of ‘royal protection’. In North America, where ‘royal protection’ can be traced, this meant regulating westward expansion through the imposition of Crown pre-emption. As discussed further in Part III, pre-emption would be central to Crown policy in New Zealand. However, rather than preserving land in Maori ownership, pre-emption was an effective mechanism for transferring land to the settler population.

⁸⁴ ‘Royal Proclamation 1763’ in Commager, ed., *Documents of America History*, pp. 47–50.

⁸⁵ Ward Churchill, *A Little Matter of Genocide—Holocaust and Denial in the Americas 1492*, San Francisco: City Lights, 1997, pp. 206–207.

Part III — Joining the Dots

The emergence of a legal discourse that could, first, account for, and second, determine, and ultimately limit Native rights is evident both in New Zealand and North America. Churchill argues that European powers ‘quickly recognized the need to establish a formal code of juridical standards to legitimate what they acquired’. Ultimately ‘the system was envisioned to resolve disputes between the Crowns themselves’. To this extent ‘it was vital that it be sanctioned by the Church’.⁸⁶ Papal decrees were not the only ‘institutions’ at Europe’s disposal, however.

Shawnee legal scholar, Robert J. Miller, writes that ‘North America, and much of the non-European world, was colonized under the legal principle known as the Doctrine of Discovery’. The Doctrine, according to Miller, comprises ten distinct elements: ‘First Discovery’ imparted to the discovering European power ‘property and sovereign rights over the lands and inhabitants’; ‘Actual Occupancy and Current Position’ held that title was not complete until ‘physical possession’ was achieved; ‘Preemption/European Title’ conferred on the discovering power ‘the sole right to buy the land from native peoples’; ‘Indian Title’ deemed that following European discovery native peoples ‘retained only the right to occupy and use their lands’; ‘Tribal Limited Sovereign and Commercial Rights’ maintained that following discovery Indian nations lost the ‘rights to free trade and international diplomatic relationships’; ‘Contiguity’ enabled Europeans to claim lands surrounding settlements; ‘Terra Nullius’ or lands thought to be unoccupied or not governed in a European way could be claimed; ‘Christianity’ justified the application of the Doctrine of Discovery and as non-Christians Native peoples ‘lost fundamental rights’; ‘Civilization’, it was argued, would bring ‘civilized ways, education, and religion to indigenous peoples’; ‘Conquest’ was a way in which Indian lands could be legally transferred to European powers.⁸⁷

In North America the question of whether or not Native peoples were sovereign entities was, according to Donald N. Brown, ‘based on theological and philosophical

⁸⁶ Ward Churchill, *Struggle for the Land*, Monroe, Maine: Common Courage Press, 1993, pp. 34–35.

⁸⁷ Robert J. Miller, ‘American Indians, The Doctrine of Discovery, and Manifest Destiny’ in *Wyoming Law Review*, 11: 2, 2001, pp. 332–336.

understandings of the period’, and, the evolving notion of native title.⁸⁸ Legal theorists such as Bartolome de las Casas (1474-1566), Francisco de Vitoria (1486-1557), and Hugo Grotius (1583-1645) considered that the rights of Native peoples were protected by natural law. By the seventeenth-century, however, natural law was being modified in light of an emerging European state system and consequently rights were deemed to exist within ‘states’ and ‘individuals’. For Native peoples this meant their rights were contingent on ‘patterns of political and social organisation and land use’ having cognoscibility in European terms.⁸⁹ However, as the Cherokee peoples of Georgia would later realise, being ‘the most thoroughly acculturated Indians in nineteenth century America’ meant little when settlers wanted your land.⁹⁰ Vitoria also acknowledged that although the Indians were ‘not of unsound mind’ European states could in certain circumstances assume authority over their lands if the Native owners were determined to be:

Unfit to found or administer a lawful State up to the standard required by human and civil claims...It might, therefore, be maintained that in their own interests the sovereigns of Spain might undertake the administration of their country, providing them with prefects and governors for their towns, and might even give them new lords, so long as this was clearly for their benefit.⁹¹

Purepecha and Chiricahua Apache scholar, S. James Anaya, writes that Vitoria did not use this argument to justify Spanish colonisation; rather, a theory of “just war” was developed that authorised the appropriation of Native land. Vitoria’s argument though, as Anaya points out, ‘was a precursor to the trustee doctrine later adopted and acted upon by nineteenth-century states’.⁹² Indeed, Maori would become the

⁸⁸ Donald N. Brown, ‘Native Americans and the Right of Self Government in the United States’ in William Renwick ed., *Sovereignty & Indigenous Rights—The Treaty of Waitangi in International Contexts*, Wellington: Victoria University Press, 1991, p. 36.

⁸⁹ Catherine J. Iorns Magallanes, ‘International Human Rights and their Impact on Domestic Law on Indigenous Peoples’ Rights in Australia, Canada, and New Zealand’, in Havemann ed., *Indigenous Peoples Rights in Australia, Canada, & New Zealand*, 1999, pp. 235–236.

⁹⁰ Douglas C. Wilms, ‘Cherokee Land Use in Georgia Before Removal’, in William L. Anderson ed., *Cherokee Removal – Before and After*, Athens, Georgia: University of Georgia Press, 1991, pp. 1–28.

⁹¹ Francisco de Vitoria cited in S. James Anaya, *Indigenous Peoples in International Law*, New York: Oxford University Press, 2004, p. 11.

⁹² S. James Anaya, *Indigenous Peoples in International Law*, p. 12.

privileged beneficiaries of this doctrine. Until then understandings of native title continued to change.⁹³

While sovereignty was defined by the parameters of European history and thought, states could not ignore Native peoples. In the North American context, for instance, the Treaty of Utrecht specifically acknowledged Native peoples:

The Subjects of *France* inhabiting *Canada*, and others, shall hereafter give no Hindrance or Molestation to the five Nations or Cantons of *Indians*, subject to the Dominion of *Great Britain*, nor to the other Natives of *America*...In like manner, the Subjects of *Great Britain* shall behave themselves peaceably towards the *Americans*, who are Subjects or Friends to *France*; and on both sides they shall enjoy full Liberty of going and coming on account of Trade... (Article XV)⁹⁴

This may be construed as an attempt at protecting Native interests; however, article XV can also be understood in more pragmatic and self-interested terms. Wilbur R. Jacobs writes that British policy in the period 1700–1763 looked to ‘neutralize French influence among the Indians’. Administrators in Britain and North America recognised ‘the role interior tribes could play in the European struggle to claim sovereignty’. Another important factor influencing policy was an expanding inland trade in fur. For the British the extension of sovereignty, particularly over the Ohio Valley—‘a gateway to the West’—provided protection for the fur trade and the ‘middlemen among the Iroquois’.⁹⁵ The Ohio Valley’s importance was also recognised by the French for much the same reasons⁹⁶ and would become a flash point in the final showdown between the two imperial powers.

Notwithstanding the absence of the beaver, New Zealand’s colonial history followed a path similar to that of North America. Within 30 years of Cook’s intelligence-gathering mission, European capitalists began exploiting New Zealand’s natural resources. In 1792 sealers disembarked at Dusky Sound and began collecting pelts

⁹³ Magallanes, ‘International Human Rights and their Impact on Domestic Law on Indigenous Peoples’ Rights in Australia, Canada, and New Zealand’ in Havemann ed., *Indigenous Peoples Rights in Australia, Canada, & New Zealand*, pp. 235–236.

⁹⁴ ‘Treaty of Utrecht 1713’ cited in Israel, ed., *Major Peace Treaties of Modern History 1648–1967*, pp. 210–211.

⁹⁵ Wilbur R. Jacobs, ‘British Indian Policies to 1783’, in Wilcomb E. Washburn ed., *Handbook of North American Indians—History of Indian–White Relations*, Volume 4, Washington: Smithsonian Institution, 1988, pp. 9–10.

⁹⁶ Robert J. Surtees, ‘Canadian Indian Policies’ in Washburn ed., *Handbook of North American Indians—History of Indian-White Relations*, Volume 4, p. 84.

for the Chinese, American, and British felt hat market. Deep-sea whaling was inaugurated in that same year, and at Thames in 1794-95 spars and flax were taken for the Indian navy. The importance of flax was such that the governor of Norfolk Island had two Maori (Tuki and Ngahuru) kidnapped in order to learn how it was worked. J.M.R. Owens writes that the relationship between Maori and Europeans at the turn of the nineteenth-century was characterised by ‘mutual dependence’, and although there were incidents of violence ‘a spirit of tolerance and respect generally prevailed’.⁹⁷

During the 1830s interest in New Zealand as a potential settlement colony began to increase. At this time also the humanitarian lobby in Britain was concerned that colonisation would result in the destruction of Maori—this being perceived as the inevitable consequence when an inferior people are confronted with a superior one. Inter-tribal warfare, fuelled in part by the introduction of the musket, was posited as a reason for intervention; however, in the eyes of the Colonial Office the real threat to Maori was ‘the speculative market for land in New Zealand’.⁹⁸

The Royal Proclamation and the Treaty of Waitangi, while separated by nearly 80 years, are comparable not only in terms of their stated objectives but also in terms of the historical context that gave rise to them. John C. Weaver writes that ‘the great worldwide land rush occurred under the auspices of empires’ and was supported by a ‘set of interconnected core values’: ‘the doctrine of the jealous sovereign, the principles of the common law, the liberal order, the doctrine of improvement, and the decline of the native’. In southern Africa, North America, Australia, and New Zealand, wherever empire extended, English laws replaced those of Native peoples.⁹⁹ In all these places ‘colonial men of action’ sought to purchase land directly from Native peoples. Although frustrated by the doctrine of the jealous sovereign ‘risk takers’ understood that ‘quick actions of dubious legality’ could be profitable because ‘gentlemen deemed loyal, helpful, well-connected and improving’ could well be awarded a portion of the land claimed. Settler politicians soon learnt that the ‘law

⁹⁷ J.M.R. Owens, ‘New Zealand before Annexation’, in W.H. Oliver & B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, pp. 30–32. See also Judith Binney, ‘Tuki’s Universe’, *NZJH*, 38:2, 2004, pp. 215–232.

⁹⁸ Michael Belgrave, ‘Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase’, *NZJH*, 31:1, 1997, p. 26.

⁹⁹ John C. Weaver, ‘Land Seizures and Aftershocks’, in Richard Boast and Richard S. Hill eds., *Raupatu –The Confiscation of Maori Land*, Wellington: Victoria University Press, 2009, pp. 50–51.

could support development; the jealous sovereign could work for them rather than against them'.¹⁰⁰ Such was the situation in North America at 1763 and in New Zealand at 1840.

The assertion of the Crown's pre-emptive right in New Zealand was an attempt at curtailing the 'mad scramble' for land, but, as will be discussed in the following chapter, there were other reasons. Pre-emption, as Sorrenson writes, was 'nothing new in colonial history...it had been going on for years, in fact centuries in British North America'.¹⁰¹ Paul McHugh notes also that pre-emption had been used as early as 1609 in Virginia but it was the Royal Proclamation that 'gave the principle uniformity throughout British North America'.¹⁰² Sorrenson concludes that 'there is very little in the Treaty, at least in its English text, which had not already been expressed in earlier treaties or statements of British colonial policy'.¹⁰³ Treaties signed between British consuls and "native chiefs and states" for "peace and friendship" were not unusual, as David Williams has also noted.¹⁰⁴

While it is clear the precedents for British policy in New Zealand are to be found in British North America, the view persists that colonisation here was radically different. This is in part due to a tendency to compare New Zealand with its closest neighbour—Australia. Sorrenson correctly writes that 'those who like to claim a unique character for the Treaty of Waitangi usually look across the Tasman and remind us that the Aborigines did not get a Treaty'. But this, Sorrenson goes on to argue, 'hardly proves that Waitangi was unique', rather, 'it was the Australian situation that was unusual'.¹⁰⁵

There has also been a tendency among historians to construct hierarchies of privilege/oppression, a phenomenon not unique to New Zealand. Historians in North America have also constructed hierarchies of privilege/oppression. Wilcomb E. Washburn writes that 'judging against an ideal standard, the historian can find many

¹⁰⁰ Weaver, 'Land Seizures and Aftershocks', p. 53.

¹⁰¹ M.P.K. Sorrenson, 'Treaties in British Colonial Policy: Precedents for Waitangi', in William Renwick, ed., *Sovereignty & Indigenous Rights—The Treaty of Waitangi in International Contexts*, Wellington: Victoria University Press, 1991, p. 23.

¹⁰² Sorrenson, 'Treaties in British Colonial Policy: Precedents for Waitangi', pp. 21–22.

¹⁰³ Sorrenson, 'Treaties in British Colonial Policy: Precedents for Waitangi', pp. 16–17.

¹⁰⁴ David Williams, 'Te Tiriti o Waitangi—Unique Relationship Between Crown and Tangata Whenua?' in I.H. Kawharu, ed., *Waitangi—Maori and Pakeha Perspectives of the Treaty of Waitangi*, Auckland: Oxford University Press, 1989, p. 65.

¹⁰⁵ Sorrenson, 'Treaties in British Colonial Policy: Precedents for Waitangi', p. 23.

crimes in the Indian-White relationship'. When compared with the history of 'aboriginal versus intruder populations' elsewhere, this history can be written 'with both rational detachment and emotional commitment'. This applies equally when 'the past actions of a society' are compared with its 'present actions'. Although, writes Washburn, 'one would hesitate to call the policies of the other European colonizing powers more egalitarian than the English', they—the French and the Spanish—'certainly...were more assimilationist in character'. The English and Americans did not 'incorporate' Indian societies 'directly into the body politic as did their European rivals',¹⁰⁶ the inference being, that assimilation was the greater evil. This was not a view shared by colonial administrators in New Zealand, where in fact Maori were judged to be privileged on account of article three of the Treaty of Waitangi, the colony's policy statement for amalgamating Maori into British-colonial society.

Colonisation in New Zealand and North America also gave rise to rhetoric that justified European dominance and Native dispossession. Miller writes that 'Manifest Destiny', a term coined in 1845, was used to describe the 'slow but steady advance of American interests and empire across the continent'. Manifest Destiny, according to Miller, is 'generally defined by three aspects':

First, the belief that the United States has some unique moral virtues other countries do not possess. Second, the idea the United States has a mission to redeem the world by spreading republican government and the American way of life around the globe. And, third, that United States has a divinely ordained destiny to accomplish these tasks.¹⁰⁷

To arrive at this conclusion, writes Miller, is to believe in the superiority of 'one's own culture, government, race, religion and country'. Moreover, such 'ideas' existed in cultural and political thinking centuries before the advent of the phrase 'Manifest Destiny'. Indeed, those elements that combined to give the Doctrine of Discovery its legitimacy, as referred to above, also underpin the notion of Manifest Destiny.¹⁰⁸ For more than 40 years during the nineteenth-century both were used effectively by

¹⁰⁶ Wilcomb E. Washburn, *Handbook of North American Indians—History of Indian–White Relations*, Volume 4, pp. 2–3.

¹⁰⁷ Miller, 'American Indians, The Doctrine of Discovery, and Manifest Destiny', p. 332.

¹⁰⁸ Miller, 'American Indians, The Doctrine of Discovery, and Manifest Destiny', p. 332.

politicians, newspapers, and citizens to justify colonisation.¹⁰⁹ In the chapters that follow it will become apparent that the belief in Maori privilege performed a similar function.

At the beginning of the thesis I stated that claims of Maori privilege and the assumptions on which they are built should not go unquestioned. My intention in this chapter has been to show that Maori privilege is at base a European discourse. Beginning with the Cook expeditions Europeans sought to ‘know’ Maori through observation and classification. At the time Maori were deemed to be a ‘superior savage’, an utterly ridiculous proposition that was nevertheless considered rational and objective. The need to compare and classify persists presently in the construction of hierarchies of oppression/privilege. While such an approach may appear reasonable it assumes that people’s loss can be ‘known’ by another; moreover, in both instances it is the coloniser who determines who is ‘superior’ and who is ‘privileged’.

Having been objectively assessed, Maori, the ‘superior savage’, were deemed worthy of protection. Once they had been extended ‘royal protection’ and given the ‘Rights and Privileges of British Subjects’ the ‘superior savage’ was replaced by the ‘privileged Maori’. That Maori received a treaty gave rise to another assumption fundamental to claims of Maori privilege: colonisation in New Zealand was different. Today that assumption manifests itself in the popular assertion that Maori should be eternally grateful for the coloniser’s presence and that the coloniser was British.

The colonisation of New Zealand should be seen as a continuation of, not a break with, the past. Whether authority is appropriated by papal bull, royal decree, by treaty or at the barrel of a gun, certain themes persist in the history of colonisation. Richard Hill writes: ‘The imperial reality was generally that the Crown could only *gradually* extend its sway over the territory which it held nominal sovereignty’.¹¹⁰ Here, as in North America, pragmatism characterised first contact. Europeans necessarily had to engage with Native peoples, quite often on terms determined by the latter. However, as circumstances changed, inevitably in favour of the colonising

¹⁰⁹ Miller, ‘American Indians, The Doctrine of Discovery, and Manifest Destiny’, p. 348.

¹¹⁰ Richard S. Hill, *State Authority, Indigenous Autonomy-Crown-Maori Relations in New Zealand/Aotearoa 1900–1950*, Wellington: Victoria University Press, 2004, p. 31.

power, treaties were re-emphasised in a way that legitimised the coloniser's presence and subordinated the position of Native peoples. It was in this way that the Treaty of Waitangi—an affirmation of Maori sovereignty—was transmuted into a treaty of cession.

CHAPTER TWO



Privileged by Britishness

The view that colonisation would be different in New Zealand reached its apex in the decade before the signing of the Treaty of Waitangi. In his 1971 essay, ‘Why are Race Relations in New Zealand better than in South Africa, South Australia, or South Dakota?’ Keith Sinclair argued that ‘the humanitarian imperial ideology at the time New Zealand was annexed seems the only factor distinguishing it from other settlement colonies’. This ‘ideology’, this ‘spirit’, wrote Sinclair, can be found in Hobson’s instructions, the Protectorate Department, and indeed the Treaty of Waitangi.¹

This chapter addresses Sinclair’s assertions. Contrary to Sinclair, it argues that ‘humanitarian imperial ideology’ was not the sole determinant of British policy in New Zealand; rather, the Crown’s decision to enter into treaty negotiations with Maori, and its subsequent native policy, were shaped by Maori power and resistance. This is not to say humanitarianism was inconsequential; it gave rise to a ‘rhetoric of benevolence’ that has over time become embedded in the national mythology, justified Maori dispossession, and, helped perpetuate the belief in Maori privilege.

The chapter is divided into three parts. Part I—‘Privilege in the Fragment’—discusses the historical milieu that gave rise to Evangelical Christianity, humanitarianism, and the culture and society that would later come to supplant Maori. Part II—‘The Rhetoric of Obligation’—examines the 1830s, the decade in which humanitarian concern for Maori was at its greatest. It argues that the ideas and attitudes of the time were incorporated into a rhetoric that framed discussions about colonisation. Part III—‘The Rhetoric of Benevolence’—discusses how humanitarianism was used to justify Britain’s annexation of New Zealand, the development of native policy, and the acquisition of Maori land and resources.

¹ Keith Sinclair, ‘Why are Race Relations in New Zealand better than in South Africa, South Australia or South Dakota?’ pp. 126–127.

Part I — Privilege in the ‘Fragment’

In the previous chapter I argued that the colonisation of New Zealand was part of a larger process of European expansion. Most migrants to New Zealand came from the British Isles and in the 50 years beginning in 1831 their number grew from less than a thousand to 500,000. It was ‘these swamping tides of people’, writes Belich, ‘which laid the demographic foundation of Pakeha New Zealand’.² Who, then, were these first migrants? In *Britons, Forging the Nation 1707–1837*, Linda Colley writes that ‘Great Britain...was an invention forged above all by war’, and specifically war with France. War ‘challenged the political and/or religious foundations upon which Great Britain was based, and threatened its internal security and its commercial and colonial power’. It brought Britons—the English, Scots, and Welsh—into ‘confrontation with an obviously hostile Other and encouraged them to define themselves collectively against it’.³

As the British Empire expanded Britons also ‘defined themselves in contrast to the colonial peoples they conquered, peoples who were manifestly alien in terms of culture, religion and colour’.⁴ Maori were certainly considered to be ‘manifestly alien’; however, they had in the period from ‘discovery’ to settlement been ascribed British-like characteristics. The amalgamation of Maori into colonial society would seemingly demonstrate that British identity was flexible enough to include non-Britons, but as Maori would quickly come to realise the privilege of belonging to the great British family came at a price: their sovereignty.

Another defining feature of British identity was Protestantism. In opposition to French Catholicism it ‘served as a powerful cement between the English, the Welsh and the Scots’.⁵ The French, as Britons thought them to be, were ‘superstitious, militarist, decadent and unfree’, unlike themselves.⁶ This perception of ‘us’ and ‘them’ was further crystallised with the advent of printing. Newspapers enabled

² Belich, *Making Peoples*, pp. 277–278.

³ Linda Colley, *Britons, Forging the Nation 1707–1837*, New Haven: Yale University Press, 1992, pp. 1–9.

⁴ Colley, *Britons, Forging the Nation 1707–1837*, pp. 1–9.

⁵ Colley, *Britons, Forging the Nation 1707–1837*, pp. 22–23.

⁶ Colley, *Britons, Forging the Nation 1707–1837*, p. 5.

Britons to ‘imagine Great Britain as a whole’; readers were reminded that ‘their private lives were bounded by a wider context’. Significantly, the majority of material produced by British printing presses was religious rather than secular. Colley writes that ‘this enormously enhanced access to print was a vital part of the conviction that Protestant Britons were peculiarly privileged’. Regardless of class or education Britons believed they were ‘free men’ because they, unlike Catholics, had unfettered access to the scriptures. ‘In this sense’, writes Colley, ‘the freeing of the printing presses in 1695 can be seen as completing the popularisation of the Protestant Reformation’.⁷

In New Zealand the bestowing of Protestantism upon Maori, and British animosity towards the French, were useful in propagating the belief that Maori were a privileged people. While France did not really pose a threat to British influence in New Zealand the ‘French threat’ was a useful rhetorical device.⁸ In the lead up to the signing of the Treaty of Waitangi Protestant missionaries were vocal in expressing their opinions that only Britain could protect them from the ‘tribe of Marian’.⁹ Moreover, Maori were regularly reminded and, in the case of anti-Treatyists still are, of the benefits they have gained under British sovereignty.¹⁰

The freedom that Britons felt they possessed was also attributed to their ‘brutally reconstructed monarchy’. In 1688 James II, a Catholic, was driven into exile and replaced by his Protestant daughter Mary. When Mary and her sister, Anne, failed to produce an heir parliament passed the Act of Settlement 1701. The Act confirmed once and for all that Catholics would never ascend the British throne. When Anne, the last of the House of Stuart to reign, died she was replaced by George of Hanover. Not only was George I not a Catholic, he was Lutheran, and he was installed by parliament.¹¹ Thus, writes Colley, ‘not only was succession to the throne conditional on the monarch belonging to the Protestant faith, but the people’s allegiance was conditional on his abiding by the constitution’.¹²

⁷ Colley, *Britons, Forging the Nation 1707–1837*, pp. 40–42.

⁸ This will be discussed more fully in chapter three.

⁹ ‘The Kings Letter’ of 1831, a petition to William IV from 13 Hokianga and Bay of Islands chiefs and missionaries, makes specific mention of the threat posed by France.

¹⁰ Moon, *Twisting the Treaty*, pp. 29–30.

¹¹ Colley, *Britons, Forging the Nation 1707–1837*, p. 46; It will be noted that George, in England, was an Anglican, indeed the supreme governor of the Church of England.

¹² Colley, *Britons, Forging the Nation 1707–1837*, p. 48.

Britain's constitutional arrangements were looked on with pride. Those who sat in Parliament, and were therefore more likely to go on 'The Grand Tour', were reminded of the difference between Britain and the continent. 'The cult of Parliament', writes Colley, extended beyond those who 'manned it'. She suggests that elections—held every 3 years from 1688 and 1716—'may well have helped the new political order to become more deeply entrenched'. Even the 'unenfranchised' would take part in election 'rituals' believing 'that their representatives' power was conditional, that Parliament had somehow a bounden duty to them'. It was, however, success, and 'above all success in war', that most engendered Britain's confidence in Parliament.¹³

As noted in the introduction, Britain's constitutional arrangements were transplanted in New Zealand through the process of fragmentation. It was in this way that Maori would also come to share in the privileges of Britain's glorious constitution. Access to parliamentary processes such as petitioning, commissions of inquiry, and indeed the four Maori parliamentary seats, were presented as key elements of Maori privilege. Another aspect of the British constitution—parliamentary supremacy—holds that parliament is the 'highest lawmaking power', and, that legislation is the 'highest form of law'.¹⁴ Maori would become acutely aware that their 'rights and privileges' meant very little when parliamentary supremacy was wielded by the settler majority.

Colley contends that Protestantism provided Britons—not all, but the majority—with a sense of who they were and their place in the world, that is to say, it was a 'framework for their lives'. There was also a realisation that the 'newly invented nation' could be put to use advancing the interests of certain groups. 'More than most British civilians, traders needed the state', writes Colley. 'Good order...made commercial and credit transactions feasible and safe', while a strong navy would protect trade routes. 'Britain's ruthless pursuit of colonial markets' delivered benefits to all those involved in trade; if there was a reason to support parliament one cannot go past the fact that 'it paid'.¹⁵ Moreover, 'the cult of trade', like the 'cult of

¹³ Colley, *Britons, Forging the Nation 1707–1837*, pp. 50–52.

¹⁴ Morag McDowell and Duncan Webb, *The New Zealand Legal System—Structures and Processes*, 4th Edition, Wellington: LexisNexis NZ Ltd, 2006, pp. 108–109.

¹⁵ Colley, *Britons, Forging the Nation 1707–1837*, pp. 55–56.

Parliament’, confirmed for Britons that theirs was ‘the freest and most distinctly Protestant of nations’.¹⁶

The connection between Protestantism, industrialisation, and commercialisation was certainly an important one in the New Zealand context. Industrialisation and commercialisation were viewed as two key manifestations of the material progress of Protestant Britain, and their transplantation to New Zealand regarded as a benefit (and privilege) accorded to Maori. Protestant missionaries expounded the view that Maori were privileged to be under their tutelage. Brian Stanley writes that whereas Catholics, in the wake of the French Revolution, had turned away from modernity, Protestant churches, ‘with varying degrees of enthusiasm, appropriated the intellectual legacy of the Enlightenment’.¹⁷ ‘Enlightened Protestantism’ was one of colonial New Zealand’s ‘central cultural traditions’. John Stenhouse notes that during the nineteenth-century ‘Enlightened Protestants’ held key positions in politics and in the area of race relations, including—George Grey, Edward Shortland, Francis D. Fenton, and James Edward Fitzgerald.¹⁸

The significance of Colley’s study to this thesis is that it covers the period in which the New Zealand fragment was gestating. Far from being the only work that discusses the subject of ‘identity’, *Britons*, as Peter Mandler notes, is the ‘grandmother of such studies’.¹⁹ Nevertheless, it is not beyond close critique, even of its fundamental premise. Steven Pincus, for instance, points to the fact that while Britain saw itself as fundamentally Protestant, it had little problem siding with the Catholic Habsburgs in three wars. He suggests that British identity was not created in ‘opposition to’, but in ‘dialogue with European identities’.²⁰ This aside, much of what Colley argues is applicable to New Zealand, if not in real terms, then certainly in terms of the rhetoric deployed.

¹⁶ Colley, *Britons, Forging the Nation 1707–1837*, p. 60.

¹⁷ Brian Stanley, ‘Christian Missions and the Enlightenment: A Reevaluation’, in Brian Stanley, ed., *Christian Missions and the Enlightenment*, Cambridge: William B. Eerdmans Publishing Company, 2001, p. 2.

¹⁸ John Stenhouse, ‘God’s Own Silence: Secular Nationalism, Christianity and the Writing of New Zealand History’, *NZJH*, 38:1, 2004, p. 55.

¹⁹ Peter Mandler, ‘What is “National Identity”? Definitions and Applications in Modern British Historiography’, *Modern Intellectual History*, 3:2, 2006, pp. 271–297.

²⁰ Steven Pincus, review of *Britons, Forging the Nation 1707–1837* by Linda Colley, *Journal of Modern History*, 67:1, 1995, pp. 132–136.

From 1707, then, a British identity framed by Protestantism, manifested in Parliament, and sustained by success in war and trade was forged. A worldview that was built in opposition to the Catholic Other allowed Britons to believe they were a ‘distinct and chosen people’, and it was for this reason that ‘God had entrusted Britons with empire’.²¹ There were, however, other factors that contributed to nation-building. A significant feature of the Act of Union was the removal of ‘internal customs and trade barriers’, allowing for greater freedom of people and goods. The same could not be said of France, which retained its trade barriers until the 1790s. Population growth and urbanisation were also important factors in the development of a British identity.²² Of seventeenth-century England J.H. Plumb wrote, ‘perhaps the most powerful factor making for social stability, without which political stability would have always been an illusion, was the increase in population’.²³

Between 1776 and 1832 Britain experienced ‘dramatic social and economic change’. Not only had its population doubled, a significant portion had moved to urban areas;²⁴ indeed, the eighteenth-century saw the urban population of England and Scotland grow at a faster rate than any other European state.²⁵ Causes for this ‘demographic revolution’ are debated by historians. Recent scholarship, writes Belich, points to the ‘humble turnip, which recycled nitrogen in the soil and fed livestock over winter’. Other explanations include a decline in the bubonic plague, due to the advent of rat poison, and the introduction of the smallpox vaccine.²⁶ As well as agricultural advancements, Christof Dipper points to the declining age at which women married and the ‘growing proportion of the population engaged in matrimony’ from the 1740s.²⁷

In his seminal work, *The Age of Revolution*, E. J. Hobsbawm attributes Britain’s population growth between 1789 and 1848 to a ‘sharp rise in the supply of food’. A rapidly growing and urbanising population provided the stimulus for improvements

²¹ Colley, *Britons, Forging the Nation 1707–1837*, pp. 368–369.

²² Colley, *Britons, Forging the Nation 1707–1837*, p. 39.

²³ J. H. Plumb, *The Growth of Political Stability in England 1675–1725*, Penguin Books: Middlesex, 1967, p. 16.

²⁴ H. T. Dickenson, ‘Democracy’, in Iain McCalman, ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, p. 35.

²⁵ Colley, *Britons, Forging the Nation 1707–1837*, p. 39.

²⁶ James Belich, *Replenishing the Earth—The Settler Revolution and the Rise of the Anglo-World 1783–1939*, Oxford: Oxford University Press, 2009, p. 52.

²⁷ Christof Dipper, ‘Orders and Classes: Eighteenth Century Society under Pressure’ in Blanning, ed., *Short Oxford History of Europe—The Eighteenth Century*, p. 54.

in agricultural technology. It was the case that ‘pre-industrial forms’ were so inefficient that ‘quite small improvements...produce[d] disproportionately large results’. According to Hobsbawm, however, this was not a consequence of a ‘technological’, but of a social ‘transformation’. The ‘enclosures’, or the ‘liquidation of medieval communal cultivation’, were a ‘uniquely radical solution of the agrarian problem’.²⁸ These changes, writes Fernand Braudel, were significant as they ‘loosened the perennial straitjacket of inadequate food production’.²⁹ It was, as a result of these developments, that Britain would bestow on the world its greatest gift, in which Maori would also share—private property.

Growth in population and production, then, can be attributed to the ‘commercialisation of agriculture’, ‘steam-powered industrialisation’, and urbanisation.³⁰ Steam increased the volume of material that could be processed³¹ and enabled mills, previously located near sources of power such as fast moving rivers or streams, to be established in industrial towns.³² With the prospect of greater opportunities and better wages it was to these industrial towns that an increasing number of people now moved.³³ These changes were not without consequences, however. They resulted in the creation of a ‘new industrial labour force’ and ‘new men of wealth’.³⁴ Industrialisation and urbanisation also brought with it ‘problems of health and order’ as towns became ‘overwhelmed by congestion, smoke, and squalor’.³⁵

Another consequence of urbanisation and industrialisation was the formation of ‘voluntary associations’. It was through these institutions that the middle and lower classes were able to ‘influence elections...propagate their ideas...associate together...and to form pressure groups capable of influencing decisions taken by the propertied ruling class’.³⁶ H. T. Dickenson thus writes that towns ‘played a major

²⁸ E.J. Hobsbawm, *The Age of Revolution—Europe from 1789 to 1848*, London: Weidenfeld and Nicolson, 1962, pp. 47–48.

²⁹ Fernand Braudel, *A History of Civilizations*, New York: Penguin, 1993, p. 381.

³⁰ Belich, *Making Peoples*, p. 289.

³¹ Briggs, *The Age of Improvement*, London: Longmans, Green and Co Ltd: 1959, p. 25.

³² Briggs, *The Age of Improvement*, p. 21.

³³ Charles More, *The Industrial Age—Economy & Society in Britain 1750–1985*, London: Longman, 1989.

³⁴ Briggs, *The Age of Improvement*, p. 57.

³⁵ Briggs, *The Age of Improvement*, p. 45.

³⁶ Dickenson, ‘Democracy’, pp. 34–35.

role in stimulating new ideas and facilitating political discussion'.³⁷ Committees and lobby groups proliferated to such an extent that the influential Colonial Office under-secretary, James Stephen, declared:

Ours is an age of societies for the redress of every oppression that is done under the sun, there is a public meeting. For the cure of every sorrow by which our land or our race is visited, there are patrons, vice-presidents, and secretaries. For the diffusion of every blessing of which mankind can partake in common, there is a committee.³⁸

According to Dickenson, Britain, unlike other parts of Europe, was able to avoid 'revolutionary upheaval'. It did, nevertheless, experience protest and agitation particularly at times of 'crisis', such as the recession following the Napoleonic wars.³⁹ From 1815 demands for parliamentary reform were renewed culminating in the Reform Act of 1832.⁴⁰ Although the Act did not render a redistribution of power⁴¹—Britain 'remained an aristocratically dominated society'—it proved that 'concessions could be forced from the ruling elite'. The poor were not given the vote but the middle class were demonstrating that the 'constitution could be reformed'.⁴²

The privilege of voting in New Zealand was first enjoyed by men who owned land recognisable in English law, effectively excluding Maori. However, with the creation of four dedicated Maori seats in 1867 the property qualification was superseded.⁴³ Maori were quick to activate the other privileges parliamentary democracy had made available to them, including the right to petition parliament. Although they were to become astute navigators of this transplanted system Maori soon discovered that following due process did not always guarantee success.

By the end of the eighteenth-century Britain's 'progress' was being credited to 'God, Nature, free trade, racial character or rational but long-term historical laws'. Britain's ability to deal with crises and dissent was also attributed to its 'strong, ancient but flexible legal and political institutions'.⁴⁴ The Industrial Revolution was the 'ultimate

³⁷ Dickenson, 'Democracy', p. 35.

³⁸ James Stephen, *Essays in Ecclesiastical Biography*, London, 1849, Volume 2, London: Brown, Green & Longmans, 1849, p. 382.

³⁹ Dickenson, 'Democracy', pp. 34–39.

⁴⁰ William Christie, 'Reform Act of 1832', in *An Oxford Companion to The Romantic Age*, p. 671.

⁴¹ Dickenson, 'Democracy', p. 34.

⁴² Dickenson, 'Democracy', p. 42.

⁴³ John Wilson, 'The Origins of the Maori Seats', in Maria Bargh, ed., *Maori and Parliament—Diverse Strategies and Compromises*, Wellington: Huia Publishers, 2010, pp. 37–65.

⁴⁴ Belich, *Making Peoples*, pp. 291–292.

push behind settlement of New Zealand by British people and capital'.⁴⁵ All of this was to have long and lasting consequences. Those Britons who would eventually migrate to New Zealand not only brought with them the institutions and ideas they saw as uniquely British, they also carried with them 'a deep fear of economic insecurity and of social disharmony'.⁴⁶

Demands for constitutional reform were not the only response to the changes taking place in Britain during the eighteenth-century; the established religious order was also being challenged. In the first half of the eighteenth-century the Protestantism/Catholicism divide was the 'most striking feature in the religious landscape'.⁴⁷ By the 1760s, however, with the threat of Jacobitism having abated, 'anti-Catholicism began to lose its mythic centrality'. Nevertheless, the process of divesting Britain of this 'well-worn and comforting shibboleth' was slow and at times painful, as the Gordon Riots of 1780 show. Of more concern to the government, and the Church of England, were the Dissenting or Non-Conforming denominations.⁴⁸

'Nonconformity or Dissent' can be traced to the 'principled rejection of one or another aspect of the liturgy and organization of the Church of England', from the Reformation of the sixteenth-century through to the Civil Wars of the 1640s and the suppression of the Church of England during the 1650s. Following the Restoration of 1660 and the re-establishment of the Church, parliament passed the 1662 Act of Uniformity. The Act required that ministers adhere to the newly revised Book of Common Prayer, and that they be re-ordained if they had entered the ministry during the suppression of the Church. R. K. Webb writes that the 'Act of Uniformity brought Dissent into existence'. While suffering further persecution, Dissenting congregations could not be done away with and in 1689 the Act of Toleration provided for a limited measure of recognition.⁴⁹

At the turn of the eighteenth-century the three mainstream Dissenting denominations were the Presbyterians, the Congregationalists, and the Baptists.⁵⁰ By the 1730s,

⁴⁵ Belich, *Making Peoples*, p. 127.

⁴⁶ Belich, *Making Peoples*, p. 292.

⁴⁷ Colley, *Britons, Forging the Nation 1707–1837*, pp. 18–19.

⁴⁸ Martin Fitzpatrick, 'Toleration' in *An Oxford Companion to The Romantic Age*, p. 729.

⁴⁹ R. K. Webb, 'Religion' in *An Oxford Companion to The Romantic Age*, pp. 94–95.

⁵⁰ Webb, 'Religion', p. 97.

however, while Dissenters were at a 'low ebb',⁵¹ the Church of England had 'emerged from the seventeenth century as an unequivocally Protestant body...intertwined with the state'.⁵² According to Bebbington 'their pulpit ministry was partly designed to teach the lower orders their place in the order of things'.⁵³ All of this was to change with the advent of Evangelism and the efforts of people such as John Wesley.⁵⁴

Evangelical Christianity was characterised by the 'belief that lives need to be changed' (conversionism); 'the expression of gospel in effort' (activism); 'a particular regard for the bible' (biblicism); and, 'a stress on the sacrifice of Christ on the cross' (crucicentrism).⁵⁵ Significantly, it was most influential among the 'orthodox ranks of the Old Dissent'⁵⁶ and in locations with 'proto-industrial employment for the skilled worker'.⁵⁷ In these areas the Church of England had failed 'to adapt to the titanic new forces of urban power and industrialization'⁵⁸ and for this reason they were 'deliberately targeted by Wesley and his contemporaries'.⁵⁹ Wesley was 'an intensely loyal son of the Church; however, during his walking tours he was often denied access to the pulpit and he and his followers were at times subjected to violence. It was not long after Wesley's death, in 1791, that Wesleyans began separating themselves from the Church of England and by the beginning of the nineteenth-century Methodism had 'to all intents and purposes become a new denomination'.⁶⁰

Evangelicals 'believed in the conscientious performance of traditional responsibilities' and sought to 'ensure that the privileged took a humane interest in the welfare, secular and spiritual, of those committed to their charge'. To this extent, writes Bebbington, Evangelical religion was 'entirely in harmony with the goal of eighteenth century progressive thinkers'.⁶¹ The anti-slavery campaign, the 'fruit of

⁵¹ D. W. Bebbington, *Evangelicalism in Modern Britain—A History from the 1730s to the 1980s*, London: Unwin Hyman Ltd, 1989, p. 21.

⁵² Bebbington, *Evangelicalism in Modern Britain*, p. 17. In saying this, evangelicalism remained a potent force within the Church of England, as evidenced in the Church Missionary Society.

⁵³ Bebbington, *Evangelicalism in Modern Britain*, p. 17.

⁵⁴ Bebbington, *Evangelicalism in Modern Britain*, pp. 20–21.

⁵⁵ Bebbington, *Evangelicalism in Modern Britain*, pp. 2–3.

⁵⁶ Webb, 'Religion', p. 100.

⁵⁷ Bebbington, *Evangelicalism in Modern Britain*, p. 26.

⁵⁸ Webb, 'Religion', p. 100.

⁵⁹ Bebbington, *Evangelicalism in Modern Britain*, p. 26.

⁶⁰ Webb, 'Religion', p. 100.

⁶¹ Bebbington, *Evangelicalism in Modern Britain*, pp. 70–71.

the Enlightenment’, was invigorated by Evangelical Christianity.⁶² James Walvin also writes that the American Revolution led to a reassessment of ‘a host of British ideals and systems’, and the emergence of groups committed to abolition. ‘To attack slavery’, writes Walvin, ‘was to advance a new social and economic orthodoxy by asserting the primacy of freedom in all things’.⁶³ Moreover, it ‘provided the opportunity of restoring the British belief that they, above all others, were a people wedded to liberty’.⁶⁴

Evangelism had by the 1780s ‘accelerated the missionary impulse in Britain’, leading to the formation of missionary societies dedicated to bringing the gospel to Native peoples.⁶⁵ In 1792 the Baptist Missionary Society was founded and in 1800 it established a mission at Serampore, then a Danish colony. In 1795 Evangelical Anglicans and Evangelical Dissenters formed the London Missionary Society (LMS) and later set up missions in eastern Polynesia. Allan Davidson writes that the ‘major Anglican contribution to the Protestant missionary enterprise’ was the Society for Missions to Africa and the East. Founded in 1799 it later took the name, the ‘Church Missionary Society’ (CMS). The Wesleyan Methodist Missionary Society (WMMS) had its origins in the Revd Thomas Coke’s work in the West Indies, Sierra Leone, and Ceylon.⁶⁶

The first mission in New Zealand began in December 1814. Seven years earlier Samuel Marsden approached the CMS in London with the proposition of establishing a mission.⁶⁷ According to Marsden, Maori were in a state of “Darkness and Ignorance” but once introduced to “Commerce and Arts” they would become more receptive to the “introduction of the Gospel, and lay the foundation for its

⁶² Bebbington, *Evangelicalism in Modern Britain*, pp. 70–71.

⁶³ James Walvin, ‘Slavery’, in *An Oxford Companion to The Romantic Age*, p. 65.

⁶⁴ Walvin, ‘Slavery’, p. 62.

⁶⁵ Suzanne Rickard, ‘Missionaries and Missionary Societies’, in *An Oxford Companion to The Romantic Age*, p. 606.

⁶⁶ Allan Davidson, ‘Early Protestant Missionary Beginnings in New Zealand Through Different Lenses’, in Allan Davidson, Stuart Lange, Peter Lineham, and Adrienne Puckey eds., *Te Rongopai 1814–‘Takoto te pai!’–Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014, pp. 34–35.

⁶⁷ Adrienne Puckey, ‘London, Church and Wesleyan Missionary Societies: Maritime and Pacific Connections, 1795–1835’, in Allan Davidson, Stuart Lange, Peter Lineham, and Adrienne Puckey eds., *Te Rongopai 1814–‘Takoto te pai!’–Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014, p. 59.

continuance when once received”.⁶⁸ Adrienne Puckey writes that for Marsden ‘trade was always an essential adjunct to missions’. However, Marsden’s vision of a South Pacific network of missions engaged in commerce was at odds with the CMS which ‘did not agree with the notion of civilisation preceding the gospel’. Nevertheless, as Puckey notes, ‘Evangelical Christianity became explicitly associated with commerce, and commercial money provided subscriptions to missionary societies’.⁶⁹

To help advance his grand plan of civilising Maori through commerce Marsden purchased the brig *Active*. In November 1814 *Active* sailed for New Zealand; its passengers included the first mission families and the Nga Puhī chiefs, Hongi Hika and Ruatara.⁷⁰ Ruatara and Marsden first met in New South Wales in 1805, and then again in 1809 on a return voyage from England, and it was at this time that Marsden began learning the Maori language. On Christmas Day 1814 Marsden delivered the first Christian sermon in New Zealand at Ruatara’s Rangihoua home in the Bay of Islands.⁷¹ The trade imperative was such that in January, before returning to Sydney, the *Active* called in at Thames to load up with flax and timber; by mid-1815 it had made three more trips to New Zealand.⁷² When Marsden returned to New Zealand in 1819 he was accompanied by the first Methodist minister in Australia, Samuel Leigh, who in 1822 returned to New Zealand and with the assistance of the CMS established a mission station at Whangaroa.⁷³

The Roman Catholic Church was a late arrival to New Zealand, its first mission being established at Hokianga Harbour on 10 January 1838. Bishop Pompallier’s approach to the evangelisation of Maori was delineated in his *Instructions pour les Travaux de la Mission*. Published in 1841, the *Instructions*, writes Nathan Matthews, bore some similarity to Marsden’s view that the “civilizing arts” and Christianity go hand in hand’. Matthews also writes that Pompallier ‘subscribed to a gradualist approach regarding the introduction of Catholic morality to Maori’. As long as Maori

⁶⁸ Judith Binney, *The Legacy of Guilt—A Life of Thomas Kendall*, Christchurch: Oxford University Press, 1968, pp. 7–8.

⁶⁹ Puckey, ‘London, Church and Wesleyan Missionary Societies’, pp. 60–62.

⁷⁰ Puckey, ‘London, Church and Wesleyan Missionary Societies’, pp. 60–62.

⁷¹ David Pettett, ‘Samuel Marsden—Christmas Day 1814, What did he say? The Content of New Zealand’s first Christian Sermon’, in Allan Davidson, Stuart Lange, Peter Lineham, and Adrienne Puckey eds., *Te Rongopai 1814—‘Takoto te pai!’—Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014, pp. 73–74.

⁷² Puckey, ‘London, Church and Wesleyan Missionary Societies’, p. 62.

⁷³ Davidson, ‘Early Protestant Missionary Beginnings in New Zealand Through Different Lenses’, p. 37.

‘habits’ and ‘protocols’ were ‘compatible’ with doctrine they ‘were to remain undisturbed’. According to Matthews this was ‘unlike the Protestant approach’.⁷⁴

It is worthwhile noting here that the Protestant-Catholic rivalry that had helped shape British identity in the eighteenth-century would also be played out in New Zealand. The arrival of Catholic missionaries in 1838 quickly stirred up hostility among the Protestant missionaries and their followers. Jane Thomson writes, ‘that the bad feeling towards the priests originated with the English Protestants is perfectly plain’. Both religion and nationality were a cause of conflict, however, ‘religion was the more important ground of opposition’. While they may not have been cognisant of doctrinal differences Maori certainly knew of the French—‘the tribe of Marion’.⁷⁵ Thomson also notes, and this will become apparent in the following chapters, that:

On each occasion in the history of the young colony when native loyalty was particularly desired and most doubted, fears that the Frenchmen might be spreading subversion were expressed not only by Protestant missionaries but by British officials, sometimes even Governors.⁷⁶

From the end of the eighteenth-century a humanitarian ethos, infused with evangelical vigour, began to enter British public life. That vigour was a vital force behind the colonisation of New Zealand. The process of fragmentation would see egalitarianism, humanitarianism, and liberalism transplanted in New Zealand where they would be reconfigured in a way conducive to the emergence of notions of Maori ‘privilege’. It would, however, take a number of years of deliberation as to the rights of Native peoples before this supposed humanitarian moment would occur.

Part II — The Rhetoric of Obligation

During the 1830s ‘Britain’s experience of empire continued to galvanise humanitarians’. A number of leading political figures were evangelical Christians or

⁷⁴ Nathan Matthews, ‘Kaikaikihama: Our Most Precious Resource’, in Hugh Morrison, Lachy Paterson, Brett Knowles and Murray Rae eds, *Mana Maori and Christianity*, Wellington: Huia Publishers, 2012, pp. 141–143.

⁷⁵ Jane Thompson, ‘The Roman Catholic Mission in New Zealand, 1838–1870’, M.A. Thesis, Victoria University, 1966, pp. 10–11

⁷⁶ Thompson, ‘The Roman Catholic Mission in New Zealand, 1838–1870’, p. 20.

had to some degree embraced humanitarianism. James Stephen, Lord Howick, Lord Glenelg, Lord Russell, Lord Normanby, and Lord Stanley were all of a humanitarian hue and were all influential in the formulation of native policy in New Zealand.⁷⁷ Also of some significance was the Parliamentary Committee on Aborigines. The Committee convened twice between 1833 and 1835 and in 1837 presented its report.⁷⁸ The Committee was:

Appointed to consider what Measures ought to be adopted with regard to the NATIVE INHABITANTS of Countries where BRITISH SETTLEMENTS are made, and to the neighbouring Tribes, in order to secure their Rights; to promote the spread of Civilisation among them, and to lead to them to peaceful and voluntary reception of the Christian Religion.⁷⁹

The Committee reported that now:

Appears to be the moment for the nation to declare, that with all its desire to give encouragement to emigration, and to find a soil to which our surplus population may retreat, it will tolerate no scheme which implies violence or fraud in taking possession of such a territory; that it will no longer subject itself to guilt of conniving at oppression, and that it will take upon itself the task of defending those who are too weak and too ignorant to defend themselves.⁸⁰

Alan Lester and Fae Dussart write that the Select Committee on Aborigines was intended to ‘set a new moral template for Britain’s settler empire’,⁸¹ for it was in the settler colonies where the ‘violence of colonialism was most integral to British life’.⁸² The report was also instrumental in the establishment of the Aboriginal Protection Society.⁸³ Founded by the abolitionist, Fowell Buxton, the Society’s purpose was to raise awareness in Britain of ‘the new burdens they would have to

⁷⁷ Kerry Miller, ‘Race Relations in the Nelson District 1840–1845’, M.A. Thesis, University of Canterbury, 1981, p. 4.

⁷⁸ *He Whakaputanga me te Tiriti*, p. 296.

⁷⁹ *Report of the Parliamentary Select Committee on Aboriginal Tribes* London: William Bell, Aldine Chambers, Paternoster Row, and Hactchard & Son, 1837, p.1.

⁸⁰ *Report of the Parliamentary Select Committee on Aboriginal Tribes*, p. 105.

⁸¹ Alan Lester and Fae Dussart, *Colonization and the Origins of Humanitarian Governance – Protecting Aborigines across the Nineteenth-Century British Empire*, Cambridge: Cambridge University Press, 2014, p. 22.

⁸² Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, p. 14.

⁸³ William Renwick, ‘Self-Government and Protection: a study of Stephens two cardinal points of policy in their bearing upon constitutional development in New Zealand in the years 1837–1867’, M.A. Thesis, Victoria University, 1962, p. 35.

shoulder'.⁸⁴ The Society, along with the missionary societies, would, initially at least, provide formidable opposition to the colonising enterprises then underway.

The century that had given rise to Britain's sense of obligation to protect the 'weak' and 'ignorant' had also produced a desire in others to leave Britain. New Zealand's potential as a settlement colony had in fact been recognised since 1771 'in the fertile mind of Benjamin Franklin'.⁸⁵ In 1825 the British government and private interest groups discussed New Zealand's commercial prospects and its viability as a settlement. The following year two ships arrived in Wellington Harbour, but having determined that New Zealand did not suit the expectations of its backers the expedition left for Sydney.⁸⁶

In 1836 a House of Commons Committee on the Disposal of Lands in British Colonies found that New Zealand was 'peculiarly eligible for the purposes of British colonization'.⁸⁷ It was here that Edward Gibbon Wakefield presented his plans for 'systematic colonisation'.⁸⁸ Wakefield had earlier been imprisoned at Newgate for the abduction of Ellen Turner and it was here that his interest in colonisation developed⁸⁹ and where he began to familiarise himself with the work of R.J. Wilmot-Horton.⁹⁰ Wilmot-Horton was a prominent figure in discussions about emigration and had inquired of Thomas Malthus, Robert Torrens, and James Stuart Mill as to how emigration might alleviate the problems of over population and poverty. In 1823 and again in 1825 Wilmot-Horton oversaw the emigration of 568 Irish paupers to Canada. He was also the first person to use the term 'systematic colonisation'.⁹¹

In May 1837 the New Zealand Association was formed for the purpose of establishing a colony in New Zealand based on Wakefield's principles.⁹² The crux of Wakefield's idea was 'that the disposal of waste or public land should be by sale

⁸⁴ Renwick, 'Self-Government and Protection', p. 36.

⁸⁵ Belich, *Making Peoples*, p. 180.

⁸⁶ Patricia Burns, *A Fatal Success—A History of the New Zealand Company*, Auckland: Heinemann Reed, 1989, pp. 18–21; *He Whakaputanga me te Tiriti*, pp. 116–118.

⁸⁷ Alexander Mackay, *A Compendium of Official Documents Relative to Native Affairs in the South Island*, volume 1, part 1, Wellington: Government Printer, 1873, p. 7.

⁸⁸ Edward Gibbon Wakefield cited in E. G. Wakefield and J. Ward, *The British Colonization of New Zealand*, London: John W. Parker, 1837, p. 17.

⁸⁹ M. F. Lloyd Prichard, ed., *The Collected Works of Edward Gibbon Wakefield*, Auckland: Collins, 1969, pp. 11–13.

⁹⁰ Burns, *A Fatal Success*, p. 28.

⁹¹ Burns, *A Fatal Success*, p. 25.

⁹² Orange, *The Treaty of Waitangi*, p. 34; *He Whakaputanga me te Tiriti*, pp. 296–298.

only, and at a sufficient price for the objects in view; and that the purchase-money of land should be employed as an emigration fund'.⁹³ Looking to gain government support for its proposal the Association presented a Bill to Prime Minister Melbourne. It was circulated among government officials, including the Secretary of State for Colonies, Lord Glenelg, and Under-Secretary James Stephen.⁹⁴ It will be noted that the former was an evangelical humanitarian whose father had close associations with the Clapham Sect and the Church Missionary Society. Stephen too shared a similar pedigree.⁹⁵ In response to the Association's draft Bill Stephen predictably stated that "the acquisition of sovereignty in New Zealand would infallibly issue in the conquest and extermination of the present inhabitants". As for the proposal itself, it was "so vague and so obscure as to defy all interpretation".⁹⁶

Humanitarian concern for Maori, as expressed in an emerging 'rhetoric of obligation', was not initially matched with decisive official action. Claudia Orange writes that up to the late 1830s the Colonial Office 'exhibited one consistent and fundamental attitude—a reluctance to intervene formally'.⁹⁷ According to Belich, the Colonial Office was guided by the 'principle' of 'parsimony', and, 'as long as trade could flow freely' there was no need to govern. As the 1830s progressed, however, it appeared that both principles were being compromised,⁹⁸ and so, according to Ward, the disinclination to 'assume further burdens of formal empire' gradually gave way.⁹⁹

During the 1830s an increasing number of requests for intervention had been received at the Colonial Office, reaching a 'crescendo' in 1837–38.¹⁰⁰ The call for greater formal control, as a means of curbing lawlessness, can be traced to 1817. In that year, and again in 1823 and 1828, the British parliament passed legislation that extended the jurisdiction of the New South Wales courts, enabling them to prosecute British subjects for crimes committed in New Zealand. Orange argues that while such steps were ineffectual they were a 'gesture of good will, an indication that the

⁹³ Edward Gibbon Wakefield cited in *The British Colonization of New Zealand*, p. 17.

⁹⁴ Burns, *A Fatal Success*, pp. 44–46.

⁹⁵ Adams, *Fatal Necessity*, p. 131; *He Whakaputanga me te Tiriti*, pp. 298–299.

⁹⁶ Cited in Adams, *Fatal Necessity*, p. 96.

⁹⁷ Claudia Orange, *The Treaty of Waitangi*, Wellington: Bridget Williams Books, 2nd Edition, 2011, pp. 17–18. (First published 1987)

⁹⁸ James Belich, *Making Peoples*, p. 182.

⁹⁹ Ward, *A Show of Justice*, p. 13.

¹⁰⁰ Belich, *Making Peoples*, p. 185.

Crown took some responsibility for the actions of British subjects'.¹⁰¹ At the request of Samuel Marsden, Justices of the Peace were also appointed; however, according to Ward they 'were powerless and their magisterial exertions slight and ineffectual'.¹⁰² Belich explains that the British government was increasingly drawn into New Zealand affairs as a result of agitation by 'agents of contact': missionaries, the New Zealand Company, and traders. Once these groups had become established in New Zealand their backers in London would then exert 'leverage on the imperial government' and in the end 'pull their states in after them'.¹⁰³

The most significant expression of Britain's obligation towards New Zealand was the appointment of James Busby as Resident in 1833. Busby's deployment came about in response to three incidents that occurred during 1830 and 1831. The 'Girls War' and the *Elizabeth* affair both involved British subjects; however, it was the presence of *La Favorite*, a French naval vessel, in the Bay of Islands in 1831 that led to more immediate action.¹⁰⁴ Penned by the missionary William Yates, the 'King's Letter' of 1831 sought the protection of William IV. The petitioners stated that:

The tribe of Marian is at hand coming to take away our land, therefore we pray thee to become our friend and guardian of these Islands, lest through the teasing of other tribes should come war to us, and lest strangers should come and take away our land.¹⁰⁵

The extent to which France posed a threat to Maori is discussed further in the following chapter. The point to note here is the petition led to the appointment of James Busby as Resident, which, according to the Waitangi Tribunal, 'arguably marked the most significant new development in terms of the British presence at the Bay since the establishment of the first mission'.¹⁰⁶

Busby arrived in the Bay of Islands on 5 May 1833 and at Paihia on 17 May he read aloud the King's reply to the 1831 petition.¹⁰⁷ Those gathered were assured that the King would prevent further 'outrages, and to punish the perpetrators of them according to the laws of their own country'. In return, Maori were implored to

¹⁰¹ Orange, *The Treaty of Waitangi*, p. 18.

¹⁰² Ward, *A Show of Justice*, pp. 13–14.

¹⁰³ Belich, *Making Peoples*, p. 182.

¹⁰⁴ *He Whakaputanga me te Tiriti*, pp. 108–116.

¹⁰⁵ Cited in *He Whakaputanga me te Tiriti*, p. 114.

¹⁰⁶ *He Whakaputanga me te Tiriti*, p. 122.

¹⁰⁷ Orange, *The Treaty of Waitangi*, pp. 21–22.

‘render to the Resident that assistance and support, which is calculated to promote the object of his appointment’.¹⁰⁸ It was hoped that Busby could, in conjunction with Maori, bring some semblance of order to what had been presented as a chaotic situation.¹⁰⁹ The extent to which he was able to influence the behavior of both Maori and Europeans, however, was limited.

Notwithstanding the Resident’s impotency he was instrumental in the adoption by Maori of a flag to fly on New Zealand built ships,¹¹⁰ and, in convening an assembly of northern chiefs at Waitangi on 28 October 1835. As with the events leading up to the 1831 petition, it was an apparent threat of a French invasion, in this case that of Charles de Thierry, that led Busby to act.¹¹¹ Busby, according to the Waitangi Tribunal, would have been viewed by Maori as ‘an advisor on how to negotiate the sometimes murky waters of colonial contact’.¹¹² ‘Under the designation of The United Tribes of New Zealand’ the assembly declared that:

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.¹¹³

The Declaration was signed by 52 chiefs, 34 on the day and the last in 1839. While resident Europeans saw the Declaration as a way of limiting French influence Maori had recognised, as had the Tahitians, Hawaiians, and Tongans, that there were ‘advantages to be gained by forming some alliances’.¹¹⁴ The Declaration was part of an ongoing process of engagement that had been inaugurated some years earlier when Hongi Hika met with King George.¹¹⁵ Although the Declaration was acknowledged by Britain, a pattern would emerge whereby the recognition of Maori authority and rights was but the first step to their abrogation. It could be argued that Busby’s determination to gain the assent of the 1831 petitioners saw the commencement of this process.

¹⁰⁸ Cited in *He Whakaputanga me te Tiriti*, p. 123.

¹⁰⁹ Ward, *A Show of Justice*, p. 24.

¹¹⁰ *He Whakaputanga me te Tiriti*, pp. 128–134.

¹¹¹ *He Whakaputanga me te Tiriti*, pp. 159–160.

¹¹² *He Whakaputanga me te Tiriti*, p. 199.

¹¹³ The Declaration of Independence cited in *He Whakaputanga me te Tiriti*, p. 169.

¹¹⁴ Orange, *The Treaty of Waitangi*, p. 31.

¹¹⁵ *He Whakaputanga me te Tiriti*, p. 202.

By 1838 the Colonial Office had received a missionary ‘inspired’ petition, a report by William Hobson, who had been dispatched to New Zealand from New South Wales following an outbreak of tribal fighting in 1837, as well as a report by Busby. Together they painted a ‘dismal picture of a deteriorating situation on a remote imperial frontier’.¹¹⁶ Hobson’s report reflected the humanitarian attitudes of the time, and the belief that Native peoples, with the appropriate assistance, could be brought towards civilisation. Hobson’s intellectual privileging of Maori is certainly evident in his correspondence with Richard Burke:

I cannot repress a feeling of deep regret that so fine and intelligent a race of human beings should, in the present state of civilization, be found in barbarism; for there is not a people more susceptible of high intellectual attainments, or more capable of becoming a useful and industrious race under a wise government...the great and powerful moral influence of the missionaries has done much to check the natural turbulence of the native population; but the dissolute conduct of the lower orders of our country not only tends to diminish that holy influence, but to provoke the resentment of the natives...It becomes, therefore, a solemn duty, both in justice to the better classes of our fellow subjects and to the natives themselves, to apply a remedy for growing evil.¹¹⁷

Both Hobson and Busby proposed initiatives to alleviate the situation. Hobson recommended that factories, similar to the trading factories established in India, be set up in New Zealand and placed under British jurisdiction.¹¹⁸ In this way ‘sufficient restraint could be constitutionally imposed on licentious whites, without exciting the jealousy of the New Zealanders, or of any other power’. He envisaged that a treaty ‘be concluded with the New Zealand chiefs for the recognition of the British factories, and the protection of British factories, and the protection of British subjects and property’. Such an approach would, according to Hobson, lend itself to the introduction ‘amongst the natives a system of civil government which may hereafter be adopted and enlarged upon’.¹¹⁹ Colonisation, then, was to be the means by which Maori would be privileged with ‘civil government’.

Busby also proposed that Britain intervene. Following his account of the conditions in New Zealand, the prerequisite for intervention, Busby submitted an ‘outline of a

¹¹⁶ Orange, *The Treaty of Waitangi*, pp. 33–34.

¹¹⁷ Hobson to Bourke, 8 August 1837, *BPP 1835–42*, Shannon: Irish University Press, 1970, p. 24.

¹¹⁸ Orange, *The Treaty of Waitangi*, pp. 33.

¹¹⁹ Hobson to Bourke, 8 August 1837, *BPP 1835–42*, pp. 24–25.

plan of government'. 'It is founded', he wrote, 'upon the principle of a protecting state, administering in chief the affairs of another state in trust for the inhabitants'. He explained further that 'in theory and ostensibly the government would be that of the confederated chiefs, but in reality it must necessarily be that of the protecting power'. What was required, according to Busby, 'is a paramount authority, supported by a force adequate to secure the efficiency of its measures'.¹²⁰

Meanwhile, the New Zealand Association, having had its Bill rejected, presented an amended Bill to Melbourne and began a period of intense lobbying.¹²¹ Up until this point Glenelg had maintained an anti-colonisation stance but with the arrival of Busby's Report on 18 December he changed his position.¹²² Two days later the Colonial Secretary informed a deputation of Association officials that:

The intelligence which Her Majesty's Government has received from the most recent and authentic sources justifies the conclusion that it is an indispensable duty, in reference both to natives and to British interests, to interpose, by some effective authority, to put a stop to the evils and dangers to which all those interests are exposed in consequence of the manner in which the intercourse of foreigners with those islands is now carried on.¹²³

Glenelg went on to say that although the government's preference was for the missionaries to continue their work, it had become apparent that colonisation was in fact under way. 'The only question therefore is between a colonization desultory, without law, and fatal to the natives, and colonization organised and salutary'.¹²⁴ According to Orange this was a 'victory for the colonisers because official policy now accepted colonisation in principle'.¹²⁵ There was, writes Adams, a realisation that 'a more comprehensive and far-reaching intervention' was needed.¹²⁶

The offer of a Royal Charter was to be extended to the New Zealand Association. It would be 'framed with reference to the precedents of the colonies established in North America by Great Britain in the sixteenth and seventeenth centuries' and would allow for the legislative, judicial, military and financial administration of the

¹²⁰ Busby to Colonial Secretary of New South Wales, 16 June 1837, *BPP 1835-42*, pp.27-29.

¹²¹ Burns, *A Fatal Success*, pp. 55-56.

¹²² Adams, *Fatal Necessity*, p. 106; *He Whakaputanga me te Tiriti*, pp. 302-303.

¹²³ Lord Glenelg to Lord Durham, 29 December 1837, Appendix No. 8, *BBP 1837-40*, Shannon: Irish University Press, 1968, p. 148.

¹²⁴ Glenelg to Durham, 29 December 1837, Appendix No. 8, *BBP 1837-40*, p. 148.

¹²⁵ Orange, *The Treaty of Waitangi*, p. 34.

¹²⁶ Adams, *Fatal Necessity*, p. 115.

colony by the ‘corporate body’. However, Glenelg stipulated that among the checks the government would retain was a veto on the appointment of officials¹²⁷ while ‘responsibility and cost of government’ could be left to an ‘intermediary body’.¹²⁸ According to Sinclair, the government was not hostile to the Association’s proposal so long as it could ‘demonstrate its ability to bear the initial costs of colonizing’.¹²⁹ As for the rights of Maori, Glenelg stated that ‘the settlement of the colony must be effected, if at all, with the free consent of the existing inhabitants or their chiefs’.¹³⁰

The Association agreed with the ‘general views expressed’ by Glenelg but objected to the condition that ‘the corporation...be founded on a private pecuniary interest’¹³¹ and that ‘they provide themselves with a certain subscribed capital’.¹³² Because the Association was unwilling to comply with these stipulations Glenelg withheld his support.¹³³ He did, however, inform the Association that if it decided to proceed to parliament with its Bill, and to facilitate a ‘free and fair discussion’, the government would not oppose its introduction.¹³⁴ Of course the missionary societies, and in particular Dandeson Coates of the CMS, had throughout 1837 kept a watchful eye on the Association’s activities and Coates had gained an assurance from the Colonial Office that if the opportunity arose the Society would be afforded the chance to object to the Association’s plans.¹³⁵

Part III — The Rhetoric of Benevolence

By 1838 a consensus in opinion was starting to emerge: greater intervention was required. The difference between the colonial reformers and the humanitarians and missionaries, as Belich aptly writes, was that ‘both wanted just enough intervention

¹²⁷ Glenelg to Durham, 29 December 1837, *BBP 1837–40*, Appendix No. 8, p. 148.

¹²⁸ Keith Sinclair, *A History of New Zealand*, 4th Edition, Auckland: Penguin Books, 1991, p. 65. (First published 1959)

¹²⁹ Sinclair, *A History of New Zealand*, p. 65.

¹³⁰ Glenelg to Durham, 29 December 1837, *BBP 1837–40*, Appendix No. 8, p. 148.

¹³¹ Durham to Glenelg, 30 December 1837, *BBP 1837–40*, Appendix No. 8, p. 149.

¹³² Glenelg to Durham, 29 December 1837, *BBP 1837–40*, Appendix No. 8, p. 149.

¹³³ Glenelg to Durham, 29 December 1837, *BBP 1837–40*, Appendix No. 11, p. 153.

¹³⁴ Glenelg to Durham, 29 December 1837, *BBP 1837–40*, Appendix No. 11, p. 153.

¹³⁵ Phillip Temple, *A Sort of Conscience—The Wakefields*, Auckland: Auckland University Press, 2002, pp. 192–193.

to facilitate their goals, but not so much as to impede them'.¹³⁶ During April and May a House of Lords Select Committee inquired 'into the present state of the islands of New Zealand and to consider the Expediency of regulating the Settlement of British Subjects therein'. In his evidence Coates contended that the 'New Association appears...highly objectionable' because (1) '...it proposes to engage the British Legislature to sanction the Disposal of Portions of a foreign Country over which it has no Claim of Sovereignty or Jurisdiction'. (2) '...such Colonization of Countries inhabited by uncivilized Tribes having been found by universal Experience to lead to the Infliction upon the Aborigines of the greatest Wrongs and most severe Injuries'. (3) It would 'interrupt, if not to defeat, those Measures for Religious Improvement and Civilisation of the Natives of New Zealand, which are now in favourable Progress through the Labours of the Missionaries'.¹³⁷

In June a Bill 'which embodied the views of the Association' was placed before parliament.¹³⁸ The Association 'professed the intention of protecting and benefiting Maori by preserving them from injury, "diffusing amongst them the blessings of Christianity, and promoting their civilization and happiness"'.¹³⁹ Although the Bill was defeated 'it is remarkable', writes Wards, 'how much of the general sense of the Bill later became government policy'.¹⁴⁰

On 7 August the Association was delivered a 'final, and brutal blow' when the Lords brought down their report.¹⁴¹ The Committee resolved that:

The Extension of the Colonial Possessions of the Crown is a Question of public Policy which belongs to the Decision of Her Majesty's Government; but that it appears to this Committee, that Support, in whatever Way it may be deemed most expedient to afford it, of the Exertions which have already beneficially effected the rapid Advancement of the religious and social Condition of the Aborigines of New Zealand, affords the best present Hopes of their future Progress in Civilization.¹⁴²

¹³⁶ Belich, *Making Peoples*, p. 183.

¹³⁷ Dandeson Coates, 'Minutes of Evidence Before the Select Committee on the State of the Islands of New Zealand, *BPP 1837-40*, p. 243.

¹³⁸ Burns, *A Fatal Success*, p. 64.

¹³⁹ Cited in *He Whakaputanga me te Tiriti*, p. 306.

¹⁴⁰ Wards, *The Shadow of the Land*, p. 18.

¹⁴¹ Burns, *A Fatal Success*, p. 64.

¹⁴² 'House of Lords Select Committee on the Present State of Islands of New Zealand', *BPP 1837-40*, p. iii.

The report, then, opposed intervention by private enterprise¹⁴³ while vindicating ‘the activities of the missionaries’.¹⁴⁴ This was not the end of the matter, however. As the Lords were issuing their report members of the Association met and proceeded to form a joint-stock company,¹⁴⁵ a requirement previously put to the New Zealand Association by Glenelg in order that they gain a Royal charter. Having complied with the conditions previously laid down by Glenelg the Company felt that it should be given the Charter previously offered to the Association.¹⁴⁶ In February 1839 Glenelg was forced to resign and was replaced by the Marquis of Normanby, who met the newly constituted New Zealand Company on 14 March. However, the decision to intervene further had already been made, sometime in June or July, and in December Glenelg informed the New South Wales Governor, Gipps, that Busby would be replaced by a consul to New Zealand.¹⁴⁷ Thereafter colonisation proceeded as an official act of state.

Intervention was viewed as not only necessary but an act of benevolence, particularly in light of the events supposedly prevailing in New Zealand. The priorities that should shape British policy in New Zealand were delineated by Stephen in a minute dated 15 March: ‘the two Cardinal points to be kept in view in establishing a regular Colony in New Zealand are, first, the protection of Aborigines, and secondly, the introduction among the Colonists of the principle of self Government’.¹⁴⁸ As it would transpire, reconciling the interests of both peoples would prove to be a difficult, if not impossible task. Notwithstanding this, a rhetoric of benevolence emerged that maintained Maori would receive ongoing benefits from colonisation and interaction with settlers.

After its 14 March meeting with Normanby, at which it was made clear the government would not support it, the Company proceeded to procure a ship and on 29 April notified Normanby of its intentions to dispatch an expeditionary party to New Zealand. The Company asked that Colonel William Wakefield, the principal agent, be provided with letters of introduction to the Governors of New South Wales

¹⁴³ Temple, *A Sort of Conscience*, p. 208.

¹⁴⁴ Adams, *Fatal Necessity*, pp. 123–124.

¹⁴⁵ Burns, *A Fatal Success*, p. 72.

¹⁴⁶ Standish Motte to Normanby, 4 March 1839, *BPP 1835–42*, pp. 68–69.

¹⁴⁷ Glenelg to Gipps, 1 December 1838, *BPP 1835–42*, p. 67.

¹⁴⁸ James Stephen cited in ‘The Colonial Office and the New Zealand Company’, *Speeches and Documents on New Zealand History*, W. David McIntyre and W.J. Gardner eds., London: Oxford University Press, 1971, pp. 8–9.

and Van Diemen's Land. Also enclosed with this request was a copy of Wakefield's instructions.¹⁴⁹ In response, Normanby's Under-Secretary, Henry Labouchere, stated that 'his Lordship was entirely ignorant of the course which the Company had adopted' and that 'Her Majesty's Government cannot recognize the authority of the agents whom the Company may employ'. The Company was further informed that if sovereignty was obtained in those areas occupied by British subjects they would be administered by officers appointed by the Queen. Moreover, it was to be understood 'that no pledge can be given for the future recognition by Her Majesty of any proprietary titles to land within New Zealand'. Such measures were necessary for the 'protection of the interests of the aborigines, as well as to the future prosperity of any colony which may be established in New Zealand'.¹⁵⁰

The Company's flagship, *Tory*, departed on 12 May 1839. William Wakefield had been instructed by the Company's directors that his 'object' was: 'the purchase of lands for the Company; the acquisition of general information as to the country; and preparations for the formation of settlements under the auspices of the Company'.¹⁵¹ He was told that 'it will be necessary...to touch at Entry Island, the seat of the tribe to which, as we are informed, both sides of Cook Strait belong'.¹⁵² The *Tory* arrived in Cook Strait on 17 August 1839¹⁵³ and in September a further three ships carrying Company emigrants left Gravesend.¹⁵⁴

Company directors were also 'anxious about the fate of Nayti', the Company's interpreter. Nayti was presented as an example of the benefits colonisation could bring to Maori. Having spent some time in England he was 'no longer a New Zealander in manners, habits, or tastes, but has acquired those of a well-bred Englishman'. According to Wakefield's instructions, he was 'conclusive evidence of their (Maori) capacity for performing useful parts and occupying respectable

¹⁴⁹ Hutt to Normanby, 29 April 1839, *BPP 1835-42*, p. 70.

¹⁵⁰ Labouchere to Hutt, 1 May 1839, *BPP 1835-42*, pp. 75-76.

¹⁵¹ 'Instructions to Colonel Wakefield, Principal Agent of the Company, May 1839', in Mackay *A Compendium*, volume 1, part III, p. 50.

¹⁵² 'Instructions to Colonel Wakefield, Principal Agent of the Company, May 1839', in Mackay *A Compendium*, volume 1, part III, p. 50.

¹⁵³ Mackay, *A Compendium*, volume 1, part II, p. 1.

¹⁵⁴ Mackay, *A Compendium*, volume 1, part I, p. 8.

positions in a community of British emigrants’; he is an ‘example’ to his ‘own tribe and others’.¹⁵⁵

The benefits that colonisation would accrue to Maori were also to be made clear during Wakefield’s negotiations for the purchase of land. He was instructed to explain, in full, the concept of a sale; that ‘wilderness land...is worth nothing’ and that the ‘utter inadequacy of the purchase money’ would be offset by the increase in the value of the land that would come with ‘emigration and settlement’. He was to make known too that land would be set aside ‘equal to one-tenth of the whole’ for ‘the chief families of the tribe’. Unlike the large areas of land reserved for Indians in North America where ‘the savages are encouraged to continue savage living apart from the civilized community’, reserves would be allocated in allotments ‘as if the...lands had been purchased from the Company’.¹⁵⁶

The Company issued its Prospectus on 2 May. Having firstly covered the history and purpose of the Company, and the relevant business details, the Prospectus went on to espouse the virtues of New Zealand and the benefits colonisation must bring to Maori:

And it will not be overlooked by those for whom the subject of civilizing the natives possesses more interest than that of colonizing their waste lands, that the advantages to be derived by the aborigines from intercourse and association with legalized and orderly British settlements, must in a great measure depend on the prosperity of the British settlers.¹⁵⁷

Seemingly, the intellectual privileging of Maori would pay dividends. Maori would receive a better deal than Native American peoples who had been forced to live on reservations. Maori would be privileged with European neighbors. Colonisation would also bring with it all the other blessings of British civilisation, including, English law, stability, order, and private property.

The departure of the *Tory* ‘created a flurry of activity’ that, according to Adams, contributed to the ‘legend’ that the Company had ‘forced the Government’s hand’. As

¹⁵⁵ ‘Instructions to Colonel Wakefield, Principal Agent of the Company, May 1839’, in Mackay *A Compendium*, volume 1, part III, p. 54.

¹⁵⁶ ‘Instructions to Colonel Wakefield, Principal Agent of the Company, May 1839’, in Mackay *A Compendium*, p. 51.

¹⁵⁷ Durham to Normanby, 22 May 1839, New Zealand Company Prospectus (extract), 2 May 1839, *BPP 1835–42*, p. 78.

noted above, however, the decision to appoint a British consul to New Zealand had been some time in the making. 'At most' the Company's actions had 'goaded the Colonial Office into finalizing its own measures more quickly'.¹⁵⁸ Having been earlier praised at the Colonial Office, Hobson was a likely candidate. By the time he accepted the consulship in February 1839¹⁵⁹ the Colonial Office had formulated a plan based on his 1837 report.¹⁶⁰

In August Normanby issued Hobson with his instructions. He summarised the Colonial Office's position providing background information to the existing situation. Normanby informed Hobson that New Zealand, 'in the hands of civilised men', would 'exercise a paramount influence in that quarter of the globe' and return to Britain an 'increase of national wealth and power'. Normanby also noted that this was:

A most inadequate compensation for the injury which must be inflicted on this kingdom itself, by embarking in a measure essentially unjust, and but too certainly fraught with calamity to a numerous and inoffensive people, whose title to the soil and to the sovereignty of New Zealand is indisputable.¹⁶¹

Hobson's 'principal object' was to establish in New Zealand 'a settled form of civil government' so as to 'mitigate and, if possible avert' the 'disasters' that occur when 'uncivilized tribes' are 'brought into the immediate vicinity of emigrants from the nations of Christendom'. In order to achieve this objective Hobson was instructed to 'treat with the Aborigines of New Zealand for the recognition of Her Majesty's sovereign authority'. Normanby conceded that there would be some 'difficulty' in concluding such a treaty but considered that 'their welfare' was best served through the 'surrender...of a right...a national independence, which they are no longer able to maintain'. The 'benefits of British protection, and of laws administered by British judges, would far more than compensate' for this 'sacrifice'.¹⁶²

New Zealand would initially come under the jurisdiction of New South Wales but it was noted also that 'the time is not distant when it may be proper to establish in New Zealand itself a local legislature'. In the interim 'it is essential to their (British

¹⁵⁸ Adams, *Fatal Necessity*, p. 148.

¹⁵⁹ Adams, *Fatal Necessity*, p. 126.

¹⁶⁰ Adams, *Fatal Necessity*, pp. 128–129.

¹⁶¹ Normanby to Hobson, 14 August 1839, *BPP 1835–42*, p. 85.

¹⁶² Normanby to Hobson, 14 August 1839, *BPP 1835–42*, pp. 85–86.

subjects) own welfare, not less than that of the aborigines, that they should at first be placed under a rule, which is at once effective, and to a considerable degree external'. Hobson was directed to appoint a number of officials essential to the colony's administration: 'a judge, a public prosecutor, a protector of aborigines, a colonial secretary, a treasurer, a surveyor-general of lands, and a superintendent of police'.¹⁶³

On his arrival in New Zealand Hobson was to announce by proclamation 'that her Majesty will not acknowledge as valid any title to land which either has been, or shall hereafter be acquired, in that country which is not either derived from, or confirmed by, a grant to be made in her Majesty's name, and on her behalf'. Land already purchased by settlers would be subject to an investigation by a commission of inquiry; however, Hobson was to reassure settlers that they would not be dispossessed of land 'acquired on equitable conditions'. With the benefit of hindsight and with future settlement in mind he was also instructed to 'contract' with Maori so 'that henceforward no lands shall be ceded, either gratuitously or otherwise, except to the Crown of Great Britain'.¹⁶⁴ He was informed that the amount paid for the land will be 'exceedingly small' when compared to the resale price, but such land was 'waste' and of 'no actual use' to Maori. The real value of the land will be 'created' and 'increased' following 'the introduction of capital and of settlers' and it is 'in the benefits of that increase the natives themselves will gradually participate'.¹⁶⁵

Having 'obviated the dangers of the acquisition of large tracts of country by mere land-jobbers', Hobson was to obtain from Maori, 'by fair and equal contracts', lands 'required for the occupation of settlers resorting to New Zealand'. To 'watch over the interests of the aborigines' during land transactions he was instructed to appoint a 'protector'.¹⁶⁶ He was also instructed to lend his assistance to the missionaries and establish schools for the 'education' of Maori in 'the elements of literature'. However, until they can be 'brought within the pale of civilized life and trained to the adoption of its habits' Hobson was told that 'they must be carefully defended in the

¹⁶³ Normanby to Hobson, 14 August 1839, *BPP 1835-42*, pp. 88-89.

¹⁶⁴ Normanby to Hobson, 14 August 1839, *BPP 1835-42*, pp. 86-87.

¹⁶⁵ Normanby to Hobson, 14 August 1839, *BPP 1835-42*, p. 87.

¹⁶⁶ Normanby to Hobson, 14 August 1839, *BPP 1835-42*, p. 87.

observance of their own customs so far as these are compatible with the universal maxims of humanity and morals'.¹⁶⁷

At least as far as can be ascertained from Hobson's instructions Maori welfare was certainly in the minds of Colonial Office officials. Humanitarianism, in all its manifestations, rested on the notion of European superiority and a self-imposed obligation that Britain must protect and civilise the 'weak'. However, protecting and civilizing Maori meant the complete eradication of anything deemed to be repugnant to British civilization, that is to say, those very institutions that made Maori who they were. While the goal was to lift Maori from their fallen state—it was a goal not shared by Maori.

Although Hobson's instructions 'contained admirable measures for the protection of Maori against landlessness and envisaged their participation in the developing economy through the increasing value of land', they also contained a 'contradiction'.¹⁶⁸ Ward argues that in carrying out its policy the 'Crown was at the same time protecting and pauperising the Maori people'. Crown pre-emption, low prices, and the 'looming influence of the waste land doctrine' prevented Maori from deriving maximum benefit from their lands. The benefits, according to Ward, would be 'creamed off by the Crown to run the colony', but in the interests of the settlers who now had the security of a title guaranteed by the Crown.¹⁶⁹

Notwithstanding the rhetoric of benevolence that would come to dominate New Zealand's historical record, what was good for the colony was not necessarily good for Maori. As will be demonstrated in the following chapters protecting Maori meant taking their land; that it would be the Crown via its pre-emptive right, and not 'mere land jobbers' or the French, gave the enterprise some moral legitimacy. Although often at loggerheads colonial reformers and humanitarians were by the end of the 1830s in agreement that Maori should be brought within the pale of civilization. Both Hobson's and Wakefield's instructions illustrate this desire. Furthermore, protecting Maori from the perspective of both humanitarians and colonial reformers would be

¹⁶⁷ Normanby to Hobson, 14 August 1839, *BPP 1835–42*, pp. 87–88.

¹⁶⁸ Ward, *National Overview*, volume II, Waitangi Tribunal Rangahaua Series, GP Publications, 1997, pp. 22–23.

¹⁶⁹ Ward, *National Overview*, volume II, pp. 28–29.

best achieved through the establishment of order via the imposition of British sovereignty.

CHAPTER THREE



Privileged by Treaty?

This chapter examines the years 1840 to 1847. What becomes apparent during this period, as Belgrave aptly writes, is ‘the world that created the treaty, interpreted it, and gave it meaning was eclipsed by the agendas of the new state’.¹ In the seven years following Waitangi the treaty was debated in the New South Wales Assembly, examined by a House of Commons Select Committee, and cited in a New Zealand Supreme Court decision. It was during this time too that the idea of Maori privilege, in both its official and populist forms, began to take shape, and acquire political utility. The chapter demonstrates that claims of Maori privilege are not a phenomenon of the late twentieth-century. Much of what was said in the period covered here would be said again, almost verbatim, in the decades that followed, and in the case of anti-Treatyists, up to the present day.

The chapter is divided into two parts. Part I—‘Addressing some Myths’—examines the claims put forward at the time by those advocating British intervention. The significance of these claims is that they underpin notions of Maori privilege to the extent that Britain was deemed to have saved Maori, not only from the French but from themselves. While historians have addressed many of these claims they continue to linger in the marginal writing of anti-Treatyists. Part II—‘The Privilege of British Sovereignty’—discusses the ‘public life’ of the treaty and the way in which the Crown sought to discharge its treaty obligations through its native policy. These ‘official’ privileges were intended to avert the calamities that colonisation had inflicted on other Native peoples by amalgamating Maori into colonial society, it being envisaged that they would enjoy the protections that came with British citizenship. According to Ward ‘this was the strategy underlying Article Three of the

¹ Michael Belgrave, *Historical Frictions—Maori Claims & Reinvented Histories*, Auckland: Auckland University Press, 2005, p. 66.

Treaty’,² and was, writes Orange, ‘regarded as an unusual case, something of an experiment in colonial government’.³

Part III—‘Privilege in Practice’—examines the settlers’ response to the Crown’s native policy. For many settlers those measures put in place to facilitate amalgamation amounted to little more than ‘favouritism’ and ‘privilege’ and benefited neither the colony nor Maori. Lobbying by the settlers and their supporters in Britain led to a readjustment in policy. Although this favoured the settlers, the Crown continued to invoke the ‘rhetoric of benevolence’ in its dealings with Maori. In this way the Treaty of Waitangi provided ‘a degree of humanitarian legitimacy for the colonial state’.⁴

Part I — Addressing some Myths

As noted in the previous chapter, Britain’s decision to enter into a treaty with Maori came at the end of a decade characterised by a disinclination to intervene. In the end the decision to act was hastened by the actions of the New Zealand Company. However, reports transmitted back to London by missionaries, traders, and officials painted a picture of ‘anarchy and depopulation’ and also influenced the Colonial Office.⁵ The focus here is the extent to which the reports matched the reality of the situation, that is to say, was it a case of ‘fatal impact’? And, moreover, was it the British presence that led to a decline in warfare?

The threat posed by France to British interests, and Maori, and the degree to which it led to a change in official policy have been debated for some time. In 1968 Wards argued that the French ‘were running in their attitude to New Zealand along lines remarkably parallel to Britain’. Wards also noted that the ‘possibility of foreign intervention’ is mentioned throughout Hobson’s instructions.⁶ Ward, writing shortly after Wards, argued that the decision to annex New Zealand was precipitated by the

² Alan Ward, *An Unsettled History*, Wellington: Bridget Williams Books, 1999, p. 17.

³ Orange, *The Treaty of Waitangi*, p. 104.

⁴ Belgrave, *Historical Frictions*, p. 43.

⁵ Owens, ‘New Zealand before Annexation’, p. 51.

⁶ Wards, *The Shadow of the Land*, footnote 1, p. 26.

‘despatch of the Company’s ships rather than French activity’.⁷ Adams likewise pointed to the pretenses of the Company, not the possibility of French intervention, as the real reason for government’s decision.⁸ According to Owens:

Fears of French or American intervention, actively canvassed in New South Wales and by the New Zealand Association in Britain, do not appear to have played much part in the calculations of British officials.⁹

In his evidence before the Waitangi Tribunal, Ward restated his earlier position that although the Colonial Office may have been unmoved by the fear of the French:

Fears of such intervention were very much alive among the British settlers and missionaries in the region, and the British public was quickly excited by any evidence of it.¹⁰

The Waitangi Tribunal summed up the debate in this way: ‘whatever the truth of this matter, the “idea” of a race between Britain and France to acquire New Zealand has nevertheless had an enduring appeal, because it makes for such a story’.¹¹ When one considers that notions of Maori privilege readily proliferate in populist discourse Ward’s assessment takes on more relevance. The belief that British intervention saved Maori from an unenviable fate—French colonisation—certainly makes for a good ‘story’.

British intervention was also justified on the grounds that Maori, as a consequence of inter-tribal war and European contact, were undergoing rapid population decline. Both Busby and Hobson assumed this. According to Adams, however, ‘while increased tribal warfare undoubtedly contributed much to population decline, the missionaries tended to over-stress it’.¹² Owens concluded that in the period from 1769 to 1840 ‘the case for depopulation is not clear’.¹³ While acknowledging the

⁷ Ward, *A Show of Justice*, p. 33.

⁸ Adams, *Fatal Necessity*, p. 152.

⁹ Owens, ‘New Zealand before Annexation’, p. 51.

¹⁰ Cited in *He Whakaputanga me te Tiriti*, p.331.

¹¹ *He Whakaputanga me te Tiriti*, p. 331.

¹² Adams, *Fatal Necessity*, p. 39.

¹³ Owens, ‘New Zealand before Annexation’, pp. 49–50.

impact of warfare and disease the Waitangi Tribunal found that population decline in the Bay of Islands and Hokianga during the 1830s was greatly exaggerated.¹⁴

Another point to note when considering these inter-tribal conflicts is the degree to which they readied Maori for colonisation. The traditional pa, for instance, was quickly modified following the introduction of the musket.¹⁵ During the later New Zealand Wars the pa would continue to evolve, forming the centre piece of Maori military resistance.¹⁶ More immediately, however, the acquisition of the musket in the period before 1840 placed Maori in a position where Britain could not simply ignore them. As Sir Robert Peel put it at the time, if:

The obligation of good faith vary with military skill and prowess of the parties to a Treaty, the New Zealanders have put in a claim to be respected which it has become prudent on our part to recognize.¹⁷

Historians have also debated whether or not conversion to Christianity was indicative of the demoralizing impact of contact on Maori. Harrison Wright wrote in 1959 that ‘for the Maoris to turn to Christianity there had to be things happening which they could not explain in terms of their own culture and could not control by traditional means’.¹⁸ This was later disputed by Owens who argued that ‘social disintegration’ was not an ‘essential pre-condition’ for conversion.¹⁹ Other factors, such as the Maori desire for literacy was a greater impetus to convert. ‘Christianity acquired great prestige from its association with literacy’, wrote Owens.²⁰

Ten years later Judith Binney added to this discussion. Maori acceptance of Christianity was due primarily to the ‘gradual alteration of the Maori attitudes towards the missionaries’. Maori in the Bay of Islands had, as a result of ‘war-

¹⁴ *He Whakaputanga me te Tiriti*, p. 237.

¹⁵ Angela Ballara, *Taua—‘Musket wars’, ‘Land wars’, or tikanga—Warfare in Maori Society in the Early Nineteenth Century*, Auckland: Penguin, 2003, pp. 410–411.

¹⁶ Richard Taylor, ‘The Strategy of War: The Taranaki Wars and the Development of British Strategy’, in Kelvin Day ed., *Contested Ground—Te Whenua I Tohea—The Taranaki Wars 1860–1881*, Wellington: Huia Publishers, 2010, p. 60.

¹⁷ Sir Robert Peel to G. W. Hope, 19 February 1848, quoted in Adams, *Fatal Necessity*, p. 245.

¹⁸ Harrison Wright, *New Zealand 1769-1840: Early Years of Western Contact*, Cambridge: Mass., 1959, pp. 143–144.

¹⁹ J.M.R. Owens, ‘Christianity and the Maoris to 1840’, *NZJH*, 2:1, 1968, pp. 39–40.

²⁰ Owens, ‘Christianity and the Maoris to 1840’, p. 36.

weariness’, found a role for the missionaries as ‘peacemakers’.²¹ The significance of the Owen-Binney dialogue was that it helped shift received understandings of contact. Damon Salesa, reflecting on Binney’s scholarship, contended that her ‘argument was compelling (and remains so), particularly her foregrounding of Maori agency in the processes of “conversion”’.²²

This leads to a question central to the idea of Maori privilege: did the British presence, and ultimately British sovereignty, put an end to inter-tribal warfare? The Waitangi Tribunal explains that:

The relative peace of the 1830s emerged around the same time as Maori were experimenting with western economic systems, and with Christianity. This concurrence of timing has given rise to various theories in which western influence has been credited as bringing peace to a society that had no effective methods for conflict resolution, and was so mired in cycles of virtually endless warfare.²³

It is not difficult to see how the belief that Maori were saved by Christianity and British civilisation evolved. While this makes for a good story it is not the entire story. The missionaries certainly performed some function in peace-making, but there was also an ‘element of myth-making’. Furthermore, as the Tribunal noted, the use of neutral parties to help resolve disputes was a practice used before the arrival of Europeans. During the 1820s missionaries were simply ‘co-opted into this role’.²⁴ Indeed, what is often overlooked is the fact that Maori had, to borrow Angela Ballara’s phrase, a number of ‘peace-making techniques’, examples of which can be found across the country.²⁵ Belich writes that the ‘main way of ending war was to return its living evidence—slaves’. Many of these prisoners were returned home at a time when Christianity had yet to gain any influence, but as Belich puts it, ‘Christianity took the credit’.²⁶

²¹ Judith Binney, ‘Christianity and the Maoris to 1840—A Comment’, *NZJH*, 3:2, 1969, pp. 148–149.

²² Damon Salesa, ‘Korero: A Reflection on the Work of Judith Binney’, *NZJH*, 38:2, 2004, p. 277.

²³ *He Whakaputanga me te Tiriti*, p. 260.

²⁴ *He Whakaputanga me te Tiriti*, p. 261.

²⁵ Ballara, *Taua*, pp. 153–162.

²⁶ Belich, *Making Peoples*, p. 168.

All this paints a picture quite different from that portrayed in contemporary reports, and one that discredits many of the recent anti-Treatyist texts that essentially restate them.²⁷ As mentioned earlier, the view that Maori society was on the brink of collapse owes much to the ‘powerful myth of fatal impact’. According to Belich the power of the myth was such that it persisted well into the twentieth-century, even though ‘evidence showed conclusively that Maori were on the increase’.²⁸ Fatal impact was seen as an example of ‘immutable laws of Nature and Providence’, but it was also built on precedents, and as such ‘pervaded the thinking of many European visitors to New Zealand’.²⁹ Scholars are now convinced that in the decade before 1840 Maori were not in a state of despair. Change had occurred, and rapidly; however, ‘those changes occurred in ways that were consistent with Maori laws and values, and in an environment where Maori authority remained—with limited exceptions—intact’.³⁰ These are important factors to consider, particularly when contemplating whether or not Maori ceded their sovereignty in return for the privileges of British citizenship.

Part II — The Privilege of British Sovereignty

At the beginning of the thesis I made the claim that, notwithstanding it is Maori who have experienced its actual consequences, Maori ‘privilege’ is essentially a European concern. Thus, the events preceding the treaty signing, and in particular the deliberations of the Maori signatories and the Maori text, are of less concern than the actions and statements of missionaries and officials who were present at the time. Moreover, ‘Pakeha and the Crown have until relatively recently generally seen the treaty in terms of the English text alone’.³¹ For this reason it is the English language version of the treaty, and thus, the British understanding of what it entailed, that informs the following discussion.

²⁷ For example: John Robinson, *The Corruption of New Zealand Democracy—A Treaty Overview*, Wellington: Tross Publishing, 2011.

²⁸ Belich, *Making Peoples*, p. 174.

²⁹ Belich, *Making Peoples*, p. 126.

³⁰ *He Whakaputanga me te Tiriti*, p. 283.

³¹ *He Whakaputanga me te Tiriti*, p. 407.

Before leaving Britain Hobson had taken steps to familiarise himself with the situation in New Zealand. As well as the instructions issued by the Colonial Office he had spent time with William Bourke, former governor of New South Wales.³² On 24 December 1839 Hobson arrived in Sydney where he acquired further information from George Gipps, the then governor. Adams writes that Gipps also provided Hobson with ‘a threadbare establishment of second-rate New South Wales civil servants’.³³ Indeed, ‘planning for the administration of New Zealand’, as Ward notes, ‘proceeded on the assumption that the consent of the Maori was virtually a foregone conclusion’.³⁴ Gipps was at the time preoccupied with speculators who were attempting to purchase land in New Zealand, or were claiming to have already done so. It was, then, of some concern to these parties when Gipps, acting on Hobson’s instructions, issued proclamations that extended the New South Wales boundaries so as to incorporate New Zealand, appointed Hobson as Lieutenant-Governor, and declared that no purchase made by a private party would be recognised by the Crown until it had been investigated and a title issued.³⁵

Hobson arrived in Bay of Islands on 19 January 1840. Although he had been instructed as to the objectives of his mission, conduct when dealing with Maori, and authority to enter into a treaty, he was not provided with a draft. Historians have spent some time trying to decipher who exactly penned the several drafts.³⁶ According to Orange this responsibility would fall on a number of people: Hobson himself, his secretary, J.S. Freeman, and Busby. A number of missionaries also played a role, including Henry Williams of the Church Missionary Society and his son Edward, who were tasked with the job of translating the final draft into te reo Maori.³⁷ The missionaries, like Busby, were also important because of the role they played as advisors to the Maori signatories.

The preamble of the English text declared the Queen’s desire to protect Maori from the consequences of colonisation through the establishment of ‘Civil Government’. By article one Maori ceded ‘to Her Majesty the Queen of England absolutely and

³² Orange, *The Treaty of Waitangi*, p. 41.

³³ Adams, *Fatal Necessity*, p. 158.

³⁴ Ward, *A Show of Justice*, p. 42.

³⁵ Orange, *The Treaty of Waitangi*, p. 41.

³⁶ *He Whakaputanga me te Tiriti*, pp. 342–345.

³⁷ Orange, *The Treaty of Waitangi*, p. 44.

without reservation all the rights and powers of Sovereignty'; in return, article two guaranteed Maori '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'. Article two also reserved to the Crown an 'exclusive right of Pre-emption over such lands as the Proprietors thereof may be disposed to alienate'. Of particular relevance to this thesis is article three by which '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'.

Although it is the English language text of the treaty that is of most concern here, it is pertinent to note two issues concerning translation. In the preamble and article one of the Maori text Williams translates 'sovereignty' as 'kawanatanga', a transliteration of 'governorship'. According to the Waitangi Tribunal this was 'probably the single most important and controversial aspect of the entire treaty'.³⁸ Williams's rendering of 'pre-emption', for which he uses the term 'hokonga', meaning to buy or sell, is 'another of the more controversial aspects of the treaty'.³⁹ Orange argues that Williams 'did not stress the absolute and exclusive right granted to the Crown'.⁴⁰ Governor Robert Fitzroy later stated that 'the words in the English text, 'exclusive right of pre-emption', were not translated correctly, and have a meaning not generally understood by the Natives'. Maori would 'never have agreed to debar themselves from selling to private persons if the Government, on behalf of Her Majesty, declined to purchase'.⁴¹

The Crown, then, proceeded on the assumption that at 1840 Maori ceded their sovereignty. Guided by James Stephen's 'cardinal points' the Crown recognised that it had certain obligations to Maori and settler. However, reconciling the principles of 'protection' and settler 'self-government' would prove difficult to achieve. The Crown held the view that Maori and settler interests were one and the same, a view shared by the settlers, or at least to the point where policy did not impinge on their

³⁸ *He Whakaputanga me te Tiriti*, p. 349.

³⁹ *He Whakaputanga me te Tiriti*, p. 351.

⁴⁰ Orange, *The Treaty of Waitangi*, p. 49.

⁴¹ Fitzroy to Stanley, 14 October 1844, in H. Hanson Turton, ed., *An Epitome of the Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Wellington: Government Printer, 1883, p. 33.

access to Maori land or their aspirations for self-government. It was this scenario that allowed for the emergence of ‘official’ and ‘populist’ notions of Maori privilege. In the end, whose interests would be protected would be determined by ‘assumptions of racial, religious, cultural and technological superiority’.⁴²

The promise of ‘royal protection’ granted to Maori under article three would be constructed as one of the main privileges extended to Maori. As far as the Colonial Office was concerned, the greatest threat to Maori was land speculation. It was for this reason that Hobson was instructed to ‘contract’ with Maori so ‘that henceforward no lands shall be ceded, either gratuitously or otherwise, except to the Crown of Great Britain’. ‘Royal protection’, as expounded in article three, was intrinsically connected to the regulation of the land market through the implementation of article two’s pre-emption clause, the mechanism intended to give practical meaning to this privilege. Pre-emption performed other functions however. Having monopolised the market the Crown could purchase land from Maori for a nominal sum, on sell it at an inflated price, and use the profits to finance further emigration.⁴³ According to Adams, this ‘was the real reason for the pre-emption provision of the treaty of Waitangi’.⁴⁴ Belgrave has argued also that by controlling the land market the Crown could ‘control access to European resources, by then essential to the political economy of many tribes’.⁴⁵

There was certainly potential for the pre-emption clause to operate in a way that protected Maori land rights. Increasingly, however, ‘royal protection’ became the target of settler (and Maori) complaints. While the Crown was inclined to act on settler demands it was also honour bound to protect Maori. In this context the ‘rhetoric of benevolence’ became increasingly important, particularly as Maori became more cognisant of the Crown’s intentions. By 1847 ‘royal protection’ had been reinterpreted in such a way as to render it ‘nothing more than a hollow gesture’.⁴⁶ Virtually from the outset, the privileges nominally granted to Maori by the treaty were undermined by the settlers and colonial officials.

⁴² Walker, *Ka Whawhai Tonu Matou*, p. 9.

⁴³ Adams, *Fatal Necessity*, p. 208.

⁴⁴ Adams, *Fatal Necessity*, p. 195.

⁴⁵ Belgrave, ‘Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase’, p. 27.

⁴⁶ Adams, *Fatal Necessity*, p. 209.

The signs that Maori interests would in the end take second place to those of the settlers were not slow in appearing, as the debates surrounding the 1840 New Zealand Lands Claim Bill demonstrate. The purpose of the New Zealand Land Claims Bill was to establish a commission of enquiry to investigate pre-1840 land purchases. The Bill was premised on the argument that the Crown's pre-emptive right came, not from the Treaty of Waitangi, but from James Cook's 1769 discovery of New Zealand. When introducing the Bill to the New South Wales Legislature Governor Gipps stated:

The Bill is founded upon two or three general principles, which, until I heard them here controverted, I thought were fully admitted, and indeed received, as political axioms. The first is, that the uncivilized inhabitants of any country have but a qualified dominion over it, or a right of occupancy only; and that until they establish amongst themselves a settled form of government, and subjugate the ground to their own uses, by the cultivation of it, they cannot grant to individuals, not of their own tribe, any portion of it, for the simple reason, that they have not themselves any individual property in it.

Gipps went on to state that:

If a settlement be made in any such country by a civilized power, the right of pre-emption of the soil, or in other words, the right of extinguishing the native title, is exclusively in the government of that power, and cannot be enjoyed by individuals without the consent of their government.⁴⁷

The principles on which the Bill was based undermined the treaty by bringing into question the capacity of Maori to enter into such arrangements. To support his position Gipps turned to the British experience in North America, citing a number of legal decisions. Because there was no formal law of nations he argued that it must be deduced from practice. According to Gipps, the treaty merely confirmed what already existed in fact.⁴⁸

⁴⁷ Gipps, 9 July 1840, *BPP 1835–42*, pp. 185–186.

⁴⁸ Orange, *The Treaty of Waitangi*, pp. 94–95.

This spelt trouble for those with speculative interests in New Zealand because, as Belgrave writes, ‘if full Maori sovereignty was recognized, pre-Treaty sales would have to be respected by the Crown’.⁴⁹ William Wentworth, a Sydney businessman claiming to have bought the entire South Island, thus argued that Britain had itself acknowledged Maori independence. Citing Emmerich de Vattel he argued further that the right of discovery had lapsed because it had not been followed by occupation. Indeed this was acknowledged by the Colonial Office who ultimately sought a treaty of cession.⁵⁰ With its interests threatened by Wentworth’s claims, the New Zealand Company argued that its purchases had extinguished Maori sovereignty; moreover, the right of discovery was in operation confirming the Crown’s pre-emptive right. However, the Company requested that it, on the Crown’s behalf, apply pre-emption.⁵¹ Neither Wentworth nor the Company were successful, although in November the Company came to an agreement with the Crown whereby the Company would be granted four acres for every pound it had spent.

The degree to which Maori land rights were discussed in the lead up to the enactment of the New Zealand Lands Claim Bill would perhaps indicate a common concern for Maori. Indeed, the Chief Justice of New South Wales declared before the Legislative Council that ‘the ostensible and real object in asserting the Sovereignty of the Crown...was...to protect the aborigines against improvident alienation which might be destructive to their welfare’.⁵² Expressions of humanitarian idealism such as this were not rare. Yet the notion of ‘royal protection’, while inherently recognising Maori land rights, was in effect a paradox. ‘The Maori right of ownership’, as Belgrave notes, ‘only had value if it could be obtained by a European’.⁵³ Following the Bill’s enactment, commissioners were appointed to investigate pre-1840 land claims. Of those claims, it was New Zealand Company purchases that brought the land question into focus.

The New Zealand Company now sought to circumscribe the treaty, and one of the key privileges bestowed on Maori, by arguing for a restricted recognition of Maori

⁴⁹ Belgrave, ‘Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase’, p. 29.

⁵⁰ Orange, *The Treaty of Waitangi*, p. 95.

⁵¹ Belgrave, ‘Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase’, p. 29.

⁵² Cited in Donald Loveridge, ‘The New Zealand Land Claims Act of 1840’, 18 June 1993, p. 100.

⁵³ Belgrave, ‘Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase’, p. 28.

property rights as promised in article two. In December 1842 Joseph Somes, Governor of the New Zealand Company, wrote to the Colonial Office informing Lord Stanley of the Company's position in relation to Maori land rights:

The only interest in land which our law has ever recognised as possessed by savages, is that of "actual occupation or enjoyment"...If the claims of the natives be limited to such lands ...the question can, at the utmost, become one of a few patches of potato-ground and rude dwelling-places, and can involve no matter of greater moment than some few hundreds of acres.⁵⁴

Not content with limiting the treaty, the Company would then question its very legitimacy. In January 1843 Somes again wrote to the Colonial Office stating its position in relation to the Treaty of Waitangi:

We have always had very serious doubts whether the treaty of Waitangi, made with naked savages by a Consul invested with no plenipotentiary powers, without ratification by the Crown, could be treated by lawyers as any thing but a praiseworthy device for amusing and pacifying savages for the moment.⁵⁵

In 1844, after intense lobbying by the Company, a House of Commons Select Committee was appointed to 'inquire into the State of the Colony of New Zealand: and into the Proceedings of the New Zealand Company'. The Committee, with only a small majority, adopted the report of its chair, Lord Howick.⁵⁶ The Committee chastised the Company for its actions but found that the problems facing the Colony 'are chiefly to be traced to the means which were adopted for establishing the authority of the Crown in New Zealand'. The Treaty of Waitangi can be considered 'little more than a legal fiction' as it is 'clear that the natives were incapable of comprehending the real force and meaning of such a transaction'. The 'terms of the treaty are ambiguous', 'highly inconvenient', and their application has 'been attended with very injurious results', for the Governor has 'firmly established in the minds of the natives notions...of their having a proprietary title of great value to land

⁵⁴ Somes to Stanley, 21 December 1842, Appendix 2, *BPP 1844*, Shannon: Irish University Press, 1968, p. 20.

⁵⁵ Somes to Stanley, 24 January 1843, Appendix 2, *BPP 1844*, p. 30.

⁵⁶ Orange, *The Treaty of Waitangi*, p. 99.

not actually occupied'.⁵⁷ As was expected, the Company viewed the report as a vindication of its position.⁵⁸

The report placed the missionaries, and in particular Henry Williams, in a precarious position. In 1840 the missionaries had played a central role in convincing Maori to enter into a treaty; four years later that role was being questioned by Maori. Well aware of Maori suspicions, Williams was forced to again deploy the 'rhetoric of benevolence'. He had the Maori text printed and distributed and, as was the case in 1840, when treaty-makers down played the transference of sovereignty,⁵⁹ Williams emphasised the treaty's protective aspect: the 'treaty was indeed their "Magna Charta" 'whereby...their lands, their Rights and Privileges were secure to them'.⁶⁰

Such privileges, however, were not fixed. Indeed the Crown's understanding of its obligations was subject to frequent change, for instance, when Maori 'privilege' was deemed to disrupt the acquisition of land. This can be seen in the changing position of the Colonial Office. Initially, the Colonial Office remained steadfast in its rejection of the Committee's findings. Lord Stanley reminded Fitzroy of the Crown's obligations to Maori:

What you and I have to do is to administer the affairs of the colony in reference to a state of things which we find, but did not create, and to feelings and expectations founded, not upon what might have been a right theory of colonization, but upon declarations and concessions made in the name of the Sovereign of England.⁶¹

Later, writing to Fitzroy's successor, George Grey, Stanley again restated the Colonial Office's position:

I repudiate, with the utmost possible earnestness, the doctrine maintained by some, that treaties which we have entered into with these people are to be considered as a mere blind to amuse and deceive ignorant savages. In the name of the Queen I

⁵⁷ 'Report from the House of Commons Select Committee on New Zealand', *BPP 1844*, pp. 3–14.

⁵⁸ Temple, *A Sort of Conscience*, p. 376.

⁵⁹ James Rutherford, *Sir George Grey—A Study in Colonial Government*, London: Cassell, 1961, p. 77.

⁶⁰ Orange, *The Treaty of Waitangi*, pp. 118–119; R.M. Ross, 'Te Tiriti o Waitangi, texts and translations', *NZJH*, 6:2, 1972, pp. 152–3.

⁶¹ Stanley to Fitzroy, 13 August 1844, *BPP 1843–45*, pp. 146–147.

utterly deny that any treaty entered into and ratified by Her Majesty's command, was or could have been in a spirit thus disingenuous or for a purpose thus unworthy. You will honourably and scrupulously fulfill the conditions of the treaty of Waitangi.⁶²

The official view, then, as stated repeatedly by the Colonial Office, was that Maori had a right of ownership over all land in New Zealand, including 'wastelands'. In 1846 this position changed. Stanley was replaced by Earl Grey, formerly Lord Howick, who it will be recalled had been the chairman of the 1844 House of Commons Select Committee.⁶³ In a dispatch to Grey he outlined his position in relation to 'wastelands'. 'The Islands of New Zealand':

Are not much less extensive than the British Isles and capable probably of supporting as large a population...To contend that under such circumstances civilized men had not a right to step in and take possession of the vacant territory, but were bound to respect the supposed propriety title of the savage tribes who dwelt in but were utterly unable to occupy the land, is to mistake the grounds upon which the right of property in land is founded...From the moment that British dominion was proclaimed in New Zealand, all lands not actually occupied in the sense in which alone occupation can give a right of possession, ought to have been considered as property of the Crown in its capacity as trustee for the whole community...Such are the principles upon which, if the colonization of New Zealand were only now about to begin, it would be my duty to instruct you to act...although in many respects you may be compelled to depart from them, still you are to look to them as the foundation of the policy which, so far as in your power, you are to pursue...⁶⁴

In New Zealand word of Earl Grey's instructions was met with concern, from both Maori and European. William Williams wrote that 'the news of the determination of our Government to set aside the Treaty of Waitangi, and to seize upon all lands not actually in occupation of the natives, fills every honest mind with indignation'.⁶⁵ Te

⁶² Stanley to George Grey, 13 June 1845, *BPP 1846–1847*, Shannon: Irish University Press, 1969, p. 230.

⁶³ A. H. McLintock, *Crown Colony Government in New Zealand*, Wellington: R. E. Owen Government Printer, 1958, pp. 209–210.

⁶⁴ Earl Grey to George Grey, 23 December 1846, *BPP 1846–47*, pp. 524–525.

⁶⁵ Cited in Vincent O'Malley, Bruce Stirling, Wally Penetito, *The Treaty of Waitangi Companion – Maori and Pakeha from Tasman to Today*, Auckland: Auckland University Press, 2010, p. 65.

Wherowhero of Waikato, writing to Queen Victoria, asked if her Ministers were going to take away their lands:

We do not believe this news, because we heard from the first Governor, that the disposal of the land is with ourselves (or at our own option). And from the second Governor we heard the same word; and from this Governor. They have all said the same.⁶⁶

Grey was quick to reassure Te Wherowhero that the Queen had no intention of taking their land. ‘Her Majesty has always directed that the Treaty of Waitangi should be most scrupulously and religiously observed’. Grey was supported by Bishop Selwyn, who had been highly critical of the 1844 Report, and Chief Justice Martin, who argued that Earl Grey’s instructions would present the British as a “nation of liars”. Protests in the House of Commons eventually drew an assurance from Under-Secretary, Henry Labouchere, that “there was no intension on the part of the Colonial Office to interfere with or take any course upon the question of waste lands in New Zealand inconsistent with the rights guaranteed to the natives under the Treaty of Waitangi”.⁶⁷

While ostensibly committed to upholding the rights of Maori, as outlined in the Treaty of Waitangi, Grey was also tasked with putting land in the possession of the settlers. In the south the New Zealand Company had yet to obtain a Crown grant and in the north the government’s financial position had restricted its ability to purchase enough land for settlement.⁶⁸ Grey was well aware of the problems he would face enforcing the Colonial Office’s instructions and thus searched for a compromise. He informed Earl Grey that the government had only paid large sums for land in areas where settlement had proceeded before negotiations had been completed. According to Grey it was the European presence that increased the value of the land, ‘of which the natives were well aware’. The solution, wrote Grey, was ‘to keep the land purchases of the Government so far in advance of the wants of the European settlers as to be able to purchase the lands required by the Government for a trifling

⁶⁶ Te Wherowhero and others to Queen Victoria, 8 November 1847, *BPP, 1847–48*, p. 16.; Cited in O’Malley, Stirling, & Penetito, *The Treaty of Waitangi Companion*, p. 67.

⁶⁷ Cited: McLintock, *Crown Colony Government in New Zealand*, pp. 212–213.

⁶⁸ Rutherford, *Sir George Grey*, pp. 163–164.

consideration'. In this way Grey believed conflict would be averted, land for settlement would be made available, and, the treaty would not be breached.⁶⁹

Central to Grey's plan was the strict enforcement of pre-emption. The application of the pre-emptive clause had been a source of resentment for many Maori who had been informed that as British subjects they had the right to sell to whomever they pleased.⁷⁰ Chiefs near Auckland had seen how inflated land prices were and believed they had better opportunities selling on the open market.⁷¹ Maori were active participants in the early economy of New Zealand⁷² and saw direct trading in land as a way of generating capital for investment such as the purchasing of coastal schooners.⁷³ In the north dissatisfaction among Maori was also caused by the introduction of customs duties, driving away traders, sealers, and whalers and in turn damaging the northern economy. The situation was made worse when Hobson moved the capital to Auckland in 1841.⁷⁴ This was indeed a stark contrast to the prosperity Maori had previously enjoyed and led to a questioning of the treaty and its benefits.

In March 1844, under mounting pressure 'to remedy his economic plight and to placate hostile Maori', Fitzroy waived pre-emption with the proviso that the purchaser pay a 10s. tax on every acre bought; when it became apparent to Maori that the Crown was making more money than they it was reduced to 1d. Fitzroy also removed customs duties, first at Russell, and then across the entire colony.⁷⁵ His attempt at stimulating 'economic enterprise' and averting conflict⁷⁶ was frowned upon at the Colonial Office. Lord Stanley, in line with Colonial Office policy, reminded Fitzroy of pre-emption's 'original intention'.⁷⁷ Fitzroy was to later comment that Maori 'soon discovered that the restraints and inconveniences of the

⁶⁹ George Grey to Earl Grey, 15 May 1848, *BPP 1847–50*, p. 25.

⁷⁰ Orange, *The Treaty of Waitangi*, pp. 101–102.

⁷¹ Paul Monin, *Hauraki Contested, 1769–1875*, Wellington: Bridget Williams Books, 2006, p. 115.

⁷² See: Hazel Petrie, *Chiefs of Industry—Maori Tribal Enterprise in Early Colonial New Zealand*, Auckland: Auckland University Press, 2006; *He Whakaputanga me te Tiriti*, pp. 243–245.

⁷³ Ward, *A Show of Justice*, pp. 68–69.

⁷⁴ Rutherford, *Sir George Grey*, p. 78; Belich, *The New Zealand Wars*, pp. 34–35.

⁷⁵ Ian Wards, 'Fitzroy, Robert', in W.H. Oliver, ed., *DNZB, Volume One, 1769–1869*, Wellington: Allen & Unwin, 1990, p. 131.

⁷⁶ Rutherford, *Sir George Grey*, p. 77.

⁷⁷ Stanley to Fitzroy, 30 November 1844, *BPP, 1843–45*, pp. 208–210.

newly-constituted authority which they had consented to acknowledge, however reluctant to obey, remained to interfere with them'.⁷⁸

On 8 July 1844, Hone Heke, the first of 45 chiefs to sign the Treaty of Waitangi, cut down the flagstaff at Russell. That Maori would at some point challenge British authority was perhaps inevitable.⁷⁹ Faced with an impending crisis Fitzroy requested a detachment of troops from Sydney which arrived in July 1845. In the meantime he took the opportunity to remind Maori of the many benefits and privileges they had received as a result of British colonisation. At Waimate, in Northland, in September 1844 Fitzroy stated that 30 years earlier they 'were wild barbarians, utterly unlike Christians-utterly uncivilised'. At that time people came to trade, 'among them came some bad men, who did much harm'. He made sure to stress that it was they who had requested King William's help. They were informed that 'formerly, European nations attacked and conquered countries inhabited by uncivilized men'. He assured them that 'England acted differently', it was 'determined to save and protect the inhabitants of New Zealand'. By placing them 'under the protection' of the British flag—a 'signal of freedom, liberty, and safety'—they were spared 'a fate as that which has since befallen Tahiti and Marquesa'.⁸⁰ Recourse to the rhetoric of benevolence would become common practice during times of crisis.

Grey's first task, then, was to address the 'principles of his predecessor's land transactions' and in particular those 'claims arising under Fitzroy's waiver proclamations'.⁸¹ He argued that Fitzroy's waivers were harmful to Maori because the prospect of easy money would draw them away from their cultivations and encourage indolence. This argument would be heard repeatedly in the decades that followed. According to Grey, Maori would rashly dispose of large areas of land leaving them with too little for their future needs, and, were likely also to sell land to which they had no title leading to tribal disputes. Grey also argued that the waivers were unfair to settlers because land that was bought cheaply tended to depreciate the

⁷⁸ Robert Fitzroy, *Remarks on New Zealand, in February 1846*, W. & H. White, London, 1846, p. 14.

⁷⁹ Ward, *A Show of Justice*, pp. 68–69; Belich, *The New Zealand Wars*, p. 33.

⁸⁰ Speech of the Governor to the Native Chiefs, *Nelson Examiner*, 12 October 1844, p. 3; Orange, *The Treaty of Waitangi*, p. 118.

⁸¹ Rutherford, *Sir George Grey*, pp. 121–122.

value of land brought earlier and at a higher price by other settlers.⁸² In November 1846 Grey issued a Native Land Purchase Ordinance and Compensation Ordinance. The former restored the Crown's pre-emptive right while the latter allowed for the issuing of debentures to those who surrendered their claims. This proved to be unpopular and few settlers took up his offer.⁸³

Grey next questioned the legality of the waiver proclamations: 'I am also not satisfied', he stated, 'that the Governor was authorised in law to waive the Crown's right of pre-emption'.⁸⁴ To settle the issue he sought a decision in the Supreme Court. In *R v Symonds* the court was asked to determine whether or not land purchased by the claimant, McIntosh, under a pre-emption waiver, invalidated the claim of the defendant, Symonds, who claimed the same land pursuant to a Crown grant. At the beginning of his judgment Mr Justice Chapman stated that 'it is incumbent on us to enunciate the principles upon which our conclusion is based'. It was, according to Chapman, 'a fundamental maxim of our laws, springing no doubt from the feudal origin and nature of our tenures, that the King was the original proprietor of all lands in the kingdom'. Following this principle—that the Queen was the only source of title in New Zealand—the court found in favour of the defendant. *R v Symonds* thus clarified the meaning of pre-emption as contained in the treaty texts. It did not mean a 'right to have the first offer of land'. Rather, it meant the 'exclusive right of extinguishing the native title'.⁸⁵

R v Symonds is also significant in that it upheld the notion of native title. Justice Chapman observed that 'it cannot be too solemnly asserted that it is entitled to be respected, that it cannot be extinguished (at least in times of peace) otherwise than by the free consent of the native occupiers'. As for the Treaty of Waitangi, he found that 'in solemnly guaranteeing the Native title, and in securing what is called the Queen's pre-emptive right, the Treaty of Waitangi, confirmed by the charter of the colony, does not assert either in doctrine or in practice anything new and unsettled'. The Treaty, according to Chapman, was a declaration of what already existed at law.⁸⁶

⁸² Rutherford, *Sir George Grey*, p. 123.

⁸³ Rutherford, *Sir George Grey*, p. 126.

⁸⁴ Rutherford, *Sir George Grey*, p. 126.

⁸⁵ *R v. Symonds*, Judgement of Mr. Justice Chapman, *BPP 1847–1850*, pp. 64–71.

⁸⁶ *R v. Symonds*, Judgement of Mr. Justice Chapman, *BPP 1847–1850*, pp. 64–71.

Also apparent in Chapman's judgment, and that of his fellow judge, Chief Justice Martin, is the degree to which pre-emption was held to be a moral obligation. According to Chapman the Queen's exclusive right to extinguish native title 'is the strongest ground whereon the due protection of their qualified dominion can be based'. Nowhere else has this 'extreme view' been taken. Yet to do otherwise, to enforce private sales, 'would be virtually to confiscate the lands of the natives'. While pre-emption was one of a number of principles that had been developed and adopted by Britain it had at times been 'lost sight of'. Through its strict application, what had been 'vague and unsettled' would, 'animated by the humane spirit of modern times', provide 'equal security to both races'.⁸⁷ This 'humane spirit' was no doubt akin to the 'humanitarian imperial ideology' noted by Sinclair in 1971.

Grey's decision to restore Crown pre-emption was neither an expression of humanitarian concern for Maori nor an adherence to legal doctrine—it was a pragmatic decision. The situation prevailing at 1840 had necessitated the recognition of Maori rights in the form of a treaty. Furthermore, recent scholarship has questioned the influence of legal theorising on the nature of Maori land rights. Belgrave writes that in New Zealand treatise put forward by legal theorists such as Emmerich de Vattel and the decisions of Chief Justice Marshall in the United States Supreme Court were called upon by lobbyists, policy makers, and administrators.⁸⁸ 'Principally responsible for transposing such legalistic sources to a New Zealand setting' was the New Zealand Company.⁸⁹ According to Mark Hickford, the Colonial Office viewed contemporary 'legal sources' as 'unhelpful or alien and inapplicable'⁹⁰ and consequently 'no settled legalistic view of extant aboriginal rights to land informed policy'.⁹¹ Rather, as Belgrave writes, native title was decided through the 'working-out of a series of political relationships between Maori and the state';⁹²

⁸⁷ *R v Symonds*, Judgement of Mr. Justice Chapman, *BPP 1847–1850*, pp. 64–71.

⁸⁸ Belgrave, 'Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase', p. 25.

⁸⁹ Mark Hickford, 'Vague Native Rights to Land: British Imperial Policy on Native Title and Custom in New Zealand, 1837–53', *The Journal of Imperial and Commonwealth History*, Vol. 38, No. 2, June 2010, p. 181.

⁹⁰ Mark Hickford, 'Vague Native Rights to Land: British Imperial Policy on Native Title and Custom in New Zealand, 1837–53' p. 196.

⁹¹ Hickford, 'Vague Native Rights to Land: British Imperial Policy on Native Title and Custom in New Zealand, 1837–53', p. 196.

⁹² Belgrave, 'Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase', p. 24.

moreover, ‘the nature of aboriginal title was established on the ground’, determined not by theory but by ‘power’.⁹³

Between 1840 and 1847 the treaty, at the behest of various interest groups, was scrutinised, debated, and at times dismissed. In that seven year period the situation in New Zealand had changed dramatically; there was no longer much ‘enthusiasm’ for the recognition of Maori land rights.⁹⁴ Although Maori still outnumbered Europeans, the settler population was destined to grow and so too would their demands for land and political recognition. The Treaty of Waitangi and the rights it guaranteed to Maori now had to be considered in a new light. Grey’s contribution to the reconciliation of this problem was significant. During his governorship of South Australia Grey reported that the best means of protecting and civilising Native peoples was through their amalgamation into the European community. As far as Britons were concerned this was a great ‘compliment’.⁹⁵ Moreover, as Renwick writes, ‘by showing how this laudable aim could be achieved, Grey transformed official views on native policy in New Zealand, and amalgamation superseded protection as a humanitarian orthodoxy’.⁹⁶

Part III — Privilege in Practice

How then did Maori ‘privilege’ work in practice? Having first dealt with the problem of land speculation, Hobson was then instructed as to the ‘other duties owing to the aborigines of New Zealand, which may well be all comprised in the comprehensive expression of promoting their civilization’.⁹⁷ Central to the civilising of Maori was their amalgamation into colonial society. It was held that only through amalgamation could Maori enjoy the benefits of British civilisation, not least the protection of British law. By way of facilitating this process, and therefore discharging its article three obligations, the Crown established the Protectorate of Aborigines and introduced measures such as the Native Exemption Ordinance. As far as the settlers

⁹³ Belgrave, ‘Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase’, pp. 24–25.

⁹⁴ Belgrave, *Historical Frictions*, p. 68.

⁹⁵ Adams, *Fatal Necessity*, p. 245.

⁹⁶ Renwick, ‘Self Government and Protection’, pp. 60–61.

⁹⁷ Normanby to Hobson, 14 August 1839, *BPP 1835–42*, p. 87.

were concerned these ‘official’ privileges were simply examples of favouritism that not only harmed the colony, and in particular its finances, but Maori themselves.

The Protectorate’s origins can be traced to the 1837 Select Committee Report on Aborigines, the sentiments of which are also discernible in Hobson’s instructions.⁹⁸ The Protectorates were established in New Zealand and Australia from 1838 and 1840.⁹⁹ Similar offices to improve the ‘status, morals and welfare of the enslaved’ had been established in the Caribbean and the Cape Colony during the 1820s.¹⁰⁰ In New Zealand the Protectorate’s primary task was to ensure that Maori did not ‘enter into any contracts in which they might be the ignorant and unintentional authors of injuries to themselves’. Having done this, Hobson, through the office of the Protector, was to secure ‘wastelands’ for the purpose of British settlement.¹⁰¹

Further instructions arrived near the end of 1840. Lord John Russell, who had replaced Normanby, acknowledged the special status that the ‘aborigines of New Zealand’ held ‘amongst the many barbarous tribes with which our extended colonial empire brings us’. Indeed, ‘they were not mere wanderers over an extended surface, in search of a precarious subsistence’. ‘There are none’, wrote Russell, ‘whose claims on the protection of the British Crown rest on grounds stronger than those of the New Zealanders’. The protection of Maori would be the responsibility of ‘one principal officer, with such subordinate assistance as may be found’.¹⁰² Few specifics were given and as with earlier directions Hobson was to have ‘unfettered freedom of judgment’ in determining the means of promoting:

The protection of the aborigines from injustice, cruelty, and wrong; the establishment and maintenance of friendly relations with them; the diversion into useful channels of the capacities for labour, which have hitherto been lying dormant; the avoidance of every practice towards them tending to the destruction of their health or the diminution of their numbers; the education of their youth; and the diffusion amongst the whole native population of the blessings of Christianity.¹⁰³

⁹⁸ Normanby to Hobson, 14 August 1839, *BPP 1835–42*, p. 85.

⁹⁹ Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, p. 22.

¹⁰⁰ Lester and Dussart, *Colonization and the Origins of Humanitarian Governance*, p. 3.

¹⁰¹ Normanby to Hobson, 14 August 1839, *BPP 1835–42*, p. 87.

¹⁰² Russell to Hobson, 9 December 1840, *BPP 1835–42*, pp. 149–150.

¹⁰³ Russell to Hobson, 9 December 1840, *BPP 1835–42*, p. 151.

Other than the missionaries, few people had acquired the requisite skills needed to carry out the job of Protector. After some persuasion George Clarke Senior, a missionary with the Church Missionary Society, was appointed to the position.¹⁰⁴ By the end of 1840 only Henry Kemp had been employed, and then merely as an office clerk. The following year George Clarke Jnr and Edward Williams took up positions at the Protectorate; however, Williams and Kemp soon resigned. In July Edmund Halswell, who was nominated by the New Zealand Company, was appointed Protector of the Southern District. Hobson hoped that through Halswell's appointment he would gain greater control of the Company's reserves. Unimpressed, Clarke Snr moved to supplant Halswell with Clarke Jnr.¹⁰⁵ In 1842 Thomas Forsaith and Dr Edward Shortland were appointed and Kemp was reinstated,¹⁰⁶ and in 1843, on the recommendation of Clarke Jnr, John Campbell became Protector of Aborigines for the Western District. The following year Campbell died and was replaced by Donald McLean.¹⁰⁷

At one level the establishment of the Protectorate confirmed earlier assertions that a benevolent form of colonisation was indeed possible. At another level the Protectorate was a vehicle for assimilation. This did not, however, prevent the Protectorate, its staff, and the governor to whom they were responsible coming under attack. While New Zealand Company officials tested the legal parameters of Maori land rights, Company settlers undertook a campaign to eradicate any form of supposed Maori privilege. For instance, in May 1842 the New Zealand Company newspaper, the *New Zealand Gazette*, questioned 'the appointment of a lad, just from school, to the office of Sub-Protector'. How, asked the *Gazette*, could such a person, in this case Clarke Jnr, 'fill the delicate office with advantage, alike to Native and European'? Clarke Jnr's selection, wrote the *Gazette*, was indicative of Hobson's favouritism: 'Captain Hobson seems to have a predilection for large

¹⁰⁴ Carol Yeo, 'Ideals, Policy & Practice: The New Zealand Protectorate of Aborigines 1840–1846', MA Thesis, Massey University, 2001, pp. 16–17.

¹⁰⁵ Yeo, 'Ideals, Policy & Practice', pp. 24–25.

¹⁰⁶ Yeo, 'Ideals, Policy & Practice', pp. 27–29.

¹⁰⁷ Yeo, 'Ideals, Policy & Practice', p. 30.

families...Having adopted all the Shortlands, he has taken under his charge the Clarke's'.¹⁰⁸

Not only were Protectors and Sub-Protectors thought by some to be unqualified for the task of civilising Maori, the Protectorate was seen to be ineffectual. 'What schemes', asked the *Gazette*, 'have they formed, what plan have they executed or commenced to execute, which has the permanent benefit of the Native for its object?' According to the *Gazette* 'the Natives are permitted to continue their abominable and barbarous practices, without even a remonstrance from those individuals called Protectors'.¹⁰⁹ The extent of settler criticism was such that in November 1843 Clarke Jnr wrote to his father:

[M]alice, hatred and contumely...have totally prostrated my mental energies, and seriously, at times, affected my health. I am made a mark for all the shafts that ridicule and malice can invent — hooted every day and insulted publicly in the streets...I have long struggled against more than anyone can tell but it weakens my mind too much.¹¹⁰

Following Hobson's death in September 1842 Robert Fitzroy was appointed governor. On his arrival in December 1843 Fitzroy found the colony in a state of shock. Before William Spain, who had been appointed to investigate the New Zealand Company purchases, could report on his findings, settlers from Nelson attempted to survey land in the Wairau Valley. Similar incidents had also occurred in Port Nicholson where settlers, dissatisfied with the progress of the Land Claims Commissions, moved onto disputed land before the Commission had tabled its findings. Clarke Jnr reported that 'white settlers did just as they liked', pulling down fences and driving their cattle onto Maori cultivations. Not once, wrote Clarke, did Maori attempt to 'avenge their wrongs'.¹¹¹ According to Yeo 'settlers simply saw vast tracts of apparently unused land and became increasingly frustrated with what they regarded as pandering to Maori claims'.¹¹² Maori at the Wairau, who had

¹⁰⁸ *New Zealand Gazette*, 11 May 1842, p. 2.

¹⁰⁹ 'The Natives and Protectors', *New Zealand Gazette*, 5 August 1843, p. 3.

¹¹⁰ Cited in Yeo, 'Ideals, Policy & Practice', p. 26.

¹¹¹ George Clarke Jnr to George Clarke Snr, March 15 1843, cited Yeo, 'Ideals, Policy & Practice', p. 42.

¹¹² Yeo, 'Ideals, Policy & Practice', p. 43.

expressed a desire to wait for Spain, also exercised some restraint by removing survey pegs and burning down the surveyor's huts. However, in June 1843 settlers from Nelson moved to arrest Te Rauparaha and Te Rangihaeata for arson, a fight ensued and four Maori and 22 settlers were killed.¹¹³ When Spain eventually reported on the New Zealand Company purchases he found that:

All the Company's purchases were made in a very loose and careless manner; that the object of the Company's agents, after going through a certain form of purchase, seems to have been to procure the insertion in their deeds of an immense extent of territory...I am of the opinion that the natives did not consent to alienate their paha, cultivations, and burying-grounds.¹¹⁴

Both George Clarke Snr, Chief Protector of Aborigines, and Fitzroy were highly critical of the settlers. Clarke Snr stated that:

While I feel the deepest sympathy for the unfortunate sufferers and their surviving relations, I cannot help regretting and deprecating, in the strongest terms, the unconstitutional and murderous proceeding of the police magistrate and his colleagues, in attacking an inoffensive people, killing three, and obliging the remainder, in self-defense, to attack in turn their assailants.¹¹⁵

At a hui held at Waikanae Fitzroy addressed those Maori who had taken action at the Wairau:

The Pakehas were wrong;-they had no right to build houses upon land to which they had not established their claim, upon land the sale of which Mr Spain had not decided...The very bad part of the Wairau affair, that part where you were so very wrong, was the killing men who had surrendered, who trusted to your honour as chiefs...As the Pakehas were very greatly to blame, and as they brought on and began the fight, and as you were hurried into crime by their misconduct, I will not avenge their deaths.¹¹⁶

¹¹³ Orange, *The Treaty of Waitangi*, p. 115.

¹¹⁴ William Spain to the Colonial Secretary, 12 September 1843, *BPP 1844*, p. 305.

¹¹⁵ George Clarke Snr to Shortland, 8 July 1843, *BPP 1844*, p. 134.

¹¹⁶ Minutes of the Proceedings at Waikanae, 12 February 1844, *BPP 1843-45*, p. 186.

The Port Nicholson settlers were quick to respond, assigning blame to the Protectorate system. In the areas where the Protectorate operated 'it has not tended to promote good feeling between the natives and colonists'. Moreover, 'the Wairau was only one example of what may be often repeated and on a greater scale, if the entire policy relating to the aborigines be not changed'. There is presently a 'general impression among the natives...that they are only partially subject to our laws'. In their 'transition state' it may be necessary to modify the law, 'to adapt it gradually to their circumstances'; however, the future of the colony and the 'improvement of the New Zealanders' was dependent on 'an equal and impartial administration of the law'.¹¹⁷

When news of the Wairau incident arrived in London land sales and emigration almost came to a halt. By 1844 the New Zealand Company was on the verge of bankruptcy and when it failed to secure a loan from the government Company directors decided to suspend operations in April.¹¹⁸ It was at this juncture that the Company resorted 'to one of the favourite devices of pressure groups of the time, the Parliamentary Committee of Inquiry'.¹¹⁹ As well as investigating the operations of the Company, the Select Committee inquiry also highlighted an ongoing debate about amalgamation. The Committee resolved 'that efforts should be made gradually to wean the Natives from their ancient customs, and to induce them to adopt those of civilized life, upon the principle recommended by Captain Grey, in his Report'.¹²⁰

Grey's report had been included in Lord John Russell's instructions to Hobson in December 1840. With regard to the 'best Means of Promoting the Civilization of the Aboriginal Inhabitants of *Australia*' Grey considered that 'it is necessary from the moment the aborigines of this country are declared British subjects, they should, as far as possible, be taught that the British laws are to supersede their own'. In this way 'any native who is suffering under their own customs may have the power of an appeal to those of Great Britain'.¹²¹ Grey's report, according to Russell, was 'as an

¹¹⁷ *New Zealand Gazette*, 13 January 1844, p. 3.

¹¹⁸ Temple, *A Sort of Conscience*, p. 374.

¹¹⁹ Renwick, 'Self-Government and Protection', p. 67.

¹²⁰ 'Report from the House of Commons Select Committee on New Zealand', p. 14.

¹²¹ Russell to Hobson, 9 December 1840, *BPP 1835-42*, pp. 165-166.

illustration of the manner in which men far more ignorant of the arts of civilised life than the New Zealanders may be won over by gentleness and skill'.¹²²

Settler hostility towards Fitzroy and the Protectorate was also contextualised in terms of financial expediency. The merchants, traders, mechanics, and settlers of the northern district argued that the 'extreme depression to which the national dignity and credit of the Government has sunk' was the result of 'ill-administration' and the 'unnecessary, mischievous and expensive protectorate system'.¹²³ In ascertaining 'the precise financial condition of the New Zealand Government' the *Nelson Examiner* concluded that the 'pruning-knife...should be made in the direction of the Protectorate establishment'.¹²⁴

No less evident was the settler belief that they were being unfairly treated and that Maori were being privileged at their and the colony's expense. The *New Zealand Spectator* wrote that: 'Captain Fitzroy's imbecility appears most glaring, in the general line of his conduct towards the natives, and in the absence of protection to the settlers'.¹²⁵ While questioning government spending the *Examiner* exclaimed: 'this is no time for favouritism of one class of the inhabitants of the colony, least of all an expensive favouritism'. 'Is this a British colony', queried the *Examiner*, 'supported by the contributions of British subjects, or is it not? If it is, as we are all being made to feel to our cost, then we have a right to demand that charity begin at home'.¹²⁶

While settler claims of 'favouritism' and demands that Maori should be subject to British law became more strident administrators recognised that the introduction of British law would need to be a gradual process. Secretary of State for Colonies, Lord Stanley, wrote: 'to be satisfied with our mode of administering justice, and to abandon their own...our legislation must be framed in some measure to meet their prejudices'.¹²⁷ George Clarke Jnr noted also that:

¹²² Russell to Hobson, 9 December 1840, *BPP 1835–42*, p. 151.

¹²³ *Daily Southern Cross*, 25 January 1845, p. 3.

¹²⁴ *The Nelson Examiner*, 13 July 1844, p. 74.

¹²⁵ *New Zealand Spectator*, 19 April 1845, p. 2.

¹²⁶ *The Nelson Examiner*, 13 July 1844, p. 74.

¹²⁷ Stanley cited in Alan Ward, *A Show of Justice*, p. 63.

Our only hope of keeping peace between the races, was by gradually modifying their system until it should be merged into our principles of possession, and I am very strongly of [the] opinion, that nearly all our contention with the Maoris has arisen from our disregard of these fundamental considerations, or from the attempt to abolish them too suddenly, and with too high a hand.¹²⁸

Herein lay the difference between Grey's report and Clarke's 'approach to protection and amalgamation', and it was this difference, according to Yeo, that eventually led to the abolition of the Protectorate.¹²⁹ To be noted also is the extent to which settler complaints parallel those of anti-Treatyists who have in recent decades decried any form of Maori development or any entity tasked with such a role.¹³⁰

In an attempt to reconcile both systems a series of ordinances were enacted. All were unpopular 'but most of the settlers' fire fell on the Native Exemption Ordinance'.¹³¹ The Ordinance, which came into operation in July 1844, sought to ready Maori for the acceptance of the 'laws and customs of England'. This was to be 'more speedily and peaceably attained by the gradual, than by the immediate and indiscriminate enforcement of the said laws'. It made provision for the adjudication of disputes that involved only Maori, as well as those involving Maori and Pakeha. In the first instance, a Magistrate could not issue a warrant unless a complaint was laid by two chiefs belonging to the tribe of the injured party. Having done this the warrant would be executed before two chiefs belonging to the offender's tribe. Disputes occurring in outlying areas that involved a Maori offender and a Pakeha complainant also required that a warrant be executed before two chiefs. In such instances the warrant would be forwarded by the Protector of Aborigines.¹³²

Despite being vehicles for amalgamation the Protectorate of Aborigines and the Native Exemption Ordinance quickly drew settler condemnation. Many considered the Ordinance to be 'setting the seal on a policy of appeasement'.¹³³ According to the Port Nicholson settlers, the Ordinance had 'inspired the natives with ideas of

¹²⁸ George Clarke, *Notes on Early Life in New Zealand*, Christchurch: Cadsonbury Publications, 2008, p. 47. (First published in 1903).

¹²⁹ Yeo, 'Ideals, Policy & Practice', p. 22.

¹³⁰ Butler, 'Separate and Privileged', in *Twisting the Treaty*, pp. 272–273.

¹³¹ Ward, *A Show of Justice*, p. 66.

¹³² *New Zealand Spectator*, 23 November 1844, p. 4.

¹³³ Ward, *A Show of Justice*, p. 68.

aggression and violence hitherto unknown to them'.¹³⁴ Others contended that examples could be 'drawn from the history of almost every nation, to shew the injurious effects such privileges must have on the natives who are intended to be benefitted thereby'.¹³⁵ The Wairau massacre and the Native Exemption Ordinance, and other aspects of policy resulted in 'a stream of invective' against Fitzroy that would eventually culminate in his recall.¹³⁶ Claims of Maori privilege were certainly not without consequences.

Between 1840 and 1847 the Treaty of Waitangi had been the subject of examination and debate, ostensibly indicating the importance of Maori rights and interests. In reality, the debates that took place were a necessary precursor to the dispossession that followed. Under article three the Crown had an obligation to protect Maori, which in the first instance meant regulating a speculative land market. Although the pre-emption clause was an acknowledgement of Maori land rights, such rights only existed to the extent that they could be extinguished through purchase. In effect, the privilege of 'royal protection' was an efficient means of separating Maori from their lands. The justification was that the land, once in the hands of the settlers, 'would increase in value to the benefit of all'.¹³⁷

'Protection' was also to be effected through the amalgamation of Maori into British-colonial society, for it was only through amalgamation that Maori could obtain the rights and privileges of British subjects' as guaranteed to them in article three, including the protection of English law. However, as Adams puts it, 'the equal treatment promised the Maoris, ultimately depended upon their becoming brown Englishmen, and amalgamation meant simply the submergence of the Maori in the European'.¹³⁸ The paradox, then, was that the Crown, while claiming it was privileging Maori with 'royal protection', was in fact simultaneously eradicating Maori culture.

¹³⁴ *Nelson Examiner*, 8 February 1845, p. 196.

¹³⁵ *New Zealand Spectator*, 26 July 1845, p. 2.

¹³⁶ Ward, *A Show of Justice*, p. 68.

¹³⁷ Adams, *Fatal Necessity*, pp. 240–241.

¹³⁸ Adams, *Fatal Necessity*, p. 245.

It was during this period also that the connection between ‘official’ and ‘populist’ forms of privilege was first made explicit. The privilege of protection, that is to say, pre-emption, the Protectorate of Aborigines, and the Native Exemption Ordinance were the focus of harsh settler criticism. It was argued that if the Crown persisted in privileging Maori, incidents like that which occurred at the Wairau in 1843 would happen again. Moreover, as far as the settlers were concerned, privilege was inconsistent with the society they imagined, one founded on egalitarianism and fairness, and where there would be one law for all. As the following chapter shows, however, the law could be put to use in the acquisition of Maori land. The privilege of protection was no protection at all. It would simply be a means of advancing the interests of the settlers at the expense of Maori.

CHAPTER FOUR



Article Three Fulfilled?

This chapter examines the years 1847 to 1867. During this 20-year period the European population surpassed that of Maori, a settler parliament was established to which Westminster gradually devolved power, and Crown pre-emption gave way to a system of direct purchasing. The latter provided Maori with another means of acquiring private property, and, by extension, the right to vote. The property qualification was in the end superseded by the passing of the Maori Representation Act 1867 which extended the franchise to all Maori males over 21 years. Having gained both the right to vote and a means of attaining individual fee simple title to land it was declared that Maori had been afforded all the rights and privileges of British subjects guaranteed to them in article three of the Treaty of Waitangi. The purpose of this chapter is to explore the context in which these changes took place, the extent to which notions of Maori privilege were used to frame the arguments of those lobbying for policy change, and what this meant for Maori.

The chapter is divided into five parts. Part I—‘The Privilege of Protection’—assesses the Crown’s land purchase policy from 1847 to 1858. It illustrates how pre-emption, ostensibly a protective measure, was the principal means by which land was transferred from Maori to the Crown and then the settlers. Part II—‘The Privilege of Private Property, 1852-1860’—deals with the development of the settler government’s native policy. The abolition of pre-emption was a key aspect of policy and essential in the transition towards a free market in land. According to the settler government this was a necessary step in Maori advancement and, as it was argued, a right and privilege of British subjects. Part III—‘The Privilege of War’—examines the Waitara purchase and how, in the lead up to war in Taranaki, notions of privilege were used by the Crown to justify its position. Part IV—‘The Privilege of Private Property, 1861-1865’—discusses the introduction of the Native Land Acts 1862 and 1865. Preceding enactment the benefits that individualisation and private property would accrue to Maori were discussed. However, as will become apparent in the following chapter individualisation spelt loss for Maori. Part V—‘The Privilege of

Citizenship’—examines the creation of the original four Maori parliamentary seats. What becomes obvious here is that regardless of the many privileges purportedly bestowed upon Maori, they could not stem the loss of land. Indeed, as this and the following chapters demonstrate the idea of Maori privilege was a paradox.

Part I — ‘The Privilege of Protection’

It will be recalled that in *R v Symonds* the Supreme Court determined that the Crown was the sole source of title in New Zealand; that is, only the Crown could extinguish native title. However, native title was to be respected and could only be extinguished with the free consent of Maori. It was held that under such conditions all would benefit: the honour of the Crown would be upheld; settlers would be put in possession of land; and, by relieving them of their wastelands, Maori would become more attentive to the blessings of civilisation. In due course Maori would be amalgamated into colonial society where they would receive the greatest protection of all: English law.

Although Crown pre-emption was promoted as a mechanism for protecting Maori from unscrupulous land speculators, Maori would discover that it was the Crown which was without scruples. Utilising its positional superiority¹ it was able not only to choose the tribe with whom it would negotiate land purchases with, it was able to select individuals within each tribe. Moreover, in some cases the payments were tardy and the reserves promised to Maori were not provided. The Wairau, Kemp, and Te Waipounamu ‘purchases’ are a prime example of the type of approach used by the Crown.²

Grey inaugurated his land purchase policy in the South Island. As Belgrave writes, South Island Maori, as far as Europeans were concerned, were ‘hunters and gatherers, wandering across the landscape without tilling it’. Kumara did not grow well in the south and not at all south of Banks Peninsula. Maori in the South Island, which was claimed by the Crown through the right of discovery, were therefore

¹ See: Said, *Orientalism*, p. 7.

² *Te Tau Ihu o Te Waka a Maui—Report on the Northern South Island Claims* volume 1, Waitangi Tribunal, Wellington: Legislation Direct, 2008, pp. 392–393.

deemed to occupy a lower order of civilisation than ‘agriculturally adept North Island Maori’.³ These factors, along with a Maori population purportedly burdened with immense wastelands that they could not possibly cultivate and the Nelson settlement waiting to expand, presented Grey with the ideal opportunity to acquire the coveted Wairau Valley.

The New Zealand Company, it will be recalled, had been desirous that it be put in possession of the Wairau. In the wake of the 1843 ‘massacre’, William Spain had been reluctant to investigate the Company’s claim to the Wairau any further.⁴ With the arrival of George Grey in 1845 a new opportunity emerged for the Company to achieve its goal. Lord Stanley had consistently declared the sincerity with which the Crown had entered into a treaty with Maori, but at the same time, he instructed Grey to find some resolution to the Company’s purchases. To this end Grey was furnished with the sum of £10,000;⁵ moreover, Grey, unlike Hobson and Fitzroy, would be supplied with a military force to use, if necessary, to carry out his task.⁶

Grey met with Nelson’s Company settlers in March 1846 where he discussed with William Wakefield his plans to purchase the Wairau. His plans, however, were temporarily put on hold because he was preoccupied with military operations in Porirua and the Hutt Valley. It was at this time Grey captured Te Rauparaha.⁷ When the Wairau deed was signed in March 1847 neither Te Rauparaha nor Te Rangihaeata were present—Te Rauparaha was still being detained in Auckland, while Te Rangihaeata had been forced to retire to the Manawatu at the conclusion of the Hutt War.⁸ Both were leading Ngati Toa chiefs and in their absence tribal leadership fell to Tamihana Te Rauparaha, Matene Te Whiwhi, and Rawiri Puaha, the deed’s only signatories.⁹ Te Rauparaha’s absence, according to George Clarke, was of some consequence:

Henry Kemp and Henry Clarke were witnesses to this disreputable bargain... Rauparaha’s nephew remonstrated against the proceedings but by threats to retain Rauparaha withdrew his remonstrance, and when the Governor was told that the

³ Belgrave, *Historical Frictions*, pp. 150–151.

⁴ G.A. Phillipson, ‘Northern South Island District Report’, part I, Waitangi Tribunal Division: Rangahaua Whanui Series, 1995, pp. 81–82.

⁵ Rutherford, *Sir George Grey-A Study in Colonial Government*, p. 164.

⁶ Wards, *The Shadow of the Land*, p. 172.

⁷ *Te Tau Ihu o Te Waka a Maui*, volume 1, pp. 314–316.

⁸ Walker, *Ka Whawhai Tonu Matou*, pp. 104–105.

⁹ Phillipson, ‘Northern South Island District Report’, part I, pp. 85–88.

bargain was incomplete without the consent of Rangihaeata the Govr. said he was a rebel and would not treat with him.¹⁰

Other details of the transaction are also worth noting. First, the deed was not signed in the presence of the Ngati Toa people; rather, the signing took place in Wellington in front of Grey and a number of other officials.¹¹ Second, neither ‘Ngati Toa’ nor any other tribe with interests in the Wairau was recorded on the actual deed.¹² Third, the boundaries of the block were not detailed.¹³ The price paid was £3,000, to be dispersed in five annual instalments of £600.¹⁴ Grey considered the purchase of the Wairau to be a huge success, both for Ngati Toa and the colony. Writing to Earl Grey, he declared that as a result of the purchase:

They are already making rapid and unexpected strides in the arts of civilized life, and the funds thus supplied them will materially assist their advancement, whilst the experience of each year will render it probable that every successive annual payment will be more judiciously expended; and there can be no doubt that the fact of the Ngatitua Tribe receiving for several years an annual payment from Government, will give us an almost unlimited influence over a powerful and hitherto a very treacherous and dangerous tribe.¹⁵

Similar issues arose in relation to the Kemp purchase. When Grey met with Ngai Tahu to negotiate the sale of their lands in February 1848 the southerners were aware of the governor’s earlier dealings with Ngati Toa.¹⁶ As noted above, the extent of the Wairau purchase had not initially been discussed; however, sometime later Ngati Toa’s interests were determined to be as far south as Kaiapoi.¹⁷ This certainly presented a problem for Ngai Tahu who, according to Harry Evison, viewed the Wairau purchase as ‘highly offensive’.¹⁸

¹⁰ Cited in: Rutherford, *Sir George Grey—A Study in Colonial Government*, pp. 165–166.

¹¹ Harry Evison, *Te Waipounamu—The Greenstone Island—A History of the Southern Maori during the European Colonization of New Zealand*, Aoraki Press: Christchurch, 1993, p. 236.

¹² Harry Evison, *The Ngai Tahu Deeds—A Window on New Zealand History*, Canterbury University Press: Christchurch, 2006, p.66, p. 75.

¹³ Belgrave, *Historical Frictions*, p. 152.

¹⁴ Phillipson, ‘Northern South Island District Report’, p. 90; George Grey to Earl Grey, 26 March 1847, in Mackay I, p. 202.

¹⁵ George Grey to Earl Grey, 26 March 1847, in Alexander Mackay, *A Compendium of Official Documents Relative to Native Affairs in the South Island*, volume 1, p. 202.

¹⁶ Belgrave, *Historical Frictions*, p. 155.

¹⁷ Belgrave, *Historical Frictions*, p. 152.

¹⁸ Evison, *The Ngai Tahu Deeds*, p. 70.

Although intended to ‘protect’ Maori, the Crown’s monopoly on land purchasing was in practice used to acquire Maori land on terms decidedly unfavourable to its owners. Before the February ‘negotiations’ had begun the outcome had already been determined. The joint venture partners, the Crown (Grey) and the New Zealand Company (William Wakefield), had already agreed on the sum of £2,000 to be paid in £500 instalments over four years.¹⁹ When Grey proceeded to explain the situation to Ngai Tahu they protested bitterly, but to no avail as Grey now held the upper hand. Faced with a fait accompli Ngai Tahu agreed to a sale. According to Belgrave this allowed Grey ‘to close the difficult recent history with Ngati Toa, but opened up a whole new area of hostility with Ngai Tahu’.²⁰ Within two years Matiaha Tiramorehu of Moeraki warned the governor of New Munster that:

This is the commencement of our speaking (or complaining) to you, Governor Eyre, and although you should return to England, we shall never cease complaining to the white people who may hereafter come here.²¹

The establishment of reserves for Maori, an important part of ‘protecting’ Maori interests, also proceeded in a manner disadvantageous to Ngai Tahu. One of Tiramorehu’s complaints concerned the size of the reservations set aside for Ngai Tahu. Grey appointed Henry Tacy Kemp to conclude the sale and Walter Mantell to establish reservations.²² At Tuahiwi 2640 acres were allocated to 200 people while at Moeraki 87 people were provided with 500 acres.²³ Having completed his mission Mantell wrote to Octavius Carrington:

In carrying out the spirit of my instructions on the block purchased by Kemp, I allocated on an average ten acres to each individual, in the belief that the ownership of such an amount of land, though ample for their support, would not enable the natives in the capacity of large landed proprietors to continue to live in their old barbarism on the rents of an uselessly extensive domain.²⁴

As we will see in chapter six, opposition to Maori landlordism was not confined to the Kemp purchase. Indeed, it would be a recurring theme in Maori/settler relations.

¹⁹ Evison, *Te Waipounamu—The Greenstone Island*, p. 243.

²⁰ Belgrave, *Historical Frictions*, p. 155.

²¹ Matiaha Tiramorehu to Governor Eyre, 22 October 1849, *AJHR* 1858 Session I, C-3, pp. 9–10.

²² Walker, *Ka Whawhai Tonu Matou*, pp. 106–108.

²³ *AJHR*, 1858 Session I, C-3, p. 11.

²⁴ Walter Mantell to Octavius Carrington, 13 March 1851, *AJHR* 1858 C-3, p.12.

‘Kemp’s Purchase’, in Evison’s assessment, was the ‘first fruit of the Wairau Purchase for Governor Grey’.²⁵ According to Belgrave, however, it was not a ‘grand plan’ but a ‘pragmatic compromise’ between Grey’s 1846 instructions; resolving the New Zealand Company’s dispute with Ngati Toa over the Wairau; and finding land for a settlement in Canterbury.²⁶ Whatever the case, the Wairau and Kemp ‘purchases’ set in motion a number of other purchases with Maori in the northern South Island through which they too would be imparted with the rights and privileges of British subjects.

Between 1853 and 1856 the Crown purchased the interests of the resident Maori communities of Nelson and Marlborough. In total, 15 deeds or receipts were executed, beginning in August 1853 with the first of two signed with Ngati Toa. According to the Waitangi Tribunal, ‘the techniques used in the Waipounamu purchase followed those previously employed in relation to the company and the Wairau purchases’; that is to say, the Crown dealt first with those chiefs and tribes deemed to have the greatest rights. Thus, the rights of ‘absentee Ngati Toa chiefs’ were purchased first, followed by their allies who were living on the land. Ngati Kuia and Rangitane, as a supposedly conquered people with fewer rights, were dealt with last.²⁷

Tribes had little choice in whether or not they wished to sell. Having already dealt with Ngati Toa subsequent purchases were a fait accompli, particularly for Ngati Kuia and Rangitane who were the last cabs off the rank. Following the arrival of the northern invaders, neither of these tangata whenua tribes was considered to have retained any rights. When Rangitane and Ngati Kuia exerted their presence at the time of the Waipounamu purchase the Crown, for the first time, was forced to recognise their rights.²⁸ However, the quid pro quo for the privilege of having their rights recognised was that they had to sell their lands.²⁹

Grey’s cynical exploitation of intertribal dynamics enabled the Crown to extinguish native title with the ‘free and fair consent’ of the vendors. This misappropriation of land could be further justified because the ownership of such vast stretches of

²⁵ Evison, *The Ngai Tahu Deeds*, p. 81.

²⁶ Belgrave, *Historical Frictions*, p. 151.

²⁷ *Te Tau Ihu o Te Waka a Maui*, volume 1, pp. 392–393.

²⁸ *Te Tau Ihu o Te Waka a Maui*, volume 1, pp. 62–76.

²⁹ *Te Tau Ihu o Te Waka a Maui*, volume 1, p. 393.

‘wasteland’ was deemed to be an impediment to Maori advancement; relieving Maori of this purported burden was therefore viewed as a privilege. The benefit for Maori, then, was not solely in the paltry sums paid for their lands, which as noted earlier would increase in value overtime, but also in the benefits civilisation would bring.³⁰ It was another step towards the individualisation of land and the privilege of private property.

Although provisions were made for the creation of reserves, South Island Maori had by 1860 been privileged with virtual ‘landlessness’. Paradoxically this rendered them incapable of entering the new economy,³¹ access to which was allegedly a privilege of civilisation. Having dealt with the South Island, Grey looked to extend the firm hand of privilege into the North Island. This would prove to be far more difficult to achieve, as Walker states:

While acquisition of land in South Island by coercive tactics and broken promises against a handful of tribesmen was readily accomplished, it was a different matter in the more populous North Island.³²

Protection, then, encompassed more than the imposition of pre-emption—protection also meant amalgamation, and, therefore, the eradication of obstacles that were deemed to prevent this from occurring. As noted in the previous chapter, the Protectorate of Aborigines, notwithstanding the fact that it was a vehicle for amalgamation, was viewed by many settlers as an example of Maori privilege, an impediment to Maori progress, and that of the colony. For these reasons, and indeed because of his own personal dislike of George Clarke Snr, Grey abolished the Protectorate.³³ Control of native affairs was subsequently passed to a newly established office of the Native Secretary. According to Ward, the Secretary was but ‘a clerk working under the Governor’ whose primary role was to acquire land for settlement. The first appointment to the office was J. Symonds, followed by C.A. Dillon. In 1848, in accordance with the 1846 Constitution, the colony was divided into the northern province of New Ulster, to which Major C.L. Nugent was appointed

³⁰ Evison, *Te Waipounamu-The Greenstone Island*, p. 243.

³¹ Walker, *Ka Whawhai Tonu Matou*, p. 109.

³² Walker, *Ka Whawhai Tonu Matou*, p. 110.

³³ Rutherford, *Sir George Grey*, p. 98.

Native Secretary, while in the southern province of New Munster, the former sub-Protector H.T. Kemp was appointed.³⁴

Crown purchases in the North Island followed a similar pattern to those in the South Island, and with similar results. Responsibility for many of these purchases lay with Donald McLean, a former sub-Protector who would go on to make a career in the administration of the colony. In 1844 he was sent to Taranaki to assist in the negotiation and purchase of the Fitzroy Block.³⁵ Following the abolition of the Protectorate, McLean's services were retained in Taranaki as a police inspector and in 1848 he was involved in the purchasing of the Bell and Tataraimaka Blocks.³⁶ In that year he also completed the purchase of Wanganui and in 1849 he acquired the 200,000 acre Rangitikei block. He was then dispatched to Hawke's Bay where he negotiated the purchase of the Waipukurau, Ahuriri and Mohaka blocks, around 630,000 acres, in 1851. In 1853, with Grey's assistance, McLean was also able to secure possession of key blocks in the Wairarapa, which eventually led to the alienation of much of the area.³⁷ His success was such that when Grey established the Land Purchase Department in 1854 McLean was appointed Chief Land Purchase Commissioner.³⁸ When the Purchase Department was merged with the Department of the Native Secretary in 1856, Governor Thomas Gore Browne appointed McLean Native Secretary.³⁹

The decision to amalgamate both positions was later seen as being 'highly political', a means of consolidating Gore Browne's and McLean's control over Maori affairs. According to Ward it was 'simply an expedient administrative change'.⁴⁰ Nevertheless, McLean was 'not above manipulating a situation to achieve his ends' and his appointment would prove to be disastrous for Maori.⁴¹ Whatever the case, between 1853 and 1861 McLean and his agents acquired 13 million acres of land, which, as Lachy Paterson notes, was more land than was taken in the following 30

³⁴ Ward, *A Show of Justice*, pp. 73–74.

³⁵ *The Taranaki Report*, pp. 39–40.

³⁶ Alan Ward, 'McLean, Donald', *DNZB, Volume One, 1769-1869*, pp. 255–258.

³⁷ 'Donald McLean' in A.H. McLintock ed., *An Encyclopaedia of New Zealand*, volume two, Wellington: Government Printer, 1966, pp. 369–371.

³⁸ Ward, *A Show of Justice*, p. 94.

³⁹ G.V. Butterworth, *Maori Affairs—A Department and the People who made it*, Wellington: Government Printing Office, 1990, p. 29.

⁴⁰ Ward, *A Show of Justice*, p. 94.

⁴¹ Walker, *Ka Whawhai Tonu Matou*, p. 117.

years through confiscation, the Native Land Court, and purchasing.⁴² The ‘privilege’, that is to say, the protection supposedly afforded by Crown, was in practice a means by which Maori were effectively divested of their lands.

Part II — The Privilege of Private Property, 1852 – 1860

In 1852 New Zealand was granted a constitution and responsible government. Late the following year Grey left for South Africa where he took up the position of Governor to the Cape Colony. He was replaced by Thomas Gore Browne. Gore Browne arrived in New Zealand in September 1855, his primary task being to introduce responsible government, giving ‘full effect to the 1852 constitution’.⁴³ In April 1856 Edward Stafford was invited to form a ministry but declined due to the limitations placed on native policy.⁴⁴ For Stafford ‘the Assembly’s authority had to be unrestricted to be real’. Henry Sewell was subsequently approached, but his ministry was short lived, as was that of William Fox.⁴⁵ In the end the only politician able to form a ministry was Stafford who took office in May.⁴⁶

Not only was the new settler parliament unable to wrest control of native affairs from the Governor, section 71 of the constitution empowered the Governor to set aside areas in which Maori custom would prevail, ostensibly allowing for Maori autonomy. Thus, the central question of the period was, as Renwick writes, ‘would a Ministry responsible to the General Assembly, be given complete control over all matters of internal government; or would the Governor, out of consideration for imperial interests in the colony, keep the control of native affairs in his own hands?’⁴⁷ It was in this context that the notion of Maori privilege would again resurface.

Gore Browne had ‘received no special instructions’ as to native affairs. However, during the first seven months of his tenure he travelled New Zealand extensively and ‘from observation and consultation he reached conclusions which dominated his

⁴² Lachy Paterson, *Colonial Discourse—Niupepa Maori 1855–1863*, Dunedin: Otago University Press, 2006, p. 113.

⁴³ B. J. Dalton, ‘Browne, Thomas Robert Gore’, *DNZB, Volume One, 1769–1869*, pp. 46–48.

⁴⁴ Renwick, ‘Self-Government and Protection’, pp. 280–281.

⁴⁵ Edmund Bohan, ‘Stafford, Edward William’, *DNZB, Volume One, 1769–1869*, pp. 404–407.

⁴⁶ W. David McIntyre, ‘Sewell, Henry’, *DNZB, Volume One, 1769–1869*, p. 392.

⁴⁷ Renwick, ‘Self-Government and Protection’, p. 267.

future conduct'.⁴⁸ He determined that the transference of native affairs to a settler government, in which Maori were not represented and which had thus far proven to be unstable was not conducive to harmonious relations.⁴⁹ At any rate, so long as British troops were stationed in New Zealand the governor would continue to have input into native policy.⁵⁰

Native policy continued to be a point of contention between the Governor and the settler parliament, both running similar arguments: the interests of Maori would be best served in their respective hands. As it was, the Assembly had some power to pass legislation that impacted on Maori, and Gore Browne relied on the Assembly for vote funds to support his initiatives.⁵¹ This arrangement ensured that the settler parliament would gain at least some concessions, including the appointment of Christopher Richmond as Native Minister. In a memorandum delineating the 'General Principles of Native Policy', Richmond noted that two approaches had been open to the British government since the beginning of settlement: 'the maintenance of the natives as a separate race...or...the eventual absorption of the Maories into the European population'. Some people, Richmond observed, would suggest that 'a chasm intervenes between civilisation and barbarism' and that the latter proposition is 'a moral natural impossibility'. According to Richmond, however, this was not the opinion of the responsible ministry or 'the whole intelligence of the community', rather, 'they believe it to be at once the interest and the duty of the Colonists to preserve and civilise the native people'. Furthermore, the 'maintenance of law and order...must be placed solely on the good sense of the people, and their innate capacity, under wise guidance, for self-government'.⁵²

Racial amalgamation, then, was the stated purpose of the responsible ministry's native policy. For the settler parliament this was an obligation; for Maori, it was a great privilege. By way of achieving this policy goal the September 1858 session of the General Assembly passed three Acts relating to native affairs: the Districts Regulation Act, the Native Circuit Courts Act, and the Native Schools Act. The first,

⁴⁸ Dalton, 'Browne, Thomas Robert Gore', *DNZB, Volume One, 1769-1869*, pp. 46-48.

⁴⁹ Renwick, 'Self-Government and Protection', pp. 276-277.

⁵⁰ Rutherford, *Sir George Grey*, p. 445.

⁵¹ Raewyn Dalziel, 'The Politics of Settlement', in W.H. Oliver, ed., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, p. 101.

⁵² C.W. Richmond, 'Memorandum by Responsible Advisers on Native Affairs', 29 September 1858, *BPP 1860*, p.38.

‘an act to regulate the local affairs of native districts’, allowed for the creation of councils, chaired by Europeans, to pass bylaws concerning a variety of matters. The second, ‘an act to make better provisions for the administration of justice in native districts’, allowed for the appointment of judges to enforce bylaws.⁵³

Richmond, the architect of the Acts, explained in detail why such measures were required. He stated that they were ‘devised to supply the peculiar necessities of the native tribes, and to secure their confidence and support’. He concluded that the ‘old Maori *regime* is fast decaying’ and although a number of ‘intelligent and far-sighted’ chiefs have attempted to ‘enact and put in force local regulations on various subjects’ they ‘appear destitute of the requisite knowledge, judgement, influence, and force of purpose, to effect, unaided, the needed reforms’. The expectation that Maori would ‘naturally aggregate’ near European settlements from where they would ‘adopt the laws and usages of the settlers’ had failed. Moreover, stated Richmond, there had ‘been no proper adaptation of British institutions to the present conditions of the Aborigines’.⁵⁴

The 1858 session also considered a Native Territorial Rights Bill. The Bill’s purpose was ‘to enable the Native Tribes of New Zealand to have their Territorial Rights ascertained, and to authorise the issue in certain cases of Crown Grants to Natives’. Its goal, stated Richmond, was ‘the civilization of the natives, and by no means to increase the immediate facilities for the acquisition of land by Europeans’. According to Richmond, native ‘advancement’ had been impeded by ‘communistic habits’ and he reasoned that the present feuding between various groups had arisen because of ‘disputed titles to land’. The Bill sought to ‘strike at the root of these evils’.⁵⁵

While agreeing with much of Richmond’s analysis, Gore Browne took exception to the ‘general inference’ that only responsible ministers were cognisant of ‘the true principles of administration in reference to the natives’. With recourse to the Treaty of Waitangi he reiterated at length the obligations that had been placed on the British government and refuted ‘the assumption that the interests of the natives may be

⁵³ Ward, *A Show of Justice*, p. 107.

⁵⁴ Richmond, ‘Memorandum by Responsible Advisers on Native Affairs’, p. 38.

⁵⁵ Richmond, ‘Memorandum by Responsible Advisers on Native Affairs’, p. 40.

safely confided to the colonists'. He noted also that the 'progress of civilisation among the natives, though very slow, has been progressive'.⁵⁶

McLean, who was now Native Secretary, had established himself as an indispensable advisor to Gore Browne. He agreed with his superior, stating that the Treaty of Waitangi had created a relationship in which 'certain powers vest in the Crown, and, with these powers, certain obligations'. While McLean acknowledged that the Native Territorial Rights Bill would facilitate the individualisation of 'tribal title' he stated that its administration would be 'very problematic'. The measures now under discussion, while appearing 'well calculated to effect the object for which they have been devised', remained an 'experiment', untested by time, and to remove what is already in place 'is a course to be deprecated as most dangerous'. He argued that until such time as Maori have been 'incorporated and amalgamated' and taken up their 'proper position under Colonial institutions' the 'administration of native affairs cannot, consistently with good faith, be entrusted to any but Her Majesty's Representative'. In other words the Crown should retain its 'right of pre-emption'.⁵⁷

Gore Browne and McLean were successful in defeating the Native Territorial Rights Bill. It was apparent, however, that there was little difference between the policy proposed by the responsible ministry and that of the imperial government. Both parties believed that the future for Maori lay in their civilisation and eventual amalgamation into colonial society; moreover, all were agreed that this was dependent on the conversion of land held by Maori under customary tenure to that recognisable in British law, a view that was also promulgated in the colony's newspapers. The *Taranaki Herald* wrote:

It is not better known here than it is in England that the great obstacle to the material advancement of the Maori is his tribal state, and that so long as he continues in that condition, he cannot advance beyond the threshold of civilisation. The Maories are aware of this fact, and are anxious to be relieved from the disabilities of tribal tenure.⁵⁸

With this convergence of opinion, change, it would seem, was inevitable. 'It is remarkable', commented the *Daily Southern Cross*, 'that no one attempts to offer

⁵⁶ Thomas Gore Browne to Sir E. Bulwer Lytton, 14 October 1858, *BPP 1860*, p. 33.

⁵⁷ Donald McLean, 'Memorandum by Native Secretary on Native Affairs', 13 October 1858, *BPP 1860*, pp. 65–71.

⁵⁸ *The Taranaki Herald*, 12 November 1859, p. 2.

open remonstrance against the new system of native policy...the advocates of the old system are prudently silent, for they know that they cannot maintain their ground'.⁵⁹ Maori, it was asserted, must be privileged with the legal recognition of their land rights for 'it is idle to inculcate *duties* upon a man until you shall have first made him feel that he has *rights*; but the individual Maori-*per se*, in the primitive state of their society, is almost, perhaps altogether without rights'.⁶⁰ As we shall see the paradox of 'privileging Maori' with property rights was that it would further facilitate the loss of land.

Part III — The Privilege of War

The question of Maori land rights, and in particular who had the right to sell land, would lead to a resumption of warfare between Maori and Crown. Although the outbreak of war in Taranaki in March 1860 can be attributed to a number of factors, the initial spark was the decision by Gore Browne to accept an offer to purchase land at Waitara. He was not unaware of the complex nature of Maori land tenure, having in 1856 appointed a Board of Inquiry on Native Matters whom he instructed, as part of its brief, 'to consider whether or not the natives who desire to sell land could be required to mark it out'.⁶¹ The Board found that 'generally there is no such thing as an individual claim clear and independent of the tribal right'.⁶²

Gore Browne, nevertheless, proceeded to execute the purchase on the premise that Te Teira, the seller, had a right to dispose of his individual interests. While central to the Waitara dispute, land was not the only factor that led to conflict. Belich writes that 'the precedents and prophecies of empire and settlement, the self-images of governors and settlers, the ethos of a colonising and progressive race, demanded that the British rule the whole of New Zealand in fact as well as name'.⁶³ The Taranaki settlers, writes Belgrave, saw this as 'one of the key principles of liberal capitalist democracy' and chastised Wiremu Kingi for his opposition to the sale. The choice

⁵⁹ *Daily Southern Cross*, 22 March 1859, p. 3.

⁶⁰ *Daily Southern Cross*, 15 July 1859, p. 3.

⁶¹ Gore Browne, 'Memorandum' re: Board of Inquiry on Native Matters, 26 July 1856, *BPP 1854–1860*, pp. 509–510.

⁶² Report of the Board of Inquiry on Native Matters, 9 July 1856, *BPP 1854–1860*, pp. 510–519.

⁶³ Belich, *Making Peoples*, pp. 230–231.

that was placed before the Crown was who to choose: Te Teira or Kingi. The decision to accept Te Teira's offer was inevitable; his right to sell was 'fundamental to European law and civilisation'.⁶⁴

In July and August 1860, five months after the commencement of hostilities at Waitara, Gore Browne called a large meeting of chiefs at Kohimarama. Discussion included the events in Taranaki, the King Movement, and the Treaty of Waitangi. In her analysis of the Kohimarama Conference Orange suggests that it 'came to serve quite different functions for the officials and for the Maori people'. She writes that 'the most important idea retained by Maori from the 1860 conference was that Maori mana had been guaranteed'. For the Crown 'the conference was just one more attempt to deal with the Maori problem'.⁶⁵ According to Paterson, however, 'the importance of the Treaty to the conference can be overstated'. Of the 390 speeches made by Maori, 'fewer than thirty refer to the Treaty'; when it was discussed it was done so 'with reference to its implications at that time, that is, to the acceptance of law and governmental power'.⁶⁶ Indeed, as Waka Nene recognised at the time, 'the chiefs were not called to Kohimarama to discuss the Treaty':

What has brought us here to this Assembly? What? What? It is my opinion that it is the King Movement which has brought us hither. The system of this King is that which is pursued by Te Rangitake. First it was the King; the line of conduct adopted by Te Rangitake followed it.⁶⁷

The Crown's goal was 'to gain Maori loyalty and acceptance of its mana'. Of interest here is timing and the way in which the 'rhetoric of benevolence' was used to frame Gore Browne's opposition to Wiremu Kingi and the Kingitanga. Notions of privilege were often deployed during times of perceived crisis as a way of circumventing further Maori protest and maintaining the Crown/settler's 'positional superiority'.⁶⁸ For instance Fitzroy's 1844 Waimate address was part of a Crown response to an emerging threat: Hone Heke. On that occasion those gathered were reminded that they were once 'wild barbarians, utterly unlike Christians — utterly uncivilised'. He emphasised that it was on their request that King William offered to protect them

⁶⁴ Belgrave, *Historical Frictions*, pp. 238-239.

⁶⁵ Orange, *The Treaty of Waitangi*, p. 142.

⁶⁶ Paterson, *Colonial Discourses*, p. 154.

⁶⁷ Waka Nene cited in Paterson, *Colonial Discourses*, p. 158.

⁶⁸ As expounded by Said, *Orientalism*, p. 7.

from 'a fate as that which has since befallen Tahiti and Marquesa'. Similarly, Kohimarama was a response to the situation at Waitara and the growing influence of the Kingitanga. Again, Maori would be reminded by another governor, this time Gore Browne, of the privileges they had received under British sovereignty:

On assuming the sovereignty of New Zealand Her Majesty extended to her Maori subjects her royal protection, engaging to defend New Zealand and the Maori people from all aggressions by any foreign power, and imparting to them all the rights and privileges of British subjects...

In return for these advantages, the chiefs who signed the treaty of Waitangi ceded for themselves and their people, to Her Majesty the Queen of England, absolutely and without reservation, all the rights and powers of sovereignty...

No foreign enemy has visited your shores. Your lands have remained in your possession, or have been bought by the Government at your own desire. Your people have availed themselves of their privileges as British subjects, seeking and obtaining in the courts of law that protection and redress which they afford to all Her Majesty's subjects...

I may frankly tell you that New Zealand is the only Colony where the aborigines have been treated with unvarying kindness. It is the only colony where they have been invited to unite with the colonists, and to become one under the law. In other colonies the people of the land have remained separate and distinct...

Wise and good men in England considered that such treatment of aborigines was unjust and contrary to the principles of Christianity. They brought the subject before the British Parliament, and the Queens Ministers advised a change of policy towards the aborigines of all English Colonies. New Zealand is the first country colonized on this new and humane system. It will be the wisdom of the Maori people to avail themselves of this generous policy, and thus save their race from the evils which have befallen others less favoured.

I shall not seek to prove what you will all be ready to admit, that the treatment you have received from the Government since its establishment in these islands down to the present hour has been invariably marked by kindness...

Finally, I must congratulate you on the vast progress in civilization which your people have made under the protection of the Queen...The old have reason to be thankful that their sunset is brighter than their dawn, and the young may be grateful

that their life did not begin until the darkness of the heathen night had been dispelled by that light which is the glory of all civilised nations.⁶⁹

The idea of Maori privilege is clearly articulated here. Having recognised that the ‘treatment of aborigines was unjust and contrary to the principles of Christianity’, Britain embarked on a more enlightened policy. Maori were to be the privileged recipients of this ‘new and humane system’ of colonisation. Maori had been ‘invited to unite with the colonists and to become one under the law’ thereafter they would enjoy all the privileges of British citizenship. However, while expounding the virtues of British colonisation, the Crown was at the same time preparing for the continued appropriation of Maori land. Indeed the privileges that had been bestowed on Maori—pre-emption and private property—were effective mechanisms for achieving this end. It was in this way that colonisation’s modus operandi of dispossession and domination was maintained under a humanitarian guise.

In April 1861 a truce was called in Taranaki. The situation remained tense as the Crown had been unable to suppress Wiremu Kingi’s Te Atiawa and their allies, while the settlers in New Plymouth continued to advocate for a more aggressive policy. Gore Browne’s attention now turned to the Waikato and the Kingitanga which he perceived to be the greater threat. However, an invasion of the Waikato, at least for the time being was suspended when Gore Browne was recalled from office.⁷⁰

Part IV — The Privilege of Private Property, 1861 – 1865

While the Crown was attempting to subdue Maori militarily, the settler government introduced legislation that established the Native Land Court. The court enabled Maori to gain an individual title to land, but it was also one of the main vehicles by which Maori were relieved of their lands. The governor during whose term this legislation was introduced was George Grey. Grey began his second governorship in October 1861. It was hoped that the ‘remarkable authority which he had formerly gained over the Maori chiefs might enable him to effect a reconciliation with the

⁶⁹ Thomas Gore Browne, Minutes of Proceedings of Kohimarama Conference, *AJHR*, 1860 Session I, E-09, pp. 3–5.

⁷⁰ Newcastle to Gore Browne, 25 May 1861, *BBP*, 1862–1864, p. 104.

rebels'.⁷¹ The conditions that had characterised Grey's first governorship, however, had changed dramatically.

Between 1853 and 1861 the settler population had increased from 30,000 to 100,000.⁷² The colony had also achieved responsible government and consequently Grey could not act unilaterally.⁷³ He no longer wielded the influence among Maori as he had once done; Waka Nene and Te Wherowhero, whom Grey consulted, had since died and others remained suspicious because of his earlier treatment of Te Rauparaha and Te Rangihaeata.⁷⁴ Grey's task of 'reconciling the conflicting interests of settlers and Maoris' was therefore a difficult one.⁷⁵

In light of the events at Waitara the Duke of Newcastle instructed Grey to investigate the present system of land purchasing. Newcastle noted that this was 'closely connected to the origin of the present disturbances' and he was to ascertain 'whether the system of negotiation between the agents of the Crown and native owners' was still tenable. Newcastle acknowledged that although in 'conformity with the Treaty of Waitangi', it may, in consideration of the 'present condition of the natives and settlers, require to be modified or superseded'. Newcastle informed Grey that Her Majesty's Government was prepared to 'assent to any prudent plan for the individualization of Native title' and 'waive the serious objections as those proposed by the "Native Territorial Rights Act" of 1858'. Grey's instructions thus foreshadowed a pre-emptive waiver and the eventual devolution of native affairs to the settler government. This change of policy, it was hoped, would result in peace and order and would lead to the ongoing civilisation of Maori. Newcastle reiterated that:

Her Majesty's Government can only trust that the good sense and good feeling of the colonists will lead them to a cordial understanding with the Representative of the Crown, for the purpose of effectively promoting the civilisation and good government of the natives, and thus secure their friendship and contentment.⁷⁶

⁷¹ Rutherford, *Sir George Grey*, pp. 450–451.

⁷² Rutherford, *Sir George Grey*, p. 443.

⁷³ Rutherford, *Sir George Grey*, p. 452.

⁷⁴ Walker, *Ka Whawhai Tonu Matou*, pp. 117–118.

⁷⁵ Rutherford, *Sir George Grey—A Study in Colonial Government*, p. 452.

⁷⁶ Newcastle to Grey, 5 June 1861, *AJHR*, 1862 Session, E-1, sec III, pp. 3–4.

It should be noted too that Grey, in order to achieve the goal of peace and order, was afforded some discretion as to the method:

I shall not attempt to prescribe the conditions of peace which I may think ought to be imposed or accepted: but I wish to impose upon you my conviction that, in deciding upon those conditions, it will be your duty, while avoiding all unnecessary severity towards men who can scarcely be looked upon as subjects in rebellion, to take care that neither your own mission, nor the cessation of hostilities when it arrives, shall carry with it in the eyes of the natives any appearance of weakness or alarm. It would be better even to prolong the war, with all its evils, than to end it without producing in the native mind such a conviction of our strength as may render peace not temporary and precarious, but well grounded and lasting.⁷⁷

The settler government's response to this new policy was the Native Lands Act 1862. Like its forerunner—the Native Territorial Rights Bill—the Act was promoted as a mechanism for the 'peaceful settlement of the Colony and the advancement and civilization of the Natives'. The 'waiving of the Crown's pre-emptive right' and establishing 'Courts...for ascertaining and defining the rights of the Natives' set in motion a process by which land held according to Native custom could be converted to land held according to English law.⁷⁸ The Act reflected a widely held belief that a change in land tenure was a prerequisite for the continual advancement of Maori, and the realisation of the rights and privileges of British subjects imparted to them at 1840.

Before the Act became law settler politicians in the General Assembly detailed the benefits the legislation would have for Maori. During the Bill's second reading the Native Minister, Francis Dillon Bell, stated that 'the principle involved in this Bill' will allow the Natives 'to have as good a title to their lands as the Europeans have to theirs'.⁷⁹ According to Walter Mantell, who had formerly held the office of Native Minister, the 'Bill simply proposed to give to the Natives the right we guaranteed to them by the Treaty of Waitangi'.⁸⁰ In the Legislative Council Henry Tancred likewise stated that 'the one great principle of the Bill may be expressed in a very few words':

⁷⁷ Newcastle to Grey, 5 June 1861, *AJHR*, 1862 Session, E-1, sec III, pp. 3–4.

⁷⁸ Preamble to the Native Lands Act 1862

⁷⁹ *NZPD*, 1861–1863, Wellington: Government Printer, 1886, p. 609.

⁸⁰ *NZPD*, 1861–1863, p. 620.

It is not only to recognize the Native right of ownership in Native Lands —this is already done by the Treaty of Waitangi — but also to give effect to that right, and to make it something more than the mere delusion that has been hitherto.⁸¹

In the same year that the Act was debated Walter Buller presented a report to the General Assembly in which he delineated the necessary steps to achieve this aim. According to Buller ‘communism in land’ was the ‘great obstacle to the social and material advancement of the Maori people’. Under the present ‘system of tenure’ Maori are unable to ‘adapt themselves to the requirements of a superior civilization’. Their common interest in land offers ‘no encouragement to industry or incentive to ambition’. ‘It may be safely argued’, wrote Buller, ‘that nothing would tend more powerfully to call forth their industrial energies and to promote a desire for worldly improvement than the possession, in severalty, of an *exclusive title* to a piece of land, however small in extent’. Buller therefore argued that ‘a prominent feature in any general scheme’ conducted for the ‘future management’ of Maori should begin with a ‘proper individualization of their lands’.⁸²

Passed by both Houses, and with royal assent guaranteed, the Native Lands Act brought together the interests of all, including, it was held, Maori. The *Daily Southern Cross* reported that ‘direct purchase, after many years of violent but unwise opposition, will be in the future the principle on which the dealings in respect to native lands will be conducted’ and ‘will confer manifold benefits on this country’.⁸³ While there was some apprehension and a desire to proceed with caution, most believed that the Act would remove the straight-jacket that confined Maori and settler. Direct purchase and the individualisation of title would release the colony’s untapped potential, of which Maori would also partake.

The Act did not come into force until 6 June 1863 and it was not until April the following year that the first Courts began to operate. Then, in 1865, in the wake of the Waikato war, James Fitzgerald, a Canterbury settler and for a short time the Native Minister, introduced to parliament three measures that would become the Outlying Districts Police Act, the Native Rights Act, and the Native Lands Act

⁸¹ *NZPD*, 1861–863, p. 682.

⁸² Walter Buller, ‘Final Report on the Partition and Individualization of the Kaiapoi Reserve’, *AJHR*, 1862 Session I, E-05, p. 11.

⁸³ *Daily Southern Cross*, volume XIX, issue 1833, 2 June 1863.

1865.⁸⁴ Although the Native Lands Act 1862 was in the end superseded by that of 1865 the goal of individualisation remained a policy imperative; moreover, individualisation, and thus the attainment of private property, was again promoted as a privilege. According to Williams ‘there was no member of the settler Parliament in 1865 who would have doubted that the imposition of “our law” was a “liberal and generous policy”’.⁸⁵

For some time now this policy of supposed generosity has been questioned by scholars. According to Hugh Kawharu, the Native Land Court was a ‘veritable engine of destruction’,⁸⁶ while Judith Binney goes so far as to call the Court ‘an act of war’.⁸⁷ Richard Boast, however, argues that it is ‘important not to confuse intentions with effects: the fact that the Native Lands Acts may have had deleterious effects on Maori society does not prove that these were necessarily intended’.⁸⁸ The Acts ‘were seen by Parliament as a necessary expedient, and there is little evidence of any systematic plan in 1862 to weaken Maori society by attacking its system of land tenure’.⁸⁹ Williams disagrees. He argues that the descriptions: ‘veritable engine of destruction’, ‘an act of war’, ‘necessary expedient’ were ‘different perspectives and interpretations of the same undoubted fact’, that being, from 1858 the settler government pursued a path towards individualisation so as to more readily acquire land for European settlement.⁹⁰

The effects of individualisation were in fact well-known at the time. In discussing the benefits of the 1865 Act the *Hawke’s Bay Herald* noted that the ‘plan of inducing the natives to individualise their titles by the offer of Crown grants is not a new one’. Indeed this ‘would strike at and indeed destroy the whole tribal system’, regrettably, however, ‘it is useless to facilitate the sale of land when the owners of the land do not wish to sell it’. The Maori, stated the *Hawke’s Bay Herald*, are ‘far from wishing to

⁸⁴ Williams, *Te Kooti Tango Whenua*, p. 69.

⁸⁵ Williams, *Te Kooti Tango Whenua*, p. 70.

⁸⁶ Hugh Kawharu, *Maori Land Tenure—Studies of a Changing Institution*, Oxford: Oxford University Press, 1977, p. 15.

⁸⁷ Judith Binney, ‘The Native Land Court and Maori Communities’, J Binney, J Basset, E Olssen eds., *The People and the Land—Te Tangata me Te Whenua: An Illustrated History of New Zealand 1820-1920*, Wellington: Allen & Unwin, 1990, p. 143.

⁸⁸ Richard Boast, ‘Evolution of Maori Land Law’ in Richard Boast, Andrew Erueti, Doug McPhail, Norman Smith, eds., *Maori Land Law*, 2nd Edition, Wellington: LexisNexis, 2004, p. 72.

⁸⁹ Richard Boast, ‘The Law and the Maori’ in Peter Spiller, Jeremy Finn, Richard Boast, eds., *A New Zealand Legal History*, Wellington: Brooker’s, 1995, p. 147.

⁹⁰ Williams, *Te Kooti Tango Whenua*, p.82.

lose their identity, which they might be supposed to do when they were resolved into isolated holders of small properties'. Although the restrictions formerly placed on their lands have been removed 'they have not shewn any intension of availing themselves of the liberty which they have obtained'. Nevertheless 'they may, some time or other':

Wish to have a voice in the representation, and, as a Crown grant carries a vote, the idea may strike them and there may be a general wish for Crown papers; but that is a very hypothetical state of affairs.⁹¹

The process of individualization, then, also raised the issue of Maori parliamentary representation. As Maori would come to realise in the following decades, such privileges brought with them both obligations and responsibilities to which the settlers would hold them accountable. Reflecting the views of many settlers, the *Hawke's Bay Herald* argued that if Maori were to be placed:

On precisely the same footing as the European population...if the natives are to be placed in the unheard-of position of proprietors of boundless tracts of waste lands, and endowed...with all the privileges of British subjects, they will also be made amenable to British law and subject to all the responsibilities of a British citizen...The European population will be satisfied with nothing less.⁹²

Part V — The 'Privilege' of Citizenship

The remaining part of this chapter examines the Maori Representation Act 1867, the Act that brought into existence the original four 'Maori seats'. This peculiarity of the New Zealand electoral system is today perceived by some as an example of Maori privilege. According to M.P.K. Sorrenson, however, 'no high principle was involved in Maori representation'.⁹³ Indeed, there were a number of other mitigating factors that came to influence settler politicians. An expensive war had yet to be concluded; the colonists were still susceptible to criticism from Britain; and, most Maori had yet to acquire an individual title to their land. These were all concerns expressed by

⁹¹ *Hawkes Bay Herald*, 16 March 1865, p. 1.

⁹² *Hawke's Bay Herald*, volume 5 issue 312, 6 September 1862.

⁹³ M.P.K. Sorrenson, 'A History of Maori Representation in Parliament', University of Auckland, 1986, B-20.

politicians at that time.⁹⁴ Maori representation, it should be noted, was also discussed in relation to provincial politics, particularly as a means of maintaining the balance of power between North and South Islands.

In theory Maori were never denied the right to vote. Section 7 of the New Zealand Constitution Act 1852 enfranchised all males over the age of 21 who owned freehold property valued at £50, leased property valued at £10, held a tenement within town valued at £10, or a tenement outside of town valued at £5.⁹⁵ As British law only recognised individual interests in land, Maori were not eligible to vote. This was confirmed in 1859 when the Crown Law Office in London⁹⁶ found that:

Natives cannot have such possession of any Land, used or occupied by them in common as Tribes or Communities, and not held under Title derived from the Crown, as would qualify them to become voters.⁹⁷

Between 1862 and 1867 various measures geared towards the enfranchisement of Maori were explored by settler politicians. In 1862 Fitzgerald moved five resolutions in the House of Representatives. The first reiterated that the objective of law and policy should be ‘the entire amalgamation of all Her Majesty’s subjects in New Zealand into one united people’;⁹⁸ the second, that the House reserve assent from any legislation that does afford to both races the ‘full and equal enjoyment of civil and political privileges’. The remaining three resolutions proposed the admittance of Maori to the Legislative Council, and that there be a ‘fair representation in this House of [Maori who] constitute one-third of the population of the colony’.⁹⁹ While some members agreed with the sentiment of Fitzgerald’s resolution, others cited the difficulties of implementing such a plan and in the end it was defeated.

In 1863 a Select Committee on Representation investigated a proposal in which males of European descent could be ‘especially chosen to represent the Natives’. It was argued that Maori were unversed in the proceedings of the House and ‘gentlemen who, having an intimate knowledge of the native character, would be

⁹⁴ Sheila McClean, ‘Maori Representation 1905–1948’, M.A. thesis, University of Auckland, 1950, pp. 5–7.

⁹⁵ New Zealand Constitution Act 1852.

⁹⁶ Keith Sinclair, *Kinds of Peace-Maori People After the Wars, 1870–85*, Auckland: Auckland University Press, 1991, p. 86.

⁹⁷ *AJHR*, E-7, 1860, p. 8.

⁹⁸ *NZPD*, 1861–1862, pp. 483–484.

⁹⁹ *NZPD*, 1861–1863, p. 484.

able to properly represent them'. This proposal was short lived.¹⁰⁰ Then, in 1865, George Graham, MHR for Newton, moved that all Maori males be given the franchise and that five Europeans be elected to represent them. However the initiative was stymied by Fitzgerald who was now Native Minister.¹⁰¹

On 6 August 1867, five years to the day after Fitzgerald moved his five resolutions, Donald McLean, MHR for Napier, sought 'leave to bring in a Bill to give special representation to the aboriginal Natives of New Zealand'.¹⁰² Although Fitzgerald was no longer a member of the House McLean looked to him for advice. In order to ascertain the level of support for such a measure Fitzgerald suggested that McLean show the Bill to Richmond, Dillon, Williamson, and Carlton. He also warned McLean of the "great danger" that would come from the Otago representatives who would oppose any measure that would "give two more votes to the Northern Island".¹⁰³

When McLean addressed the House he reminded members that Maori were indeed taxpayers and although formerly at war it was now 'desirous that peace should be established'. He urged the House to 'use the means at its disposal for allaying any of the angry feeling or excitement that might still remain'. 'There was a necessity', stated McLean, 'for the adoption of such a measure as would direct the minds of the Natives in the proper channel'.¹⁰⁴ In moving the Bill for the second time, McLean observed that numerous attempts had been made to govern Maori and although they had 'been hitherto unattended with success' there was a desire 'to adopt measures suitable to the requirements of the country, and more particularly to the aboriginal inhabitants'. McLean noted that it had long been 'remarked that the Maori race should have equal laws with all the privileges and rights of Englishmen'.¹⁰⁵ Last, McLean declared that:

This House would have reason hereafter to feel satisfied that it had preserved from oblivion the elements of mind of a most interesting race of people...and it would be a proud thing to have recorded, by the future historian of New Zealand, that the

¹⁰⁰ *NZPD*, 1861–1863, pp. 903–904.

¹⁰¹ *NZPD*, 1865–1866, p. 599.

¹⁰² *NZPD*, 1867, volume 1 part 1, p. 336.

¹⁰³ Cited in Renwick, 'Self Government and Protection', p. 449.

¹⁰⁴ *NZPD*, 1867, volume 1 part 1, p. 336.

¹⁰⁵ *NZPD*, 1867, volume 1 part 1, pp. 457–458.

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.¹⁰⁶

On the whole, the Bill was well received by the House of Representatives. According to Stafford 'it might be adopted as having a tendency to elevate the condition of the Natives, and induce them to live in harmony with European institutions'; furthermore, 'it was only a fair measure of justice in a country where one law ruled all Her Majesty's subjects of both races'.¹⁰⁷ Richmond stated that 'he had never been anxious to demand such privileges as the Bill proposed', he nevertheless 'saw the full importance... of holding out the hand to them and inviting them to all the rights of citizenship'.¹⁰⁸ With the war now over, Dillon Bell thought 'the measure would be hailed by the Native people as a proof of the sincerity of the desire which had actuated the House to treat their wishes with deference and care'.¹⁰⁹ Williamson, dwelling on earlier attempts at extending the Queen's writ, declared now to be the time 'when they should use other means to bring the Queen's subjects, whether Maori or English, into subjection to the laws'. Furthermore, the 'principle of Native representation' would not only give just cause for national pride, but 'would produce a most salutary impression upon the Native mind'.¹¹⁰ After espousing the compassion of the Maori and their intellectual qualities G. Graham declared that 'they should have all the Rights and Privileges of British subjects'.¹¹¹ Harrison was certain 'that the Natives would be no discredit to the House' and by granting them such a privilege 'would be a complete refutation to the unjust, ill-natured, and unjustifiable aspersions upon the Colony in Great Britain'.¹¹² Carlton informed the House that, 'as a general rule he objected to any special legislation for the Native race' and he believed that it was their desire 'to cast their lot in with the Europeans, to be governed by precisely the same laws'.¹¹³ Taylor admitted that he 'did not expect any very beneficial results from the acts of Natives in that House, but out of doors they might have a very salutary effect'.¹¹⁴

¹⁰⁶ *NZPD*, 1867, volume 1 part 1, p. 459.

¹⁰⁷ *NZPD*, 1867, volume 1 part 1, p. 459.

¹⁰⁸ *NZPD*, 1867, volume 1 part 1, p. 460.

¹⁰⁹ *NZPD*, 1867, volume 1 part 1, p. 460.

¹¹⁰ *NZPD*, 1867, volume 1 part 1, p. 462.

¹¹¹ *NZPD*, 1867, volume 1 part 1, p. 464.

¹¹² *NZPD*, 1867, volume 1 part 1, p. 461.

¹¹³ *NZPD*, 1867, volume 1 part 1, p. 463.

¹¹⁴ *NZPD*, 1867, volume 1 part 1, p. 464.

The parliamentary record reveals much about the imperatives and preoccupations of settler politicians. Evident is the belief that the Crown, by enfranchising Maori, would satisfy its treaty obligations. Such a privilege was also thought to be a comparatively cheap means of pacifying Maori and bringing them within the auspices of English law. Some members did express reservations, however. The question of who should be returned to parliament, Maori or European, was again raised. If it was to be the latter, stated Atkinson, ‘there would be a great chance of their getting a very undesirable class of men...who would be no service to the country’.¹¹⁵ Richmond, too, argued that if a ‘restriction were not imposed they would have a class of persons in the House whom they would not desire to see’. However, ‘seeing that the representation which was proposed to be given was quite of an exceptional character’, that is, ‘not the same as the ordinary franchise... the interests and security of the Southern Island might be attained’.¹¹⁶ Other members queried the effect the proposed increase in the number of seats would have on the balance of power between North and South Islands. Hall, who had recently introduced a Bill ‘giving additional representation to the gold fields of Westland’, stated that if assented to, the Maori Representation Bill would be ‘no more than a measure of justice to the North Island’.¹¹⁷ In terms of its passage through the House these were certainly important considerations.

According to Ward the success of the Bill was ‘determined largely by the fact that it preserved the distribution of seats between the North and South Islands’.¹¹⁸ Before the second reading McLean thanked members for the way they ‘had expressed themselves with respect to the Native race’ and the commitment shown for them to ‘partake of equal rights and liberties with the Europeans’. He also allayed fears of any undesirables entering the House. Although presently a ‘sketch’, stated McLean, the ‘principle’ had been affirmed and it would be left to the Committee to modify the Bill so as ‘to suit the desires which had been expressed in the House’.¹¹⁹

In this way the Bill became ‘politically acceptable to the House’. It is open to question, however, as Renwick points out, whether the Bill was ‘being fair to the

¹¹⁵ *NZPD*, 1867, volume 1 part 1, p. 461.

¹¹⁶ *NZPD*, 1867, volume 1 part 1, p. 460.

¹¹⁷ *NZPD*, 1867, volume 1 part 1, p.462.

¹¹⁸ Ward, *A Show of Justice*, p. 209.

¹¹⁹ *NZPD*, 1867, volume 1 part 1, p.465.

Maoris to whom it gave representation'.¹²⁰ According to Walker 'the measure was in effect only a token gesture designed to keep Maori under political subjection'. At the time the Maori population, around 56,000, equated to 20 seats in parliament, enough to pose 'a severe challenge to the Pakeha balance of power in the House'. The 'low opinion' in which Richmond and the other South Island members held Maori was reflected in their exhortation of the 'exceptional character' of the Maori seats. As long as they did not disturb the status quo they were willing to allow Maori a seat in the House.¹²¹

When one considers the context in which Maori suffrage was achieved, motives other than Crown benevolence are certainly evident. The Act, as is stated in its preamble, was a necessary 'expedient for the better protection of the interests of her Majesty's Maori subjects that temporary provision should be made for the special representation of such in the House of Representatives and the Provincial Councils of the...Colony'.¹²² Clearly expressed is the idea that representation in parliament could 'better' protect Maori interests. To this extent the Maori Representation Act, like the Native Territorial Rights Bill and Native Lands Acts, was a means of expediting the Crown's treaty obligations and amalgamating Maori into colonial society.

The twenty-year period covered in this chapter was significant in the development of both the colony, and, the formulation of Maori privilege. The correlation between the two is plain to see. Settler gain and Maori land loss could be easily reconciled. Maori had what the colony required, and policy and legislation, framed as protecting and privileging Maori, could be deployed at any time to achieve the settler goal of acquiring more land. The purchasing of 'wastelands', the allocating of reservations, and the individualisation of land and acquisition of a fee simple title were all necessary steps towards amalgamation, and therefore, a privilege. The deployment of brute military force was also thought to be a privilege bestowed on Maori because it was a means of establishing order.

The right to vote afforded to Maori in 1867 was at the time considered by some settler politicians to be the greatest of privileges. However, one could also venture to ask, borrowing the often-quoted words of Joseph Somes, were the Maori seats any

¹²⁰ Renwick, 'Self Government and Protection', p. 453.

¹²¹ Walker, *Ka Whawhai Tonu Matou*, p. 144.

¹²² Maori Representation Act 1867.

more than 'a praiseworthy device for amusing and pacifying savages for the moment'? Certainly the 'privilege of citizenship' did not prevent the continued dispossession and marginalisation of Maori. The Maori seats did, however, inaugurate another privilege: 'the privilege of petitioning'. As the following chapter shows Maori became prolific petitioners and were, in period from 1870 to 1900, successful in having commissions of inquiry appointed to investigate their grievances.

CHAPTER FIVE



The 'Privilege' of Petitioning

While the 1860s was a decade dominated by war, it was also a decade in which Maori gained the right to vote and were provided with a new means of individualising their interests in land. The Native Lands Acts and the Maori Representation Act were thus seen as mechanisms for imparting to Maori the Rights and Privileges embodied in article three, and, therefore, a means of facilitating the civilisation and amalgamation of Maori into settler society. They were also intended to address more immediate concerns. The Native Lands Acts provided some relief, albeit temporary, to the impasse in land acquisition while the Maori Representation Act was an attempt by the settler parliament at dissipating any lingering Maori resentment following the wars.

Since the first meeting of cultures Maori have demonstrated a propensity to adopt and adapt new technologies and systems, grafting them onto established institutions. Some observers interpreted this to mean that Maori were primed for colonisation and more than willing to forgo their own culture for a superior one. Significantly though, the Crown failed to recognise the extent to which Maori were unwilling to relinquish authority over their lands and communities. This applied to all Maori—'rebels', 'friendlies', and even those tribes who had not been directly affected by the physical violence of war.

Indeed, all Maori were subject to the depredations of a colonial state growing in power. Orange writes that in the decades following the wars 'the most serious attack on the vitality of Maori life stemmed from the Native Land Court'. In an attempt to obviate its effects Maori formed runanga, tribal councils, and marae committees, which sought protection in the rights and privileges guaranteed to them as British subjects. It was at this time that Maori were 'encouraged, officially and privately to have recourse to the law, a suggestion vigorously taken up in the 1870s'.¹ Yet, as this chapter demonstrates having the means to voice their concerns did not necessarily

¹ Orange, *The Treaty of Waitangi*, p. 175.

produce the results Maori desired. It did, however, contribute to the view that Maori had been afforded a privilege, as British subjects, guaranteed to them in the Treaty of Waitangi.

The chapter examines the years 1870 to 1900. During this period a pattern emerged that persists to the present: Maori agitate; the Crown investigates; then, it legislates; and again Maori agitate. The chapter discusses one aspect of protest that Maori enthusiastically engaged with. This chapter is divided into three parts. Part I—‘The Right to Petition’—provides a brief overview of petitioning in Britain and New Zealand. Part II—‘Privilege and Paradox—The Privilege’—examines the way in which Maori utilised the privilege of petitioning to pursue their grievances with the Crown. Part III—‘Privilege and Paradox—The Paradox’—discusses the extent to which the privilege of petitioning achieved outcomes that served the needs of petitioners. The chapter argues that the idea of Maori privilege is an evolving one, and that the privilege of petitioning was simply a convenient means of circumscribing Maori aspirations while facilitating the ongoing transference of land from Maori to settler.

Part I — The Right to Petition

As discussed in Chapter Two, colonisation resulted in the transplanting of British culture and tradition in New Zealand. Its constitutional arrangements were taken from Britain and, on the assumption of sovereignty, English law, became the law of the New Zealand.² The English Laws Acts of 1854, 1858, and 1908 further confirmed that as of 14 January 1840 laws existent in England were applicable in New Zealand.³ An aspect of the British constitutional tradition was the right to petition the monarch and can be traced to the Magna Carta of 1215 and the Bill of Rights 1688.⁴

In her overview of Maori petitioning Lin Johnson identifies three distinct periods: 1840–1852, 1852–1867, and 1867–1920s. These periods reflect the shift in power

² McDowell and Webb, *The New Zealand Legal System*, p. 88.

³ McDowell and Webb, *The New Zealand Legal System*, p. 92.

⁴ McDowell and Webb, *The New Zealand Legal System*, pp. 119–120.

from governor to settler parliament, although Maori continued to petition the British monarch well after effective authority had been devolved.⁵ During the period of Crown Colony rule, 1840–1852, the governor was ‘able to exercise almost unlimited powers within the bounds specified by his Commission and Instructions’.⁶ It was, therefore, to the governor that Maori most often expressed their grievances. According to Johnson, such complaints were not ‘formal’ petitions; rather, they usually took the form of a letter or deputation.⁷ Nevertheless, though informal in terms of ‘procedure’, for Maori such approaches were of high importance as they reflected the relationship Maori believed they had with the Crown.⁸

In 1852, with the passing of the Constitution Act, the settlers were granted representative government. The Act established the provinces, organs of government, the franchise,⁹ and by section 73, preserved the pre-emptive right in the Crown.¹⁰ Section 71 of the Act also made provision for the creation of self-governing Maori areas where ‘Maori law and custom could prevail’. Such areas were never created—a privilege that never was.¹¹ Because land was the nexus between Maori, the Crown, and settler, native affairs effectively remained the demesne of the governor. To this extent it was to him that Maori continued to look to remedy their concerns. However, funds for native purposes, an annual sum of £7,000, came from the Civil List¹² and as such parliament was not completely without influence. From 1856 with the introduction of responsible government Gore Browne signaled that he would consider the advice of his ministers on matters of imperial interest, including native affairs.¹³

Although responsible government allowed the settler parliament to receive petitions, most Maori continued to appeal to the governor, even after native affairs had been passed to parliament in 1864. Johnson notes also that in the period before 1867 some

⁵ Lin Johnson, ‘A Brief Overview—Petitions from Maori to the Crown/Governor, 1840–1920’, Waitangi Tribunal, 2008, p. 7.

⁶ McLintock, *Crown Colony Government in New Zealand*, p. 99.

⁷ Johnson, ‘A Brief Overview—Petitions from Maori to the Crown/Governor, 1840–1920’, pp. 8-9.

⁸ Orange, *The Treaty of Waitangi*, p. 131.

⁹ W.P. Morrell, *The Provincial System in New Zealand, 1852-76*, 2nd Edition, Christchurch: Whitcombe and Tombs Ltd, 1964, pp. 58–59; p. 64.

¹⁰ Morrell, *The Provincial System in New Zealand, 1852–76*, p. 69.

¹¹ M.P.K. Sorrenson, ‘Giving Better Effect to the Treaty: Some Thoughts for 1990’, *NZJH*, 24:2, 1990, pp. 137–138.

¹² Ward, *A Show of Justice*, p. 92.

¹³ Gore Browne to Secretary of State, 12 March 1856, *BBP*, 10, 1854-1860, p. 467.

formal petitions were made directly to the monarch. In 1865, for instance, Wiremu Tamihana, citing issues related to the Treaty of Waitangi, petitioned the Queen requesting a commission of inquiry.¹⁴ As power consolidated in the settler parliament, and following the establishment of the four Maori seats, an increasing number of petitions were laid before the House of Representatives. These constitutional developments did not mean that Maori ceased petitioning the governor or the Queen completely; indeed, Maori deputations carrying petitions to Britain were made on a number of occasions, and into the twentieth-century.

Part II — Privilege and Paradox — The Privilege

At the turn of the twentieth-century Walter Buller wrote that ‘there is nothing about which successive governments in New Zealand have been more jealous than in conserving the rights of the Maoris’.¹⁵ Buller had a distinguished career, working in the Magistrates Court, Native Department, as a barrister ‘specialising in Native Land Court business’, and he was also a notable scientist.¹⁶ Buller’s innumerable encounters with Maori led him to write that, they:

Enjoy a full share in the representation of the country, and they are allowed, under proper administrative control, the management of their own lands. They have had extended to them all the benefits of a free, secular education; they enjoy all the rights of British citizens; and no door, social, political, professional, is closed to them. They ought to be and they are, without doubt, a happy, contented, and prosperous people.¹⁷

Buller’s synopsis of race-relations during the first 60 years of colonisation is a succinct articulation of ‘official’ Maori privilege. Similar sentiments were expressed by William Pember Reeves in his classic text, *The Long White Cloud*, published in 1898. ‘As a rule’, stated Reeves, ‘civilized nations do not recognize the right of scattered handfuls of barbarians to the ownership of immense tracts of soil, only a fraction of which they cultivate or use’. New Zealand, however, was to be an ‘exception’. Maori, ‘from the noblest and most philanthropic motives’, were afforded

¹⁴ Johnson, ‘A Brief Overview – Petitions from Maori to the Crown/Governor, 1840-1920, pp. 11–12.

¹⁵ Buller, ‘The Development of the South Pacific’, reprinted from *The British Empire Review*, January, 1901, p. 13.

¹⁶ Ross Galbreath, ‘Buller, Walter Lawry’, in *DNZB, Volume One, 1769-1869*, pp.53–54.

¹⁷ Buller, ‘The Development of the South Pacific’, p. 11.

a treaty and thus ‘a title guaranteed by England’. ‘To this day’, wrote Reeves, Maori ‘regard it as the Magna Charta of their liberties’.¹⁸

It could be argued that Maori were indeed a ‘privileged’ people. They had been granted a voice in the House of Representatives, an opportunity to acquire private property, and now they had the ability to utilise the law and the institutions of a liberal democracy. Maori were quick to take advantage of these privileges. Although expensive Maori could opt to take their claims to court; since 1862 thousands of cases have been before the Native Land Court, while the superior courts have heard 600 cases relating to Maori land issues between 1840 and 1980.¹⁹ Maori could also petition parliament. Belgrave writes that ‘petitioning the legislature became a huge industry’ and as a result Maori were able to ‘induce the government to establish commissions of inquiry’.²⁰

However, the privilege of petitioning often saw Maori investing considerable effort in a process during which they made at best limited gains. In some instances, even when seemingly positive measures were recommended, they were often ignored when they did not suit the agenda of the government. Indeed, a pattern that would repeat time and again would see Maori agitate against native policy, the Crown in turn would investigate and then legislate, and, invariably, Maori would agitate against the provisions of the legislation. This highlights the extent and nature of Maori agency, and the reality of Maori privilege. Maori could certainly utilise the channels made available to them, but their claims could be constrained by the legislative process and New Zealand’s constitutional arrangements.

Many of the petitions received by the Native Affairs Committee related to the Native Land Court. Indicative of the many petitions at this time was that of Renata Kawepo and 553 others in 1872. In this case the petitioners stated that they were once the owners of the Hawke’s Bay and they had brought their lands before the Court in the hope that ‘prosperity and peace would be the result’. They believed that by dividing their lands they would gain ‘knowledge and progress so that in time they would be equal with the Europeans’. However, ‘the proceedings of the Court were not clear’

¹⁸ William Pember Reeves, *The Long White Cloud-Aotearoa*, Auckland: Golden Press, 2nd Edition, 1950, pp. 145–146.

¹⁹ Belgrave, *Historical Frictions*, p. 17.

²⁰ Belgrave, *Historical Frictions*, p. 23.

and as a consequence ‘of a great deal of improper work’ they are now ‘impoverished and in great distress’. Petitioners were told that ‘they should apply to the Supreme Court to investigate their grievance and grant them redress’; the reality is though ‘they have no money to pay for the investigation’.²¹

Another petition from Hawke’s Bay and Wairarapa Maori asked that the Native Land Court be abolished and that the petitioners be allowed the ‘privilege to elect a committee from among themselves’. While the Native Affairs Committee recommended that the latter be granted, it considered the abolition of the court to be a question of policy and should ‘be left to the consideration of the Government of the Colony’.²² Another petition requested an investigation of land transactions in the Hawke’s Bay. ‘After examining certified copies of some of the grants referred to in the petition’, and on the advice of Karaitiana Takamoana (MHR Eastern Maori), the Committee recommended ‘a Commission...be appointed, composed of some Europeans and some Natives, none of whom shall be in any way interested in the question to be investigated’.²³ In another instance petitioners asked that an investigation in to native land laws be conducted. Due to the ‘grievances complained of in this petition, and which affect the Native people generally’, the Committee recommended that ‘a full inquiry...be made by a duly appointed Commission’.²⁴

Hawke’s Bay Maori achieved some success in this regard. In 1871 Donald McLean, then Native Minister, appointed T.M. Haultain to ‘procure information with regard to the working of the Native Lands Acts, and to furnish an impartial report embracing facts representing the operations of the Acts’.²⁵ McLean also requested Sir William Martin and Edward Shortland submit a memorandum ‘on the operation of the Native Lands Courts’.²⁶ The inquiry, writes O’Malley, was ‘novel in the sense that it was the first time that Maori had officially been consulted concerning Maori land legislation’.²⁷

²¹ Petition of Renata Kawepo and 553 others, *AJHR*, 1872 Session I, I-02.

²² Petition of Tikawenga and 171 other Natives of Wairarapa and Hawke’s Bay, *AJHR*, 1872 Session I, H-II, pp. 4–5.

²³ Petition of 554 Natives of Hawke’s, *AJHR*, 1872 Session I, H-II, p. 3.

²⁴ Petition of 513 Natives of Hawke’s Bay, *AJHR*, 1872 Session I, H-II, p. 4.

²⁵ Haultain to McLean, 18 July 1871, *AJHR*, 1871 Session I, A-02a, p. 3.

²⁶ Sir William Martin, Memorandum on the Operation of the Native Lands Court, *AJHR*, 1871 Session I, A-02.

²⁷ Vincent O’Malley, *Agents of Autonomy—Maori Committees in the Nineteenth Century*, Wellington: Huia, 1998, p. 49.

Like others who gave evidence, Wi Te Wheoro and Paora Tuhaere recommended that fundamental changes be made to the Native Land Court and that Maori be given a greater say in how their lands were dealt with. ‘Judges and Assessors should be done away with’ and be replaced by ‘Maori arbitrators’; lawyers should be prohibited as ‘they know nothing of Maori custom, and go into all sorts of irrelevant questions, and cause a great deal of unnecessary expense’; ‘interpreters are worse than lawyers...they are also an unnecessary expense’. It was also suggested that the number of names permitted on a certificate or grant should be increased from 10 as ‘it has occasionally happened that the rights of those whose names have not been entered in the grants have been sacrificed by the grantees, who have sold the land and defrauded the others out of their share’.²⁸ To remedy these problems Te Wheoro considered that ‘a Maori runanga settle these questions, for the Maoris know how to deal with them...let it be for the Magistrates of the different districts to carry out or give effect to the decision of that Maori runanga’.²⁹

In October 1872 McLean brought his Native Councils Bill before parliament. The Bill seemed to go some way toward addressing the issues raised by Te Wheoro and Tuhaere. According to its preamble it sought to provide Maori with “some simple machinery of local self-government”.³⁰ The Native Minister acknowledged the many petitions from Maori ‘requesting that they might be allowed to form themselves into Committees to manage their own local affairs’. He stated that ‘it was the duty of the Assembly to lead the Native mind in any direction that would harmonize with our institutions, and the present Bill was a step in that direction’. It would apply in native districts only and would empower Committees to ‘adjust all differences and disputes among themselves’ before attending the Native Land Court. McLean stressed that the Committees would not replace the Court but would ‘materially assist’ it.³¹

When McLean’s Native Councils Bill was debated in the House William Rolleston argued that ‘it was rather a step backwards than forwards’. He considered that the ‘policy which had been pursued for some years had been to recognize the Natives as one people with Europeans, and to recognize that they were being under the same

²⁸ Joint Evidence given by Te Wheoro and Paora Tuhaere, *AJHR*, 1871 Session I, A-02a, pp. 25–26.

²⁹ Wi Te Wheoro to Colonel Haultain, *AJHR*, 1871 Session I, A-02a, pp. 28–29.

³⁰ Cited in O’Malley, *Agents of Autonomy*, p. 53.

³¹ *NZPD*, 1872, volume 13, pp. 894–895.

laws as ourselves'.³² Arthur Collins agreed, he 'entertained kindly feelings towards the Maoris'; however, 'he desired to see them abide by our laws'.³³ Thomas Gillies believed that the Bill would give too much power to Councils rendering the Native Land Court obsolete.³⁴ Unable to gain enough support, McLean withdrew the Bill.³⁵

Although the Crown refused to act upon Maori requests for a limited form of authority sustained pressure did lead to the appointment of the Hawke's Bay Native Land Alienation Commission. The Commission sat in Napier between February and April 1873 and was significant in that for the first time, Maori—Wi Te Wheoro and Wiremu Hikairo—were appointed as commissioners. Sitting alongside them were C.W. Richmond, a former Native Minister who acted as chairman, and F.E. Maning, a Native Land Court Judge.³⁶ The Commission dealt with 'complaints of fraud', the 'operation of the Native Lands Acts, and of the procedure of the Native Lands Court'.³⁷ The Crown's response to the Commission's findings was to provide a legislative solution in the form of the 1873 Native Land Act. Yet, within a year Maori were again utilising the privilege of petitioning to express their disapproval of the Crown's response.

In 1874 Mohi Mangakahia and 19 others petitioned parliament asking 'that certain sections of the Native Land Act 1873, be either repealed or amended'. The Native Affairs Committee reported that it could not 'refrain from calling attention to the importance of the petitions against the Act of 1873, as coming from very large Native districts...they are genuine expressions of the Native mind'.³⁸ Some communities established committees 'in an effort to maintain some kind of tribal control in the face of overwhelming pressures towards individualisation'.³⁹ By the end of the decade 'a steady stream of petitions' requesting that committees be officially

³² *NZPD*, 1872, volume 13, p. 895.

³³ *NZPD*, 1872, volume 13, p. 898.

³⁴ *NZPD*, 1872, volume 13, p. 899.

³⁵ Ward, *A Show of Justice*, pp. 247–248

³⁶ Report of the Hawke's Bay Native Land Alienation Commission, *AJHR*, 1873 Session I, G-07, pp. 18-19.

³⁷ Chairman's Report Hawke's Bay Native Land Alienation Commission, *AJHR*, 1873 Session I, G-07.

³⁸ Report of the Select Committee on Native Affairs, *AJHR*, 1874 Session I, I-03, p. 1.

³⁹ O'Malley, *Agents of Autonomy*, p. 63.

recognised had been received and, as O'Malley notes, were 'reported favourably on'.⁴⁰

The privilege of petitioning was also utilised by Maori in the South Island. As a result of the many petitions presented before parliament and the work of H. K. Taiaroa, Ngai Tahu was able to secure the appointment of a commission to investigate Kemp's Purchase and the Akaroa and Otakou Purchases. Taiaroa, according to Belgrave, 'put his faith in the new political world of Parliament and the courts'. His strategy was to engage with the new world 'on its own terms by using arguments that were appropriate to legal and political audiences'. Taiaroa and Ngai Tahu were successful in securing the appointment of a commission to investigate the Kemp Purchase. In 1879 and 1880 the Smith-Nairn Commission heard a large amount of evidence from Ngai Tahu witnesses.⁴¹ On the whole the commission agreed with Ngai Tahu but little respite was forthcoming, generating more petitions.

In 1884 Ngati Kuia also petitioned parliament. Teone Hiporaiti and 20 others pleaded for the Crown to apportion them more land, they being 'the poorest tribe under the heavens'.⁴² The Native Affairs Committee recommended that the government:

Take into early consideration the position of the petitioners...their land is insufficient for their reasonable wants...It seems that the original grant amounted to only about 6 ½ acres per head...Their land is also subject to destructive floods, to their very great loss...Probably legislation may be needed to enable Government to carry out the recommendation here made.⁴³

In 1887, Alexander Mackay, at the request of the Native Minister, inquired into the 'necessity of making further provision in land to meet the requirements' of the Ngati Kuia and Rangitane peoples. Mackay found that:

They did not feel so much the want of an increased area in the early days while the country was only sparsely populated by Europeans; but, as they are now hemmed in on all sides, and their requirements are much greater than in former times owing to their food supplies being cut off or considerably interfered with, they now find that

⁴⁰ O'Malley, *Agents of Autonomy*, pp. 129-130.

⁴¹ Belgrave, *Historical Frictions*, p. 192.

⁴² Petition of Teone Hiporaiti and 20 others, 7 July 1884, cited in Cybele Locke, 'Ngati Kuia: "The Poorest Tribe Under the Heavens"—Ngati Kuia's Socio-Economic Circumstances 1856-1950', Crown Forestry Rental Trust, 2001, p. 29.

⁴³ *AJHR*, 1884, Session II, I-02, pp. 11-12.

the land set apart for them...is inadequate to their wants...it would be advisable that action be taken to secure the land needed to increase the reserves.⁴⁴

In 1880, exercising the privilege bestowed on them as members of the House of Representatives, Hone Mohi Tawhai, with the support of Henare Tomoana and Wi Te Wheoro, presented the then Native Minister, John Bryce, with a Bill allowing for the election of Maori committees to arbitrate in the case of disputes. Bryce indicated his support for the Bill, but following events at Parihaka he resigned as minister in January 1881.⁴⁵ Bryce's resignation came about after he was put in possession of a telegraph from the Premier, John Hall, to Frederick Whitaker, the Attorney General. Hall intimated that he would be unwilling to work with Bryce unless he "turned over a new leaf". Bryce 'took umbrage and resigned',⁴⁶ his decision hastening the resignation of the entire Hall ministry in April 1882.⁴⁷ However, Bryce would again serve as Native Minister between 1882 and 1884 in the Whitaker and Atkinson ministries.⁴⁸

During Bryce's brief absence Tomoana presented his successor, William Rolleston, with another Bill. Due to the lack of interest shown by the government, Tomoana himself introduced a Native Committees Empowering Bill on 15 September 1881. While progressing to its second reading the Bill was discharged at the conclusion of the session.⁴⁹ Maori efforts bore some fruit in 1883 when Bryce placed before parliament a Bill which he stated 'had long been desired by the Native population'.⁵⁰ According to the *Taranaki Herald*, the Native Committees Empowering Act 1883 was a positive step forward. 'Such an act will tend to make the administration of justice amongst the natives more satisfactory, and will greatly relieve the Resident Magistrates and Judges of the Native Land Courts of much of their most tiresome work'.⁵¹

The Maori voice, it would appear, had been heard. They had taken hold of the rights and privileges afforded to them as British subjects and through their elected

⁴⁴ Alexander Mackay to the Native Minister, 9 May 1887, *AJHR*, 1888, Session I, G-1a, pp. 1-2.

⁴⁵ O'Malley, *Agents of Autonomy*, pp. 137-138.

⁴⁶ Hazel Risenborough, 'Bryce, John', Claudia Orange ed., *DNZB, Volume Two, 1870-1900*, Wellington: Allen & Unwin, 1993, pp. 61-62.

⁴⁷ W.J. Gardner, 'Hall, John', *DNZB, Volume One, 1769-1869*, p.173.

⁴⁸ Risenborough, 'Bryce, John', *DNZB, Volume Two, 1870-1900*, pp. 61-62.

⁴⁹ O'Malley, *Agents of Autonomy*, pp. 138-139.

⁵⁰ *NZPD*, 1883, volume 46, p. 153.

⁵¹ *Taranaki Herald*, volume XXXI, issue 4422, 17 August 1883, p. 2.

representatives they acquired a greater control of their own affairs. The Native Committees Empowering Act 1883 authorised the establishment of committees empowered to investigate disputed land titles, mediate between claimants, and provide advice to the Land Court.⁵² The problem though, as O'Malley observes, was the Court could simply ignore the recommendations of the committees.⁵³

The success of the committees has been considered by a number of historians. Angela Ballara, for instance, writes that they 'were regional rather than tribal and had insufficient powers'. Because of this inadequacy the committees were unpopular among Maori, although they were a 'step... towards self-determination'.⁵⁴ Ward writes that 'the official Committees did little to out-bid the mounting movement in Maori society to establish institutions of local self-government'.⁵⁵ According to O'Malley, the committees can be either seen as 'a sop to Maori aspirations to administer their own affairs, or as a genuine attempt to meet these aspirations, the...Act of 1883 was a signal failure'.⁵⁶

When the Stout-Vogel Ministry, 'the ideological predecessors to the Liberals', came to power in 1884, John Ballance succeeded Bryce as Native Minister.⁵⁷ Two of the pressing issues of the day related to the North Island main trunk railway line, and the ongoing Maori discontentment with native land law and policy.⁵⁸ The need to meet with Maori to discuss these issues, and because the relationship between the government and Maori had grown cold during Bryce's time as minister, led to Ballance embarking on a tour of the North Island at the beginning of 1885.⁵⁹

At the conclusion of his tour Ballance placed before the House his Native Land Disposition Bill.⁶⁰ Ward writes that the Bill was an attempt by Ballance to introduce a 'system whereby the Crown sold or leased land as agent for the Maori'.⁶¹ In

⁵² Ward, *A Show of Justice*, p. 290.

⁵³ O'Malley, *Agents of Autonomy*, p. 165.

⁵⁴ Angela Ballara, 'Tomoana, Henare, *DNZB, Volume Two, 1870-1900*, pp. 544-546.

⁵⁵ Ward, *A Show of Justice*, p. 290.

⁵⁶ O'Malley, *Agents of Autonomy*, p. 163.

⁵⁷ Michael Allen, 'Maori Political Thought in the Nineteenth Century: A microhistorical study of the document of speeches from John Ballance's tour of seven Maori districts', MA thesis, University of Canterbury, 2004, p. 65.

⁵⁸ Ward, *A Show of Justice*, p. 296.

⁵⁹ Allen, 'Maori Political Thought in the Nineteenth Century: A microhistorical study of the document of speeches from John Ballance's of seven Maori districts', pp. 68-69.

⁶⁰ Allen, 'Maori Political Thought in the Nineteenth Century: A microhistorical study of the document of speeches from John Ballance's of seven Maori districts', p. 69.

⁶¹ Ward, *A Show of Justice*, p. 296.

Ballance's view the problems had arisen because Maori lands were 'scrambled for by whoever had the means and had the desire to acquire them'. The solution was for the government to 'provide some machinery by which the lands might be dealt with in the interest of the Government and in the interest of the Native themselves'. The Bill was also a response to Maori demands for greater control over their lands. To this end provision was made for the establishment of land committees, 'appointed by the owners and for the owners', which would act on their behalf in determining how those lands would be dealt with.⁶²

The Bill was in the end rejected by Maori. Before the Native Affairs Committee it was made plain that Maori were unwilling to place their lands under the control of committees because the committees themselves were ultimately subject to the authority of the government. James Carroll, speaking on behalf of 'Hawke's Bay and East Coast Natives' stated that the Bill would rob them of their 'independence'. They disagreed with the proposed composition of the boards because they would include two government appointees and only one Maori. Carroll also stated that the 'Government should not have any special advantages afforded to them for the purchase of Native land, as provided by clause 25'.⁶³

The Native Lands Disposition Bill was also criticised in the colonial press. According to the *Poverty Bay Herald*, Ballance was due some credit as 'he sincerely believes that he is acting in the interests of the Native race'. Nevertheless, the more appropriate course was that taken by his predecessor who was 'firm and resolute, but always just and never endlessly severe'. Ballance's policy, on the other hand, 'resembles that of a parent whose sole idea of domestic discipline is to coax his child into obedience by promises of jam tarts and lollipops'; moreover, in doing so, the Natives 'would grow more and more unruly and exacting'. The Bill was 'another step in the wrong direction of providing separate treatment for the Maori race'. The 'grand mistake', according to the *Poverty Bay Herald*, is dealing with them as 'if they were a quasi-independent nation, instead of being, to all intents and purposes, British subjects'. Indeed such a view certainly aligns with those of Maori, inasmuch as they wanted to do with their land as they pleased. It is, however, in its reference to the building of the North Island main trunk railway line that the underlying

⁶² *NZPD*, 1885, volume 52, pp. 390-393.

⁶³ *AJHR*, 1885 Session I, I-02b, p. 1.

imperative of the *Herald's* position can be seen, the ever present 'unearned increment':

There is great danger that future trouble may result from the action of Mr Ballance in respect of the North Island Trunk Railway...To promise, in effect, or at any rate to hold out hopes that the Maoris might reap the benefits in the shape of increment of land value arising from the construction of the railway, while nevertheless they should be exempt from liability to rates...it is both idle and dangerous to stuff the Natives with such sugar-plums as these.⁶⁴

With the election of the Liberal government in 1890 and the appointment of the Native Land Laws Commission, Maori hopes of gaining greater control of their lands and communities were lifted further. The task of commissioners William Rees, James Carroll, and Thomas Mackay was wide ranging. Although authorised to consider five questions the commission submitted they 'may be fairly condensed in two':

- 1 What are the origin, nature, and extent of the present defects (a) in the Native-land laws, (b) in the alienation of interests in native land, and (c) the Native Land Courts?
- 2 What are the principles on which the Native lands should henceforth be administered, so as to benefit both Natives and Europeans and promote settlement?⁶⁵

The commission found that the Court was 'too formal and cumbrous...its practice and procedure is unsatisfactory, and as at present...is condemned by Maoris and Europeans', and should, therefore, be 'remodelled'. It recommended also that a 'Native Land Titles Court' be established to deal with past disputes and that Native Land Boards be established 'to provide machinery for carrying into effect the leasing of lands and the many duties arising under the proposed system of management'.⁶⁶

In 1900 legislation was passed giving effect to the recommendations of Native Land Laws Commission and the multitude of petitions from Maori. Like earlier government measures the Maori Lands Administration Act and the Maori Councils

⁶⁴ *Poverty Bay Herald*, 10 August 1885, p. 3.

⁶⁵ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, *AJHR*, 1891 Session II, G-01, pp. iii-v.

⁶⁶ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, pp. xxii-xxiv.

Act sought to give Maori greater control over their lands and communities. The former provided for the setting up of councils to administer lands vested in them. Leasing, rather than the selling of land, was encouraged to prevent further alienation and create time for Maori to develop farming skills. Importantly, Maori would retain a majority representation. The latter allowed for the establishment of Councils to promote Maori health and well-being. The districts in which councils operated approximated to broad tribal boundaries and by devolving limited power to local communities the Act also sought to protect the declining authority of the chiefs.⁶⁷

Part III — Privilege and Paradox — The Paradox

It could indeed be suggested that Maori had, in the period from 1870–1900, received all the rights and privileges of British subjects. The right to petition parliament, the appointment of commissions of inquiry, various amendments to native land legislation, and statements made by ministers and colonial newspapers certainly supports Buller’s assertion that ‘the manner in which the Maori race has been treated by successive New Zealand Governments, and brought in the end into political amalgamation with the British Colonists, should be an object lesson to the whole world’.⁶⁸ This description of New Zealand’s race-relations, writes Ward, ‘represented what might be called the “official” view’.⁶⁹

There is, however, another side to this story of benevolence and privilege. The fact remains that New Zealand was colonised, and colonisation, as Richard Hill writes, ‘was essentially concerned with exploitation of territories and their human and physical resources’.⁷⁰ Here, as in other colonies, war determined ‘that the Europeans, and thus European methods of government, were to be supreme’.⁷¹ With this in mind it is possible to delineate an alternative view that highlights the paradox of Maori privilege. The Crown and the settlers, as noted in previous chapters, held that the

⁶⁷ R.J Martin, ‘The Liberal Experiment’, in J.G.A. Pocock ed., *The Maori and New Zealand Politics*, Wellington: Wright & Carman Limited, 1965, pp. 52-53.

⁶⁸ Buller, ‘The Development of the South Pacific’, p. 9.

⁶⁹ Ward, *A Show of Justice*, p. 308.

⁷⁰ Richard Hill, *State Authority, Indigenous Autonomy, Crown–Maori Relations in New Zealand / Aotearoa 1900–1950*, Wellington: Victoria University Press, 2004, p. 11.

⁷¹ Sorrenson, ‘The Politics of Land’, p. 43.

greatest impediment to Maori advancement was their immense estates and the communal nature of tribal land tenure. This was the context in which notions of Maori privilege emerged. It was held that Maori had been blessed with the presence of an ‘industrious’ settler population who were quite prepared to ‘relieve’ them of their surplus lands. Moreover, a benevolent state, equally committed to freeing Maori from the restrictions of communal tenure, would provide the necessary facilities to ensure ‘liberation’. Thus, the appropriation and redistribution of land from Maori to settler, regardless of the method used in its acquisition, was seen simply as a privilege bestowed on Maori.

In the decades following the wars the most effective means of relieving Maori of the burden of their surplus land was the Native Land Court. The beauty in this, from the coloniser’s perspective, was that many Maori, particularly those who had remained ‘loyal’, believed that the law would protect them—after all they were British subjects. Initially, the Court’s impact was most marked in areas where war had not restricted its activities.⁷² ‘It was in the Hawkes Bay’, writes Sorrenson, ‘that the worst excesses took place under the 1865 Act’. During the 1850s the Crown had purchased a number of blocks, some in questionable circumstances. With the passing of the Native Lands Act 1865 settlers who had negotiated leases with Maori were able to ‘turn illegal agreements into legal lease and ultimately into freehold titles’. Many problems arose from the court’s application of section 23 which limited the number of persons to be recorded on a certificate of title to ten. Once identified ‘owners’ were targeted with offers of credit or alcohol that in the end would be paid for in land. Sorrenson notes that ‘by 1873 nearly 4,000,000 acres of Maori land in Hawkes Bay had been purchased by fewer than fifty Europeans’.⁷³

The unscrupulous means by which the Hawkes Bay settlers were able to strip Maori of their lands was well known, by Maori and settler.⁷⁴ Sharon Cole writes that before 1869 the Native Department had received four letters of complaint from Hawke’s Bay Maori; from 1869 to 1872 that number had grown to 46. Before 1870 not one petition from Hawke’s Bay Maori had been placed before the House of Representatives, in the following two years 19 were received. The common areas of

⁷² O’Malley, *Agents of Autonomy*, p. 39.

⁷³ Sorrenson, ‘The Politics of Land’, pp. 39–40.

⁷⁴ O’Malley, *Agents of Autonomy*, pp. 39–40.

concern were land, fraudulent sales, and the desire for the abolition of the Land Court. As Cole notes, Maori had recognised ‘the importance of European methods of protest’.⁷⁵ Whether or not the privilege of protest would produce a positive outcome was yet to be seen.

There is no doubt that in exercising their ‘Rights and Privileges’ Maori were able to elicit a legislative response from the Crown. In 1870 the government passed the Native Lands Frauds Prevention Act under which a commissioner would ‘examine directly in to all land-transactions between Europeans and Natives’. In order for a certificate of title to be granted a commissioner ‘would have to satisfy himself that the transaction was fair and equitable’.⁷⁶ To this extent they were responsible for ensuring that the correct group(s) were party to the deed and that they understood the nature of the transaction; that the sellers retained sufficient lands for their support; that liquor or arms were not included in the payment; and that payment was not “grossly inadequate”. According to Grant Phillipson the purpose of the Act, in principle, was to provide a check on the ‘many abuses in the system of private purchase’, not unlike the ‘role designed for the earlier Protectorate’.⁷⁷

The 1871 Haultain Commission was significant in that it called on the advice of numerous Maori leaders. Many recommended that fundamental changes be made to existing laws and that the constitution of the Land Court be changed. Haultain was well aware of Maori concerns, stating: ‘there have been serious defects in the Acts, which prevented the Natives from reaping all the advantages they expected’. He nevertheless declared that ‘there is scarcely a Native that I have examined who has expressed a desire to see the Court abolished or materially altered in its constitution’. According to Haultain, the present system was, in principle, an improvement on Crown purchasing. Moreover, the ‘commoners’ among the ‘friendly tribes’ hoped that ‘the individualization of title would remedy a grievance which they had keenly felt, though they had quietly submitted to it, namely the appropriation by the chiefs of the greater part of the proceeds of the sales of their common property’. It was the wish of many colonists also ‘to free the Natives from all special restrictions, and a

⁷⁵ Sharon Mary Cole, ‘The Repudiation Movement, A Study of the Maori Land Protest Movement in the Hawkes Bay in the 1870s’, M.A. Thesis, Massey University, 1977, pp. 38–40.

⁷⁶ Unfinished Report by the late Mr Thomas Mackay Relating to Native Land Laws, *AJHR*, 1891 Session II, G-1a, pp.11–12.

⁷⁷ Grant Phillipson, ‘The Native Land Court and Direct Purchase, 1865–1873’, cited in Dean Cowie, ‘Hawke’s Bay’, Waitangi Tribunal, Rangahaua Whanui District 11B, August, 1996, p. 213.

benevolent desire to break down those communistic customs which obstructed civilisation, and prevented their social improvement'.⁷⁸

Like Haultain, Francis Fenton, the first Chief Judge of the Native Land Court, was cognisant of Maori complaints; however, both were willing to forego such concerns for a much greater objective. In a memorandum to McLean, the Chief Judge clearly delineated the purpose of individualisation and demonstrated an awareness of the far reaching consequences it would have on Maori society:

In the destruction of the communal system of holding land is involved the downfall of communal principles of the tribe, and the power of combination for objects of war or depredation. When a man is comfortably settled on his own farm, he is not ready to follow his chief in an agitation which promises nothing beyond a little excitement, and jeopardizes all he has got.⁷⁹

There can be little doubt, then, that the purpose of the Native Land Court was to (a) facilitate individualisation so as to (b) destroy Maori social structures in order that they be (c) civilised. To this extent it was consistent with established Crown policy. While a civilised native was the desired outcome, it quickly became apparent that land loss and impoverishment would be the probable outcome. This was well known, particularly in the Hawke's Bay. Here Fenton argued that 'it would be a dangerous precedent to allow any man or class of men to gain the belief that, if their imprudence is only of significant magnitude, Parliament will come to his or their assistance'. Quite simply, stated Fenton, 'if the Maoris are to have the advantages of British subjects they must also have the liabilities and burdens'.⁸⁰

The information provided by Maori during Haultain's investigations clearly indicates that they were conscious of these 'liabilities and burdens'. Indeed many of the recommendations made sought to mitigate the problems the court system had created. It should be noted too that Sir William Martin and Dr Edward Shortland were also invited to furnish some remarks on the operation of the Native Land Court. Although not as far reaching, many of their recommendations aligned with those of Te Wheoro and Hikairo. Martin, for instance argued that 'the chief business of the Court is in fact business either of a Commission or a Jury'. In fact Martin, like Te

⁷⁸ Haultain to McLean, 18 July 1871, *AJHR*, 1871 Session I, A-02a, p. 3.

⁷⁹ Fenton to McLean, 28 August 1871, *AJHR*, 1871 Session I, A-02a, p. 10.

⁸⁰ Fenton to McLean, 28 August 1871, *AJHR*, 1871 Session I, A-02a, p. 11.

Wheoro and Hikairo, proposed a reformed court, one in which Maori would play a greater role. However, at the heart of such measures was an acknowledgement of Maori autonomy, something the Crown and Fenton were unwilling to contemplate. In the end, ‘the rule of law’, writes Ward, ‘that most precious institution of British culture...was prostituted to the land grab’.⁸¹ Herein lays the paradox of Maori privilege.

Disappointed with Haultain’s findings, Hawke’s Bay Maori again petitioned parliament and were again successful in having another commission appointed. However, any potential benefits were immediately circumscribed. At the commencement of proceedings, Richmond, the commission chair, stated that ‘this is a Court of Inquiry under the provisions of “The Hawke’s Bay Native Lands Alienation Commission Act, 1872”’. To this extent it is ‘desirable to call attention to the nature of their [the Commissioners] duties, and to the limitation of their powers’. He stated further that ‘the Commissioners are not empowered to decide any dispute, or determine the title to any land’ nor are they ‘empowered to undo the work of the Native Land Court’. ‘Parliament very rarely undoes the work of any Court’, explained Richmond, ‘if it did, no man, whether European or Maori, could feel secure in his possessions’.⁸² Thus, while the commission was limited in its jurisdiction, Richmond was also sure to note that the law would protect both races. With formalities attended to the commissioners began their inquiry.

As set down by the Commission’s governing Act complaints relating to fraud and those relating to the operation of native land laws and the Native Land Court were to be dealt with separately. In the first instance the Commission’s European members dismissed all cases, finding that the ‘natives appear to have been, on the whole, treated fairly by the settlers and dealers of Hawke’s Bay’. ‘Nothing was proved’, stated Richmond, ‘which ought, in good conscience, to invalidate any purchase investigated by us’. According to Richmond and Maning it was a ‘mere desire to repudiate for the sake of gain’ that led to ‘so large a number of complaints of fraud’. ‘We were, in effect, asked to believe’:

That not one single honest transaction in the purchase of land has taken place between persons of the two races. We found the Maori of Hawkes Bay pretending to

⁸¹ Ward, *A Show of Justice*, p. ix.

⁸² Report of the Hawkes Bay Alienation Commission-Address, *AJHR*, 1873 Session I, G-07, p. 19.

say of his Pakeha neighbours, “There is none that doeth good; no not one”. All, from the Superintendent downwards — public officers, missionaries, dealers, interpreters, squatters, were, I may say without exception, included in one sweeping condemnation; and were characteristically supposed to be acting in concert, like members of a tribe, to plunder the Maori.⁸³

It is worthwhile considering the nature of some these complaints and the way in which they were dealt with. Many were leveled at dealers whom it was alleged had taken land in order to discharge previous debts. The commissioners, though finding in favour of the dealers, also acknowledged that ‘the temptations to fraud in dealings upon credit with the more ignorant natives are very great’, and went so far as to suggest that it would ‘be possible to check by legislation’ any such reoccurrences. However, due to the already operational Fraud Sales Prevention Act and the likely amendments to the Native Lands Act then before the House, such ‘exceptional legislation’ was not required.⁸⁴

Other complaints related to the ‘allegation that part of the consideration had been received in spirituous liquors’. While admitting this may have been the case, commissioners ‘intimated very early, that we were not disposed to allow of this as a ground from setting aside transactions otherwise unexceptionable’. Commissioners took the position that they, as a ‘Court of Conscience’, were ‘expressly freed from the obligation of legal precedent’. Rather, it was argued that ‘if it be wrong in the dealer to sell, it is...wrong in the native to buy—morally wrong’. Moreover, ‘it is against morality that one party should be rewarded, and the other punished, for an action in which both must concur’. It was acknowledged that the Crown could repudiate an illegal bargain, however, the commissioners urged that no such steps be taken: ‘that the law allows repudiation cannot make repudiation honourable or right’.⁸⁵

Hawke’s Bay Maori, then, were to receive little in the way of a legal remedy, even though the commissioners postulated that ‘some of the stricter principles of an English Court of Equity may possibly be found to have been infringed upon in transactions examined by us’. No, for Hawke’s Bay Maori theirs would be a much greater privilege: a lesson in morality. ‘That a breach of the law should be

⁸³ Hawkes Bay Alienation Commission-Chairman’s Report, *AJHR*, 1873 Session I, G-07, p. 6.

⁸⁴ Hawkes Bay Alienation Commission-Chairman’s Report, *AJHR*, 1873 Session I, G-07, p. 2.

⁸⁵ Hawkes Bay Alienation Commission-Chairman’s Report, *AJHR*, 1873 Session I, G-07, p. 3.

remunerated by enabling one of the offenders to break a contract' was an anomaly that it was hoped the 'native people would not be allowed to make practical acquaintance'. This would be an unfortunate lesson for those 'who have yet to learn that they must themselves bear the burden of their own follies and misdeeds, and not hope to shift it on to other shoulders'.⁸⁶

A number of the issues raised by commissioners Richmond and Maning were at some variance to the findings of Wiremu Hikairo, one of two Maori members. Hikairo believed that the Native Lands Act had been 'worked differently by Europeans in the other provinces'. During his investigations it became apparent that negotiations for the purchasing of lands 'were conducted with grantees separately, sometimes on the roads, in some cases in public-houses, in some cases in the bedrooms of the owners, and also when they were sick'. Elsewhere, stated Hikairo, purchases were carried out in the open, 'in sight of everyone'. All of this led him to believe, contrary to his fellow commissioners, that 'it was a planned thing on the part of the Europeans of that Province [Hawke's Bay], so that they might get all the land of their Maori friends'.⁸⁷

Richmond, though reluctant to acknowledge the existence of fraud, was 'far from thinking that the Maoris of Hawke's Bay have no real grievances in the matter of their landed rights'. He admitted that the 'existing land laws as practically administered' had been detrimental to Maori, and 'that the large majority of native owners were omitted from the certificate of title issued under the 23rd section of the Native Lands Act, 1865'. As he put it, 'the procedure of the Court has snapped the faggot-band, and has left the separate sticks to be broken one by one'. Nevertheless, he considered that 'they should not impeach that procedure' or those who have 'accepted under it the rights and advantages of independent proprietorship' and the 'obligations of civilised men'.⁸⁸

The Hawke's Bay Native Land Alienation Commission clearly made a case for reform, yet from the very beginning a satisfactory result for Maori was an illusion. Of particular interest here are the terms of reference under which the commission

⁸⁶ Hawkes Bay Alienation Commission-Chairman's Report, *AJHR*, 1873 Session I, G-07, p. 3.

⁸⁷ Hawkes Bay Alienation Commission-Report of Wiremu Hikairo- Report, *AJHR*, 1873 Session I, G-07, pp. 52-53.

⁸⁸ Hawkes Bay Alienation Commission-Chairman's Report, *AJHR*, 1873 Session I, G-07, p. 7.

was to operate. Throughout the investigation the connection between the two types of complaint were dealt with separately, even though fraud and the Native Land Court's application of the law were linked, individualisation was a necessary precursor to alienation, a fact to which Richmond himself alluded. He also went so far as to mention laws and principles by which the legislature could be guided by in its deliberations. Nevertheless, rather than provide a legal remedy, which may possibly have included the repudiation of fraudulent transactions, Richmond proposed that legislation be enacted to prevent further abuses. He stressed that to do anything more would be detrimental to the moral advancement of Maori.

Paradoxically, the privilege of petitioning inaugurated legislation that would undermine Maori society as never before. Taking in to account previous criticisms, the Native Land Act 1873 now required the Native Land Court to list all owners on a memorial of ownership, not as members of a hapu or iwi but as individuals. Henry Sewell observed that by this provision 'the tribal right was *ipso facto* disintegrated; the tribe ceased to be a tribe, and became individualised'. Individualisation would in turn lead to the amalgamation of the 'Native and Europeans under one system of law'.⁸⁹ Furthermore, property ownership as an individual right would be in keeping with British views of the rights and privileges of British subjects.

Less than twenty years later the Rees-Carroll Commission found that 'for a quarter of a century the Native-land law and the Native Land Courts have drifted from bad to worse'.⁹⁰ The commission was indeed uncompromising in its assessment:

The continual attempts to force upon the tribal ownership of Maori lands a more pronounced and exact system of individual and personal title than ever obtained under the feudal system among all English speaking peoples has been the evil of Native-land dealings in New Zealand.⁹¹

According to the commission the government had 'adopted a principle and a system so strongly condemned by all competent authorities, it is not surprising that evil

⁸⁹ *NZPD*, 1873, volume 15, pp. 1369–1370.

⁹⁰ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, *AJHR*, 1891 Session II G-01, p. x.

⁹¹ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, p. viii.

effects followed'.⁹² Despite this history Maori greeted the commission with some optimism:

Each tribe was eager to express their gratitude to the Governor for thus sending Commissioners to visit them and to ascertain their wishes. This entirely new departure filled them with hope, and they spoke always as men who believed that the Government really desired to ascertain their grounds of complaint, in order to apply a remedy.⁹³

Having acknowledged Maori expectations and the reasons for 'the chaotic state of things in this department of society', the commission declared that 'Parliament is responsible, and Parliament alone can apply the remedy'. Its recommendations were predicated on 'the right of Parliament to legislate for the lands of the Natives'.⁹⁴ The commission, however, fell far short of what Maori wanted; its solution to the prevailing state of chaos was much like that proposed by the Colonial Office in the lead up to Waitangi:

In the interest of the Natives, of the Crown, and of the whole people, for the fulfillment of the Treaty and the Constitution, the right of purchase should still be vested in the Crown, and in the Crown only.⁹⁵

It should be noted that James Carroll, with regard to the proposed resumption of Crown pre-emption, dissented from the view of his fellow commissioners. In fact, his minority report can be read as a critique of Maori privilege. He recalled the words uttered by Hobson at Waitangi, by which 'the two races had become united under one sovereign'. Yet for Carroll there was 'a strange contradiction in this harmonious union', that being, the millions of acres 'secured nominally by the Government, but in reality for the more favoured subjects of Her Gracious Majesty'. Many of the purchases carried out under Crown pre-emption were 'so unjust...they were condemned in Parliament'. Indeed, 'Parliament at length was no longer able to conceal from itself that great wrongs upon the Native race were being perpetuated'. Carroll unequivocally stated that the resumption of pre-emption at this time 'would be regarded by the present generation of Maoris as simply confiscation' and would

⁹² Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, p. x.

⁹³ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, p. v.

⁹⁴ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, p. xxi.

⁹⁵ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, p. xx.

‘enrich the European colonists at the sacrifice of the territorial interests of the Maori’.⁹⁶

The question to be asked, then, is why did the Crown persist with policies that were recognisably harmful to Maori? The answer, ultimately, is because such policies facilitated the transference of land and resources from Maori to settler. Yet despite this, the Crown continued to justify its native policy by maintaining a line of reasoning that held that any short-term inconvenience experienced by Maori, as they were lifted from their state of savagery, would be more than compensated for by individualisation, the acquisition of private property, and the protection of British law. Maori would forgo the very things that made them Maori for the rights and privileges of British subjects. The price, however, was immense—60 million acres of land between 1840 and 1900.

The privilege of petitioning also allowed Maori to take their grievances beyond New Zealand. In 1882, for instance, a northern deputation travelled to England to present a petition to the Queen. Although unable to meet with the monarch, the petitioners, led by Hirini Taiwhanga, did meet Lord Kimberley of the Colonial Office. The petitioners outlined nine grievances that were in contravention of the ‘principles contained in the Treaty of Waitangi’ and requested that a commission be appointed to investigate their claims. Kimberley’s response was to return the petition to the colonial government who proceeded to assassinate the character of Taiwhanga, ‘from whom the memorial emanated’. Premier Frederick Whitaker, in his reply to the Colonial Office, stated that one only has to peruse the parliamentary papers in Britain and New Zealand to see ‘how little reason Maori have to complain’; furthermore, ‘the general legislation as to the Maoris has been more than just—it has been exceptionally favourable to them’.⁹⁷ According to Walker, the:

Self-seeking manipulation of the facts by the New Zealand Government, and its power to deny a commission of inquiry into its own wrong doing, is consistent with its behaviour as a colonising regime. Lord Kimberley’s washing of his hands of the whole affair like Pontius Pilate indicated not only compliance with manipulation of the metropolis by a raw colonial outpost, but moral turpitude as well. Truth and

⁹⁶ Report of the Commission Appointed to Inquire into the Subject of Native Land Laws, pp. xxvii-xxviii.

⁹⁷ *AJHR*, 1883 Session I, A-06, pp. 1–7.

justice as abstract principles became victims of the corrupting influence of unbridled power.⁹⁸

Orange writes that although Taiwhanga's petition was a failure, Maori 'were ready to believe that appeals were always worth attempting', and particularly with the patronage of the Aborigines Protection Society.⁹⁹ Indeed, Maori again exercised the privilege of petitioning when in April 1884 King Tawhiao, Te Wheoro, Topia Turoa, Hori Ropihana, and Patara Te Puhi departed for London. Before the deputation's arrival in London, the Aborigines Protection Society presented the Earl of Derby with a letter signed by the four Maori members of parliament. The letter made known Tawhiao's impending visit and again highlighted Maori dissatisfaction with the colonial government's native policy and land law. It was also made clear, 'with regard to the railway', that:

We will be compelled to obstruct its progress until the question of land is settled, as we did the survey at Waitara — not with any desire to cause the shedding of blood but because it is the only method we now have of offering resistance.¹⁰⁰

As with the earlier delegation, Tawhiao and his fellow petitioners were unable to secure an audience with the Queen and instead were directed to the then Secretary of State for Colonies, Lord Derby. The petitioners' complaints were predicated on the Treaty of Waitangi, the relationship it had created between Maori and the Crown, and the violations that had occurred thereafter.¹⁰¹ Once again, however, the petition was transmitted back to the New Zealand government for consideration. In an accompanying communication Lord Derby noted that petitioners were of the opinion that:

The powers granted to the Queen by section 71 of the New Zealand Constitution Act, 15 and 16 Vict., cap, 72, are still in force, and that Her Majesty may properly be invited to provide by letters patent that the laws enacted by the legislature of the colony should not extend to the Native territory; and that Native laws and customs, and usages, modified as might be thought desirable, should prevail therein, to the exclusion of all other laws.¹⁰²

⁹⁸ Walker, *Ka Whawhai Tonu Matou*, pp. 162–163.

⁹⁹ Orange, *The Treaty of Waitangi*, p. 196.

¹⁰⁰ *AJHR*, 1884 Session I, A-02, p. 14.

¹⁰¹ *AJHR*, 1885 Session I, A-02.

¹⁰² *AJHR*, 1885 Session I, A-02, pp. 2-3.

In response to Lord Derby's communications, Robert Stout, on behalf of the New Zealand government, refrained from discussing the period before 1865, lest it 'embarrass' her Majesty's Government. Stout argued that since that year the colonial government has been 'left to manage the Natives without interference by the representative of Her Majesty in the colony' and 'it is quite certain that since that period there has been no infraction of the Treaty of Waitangi'. With regard to section 71 of the Constitution Act it was held that the Imperial government had intended that it 'only be used for a short time and under the then special circumstances of the colony'.¹⁰³

The Imperial Government's response was predictable. Lord Derby informed New Zealand's responsible ministers that the petition had been discussed in the House of Commons and that there had been 'many expressions of sympathy for the Maori race'. He sought an assurance that 'the Government of New Zealand will not fail to protect and to promote the welfare of the Natives by a just administration of the law, and by a generous consideration of all their reasonable representations'. To this extent he acknowledged that Maori were represented in government and he observed 'with satisfaction that it is in contemplation to increase the number of Native representatives'. Yet the reality of the privilege of petitioning was made plain in Derby's reference to the Treaty of Waitangi whereby responsibility for carrying out its stipulations no longer rested with Her Majesty's Government, and it cannot, stated Derby, 'undertake to give you specific instructions'.¹⁰⁴

The privilege of petitioning was in many ways a hoax. Although commissions of inquiry and prominent public figures were damning of Crown actions, the civilising discourse and settler desire for land could not be nullified; indeed, any suggestion of divergence was ultimately muted. Throughout the period examined here numerous measures were brought before parliament, some of which may have offered Maori some respite, but in most cases were dismissed. According to Williams, between 1868 and 1909 32 Bills put forward by Maori members were rejected. Many of these proposed greater Maori control over their own lands.¹⁰⁵ Even those introduced by prominent settler politicians such as Donald McLean were unsuccessful.

¹⁰³ *AJHR*, 1885 Session I, A-01, p. 32.

¹⁰⁴ *AJHR*, 1885 Session I, A-02a, p.12.

¹⁰⁵ Williams, *Te Kooti Tango Whenua*, pp. 253–254.

In 1898, and coinciding with her Diamond Jubilee, the Kotahitanga parliament petitioned Queen Victoria, requesting that she ‘grant us, your Maori subjects of New Zealand, full rights and powers to reserve for ever the surviving portions of our lands to serve us your Maori people, as a mother would her children, to be as a succour to us for ever and ever’.¹⁰⁶ The Crown’s response to the petition, as will be discussed in more detail in the following chapter, was the Native Lands Administration Act 1900. The need for such legislation is clearly highlighted in the preamble and brings to the fore what privilege meant for Maori in the 60 years since 1840:

Whereas the chiefs and other leading Maoris of New Zealand, by petition to Her Majesty and to the Parliament of New Zealand, urged that the residue (about five million acres) of Maori land now remaining in possession of the Maori owners should be for their use and benefit in such wise as to protect them from the risk of being left landless.¹⁰⁷

The bulk of the five million acres referred to here was located in the North Island; Maori in the South Island, it will be recalled, had been divested of much of their lands in the first 20 years after 1840. They too continued to prosecute their case by utilising the privileges imparted to them. Ngai Tahu communicated their concerns through the southern Maori Member of Parliament and were successful in having further inquiries into their claims.¹⁰⁸ It was not until 1997, however, that ‘Te Kereme’, the Ngai Tahu claim, was settled.

Many of the issues faced by Ngai Tahu were shared by other South Island tribes. As a result of Ngati Kuia’s landlessness, a direct consequence of the inadequacy of the reserves set aside in 1856, the Crown looked to allocate further reserves under the ‘Landless Natives Scheme’.¹⁰⁹ While one could say the privilege of petitioning had delivered results—to the extent that complaints had been heard and investigated—finding suitable land would be difficult. Allocation of reserves began in 1894, and from 1896 the northern South Island was ‘informally’ dealt with by the Landless Natives Commission set up in 1893 to investigate Ngai Tahu landlessness.¹¹⁰ In

¹⁰⁶ Petition to Her Majesty the Queen, *AJHR*, 1898 Session I, I-03, p. 113.

¹⁰⁷ Native Lands Settlement and Administration Bill, *AJHR*, 1898 Session, I-3A, pp. 94–95.

¹⁰⁸ Ballantyne, ‘The State, Politics and Power’, p. 117.

¹⁰⁹ *Te Tau Ihu o Te Waka a Maui—Report on the Northern South Island Claims*, volume II, Waitangi Tribunal, Wellington: Legislation Direct, 2008, pp. 657–658.

¹¹⁰ *Te Tau Ihu o Te Waka a Maui - Report on the Northern South Island Claims*, volume II, pp. 661–662.

1906, when the Landless Natives Bill was debated in parliament, James Carroll stated that ‘it has been a blot on our colonial reputation to have allowed these claims to remain unsettled and undetermined for so many years’.¹¹¹ Over a century later the Waitangi Tribunal identified the reality of the privilege of petitioning, finding that:

Officials were unwilling to give priority to the task of finding for all the landless natives identified in various parts of the South Island (including Te Tau Ihu), or to consider taking bold action such as acquiring privately owned land for them. Instead, they very seriously looked at very remote and unsuitable locations for the proposed reserves.¹¹²

Although the privilege of petitioning did not guarantee any particular outcome there was an expectation that Maori would at least be afforded the same consideration as other British subjects. As will be discussed in the following chapter the Crown would continue to advance the interests of the settlers, at the expense of Maori. Maori on the other hand would have to remain content with policies that were framed as protecting them, but in reality facilitated further land loss.

¹¹¹ *NZPD*, 1906, volume 136-137, pp. 318, 323–325.

¹¹² *Te Tau Ihu o Te Waka a Maui—Report on the Northern South Island Claims*, volume II, p. 663.

CHAPTER SIX



The Most Privileged People of All?

At the turn of the twentieth-century many in New Zealand held the view that their country had the best race-relations in the world. New Zealand had certainly experienced some problems, nevertheless, since 1840 Maori had been provided with a means of acquiring private property and been given the right to vote. A beneficent Crown had also appointed commissions of inquiry, which included Maori commissioners, to hear Maori grievances and concerns. With this in mind one can understand how the belief that Maori were a peculiarly privileged people became an established and unassailable truth.

Other developments at this time also fostered the belief in Maori privilege. The debate on federation with Australia, for instance, contributed to a belief that New Zealand was different, better, than Australia (and other ‘neo-Britons’). A commission of inquiry, established in 1900, confirmed this and New Zealand declared that it would make its own way in the world. Although not the weightiest concern, the place of Maori and Aboriginal peoples within any proposed federation was given some consideration. One submitter stated that ‘the position, the privileges, and restrictions on aboriginal and dark races will have to be settled in Australia itself. Here we have admitted the Maoris to equal or greater privileges than our own’.¹ The decision not to federate led the *Auckland Star* to write:

We may congratulate ourselves that by refusing to amalgamate with Australia we have escaped a very serious “native” problem; and the treatment of our Maori fellow-citizens would certainly be a very important factor in any future discussion of the possibility of any kind of political union with Australia.²

¹ ‘Report of the Royal Commission on Federation’, *AJHR*, 1901 Session I, A-04, p. 358.

² *Auckland Star*, 25 February 1905, p. 4.

This chapter examines the 45 years from 1890 to 1934. A period dominated by the Liberal government, widely regarded as New Zealand's first populist government, it is also a period in which the connection between 'official' privilege and 'populist' assertions of privilege was made explicit. New Zealand's first political party came to power promising the closer settlement of land, and inaugurated a legislative programme to achieve this end. Those who supported the Liberals were opposed to 'landlordism' believing it to be the root of the colony's ills. Land reform, writes Len Richardson, was at the time viewed as 'both a solution to urban problems and as a social good in itself'.³ Getting land and putting settlers on it, then, would be the priority for the Liberals and their supporters. In the South Island the Liberals disassembled the 'great estates', beginning in 1893 with the 84,755 acre Cheviot Estate.⁴ In the North Island, however, it was Maori who would make the greatest contribution to the Liberal vision of New Zealand.

The chapter is divided into five parts. Part I—'The Privilege of Protection: from chaos to order'—briefly surveys legislation introduced during the Liberal's first five years in office, ostensibly to protect Maori, but in reality it effectively divested Maori of their land. Part II—'The Privilege of Leasing'—considers the Maori Lands Administration Act 1900 and 'taihoa', Carroll's attempt at stemming the loss of land. Part III—'Towards the Privilege of Free Trade'—discusses the Opposition's response to the Maori Lands Administration Act 1900. Part IV—'The Politics of Privilege'—discusses the extent to which notions of Maori privilege were put to use in the political sphere. It argues that the Liberal's native policy and that of the Opposition were two sides of the same coin and that, regardless of what form of 'privilege' Maori were subjected to, the outcome was the same. Finally, Part V—'The Privilege of Paternalism'—examines the extent to which notions of Maori were deployed prior to, and during, the 1934 commission of inquiry in to the Native Affairs department which led to Ngata resigning as Native Minister.

³ Len Richardson, 'Parties and Political Change' in W.H. Oliver, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, p. 200.

⁴ Tom Brooking, *Lands for the People? The Highland Clearances and the Colonisation of New Zealand*, Dunedin: Otago University Press, 1996, pp. 113–116.

Part I — The Privilege of Protection: from chaos to order

As discussed in the previous chapter, one of the Liberal administration's first undertakings was the appointment of a commission to investigate the history of native land law and its impact on Maori. The commission, another example of an 'official' privilege imparted to Maori, was highly critical of past governments' native policy and made a number of recommendations intended to bring order to a situation it described as 'chaotic'. What was meant by 'chaotic', however, was simply that the situation as it existed impeded the transference of land from Maori to settler. Between 1887 and 1890 the Atkinson administration had 'only' managed to acquire 865,000 acres of Maori land.⁵ To overcome this impasse parliament passed and amended legislation so that, in Brooking's words, they 'locked together like pieces of a meccano set'; and, 'in combination... accelerated noticeably' the rate of alienation.⁶

Four pieces of legislation that helped streamline the process of alienation are worth noting. The Liberals, in order to fund the purchase of land that was soon to be made available for settlement, enacted the Native Lands Purchase Act 1892;⁷ the Native Land (Validation of Titles) Act 1892 (and 1893) which allowed for the investigation of incomplete land transactions;⁸ and its amendment, which established a Validation Court to 'hear, settle, and determine' title and/or rights to disputed lands.⁹ The purpose of the Native Land Purchase and Acquisition Act 1893 is made plain in the title; the rationale is contained in the preamble:

Whereas at least seven million acres of land, principally situated in the North Island of the colony, owned by Natives, are lying waste and unproductive, and, in the interest of the Natives and of Her Majesty's other subjects in the colony, and more especially for the extension of settlement, it is necessary that such land should be made available for disposal under the land laws of the colony.¹⁰

⁵ Tom Brooking, 'Busting Up' The Greatest Estate of All', *NZJH*, 26:1, 1992, p. 82.

⁶ Brooking, 'Busting up' The Greatest Estate of All', p. 83.

⁷ Native Land Purchases Act 1892.

⁸ Native Land (Validation of Titles) Act 1892.

⁹ Native Land (Validation of Titles) Act 1893.

¹⁰ Native Land Purchase and Acquisition Act 1893.

The intended acquisition of Maori land was facilitated by the resumption of pre-emption, which was framed as protecting Maori. This official privilege was included in the Native Land Court Act 1894, section 117 of which restored full pre-emption across the colony.¹¹ A recommendation of the Rees-Carroll Commission, the resumption of Crown pre-emption, was central to Liberal's Maori land policy. When arguing the need for such a measure, Seddon declared:

We must protect the Natives against fraud where they have not received fair value...I say myself that we shall not be doing what is just to the Native race or right to the colony if we do not resume the pre-emptive right.¹²

Significantly, all of these pieces of legislation were framed as protective measures and politicians often drew on the 'rhetoric of benevolence' when debating their passage through the House. During the second reading of the Native Lands Purchase Bill, Native Minister Cadman stated that:

Provision is made in this Bill by which the Natives shall not become paupers by squandering their money and it is proposed to put a certain amount of this money, when the land is acquired, in the hands of the Public Trustee as an investment or an endowment for the Natives. This will prevent them from squandering their money as they have done in the past; and, although the Natives may make demur to this, it is really for their benefit.¹³

The Native Land Purchase and Acquisition Act was also enacted for the 'benefit' of Maori. According to Seddon, Maori were 'rich in lands, but otherwise, wherever you meet them, poor, and...in some cases living in a state of semi-starvation'. The cause of this situation, argued Seddon, was that:

No sufficient attempts have been made, to give the Natives an opportunity of disposing of their lands to Europeans through the Government in such a way that their rights would be preserved, and that they should get the fair value for their land.¹⁴

¹¹ Native Land Court Act 1894.

¹² *NZPD*, 1894, volume 86, p. 374.

¹³ *NZPD*, 1892, volume 77, p. 221.

¹⁴ *NZPD*, 1893, volume 81, p. 518.

A pervading view throughout the nineteenth-century was that Maori could not possibly bring all of their lands into production, and that the retention of such lands was detrimental to Maori advancement. Thus, legislation that enabled the transference of ‘waste’ or ‘idle’ lands from Maori to settler was seen to be of benefit to all. If the success of the Liberal government’s legislative programme can be measured, then it must be in the amount of acres acquired. According to Brooking it amounted to 4.4 million acres, of which Maori contributed 3.1 million acres.¹⁵

Other legislative measures, passed primarily under the guidance of John McKenzie, further assisted the settlers in taking up Crown land.¹⁶ A graduated land tax, introduced as part of Ballance’s 1891 Land and Income Assessment Act, bore fruit in the break-up of the Cheviot Hills estate.¹⁷ The Land Act 1892 made provision for a variety of land alienation options: purchase, a 25-year lease with a right of purchase, and a 999-year lease.¹⁸ Joseph Ward’s 1894 Advances to Settler Act established an Office empowered to provide both leaseholders and freeholders with cheap loans to develop their lands.¹⁹ According to Oliver this was ‘possibly the most significant of all the reforms affecting the farmer; it gave him the help he most needed’.²⁰ Maori, however, while not excluded on the basis of race, were unable to take advantage of the scheme because the Crown would not accept as security multiple-owned Maori freehold land.²¹ This is to say, Maori were in fact impeded in their access to development finance by the very title system they were encouraged to adopt.

Part II — The Privilege of Leasing

As had been the case during the period of Crown colony rule, the ‘privilege of protection’ simply meant the transference of Maori land to settlers. Although Maori had been demanding that purchasing cease, and that they be given greater control over their lands, it was not until 1900 that these demands, it seemed, would be met.

¹⁵ Brooking, ‘Busting Up The Greatest Estate of All’, p. 78.

¹⁶ Oliver, *The Story of New Zealand*, p. 143.

¹⁷ Tom Brooking, ‘McKenzie, John’, in Claudia Orange ed., *DNZB, Volume Two, 1870-1900*, pp. 296.

¹⁸ Oliver, *The Story of New Zealand*, p. 144.

¹⁹ Brooking, ‘McKenzie, John’, pp. 296.

²⁰ Oliver, *The Story of New Zealand*, p. 143.

²¹ ‘Government Advances to Settlers Act 1894’, *AJHR*, 1895, Session I, B-13a, p. 2. See: Richard Boast, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865–1921*, Wellington: Victoria University Press, 2008, pp. 260–261.

Sixty years of Maori 'privilege' had produced a situation in which a potentially landless Maori population could become a burden on the state. (It should not be forgotten that most South Island Maori had already been deemed landless).

The Native Lands Administration Act 1900 was ostensibly geared to prevent this from occurring.²² Carroll hoped 'to stop further alienation of Native land by way of sale, and utilise them by way of lease for the benefit of the Native owners and their descendants after them'.²³ Such a noble objective, however, had to be balanced against a growing settler desire to utilise 'idle' land.²⁴ As Carroll went on to say, we must 'not lose sight of what is desirable in the interests of the colony'. He reasoned that 'by leasing on liberal terms we can promote settlement...and bring into profitable use large areas of Native land, at the same time preserving the freehold for the owners'.²⁵

The Act also made provision for the creation of Land Councils in which 'surplus' land would be vested and then leased. The Councils, with a Maori majority, were an attempt at satisfying the demands of Maori to control their lands. According to Donald Loveridge, the 'composition of the first land councils adhered to the letter and spirit of the Act'.²⁶ Councils, through Papatupu Block Committees, were also tasked with ascertaining titles to land. By March 1903 seven Councils had been appointed and within six years of the Act coming in to force Land Councils had been entrusted with 236,500 acres of land, of which 56,333 acres had been leased.²⁷ The success of the Act depended on the willingness of Maori owners to vest their lands in the Councils,²⁸ but as the legislature would soon discover, it 'had failed to recognize the extent to which the Maoris distrusted pakeha intentions'.²⁹

²² Richard Martin, 'Aspects of Maori Affairs in the Liberal Period', M.A. Thesis, Victoria University, 1956, p. 120.

²³ *NZPD*, 1900, volume 114, p. 503.

²⁴ Barbara Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900–1912', M.A. Thesis, University of Auckland, 1969, p. 17.

²⁵ *NZPD*, 1900, volume 114, p. 503.

²⁶ Loveridge, 'Maori Land Councils and Maori Land Boards', pp. 32–35.

²⁷ Loveridge, 'Maori Land Councils and Maori Land Boards', pp. 38–39.

²⁸ Hill, *State Authority, Indigenous Autonomy*, p. 72.

²⁹ Martin, 'Aspects of Maori Affairs in the Liberal Period', p. 111.

The refusal of Maori to vest land voluntarily, and a growing settler desire to open up new land for settlement, moved the Crown towards compulsion.³⁰ In ‘principle’ Carroll did not object to the voluntary provision of the 1900 Act. ‘It is right’, stated Carroll, ‘that you should allow a man to have the option’; however, ‘you do not want to give a Maori his title and leave him alone, a prey to all the surrounding circumstances, without any definite course of action’.³¹ For Carroll, compulsion was a means of protecting Maori interests. ‘Compulsory vesting to safeguard Maori ownership’ was inaugurated under the Maori Land Laws Amendment Act 1903. It empowered the Native Minister to purchase land subject to mortgages derived from the cost of survey liens and entrust it to the local Land Council. The Crown would then draw on the money from the lease as repayment. Alternatively, part of the block could be taken by the Crown to cover the mortgage. Before this mortgages would be settled through the sale of the respective block.³²

Further moves towards compulsory vesting were contained in the Maori Land Settlement Act 1905.³³ During the second reading Carroll stated that the Bill was ‘of national importance, and for the general welfare of the colony’. ‘We must satisfy the public demand, while at the same time conserving the rights of the Natives’.³⁴ The Act saw Land Councils replaced by Land Boards, on which Europeans were the majority, and the resumption of Crown purchasing in all North Island districts, except Tairāwhiti and Taitokerau.³⁵ In these areas purchasing was delayed until January 1908 due to the ‘strenuous objections’ of Wi Pere and Hone Heke.³⁶ However, under section 8 of the Act land “not required or suitable for occupation” could be compulsorily vested and administered by Land Boards for the “benefit” of its owners. Vested land could be leased for up to 50 years, which one newspaper argued was ‘undoubtedly in the interest of the natives’.³⁷

The Act also removed restrictions on leasing, although approval of lease conditions was still required from Land Boards. Where purchasing resumed the Act stipulated

³⁰ Hill, *State Authority, Indigenous Autonomy*, pp. 75–76.

³¹ *NZPD*, 1900, volume 114, p. 503.

³² Loveridge, ‘Maori Land Councils and Maori Land Boards’, p. 42.

³³ Hill, *State Authority, Indigenous Autonomy*, p. 78.

³⁴ *NZPD*, 1905, volume 135, pp. 702–705.

³⁵ Williams, *Politics of the New Zealand Maori-Protest and Cooperation, 1891–1909*, p. 127.

³⁶ *Manawatu Standard*, 25 October 1905, p. 4.

³⁷ *Poverty Bay Herald*, 20 October 1905, p. 4.

that prices would be no less than government valuation; furthermore, before any sale could be confirmed the Governor required assurance that the owners had ‘sufficient land’ for their maintenance. In this way it was held that the rights of Maori would be protected. Under these conditions purchasing resumed in the Hawke’s Bay, the Bay of Plenty, Waikato, and in Upper Wanganui.³⁸

Carroll’s attempt at vesting all Maori land in Land Boards was born out of a desperate want to preserve that which remained in Maori possession. ‘He was’, writes John Williams, ‘all for perpetuating a system which would protect the Maoris from the wholesale alienation of land’.³⁹ At the time, similar, although not exact, sentiments were shared by other Maori politicians. In a letter addressed to the Premier, Hone Heke, Wi Pere, and Tame Parata drew attention to the fact that the colony had ‘already enormously benefitted by its early native land laws, and out of close on 67,000,000 acres we only have 4,000,000 acres left for the support of the Maori owners and those dependent on them’, as a consequence of those laws ‘the Europeans have become stronger in every way’. Moreover, the Premier was reminded that:

By continuing the acquisition by purchase of the balance of lands owned by the Maoris you will break the Government policy adopted by the legislation of 1900...and you will add to the thousands of Maoris that the state through the policy of early Governments, have already rendered landless, thus making them a burden on the state and consolidated fund of this country.⁴⁰

For Carroll the path was clear. He would continue along the lines of what had become known as ‘taihoa’, or ‘the staving off of alienation of the freehold to give the Maoris time to acquire the knowledge and skills of the pakeha’. Inevitably, leased lands ‘would revert to the owners at a time when they were capable of “standing on their own feet”’. This, according to Gilmore, was the ‘sort of attitude which lay behind the Maori land acts of 1900 and 1905’.⁴¹

³⁸ Williams, *Politics of the New Zealand Maori-Protest and Cooperation, 1891–1909*, p. 127.

³⁹ Williams, *Politics of the New Zealand Maori Protest and Cooperation, 1891–1909*, p. 35.

⁴⁰ *New Zealand Herald*, 8 September 1905, p. 6.

⁴¹ Gilmore, ‘Maori Land Policy and Administration during the Liberal Period 1900–1912’, p. 5.

Having failed to place all Maori land in the North Island under section 8 of the 1905 Act, Carroll employed a ‘new strategy’—the appointment, in January 1907, of a Royal Commission to ‘Inquire into the Question of Native Lands and Native Land Tenure’.⁴² The Commission, like previous investigations of its type, afforded Maori with another opportunity to have their concerns addressed. The then Chief Justice, Robert Stout, chaired the Commission, but it was the appointment of Apirana Ngata, the recently elected Member of Parliament for Eastern Maori, that most contributed to the hope of a positive outcome for Maori.⁴³ Ultimately some 2,791,190 acres were examined by the commission of which 2,040,878 acres were the subject of recommendations.⁴⁴ ‘This was the first occasion’, writes Boast, ‘where any government had made an effort to acquire some reliable data on the actual state of Maori land ownership, instead of relying on anecdote and prejudice’.⁴⁵

The commission’s terms of reference referred specifically to those areas that were ‘unoccupied’ and ‘partially unprofitably occupied’. The commission’s task, then, was to specify ‘what areas (if any) of such lands could or should be set apart’ and categorise them according to their productive potential. In order to expedite these objectives the commissioners were directed to report on ‘how the existing institutions established amongst Natives and the existing systems of dealing with Native lands can be utilised or adapted for the purpose aforesaid’.⁴⁶

Like other Maori leaders, Ngata knew full well the importance of farming. He warned Maori that they ‘must utilise their lands, and unless they utilise them they must make way for others’. His, writes Sorrenson, was ‘a delicate task but he took the opportunity to educate his colleague and, hopefully, the public’ about the problems Maori faced.⁴⁷ This call did not go unheeded. During the commission’s investigations many Maori were ‘exceedingly desirous’ to engage in farming.⁴⁸ A problem they faced was the incomprehensible array of legislation connected with

⁴² Loveridge, ‘Maori Land Councils and Maori Land Boards’, p. 49.

⁴³ M.P.K. Sorrenson, *Na To Hoa, From Your Dear Friend—The Correspondence between Sir Apirana Ngata and Sir Peter Buck 1925-50*, Volume One, Auckland: Auckland University Press, 1986, p. 24.

⁴⁴ *AJHR*, 1909, G-1G, pp. 1-3, p. 5.

⁴⁵ Boast, *Buying the Land, Selling the Land*, p. 227.

⁴⁶ *AJHR*, 1907, G-1, pp. i-ii.

⁴⁷ Sorrenson, *Na To Hoa, From Your Dear Friend*, p. 24.

⁴⁸ *AJHR*, 1907, G-1, p. 1.

Maori land. Stout and Ngata laid down a ‘*résumé* of our early Native-land laws’, including many of the findings and criticisms made by the earlier Rees-Carroll Commission. Stout and Ngata found that:

The confusion of our Native-land laws is admitted by every one. The history of over forty years’ legislation on the subject reveals sharp changes or oscillations of policy, corresponding with changes of Government and political parties. While there has been no material change in the method of investigating titles, the mind of the Legislature has swung like a pendulum between the extremes of restriction against private alienation and free trade in Native lands.⁴⁹

A point to note here is that regardless of where ‘the mind of the Legislature’ was, whether the policy of the day was free trade or pre-emption, Maori were judged to be a privileged people. Yet, perpetual ‘privilege’ had done little for Maori who, according to Stout and Ngata, are ‘in a most critical position’. Nevertheless, they were a ‘race...worth saving, and the burden and duty of preserving the race rests with the people of New Zealand’. The commissioners went as far as to state that although ‘there is great pressure from European settlers to obtain possession of their lands’:

The paramount consideration — what should be placed before all others when the relative values of the many elements that enter into the Native-land problem are weighed — is the encouragement and training of the Maoris to become industrious settlers.⁵⁰

Stout and Ngata observed that little had been done to assist Maori in this direction. Rather, it had been ‘assumed’ that because ‘the law had affirmed his right of ownership, he was at once in a position to use the land...and to bear the burdens and responsibilities incident to the ownership of the land’.⁵¹ As Sorrenson aptly writes:

Such was the Victorian faith in the merits of private property and indeed in the virtue of their own civilisation, that it was assumed that the Maoris would make the

⁴⁹ *AJHR*, 1907, G-1c, pp. 1–2.

⁵⁰ *AJHR*, 1907, G-1c, pp. 14–16.

⁵¹ *AJHR*, 1907, G-1c, pp. 14–16.

same use of, and derive the same benefits from, their rights and privileges as would Europeans.⁵²

The reality, as Stout and Ngata explained, was far from this; Maori had suffered under a severe handicap, and now, having ‘failed to fulfill expectations and to bear his proportion of local and general taxation he is not deemed worthy to own any land except the vague undefined area that should be reserved for his “use and occupation”’. Stout and Ngata therefore recommended that primary consideration be given to settling Maori on the land.⁵³ Indeed, as it will be argued, Maori ‘settlers’ did not receive the same privileges as aspiring European farmers.

Stout and Ngata had clearly articulated the problems faced by Maori. Others too were aware of the future Maori might soon face. During the debate on the Native Land Settlement Bill Joseph Ward argued that ‘unless the Legislature took due safeguards to protect the Maori...a very large proportion of the Native race would quickly become depleted of their estates’. This was the ‘principal fear of all responsible men’.⁵⁴ Carroll, who had introduced the Bill, understood clearly the delicate line he had to walk; ‘there are those who claim there should be nothing but leasehold; there are those, again, who claim that all tenure should be freehold; and there are also those who believe in a percentage of both...the latter course...meets with the more general acceptance’.⁵⁵

Like other pieces of legislation dealing with Maori land, the Native Land Settlement Act 1907 was framed as meeting ‘the interests of the Native owners and the public good’. The Act, nevertheless, was but another means of acquiring land and transferring it to the settlers. The Act created two categories of land: that which was for ‘general settlement’ and that which was to be retained by Maori for their own use. Land deemed by the commission to be suitable for ‘general settlement’ fell under part one of the Act and could be compulsorily vested in Land Boards and henceforth

⁵² M.P.K. Sorrenson, ‘The Politics of Land’, in Pocock, ed., *The Maori and New Zealand Politics*, p. 30.

⁵³ *AJHR*, 1907, G-1c, pp. 14–16.

⁵⁴ *NZPD*, 1907, volume 142, p. 1050.

⁵⁵ *NZPD*, 1907, volume 142, p. 1034.

made available for lease or sale.⁵⁶ By January 1910 land vested in Land Boards under section 11 of the Native Land Settlement Act totaled 317,098 acres.⁵⁷

The Stout-Ngata commission also found that it would be beneficial if ‘the various Native-land laws, amounting to more than sixty different statutes, were consolidated’. Furthermore, the commission considered that the Land Court should be tasked with ‘the consolidation of scattered individual or family interests by a series of exchanges into compact holdings’.⁵⁸ The Crown’s response to these recommendations was the Native Land Act 1909. Butterworth writes that the Act was ‘the largest piece of Maori legislation to date, consisting of 410 sections organised into four parts repealing entirely or partially 49 Public Acts, 18 Local Acts and two Private Acts’.⁵⁹

While the Act had ‘built in safeguards intended to prevent owners rendering themselves landless’ it also ‘provided clear well-defined procedures to alienate Maori land’.⁶⁰ As the Bill passed through the House Carroll declared that there was ‘ample protection against...the improvidence of the average Maori’.⁶¹ The lifting of restrictions on purchasing Maori land ‘is made to meet the undoubted advance made by the Maori people’.⁶² According to Carroll, ‘the experience of the past shows that the Maori has made great strides towards civilisation, and is in many respects quite able to fulfill the ordinary duties of citizenship’.⁶³

In 1907 Ngata was able to achieve some success in freeing up funds for Maori land development, but this was ‘part of a trade off for renewed purchasing’.⁶⁴ The accrued revenue came from lands vested in Land Boards and the Public Trustee, that is to say, it was Maori money. According to Ward, however, it ‘had not amounted to very much at all and generally Maori still had to go to the private market, where interest

⁵⁶ Loveridge, ‘Maori Land Councils and Maori Land Boards’, p. 55.

⁵⁷ Alan Ward, ‘National Overview’, volume II, Waitangi Tribunal Rangahaua Series, Wellington: GP Publications, 1997, p. 378.

⁵⁸ AJHR, 1909, G-1g, p. 8.

⁵⁹ Butterworth, *Maori Affairs*, p. 66.

⁶⁰ Butterworth, *Maori Affairs*, p. 66.

⁶¹ NZPD, 1909, volume 148, pp. 1102–1103.

⁶² NZPD, 1909, volume 148, pp. 1101–1102.

⁶³ NZPD, 1909, volume 148, pp. 1102–1103.

⁶⁴ Ward, ‘National Overview’, volume II, pp. 374–375.

rates ranged from eight percent to 15 percent or even 20 percent'.⁶⁵ Subsequently, Ngata was to make 'constant complaint that no funds from the State's general revenue were ever expended in the development of lands owned or occupied by Maoris—a restriction that did not apply to lands owned or occupied by Europeans'.⁶⁶ And, as Peter Buck stated in 1911, 'not even the European, with all his inherited instincts for agricultural pursuits, could do anything without the financial assistance he receives from the State and various people who are able to give it'.⁶⁷

The Stout-Ngata Commission, as with previous commissions, played an important role in maintaining the illusion of the Crown as a benevolent protector. While for Carroll the commission was a way of 'meeting the growing tide of both Maori and pakeha disaffection with the government's land policies', others have suggested that the constraints placed on Stout and Ngata at the outset eventually determined the outcome. Hill writes that in the 'public good' effectively 'meant that which best suited the capitalist political economy and the pakeha settlers on which it primarily rested'.⁶⁸

Dion Tuuta similarly suggests that while the 'commission recognised...the situation Maori had been placed in', and gave Maori 'beneficial consideration', the commission itself was 'an instrument to further the goal of continuing settlement'.⁶⁹ Seddon himself had recognised the need for such an investigation in 1904: 'Before any comprehensive system of administration can be fully inaugurated, a careful stocktaking of all Maori lands will be required'. Having done this the Crown could begin 'opening up every acre not required by the Maoris for their occupation and support'.⁷⁰ Tuuta is indeed correct when he writes that the commission created an 'inventory' of alienable land that could be brought in to production, or rather, taken from Maori sometime in the future. Knowing at once how much land Maori had, and indeed what they required to prevent them becoming an imposition on the state, allowed the Crown to claim its role as protector. As for the Royal Commission's

⁶⁵ Ward, 'National Overview', volume II, p. 413.

⁶⁶ R.M. Burdon, *The New Dominion—A Social and Political History of New Zealand 1918–1939*, Wellington: A.A. & A.W. Reed, 1965, p. 281.

⁶⁷ *NZPD*, 1911, volume 154, p. 157. Martin, p. 130.

⁶⁸ Hill, *State Authority, Indigenous Autonomy*, pp. 81–82.

⁶⁹ Dion Tuuta, 'Diverging Paths: an examination of the Stout-Ngata recommendations and subsequent legislation', MA Thesis, Massey University, 1996, p. 22.

⁷⁰ 'Financial Statement', *AJHR*, 1904, B-6, p. xvii.

findings, they were always going to be subject to interpretation. As Tuuta aptly writes:

Ultimately the recommendations made by the Commission in favour of Maori wishes fell short of being fully implemented into legislation...because the government was not prepared to sacrifice such increasing settler access to land in the first decade of the twentieth century for the sake of the Maori people.⁷¹

Part III — Towards the Privilege of Free Trade

At the end of the nineteenth-century the central social, economic, and political issue of the day was land. As Brooking has observed:

The enormous amount of land legislation passed, the vast number of words spoken in Parliament and on the hustings on land tenure and use, the space devoted in newspapers to the land question and the large number of pamphlets written on the subject, all attest to the vital importance of the land issue.⁷²

Between 1900 and 1909 the leasing provisions of the Maori Lands Administration Act were systematically eroded. By 1909 little of what was intended of the Act remained. Indeed this period can be characterised as a shift from leasing land to free trade in land. Of interest here is the extent to which assertions of Maori privilege framed discussions on land tenure. An often heard cry was that of ‘landlordism’ and it is here that notions of Maori privilege were most clearly articulated. Again, the notion that Maori had received ‘official’ privileges through government legislation was met with a public reaction asserting ‘populist’ privilege—the belief that Maori were receiving privileges that set them above the ordinary citizen.

The Liberals, as discussed earlier, had come to power declaring they would rid the colony of this ill. Anti-landlordism was not limited to European landlords, however. The *Timaru Herald* wrote in 1891:

If landlordism is bad when civilised men are owners, how much worse will it be when the owners are a race of savages and semi-savages? The system is, moreover,

⁷¹ Tuuta, ‘Diverging Paths’, p. 22.

⁷² Brooking, *Lands for the People*, p. 79.

opposed to the best interests of the natives. If they are degraded now they will go down to a yet lower level when they are living in permanent idleness on the annual rental of their lands.⁷³

While landlordism was seen as a problem for both the colony and Maori, Maori landlordism was of particular concern. According to Angela Ballara there was a pervading view among the settlers that while ‘European absentee landlords aggregated huge undeveloped estates against the day when land prices would rise, in order to make a “killing”’; they at least ‘paid taxes on their lands’. Maori, on the other hand, paid nothing. Rather they sat idly by while their land gained value through the industry and endeavour of their European neighbours.⁷⁴ Brooking writes also that ‘Maori landlordism was even more intolerable, because it combined the worst features of the Old World land ownership and New World savagery’.⁷⁵ Perhaps one of the greatest fears, however, as a newspaper at the time opined, was simply that the ‘hapless European tenant would be the perpetual serf of his dusky landlord’.⁷⁶

Assertions of Maori privilege are also discernible in discussions about whether or not land held in customary Maori tenure should be subject to rates. In 1871, while debating the Highway Boards Empowering Bill, some European members of the House argued that ‘Maori should be rated because many now had Crown grants and used the roads’.⁷⁷ It was suggested elsewhere that ‘if the Natives would not pay rates they ought not be allowed to use the roads but have to walk in the ditches’.⁷⁸ Once enacted, only Maori land that had been issued a certificate of title by the Native Land Court was subject to rates. This ‘compromise’, writes Ward, would ‘appear in subsequent rating measures’.⁷⁹

The belief that Maori were dodgers, privileged by their exemption from rate payments, can be seen in many of the debates dealing with rates legislation. During the passage of the Crown and Native Lands Rating Act 1882 the M.P. for Dunedin South was drawn to comment:

⁷³ *Timaru Herald*, 11 May 1891, p. 2.

⁷⁴ Ballara, *Proud to be White?* P. 76.

⁷⁵ Brooking, *Lands for the People?* p. 86.

⁷⁶ *Otago Daily Times*, 3 April 1891, p. 2.

⁷⁷ *NZPD*, 1871, volume 10, p. 358. Ward, ‘National Overview’, volume II, p. 440.

⁷⁸ Marsden Clarke to Native Minister *AJHR*, 1872 Session I, F-4, p. 4.

⁷⁹ Ward, ‘National Overview’, volume II, p. 440.

I can't see why [Native] lands should be exempt from rates... Surely they should pay something to the State for the benefit they receive from State expenditure... My opinion is that the sooner we make the Maoris understand that they are not to be pampered the better it will be for us and them.⁸⁰

Maori rate liabilities were specified in the 1904 Native Land Rating Act. The problem for Maori, according to Walker, was that once 'court orders were issued and papatipu land partitioned, it became subject to payment of rates. In the case of multiply-owned land, paying rates was everybody's responsibility, with the consequence that no one paid the rates'.⁸¹ If the Native Land Court issued a judgment against owners for non-payment the Native Minister could intervene by paying the rate arrears and take possession of the land. As with mortgages incurred through surveying, the Native Minister could also authorise the local Land Council to administer the land. What alternative would be pursued was at the discretion of the Minister, not of the owners.⁸²

Arguments relating to the non-payment of rates took on greater importance before the enactment of the Maori Lands Administration Act. For the Opposition, the fundamental flaw in the 1900 legislation was leasehold tenure. When Seddon outlined the principal aims of the Maori Lands Administration Bill, John Duthie, M.P. for Wellington City, stated:

I have no sympathy with the creation of an idle class of Natives... All men are better - they are both physically and mentally healthier and sounder in their moral tone if they have got to work... wealth thrust upon them, as would be the case if this land is also tied up to them as landlords... would only tend to turn them into a vicious class... to create a class of landlords living in idleness, I say, must lead them into vicious habits, and would be morally bad for the Natives.⁸³

⁸⁰ NZPD, 1882, volume 43, p. 709. Ward, 'National Overview', volume II, p. 444.

⁸¹ Ranginui Walker, *He Tipua—The Life and Times of Sir Apirana Ngata*, Auckland: Penguin Books, 2001, p. 112.

⁸² Loveridge, 'Maori Land Councils and Maori Land Boards', p. 43.

⁸³ NZPD, 1899, volume 110, 1899, p. 770.

Due to a division among Maori members the Bill was held over and re-introduced the following year,⁸⁴ when it again caused ‘vigorous and sometimes bitter debate on the principles and practice of Maori land dealings’.⁸⁵ William Napier, M.P. for Auckland City, contended that ‘the European population has a voice in this matter, because the system that is about to be set up will affect them and their descendants for ever’. He argued that:

No system of Native land legislation which creates the precautions to perpetuate a system of Native landlordism in this country will be tolerated by the people of the colony...to hedge round and shelter by statute for ever a Native class of landlords, so that they and their descendants may, in fact, be the masters of the European inhabitants...to enable Maoris to derive fat incomes from the toil of white men, and to lead indolent lives — I say a system of that sort is not a system which is in accordance with what I conceive to be the traditions of the Liberal tradition.⁸⁶

Likewise, William Russell, M.P. for Hawke’s Bay, argued that ‘as long as we pursue the present system...it will tend to induce drunkenness, idleness and debauchery, and every kind of vice that will degrade the race’. He concluded that ‘there is only one principle upon which we can follow properly in dealing with Native lands, and that is compulsorily to individualise Native land-titles’.⁸⁷ Herries too believed that individualisation was the solution to the Maori land question. ‘I believe the most satisfactory conclusion of Native affairs will never be attained in this colony until we treat the Natives on exactly the same lines as Europeans’:

They are strong and able to work; they are able to take contracts, and they are very good contractors...I should give them the same rights and the same responsibility as their pakeha brethren...I believe no satisfactory settlement of the Maori question will be arrived at unless a law such as that suggested by the honourable member for Hawkes Bay is brought to pass.⁸⁸

The Act, it is pertinent to say, satisfied no one. Before 1900 Maori opinion concerning the administration of their lands varied; however, there was some

⁸⁴ Ward, ‘National Overview’, volume II, p. 371.

⁸⁵ Martin, ‘Aspects of Maori Affairs in the Liberal Period’, p. 75.

⁸⁶ *NZPD*, 1900, volume 114, p. 506.

⁸⁷ *NZPD*, 1900, volume 114, p. 509.

⁸⁸ *NZPD*, 1900, volume 114, pp. 510–511.

consensus in the need to petition the government to cease purchasing and to continue demands for greater control over their own lands.⁸⁹ Leasing was viewed as a way of preserving the fee simple of the land while allowing time for Maori to gain the necessary skills to farm it themselves. A compromise, 'taihoa' was viewed as 'a matter of expediency rather than approval of the policy as a whole'.⁹⁰ There was an understanding that the Act would be quickly improved, but by 1904 many Maori, including those previously involved in the Kotahitanga movement, were attending protest meetings and had signed petitions calling for the Act to be changed.⁹¹

Maori, land, and politics could not be divorced from each other. Between 1900 and 1912, as the Opposition continued to challenge government policy, native land legislation was constantly amended.⁹² Of interest here is the direction of those amendments. Political pressure from the Opposition forced the government to concede on certain points, particularly those related to land tenure.⁹³ The Opposition, expressing the views of the settler interest at large, demanded the settlement of Maori land, and the abolition of leasehold tenure in favour of the freehold.⁹⁴

By 1905 the Opposition attack on Maori policy had reached a climax. It accused the government of undermining the prosperity of the colony by preventing settlers from accessing Maori land.⁹⁵ The Liberals had promised that the 1900 Act would free up more land for settlement, but just one year after the Act was passed Massey complained that 'not a single acre of land had been brought under that Act'.⁹⁶ In 1903 Herries also complained that 'year after year...we have heard that the Natives were about to put their land through the Council but nothing ever happens'.⁹⁷ Despite criticism from the Opposition the government did not resort to wholesale purchasing, instead it passed legislation effecting compulsory vesting.⁹⁸ This reflected an ongoing pattern in official privileges dating back to the Protectorate of Aborigines.

⁸⁹ Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900–1912', p. 21.

⁹⁰ Martin, 'Aspects of Maori Affairs in the Liberal Period', p. 118.

⁹¹ Williams, *Politics of the New Zealand Maori*, pp. 119–120.

⁹² Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900–1912', p. 3.

⁹³ Gilmore, 'Maori Land Policy and Administration during the Liberal Period 1900–1912', p. 45.

⁹⁴ Martin, 'Aspects of Maori Affairs in the Liberal Period', pp. 125–126.

⁹⁵ Williams, *Politics of the New Zealand Maori*, p. 123.

⁹⁶ *NZPD*, 1901, volume 119, p. 1066.

⁹⁷ *NZPD*, 1903, volume 123, p. 578.

⁹⁸ *AJHR*, 1907, G-1c, p. 6. Martin, 'Aspects of Maori Affairs in the Liberal Period', p. 115.

Any legislation or institution that even temporally stalled the acquisition of Maori land tended to be modified in response to parliamentary criticism and public protest.

The claim that Maori were not paying their share of rates and taxes was also made by the Opposition.⁹⁹ In 1902 Herries declared that the non-payment of rates was ‘altogether out of keeping with a democratic age’.¹⁰⁰ Along with its privileges, Maori, it was deemed, should also bear the responsibilities of citizenship. This was a view that was in fact shared by Carroll and the other Maori members. When introducing the Native Land Rating Bill 1904—the government’s response to Opposition pressure—Carroll stated that he had ‘always held and pronounced...in a public way that Native Lands should be rated more than they are at present...that the Maoris should come into line with the Europeans and bear their share of the public burdens’. He did, however, make it clear that Maori were encumbered with certain restrictions which Europeans were not.¹⁰¹ Similarly, Hone Heke argued that ‘if the Legislature could see its way to make provision for Maoris obtaining monetary assistance then by all means their lands might be rated’.¹⁰²

Lastly, the Opposition attacked Liberal policy because it took away from them the opportunity to develop, through individual endeavor, a sense of self-reliance.¹⁰³ The Maori Land Settlement Act 1905 satisfied some of the Opposition’s demands; its provisions had, according to Herries, ‘been greatly improved’.¹⁰⁴ Section 16 of the Act removed all restrictions on leasing giving ‘considerable impetus to the alienation of Maori land’.¹⁰⁵ Herries, nevertheless, maintained that it perpetuated the ‘wrong policy’, the ‘proper policy...is that of individualisation’. In support of his argument he cited the opinions of Dr. Pomare, ‘himself a Native’: “Individualisation and the settling of Native lands is the pivot upon which the salvation of the Maori race rests...if a Maori sells all his land, better that, so that he will be compelled to work for a living, than idleness with fat rents and extinction”. Herries was particularly

⁹⁹ Williams, *Politics of the New Zealand Maori*, p. 123.

¹⁰⁰ *NZPD*, 1902, volume 121, p. 524. Williams, *Politics of the New Zealand Maori*, p. 124.

¹⁰¹ *NZPD*, 1904, volume 128, pp. 196–197. Ward, pp. 446–447.

¹⁰² *NZPD*, 1904, volume 131, p. 348. Williams, p. 125.

¹⁰³ Williams, *Politics of the New Zealand Maori*, p. 123.

¹⁰⁴ *NZPD*, 1905, volume 135, p. 706.

¹⁰⁵ Gilmore, ‘Maori Land Policy and Administration during the Liberal Period 1900–1912’, p. 39.

critical of the Act's provisions for compulsory vesting because it was 'not fair to the Maori':

It is a gross violation of the Treaty of Waitangi, because it practically confiscates their lands; it takes the land away for fifty years...practically, it means that they part with their land forever.¹⁰⁶

Massey was equally opposed to compulsory vesting. 'It would be exceedingly unfair...if you attempt anything in the nature of the compulsory taking of their land there will be very serious trouble'. The leader of the Opposition proposed that legislation be passed 'to place all Maoris on the same footing as European British subjects'. In this way, claimed Massey:

The Maoris may feel a responsibility and redeem their emancipation and feel independent men in their membership of the British Nation which the Treaty of Waitangi guaranteed them.¹⁰⁷

Attacks on the government's Maori land policy also came from outside of parliament. During August, September, and October of 1905 the *New Zealand Herald* ran a series of articles echoing the views of those voiced in the House. Under the provocative title—'The Great Maori Land Question—Five Million Acres Locked Up—North Island Progress Impeded—Settlement Retarded', the *Herald* declared that the 'locking up of native lands is one of the greatest bars to the progress of New Zealand that exists'. In parliament 'the so-called land reformers' who had drawn 'restrictive laws tightly round their fellow white settlers, utterly neglect the Maori landlord'. Politicians are:

Loud in their protests against those who enrich the country participating in what they call the unearned increment; but hardly a voice is raised to prevent the Maoris, who do absolutely nothing to improve the country, not only participating, but actually securing to themselves every farthing of value which pakeha labour and pakeha skill puts upon the land.¹⁰⁸

¹⁰⁶ *NZPD*, 1905, volume 135, pp. 707–708.

¹⁰⁷ *NZPD*, 1905, volume 135, pp. 714–715.

¹⁰⁸ *New Zealand Herald*, 29 August 1905, p. 6.

Readers, then, were not only reminded of the spectre of Maori landlordism, where ‘the Maori is to sit down in the sun and smoke, while the Pakeha works for him and pays for the tobacco’.¹⁰⁹ They were also informed that ‘the present condition of affairs is positively ruinous to the Maori. He is being desperately injured financially and morally’.¹¹⁰ On 19 September the *Herald* claimed that ‘every day that passes under the present hateful condition of things injures the Maoris, injures the Northern provinces, injures New Zealand’. It went on to say that ‘at the present time high prices rule for all kinds of agricultural and pastoral produce...and there are seven and a half million acres of native lands which might be producing these things lying idle and desolate just for lack of intelligent legislation’.¹¹¹

The demands of those advocating for individualisation and the free trade in land could not be dismissed indefinitely. Indeed, as Loveridge rightly states, ‘any political party which cut off the supply of Maori land altogether in the middle of an economic boom was likely to be ejected from the Treasury benches with unseemly haste’.¹¹² It was within this context that ‘intelligent legislation’, the Maori Land Settlement Act 1905, was brought into being. The government, though, sought to maintain its commitment to protect Maori, as expressed in the 1900 Act, by restricting Crown purchasing to five districts while imposing compulsory vesting in the remaining two. Such was the compromise.¹¹³ According to Williams, however, the ‘pretence of the 1900 act’, whereby Maori were ‘being granted a measure of self-government was all but dropped’ when ‘partially elected councils’ were replaced with ‘wholly nominated Maori land boards’ on which Maori were no longer the majority.¹¹⁴

The Opposition did not stop here, however. By the time the government passed the Native Land Settlement Act 1907 a clear pattern had emerged: the ‘privilege of leasing’ was gradually giving way to the ‘privilege of free trade’. As the Bill was debated Massey was again emphatic in his opposition to leasing. He reminded the House that ‘the people who came to this country, and their descendants, came...on account of the system of landlordism that prevailed in the country from which they

¹⁰⁹ *New Zealand Herald*, 4 September 1905, p. 4.

¹¹⁰ *New Zealand Herald*, 29 August 1905, p. 6

¹¹¹ *New Zealand Herald*, 19 September 1905, p. 6.

¹¹² Loveridge, ‘Maori Land Councils and Maori Land Boards’, p. 6.

¹¹³ Ward, ‘National Overview’, volume II, pp. 374–375.

¹¹⁴ Williams, *Politics of the New Zealand Maori*, p. 127.

came'. 'The freeholders', stated Massey, 'have been perhaps beaten for the time being'; however, 'they are not going to put up with any system of landlordism—European Landlordism, or Native Landlordism, or State Landlordism—for very long'.¹¹⁵

The Act though could hardly be considered a loss for the 'freeholders'. Part I provided for the compulsory vesting of surplus lands, and although half was to be leased, to the dismay of the freeholders, the other half was made available for sale. According to Ward this was 'an overriding of the trend of the Stout-Ngata recommendations'; while Stout and Ngata themselves considered it tantamount to confiscation.¹¹⁶ Victory for the freeholders was eventually achieved with the Native Land Act 1909. Land already leased under the provisions of the 1900 Act and its amendments continued to draw the attention of some—'landlordism' being the catch cry. Nevertheless, while there are some 'blemishes', the Natives, declared Herries, are 'in the matter of land-tenure...European'.¹¹⁷

After ten years of politicking by the Opposition little of what was intended by the Maori Lands Administration Act remained: the 'privilege of leasing' had been replaced with the 'privilege of free trade'. By section 207 of the Act all restrictions on the alienation of Maori land, including papatupu land, were removed:

A Native may alienate or dispose of land or any interests therein in the same manner as a European, and Native land or any interests therein may be alienated or disposed of in the same manner as if it were European land.

Section 220 set out the restrictions that were to be placed on alienations. For a sale to be valid it had to be 'properly executed'; 'not "contrary to equity of good faith or to the interests of the Natives alienating"'; 'no Native could be left landless by the alienation'; 'payment had to be "adequate"'; 'purchase money had to have been "either paid or sufficiently secured"'; 'the alienation could not result in any breach of trust'; and could not be 'otherwise prohibited by law'. Maori Land Boards, under section 217, were charged with the responsibility of ensuring that these rules were

¹¹⁵ *NZPD*, 1907, volume 142, p. 1047.

¹¹⁶ Ward, 'National Overview', volume II, p. 378.

¹¹⁷ *NZPD*, 1909, volume 148, p. 1103.

adhered to, it being stipulated that ‘no alienation of Native land by a Native...shall have any force or effect until it has been confirmed by a Maori Land Board’.¹¹⁸

The 1909 Act, then, can be interpreted as an attempt at reconciling the purported desire to ‘protect’ Maori with the national interest of bringing more land into production. As had been the case since 1840, the period covered in this chapter is characterised by a swing in native policy from the ‘privilege of protection’ to the ‘privilege of free trade’. Moreover, proponents of either position based their arguments on article three of the Treaty of Waitangi, or it at least their interpretation of it. Yet, again, the paradox is that no matter what policy the government rolled out, Maori were invariably divested of their lands. Moreover, as the ‘long depression’ came to an end Maori were unable to capitalise on the burgeoning New Zealand economy.

Part IV — The Politics of Privilege

The Liberals were, ‘in comparison with any previous political grouping, a party with mass organization and a strong leadership’.¹¹⁹ They remained in power for 22 years, their longevity having much to do with the lack of an effective Opposition. According to Belich the Opposition was so weak that ‘between 1901 and 1903 it gave up the ghost completely and disbanded itself’.¹²⁰ The ‘real threat’ to the Liberal government, states Richardson, ‘came from the emergence of a powerful new pressure group—an alliance of large and small rural property-holders’. With the establishment of the Farmers Union in 1899 calls for the ‘freehold, free trade, free access to Maori lands’ were ‘given an organized form’.¹²¹ By 1907, writes Gilmore, the Opposition had ‘adopted the platform of the Farmers’ Union’ and, under the leadership of William Massey, it began ‘to acquire the status of an alternative government’. Political pressure, and an impending election, again forced the government to make further concessions.¹²²

¹¹⁸ Loveridge, ‘Maori Land Councils and Maori Land Boards’, p. 83.

¹¹⁹ Richardson, ‘Parties and Political Change’, p. 205.

¹²⁰ Belich, *Paradise Reforged*, pp. 42–43.

¹²¹ Richardson, ‘Parties and Political Change’, p. 206.

¹²² Gilmore, ‘Maori Land Policy and Administration during the Liberal Period 1900-1912’, pp. 62–63.

While the notion of Maori privilege has a long history, the period examined here is of particular significance. It was at this time, coinciding with the emergence of party politics, that notions of privilege were established as a useful political tool. While it was claimed by those in government that official policy protected Maori, in fact it facilitated further alienation. The privilege of protection, that is to say, the resumption of Crown pre-emption, would have the same outcome for Maori as it did during the first twenty years of colonisation. The privilege of protection was so effective at divesting Maori of their lands that legislation was enacted to secure that which remained.

The Maori Lands Administration Act 1900, another manifestation of ‘official’ privilege, was a temporary solution to the problem of land loss that satisfied nobody. As far as the Opposition was concerned government policy, in particular leasing, privileged Maori by perpetuating a system of Maori ‘landlordism’ whereby Maori would grow fat off settler labour and enterprise. While this was thought to have a detrimental impact on Maori one must also recognise that the settler pursuit of freehold tenure was not fuelled by pure altruism. Gilmore argues that:

Alienation by lease rather than sale, did not satisfy the settlers who wished to benefit directly from the rising land values (which they themselves had created) by acquiring the freehold of their farms at its “original” value and then selling it at the current market value.¹²³

Reconciling the interests of Maori and settler was an impossible task. Notwithstanding claims to the contrary, what was good for the settlers was not necessarily good for Maori. Indeed, the bottom line was that Maori had what the settlers wanted— land—and claims of Maori privilege helped justify the acquisition of it. It is also worthwhile noting that Maori did not enjoy the privileges available to the settlers. The Advances to Settlers Scheme, for instance, had since 1894 provided settlers with loans to develop their land, a privilege Maori did not enjoy.¹²⁴ As Carroll stated plainly in 1905, Europeans ‘have never appreciated the advantage of

¹²³ Gilmore, ‘Maori Land Policy and Administration during the Liberal Period 1900–1912’, p. 5.

¹²⁴ Gilmore, ‘Maori Land Policy and Administration during the Liberal Period 1900–1912’, pp. 66–67.

the Advances to Settlers Act in its application to themselves, or have exercised their rights under it on account of difficulties in the way'.¹²⁵

The problem for Maori was that after decades of so-called privilege their lands had become fragmented to such a degree that they could not be used as security.¹²⁶ Attempts to help alleviate this problem had been made but this had amounted to little. Seddon indicated that the government would support Maori development and amended the Maori Land Settlement Act 1905, allowing advances of up to one-third of the unimproved value of Maori land; however, with the death of Seddon in June 1906 this 'potentially valuable concession was nullified' as his successor, Joseph Ward, was disinclined to fund Maori development.¹²⁷

The 20-year period covered here followed a pattern similar to previous decades. Maori would agitate, often in the form of petitions, and the Crown would appoint a commission of inquiry that would investigate grievances and make recommendations. However, as was the case with the Rees-Carroll Commission, not all the Stout-Ngata Commission recommendations were adopted. Those that may have offered Maori some respite were overlooked in favour of recommendations that further facilitated the settler acquisition of land. Despite this, the Crown continued to claim the role of benevolent protector, again deploying the 'rhetoric of benevolence'.

Another discernible, and ongoing theme, is the extent to which official privileges are subject to assertions of populist privilege. Leasing, for instance, was the Liberal government's attempt at preserving the freehold title of Maori land in its owners, while at the same time bringing 'idle' land into production. By claiming that leasing privileged Maori at the expense of the colony, the Opposition and their farming supporters were able to compel the government to amend and introduce legislation which undermined leasing and removed restrictions on alienation. With the passing of the Native Land Act 1909 Maori would enjoy the privilege of free trade in land — one of the rights and privileges of British subjects. The quid pro quo for Maori, so it was held, was that they would be 'liberated' from the shackles of their 'immense'

¹²⁵ *NZPD*, 1905, volume 135, p. 705.

¹²⁶ R.M. Burdon, *The New Dominion*, 1965, p. 277.

¹²⁷ Butterworth, *Maori Affairs*, p. 63.

estates, and thus, the evils that must necessarily flow from landlordism. In the 20 years that followed Maori would lose a further 2.3 million acres of land.

Part V — The Privilege of Paternalism

Although strictly outside the timeframe of the chapter it is pertinent to make some comment about Ngata's later career, and in particular on his time as Native Minister. As discussed earlier Ngata recognised that the most vulnerable land was 'idle' land, and that individualisation offered little protection for Maori owners.¹²⁸ The solution, and a first step in the establishment of Ngata's land development schemes, was the consolidation of fragmented Maori land-holdings, the provisions for which were incorporated into the 1909 Act. The 'perennial problems', as Ward writes, were the owners' lack of capital and the need for adequate administrative and legal structures'.¹²⁹ Some progress to this end had been made during the 1920s when funds had been made available to Maori farmers through the office of the Maori Trustee. According to Michael King, however, 'this did not go far enough to meet the growing demands on Maori farming'.¹³⁰

In 1928 Ngata was 'suddenly propelled into the office of native minister' in the United Government.¹³¹ He was the first Native Minister from a Maori electorate.¹³² Before this, Ngata had assisted communities on the East Coast and in the Urewera. Now, he was able to extend his plans. From 1929 Maori could access state credit to develop their lands, and by 1934, 650,000 acres were being worked by 76 land schemes. Ngata's success, according to King, had much to do with the 'receptive climate' he was working in, 'the efforts of Maori MPs and the Maori contribution to the First World War had also contributed to Pakeha acceptance of Maori'.¹³³ The 'climate' would soon change, however.

¹²⁸ *Report of the Waitangi Tribunal on The Waiheke Island Claim*, Waitangi Tribunal, Department of Justice, Wellington, June, 1987, p. 15.

¹²⁹ Alan Ward, 'National Overview', volume 1, Waitangi Tribunal Rangahaua Series, Wellington: GP Publications, 1997, p. 108.

¹³⁰ Michael King, 'Between Two Worlds', in Oliver and Williams, eds., *The Oxford History of New Zealand*, p. 286.

¹³¹ M.P.K. Sorrenson, 'Ngata, Apirana Turupa', in Claudia Orange, ed., *DNZB, Volume Three, 1901–1920*, Wellington: Allen & Unwin, 1996, pp. 359–363.

¹³² Walker, *He Tipua-The Life and Times of Sir Apirana Ngata*, p. 232.

¹³³ King, 'Between Two Worlds', p. 286.

In a letter to Peter Buck, dated 17 December 1928, Ngata recalled a recent conversation he had had with Gordon Coates.¹³⁴ Coates had been Native Minister from 1921 to 1928 in the Reform government and it was after Reform's defeat in 1928 that Ngata took over.¹³⁵ Ngata told Buck that Coates:

Assumed that I would follow him in the Native portfolio & assured me of his support to further the ideas we were working out together during his tenure of the office. I said that the real difficulty of the situation was that the shield behind which so much had been done the last eight years had been removed — namely the Pakeha Minister whose race, prestige and representative character had enabled us to get away with so much & get with the least umbrage on the part of the Pakeha electors. The same things done & attempted by a Maori Minister would be misunderstood and always banned with the racial ban.¹³⁶

The above letter could not have described better the situation Ngata would face six years later. When he took the reins as Native Minister his United Party held 33 seats in an 80-seat parliament. Butterfield writes that Ngata was well aware of the precarious position he and his party were in and decided to 'take full advantage of what could be his last opportunity for ministerial power'.¹³⁷ Although the country was in a depression Ngata was able to extract significant funds from the government for his land development schemes. According to Walker, Ngata in fact 'deliberately overspent his budget in order to commit the Government to his programme', he 'cut corners in administration', and sacked two European supervisors. All of this, 'combined with his influence in Cabinet, generated a white backlash'.¹³⁸ The campaign to remove Ngata began.

Many of the arguments used to bring Ngata down were the very arguments used to support claims of Maori privilege. Assertions that Maori were 'greedy', 'thriftless', and 'lazy' resurfaced, as did the belief that the interests of Maori and settler were one

¹³⁴ M.P.K. Sorrenson, *Na To Hoa Aroha—From Your Dear Friend – The Correspondence between Sir Apirana Ngata and Sir Peter Buck 1925–50*, volume 1, Auckland: Auckland University Press, 1986, p. 158.

¹³⁵ Belich, *Paradise Reforged*, p. 201.

¹³⁶ Sorrenson, *Na To Hoa Aroha—From Your Dear Friend*, p. 158.

¹³⁷ Butterfield, *Maori Affairs*, p. 74.

¹³⁸ Walker, *Ka Whawhai Tonu Matou*, pp. 194–195.

and the same. From 1932 *Truth* began running stories calling for an investigation into the spending of the Native Affairs Department. Its 31 March headline read: “Appalling Extravagance. Why Expenditure of Native Affairs Department Must Be Keelhauled. £500,000 for Costly Land Settlement”. Tony Simpson notes that the story made no mention of the fact that fourteen times that amount had been written off to settle Pakeha servicemen returning after World War One.¹³⁹ In a December 1933 report the Public Accounts Committee recommended that a commission of inquiry be appointed to investigate the administration of the Native Affairs Department. The reason given:

In view of the great importance of the Maori race...and the danger that may arise at this juncture from a misunderstanding of the difficulties they labour under...and in view also of the disquiet in the minds of the taxpayers of the country.¹⁴⁰

The Native Affairs Commission of Inquiry began hearing evidence in April 1934 and over a four-month period it sat in Wellington, Auckland, Whangarei, Rotorua, and Gisbourne. The commission visited 35 schemes and heard evidence from 147 witnesses.¹⁴¹ Ngata’s monumental achievements were certainly acknowledged by the commission.¹⁴² However, it also found that while ‘a Native-land development administration must be sympathetic, patient, and friendly...no such administration supported by funds of the State is justified which fails to ensure...Proper accounting for Government moneys and stores; and Administration which is subject to proper departmental check’. Unfortunately for Ngata the commission found that his ‘administration...did not reasonably meet these needs’.¹⁴³

The commission was not only tasked with investigating the administration and finances of the department, it was also required to report on the ‘probability’ of the land schemes ‘achieving the results intended, or of their being justified by the benefits they confer on the Maori people’.¹⁴⁴ In addressing this question the commission made explicit once more the Crown’s agenda of assimilation. In its

¹³⁹ Tony Simpson, *Shame & Disgrace—A History of Lost Scandals in New Zealand*, Auckland: Penguin Books, 1992, pp. 242-243.

¹⁴⁰ *AJHR*, 1933 Session I, I-14a.

¹⁴¹ Walker, *He Tipua—The Life and Times of Sir Apirana Ngata*, p. 283.

¹⁴² *AJHR*, 1934 Session I, G-11, p. 45.

¹⁴³ *AJHR*, 1934 Session I, G-11, p. 40.

¹⁴⁴ *AJHR*, 1934 Session I, G-11, p. 1.

opinion, the schemes, in order to ‘benefit’ Maori, would need to propagate certain qualities: ‘individual ability; initiative; energy, and persistence combined with a willingness to learn from a farm supervisor; a proper thrift; and freedom from the need of observing tribal customs of hospitality and the like which involve the bearing of undue economic burdens and the loss of time from necessary farming operations’.¹⁴⁵

When the Commission tabled its report, Michael Joseph Savage moved that the House express ‘grave alarm at the irresponsible methods adopted in the administration of the Native Department...and that Cabinet failed in its duty...to safeguard public funds and the welfare of the Native race’.¹⁴⁶ While it would appear that the ensuing debate would focus on ‘collective responsibility’, the Opposition was quite happy to take shots at Ngata.¹⁴⁷ Savage further stated that it was not his ‘duty...to introduce anything in the nature of racial argument into this discussion, but to place the responsibility where I think it ought to be’.¹⁴⁸ But as Tau Henare was quick to point out ‘no member of the Maori race sat on the Commission’ and in his opinion ‘the report of the Commission and matters in connection with Native affairs will be put to the country as a political issue’.¹⁴⁹ If Opposition politicians in the House did ‘not’ want the inquiry to become a political/racial issue the *Herald* certainly did. With the release of the report and Ngata’s resignation it happily reported:

Thus ends the only experience the country has had of a portfolio of Native Affairs being held by a member responsible only to a Maori electorate...it can be said, indeed, must be said, that this department should not be administered by a Maori member...It is right and proper that there should be in the Cabinet a Minister representing the Maori people, but...certainly not Native Minister...Because the Minister may be a European it does not follow that the interests of the Maori will be neglected...The years during which Sir William Herries was Native Minister will always stand as an answer if suggestions of the kind are made.¹⁵⁰

¹⁴⁵ *AJHR*, 1934 Session I, G-11, p. 47.

¹⁴⁶ *NZPD*, 1934, volume 240, pp. 1122–1123.

¹⁴⁷ Simpson, *Shame & Disgrace*, p. 248.

¹⁴⁸ *NZPD*, volume 240, 1934, pp. 1122–1123.

¹⁴⁹ *NZPD*, volume 240, 1934, p. 1128–1129.

¹⁵⁰ *New Zealand Herald*, 1 November 1934, p. 10.

In Simpson's view 'Ngata's crime was that he had gone outside the system itself and sought not only to effect changes unacceptable to those who commanded extra-parliamentary power, but that he was beginning to do so with some success'.¹⁵¹ Similarly, Walker argues that 'the whole campaign' to oust Ngata 'was about disempowering a Maori leader who had become too powerful and a threat to Pakeha domination'.¹⁵² It would be thirty-eight years until a Maori would again fill the office of Native Minister. Many *Herald* readers would no doubt take comfort in the fact that Maori welfare would be, at least for the time being, safe in white hands.

The period discussed in this chapter is significant for a number of reasons. It saw the Crown restore pre-emption, legislation was passed aimed at preventing Maori landlessness, and two commissions of inquiry were appointed to ascertain the problems faced by Maori with regard to their lands. The overwhelming theme though is one of continued land alienation. Another theme, as I have argued throughout the thesis, is where there is material loss, there will inevitably be claims of Maori privilege. Pre-emption, as was the case in 1840, was framed as a protective measure, but ultimately it led to 3.1m acres of land passing out of Maori hands. The leasing provisions of the Maori Lands Administration Act were intended to preserve what lands Maori had retained; however, the Opposition and their supporters quickly asserted that leasing was simply a case of Maori privilege. Leasing would give rise to 'landlordism', a scenario that would be detrimental to Maori, and the colony. The result of Opposition complaints was another policy change, and further loss. What this chapter also shows, and Ngata's experience is a case in point, is that many saw a particular future for Maori, a future where they would be privileged with ongoing paternalism.

¹⁵¹ Simpson, *Shame & Disgrace*, p. 247–248.

¹⁵² Walker, *He Tipua—The Life and Times of Sir Apirana Ngata*, p. 298.

CHAPTER SEVEN



Privilege in Print

In 1940 New Zealand celebrated its 100th year anniversary. One hundred years earlier Maori and representatives of the British crown signed a treaty at Waitangi in the Bay of Islands signaling the beginning of British sovereignty in New Zealand. In the intervening 100 years much had changed. In 1840 Maori was the majority population, numbering around 100,000, while Europeans numbered about 2,000. In 1940 this was no longer the case. In 1840 Maori were the proprietors of 63 million acres of land. By 1940 they held but a remnant. Despite substantial land loss Maori had/could gain the fee simple title to lands they had retained in their possession. Maori could also petition parliament to hear their claims, and they had, since 1867, been able to elect one of their own race to sit in the House of Representatives. One could argue, as many have and do, that Maori had indeed been privileged with ‘royal protection’ and been imparted with all the rights and privileges of British subjects.

In 1934, during the 94th anniversary celebrations of the Treaty signing, Lord Bledisloe reflected on the benefits enjoyed by Maori under British sovereignty. He observed that ‘the Maori is walking confidently in step beside the *Pakeha* and...the *Pakeha* is walking in friendship and comradeship beside the Maori’. The Treaty, declared Bledisloe, had ‘quenched inter-tribal feuds, softened ancient grudges, and above all it has for ever abolished internecine wars and thus averted race suicide’. Bledisloe recalled how ‘Britain’s then responsible ministers’ were faced with the problem of ‘irregular British settlement’ and that the ‘only remedy for this chaotic condition was the intervention of the British Crown’. Yet to intervene was not a simple decision to make; indeed, Britain had responsibilities to attend to in other parts of the Empire. However, such was the concern for the Maori people something had to be done: ‘the dictates of humanity and the clamant need for ordered government in this country became so insistent that they could no longer be ignored’. It was under these conditions, said Bledisloe, that William Hobson was dispatched with instructions to treat with the Maori—instructions that were—‘eminently just in

spirit, broadly humanitarian in principle, they form a document which any nation might be proud to have enshrined within its archives'.¹

Bledisloe's view of New Zealand history, like that of Fitzroy and Gore Browne before him, was predicated on a number of assumptions—assumptions to which I have referred throughout this thesis. This particular view of New Zealand history held that before 1840 Maori were living in a state of savagery; unregulated settlement threatened their very existence; a humanitarian Britain was obligated to protect them; and, because protection would be best effected under British sovereignty, a treaty of cession was negotiated. A century later this remained the received version of New Zealand's history. Significantly, this rather formulaic account gave the belief in Maori privilege theoretical robustness and has ensured its longevity. Maori were privileged because they had been saved, not only from themselves, but land speculators and the French. No longer would they have to forage for food, wear grass skirts, or live in huts with dirt floors. They would now enjoy the benefits of civilisation.

This chapter considers how in the period from 1840 to 1940 New Zealand's past was represented in non-fiction literature. It argues that through the production of narrative, notions of Maori privilege were consolidated in popular culture and in turn elevated to what Jackson has termed a 'dominant cultural ethos'.² Moreover, it argues that such a narrative is both a product of, and vehicle for, colonisation. By way of organising the chapter I have again utilised Gibbons' framework for 'Non-fiction' literature. Gibbons, it will be recalled, divides New Zealand's non-fiction literature into five periods, and this chapter surveys literature produced during three of these periods.

Part I—'Making Privilege'—examines a particular genre of 'invasion literature'. It is argued here that 'advice books' confirmed and perpetuated certain assumptions about Maori society, and the supposed privileges Maori received as a result of colonisation. Part II—'Using Privilege'—discusses 'a work of singular importance': William

¹ T. Lindsay Buick ed., *Ideals of Nationhood—A Selection of Lord Bledisloe's Addresses in New Zealand*, New Plymouth: Thomas Avery & Sons Limited, 1935, pp. 146–148.

² Moana Jackson, 'Sovereignty as Culture, Maori, Politics, and Culture as Sovereignty', A brief discussion paper prepared for the 1995 Global Cultural Diversity Conference, Sydney, Australia, from http://www.immi.gov.au/multicultural/_inc/publications/confer/12/speech56a.htm, retrieved 9/06/2006.

Pember Reeve's *The Long White Cloud*.³ An example of the 'literature of occupation', *The Long White Cloud* is examined here to highlight a central claim of the thesis: Maori privilege is essentially a European concern. Published just before New Zealand attained dominion status, *The Long White Cloud* reveals much about how its author perceived the land he wrote about. Its popularity is also indicative of the degree to which such views were shared by his fellow countrymen. Written a decade later, Reeves' influence is also apparent in Guy Scholefield's *New Zealand in Evolution*. Although more popular in Britain than it was in New Zealand, *New Zealand in Evolution* further demonstrates how entrenched the idea of Maori privilege had become. Part III—'Celebrating Privilege'—discusses New Zealand's centenary celebrations, and in particular the historical surveys written for the occasion. What is apparent is that little mention of Maori is made. In 1940, after 100 years of settlement, there seemed to be little reason to do so. Colonisation, at least in a literary sense, had achieved its goal.

Part I — Making Privilege

'The Literature of Invasion', writes Gibbons, sought to 'normalize New Zealand by destroying what was "alien" (i.e., indigenous) and substituting in the space left by this destruction the social and material forms of the metropolitan world'.⁴ Although it came in a variety of forms, it shared an 'instrumental purpose: the imposition and extension of European power in New Zealand'. While ordinances, gazette notices, and proclamations were the 'fundamental prescriptions of European colonization' the literature of invasion acted as a kind of 'prose commentary or gloss upon the basic tabulations of power'.⁵

'Advice books' constituted a significant genre within the 'literature of invasion'. An examination of T.M. Hocken's *Bibliography of the Literature Relating to New Zealand*⁶ indicates their popularity. Part of an older 'Arcadian tradition', Miles

³ Gibbons, 'Non-Fiction', pp. 55–56.

⁴ Gibbons, 'Non-Fiction', p. 55.

⁵ Gibbons, 'Non-Fiction', p. 38.

⁶ T. M. Hocken, *A Bibliography of the Literature relating to New Zealand*, Wellington: Government Printer, 1909.

Fairburn writes that advice books were utilised in the promotion of New Zealand as an ‘ideal society for European settlers’.⁷ Such imagery did not always correspond with reality, however. Nevertheless, other colonies were competing for emigrants too and so there was a tendency to ‘ignore the difference or at least play it down’. ‘To cast doubt on the existing reputation’ would undermine potential investment and future emigration.⁸ Gibbons also writes that ‘whatever its precise format, a general feature of emigration propaganda is its optimistic perspective’ and the ‘consistently positive view of colonization came to be read as an account of what actually happened’.⁹ As well as providing practical information for the intending colonist, advice books also performed an important function in disseminating the necessary ideological information required for the ‘idea’ of Maori privilege to take hold.

A theme common to many advice books is the belief that the colonisation of New Zealand was predestined, and that in the process of colonising, Maori would receive the benefits of British civilisation. This is clearly delineated in Montague Hawtrey’s *An Earnest Address to New Zealand Colonists*. Published in 1840, *An Earnest Address* was an extended version of an 1837 essay written after the author had met E.G. Wakefield, the founder of the New Zealand Company.¹⁰ In a letter addressed to the Chairman of the Committee of the Colonists, Hawtrey wrote, ‘the objects which you propose to have in view are great and good’. He agreed with the Church Missionary Society that New Zealand was ‘marked out by Providence to become the Great Britain of the Southern hemisphere’. He was convinced that nothing could prevent Europeans from being the ‘agents’ by which this would be achieved or that Europeans would share ‘largely in the benefits to be derived from it’. Like others, Hawtrey had arrived at the conclusion that ‘all who have the power should use their utmost efforts not to hinder but to regulate the colonization of that country’.¹¹

Hawtrey argued that regulating colonisation was a way of averting past catastrophes and would mark New Zealand out from earlier colonial projects. He reminded the colonists that ‘almost all the opposition the colonization of New Zealand has met

⁷ Miles Fairburn, *The Ideal Society and its Enemies—The Foundations of Modern New Zealand Society 1850-1900*, Auckland: Auckland University Press, 1989, pp. 19–20.

⁸ Fairburn, *The Ideal Society and its Enemies*, pp. 22–23.

⁹ Gibbons, ‘Non-Fiction’, p. 39.

¹⁰ Hocken, *A Bibliography of the Literature relating to New Zealand*, p. 81.

¹¹ Montague Hawtrey, *An Earnest Address to the New Zealand Colonists*, London: John W. Parker, 1840, pp. 3–6.

with has been based upon its presumed injury to the natives'. Columbus wanted to 'forward the designs of a benevolent Creator', and the 'chief motive' of the first American colonist was the 'conversion and civilization of the heathen'. Yet the outcome of that 'enterprise' is that 'not one native remains in the whole range of islands discovered by Columbus'; indeed, 'the history of British colonization in America is one continued narrative of extermination'. He implored the colonists to 'guard...against a feeling of dislike for the natives'; 'white men, in general...regard their coloured brethren with antipathy...and treat them with contempt'; 'the American hates and despises the negro...the European of India has feelings of the same kind'. If such an attitude were to 'get ground in New Zealand' it would result in the 'extermination of the native race'. All this, according to Hawtrey, 'is to show you that the work you have undertaken is no easy one, and must be performed on principles totally different from any that have hitherto been brought to bear on it'.¹²

The colonist's mission therefore was an important one, though according to Hawtrey it would not be without some difficulties. His *Address*, replete with examples of humanitarian sensibilities typical of the time, held Maori to be 'a very fine race of human beings, possessing many noble traits of character'. If, however, the colonists hoped to civilise Maori they would have to 'use the same patience and forbearance...which a parent or wise instructor would use towards a wayward child'; furthermore, Hawtrey warned the colonists that they would still 'find much in the present state of the New Zealanders to surprise and shock the prejudices of Englishmen...you will probably find them dirty, intrusive, violent, thievish, restless, already perhaps affected by the low habits of the most degraded of your countrymen'. Hawtrey believed that while this was an obstacle to success it was not insurmountable and could be overcome through recourse to higher ideals.¹³

The bringing together of two superior peoples in the southern hemisphere was, for Hawtrey, predestined. Nevertheless, he was acutely aware that it was 'possible to entertain truly generous sentiments, and yet to find them give way when brought into competition with every-day interests of life'.¹⁴ Hawtrey hoped to mitigate this but as earlier chapters have shown Maori interests were quickly abrogated in order to

¹² Hawtrey, *An Earnest Address to the New Zealand Colonists*, pp. 7–9.

¹³ Hawtrey, *An Earnest Address to the New Zealand Colonists*, pp. 10–12.

¹⁴ Hawtrey, *An Earnest Address to the New Zealand Colonists*, p. 12.

satisfy settler demands for land. Regardless of this the belief that something special had occurred in New Zealand has endured—a belief sustained by a treaty which had afforded Maori all the rights and privileges of British subjects.

Hawtrey's *Address* is not unusual in that it reflects well established ideas about race as well as the humanitarian ideals of the time. However, its significance, which extends to other works of this genre, is that it helped embed in popular narrative the assumptions that 'official' privilege, and consequently, 'popular' privilege, required for their maintenance. New Zealand was destined for greatness because its two peoples were of a certain type. Maori, while predisposed to civilisation, needed a benevolent 'parent' to guide and protect them as they transitioned from their savage state. Such was Hawtrey's optimism that he envisaged a future where native and colonist would be 'amalgamated' in 'Holy Matrimony'.¹⁵ These factors, along with the benefit of hindsight, nurtured the belief that a better form of colonisation was indeed possible.

Hawtrey's *Address* was one of many treatises about New Zealand written by interested 'parties' in Britain. Other advice books were written by people who had had more intimate contact with New Zealand, such as Charles Terry. Terry was the first editor of the *New Zealander* and from 1840 to 1841 was involved in the Auckland flax industry.¹⁶ In *New Zealand, its Advantages and Prospects as a British Colony*,¹⁷ described by one newspaper as 'the best book we have seen on New Zealand',¹⁸ Terry sets out to explain the colony's 'real state' in the hope that 'a humane and just policy will be adopted...towards a noble race of Aborigines'. He systematically outlines the history of New Zealand starting with Cook's voyages. He notes also the arrival of the missionaries; Maori requests for protection; the Resident Busby; the threat of Baron de Thierry; the Declaration of Independence; the activities of the New Zealand Company; the deployment of Hobson; the signing of the Treaty of Waitangi. Having discussed the events leading up to annexation, Terry declared

¹⁵ Hawtrey, *An Earnest Address to the New Zealand Colonists*, pp. 96–97.

¹⁶ Hocken, *A Bibliography of the Literature Relating to New Zealand*, pp. 106–107.

¹⁷ Charles Terry, *New Zealand, its Advantages and Prospects as a British Colony*, London: T. & A. Boone, 1842, p. v.

¹⁸ *Nelson Examiner*, 1:36, 12 November 1842, p. 144.

that ‘the history of New Zealand, therefore, as a British colony may be considered as commencing with the year 1840’.¹⁹

The belief that colonisation would bring order to chaos is also discernible in Terry’s history. He writes that in former times New Zealand was densely populated ‘which the present numbers bear no comparison’. In some areas numbers had been ‘greatly diminished’ and in others ‘utterly annihilated’.²⁰ The reasons for this decline were ‘the barbarous customs and gross superstitions of the natives’, including:

Internal wars, in which not only many were killed in action, but prisoners subsequently slaughtered, to satisfy some deadly revenge: — the constant custom of killing slaves, on the slightest provocation and misbehaviour, or from the superstitious idea of avenging, by sacrifice, the death of some near relation or connection of the tribe: — the frequent practice of the crime of infanticide by women: — the abandonment of even dearest relatives, attacked by disease, under the impression of fatalism, that all human aid, in such cases, is useless — without any attempt by care, or even food, to prolong or save life: — and the fatal effects, which have been universally dreaded with horror by the natives, produced by the supposed spell of Witchcraft, or “*Makutu*.”²¹

New Zealand, then, was considered ‘the abode of savages and cannibals...without the pale of civilisation’. With the arrival of Samuel Marsden, ‘with a view to improve the social condition of the native in habits and...prepare them for receiving the truths of Christianity’, the process of civilising Maori began.²² British benevolence though extended further than the spiritual well-being of Maori, their physical well-being was also of concern. Having been made fully aware of the ‘lawless acts and outrages of Europeans’ the Colonial Office appointed as Resident James Busby who was directed to “repress acts of fraud and aggression practiced by British subjects against the natives”.²³ Moreover, it was hoped that ‘British laws and customs will insure order and justice, while Christian Religion and Philanthropy will dispel the superstitious errors of the unenlightened savage’.²⁴

¹⁹ Terry, *New Zealand, its Advantages and Prospects as a British Colony*, pp. 3–27.

²⁰ Terry, *New Zealand, its Advantages and Prospects as a British Colony*, p. 176.

²¹ Terry, *New Zealand, its Advantages and Prospects as a British Colony*, p. 178.

²² Terry, *New Zealand, its Advantages and Prospects as a British Colony*, p. 4.

²³ Terry, *New Zealand, its Advantages and Prospects as a British Colony*, pp. 6–7.

²⁴ Terry, *New Zealand, its Advantages and Prospects as a British Colony*, p. 179.

Although Terry's account portrays Maori society as savage and violent he asserts also, as many others had, that Maori were a different type of savage. Maori, according to Terry, were unlike the 'American and Canadian Indian'. Rather, he 'dwells where he was born, on the land of his forefathers, cultivates his ground for kumeras and potatoes...This necessity to cultivate the soil for his daily food, restrains him from being a wanderer in his native wilds...as they increased in numbers, and their wants compelling them to separate, and cultivate distant spots of land, each the distinct and exclusive property of the tribe in possession'. Indeed it was as a consequence of these peculiarities that the British government was led towards a policy that was as 'humane as it was honest and wise'. The recognition of property rights demanded that lands be purchased rather than forcibly acquired; moreover, 'although the compensation may very small...it shows a different state of things to New South Wales and the Australian colonies'.²⁵

The target audience, for both Hawtrey and Terry, was the potential colonist and as such their respective accounts deal with similar subject matter. Much of *Address and Advantages and Prospects* examines the 'Maori' and thus reflects the reality that the colonist would necessarily have to engage with them. Hawtrey's primary concern is the spiritual wellbeing of Maori and his *Address* reads like a code of conduct in which he implores the settlers to adhere to in their dealings with Maori. Terry also declares his concern for Maori and spends a considerable amount of time discussing the nature and character of Maori society. Broader in its scope and content, *Advantages and Prospects* also discusses, among other things, New Zealand's geography, geology, flora and fauna, economics, politics, colonial administration, and land claims. To this extent Terry's account resembles later advice books such as Julius Vogel's 1875 *Official Handbook of New Zealand*,²⁶ James Hector's 1880 *Handbook of New Zealand*,²⁷ and, the *Official Year Book*, which was published annually from 1893.

To be expected, advice books became more comprehensive as the century progressed; their purpose, however, remained unchanged: 'to give to those who may think of making the Colony their home or theatre of business operations, an idea of

²⁵ Terry, *New Zealand, its Advantages and Prospects as a British Colony*, pp. 165–166.

²⁶ Julius Vogel, *The Official Handbook of New Zealand*, 2nd Edition, London: Wyman and Sons, 1875.

²⁷ J. Hector, *Handbook of New Zealand*, 2nd Edition, Wellington: Lyon & Blair, 1880.

New Zealand from a New Zealand point of view', wrote Vogel in 1875.²⁸ In the preface of the 1880 edition of the *Handbook of New Zealand* Hector explains that it 'was first published in accordance with a resolution...to carry out and devise the proper representation of New Zealand at the Sydney exhibition'. The difference between these and earlier advice books is the attention given to 'Maori'. Hawtrey and Terry gave their Maori 'subjects' generous consideration, however, Vogel and Hector gave them relatively little. For Vogel there was no need to, as 'great progress has been made in the settlement of Native difficulties'.²⁹ No doubt Vogel's political interest in public works and European settlement were of more pressing concern.

Although Maori, as a distinct 'subject', were over time given less space in handbooks and yearbooks they did not disappear entirely. Maori continued to feature in statistical information such as population, and, in the obligatory historical overview that was to be found in the opening pages of each volume. Here New Zealand's history was presented for the intending colonist to view.³⁰ William Fox, a contributor to Vogel's volume, detailed the 'Discovery of New Zealand'. It was 'first peopled by the Maori race, a remnant of which still inhabits parts of the Islands'. When they arrived, and from where they came 'are matters which are lost in the obscurity which envelopes the history of a people without letters'. On the arrival of Abel Tasman in 1642 New Zealand was 'made known to the civilised world'. Tasman failed to secure possession of New Zealand for his government and it was not until the arrival of that 'self-made man', James Cook, that Europe again took an interest.³¹ Contrary to the views of 'some writers', wrote Fox, 'who have given the reins to their imagination have pictured savage life as a state of Arcadian simplicity, the people Cook encountered were 'savages in the fullest sense of the word'. Female infanticide and cannibalism were established practices and the 'absorbing idea of the race was war'.³²

²⁸ Vogel, *The Official Handbook of New Zealand*, p. 13.

²⁹ Vogel, *The Official Handbook of New Zealand*, p. iv.

³⁰ 'The popularity of *The Official Handbook of New Zealand* is noted by Vogel in the preface of the 2nd Edition: 'The rapid sale which the First Edition of "The Official Handbook of New Zealand" has met with, has occasioned an unexpectedly early demand for a New Edition'.

³¹ William Fox, 'Discovery of New Zealand', in Vogel, *The Official Handbook of New Zealand*, pp. 17–18.

³² Fox, 'Discovery of New Zealand', in Vogel, *The Official Handbook of New Zealand*, p. 22.

Fortunately for Maori they would soon be delivered from the chaos in which they had for centuries wallowed. Through the work of the missionaries Maori had by 1840 ‘undergone great change’. ‘The example of civilized life exhibited in the mission homes...had done much to qualify the worst features of savage life’. Whalers and traders played their part too. Though ‘less elevating’ they had assisted in breaking ‘down the prejudice against the Pakeha (the stranger), and inoculated the Maori with a taste for European conveniences and luxuries’. ‘In short’, wrote Fox, ‘Providence ripened to the point when colonisation was possible’. In 1875, the year of publication, Fox was happy to report on the progress New Zealand, and Maori, had made. ‘The *immigrant* who now lands at Lyttelton, Dunedin, Auckland, or Wellington finds himself surrounded by numbers of his own countrymen...he sees shops...churches and schools...and even handsome mansions’. ‘Amidst all of this’, writes Fox, the immigrant will find ‘a stray Maori or two, not, however, clad in the dirty blanket or rough flax mat, but “got up” in fashionable European costume...and only distinguishable from the other passers-by by the dark skin, and perhaps, the ineffaceable tattoo’.³³

Another contributor to Vogel’s *Official Handbook of New Zealand* was Donald McLean. While appearing more ‘sympathetic’ to Maori, highlighting their ability to adapt and change, his account of the ‘Native Race’ confirmed well-established notions of Maori savagery and European superiority. Like Fox, McLean sought to allay the fears of prospective colonists. ‘The world at large, reading accounts of past troubles and present occasional disputes, and knowing little or nothing of the actual condition of the Maori race, has accepted it as fact that perpetual strife exists between the colonist and the native’. He explains that while Maori are ‘by nature brave and warlike, and quick to avenge real or fancied insult’ they had made great advances. More than any other race the Maori has exhibited ‘a capacity for adopting itself to the new ways introduced by the Europeans’. They have ‘eagerly adopted’ the potato, and, following the example set by their white neighbours, their disputes were now heard by Courts ‘which formerly could have been decided only by conflict’. There is, stressed McLean, a ‘glaring contrast between the man-eating chiefs of two

³³ Fox, ‘Discovery of New Zealand’, in Vogel, *The Official Handbook of New Zealand*, pp. 25–26.

generations ago, and their well-dressed descendants, who not only have votes, but who sit in both branches of the Legislature'.³⁴

After 100 years of colonisation the *New Zealand Official Year-Book 1940* summarised New Zealand's past in four-and-half pages organised under the subheadings: 'History', 'Discovery by Europeans', 'European Settlement', 'British Sovereignty and Colonization', 'Development', and 'Post-War Changes'. Though Maori were not ignored, their place in this 'official' history was supplementary to a more important story. 'When New Zealand was discovered by Europeans in 1642 it was found to be inhabited by a race of Polynesians called Maoris, who had migrated to these islands'. From the outset, the primary referent point was the arrival of Europeans; Maori existed only to be found, saved, and improved. The *Official Year-Book* restates well-established historical 'facts'. Maori, 'when discovered by Europeans were in a high state of Neolithic civilization...Inter-tribal and intra-tribal warfare was common, and as individuals they displayed exceptional courage and intelligence'. Due to the proliferation of 'tribal wars waged with the more destructive muskets' and 'following representations from Maori chiefs, for protection from the prevailing turmoil', James Busby was appointed as British Resident. 'Finally the disorder, and the friction between the two races, became so intolerable that even the missionaries, who were opposed to annexation, made representations for British sovereignty'. Subsequent to this, Maori, when mentioned, was done so in relation to the challenge they posed to the 'order' established under British sovereignty.³⁵

New Zealand's history, as it was recorded in advice books, was underpinned by certain assumptions. Maori were a savage people on the brink of self-destruction, but were capable of progressing. Europeans, in particular the British, were civilised and benevolent. The coming together of these two 'superior' peoples, by way of a treaty, made for a sensational story. New Zealand would be different to other settler colonies—its Native people would be imparted with the rights and privileges of British subjects.

³⁴ Donald McLean, 'The Native Race', in Vogel, *The Official Handbook of New Zealand*, pp. 26–27.

³⁵ *The New Zealand Official Year-Book 1940*, 48th issue, Wellington: Government Printer, 1940, pp. 40–44.

Part II — Using Privilege

By the 1890s ‘there had been a shift in cultural perceptions for a considerable number of European New Zealanders’. According to Gibbons this shift was the result of an upturn in the economy from 1895, international recognition of the Liberal’s legislative programme, the evolution of Australia as a ‘nation’, and a demographic change that saw the number of New Zealand-born residents surpass that of new emigrants. ‘Inevitably’, writes Gibbons, ‘there was talk of a national identity and even of a “national literature” for New Zealand’. Where New Zealand had been for earlier writers a place of ‘exile’, it was now a place of ‘habitation’. Now “native born” colonists tried to ‘depict themselves as indigenous people’; and, in order for them to “belong” they had to ‘regard the place and its phenomena not as alien but as normal’.

‘The Literature of Occupation’, 1890–1930, expressed this shift in concerns, and William Pember Reeves’ *The Long White Cloud* was central to their articulation. Gibbons writes that ‘it gave contour and coherence to the New Zealand past; it gave currency to what was understood to be the Maori name for New Zealand; and it fostered New Zealanders’ “love and pride for their country”’.³⁶ *The Long White Cloud*, first published in 1898, was a revised version of an earlier work entitled *The Story of New Zealand*.³⁷ Although originally written for ‘the people of the Mother-country’,³⁸ its popularity among New Zealanders was such that it ran in to four editions. Its significance to New Zealand’s historiography is also clear. W.H. Oliver described its author, William Pember Reeves, as the ‘founder of our historiography’.³⁹

According to Erik Olssen ‘the historiography of New Zealand in the nineteenth century has long been anchored in two paradigms’. The first is ‘associated’ with

³⁶ Gibbons, ‘Non-Fiction’, pp. 56–57.

³⁷ Keith Sinclair, *William Pember Reeves*, New Zealand Fabian: Oxford, 1969, pp. 264–265.

³⁸ Reeves, *The Long White Cloud*, preface to 1st Edition.

³⁹ W.H. Oliver, ‘Reeves, Sinclair and the Social Pattern’, in Peter Munz, ed., *The Feel of Truth: Essays in New Zealand and Pacific History and Pacific History*, Wellington: A.H. & A.W. Reed, 1969, p. 177.

Edward Gibbon Wakefield, the other, with Reeves.⁴⁰ Whereas the former promoted New Zealand's Englishness, the latter highlighted growth and progress, the colonist's emancipation from the restrictions of the old world, and the role that Maori, the frontier, the land wars, and the gold rushes played in this transition. A product of such conditioning was 'an adventuresome and democratic society which, in pioneering bold new reforms, had become "the world's social laboratory"'.⁴¹ Jock Phillips also acknowledges Reeves' contribution to New Zealand's historiography. Reeves, writes Phillips, sought to explain 'the unique contribution of New Zealand to world affairs' and in doing so asked 'where this polity had come from'. The answer: 'a people made practical by the needs of the frontier and freed from the restrictions of inherited classes and established traditions. Here was the basis of a fruitful historiography'.⁴²

The Long White Cloud, like the earlier mentioned advice books, helped codify a particular version of history—one that further entrenched the belief that colonisation would bring order to chaos. This, as well as its immense popularity, made it pivotal in perpetuating the belief in Maori privilege. To achieve this, Reeves first placed New Zealand within a framework of European history:

Though one of the parts of the earth best fitted for man, New Zealand was probably about the last of such lands occupied by the human race. The first European to find it was a Dutch sea-captain who was looking for something else...⁴³

He next informs the reader that New Zealand was discovered by Abel Tasman during the 'reign of our King Charles I', that the 'pioneers of colonization' arrived in the 'years of Napoleon's decline and fall', and, that 'Queen Victoria had been on the throne for three years before the Colonial Office was reluctantly compelled to add the Islands to an Empire...'.⁴⁴ Reeves, by locating 'such lands' in 'time', performs the important task of bringing New Zealand into existence. Thereafter, *The Long White Cloud* becomes a European history and the New Zealand it creates a European land.

⁴⁰ Erik Olssen, 'Where to From Here? Reflections on the Twentieth-Century New Zealand', *NZJH*, 26:1, 1992, p. 54.

⁴¹ Olssen, 'Where to From Here? Reflections on the Twentieth-Century New Zealand', p. 57.

⁴² J.O.C. Phillips, 'Of Verandahs and Fish and Chips and Footie on Saturday Afternoon', *NZJH*, 24:2, 1990, p. 121.

⁴³ Reeves, *The Long White Cloud*, p. 25.

⁴⁴ Reeves, *The Long White Cloud*, pp. 25–27.

Reeves then proceeds to describe New Zealand's physical characteristics. He warned 'English readers not to expect in the aspect of his country either a replica of the British Islands or anything resembling Australia'. 'No man with an eye for the beautiful or the novel would call Australia either unlovely or dull. It is not, however, a land of sharp and sudden contrasts: New Zealand is'. Not only was New Zealand different, it was wild and dangerous too. 'The cool, noiseless forests of New Zealand are deep jungles, giant thickets, like those tropic labyrinths where traveller and hunter have to cut their path through tangled bushes and interlacing creepers'.⁴⁵ In the middle of the North Island can be found 'boiling cauldrons into which the unwary fall now and again to meet a death terrible, yet—...not always agonizing, so completely does the shock of contact with the boiling water kill the nervous system'. 'In the heart of this uneasy region of startling sights and satanic smells the traveller is shown the cloven volcano, Tarawera, the long chasms of which are a memorial of the most terrible natural convulsion witnessed by white men in New Zealand'.⁴⁶

Although Reeves spoke with immense pride when describing New Zealand's physical beauty, it was, nevertheless, an empty land. He writes that 'the settler came, not with axe and fire to ravage and deform, but as builder, planter, and gardener...he set to work to fill this void land with everything British which he could transport or transplant'.⁴⁷ Like Maori, who were waiting to be discovered, the land was waiting to be occupied and put to proper use. 'English forms of life...have been of necessity drawn upon to fill the void spaces'.⁴⁸

Reeves acknowledged that 'much—too much—of its wild and singular beauty is being ruined in the process of settlement'.⁴⁹ However, he also recognised that 'the process was inevitable, and in part needful'.⁵⁰ Replacing the unknown with the known was a way of making New Zealand more 'like' home. A generation later Reeves, who was himself New Zealand born, noted that 'the native flora is beginning

⁴⁵ Reeves, *The Long White Cloud*, pp. 27–28.

⁴⁶ Reeves, *The Long White Cloud*, pp. 38–39.

⁴⁷ Reeves, *The Long White Cloud*, p. 35.

⁴⁸ Reeves, *The Long White Cloud*, p. 37.

⁴⁹ Reeves, *The Long White Cloud*, p. 46.

⁵⁰ Reeves, *The Long White Cloud*, p. 31.

to be cultivated in gardens and grounds. Neglected by the first generation, it is better appreciated by their children—themselves natives of the soil'.⁵¹

In chapters two and three, entitled 'The Maori' and 'Maori, and the Unseen', Reeves seeks to understand Maori culture and society by placing them within existing frameworks of interpretation: 'they are of the same race as the courteous, handsome people who inhabit the South Sea Islands from Hawaii to Rarotonga...they never rose high enough in the scale to be miners or merchants...fierce and bloodthirsty in war, and superstitious, they were good-natured and hospitable in peace and affectionate in family life'.⁵² Indeed, the notion of the 'noble' and 'ignoble' savage are discernible and subsequent chapters are replete with other such examples.

Having come to 'know' Maori, Reeves argues that 'the popular notion of the lazy savage basking in the sunshine, or squatting around the fire and loafing on the labour of his women, did not fairly apply to Maori—at any rate to the unspoiled Maori'.⁵³ The effect of the latter qualification is to freeze Maori in time rendering them relics of the past. While holding out some future hope for Maori he maintained that they would inevitably give way to an advancing European race. While regrettable Reeves saw this as providential:

The moving finger writes; and, having writ,
Moves on. Nor all your piety or wit
Can lure it back to cancel half a line,
Nor all your tears wash out a word of it.⁵⁴

Ultimately *The Long White Cloud* is an account of a people and their achievements, and central to its telling was a dangerous, chaotic, empty land, wanting for occupation. The history that was to unfold was one 'of the collective ability of a colonizing race to overcome obstacles and repair blunders'. The result of this colonising effort—a 'fine and vigorous colony'—owed much to:

⁵¹ Reeves, *The Long White Cloud*, pp. 37–38.

⁵² Reeves, *The Long White Cloud*, p. 47.

⁵³ Reeves, *The Long White Cloud*, p. 52.

⁵⁴ The Rubaiyat of Omar Khayyam, by E. Fitzgerald, is used as an introduction to chapter two, entitled 'The Maori'.

The vitality and pluck of a resourceful people, though often short-sighted, dogmatic but keen to learn, industrious though speculative, rather unimaginative and with little interest in the past, but quick, trustworthy, and with a respectable power of mental concentration on anything that may happen to appeal to them.⁵⁵

Herein lies *The Long White Cloud*'s contribution to the belief in Maori privilege. In his description of the Otago settlement, Reeves writes, 'it had no Maori troubles worth speaking of, but the hills that beset its site, rugged and bush-covered, were troublesome to clear and settle'.⁵⁶ For Reeves, Maori and the land were synonymous—both were 'obstacles' to be 'overcome'. More importantly, however, once 'overcome' they would stand as a monument of what a 'fine and vigorous colony' could achieve. Thus, the first mention of Maori is made not in relation to Kupe's discovery of New Zealand, as one might conclude from the book's title, but in relation to the settler's capacity to deal with Maori fairly and reasonably:

From the first those who governed the Islands laboured earnestly to preserve and benefit the native race, and on the whole the treatment extended to them has been just and often generous.⁵⁷

It is clear that Reeves thought New Zealand to be exceptional among nations. 'From the noblest and most philanthropic motives', writes Reeves, 'some sixty to seventy thousand Maori were given a title guaranteed by England—the best title in the world—to some sixty-six million acres of valuable land'. The Treaty of Waitangi was indeed an act of British benevolence for 'as a rule civilized nations do not recognize the right of scattered handfuls of barbarians to the ownership of immense tracts of soil, only a fraction of which they cultivate or use'.⁵⁸ Moreover, this feeling of good will towards Maori did not fade over time. 'The average colonist', according to Reeves, 'regards a Mongolian with repulsion, a Negro with contempt, and looks on an Australian black as very near to a wild beast; but he likes the Maori, and treats them in many respects as his equals'.⁵⁹

Where mistakes were made, Reeves does not hide them. Instead they are used to highlight the generous character of the settler and their ability to 'repair blunders'.

⁵⁵ Reeves, *The Long White Cloud*, p. 26.

⁵⁶ Reeves, *The Long White Cloud*, p. 177.

⁵⁷ Reeves, *The Long White Cloud*, p. 25.

⁵⁸ Reeves, *The Long White Cloud*, p. 146.

⁵⁹ Reeves, *The Long White Cloud*, p. 62.

This was central to the story he wanted to tell. For instance, Reeves acknowledges that the wars fought with Maori were ‘long, obstinate, and mischievous beyond the common’.⁶⁰ In looking back he recognised that the ‘Oligarchs’, a term he used to describe the political elite who controlled politics until the advent of the Liberals, ‘made mistakes...yet in the end they came out with credit’. Moreover, ‘their gift of citizenship and parliamentary representation’ to the ‘beaten race’ was a demonstration that ‘victory in moderation’ was not beyond them.⁶¹

In 1909 Reeves wrote that the ‘main business of the colonist is to colonise; and, where their history happens to be in the main one of peace and toil, the chief side of it is the narrative of the industrial development of their country’. This short passage is taken from Reeves’ introduction to Guy Scholefield’s *New Zealand in Evolution — Industrial, Economic, and Political*.⁶² As a journalist, Scholefield was in contact with the politicians of the day and *New Zealand in Evolution* is broadly based on his newspaper columns. While the book was well received in Britain his support of Liberal policies drew criticism from the New Zealand press.⁶³ *New Zealand in Evolution*, like Reeves’ *The Long White Cloud*, is both optimistic and congratulatory. Essentially it is a retelling of New Zealand’s progress, of which Maori were privileged beneficiaries.

Scholefield begins by establishing New Zealand’s credentials as a particular kind of dominion. While acknowledging Tasman’s fleeting visit Scholefield quickly introduces the more important discovery of New Zealand by James Cook, noting his ‘high personal qualities’ and his ‘humanity and integrity’.⁶⁴ In Cook’s wake came the traders who, although ‘lawless’, ‘adventurous’, and ‘loose-living’, were ‘not entirely unworthy men’. According to Scholefield these ‘were the real pioneers of civilisation. It was through them and the perils they faced that the savage Maori first learned the advantages of trade and civilisation’. They in turn opened the ‘field’ for

⁶⁰ Reeves, *The Long White Cloud*, pp. 25–26.

⁶¹ Reeves, *Long White Cloud*, pp. 270–272.

⁶² Guy H. Scholefield, *New Zealand in Evolution—Industrial, Economic and Political*, London: T. Fisher Unwin, 1909.

⁶³ Frances Porter, ‘Scholefield, Guy Hardy’, in Claudia Orange ed., *DNZB, Volume Four, 1921–1940*, Wellington: Bridget Williams Books, 1998, pp. 459–461.

⁶⁴ Scholefield, *New Zealand in Evolution*, p. 16.

Samuel Marsden, who, through the gospel, uplifted ‘Maori from the degraded condition of barbarism in which Cook discovered them’.⁶⁵

Vital to Scholefield’s narrative was the savageness of Maori and the inherently benevolent nature of British civilisation. The nation that had checked the ‘tyranny of Napoleon’, wrote Scholefield, ‘could not possibly repudiate its obvious responsibility in this less important sphere’. During the late 1830s, as the British government was contemplating what exactly this meant, the New Zealand Company put its plan into action, forcing the government’s hand. ‘The war between the Company and the Government was now transplanted to the Antipodes’. The two opposing parties, however, were both ‘animated by a high-principled desire to do fairly and honestly by the natives’. Indeed, ‘long before the Treaty of Waitangi gave the Maori privileges never before enjoyed by a native race...the Company and the Government had avowed their intention of protecting the natives from exploitation by land-sharks’.⁶⁶

Entitled—‘The Maori as an Economic Factor’—Scholefield’s final chapter assesses the progress made by Maori during the first half century of colonisation. He begins by stating that:

The more closely one studies the history of New Zealand the more must he be astounded that a native race so handicapped by the division of their interests, so cut off from all help and sympathy, should have survived the lawlessness, the internecine slaughter, and the rapine of those long decades, and emerged an object-lesson to the world.⁶⁷

Encapsulated in Scholefield’s assessment are some of the necessary elements underpinning the idea of Maori privilege. Maori savagery and the belief that Maori had progressed as far they could without external aid indicates the ongoing influence of stadialism. ‘In his pre-*pakeha* condition’, states Scholefield, ‘he lived mainly on fish and roots. He had no animals; he understood little of agriculture. He was not even a trader. All this had been changed by the influence of the whaler and the missionary’. It was, however, the Treaty of Waitangi that marked ‘the turning-point of their history’. By it Maori were confirmed in the ‘ownership of the whole of the

⁶⁵ Scholefield, *New Zealand in Evolution*, pp. 18–19.

⁶⁶ Scholefield, *New Zealand in Evolution*, pp. 22–23.

⁶⁷ Scholefield, *New Zealand in Evolution*, p. 331.

land in the islands...Henceforth every step in the settlement of the country was subject to the purchases of land from the native'.⁶⁸ Yet it was this very privilege that Scholefield would later complain about, not for the sake of the settler, although it ultimately was, but for the benefit of Maori themselves:

The treaty had, in fact, established a native landed aristocracy. Thousands of Maori satisfying their modest wants on the rents paid to them by white men — run-holders at first, but later small settlers — were placed beyond that very necessity — hard work — which could be their only hope of ultimate salvation...there was a cardinal unkindness, an injury to the race, in the very treaty which relieved them of the invigorating necessity of entering into the battle for existence.⁶⁹

New Zealand in Evolution, then, further entrenched the notion that colonisation had saved Maori, but more than this, Maori were afforded rights that Native peoples elsewhere had not been privileged with. The magnitude of that generosity had, however, proven fatal for Maori who, like a spoiled child, had discovered how to extract further concessions from the settlers and the Crown, in the form of the 'unearned increment'. As one letter writer to the *New Zealand Herald* complained, 'they pay neither rents, rates, nor taxes; they are not liable for boundary fences, briars, or dog licenses, and yet they use (and abuse) what has cost us poor fools millions of pounds, while their lands are rising in price every day in consequence...the Maori (not a fool) knows how to take full advantage of the position'.⁷⁰ Scholefield agreed, but as is often the case he fails to mention the fact that Maori were not entitled to government assistance. Rather, it would seem that the only benefit Maori were entitled to would be the lesson of hard work.

Part III — Celebrating 100 Years of Privilege

The centennial surveys were part of a new literary endeavour. Gibbons writes that 'The Literature of National Identity, 1930s –1980s', like that which preceded it, sought 'to take colonization a stage further and inhabit the land more completely than hitherto'. However, whereas early writers incorporated 'into their works indigenous subjects, especially the birds, the bush, and the Maori' to increase their 'sense of

⁶⁸ Scholefield, *New Zealand in Evolution*, pp. 331–332.

⁶⁹ Scholefield, *New Zealand in Evolution*, p. 334.

⁷⁰ *New Zealand Herald*, 20 August 1909, p. 8.

“belonging””, the goal of contemporary writers, such as J.C. Beaglehole, was to ‘construct identity out of other materials’. Those searching for ‘materials’ to construct a national identity could indeed turn to the works of the previous generation, but unlike their predecessors the new generation of writer could ‘pay less attention to Maori subjects’.⁷¹ As a result of this shift Maori were written out of the national story.

The importance of the centennial was such that the Labour government enacted legislation to ensure cohesion in the project’s design and administration, an important aspect of which were the centennial surveys. During the second reading of the New Zealand Centennial Bill, William Parry, Minister of Internal Affairs and Minister in Charge of Centennial Celebrations, clearly stated the importance of the centenary and the role the government would play:

The completion of the first hundred years of British sovereignty in New Zealand is an occasion of signal importance to the Government and to our people, and that, if we are to celebrate the event in a manner worthy of the nation, there should be some guiding principle and some national control of the celebrations connected therewith.

In addressing the potential criticism of the ‘pageantry’, which Parry anticipated, he disclosed the government’s ultimate goal:

We have developed in New Zealand a culture essentially different from that of the older countries of the world, and we are fast developing a New Zealand point of view, both in domestic and international affairs. There is little doubt, therefore, that properly organized, such celebrations as are being planned for 1940 will express, as no other means could express, the pride which New Zealanders feel in their country, and it is the duty of the Government to encourage and stimulate such expressions of popular feeling.⁷²

Support for the centenary also transcended political allegiances, as this comment by the National Party M.P. William Polson shows:

The bill provides for...the celebration of one hundred years of progress in this wonderful Dominion in which we have the good fortune to live. The history of those hundred years is amazing, and one which has never been outshone in any other

⁷¹ Gibbons, ‘Non-Fiction’, pp. 69–70.

⁷² *NZPD*, 1938, volume 253, pp. 448–449.

country. Ours is one of the brightest gems in the Pacific: a real pacific haven away from the troubles of a distracted older world.⁷³

By way of the Act, the centennial's administration was centralised under the National Centennial Council. The council was answerable to the Minister who was supported by 'his dynamic undersecretary, Joe Heenan'. Parry took a lead role from the beginning, demonstrating, writes William Renwick, 'the Labour government's willingness to use the levers of state in what it considered to be the public interest'.⁷⁴ At a preliminary conference held at Wellington in March 1936 the Minister appointed a National Centennial Committee, the precursor to the National Council, that met for the first time on 18 June. The committee, which Parry chaired, announced how the centennial would be celebrated. The centrepiece of the centennial would be an Exhibition to be held in Wellington, monuments would also be erected, 'suitable' national and local celebrations would take place, and 'a series of historical surveys of the first hundred years of our national life' would be commissioned. The committee recommended the establishment of a 'National Historical Committee to settle relevant historical dates, and generally to advise on matters of historical interest in connection with the Centennial'. The committee also endorsed the 'Government's view that a very important part in the Centennial celebrations should be taken by the Maori race'.⁷⁵

Responsibility for the production of the historical surveys, which are the primary focus here, lay with the National Historical Committee. In June 1938 the Committee convened for the second time and resolved to recommend to the government that 'a series of some twelve surveys, designed to cover all phases of New Zealand history and to be written in a popular manner by authorities in each field'. Also recommended was a 'parallel series of thirty pictorial surveys of New Zealand history for educational use', a Historical Atlas and a National Biography.⁷⁶ All were approved, and as Rachael Barrowman notes, 'they represented the single largest exercise of government literary patronage to that date'.⁷⁷ In total eleven surveys were

⁷³ NZPD, 1938, volume 253, p. 451.

⁷⁴ William Renwick, *Creating a National Spirit—Celebrating New Zealand's Centennial*, William Renwick ed., Wellington: Victoria University Press, 2004, p. 17.

⁷⁵ Annual Report, Department of Internal Affairs, *AJHR*, 1937, H-22, pp. 1–2.

⁷⁶ Annual Report, Department of Internal Affairs, *AJHR*, 1939, H-22, p. 4.

⁷⁷ Rachael Barrowman, 'History and Romance: The Making of the Centennial Historical Surveys', in Renwick, ed., *Creating a National Spirit*, p. 162.

written: *The Discovery of New Zealand, The Exploration of New Zealand, Settlers and Pioneers, Government in New Zealand, The Farmer in New Zealand, The Women of New Zealand, Educating New Zealand, Letters and Art in New Zealand, New Zealand and the World, New Zealanders and Science* and *New Zealand Now*.

Maori were certainly not to be excluded from the surveys. Nevertheless, the entire centennial project was to be a European affair. The intention from the beginning was to celebrate *their* progress during the first 100 years of settlement; that the century had started with a treaty signed with the country's Native people seemed only to matter to Maori.⁷⁸

It should be noted that the first of the surveys was to be written by Apirana Ngata, though in the end it did not materialise, as 'he was simply too busy'.⁷⁹ Some have speculated as to what such a survey would have looked like. According to Chris Hilliard, 'Ngata delivered a Centennial survey of sorts' on 6 February 1940:

Where are we today? I do not know any year that the Maori people approached with so much misgiving as the New Zealand Centennial year. In retrospect, what does the Maori see? Lands gone, the powers of the chiefs crumbled in the dust, Maori culture scattered — broken. What remains at the end of the hundred years after the signing of the Treaty of Waitangi, Your Excellency? What remains of all the fine things said then?⁸⁰

The sentiments expressed by Ngata at Waitangi were markedly different from those the government wished to promote. Hilliard observes that while there is 'no record of ministerial intervention', promoting the idea of good race-relations was certainly one of the government's goals. Indeed when Ngata was asked to write a survey he was told that:

It must be a non-party, non-controversial story as far as that is possible ... You will also appreciate the fact that your survey, more perhaps than any other, will be read

⁷⁸ Jock Phillips, 'Afterward: Reading the 1940 Centennial', in Renwick, ed., *Creating a National Spirit*, p. 273.

⁷⁹ Barrowman, 'History and Romance: The Making of the Centennial Historical Surveys', p. 173.

⁸⁰ Cited in: Chris Hilliard, 'Island Stories—The Writing of New Zealand History 1920-1940', M.A. thesis, University of Auckland, 1997, p. 120.

overseas, and that what the outside world will most wish to have will be a picture of the Maori himself — his mind, his life, his customs, his interests, his arts.⁸¹

Although Ngata's volume was never written, however, Maori could not be ignored completely and a number of the surveys did include some Maori material. Hilliard notes such material was typically positioned at the beginning of the surveys within what he terms 'Maori prologues'. These 'devices' acted as an introduction to the main event—European colonisation—and implied that 'Maori mattered as a subject in themselves only before 1840...Maori belonged more to the past than to the present, and more to prehistory than the "real" New Zealand past'.⁸²

Not all centennial surveys had a Maori prologue, for example, Oliver Duff's *New Zealand Now*. Duff had in fact played a key role in the centennial project having been appointed editor in 1938. Duff would later become the first editor of the *New Zealand Listener*.⁸³ Duff's volume was originally to be titled 'The Pakeha' and was intended to be a counterpoint to Ngata's.⁸⁴ His survey, as he wrote in the preface to the 2nd edition, was 'not historical. It is not scientific. It is personal—some impressions of his country by one New Zealander whose memory goes back fifty years'.⁸⁵

Duff opens his account of New Zealand by posing a question: 'Must New Zealanders not be what New Zealand has made them in a hundred years out of the Englishmen, Scotsmen, and Irishmen they were to begin with, and must they not in a thousand years carry still further marks of our soil, climate, position, and shape?'⁸⁶ This was certainly in keeping with the tenor of the centennial project which was, according to *Auckland Star*, to 'provide for the present fortunate generation of New Zealanders an opportunity to learn, with enjoyment, of the roots, the growth, and some of the fruits of the growth, of their own country'.⁸⁷

⁸¹ Duff to Ngata, 15 July 1930, cited in Hilliard, 'Island Stories—The Writing of New Zealand History 1920–1940', p. 120.

⁸² Hilliard, 'Island Stories', p. 118.

⁸³ Dennis McEldowney, 'Duff, Oliver', *Dictionary of New Zealand*, volume 4, 1998, p. 146.

⁸⁴ Hilliard, 'Island Stories', p. 114.

⁸⁵ Oliver Duff, *New Zealand Now*, London: Bradford and Dickens, 2nd Edition, 1956. (First published 1941)

⁸⁶ Duff, *New Zealand Now*, p. 1.

⁸⁷ *Auckland Star*, 6 November 1941, p. 6.

While it was Ngata's survey that was intended to 'showcase' Maori, and the progress they had made, one might still have expected Duff to make some reference to Maori in his, but he does not. In the New Zealand of *New Zealand Now* colonisation had achieved its *raison d'être*: Maori no longer existed. However, this was an occasion not to be mourned but to be celebrated. As Bledisloe proclaimed in 1934, the Treaty of Waitangi had brought with it many benefits. No longer were they engaged in 'inter-tribal feuds'; colonisation had lifted Maori from savagery, they were now British subjects. The irony perhaps is that six years later Maori would be drawn into another 'inter-tribal feud', only this time it would be of someone else's making.

When one takes into account the trajectory of New Zealand's non-fiction literature the New Zealand of *New Zealand Now*, stripped bare of Maori, was to be expected. Gibbons explains that colonial expansion provided the conditions from which 'writing in and about New Zealand' took place. To this extent writing was complicit in the 'processes of colonization', and 'in the implementation of European power'. Writing was also central in the 'justification of the European presence as normative',⁸⁸ as Said reminds us, although 'the main battle in imperialism is over land':

When it came to whom owned the land, who had the right to settle and work on it, who kept it going, who won it back, and who now plans its future — these issues were reflected, contested, and even for a time decided in narrative.⁸⁹

As I have argued here, New Zealand's non-fiction literature was organised around the assumption that colonisation brought order to chaos—like the land, Maori were to be tamed. The history that formed around this assumption held that a benevolent Britain, driven by humanitarian ideals, saved Maori from inevitable self-destruction. That Maori were afforded a treaty that guaranteed them the protection of English law was a privilege indeed.

⁸⁸ Gibbons, 'Non-Fiction', p. 28.

⁸⁹ Said, *Culture and Imperialism*, p. xiii.

CONCLUSION & EPILOGUE



Privilege Without End

At the beginning of the thesis I posed two questions. The first sought to know why notions of Maori privilege have dominated discussions about race-relations in New Zealand. The second sought to know what the practical outcomes of the privileges Maori had purportedly received were. In answering these questions it is clear that Maori privilege is a well-established and durable discourse in New Zealand. What is also evident is that in the first 100 years of colonisation, ‘privilege’, for Maori, meant land loss and political, social, and economic deprivation; moreover, the beneficiary of this loss was the settler state and those it represented. Despite having had palpable effects, there has not yet been a sustained investigation of Maori privilege discourse, its origins, and the purposes it has served. This thesis has been an attempt at rectifying this dearth in scholarship.

This thesis has concentrated primarily on the years between 1840 and 1940, as it was during the first 100 years of colonisation that notions of Maori privilege were shaped and refined to suit New Zealand conditions and, ultimately, the imperatives of the coloniser. However, notions of privilege are discernible both before and after this period. By re-examining key events and processes through the lens of Maori privilege one can see that it is an idea that has existed for over 200 years, and that it has evolved over time.

Two key events in the development of privilege discourse were the Cook expeditions and the Treaty of Waitangi. The former resulted in the intellectual privileging of Maori giving rise to the belief that Maori were a superior savage deserving of protection. In turn, Maori were afforded a treaty in which they were given ‘royal protection’ and the rights and privileges of British subjects. The treaty, an act of British benevolence, can also be viewed as a kind of fulcrum between ‘intellectual privilege’ and the ‘official privilege(s)’ Maori received as a quid pro quo for their relinquished sovereignty. The paradox of Maori privilege was that the mechanisms

intended to protect Maori were the very means by which they would be divested of their lands and resources.

In the main, treaty scholarship has given little attention to article three, yet it was the case that the Crown, in the period discussed here, framed its policy objectives in terms of its article three obligations. The rationale underlying article three was that Maori, having demonstrated an ability to progress, would be amalgamated into colonial society. It was held that the benefits Maori would enjoy under British sovereignty and the rule of English law would more than compensate Maori for the loss of their sovereignty. Amalgamation would also allow Maori to divest themselves of a culture that had imprisoned their forebears and was now condemning their descendants to a life of perpetual barbarity. The privilege for Maori, therefore, was that they would cease to be Maori.

The Crown's discharging of its perceived treaty obligations in turn gave rise to 'populist' assertions of Maori privilege—assertions that were able to influence native policy. Indeed, the swing from pre-emption (the privilege of protection) to individualisation and free trade (the rights and privileges of British subjects) reflected the varying interpretations of article three. Moreover, as this thesis has attempted to show, the transition from one policy imperative to the other was invariably precipitated by 'populist' assertions of privilege.

This final chapter is divided into two parts. Part I—'200 Years of Maori Privilege'—summarises the key themes of the thesis. Part II—'Consolidating the Gains'—discusses the period from 1940 to the present. Owing to space limitations it presents only a brief survey of how Maori 'privilege' has operated in the decades since the Second World War. It argues that Maori 'privilege' has ongoing utility and that the flourishing of anti-Treatyism in the past three decades clearly demonstrates this. Moreover, that Maori 'privilege' can still be invoked to justify and maintain the Crown's 'positional superiority' suggests New Zealand remains a 'fragment' of nineteenth-century Britain.

Part I — 200 Years of Maori Privilege

When the period from 1840 to 1940 is examined two discernible patterns emerge: the Crown introduced policies that were supposedly meant to protect Maori but invariably resulted in Maori land loss and settler gain. The settler constituency then deployed notions of ‘populist’ privilege, asserting that such policies unfairly favoured or privileged Maori, leading to a change in government policy, more Maori land loss, and more settler gain. The second pattern demonstrates the limited nature of Maori agency, and, the reality of Maori ‘privilege’. Utilising their article three ‘Rights and Privileges’, Maori were certainly able to extract responses from the Crown. However, the Crown’s legislative solutions rarely addressed Maori concerns; if anything they aggravated them. For the Crown, its objective of transferring land to the settlers, and extending its own authority, was achieved under the illusion that Maori were privileged.

Chapter One discussed the ideas that would coalesce and eventually give rise to the notion of Maori privilege. These ideas originated in Europe and North America. During the eighteenth-century Britain emerged as Europe’s dominant power, and it was from this position that it was able to extend its influence into the Pacific. Starting with Cook, systems of classification, racial hierarchies, and schemes of progress were deployed in order to ‘know’ Maori. ‘Rational’ inquiry revealed that Maori were capable of progress, unlike the ‘blacks of Australia’ or the ‘wild beasts’ of North America. The view that Maori were superior savages, however, had little to do with any intrinsic value or worth of Maori society; such an accolade merely reflected the belief that Maori were more European-like than other Native peoples. Significantly, this intellectual privileging of Maori fed into a discourse of privilege that would later be used to justify colonisation.

The British colonisation of North America was also important in the development of Maori ‘privilege’. Notions of ‘protection’ used in North America were to be incorporated into British policy in New Zealand. In 1763, following its defeat of France, Britain issued the Royal Proclamation. It was declared, in the interests of the Native peoples, that only the Crown could purchase Native land. Eighty years later

‘pre-emption’ was incorporated into the Treaty of Waitangi under the pretence of protecting Maori from land speculators. As it would transpire, the ‘privilege of protection’ was but a means of acquiring land for European settlement and extending Crown authority.

Britain of the eighteenth-century and the decade leading up to 1840 provided the focus of Chapter Two. Economic and social forces during this period had by the 1830s produced a situation in which certain groups with interests in New Zealand were lobbying the British government to support their respective agendas. Humanitarians, encouraged by their success in abolishing slavery, hoped to circumvent the plans of colonial reformers, while evangelical Christians sought to bring Maori within the auspices of Protestantism. At this time also the New Zealand Company hoped to gain official sanction for its colonising endeavours. In New Zealand a number of atrocities involving British subjects were reported in Britain. The Crown was at first disinclined to intervene formally but with the departure of the Company’s flagship in May 1839 it was hastened to act.

Infused with the humanitarian impulse of the 1830s the Colonial Office concluded that Maori interests could only be protected under British sovereignty; that only English law could protect Maori from the ravages that colonisation had inflicted on other Native peoples. Notwithstanding historical precedents, the Treaty of Waitangi was framed as something new in colonial practice. As discussed in Chapter Three, it was in this way that the Treaty of Waitangi, with its guarantee of ‘royal protection’ and the rights and Privileges of British subjects, that it became a symbol of British benevolence, and Maori privilege.

The ‘privilege of protection’ was not just about protecting Maori land rights, it was also about the amalgamation of Maori under English law. It was envisaged that English law would eventually supplant Maori custom. At first the Crown sought to do this gradually through ‘official’ privileges such as the Protectorate of Aborigines and the Native Exemption Ordinance. The Ordinance sought to graft British legal forms onto existing traditional practices utilising the authority of the chiefs to extend the law; the Protectorate, among other things, was established to ensure Maori interests were accounted for in land transactions.

The Crown's supposed privileging of Maori through its native policy gave immediate rise to 'populist' assertions of privilege. Manifestations of 'official' privilege, such as the Protectorate of Aborigines and the Native Exemption Ordinance, were in essence tools of amalgamation, but were nevertheless subject to severe settler criticism. As far as the settlers were concerned they were inconsistent with the society they envisioned—a society devoid of privilege where the law would apply equally to all regardless of race. Notions of egalitarianism and fairness, in particular, were deployed to undermine current native policy, it being argued that legislation protecting Maori interests not only disadvantaged the settler population, but was detrimental to Maori development and the colony as a whole. Incidents like that which occurred at Wairau in 1843, which went unpunished, were in the eyes of the settlers a clear example of what would happen if the Crown persisted in privileging Maori. In the end, the Protectorate was abolished, the Exemption Ordinance was revoked, and Fitzroy was recalled.

Chapter Four examined the 20 years from 1847 to 1867. During much of this period the Crown, utilising its pre-emptive right, acquired large areas of Hawke's Bay, Wairarapa, and nearly all of the South Island. Although subsequently shown to be less than ethical, many of these purchases could be justified because Maori interests and the interests of the colony were considered to be one and the same. It was reasoned that the 'transference' of land from Maori to settler was a necessary step in the civilising process and the eventual amalgamation of Maori in to settler society. As Maori were to be regularly reminded, this was a privilege given to no other people.

From the mid-1850s the Crown found it increasingly difficult to acquire Maori land, resulting in Crown purchase agents becoming less scrupulous in their attempts to acquire it. A new approach was needed. The settler parliament held that the solution was the abolition of pre-emption, the individualisation of customary tenure, and the introduction of free trade in land. Rather than being a protective measure, pre-emption was deemed to be detrimental to Maori development and retarded the growth of the colony. Moreover, by running a 'treaty argument', the settler parliament declared that pre-emption was a breach of article three because as British subjects Maori should be free to deal with their lands as they wished.

Apart from a short period during Fitzroy's governorship, the Crown retained its monopoly on purchasing until 1862. The abolition of Crown pre-emption paved the way for the 'privilege of private property'. Private property, it will be recalled, had developed over a long period of time. In Britain the privatisation of common lands, along with technological advancements, contributed to an increase in agricultural production that helped feed a growing urban population engaged in industry. Private property was not just a precursor to economic transformation — it was also a marker of British civilisation. For nineteenth-century settler politicians in New Zealand private property was the end point in a long process by which a feudal society had progressed to an industrial power. Not surprisingly then customary Maori land tenure was viewed as an abomination, an obstacle to Maori advancement and the economic prosperity of the colony. Ultimately, customary tenure was a barrier to the settler acquisition of Maori land.

Central to the transition from pre-emption to individualisation and the free trade in land was the Native Land Court. The Court was empowered to investigate land previously held according to customary tenure, ascertain an individual's interest in it, and issue a deed of title recognisable in English law. Not only was private property one of the rights and privileges of British subjects, it was argued that it would protect Maori land. However, as the next 40 years showed, the 'privilege of private property' did little to prevent land loss; rather, it created a chaotic situation that would usher in another period of Maori privilege.

It should not be forgotten that the Crown was not averse to using military force to ensure Maori received all the rights and privileges of British subjects. Maori had what the Crown wanted—land—but it was initially unable to simply confiscate it. Thus, the Crown pursued a policy of purchasing 'wastelands'. From 1858, however, the weight of numbers began to swing against Maori and, with troops ready to invade the Waikato, the Crown was more than willing to legislate for the confiscation of land. This was rationalised as being in the best interests of the colony, and therefore Maori. According to Maori scholar, Andrew Eruera Vercoe, the scenario can be correctly summed by the following:

The ruthless confiscation of land and other resources crippled the Maori economy but effectively nourished and perpetuated the developing Pakeha surrogate.¹

In the aftermath of war, and the solidification of Crown sovereignty, Maori were extended the right to vote. It will be recalled that such a right had never in theory been denied to Maori; however, the pre-condition of holding property recognisable in English law effectively disqualified Maori from voting. This former qualification was superseded in 1867 with the passing of the Maori Representation Act, which extended the franchise to all Maori males 21 years of age and over, and provided for the establishment of four seats in the House of Representatives.

It was now argued that Maori had been afforded all the rights and privileges of British subjects. However, notwithstanding the fact that they had been afforded the ‘privilege of private property’, not all Maori wished to take advantage of it. Many saw the Court for what it really was: a means of undermining tribal authority and taking of more land. Maori did not, however, sit silently in their dislike of the Court and native land legislation. With four members of parliament, Maori took up the ‘privilege of petitioning’.

As discussed in Chapter Five the ‘privilege of petitioning’ was promoted as another one of rights and privileges of British subjects that had been guaranteed to Maori. Maori certainly took up this right with vigour and were successful in eliciting a response from the Crown in the form of commissions of inquiry, with Maori commissioners. The reality, however, was that the terms of reference largely determined the outcome of the inquiry; moreover, the Crown did with recommendations as it pleased. The doctrine of parliamentary sovereignty holds that ‘parliament has unequalled, and indisputable lawmaking power’; ‘legislation, which results from Parliamentary process, is supreme’.² The Liberals’ decision to resume pre-emption in line with the recommendations of the Rees-Carroll Commission (although contrary to James Carroll’s minority report) aptly demonstrates this. It became patently clear to Maori that article three, with all its apparent benefits, could be easily circumscribed by a parliament dominated by settlers whose collective interests centred on the acquisition of Maori land.

¹ Andrew Eruera Vercoe, *Educating Jake – Pathways to Empowerment*, Auckland: HarperCollins, 1998, p. 134.

² McDowell and Webb, *The New Zealand Legal System – Structures and Processes*, pp. 108–109.

A consequence of rampant individualisation was that by the 1890s a bottleneck in the acquisition of Maori land had occurred. Having come to power advocating a policy of closer settlement the Liberal government now had to free up more land. It introduced legislation geared to 'burst up' the large South Island stations, though it was the resumption of pre-emption which paid the most dividends for the Crown. Within ten years of the Liberals coming to power 4.4 million acres were made available for settlement, and of this Maori contributed 3.1 million acres.

Chapter Five dealt with the Liberal's belated attempt at preserving the last remaining lands still in Maori ownership. The Maori Lands Administration Act 1900, and in particular its provisions relating to leasing, was an overture towards preventing further loss and giving Maori greater control over their lands. The architects of the Act saw leasing as a placatory measure that they hoped would allow Maori to retain the free-hold title until such time as they could develop it themselves. It was also hoped that this would appease the demands of settlers who were insisting that 'idle' lands be brought in to production.

The issue of leasing loomed large during the Liberals' twenty years in power, but particularly from 1900 onwards. From the outset, the Act of 1900 was denounced as an example of Maori privilege by those who wanted to acquire the free-hold title to land leased from Maori. The opposition in parliament, led by William Massey, and the *New Zealand Herald* campaigned to have the restrictions on purchasing removed. It was claimed that the Act unfairly favoured Maori by creating a landlord class that would live off the hard work of Europeans. A frequently made, and by now standard assertion, was that leasing was actually bad for Maori because it would encourage indolence. There were other motives, however. Some settlers wanted the free-hold so as to take advantage of rising land prices. Others, as Peter Buck argued at the time, could simply not entertain the thought of having a Maori landlord. 'Landlordism' was bad enough — Maori 'landlordism' went against the natural order of things. The campaign against so-called Maori privilege was in the end a success. With the passing of the Native Land Act 1909 the restrictions on the purchasing of Maori land were removed and in the twenty years that followed Maori were depleted of a further 2.3 million acres.

Chapter Seven surveyed New Zealand's non-fiction literature in the period from 1840 to 1940. From the texts examined and the transition from one genre to the next a discernible theme emerges: colonisation brought order to a chaotic situation. 'Advice books' perpetuated the idea that colonisation was predestined and that Maori had been afforded the privilege of joining with the settlers in a mission to create a new and prosperous nation. Reeves' *The Long White Cloud* reflected on 60 years of European settlement, what New Zealand was, and what it had become. In relation to Maori, Reeves noted that mistakes had been made; nevertheless, they had gained more than they had lost. Regardless of the fact that government policy had been geared towards, and had been extremely successful at, separating Maori from their lands New Zealand, according to Reeves, was an exemplar of good race-relations. Scholefield's *New Zealand in Evolution* highlighted the influence of *The Long White Cloud* and the degree to which Maori privilege had become entrenched in popular culture.

As colonisation proceeded Maori were gradually written out of the national history. By 1940, when New Zealand celebrated its centenary, Maori and the Treaty of Waitangi had become relics of the distant past. The centennial surveys written for the occasion gave scant attention to Maori—the centennial and the centennial surveys were an account of European endeavour. Yet this was to be expected. As was made clear in the 'advice books' to potential settlers, colonisation in New Zealand was going to be different. In New Zealand Maori were to be 'privileged' out of existence.

Part II — Consolidating the Gains

By 1940 the Crown had acquired most of what Maori had. Having been economically, socially, and politically marginalised one would perhaps expect that claims of Maori privilege would cease; however, this was not to be. Maori privilege has utility. More than the gloss that obscured the crude realities of colonisation it provided the rhetoric in which policy was formulated and justified. Although Maori had been relieved of their lands and resources, they remained as an ongoing reminder of New Zealand's colonial history. The fact that Maori still existed was to become more apparent in the decades following the Second World War.

In the post-war period the Crown once again demonstrated its affection for Maori; the ‘privilege of assimilation’ was, nevertheless, politely refused. Like other Native peoples at this time Maori became increasingly vocal in demanding that they have a greater say in their own affairs, and the future of the country. Maori demonstrated that they could successfully elicit a response from the Crown. The Waitangi Tribunal, treaty settlements, and successful court challenges are notable examples. These ‘official’ privileges also led to a resurgence of claims that Maori were being privileged over other New Zealanders, claims the Crown could not in the end ignore. The growing (but ever present) resentment of Maori aspirations was harnessed by anti-Treatyists who redeployed well-established notions of ‘populist’ privilege as a way of circumscribing any purported benefits that were seen to have accrued to Maori.

Before the Second World War most Maori lived in rural areas. In 1936 83% of Maori lived in the country, by 1966 62% of Maori lived in towns and cities, and by 1986 83% of Maori were urban dwellers. ‘Triggered’ in part by the war effort, the prospect of employment drew Maori away from their tribal homes. Although some Maori took up white-collar jobs, most entered unskilled industries that were subject to ‘economic change’. From 1973, when a down-turn in the economy occurred, ‘unskilled workers were the first to the wall’, as Belich writes: ‘just as Maori had carried the economic can for Pakeha colonisation in the nineteenth century, so they carried the can for decolonisation from 1973’.³

After the War the Crown was forced to tackle the changing circumstances of Maori. The 1961 *Report on the Department of Maori Affairs* (often referred to as the Hunn Report) sought to address the problems faced by Maori as a consequence of population growth and rapid urbanisation. Once again misinterpreting Maori aspirations, the Crown reverted to its desired goal of assimilation. According to Aroha Harris, the ‘solutions the Hunn Report proposed were perhaps more disconcerting than the problems it revealed’.⁴ The solution, writes Belich, was ‘the renewed attempt to turn Maori into Brown Britons’.⁵ ‘Integration’ allowed some room for Maori ‘culture’, but, as Harris writes, ‘Hunn’s definition of Maori culture

³ Belich, *Paradise Reforged*, pp. 471–474.

⁴ Aroha Harris, *Hikoi—Forty Years of Maori Protest*, Wellington: Huia Publishers, 2004, p. 21.

⁵ Belich, *Paradise Reforged*, p. 477.

was narrow and naïve: “haka and poi” and “arts and crafts”.”⁶ For Maori, urbanisation presented them with ‘two developmental tasks’. The first, writes Walker, was adjusting ‘to the economic demands of the urban industrial complex’, the second, ‘averting assimilation’.⁷

The Crown’s goal of assimilation culminated in the Maori Affairs Amendment Act 1967. The parent Act of 1953 and its amendment were ‘designed to mop up the remnants of Maori land’.⁸ By way of circumventing Maori opposition the Crown commissioned a report from Ivor Pritchard, a former judge of the Maori Land Court, and Hone Waetford, an interpreter. The Pritchard-Waetford Report ‘basically reinforced Hunn’s recommendations’.⁹ The Act allowed for the ‘commodification of land, facilitating its acquisition for sale to others who would make it productive’. In doing so, writes Walker, in the process of Europeanising Maori land, the ‘Maori problem’ would be resolved; moreover, the ‘Pakeha dream of “one people”’ would at last be realised.¹⁰

The ‘privilege of assimilation’ was rejected by Maori and gave rise to a decade of protest and activism. At the conservative end of the continuum was the New Zealand Maori Council. The Council had been established under the provisions of the Maori Welfare Act 1962 and replaced the tribal committees that had been utilised as part of the war effort. Although a creation of a National government, and therefore held in some suspicion, the New Zealand Maori Council was highly critical of the Crown’s plans to pass into legislation the findings of the Hunn Report and Pritchard-Waetford Report.¹¹ At the other end of the continuum were groups such as Nga Tamatoa, ‘the new face of Maori activism’. Harris writes that Nga Tamatoa ‘heralded a new analysis of the Maori experience of colonisation; one that understood racism and how it worked’.¹²

A number of factors helped shape the activism of the 1970s. Maori watched keenly the decolonisation of Africa, Asia, and the Pacific, and the Black Power movement in the United States. Native peoples in Canada and the United States provided Maori

⁶ Harris, *Hikoi—Forty Years of Maori Protest*, p. 21.

⁷ Walker, *Ka Whawhai Tonu Matou*, pp. 197–199.

⁸ Walker, *Ka Whawhai Tonu Matou*, p. 139.

⁹ Harris, *Hikoi—Forty Years of Maori Protest*, pp. 23–24.

¹⁰ Walker, *Ka Whawhai Tonu Matou*, pp. 203–207.

¹¹ Walker, *Ka Whawhai Tonu Matou*, pp. 203–207.

¹² Harris, *Hikoi—Forty Years of Maori Protest*, pp. 24–25.

with examples of ‘methods of protest that might strike at the weak points of the dominant culture’. Orange writes that in North America Native peoples were successful in extracting some concessions that Maori could not, adding ‘a degree of frustrated energy to Maori protest’.¹³

The more immediate catalyst for protest, however, was the ‘perennial push for assimilation’.¹⁴ Maori demands for greater recognition and acceptance of land and cultural rights were, it was declared, protected by the Treaty of Waitangi. In 1971 Nga Tamatoa began protesting at the official Waitangi Day celebrations.¹⁵ This was an instrumental moment in Maori/Crown relations. The Crown sought advice from the Maori Council, who in turn presented a submission that ‘substantiated and complemented the protest action of Tamatoa’.¹⁶ The Crown needed to give some ground, or at least be seen to.

The Crown responded predictably. The Treaty of Waitangi Act 1975 led to the establishment of the Waitangi Tribunal, a commission of inquiry tasked with hearing Maori grievances and making recommendations in relation to the Crown’s behaviour viz-à-viz the treaty and Maori. At first the Tribunal was seen as little more than a token gesture, but a 1985 amendment to the Act extended the Tribunal’s jurisdiction, allowing it to hear claims back to 1840. Whereas the first claims dealt mostly with environmental degradation, post-1985 claims related to some of colonisation’s ‘secret files’. This was certainly not the first time Maori had confronted the Crown over issues such as confiscation, land purchases, and the past dealings of the Land Court. For the ordinary New Zealander, however, not privy to the intricacies of Maori/Crown relations, such claims were confronting. For Maori, waiata and haka, the memories of parents and grandparents, and whanau manuscripts ensured that successive generations remained abreast of their obligations to settle claim(s). Past ‘settlements’ may have been, in the eyes of the Crown ‘full and final’, but to Maori they were incomplete.¹⁷

Before the Second World War the races rarely mixed, although there had certainly been interaction between peoples. Maori communities often consisted of those with

¹³ Orange, *The Treaty of Waitangi*, p. 227.

¹⁴ Harris, *Hikoi—Forty Years of Maori Protest*, p. 15.

¹⁵ Orange, *The Treaty of Waitangi*, pp. 228–229.

¹⁶ Walker, *Ka Whawhai Tonu Matou*, pp. 211–212.

¹⁷ Belgrave, *Historical Frictions*, pp. 319–320.

mixed heritage and in rural areas Maori engaged in wage labour, working on roads, in forestry, and as farm workers. On the whole, however, Maori and Europeans lived apart and it was in this splendid isolation that New Zealanders revelled in the belief that their country, built by European endeavour and hard work, had the best race-relations in the world. That Maori may have made some contribution to New Zealand's development, perhaps the greatest, was never contemplated. Urbanisation, activism, and Maori demands that they be recognised as New Zealand's first peoples exposed 'to the world at large the inherent contradictions between the colonised and the coloniser in New Zealand society'.¹⁸

It was in the context of Maori protest and Crown response that anti-Treatyism emerged. A populist reaction to developments in the Maori/Crown relationship, anti-Treatyism disputed anything that challenged the status quo. A consequence of the 1960s and 1970s was the questioning by academic historians of long-held beliefs about colonisation. Orange notes that earlier writers had 'over emphasised the humanitarian concern in the original treaty negotiation, at the fair evaluation of the treaty's role in serving British and settler interests'.¹⁹ A seminal work in this re-examination was Ruth Ross's 1972 analysis of the Treaty of Waitangi which repositioned 'Te Tiriti', the Maori language text, as the real treaty.²⁰ Rachael Bell writes that Ross's article was a 'turning point in Treaty scholarship'; whereas earlier works focused on the Colonial Office, Ross 'asked instead what the Treaty had meant here'. Ross's analysis, moreover, would inform other critiques, notably by Orange and Walker.²¹

This shift in focus was a source of anxiety for some. By questioning Britain's motivations for intervention other questions came to light. If not solely humanitarian concern, then what else? Indeed, if this question could be asked, so too could others, for instance, in signing the Treaty of Waitangi had Maori ceded sovereignty to the British Crown? Complicit as they were in the revolutionary act of rewriting New Zealand's 'true' history, academic historians were deemed to be legitimate targets.

¹⁸ Walker, *Ka Whawhai Tonu Matou*, p. 207.

¹⁹ Orange, *The Treaty of Waitangi*, pp. 228.

²⁰ Ruth Ross, 'Te Tiriti o Waitangi: Texts and Translations' *NZJH*, 6:2, 1972, pp. 129–157.

²¹ Rachael Bell, 'Texts and Translations - Ruth Ross and the Treaty of Waitangi', *NZJH*, 43:1, 2009

According to anti-Treatyists these ‘revisionist’ histories were succumbing to a politically correct agenda.²²

As far as anti-Treatyists were concerned these questions spelt doom for New Zealand. In *Shadows Over New Zealand*, an early anti-Treatyist text, Geoff McDonald argued that since the 1960s academics and teachers have ‘not given children or higher level students any real account of New Zealand’s past’; rather, the ancestors of New Zealanders ‘are now being subjected to ridicule and smear’.²³ According to McDonald, ‘the whole history of New Zealand is being twisted and distorted to misrepresent the past and the contemporary scene involving a great people—the New Zealanders’.²⁴ Claims that Maori are oppressed were unfounded, wrote McDonald, because in New Zealand Maori have more rights than whites. Moreover, McDonald contended that the indigenous rights movement in both Australia and New Zealand had been co-opted by communists, that is to say, Maori were being used to ‘help bring about a Communist takeover of New Zealand’.²⁵

Histories written as part of a Waitangi Tribunal inquiry were held with even more disdain by anti-Treatyists. Not only did tribunal history delineate an ‘alternative’ interpretation of colonisation, the Tribunal, it was feared, would recommend that private land be handed back to Maori. In 1992 the Tribunal recommended two blocks of land on the Maunganui Bluff north of Dargaville, Manuwhetai and Whangaiariki, be returned to Te Roroa. The problem, however, was that since 1876 both blocks had been gradually alienated from Te Roroa. By 1986 the land was in the possession of Alan Titford, who hoped to subdivide and sell the land off.²⁶

The Te Roroa claim was made possible when the Tribunal’s jurisdiction was made retrospective to 1840. To settle the grievance the Crown purchased the 36-ha Manuwhetai block for \$3.25m, and returned it to Te Roroa. Claiming he had been abused and threatened and forced to sell Titford gained public sympathy, and became the poster-boy for the anti-Treatyist cause. He was portrayed as a hard working New Zealander who had fallen prey to the Treaty of Waitangi. According to Professor of Law, Andrew Geddis, ‘every movement needs a symbol...and Titford was two for

²² See: *Twisting the Treaty*, pp. 294–305.

²³ Geoff McDonald, *Shadows Over New Zealand*, Chaston Publishers, Christchurch, 1985, p. 3.

²⁴ McDonald, *Shadows Over New Zealand*, p. 7.

²⁵ McDonald, *Shadows Over New Zealand*, p. 17.

²⁶ *Te Roroa Report*, Waitangi Tribunal, Wellington: Booker and Friends, 1992, pp. 269–284.

the price of one'. The victim of 'a wide-ranging conspiracy', Titford's 'resistance became a lightning rod for "alternative historians" and others who saw the Treaty settlement process as unjust'.²⁷

As Te Roroa was preparing for its claim, and its battle with Titford, Ngai Tahu in the south was preparing to have their grievances presented to the Tribunal. The Ngai Tahu claim, eventually settled in September 1997, was one of the largest in New Zealand. Notwithstanding the benefits Ngai Tahu whanui and the wider community have accrued since the settlement, anti-Treatyists attacked the claims/settlement process. In *The Treaty & The Act*, Robin Mitchell includes as an appendix his submission on the Ngai Tahu claim. Consistent with anti-Treatyist strategy Mitchell's submission was made as a 'taxpayer' and a 'New Zealand citizen'. Citing article three of the treaty he argued that the 'execution of the total Ngai Tahu claim would make second-class citizens of all those South Islanders who are not Maoris'. Moreover, in making his case Mitchell deploys much of the anti-Treatyist's arsenal. His *history* is gleaned from nineteenth and early twentieth-century sources, the assumption being, that they are true because they are old. The Ngai Tahu claim, according to Mitchell, was invalid because the land 'was acquired by genocide', and because the area claimed 'was not occupied by the Ngai Tahu in 1840'.²⁸

The Maori Renaissance of the 1970s and 80s ensured the ongoing presence of things Maori in the public sector and the wider community. However, Maori aspirations had to take into account the fourth Labour government's neo-liberal agenda, which threatened to put lands and resources that could potentially be used to compensate Maori, out of reach.²⁹ The creation of State Owned Enterprises into which Crown assets would be deposited and run according to market principles was a fundamental tenet of Labour's reforms.³⁰ When the State Owned Enterprises Act 1986 came into being the Maori Council mounted a legal challenge in the Court of Appeal.³¹ The Council was successful, for although the Treaty of Waitangi (State Enterprises) Act 1988 allowed for the transference of assets it also empowered the Tribunal to make

²⁷ Sunday Star Times <http://www.stuff.co.nz/national/crime/9435787/Bittersweet-vindication-for-iwi>, retrieved 2/11/2014

²⁸ Robin Mitchell, *The Treaty & The Act*, Christchurch, Cadsonbury Publications, 1990, pp. 197–209.

²⁹ Michael Belgrave, 'Beyond the Treaty of Waitangi: Maori Tribal Aspirations in an Era of Reform, 1984-2014', *JPH*, 49:2, 2014, pp. 199–200.

³⁰ Belgrave, 'Beyond the Treaty of Waitangi: Maori Tribal Aspirations in an Era of Reform, 1984-2014', p. 201.

³¹ Orange, *The Treaty of Waitangi*, pp. 237–238.

binding recommendations on the Crown to resume land if it was required to settle claims.³² This was not the sum total of Labour's treaty legislation. Numerous pieces of legislation affecting different aspects of national life were passed during Labour's six years in office, a period, writes Walker, marked by the 'inscription of the Treaty in legislation'.³³

By 1990 the treaty was 'an inescapable legal fact', but as Andrew Sharp notes, 'there was a considerable degree of Pakeha discomfort and anger at Maori claims and the Tribunal's response'.³⁴ In the lead up to the 1990 elections National sensed that as voters had grown weary of the 'treaty', there was an opportunity to oust Labour.³⁵ According to Jane Kelsey, Labour was 'faced with problems of delivering on both the economic and Treaty policies, and a groundswell of Pakeha hostility to both, Labour had progressively backed off its Treaty commitment'. Before the election National pledged to place limits on the Tribunal and revoke its powers in relation to state-owned assets.³⁶

National did not do away with the Waitangi Tribunal, in fact a significant number of claims, including the Ngai Tahu, Waikato-Tainui, and the 1992 Fisheries ('Sealords'), were settled under National. Legislation that made reference to the treaty also continued.³⁷ According to Belgrave, however, National had learnt from the past—it had learnt 'how to include references to the Treaty of Waitangi and to Maori rights in legislation in ways that contained them'. In acknowledging the Treaty as a founding document it marginalised the Treaty to 'history', thus 'limiting its significance to the resolution of historical grievances'. National, in the face of intense Maori protest,

³² Belgrave, *Historical Frictions*, pp. 322–324.

³³ Including: The Criminal Justice Act 1985; Law Commission Act 1985; Environment Act 1986; State Owned Enterprises Act 1986; Maori Language Act 1987; Conservation Act 1987; State Sector Act 1988; Coroners Act 1988; Treaty of Waitangi Amendment Act 1988; Treaty of Waitangi (State Enterprises) Act 1988; Maori Affairs Restructuring Act 1989; Maori Fisheries Act 1989; Children, Young Persons and Their Families Act 1989; Education Act 1989. See Walker, *Ka Whawhai Tonu Matou*, p. 299.

³⁴ Andrew Sharp, 'The Treaty of Waitangi: Reasoning and Social Justice in New Zealand', in Paul Spoonley, David Pearson, Cluny Macpherson eds., *Nga Take - Ethnic Relations and Racism in Aotearoa/New Zealand*, Dunmore Press, Palmerston North, 1991, pp. 134–137.

³⁵ Walker, *Ka Whawhai Tonu Matou*, pp. 281–283.

³⁶ Jane Kelsey, 'Treaty Justice in 1980s' in *Nga Take - Ethnic Relations and Racism in Aotearoa/New Zealand*, pp. 127–128.

³⁷ Walker, *Ka Whawhai Tonu Matou*, p. 300.

implemented the ‘Fiscal Envelope’, establishing the parameters in which settlements would be concluded.³⁸

Whereas under Labour the Treaty of Waitangi had permeated social policy, National attempted to restrict its influence. It was willing to press on with settling historic claims; however, treaty politics were to be kept apart from social policy. Belgrave writes that while National’s reforms impacted disproportionately on Maori it was able to deflect criticism by devolving health and social services to Maori providers as part of the goal of privatisation. It was National’s belief that costs could be reduced and efficiency and quality improved if such services were subjected to the market. ‘National’s focus was consumer sovereignty not Maori sovereignty’.³⁹

National’s two terms in office were also subject to anti-Treatyist critique. Published in 1995, Stuart C. Scott’s *The Travesty of Waitangi* was, as previously noted, certainly popular, selling 18,000 copies in eleven months. The book covered the period from 1975 to what Scott calls the ‘anarchical occupation of the Moutoa Gardens’ in 1995. The sequel, *Travesty after Travesty*, was published in 1996 and discusses ‘the advances of Maori influence, property ownership and political and financial power since 1993’.⁴⁰ Like other anti-Treatyists, Scott could be dismissed as a man of his time, simply hankering for the days when Maori were seen and not heard. Nevertheless, his works do constitute part of an anti-Treatyist canon that remains in circulation.

With the advent of MMP in 1996, and, the potential for more Maori representation in parliament new possibilities emerged. The Maori presence in parliament increased from six percent to 12.5 percent across all parties. Winston Peters’ New Zealand First Party took all five Maori seats and with 17 seats in total New Zealand First was able to form a coalition government with National, leaving Labour in opposition.⁴¹

³⁸ Belgrave, ‘Beyond the Treaty of Waitangi: Maori Tribal Aspirations in an Era of Reform, 1984–2014’, pp. 202–204.

³⁹ Belgrave, ‘Beyond the Treaty of Waitangi: Maori Tribal Aspirations in an Era of Reform, 1984–2014’, pp. 205–206.

⁴⁰ Scott, *Travesty after Travesty*, pp. 6–8.

⁴¹ Walker, *Ka Whawhai Tonu Matou*, pp. 342–343.

According to Belgrave MMP also provided a platform for some political parties to attack policy on the grounds that it privileged Maori.⁴²

In 1999 the five Maori seats, plus the newly created Hauraki seat, returned to Labour. Labour now had to make up for lost ground with Maori voters which it hoped to do with its ‘closing the gaps’ policy. As Cheyne, O’Brien, and Belgrave note, it was at this time that the ‘tension between treating Maori as indigenous people with Treaty rights or as individuals with socioeconomic needs’ came to a head. At first the Labour/Alliance coalition saw little problem in ‘combining’ its social policy with the recognition of Maori ‘policy interests’ under the treaty. This was, however, ‘risky business’ as it signaled to the electorate that perhaps Maori were about to receive ‘special treatment’.⁴³ It was not long before the opposition took its chance to redeploy Maori privilege for political gain. In the end ‘closing the gaps’ was dropped as policy.⁴⁴

In 2003 the National party launched its ‘one law for all’ policy. At the time the leader of the party was Bill English, though his days as leader were numbered. Unable to gain any ‘political traction’, English was replaced as leader by former Reserve Bank governor, Don Brash.⁴⁵ Brash’s first speech, delivered on 27 January 2004, targeted what he called ‘race-based policies’. According to investigative journalist, Nicky Hager, ‘Orewa’ covered many issues but ‘the part that resonated with the most people and was remembered longest was the idea that Maori were enjoying special race-based privileges’.⁴⁶

‘Orewa’ should also be seen in the context of the Court of Appeal’s decision in *Attorney General v Ngati Apa* and Labour’s foreshore and seabed policy. Between 1997 and 1999 Ngati Kuia made three forays into the Environment Court. This was part of a wider strategy that sought to test the Maori provisions of the Resource Management Act 1991, and, gather customary evidence to support an application to the Maori Land Court. The application, made on behalf of Te Taihū Iwi, asked the

⁴² Belgrave, ‘Beyond the Treaty of Waitangi: Maori Tribal Aspirations in an Era of Reform, 1984–2014’, pp. 209–210.

⁴³ Christine Cheyne, Mike O’Brien, Michael Belgrave, eds., *Social Policy in Aotearoa New Zealand – A Critical Introduction*, 3rd Edition, Melbourne: Oxford University Press, 2005, pp. 152–153.

⁴⁴ Margaret Mutu, *The State of Maori Rights*, Wellington: Huia Publishers, 2011, p. 102.

⁴⁵ Walker, *Ka Whawhai Tonu Matou*, p. 392.

⁴⁶ Nicky Hager, *The Hollow Men – A Study in the Politics of Deception*, Nelson: Craig Potton Publishing, 2006, p 89.

Court to determine whether or not Maori had retained customary rights in the foreshore and seabed of the Marlborough Sounds. The Attorney-General argued that the application could not proceed as a matter of law. Maori customary rights had, it was argued, been extinguished and were therefore outside the jurisdiction of the Maori Land Court. The application was subsequently appealed to the High Court and then to the Court of Appeal.⁴⁷

The foreshore and seabed issue was a demonstration of Maori utilising their article three treaty rights. As British, and later New Zealand citizens, Maori were guaranteed access to the courts; moreover, as good subjects they remained faithful to due process. In June 2003 the Court of Appeal determined that legislation had not extinguished Maori customary rights in the foreshore and seabed of the Marlborough Sounds, and that the Maori Land Court did have jurisdiction to hear the application. The decision was a windfall for National and was sensationalised by the media. Hoping it could achieve a ‘win-win’ for all, Labour tried to navigate the issue without recourse to legislation.⁴⁸ This was not to be.

In June the Labour government released a discussion paper that outlined its policy for resolving the foreshore and seabed issue. It confirmed earlier media statements that any policy would take into account all interests, would uphold Maori customary rights, guarantee public access, and therefore provide certainty. Maori were quick to respond, organising regional hui to deliberate over the discussion paper. An application was also filed with the Waitangi Tribunal; however, because the paper could not at that stage be construed as official policy the application was declined.⁴⁹ When the Crown did release its official policy in August a second application was filed and a hearing set down for January 2004.⁵⁰

The Crown asserted that its policy would enhance Maori customary rights, but the Tribunal disagreed. In its opinion the policy would “confer both fewer and lesser rights”. In denying Maori the right to go to court the Tribunal concluded that the policy was in effect an “expropriation of the rights themselves”. The policy was also

⁴⁷ P. N. Meihana, ‘From Anakoha to New York: The Genesis of the Foreshore and Seabed Claim and the Marginalisation of Ngati Kuia’, M.A. thesis, Massey University, 2006, pp. 72–81.

⁴⁸ Meihana, ‘From Anakoha to New York’, p. 82.

⁴⁹ Meihana, ‘From Anakoha to New York’, p. 83.

⁵⁰ Meihana, ‘From Anakoha to New York’, p. 85.

deemed to be racist because it was only Maori rights that would be affected.⁵¹ According to Michael Cullen, who was fronting for the government, the Tribunal's Report implicitly challenged the principle of parliamentary sovereignty. While aspects of the Report would be taken into account, Cullen argued that when all is considered "much of the logic of the Tribunal's report simply falls to the ground".⁵²

When the Labour government passed the Foreshore and Seabed Act 2004 it did so in the face of an angry, and on the whole, united Maori people. The Crown's response was not totally unexpected. A creation of colonisation, its modus operandi has always been to maintain, in Said's words, its 'positional superiority'. As is to be expected of a good citizen, Maori, as they have always done, followed due process. Yet it would seem that the privileges imparted to Maori in 1840 are only applicable if the majority deems it proper, such is the privilege of democracy.

Notwithstanding victory at the 2005 election, Labour had once again lost much of its Maori support, this time to the newly formed Maori Party that captured four of the Maori electorate seats. The party was born out of the foreshore and seabed issue when its co-leader, Tariana Turia, then an Associate Minister of Maori Affairs in Helen Clark's Labour government, voted against the proposed foreshore and seabed legislation. In 2008 the Maori Party entered into a confidence and supply agreement with National that included a review of New Zealand's constitution.

In November 2013 the Constitution Advisory Panel released 'New Zealand's Constitution — A report on a Conversation, He Kotuinga Korero mo Te Kaupapa o Aotearoa' (CAP).⁵³ The CAP's terms of reference considered a number of constitutional issues, including: 'size of Parliament'; 'the length of the term of Parliament'; 'size and number of electorates'; 'electoral integrity legislation'; 'Maori representation'; 'the role of the Treaty of Waitangi within our constitutional arrangements'; 'Bill of Rights issues'; and a 'written constitution'. The CAP's task, then, was to:

Stimulate public debate and awareness of the current constitutional arrangements;

⁵¹ Cited in Meihana, 'From Anakoha to New York', pp. 86–87.

⁵² Cited in Meihana, 'From Anakoha to New York', p. 88.

⁵³ *New Zealand's Constitution – A report on a Conversation, He Kotuinga Korero mo Te Kaupapa o Aotearoa*, New Zealand Government: November, 2013.
http://www.ourconstitution.org.nz/store/doc/FR_Full_Report.pdf, retrieved 13/12/2014.

Provide Ministers with an understanding of New Zealanders' perspectives on those arrangements, including the views of Maori;

Report to the Ministers with advice on the constitutional topics, including any points of broad consensus where further work is recommended.⁵⁴

The month following the release of the CAP's report the Independent Constitutional Review Panel (ICRP) released 'A House Divided—report on the issues considered by the government's Constitutional Advisory Panel'.⁵⁵ 'A House Divided' was 'written by a group of New Zealanders, of a variety of races, sexes and politics, who have been watching with growing concern New Zealand's accelerating slide towards racial separatism'. In many respects the ICRP has a long and distinguished lineage. Its membership includes well-known and committed anti-Treatyists, including: Muriel Newman, founder and director of the New Zealand Centre for Political Research, and Canterbury University law lecturer and 'sixth-generation South Islander', David Round.⁵⁶

The ICRP's lineage extends beyond its distinguished membership. New Zealand's history, as presented in 'A House Divided', also has venerable origins—one could say it is a classic anti-Treatyist text. For the ICRP, New Zealand history begins when Maori freely surrendered their sovereignty in return for the rights and privileges of British subjects. For the ICRP 'the whole purpose of the Treaty was...to provide for the relinquishment by Maori of their independent status and to assure them of their rights under the Crown...the Treaty granted Maori equal rights with Britons under the Queen's law. No more, and no less. That was a great deal'.⁵⁷

In the lead up to the 2014 elections the Treaty of Waitangi and the Maori seats again became a target for politicians. The treaty, according to New Zealand First, 'should be a source of national pride and unity and not used to expand the separate rights of Maori or anyone else'.⁵⁸ For the ACT (Association of Consumers and Taxpayers) Party 'equality before the law is a cornerstone of a free society' and 'legally privileging some New Zealanders over others with parliamentary seats and other

⁵⁴ *New Zealand's Constitution—A report on a Conversation*, p. 9.

⁵⁵ *A House Divided—A report on the issues considered by the government's Constitutional Advisory Panel*, December 2013. <http://www.nzcpr.com/wp-content/uploads/2013/12/A-House-Divided-ICRP-Report-10-December-2013.pdf>, retrieved 13/12/2014.

⁵⁶ *A House Divided*, pp. 5–6.

⁵⁷ *A House Divided*, pp. 19–21.

⁵⁸ <http://nzfirst.org.nz/policy/maori-affairs>, retrieved 13/12/2014.

government appointed positions is an erosion of that freedom'. Yet as far as ACT was concerned this privilege is not a privilege at all because 'such policies undermine the dignity and independence of the very people whom they are supposed to help'.⁵⁹ ACT is not the only party hoping to bestow its benevolence on Maori by abolishing the Maori seats. The Conservative Party, who gained a high public profile courtesy of extensive advertising argued along similar lines, asserted that:

Maori are treated as 2nd class citizens...Since 1867 Maori have been segregated by special laws and separated seats in Parliament...No good has, or will come from using a race based system to govern. Nor incidentally does it come from repeating mistakes.⁶⁰

That Maori privilege featured in the policy statements of certain parties should come as no surprise; it is a condition of New Zealand's 'fragmentation'. Furthermore, Maori privilege, as it did in the nineteenth-century, has political utility. The establishment of the Maori seats in 1867 undermined Maori electoral power, this is clear. The call to abolish the Maori seats in recent times because they both privilege and denigrate Maori is another attempt at marginalising Maori interests. As to whether or not the seats are beneficial to Maori is a question for Maori to consider; moreover, it is for Maori alone to decide whether or not they remain. For the Pakeha majority to take upon itself the decision to abolish the Maori seats would not achieve the 'oneness' that supposedly underpins the argument for abolition. Arguably, it would spark a response reminiscent of the foreshore and seabed issue.

Maori privilege in the nineteenth-century was deployed to justify the dispossession of Maori. War, confiscation, and the Native Land Court were framed as necessary precursors to the process of civilising Maori, and in particular to their acquisition of private property. Commerce was also to be a means of civilising Maori, but as Cheyne, O'Brien, and Belgrave note, the resources needed to participate in the economy were gradually alienated: 'individualism was used by Pakeha to undermine Maori competition' and 'ensure that power within a capitalist environment had a white face'.⁶¹ Despite the fact that by the end of the nineteenth-century Maori possessed a mere fraction of the land they once had, they were deemed to be a

⁵⁹ <http://www.act.org.nz/policies/treaty-of-waitangi-and-race-relations>, retrieved 13/12/2014.

⁶⁰ <http://www.conservativeparty.org.nz/index.php?page=Issues>, retrieved 13/12/2014.

⁶¹ Cheyne, O'Brien, Belgrave eds., *Social Policy in Aotearoa New Zealand – A Critical Introduction*, pp. 154-155.

privileged people. Now, in the early twenty first-century, as Maori are attempting to regain a position in national life, assertions of Maori privilege are again appearing, and with regular frequency.

Responses to the Maori Renaissance, then, have been varied. As noted earlier, academic historians revisited the past and have, to some extent, dismissed the assumptions that underpin Maori privilege. Anti-Treatyists have also revisited the past, but rather than question it they have opted to reify it, hoping this will somehow return New Zealand to the 1950s where it would again achieve the perceived status of a monocultural paradise. Another response to the Maori Renaissance concerned the question of what it meant to be a New Zealander. Maori activism during the 1970s led some Pakeha to believe that their interests were being abrogated by Maori interests. According to Miranda Johnson, this engendered a sense of ‘displacement’ for many Pakeha. Land occupations laid bare the differences between peoples, and disrupted the ‘civic equality and fictive ethnicity of one-New Zealandness’.⁶² Michael King’s *Being Pakeha* was an attempt at resolving this sense of ‘displacement’:

I noted at the beginning of this book that — historically, if not in fact — New Zealanders are all immigrants. That is a portion of the truth. The other part, the larger part, is that however far the ancestral umbilical cord stretches, I and millions of Pakeha like me are born here. We are citizens of Aotearoa.⁶³

It can be said then that Maori privilege is not merely the belief that one group of New Zealanders is getting more than another, nor is it solely the belief that Maori have been treated better than other Native peoples. Maori privilege also speaks to Pakeha identity and, therefore, to national identity. This, perhaps more than any other reason, explains why Maori privilege persists as a ‘dominant cultural ethos’. ‘Maori privilege’ is, as I have stated throughout the thesis, primarily a European concern.

During the first 100 years of colonisation Maori privilege had a practical application: it aided and abetted the taking of Maori lands and resources. Landlessness, though, could be easily vindicated. Loss was framed as a privilege, a necessary step towards

⁶² Miranda Johnson, ‘The Land of the Wrong White Crowd: Anti-Racist Organizations and Pakeha Identity in the 1970s’, *NZJH*, 39:2, 2005, p.149.

⁶³ Michael King, *Being Pakeha – An Encounter with New Zealand and the Maori Renaissance*, Auckland: Hodder and Stroughton, 1985, p. 177.

amalgamation and the innumerable benefits this would bring to Maori. To this extent one might assume, having been relieved of their greatest burden, that Maori privilege would over time lose its utility. This has not, however, been the case. In the latter half of the twentieth-century and the early decades of the 21st century Maori privilege is again being put to use. Notions of privilege, first used to dispossess Maori, are now being redeployed to consolidate the ill-gotten gains of the previous century.

Finally, the Maori Renaissance of the 1970s and 1980s saw a renewed assertion of a long held Maori desire to control and determine their own future. Entrenched assumptions about race-relations in New Zealand were challenged and moved historians, and others, to a reassessment of the past. The settlement of treaty claims, in particular, has been a struggle for some. For anti-Treatyists, settlements are just one example of the many privileges Maori enjoy, reinforcing the view that Maori are an obstacle in the nation's development and a drain on the taxpayer. But perhaps even more disturbing, at least for the anti-Treatyist, is the growing realisation that Maori have made a significant contribution to New Zealand society, not least providing a home for the aspiring and industrious immigrant. Indeed, some might say this is the greatest privilege of all.

BIBLIOGRAPHY

~

Primary Sources

British Parliamentary Papers (BPP)

BBP 1837–40, volume 1, Shannon: Irish University Press, 1968.

BPP 1844, volume 2, Shannon: Irish University Press, 1968

BPP 1835–42, volume 3, Shannon: Irish University Press, 1970.

BPP 1843–45, volume 4, Shannon: Irish University Press, 1970.

BPP 1846–47, volume 5, Shannon: Irish University Press, 1969.

BPP 1847–1850, volume 6, Shannon: Irish University Press, 1969.

BPP 1851, volume 7, Shannon: Irish University Press, 1969.

BPP 1852, volume 8, Shannon: Irish University Press, 1969.

BPP 1854–1860, volume 10, Shannon: Irish University Press, 1969.

BPP 1860, volume 11, Shannon: Irish University Press, 1971.

BBP 1862–1864, volume 13, Shannon: Irish University Press, 1970.

Appendices to the Journals of the House Representatives (AJHR)

AJHR, 1858 Session I, C-3

AJHR, 1860 Session I, E-7

AJHR, 1860 Session I, E-09

AJHR, 1862 Session I, E-1

AJHR, 1862 Session I, E-05

AJHR, 1871 Session I, A-02

AJHR, 1871 Session I, A-02a

AJHR, 1872 Session I, H-11

AJHR, 1872, Session I, F-4

AJHR, 1872 Session I, I-02
AJHR, 1873 Session I, G-07
AJHR, 1874 Session I, I-03
AJHR, 1883 Session I, A-06
AJHR, 1884 Session I, A-02
AJHR, 1885 Session I, A-01
AJHR, 1885 Session I, A-02
AJHR, 1885 Session I, A-02a
AJHR, 1885 Session I, I-02b
AJHR, 1888 Session I, G- 1a
AJHR, 1898 Session I, I-03
AJHR, 1898 Session, I-3A
AJHR, 1891 Session II, G-01
AJHR, 1891 Session II, G-1a
AJHR, 1895 Session I, B-13a
AJHR, 1901 Session I, A-04
AJHR, 1904 Session I, B-6
AJHR, 1907 Session I, G-1
AJHR, 1907 Session I, G-1c
AJHR, 1908 Session I, G-1f
AJHR, 1909 Session I, G-1g
AJHR, 1933 Session I, I-14a
AJHR, 1934 Session I, G-11
AJHR, 1937 Session I, H-22
AJHR, 1939 Session I, H-22

New Zealand Parliamentary Debates

NZPD, 1861-1863, Wellington: Government Printer, 1886.

NZPD, 1865-1866, Wellington: Government Printer, 1886.

NZPD, 1867, volume 1 part 1, Wellington: Government Printer, 1867.

NZPD, 1871, volume 10, Wellington: Government Printer, 1871.

NZPD, 1872, volume 13, Wellington: Government Printer, 1872.

NZPD, 1873, volume 15, Wellington: Government Printer, 1873.
NZPD, 1882, volume 43, Wellington: Government Printer, 1882.
NZPD, 1883, volume 46, Wellington: Government Printer, 1883.
NZPD, 1885, volume 52, Wellington: Government Printer, 1885.
NZPD, 1892, volume 77, Wellington: Government Printer, 1892.
NZPD, 1893, volume 81, Wellington: Government Printer, 1893.
NZPD, 1894 volume 86, Wellington: Government Printer, 1894.
NZPD, 1899, volume 110, Wellington: Government Printer, 1899.
NZPD, 1900, volume 114, Wellington: Government Printer, 1900.
NZPD, 1901, volume 119, Wellington: Government Printer, 1901.
NZPD, 1902, volume 121, Wellington: Government Printer, 1902.
NZPD, 1903, volume 123, Wellington: Government Printer, 1903.
NZPD, 1904, volume 128, Wellington: Government Printer, 1904.
NZPD, 1904, volume 131, Wellington: Government Printer, 1904.
NZPD, 1905, volume 135, Wellington: Government Printer, 1905.
NZPD, 1906, volume 136-137, Wellington: Government Printer, 1906.
NZPD, 1907, volume 142, Wellington: Government Printer, 1907.
NZPD, 1909, volume 148, Wellington: Government Printer, 1909.
NZPD, 1911, volume 154, Wellington: Government Printer, 1911.
NZPD, 1934, volume 240, Wellington: Government Printer, 1934.
NZPD, 1937, volume 249, Wellington: Government Printer, 1937.
NZPD, 1938, volume 253, Wellington: Government Printer, 1938.

Newspapers

Auckland Star

Daily Southern Cross

Hawke's Bay Herald

Manawatu Standard

Nelson Examiner

New Zealand Gazette

New Zealand Herald

New Zealand Spectator

Otago Daily Times

Poverty Bay Herald

Taranaki Herald

Timaru Herald

(ALL NEWS PAPERS ACCESSED AT 'PAPERS PAST', [HTTP://PAPERSPAST.NATLIB.GOVT.NZ/](http://paperspast.natlib.govt.nz/))

LEGISLATION

New Zealand Constitution Act 1852

Preamble to the Native Lands Act 1862

Native Land Purchases Act 1892

Native Land (Validation of Titles) Act 1892

Native Land (Validation of Titles) Act 1893

Native Land Purchase and Acquisition Act 1893

Native Land Court Act 1894

Maori Representation Act 1867

(ALL LEGISLATION ACCESSED AT 'EARLY NEW ZEALAND STATUTES', [HTTP://WWW.ENZS.AUCKLAND.AC.NZ/](http://www.enzs.auckland.ac.nz/))

Published Books and Chapters

The New Zealand Official Year-Book 1940, 48th issue, Wellington: Government Printer, 1940.

Report of the Parliamentary Select Committee on Aboriginal Tribes, London: William Bell, Aldine Chambers, Paternoster Row, and Hacthard & Son, 1837.

Buick, T. Lindsey ed., *Ideals of Nationhood—A Selection of Lord Bledisloe's Addresses in New Zealand*, New Plymouth: Thomas Avery & Sons Limited, 1935.

Buller, Walter, 'The Development of the South Pacific', reprinted from *The British Empire Review*, January, 1901.

- Clarke, George, *Notes on Early Life in New Zealand*, Christchurch: Cadsonbury Publications, 2008. (First published 1903)
- Duff, Oliver, *New Zealand Now*, Wellington: Department of Internal Affairs, 1941.
- Dieffenbach, Ernest, *Travels in New Zealand*, Christchurch: Capper Press, 1974. (First published 1843)
- Fox, William, 'Discovery of New Zealand', in Vogel, *The Official Handbook of New Zealand*, pp. 17–18.
- Fitzroy, Robert, *Remarks on New Zealand, in February 1846*, London: W. & H. White, 1846.
- Hawtrey, Montague, *An Earnest Address to the New Zealand Colonists*, London: John W. Parker, 1840.
- Hector, J., *Handbook of New Zealand*, 2nd Edition, Wellington: Lyon & Blair, 1880.
- McLean, Donald, 'The Native Race', in Vogel, *The Official Handbook of New Zealand*, pp. 26–27.
- Mackay, Alexander, *A Compendium of Official Documents Relative to Native Affairs in the South Island*, Volume 1, Wellington: Government Printer, 1873.
- Ngata, Apirana, *The Treaty of Waitangi: An Explanation—Te Tiriti o Waitangi, he whakamarama*, Christchurch: Published for the Maori Purposes Fund Board, 1963, (First published in 1922).
- Prichard, M. F. Lloyd, ed., *The Collected Works of Edward Gibbon Wakefield*, Auckland: Collins, 1969.
- Reeves, William Pember, *The Long White Cloud-Aotearoa*, 2nd Edition, Auckland: Golden Press, 1950.
- Robertson, William, *The History of America*, Volume II, Book IV, London: A. Strahan, Printers-Street, 1803.
- Scholefield, Guy H., *New Zealand in Evolution—Industrial, Economic and Political*, London: T. Fisher Unwin, 1909.
- Stephen, James, *Essays in Ecclesiastical Biography*, Volume 2, London: Brown, Green & Longmans, 1849.
- Turton, H. Hanson ed., *An Epitome of the Official Documents Relative to Native Affairs and Land Purchases in the North Island of New Zealand*, Government Printer, Wellington, 1883.
- Terry, Charles, *New Zealand, its Advantages and Prospects as a British Colony*, London: T. & A. Boone, 1842.

Vogel, Julius, *The Official Handbook of New Zealand*, 2nd ed., London: Wyman and Sons, 1875.

Wakefield, E.G., and Ward J., *The British Colonization of New Zealand*, London: John W. Parker, 1837.

Anti-Treatyist Texts (including book chapters and web sources)

Barr, Hugh, Mike Butler, Peter Cresswell, Bruce Moon, John Robinson and David Round, *Twisting the Treaty—A Tribal Grab for Wealth and Power*, Wellington: Tross Publishing, 2013.

Brash, Don, 'Orewa', 27 January 2004, http://www.national.org.nz/files/orewarotaryclub_27jan.pdf, retrieved 29/4/2013

Butler, Mike, 'Separate and Privileged', in Barr, Hugh, Mike Butler, Peter Cresswell, Bruce Moon, John Robertson and David Round, *Twisting the Treaty*, Wellington: Tross Publishing, 2013.

Christie, Walter *Treaty Issues*, Christchurch: The Wyvern Press, 1997.

_____, *A Race Apart*, Auckland: The Wyvern Press, 1988.

McDonald, Geoff, *Shadows Over New Zealand*, Chaston Publishers, Christchurch, 1985.

Mitchell, Robin, *The Treaty & The Act*, Christchurch: Cadsonbury Publications, 1990.

Robinson, John, *The Corruption of New Zealand Democracy—A Treaty Overview*, Wellington: Tross Publishing, 2011.

Scott, Stuart C., *Travesty of the Treaty*, Dunedin: The Campbell Press, 1995.

_____, *Travesty After Travesty*, Christchurch: Certes Press, 1996.

Round, David, *Truth or Treaty—Commonsense Questions about the Treaty of Waitangi*, Christchurch: Canterbury University Press, 1998.

_____, <http://breakingviewsnz.blogspot.co.nz/2012/02/david-round-enemy-of-nationhood.html>, retrieved 29/04/2013.

A House Divided—A report on the issues considered by the government's Constitutional Advisory Panel, December 2013. <http://www.nzcpr.com/wp-content/uploads/2013/12/A-House-Divided-ICRP-Report-10-December-2013.pdf>, retrieved 13/12/2014.

Secondary Sources

Journal Articles

- Alessio, Dominic, 'Promoting Paradise: Utopianism and National Identity in New Zealand 1870–1930', *NZJH*, 42:1, pp. 22–41.
- Ballara, Angela, 'The pursuit of mana: a re-evaluation of the process of land alienation by Maori, 1840–1890', *JPS*, 91:4, 1982, pp. 519–539.
- Barber, Keith, 'Indigenous Rights or Racial Privileges: The Rethoric of Race in New Zealand Politics', *The Asia Pacific Journal of Anthropology*, 9:2, 2008, pp. 141–156.
- Belgrave, Michael, 'Pre-emption, the Treaty of Waitangi and the Politics of Crown Purchase', *NZJH*, 31:1, 1997, pp. 23–37.
- _____, 'Beyond the Treaty of Waitangi: Maori Tribal Aspirations in an Era of Reform, 1984–2014', *JPH*, 49:2, 2014, pp. 193–213.
- Bell, Rachael, 'Texts and Translations—Ruth Ross and the Treaty of Waitangi', *NZJH*, 43:1, 2009, pp. 39–58.
- Binney, Judith, 'Christianity and the Maoris to 1840—A Comment', *NZJH*, 3:2, 1969, pp. 143–165.
- Binney, Judith, 'Tuki's Universe', *NZJH*, 38:2, 2004, pp. 215–232.
- Black, Linda L., and David Stone, 'Expanding the Definition of Privilege: The Concept of Social Privilege', *Journal of Multicultural Counseling and Development*, vol. 33, October, 2005, pp. 243–255.
- Borrell, Belinda A.E., Amanda S Gregory, Tim N McCreanor, Victoria G.L Jensen, Helen E Moewaka Barnes, 'It's Hard at the Top but It's a Whole Lot Easier than Being at the Bottom: The Role of Privilege in Understanding Disparities in Aotearoa/New Zealand', *Race/Ethnicity: Multidisciplinary Global Contexts*, 3:1, Autumn 2009, pp. 29–50.
- Brooking, Tom, 'Busting Up The Greatest Estate of All—Liberal Maori Land Policy 1891–1911', *NZJH*, 26:1, 1992, pp. 78–98.
- Byrnes, Giselle, Catharine Coleborne, 'The Utility and Futility of the 'Nation' in Histories of Aotearoa New Zealand', *NZJH*, 45:1 2011, pp. 1–14.

- Gagne, Natacha, 'On the Ethnicisation of New Zealand Politics: The Foreshore and Seabed Controversy in Context', *The Asia Pacific Journal of Anthropology*, 9:2, 2008, pp. 123–140.
- Gibbons, Peter, 'Cultural Colonization and National Identity', *NZJH*, 36:1, 2002, pp. 5–17.
- Gibbons, Peter, 'The Far Side of the Search for Identity', *NZJH*, 37:1, 2003, pp. 38–49.
- Hickford, Mark, 'Vague Native Rights to Land: British Imperial Policy on Native Title and Custom in New Zealand, 1837–53', *The Journal of Imperial and Commonwealth History*, 38:2, 2010, pp. 175–206.
- Hilliard, Chris, 'Stories of Becoming—The Centennial Surveys and the Colonization of New Zealand', *NZJH*, 33:1, 1999, pp. 3–19.
- Holt, James, 'Louis Hartz's Fragment Thesis', *NZJH*, 7:1, 1973, pp. 3–11.
- Howe, Kerry, 'The Fate of the "Savage" in Pacific Historiography', *NZJH*, 11:2, 1977, pp. 137–154.
- Johnson, Miranda, 'The Land of the Wrong White Crowd: Anti-Racist Organizations and Pakeha Identity in the 1970s', *NZJH*, 39:2, 2005, pp. 137–157.
- Laracy, Hugh, 'Was Colonisation Really That Bad', *History Now—Te Pae Tawhito o Te Wa*, 7:1, 2001, pp. 11–12.
- McCreanor, Timothy, 'When Racism Stepped Ashore: Antecedents of Anti-Maori Discourse in Aotearoa', *New Zealand Journal of Psychology*, 26:1, June 1997, pp. 36–44.
- Mandler, Peter, 'What is "National Identity"? Definitions and Applications in Modern British Historiography', *Modern Intellectual History*, 3:2, 2006, pp. 271–297.
- Meihana, Peter N., 'The idea of Maori Privilege', *Te Pouhere Korero*, volume 4, 2010, pp. 41–50.
- _____, 'Colonising by Privilege, 1840–1847', *Te Pouhere Korero*, volume 6, 2012, pp. 35–53.
- _____, 'Privilege in Practice', *Matariki*, 1:7, Wellington: Te Mata o Te Tau, 2014, pp. 46–66.
- Miller, Robert J., 'American Indians, The Doctrine of Discovery, and Manifest Destiny', *Wyoming Law Review*, 11: 2, 2001, pp. 329–348.

- Moloney, Pat, 'Savagery and Civilisation: Early Victorian Notions', *NZJH*, 35:2, 2001, pp. 153–176.
- Montgomerie, Deborah, 'Beyond the Search for Good Imperialism: the Challenge of Comparative Ethnohistory', *NZJH*, 31:1, 1997, pp. 153–168.
- Montgomerie, Deborah, 'Reconnaissance: Twentieth-Century War History at Century's Turn', *NZJH*, 37:1, 2003, pp. 62–79.
- O'Sullivan, Dominic, 'Needs, Rights and "One Law for All": Contemporary Debates in New Zealand Politics', *Canadian Journal of Political Science*, 41:4, 2008, pp. 973–986.
- Olssen, Erik, 'Where to From Here? Reflections on the Twentieth-century Historiography of Nineteenth-century New Zealand', *NZJH*, 26:1, 1992, pp. 54–77.
- Owens, J.M.R., 'Christianity and the Maoris to 1840', *NZJH*, 2:1, 1968, pp. 18–40.
- Phillips, J.O.C., 'Of Verandahs and Fish and Chips and Footie on Saturday Afternoon', *NZJH*, 24:2, 1990, pp. 118–134.
- Pincus, Steven, review of *Britons, Forging the Nation 1707–1837*, by Linda Colley, *Journal of Modern History*, 67:1, 1995, pp. 132–136.
- Ross, R.M., 'Te Tiriti o Waitangi, texts and translations', *NZJH*, 6:2, 1972, pp. 129–157.
- Salesa, Damon, 'Korero: A Reflection on the Work of Judith Binney', *NZJH*, 38:2, 2004, pp. 272–298.
- Sinclair, Keith, 'Why are Race Relations in New Zealand Better than in South Africa, South Australia or South Dakota?' *NZJH*, 5: 2, 1971, pp. 121–127.
- Sissons, Jeff, 'The Post-assimilationist Thought of Sir Apirana Ngata—Towards a Genealogy of New Zealand Biculturalism', *NZJH*, 34:1, 2000, pp. 47–59.
- Sorrenson, M.P.K., 'Giving Better Effect to the Treaty: Some Thoughts for 1990', *NZJH*, 24:2, 1990, pp. 136–149.
- Stenhouse, John, 'God's Own Silence: Secular Nationalism, Christianity and the Writing of New Zealand History', *NZJH*, 38:1, 2004, pp. 52–71.

Waitangi Tribunal Reports

He Whakaputanga me te Tiriti—The Declaration and the Treaty, Waitangi Tribunal, Lover Hutt: Legislation Direct, 2014.

Report of the Waitangi Tribunal on The Waiheke Island Claim, Waitangi Tribunal, Department of Justice, Wellington, June, 1987.

Te Tau Ihu o Te Waka a Maui—Report on the Northern South Island Claims, volume 1, Waitangi Tribunal, Wellington: Legislation Direct, 2008.

Te Tau Ihu o Te Waka a Maui—Report on the Northern South Island Claims, volume 2, Waitangi Tribunal, Wellington: Legislation Direct, 2008.

Te Roroa Report, Waitangi Tribunal, Wellington: Booker and Friend, 1992.

The Taranaki Report—Kaupapa Tuatahi, Waitangi Tribunal, Wellington: GP Publications, 1996.

Claimant and Commissioned Reports (for the Waitangi Tribunal)

Cowie, Dean, ‘Hawkes Bay’, Waitangi Tribunal, Rangahaua Whanui District 11B, August, 1996.

Johnson, Lin, ‘A Brief Overview—Petitions from Maori to the Crown/Governor, 1840–1920’, Waitangi Tribunal, 2008.

Locke, Cybele, ‘Ngati Kuia: “The Poorest Tribe Under the Heavens”—Ngati Kuia’s Socio-Economic Circumstances 1856–1950’, Crown Forestry Rental Trust, 2001.

Loveridge, Donald, ‘The New Zealand Land Claims Act of 1840’, 18 June 1993, Phillipson, G.A., ‘Northern South Island District Report’, part I, Waitangi Tribunal Division: Rangahaua Whanui Series, 1995.

_____, ‘Northern South Island District Report’, part II, Waitangi Tribunal Division: Rangahaua Whanui Series, 1996.

Ward, Alan, ‘National Overview’, Volume I, Waitangi Tribunal Rangahaua Series, Wellington: GP Publications, 1997.

_____, volume II & volume III

Dictionary and Encyclopedia Entries

Ballara, Angela, ‘Tomoana, Henare’, in Claudia Orange ed., *DNZB, Volume Two, 1870-1900*, Wellington: Allen & Unwin, 1993, pp. 544–546.

- Bohan, Edmund, 'Stafford, Edward William', in W.H. Oliver ed., *DNZB, Volume One, 1769-1869*, Wellington: Allen & Unwin, 1990, pp. 404–407
- Brooking, Tom, 'Mckenzie, John', in Claudia Orange ed., *DNZB, Volume Two, 1870-1900*, Wellington: Allen & Unwin, 1993, pp. 294–297.
- Christie, William, 'Reform Act of 1832', in Iain McCalman ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, p. 671.
- Dalton, B. J. 'Browne, Thomas Robert Gore', in W.H. Oliver ed., *DNZB, Volume One, 1769-1869*, Wellington: Allen & Unwin, 1990, pp. 46–48.
- Galbreath, Ross, 'Buller, Walter Lawry', in W.H. Oliver ed., *DNZB, Volume One, 1769-1869*, Wellington: Allen & Unwin, 1990, pp. 53–54.
- Gardner, W.J. 'Hall, John', in W.H. Oliver ed., *DNZB, Volume One, 1769–1869*, Wellington: Allen & Unwin, 1990, pp. 172–174.
- Fitzpatrick, Martin, 'Toleration', in Iain McCalman ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, pp. 729–731.
- McIntyre, W. David 'Sewell, Henry', in W.H. Oliver ed., *DNZB, Volume One, 1769-1869*, Wellington: Allen & Unwin, 1990, pp. 391–393.
- McEldowney, Dennis, 'Duff, Oliver', in Claudia Orange ed., *DNZB, Volume Four, 1921–1940*, Wellington: Bridget Williams Books, 1998, pp. 146–147.
- Patrides, C.A. 'Hierarchy and Order', in Wiener, Philip P., ed., *Dictionary of the History of Ideas—Studies of Selected Pivotal Ideas*, volume II, New York: Charles Scribner's Sons, 1973, pp. 434–449.
- Porter, Frances, 'Scholefield, Guy Hardy', in Claudia Orange ed., *DNZB, Volume Four, 1921—1940*, Wellington: Bridget Williams Books, 1998, pp. 459–461.
- Rickard, Suzanne, 'Missionaries and Missionary Societies', in Iain McCalman ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, p. 606.
- Risenborough, Hazel, 'Bryce, John', in Claudia Orange ed., *DNZB, Volume Two, 1870–1900*, Wellington: Allen & Unwin, 1993, pp. 61–62.
- Sorrenson, M.P.K., 'Ngata, Apirana Turupa', in Claudia Orange ed., *DNZB, Volume Three, 1901-1920*, Wellington: Allen & Unwin, 1996, pp. 359–363.
- Speziali, Pierre, 'Classification of the Sciences', in Philip P Wiener, ed., *Dictionary of the History of Ideas-Studies of Selected Pivotal Ideas*, Volume I, New York: Charles Scribner's Sons, 1973, pp. 426–467.

Ward, Alan, 'McLean, Donald', in W.H. Oliver ed., *DNZB, Volume One, 1769–1869*, Wellington: Allen & Unwin, 1990, pp. 255–258.

Wards, Ian, 'Fitzroy, Robert', in W.H. Oliver ed., *DNZB, Volume One, 1769–1869*, Wellington: Allen & Unwin, 1990, pp. 130–132.

Book Chapters

Barrowman, Rachel, 'History and Romance: The Making of the Centennial Historical Surveys', in William Renwick, ed., *Creating a National Spirit—Celebrating New Zealand's Centennial*, Wellington: Victoria University Press, 2004, pp. 161–177.

Ballantyne, Tony, 'The State, Politics, and Power, 1769–1893', in Giselle Byrnes ed., *The New Oxford History of New Zealand*, South Melbourne: Oxford University Press, 2009, pp. 99–124.

Binney, Judith, 'The Native Land Court and Maori Communities', in J Binney, J Basset, E Olssen, eds., *The People and the Land—Te Tangata me Te Whenua: An Illustrated History of New Zealand 1820–1920*, Wellington: Allen & Unwin, 1990, pp. 143–163.

Boast, Richard, 'Evolution of Maori Land Law', in Richard Boast, Andrew Erueti, Doug McPhail, Norman Smith, eds., *Maori Land Law*, 2nd Edition, Wellington: LexisNexis, 2004, pp. 65–120.

Brown, Donald N., 'Native Americans and the Right of Self Government in the United States' in William Renwick, ed., *Sovereignty & Indigenous Rights-The Treaty of Waitangi in International Contexts*, Wellington: Victoria University Press, 1991, pp. 30–48.

Coates, Ken, 'The "Gentle" Occupation—The Settlement of Canada and the Dispossession of the First Nations', in Paul Havemann, ed., *Indigenous People's Rights in Australia, Canada, & New Zealand*, Auckland: Oxford University Press, 1999, pp. 144–161.

Cheyne, Christine, Mike O'Brien, Michael Belgrave, eds., 'Individualism, Collectivism, and the Recognition of Te Tino Rangatiratanga', in *Social Policy*

- in *Aotearoa New Zealand—A Critical Introduction*, 3rd edition., Melbourne: Oxford University Press, 2005, pp. 140–161.
- Dalziel, Raewyn, ‘The Politics of Settlement’, in W.H. Oliver and B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, pp. 87–111.
- Davidson, Allan, ‘Early Protestant Missionary Beginnings in New Zealand Through Different Lenses’, in Allan Davidson, Stuart Lange, Peter Lineham, and Adrienne Puckey, eds., *Te Rongopai 1814—‘Takoto te pai!’—Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014, pp. 32–52.
- Dickenson, H. T., ‘Democracy’, in Iain McCalman ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, pp. 34–42.
- Dipper, Christof, ‘Orders and Classes: Eighteenth Century Society Under Pressure’, in T.C.W. Blanning ed., *The Short Oxford History—The Eighteenth Century*, Oxford: Oxford University Press, 2000, pp. 52–90.
- Drayton, Richard, ‘Science, Medicine, and the British Empire’, in Robin Winks, ed., *The Oxford History of the British Empire—Historiography*, Volume V, Oxford: Oxford University Press, 1999, pp. 264–276.
- Gibbons, Peter, ‘Non-Fiction’, in Terry Sturm, ed., *The Oxford History of New Zealand Literature*, 1st Edition, Auckland: Oxford University Press, 1991, pp. 27–104.
- Jacobs, Wilbur R., ‘British Indian Policies to 1783’, in Wilcomb E. Washburn, ed., *Handbook of North American Indians—History of Indian-White Relations*, Volume 4, Washington: Smithsonian Institution, 1988, pp. 5–12.
- Kelsey, Jane, ‘Treaty Justice in 1980s’, in Paul Spoonley, David Pearson, Cluny Macpherson, eds., *Nga Take—Ethnic Relations and Racism in Aotearoa/New Zealand*, Dunmore Press, Palmerston North, 1991, pp. 108–130.
- King, Michael, ‘Between Two Worlds’, in W.H. Oliver and B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, pp. 279–301.
- Lynn, John A., ‘International Rivalry and Warfare’, in T.C.W. Blanning ed., *The Short Oxford History—The Eighteenth Century*, Oxford: Oxford University Press, 2000, pp. 178–217.

- McHugh, Paul, 'A History of Crown Sovereignty in New Zealand', in Andrew Sharp and Paul McHugh, eds., *Histories Power and Loss—Uses of the Past—A New Zealand Commentary*, Wellington: Bridget Williams Books, 2001, pp. 189–211.
- Magallanes, Catherine J. Iorns, 'International Human Rights and their Impact on Domestic Law on Indigenous Peoples' Rights in Australia, Canada, and New Zealand', in Paul Havemann, ed., *Indigenous Peoples Rights in Australia, Canada, & New Zealand*, 1999, pp. 235–276.
- Marshall, P.J., 'Europe and the Rest of the World', in T.C.W. Blanning ed., *The Short Oxford History—The Eighteenth Century*, Oxford: Oxford University Press, 2000, pp. 218–246.
- Martin, R.J., 'The Liberal Experiment', in J.G.A. Pocock, ed., *The Maori and New Zealand Politics*, Wellington: Wright & Carman Limited, 1965, pp. 46–54.
- Nathan Matthews, 'Kaikaikihama: Our Most Precious Resource', in Hugh Morrison, Lachy Paterson, Brett Knowles and Murray Rae, eds., *Mana Maori and Christianity*, Wellington: Huia Publishers, 2012, pp. 141–157.
- Oliver, W.H., 'Reeves, Sinclair and the Social Pattern', in Peter Munz, ed., *The Feel of Truth: Essays in New Zealand and Pacific History and Pacific History*, Wellington: A.H. & A.W. Reed, 1969, pp. 163–178.
- Owens, J.M.R., 'New Zealand before Annexation', in W.H. Oliver and B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, pp. 28–53.
- Parsonson, Ann, 'The Pursuit of Mana', in W.H. Oliver and B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University, 1981, pp. 140–167.
- Pettett, David, 'Samuel Marsden—Christmas Day 1814, What did he say? The Content of New Zealand's first Christian Sermon', in Allan Davidson, Stuart Lange, Peter Lineham, and Adrienne Puckey, eds., *Te Rongopai 1814—'Takoto te pai!'—Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014, pp. 72–85.
- Phillips, Jock, 'Afterward: Reading the 1940 Centennial', in William Renwick, ed., *Creating a National Spirit—Celebrating New Zealand's Centennial*, Wellington: Victoria University Press, 2004, pp. 272–283.

- Puckey, Adrienne, 'London, Church and Wesleyan Missionary Societies: Maritime and Pacific Connections, 1795–1835', in Allan Davidson, Stuart Lange, Peter Lineham, and Adrienne Puckey, eds., *Te Rongopai 1814–'Takoto te pai!'—Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014, pp. 52–70.
- Richardson, Len, 'Parties and Political Change', in W.H. Oliver and B.R. Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981, pp.197–225.
- Sharp, Andrew, 'The Treaty of Waitangi: Reasoning and Social Justice in New Zealand', in Paul Spoonley, David Pearson, Cluny Macpherson, eds., *Nga Take—Ethnic Relations and Racism in Aotearoa/New Zealand*, Dunmore Press, Palmerston North, 1991, pp. 131–147.
- Sorrenson, M.P.K., 'The Politics of Land', in J.G.A. Pocock ed., *The Maori and New Zealand Politics*, Wellington: Wright & Carman Limited, 1965, pp. 21–45.
- Sorrenson, M.P.K., 'Treaties in British Colonial Policy: Precedents for Waitangi', in William Renwick, ed., *Sovereignty & Indigenous Rights—The Treaty of Waitangi in International Contexts*, Wellington: Victoria University Press, 1991, pp. 15–29.
- Stanley, Brian, 'Christian Missions and the Enlightenment: A Reevaluation', in Brian Stanley, ed., *Christian Missions and the Enlightenment*, Cambridge: William B. Eerdmans Publishing Company, 2001, pp. 1–21.
- Surtees, Robert J., 'Canadian Indian Polices', in Wilcomb E. Washburn, ed., *Handbook of North American Indians—History of Indian-White Relations*, Volume 4, Washington: Smithsonian Institution, 1988, pp. 81–95.
- Taylor, Richard 'The Strategy of War: The Taranaki Wars and the Development of British Strategy', in Kelvin Day, ed., *Contested Ground—Te Whenua I Tohea—The Taranaki Wars 1860–1881*, Wellington: Huia Publishers, 2010, pp. 56–79.
- Thomas, Nicholas, 'Hodges as Anthropologist and Historian', in Geoff Quilley and John Bonehill, eds., *William Hodges 1744-1797 The Art of Exploration*, New Haven: Yale University Press, 2004, pp. 27–34.
- Walvin, James, 'Slavery', in Iain McCalman, ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, pp. 58–65.
- Webb, R. K., 'Religion', in *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999, pp. 93–101.

- Weaver, John C., 'Land Seizures and Aftershocks: 'A True History Lesson' on Anglo-colonialism', in Richard Boast and Richard S. Hill, eds., *Raupatu—The Confiscation of Maori Land*, Wellington: Victoria University Press, 2009, pp. 48–64.
- Williams, David, 'Te Tiriti o Waitangi—Unique Relationship Between Crown and Tangata Whenua?' in I.H. Kawharu, ed., *Waitangi—Maori and Pakeha Perspectives of the Treaty of Waitangi*, Auckland: Oxford University Press, 1989, pp. 64–91.
- Wilms, Douglas C., 'Cherokee Land Use in Georgia Before Removal', in William L. Anderson, ed., *Cherokee Removal—Before and After*, Athens, Georgia: University of Georgia Press, 1991, pp. 1–28.
- Wilson, John, 'The Origins of the Maori Seats', in Maria Bargh ed., *Maori and Parliament—Diverse Strategies and Compromises*, Wellington: Huia Publishers, 2010, pp. 37–65.

Edited Collections

- Anderson, William L., ed., *Cherokee Removal—Before and After*, Athens, Georgia: University of Georgia Press, 1991.
- Bargh, Maria, ed., *Maori and Parliament—Diverse Strategies and Compromises*, Wellington: Huia Publishers, 2010.
- Bernasconi, Robert, and Tommy L. Lott, eds., *The Idea of Race—Readings in Philosophy*, Indianapolis: Hackett Publishing Company, 2000.
- Binney, J, J Basset, E Olssen, eds., *The People and the Land—Te Tangata me Te Whenua: An Illustrated History of New Zealand 1820–1920*, Wellington: Allen & Unwin, 1990.
- Blanning, T.C.W., ed., *The Short Oxford History—The Eighteenth Century*, Oxford: Oxford University Press, 2000.
- Boast, Richard, Andrew Erueti, Doug McPhail, Norman Smith, eds., *Maori Land Law*, 2nd Edition, Wellington: LexisNexis, 2004.
- Boast, Richard and Richard S. Hill, eds., *Raupatu—The Confiscation of Maori Land*, Wellington: Victoria University Press, 2009.

- Byrnes, Giselle, ed., *The New Oxford History of New Zealand*, South Melbourne: Oxford University Press, 2009.
- Cheyne, Christine., Mike O'Brien, Michael Belgrave, eds., *Social Policy in Aotearoa New Zealand—A Critical Introduction*, 3rd Edition, Melbourne: Oxford University Press, 2005.
- Commager, Henry Steele, ed., *Documents of American History*, New York: Appleton-Century-Crofts, 1973.
- Davidson, Allan, Stuart Lange, Peter Lineham, and Adrienne Puckey, eds., *Te Rongopai 1814—'Takoto te pai!'—Bicentenary reflections on Christian beginnings and developments in Aotearoa New Zealand*, Auckland: General Synod Office, 2014.
- Day, Kelvin, ed., *Contested Ground—Te Whenua I Tohea—The Taranaki Wars 1860—1881*, Wellington: Huia Publishers, 2010.
- Desai, Gaurav, and Supriya Nair, eds., *Postcolonialisms—An Anthology of Cultural Theory and Criticism*, New Brunswick: Rutgers University Press, 2005.
- Donald, James, and Stuart Hall, eds., *Politics and Ideology*, Open University Press: Milton Keynes, 1986.
- Havemann, Paul, ed., *Indigenous Peoples Rights in Australia, Canada, & New Zealand*, Auckland: Oxford University Press, 1999.
- Israel, Fred L., ed., *Major Peace Treaties of Modern History 1648—1967*, Volume I, New York: Chelsea House Publishers, 1967.
- Kawharu, I.H. ed., *Waitangi—Maori and Pakeha Perspectives of the Treaty of Waitangi*, Auckland: Oxford University Press, 1989.
- McCalman, Iain, ed., *An Oxford Companion to The Romantic Age*, Oxford University Press: Oxford, 1999.
- McIntyre, W. David, and W.J. Gardner, eds., *Speeches and Documents on New Zealand History*, London: Oxford University Press, 1971.
- McLintock, A.H., ed., *An Encyclopaedia of New Zealand*, volume two, Wellington: Government Printer, 1966.
- Morrison, Hugh, Lachy Paterson, Brett Knowles, and Murray Rae, eds., *Mana Maori and Christianity*, Wellington: Huia Publishers, 2012.
- Munz, Peter, ed., *The Feel of Truth: Essays in New Zealand and Pacific History and Pacific History*, Wellington: A.H. & A.W. Reed, 1969.

- Thomas, Nicholas, Harriet Guest, Michael Dettelbach, eds., *Observations Made During a Voyage Round the World*, Honolulu: University of Hawai'i Press, 1996.
- Oliver, W.H., and B.R Williams, eds., *The Oxford History of New Zealand*, Wellington: Oxford University Press, 1981.
- Oliver, W.H., ed., *DNZB, Volume One, 1769–1869*, Wellington: Allen & Unwin, 1990.
- Orange, Claudia, ed., *DNZB, Volume Two, 1870–1900*, Wellington: Allen & Unwin, 1993.
- Orange, Claudia, ed., *DNZB, Volume Three, 1901–1920*, Wellington: Allen & Unwin, 1996.
- Orange, Claudia, ed., *DNZB, Volume Four, 1921–1940*, Wellington: Bridget Williams Books, 1998.
- Pocock, J.G.A., ed., *The Maori and New Zealand Politics*, Wellington: Wright & Carman Limited, 1965.
- Quilley, Geoff, and John Bonehill, eds., *William Hodges 1744–1797 The Art of Exploration*, New Haven: Yale University Press, 2004.
- Renwick, William, ed., *Sovereignty & Indigenous Rights–The Treaty of Waitangi in International Contexts*, Wellington: Victoria University Press, 1991.
- Renwick, William, ed., *Creating a National Spirit–Celebrating New Zealand's Centennial*, Wellington: Victoria University Press, 2004.
- Sharp, Andrew, and Paul McHugh, eds., *Histories Power and Loss–Uses of the Past–A New Zealand Commentary*, Wellington: Bridget Williams Books, 2001.
- Spiller, Peter, Jeremy Finn, and Richard Boast, eds., *A New Zealand Legal History*, Wellington: Brooker's, 1995.
- Spoonley, Paul, David Pearson, and Cluny Macpherson, eds., *Nga Take–Ethnic Relations and Racism in Aotearoa/New Zealand*, Dunmore Press, Palmerston North, 1991.
- Stanley, Brian, ed., *Christian Missions and the Enlightenment*, Cambridge: William B. Eerdmans Publishing Company, 2001.
- Sturm, Terry, ed., *The Oxford History of New Zealand Literature*, 1st Edition, Auckland: Oxford University Press, 1991.

- Thomas, Nicholas, Guest Harriet, and Michael Dettelbach, eds., *Observations Made During a Voyage Round the World*, Honolulu: University of Hawai'i Press, 1996.
- Washburn, Wilcomb E., ed., *Handbook of North American Indians—History of Indian-White Relations*, Volume 4, Washington: Smithsonian Institution, 1988.
- Wiener, Philip P., ed., *Dictionary of the History of Ideas—Studies of Selected Pivotal Ideas*, Volume I, New York: Charles Scribner's Sons, 1973.
- Wiener, Philip P., ed., *Dictionary of the History of Ideas—Studies of Selected Pivotal Ideas*, Volume II, New York: Charles Scribner's Sons, 1973.
- Winks, Robin, ed., *The Oxford History of the British Empire—Historiography*, Volume V, Oxford: Oxford University Press, 1999.

Books

- Adams, Peter, *Fatal Necessity—British Intervention in New Zealand 1830–1847*, Auckland: Auckland University Press, 1977.
- Anderson, Clare, *Legible Bodies: Race, Criminality and Colonialism in South Asia*, Berg Publishers, 2004.
- Anaya, S. James, *Indigenous Peoples in International Law*, New York: Oxford University Press, 2004.
- Awatere, Donna, *Maori Sovereignty*, Auckland: Broadsheet, 1984.
- Ballara, Angela, *Proud to be White—A Survey of Pakeha Prejudice in New Zealand*, Auckland: Heinemann Publishers, 1986.
- _____, *Taua—'Musket wars', 'Land wars', or tikanga—Warefare in Maori Society in the Early Nineteenth Century*, Auckland: Penguin, 2003.
- Beaglehole, J.C., *The Discovery of New Zealand*, 2nd Edition, London: Oxford University Press, 1961.
- Bebbington, D. W., *Evangelicalism in Modern Britain—A History from the 1730s to the 1980s*, London: Unwin Hyman Ltd, 1989.
- Belgrave, Michael, *Historical Frictions—Maori Claims and Reinvented Histories*, Auckland: Auckland University Press, 2005.
- Belich, James, *The New Zealand Wars—and the Victorian Interpretation of Racial Conflict*, Auckland: Penguin Books, 1988. (First Published 1986)

- _____, *Making Peoples—A History of the New Zealanders From Polynesian Settlement to the End of the Nineteenth Century*, North Shore: Penguin Books, 2007.
- _____, *Paradise Reforged—A History of the New Zealanders From the 1800s to the Year 2000*, Auckland: Allen Lane: Penguin Press, 2001.
- _____, *Replenishing the Earth—The Settler Revolution and the Rise of the Anglo-World 1783-1939*, Oxford: Oxford University Press, 2009.
- Berry, Christopher, *Social Theory of the Scottish Enlightenment*, Edinburgh: Edinburgh University Press, 1997.
- Billington, Ray Allen, *Westward Expansion—A History of the American Frontier*, 3rd Edition, New York: The Macmillan Company, 1967.
- Boast, Richard, *Buying the Land, Selling the Land: Governments and Maori Land in the North Island 1865–1921*, Wellington: Victoria University Press, 2008.
- Bowler, Peter J., *The Norton History of the Environmental Science*, New York: W.W. Norton & Company, 1992.
- Binney, Judith, *The Legacy of Guilt—A Life of Thomas Kendall*, Christchurch: Oxford University Press, 1968.
- Braudel, Fernand, *A History of Civilizations*, New York: Penguin, 1993.
- Briggs, Asa, *The Age of Improvement*, London: Longmans, Green and Co Ltd, 1959.
- Burdon, R.M., *The New Dominion—A Social and Political History of New Zealand 1918–1939*, A.A. & A.W. Reed, Wellington, 1965.
- Burns, Patricia *A Fatal Success—A History of the New Zealand Company*, Auckland: Heinemann Reed, 1989.
- Butterworth, G.V., *Maori Affairs—A Department and the People who made it*, Wellington: Government Printing Office, 1990.
- Cashmore, Ernest, *Encyclopedia of Race and Ethnic Studies*, 1st Edition, London: Routledge, 2004.
- Childs, Peter, and Patrick Williams, *An Introduction to Post-Colonial Theory*, London: Prentice Hall, 1997.
- Churchill, Ward, *Struggle for the Land*, Monroe, Maine: Common Courage Press, 1993.
- _____, *A Little Matter of Genocide—Holocaust and Denial in the Americas 1492*, San Francisco: City Lights, 1997.

- Colley, Linda, *Britons, Forging the Nation 1707–1837*, New Haven: Yale University Press, 1992.
- Eccles, W.J., *The Canadian Frontier 1534–1760, The Canadian Frontier 1534–1760*, New York: Holt, Rinehart and Winston, 1969.
- Evison, Harry, *Te Waipounamu–The Greenstone Island–A History of the Southern Maori during the European Colonization of New Zealand*, Aoraki Press: Christchurch, 1993.
- _____, *The Ngai Tahu Deeds–A Window on New Zealand History*, Canterbury University Press: Christchurch, 2006.
- Fairburn, Miles, *The Ideal Society and its Enemies–The Foundations of Modern New Zealand Society 1850–1900*, Auckland: Auckland University Press, 1989.
- Ferguson, Niall, *Empire: How Britain Made the Modern World*, Victoria: Penguin Group, 2008.
- Fischer, David Hackett, *Fairness and Freedom–A History of Two Open Societies–New Zealand and the United States*, New York: Oxford University Press, 2012.
- Green, Anna, and Kathleen Troup, *The Houses of History–A Critical Reader in Twentieth-Century History and Theory*, Manchester: Manchester University Press, 1999.
- Hager, Nicky, *The Hollow Men–A Study in the Politics of Deception*, Nelson: Graig Potton Publishing, 2006.
- Harris, Aroha, *Hikoi–Forty Years of Maori Protest*, Wellington: Huia Publishers, 2004.
- Hartz, Louis, *The Founding of New Societies–Studies in the History of the United States, Latin America, South Africa, Canada, and Australia*, New York: Harcourt, Brace & World, Inc., 1964.
- Hill, Richard, *Anti-Treatyism and Anti-Scholarship: An Analysis of Anti-Treatyist Writings*, Wellington: Treaty of Waitangi Unit, 2002.
- _____, *State Authority, Indigenous Autonomy–Crown-Maori Relations in New Zealand/Aotearoa 1900–1950*, Wellington: Victoria University Press, 2004.
- Hobsbawm, E.J., *The Age of Revolution–Europe from 1789 to 1848*, London: Weidenfeld and Nicolson, 1962.
- Hocken, T. M., *A Bibliography of the Literature Relating to New Zealand*, Wellington: Government Printer, 1909.

- Howe, K.R., *Nature, Culture, and History—The 'Knowing' of Oceania*, Honolulu: University of Hawaii Press, 2000.
- _____, *The Quest for Origins: Who Discovered and Settled New Zealand and the Pacific Islands*, Auckland, Penguin, 2008.
- Jordanova, Ludmilla, *History in Practice*, London: Arnold, 2000.
- Kawharu, Hugh, *Maori Land Tenure—Studies of a Changing Institution*, Oxford: Oxford University Press, 1977.
- Kersey, Harry A. Jr., 'Policy Change and Maori Political Resurgence: An American View of the 2005 Election in Aotearoa—New Zealand', Wellington: Treaty of Waitangi Research Unit, 2006.
- King, Michael, *The Penguin History of New Zealand*, Auckland: Penguin Books, 2004.
- _____, *Being Pakeha—An Encounter with New Zealand and the Maori Renaissance*, Auckland: Hodder and Stroughton, 1985.
- Labaree, Benjamin W., *America's Nation-Time: 1607–1789*, Boston: Allyn and Bacon, Inc, 1972.
- Lester, Alan, and Fae Dussart, *Colonization and the Origins of Humanitarian Governance—Protecting Aborigines across the Nineteenth-Century British Empire*, Cambridge: Cambridge University Press, 2014.
- Loomba, Ania, *Colonialism/Postcolonialism*, New York: Routledge, 1998.
- McDowell, Morag, and Duncan Webb, *The New Zealand Legal System—Structures and Processes*, 4th Edition, Wellington: LexisNexis NZ Ltd, 2006.
- McLintock, A. H., *Crown Colony Government in New Zealand*, Wellington: R. E. Owen Government Printer, 1958.
- McNaught, Kenneth, *The Penguin History of Canada*, London: Penguin Books, 1988.
- McPherson, B.H., *The Reception of English Law Abroad*, Brisbane: Supreme Court of Queensland Library, 2007.
- Mackay, David, *In the Wake of Cook—Exploration, Science & Empire, 1780–1801*, Wellington: Victoria University Press, 1985.
- Monin, Paul, *Hauraki Contested, 1769–1875*, Wellington: Bridget Williams Books, 2006.

- More, Charles, *The Industrial Age–Economy & Society in Britain 1750–1985*, London: Longman, 1989.
- Morrell, W.P., *The Provincial System in New Zealand, 1852–76*, 2nd Edition, Christchurch: Whitcombe and Tombs Ltd, 1964.
- Mein Smith, Philippa, *A Concise History of New Zealand*, Cambridge: University of Cambridge Press, 2005.
- Mutu, Margaret, *The State of Maori Rights*, Wellington: Huia Publishers, 2011.
- O'Malley, Vincent, *Agents of Autonomy–Maori Committees in the Nineteenth Century*, Wellington: Huia, 1998.
- Oliver, W.H., *The Story of New Zealand*, London: Faber and Faber, 1960.
- Orange, Claudia, *The Treaty of Waitangi*, Wellington: Bridget Williams Books, 2nd Edition, 2011. (First published 1987)
- Paterson, Lachy, *Colonial Discourse–Niupepa Maori 1855–1863*, Dunedin: Otago University Press, 2006.
- Peckham, Howard Henry, *The Colonial Wars 1689–1762*, Chicago: University of Chicago Press, 1964.
- Petrie, Hazel, *Chiefs of Industry–Maori Tribal Enterprise in Early Colonial New Zealand*, Auckland: Auckland University Press, 2006
- Plumb, J.H., *The Growth of Political Stability in England 1675–1725*, Penguin Books: Middlesex, 1967.
- Ranke, Leopold von, *History of the Latin and Teutonic Nations 1494 to 1514*, London: G. Bell and Sons, Ltd, 1915.
- Rutherford, Sir George Grey–*A Study in Colonial Government*, London: Cassell, 1961.
- Said, Edward, *Orientalism*, London: Penguin Books, 1991. (First published 1978)
- _____, *Culture and Imperialism*, London: Vintage, 1994.
- Salmond, Anne, *Two Worlds–First Meetings Between Maori and Europeans 1642–1772*, Auckland: Penguin Books, 1991.
- Simpson, Tony, *Shame & Disgrace–A History of Lost Scandals in New Zealand*, Auckland: Penguin Books, 1992.
- Sinclair, Keith, *A History of New Zealand*, 4th Edition, Auckland: Penguin Books, 1991. (First published 1959)
- _____, *William Pember Reeves*, New Zealand Fabian: Oxford, 1969.

- _____, *Kinds of Peace—Maori People After the Wars, 1870–85*, Auckland: Auckland University Press, 1991.
- Smith, Linda Tuhiwai, *Decolonizing Methodologies—Research and Indigenous Peoples*, Dunedin: University of Otago Press, 1999.
- Sorrenson, M.P. K., *Maori Origins and Migrations: The Genesis of some Pakeha Myths and Legends*, Auckland: Auckland University Press, 1979.
- _____, *Na To Hoa, From Your Dear Friend—The Correspondence between Sir Apirana Ngata and Sir Peter Buck 1925–50*, Volume One, Auckland: Auckland University Press, 1986.
- _____, ‘A History of Maori Representation in Parliament’, University of Auckland, 1986, B-20.
- Temple, Phillip, *A Sort of Conscience—The Wakefields*, Auckland: Auckland University Press, 2002.
- Vercoe, Andrew Eruera, *Educating Jake—Pathways to Empowerment*, Auckland: HarperCollins, 1998.
- Walker, Ranginui, *Ka Whawhai Tonu Matou—Struggle Without End*, 2nd Edition, North Shore: Penguin Books, 2004. (First Published 1990)
- _____, *He Tipua—The Life and Times of Sir Apirana Ngata*, Auckland: Penguin Books, 2001.
- Ward, Alan, *A Show of Justice—Racial ‘Amalgamation’ in Nineteenth Century New Zealand*, Auckland: Auckland University, 1995, p. 308. (First printed 1973)
- Ward, Alan, *An Unsettled History—Treaty Claims in New Zealand Today*, Wellington: Bridget Williams Books, 1999.
- Wards, Ian, *The Shadow of the Land—A Study of British Policy and Racial Conflict in New Zealand 1832–1852*, Wellington: Government Printer, 1968.
- Williams, John A., *Politics of the New Zealand Maori—Protest and Cooperation, 1891–1909*, Seattle: University of Washington Press, 1969.
- Winks, Robin, *The Relevance of Canadian History: U.S. and Imperial Perspectives*, Toronto, 1979.
- Wolloch, Nathaniel, *History and Nature in the Enlightenment: Praise of the Mastery of Nature in Eighteenth Century Historical Literature*, Burlington: Ashgate, 2011.
- Wright, Harrison, *New Zealand 1769–1840: Early Years of Western Contact*, Cambridge: Mass., 1959.

Young, Robert J.C., *Postcolonialism—An Historical Introduction*, Oxford: Blackwell Publishers, 2001.

Theses

Allen, Michael, 'Maori Political Thought in the Nineteenth Century: A microhistorical study of the document of speeches from John Ballance's tour of seven Maori districts', M.A. Thesis, University of Canterbury, 2004.

Cole, Sharon Mary, 'The Repudiation Movement, A Study of the Maori Land Protest Movement in the Hawkes Bay in the 1870s', M.A. Thesis, Massey University, 1977.

Gilmore, Barbara, 'Maori Land Policy and Administration During the Liberal Period 1900–1912', M.A. Thesis, University of Auckland, 1969.

Hilliard, Chris, 'Island Stories—The Writing of New Zealand History 1920-1940', M.A. Thesis, University of Auckland, 1997.

McClellan, Sheila, 'Maori Representation 1905–1948', M.A. Thesis, University of Auckland, 1950.

Martin, Richard, 'Aspects of Maori Affairs in the Liberal Period', M.A. Thesis, Victoria University, 1956.

Miller, Kerry, 'Race Relations in the Nelson District 1840–1845', M.A. Thesis, University of Canterbury, 1981.

Meihana, P.N., 'From Anakoha to New York: The Genesis of the Foreshore and Seabed Claim and the Marginalisation of Ngati Kuia', M.A. Thesis, Massey University, 2004.

Renwick, William, 'Self-Government and Protection: a study of Stephens two cardinal points of policy in their bearing upon constitutional development in New Zealand in the years 1837–1867', M.A. Thesis, Victoria University, 1962.

Thomson, Jane, 'The Roman Catholic Mission New Zealand, 1838–1870', M.A. Thesis, Victoria University of Wellington, 1966.

Tuuta, Dion, 'Diverging Paths: an examination of the Stout-Ngata recommendations and subsequent legislation', M.A. Thesis, Massey University, 1996.

Yeo, Carol, 'Ideals, Policy & Practice: The New Zealand Protectorate of Aborigines 1840–1846', M.A.Thesis, Massey University, 2001.

World Wide Web

Dentith, Matthew, <http://all-embracing.episto.org/2012/09/06/ansell-and-doutre/>, retrieved 1/3/2015.

Said, Edward, <http://www.youtube.com/watch?v=t1F5ED-gE5Y&NR=1>, retrieved 8/3/2013.

New Zealand's Constitution - A report on a Conversation, He Kotuinga Korero mo Te Kaupapa o Aotearoa, New Zealand Government: November, 2013. http://www.ourconstitution.org.nz/store/doc/FR_Full_Report.pdf, retrieved 13/12/2014.

Oxford English Dictionary Online, Oxford University Press: March 2014, <http://www.oed.com/view/Entry/90954?rskey=E3QU6o&result=1><http://www.oed.com/view/Entry/90954?rskey=E3QU6o&result=1>, retrieved 5/7/2014.

Day, Simon and Adam Dudding, *Sunday Star Times*, <http://www.stuff.co.nz/national/crime/9435787/Bittersweet-vindication-for-iwi>, retrieved 2/11/2014.

<http://nzfirst.org.nz/policy/maori-affairs>, retrieved 13/12/2014.

<http://www.act.org.nz/policies/treaty-of-waitangi-and-race-relations>, retrieved 13/12/2014.

<http://www.conservativeparty.org.nz/index.php?page=Issues>, retrieved 13/12/2014.



MASSEY UNIVERSITY
GRADUATE RESEARCH SCHOOL

**STATEMENT OF CONTRIBUTION
TO DOCTORAL THESIS CONTAINING PUBLICATIONS**

(To appear at the end of each thesis chapter/section/appendix submitted as an article/paper or collected as an appendix at the end of the thesis)

We, the candidate and the candidate's Principal Supervisor, certify that all co-authors have consented to their work being included in the thesis and they have accepted the candidate's contribution as indicated below in the *Statement of Originality*.

Name of Candidate: Peter Meihana

Name/Title of Principal Supervisor: Dr Geoff Watson

Name of Published Research Output and full reference:

Peter Meihana, 'The idea of Maori Privilege', Te Pouhere Korero, volume 4, (2010), pp. 41-50.


Peter Meihana, 'Colonising by Privilege, 1840-1847', Te Pouhere Korero, volume 6, (2012), pp. 35-53.

Peter Meihana, 'Privilege in Practice', Matariki, 1:7, Wellington: Te Mata o Te Tau, (2014), pp. 49-66

In which Chapter is the Published Work: Introduction; Chapter 3; Chapter 6.

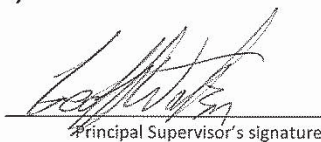
Please indicate either:

- The percentage of the Published Work that was contributed by the candidate:
and / or
- Describe the contribution that the candidate has made to the Published Work:
All articles were written solely by the candidate.


Candidate's Signature

28/5/2015

Date


Principal Supervisor's signature

28/5/2015

Date