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**Ideals, Policy & Practice:
The New Zealand
Protectorate of Aborigines
1840-1846**



A thesis presented in partial fulfilment of the
requirements for the degree of Master of Arts
in History at Massey University

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We did it together - roll on next year!

-Carol

Abbreviations

ATL Alexander Turnbull Library (Wellington)

NA National Archives (Wellington)

Notes

1. On his appointment George Clarke Senior was styled "Protector of Aborigines". Subordinates were styled "Sub-Protectors". A notice in the Government Gazette of July 1841 announced that Clarke's title had been altered to "Chief Protector of Aborigines". His subordinate officers were henceforth titled "Protectors". For the purposes of this thesis these later titles will be used throughout.

2. The Chief Protector of Aborigines was George Clarke Senior. His son, George Clarke Junior was Protector of the Southern District. Historians have occasionally confused the two. This is easily understood for contemporary documents did not always distinguish between them. To avoid this confusion, and at the risk of appearing repetitious and stilted, this thesis will use the titles 'senior' and 'junior' as consistently throughout as is necessary to differentiate between them.

Introduction

In 1837 a Select Committee of the House of Commons delivered a report on the indigenous peoples of the various countries which had been, or were being, colonised by Great Britain. Concern was expressed over the effect colonisation had on these peoples, and a recommendation made that they ought to be protected. In New Zealand, this protection was to take the form of the Protectorate of Aborigines, a department which operated for six years from 1840. Established in conjunction with the Treaty of Waitangi, the Protectorate's duty was to give effect to the ideals of protection as expressed in the 1837 Report, and by the humanitarian lobby of the time, represented in the main by the Aborigines Protection Society and the Christian missionary societies.

The Protectorate of Aborigines has largely been forgotten in the historical account of New Zealand. It is rarely discussed, and when mentioned is treated somewhat summarily. Since a thesis written by P.D.Gibbons in 1963, no major work on the subject has been undertaken, and it is rare if more than one or two pages are devoted to it. In general most accounts are negative. Alan Ward is an exception. In his writing he has positively acknowledged the work of the Protectorate in relation to the establishment of British law in New Zealand. However, more recently, Paul Moon asserted that the appointment of a Protector of Aborigines was little more than an attempt by the Crown to assuage its guilt for usurping Maori sovereignty, and taking Maori land. Furthermore, Moon claims that Clarke, as Chief Protector, had little value, because of his alleged land speculations. This is a common attitude to the Protectorate, which has grown out of the contemporary perception that it was a complete failure. However, further consideration of the evidence reveals that the Protectorate was a useful department which

operated successfully albeit in a limited way.

The limitations and perceived failure of the department were the result of a number of factors. The Protectorate of Aborigines, as part of the local New Zealand administration, laboured under the same financial disadvantages which hampered the general government. The tasks imposed on the department were delicate and complicated, requiring specialised knowledge and abilities which were not easy to come by in the early days of the colony. Lack of funding, and lack of suitable personnel resulted in an inability to satisfactorily meet all demands. Combined with these drawbacks, the opposition of the powerful proponents of systematic colonisation, the New Zealand Company, which actively campaigned against the New Zealand government, in particular the Governors and the Protectorate, undermined the attempts of the Protectorate to facilitate peaceful relations between Maori and settler. Many of the judgements made on the Protectorate have been based on the biased, often exaggerated, accounts given by New Zealand Company sources. Another source of negative records on which a picture of the Protectorate has been founded are the reports of Governor George Grey, who abolished the Protectorate of Aborigines shortly after his arrival in New Zealand. In order to justify his actions, Grey painted a picture of a corrupt, ineffective department. As time has indicated, Grey's accounts of events need to be read with less credulity than his contemporaries exhibited.

This thesis will attempt to present a view of the Protectorate using documents generated by settlers and Government officials, all written in English. Unfortunately this means that a Maori view of the Protectorate is not able to be examined here. It seems obvious that an examination of the relationship between the Protectorate and the people whom it purported to protect would form an important element in a study of this nature.

Difficulties confront such an examination, however, which render it a problematic, if not impossible task.

The most apparent problem is that there are few, if any, written Maori records available from which an understanding of the Maori perspective of the Protectorate can be gained. Almost all written materials are from European sources and regardless of how impartial they may claim to be, inevitably they reflect the biases of the author. Even translations of letters written by Maori "reflect the bias and understandings of the interpreter, not the speaker."¹ What is more, the written word has the power to entrench error and bias. The result is a one-sided documentary record which only partially and imperfectly reflects the relationship between Maori and the Protectorate.

If we look to European sources for indications of the nature of the relationship that existed between Maori and its 'Protectors' it is imperative to keep this bias in mind, and to recognise the weaknesses inherent in even the most avowedly impartial of records. Many records were openly hostile to the Protectorate and thus portrayed the relationship, and Maori, negatively. Other records claimed to paint the 'true' picture, however, these accounts may have been of a rosier and more sanguine hue than reality bore out. Even if written, or oral, Maori records relating to the Protectorate exist, they too would have biases to be wary of.

It is regrettable that a reliable Maori viewpoint of the Protectorate no longer exists, if it ever did, as judgement of the Protectorate has been made on the basis of a strongly prejudiced European account which had little inclination to take into account the well-being of Maori. Even if Maori opinion had not been sufficient to save the Protectorate from abolition, it would have provided a valuable insight, and enabled a more balanced evaluation to be made of the effect and worth of this department from the perspective of those

¹ Muriwhenua Land Report, Waitangi Tribunal, GP Publications, 1997, p.2.

whom it was created to serve. This thesis, therefore, makes no claim to offer a Maori viewpoint, while recognising the integral part Maori contributed to the events recounted.

It is the purpose of this thesis to examine the evidence relating to the Protectorate in an attempt to retell the story of this department and the men who worked in it. The concept of protection will be examined in order to establish the fundamental notions and ideals on which the Protectorate operated. The development of practical policy will also be investigated in the light of these contemporary theories of protection, which originated in far-removed places, and the realities which the Protectors faced in New Zealand. The differences in the theory and practice which emerged will be seen as underlying the unpopularity of the Protectorate, and as a significant factor contributing to the 'necessity' of its abolition. It will also be shown that as the implications of the Treaty of Waitangi dawned on the British, the desire of the Protectorate to interpret and uphold the Treaty in the sense that it was understood by Maori conflicted with the ambitions of those whose economic aspirations were impeded by Protectorate policy. The final purpose of this thesis will be to investigate the motives and actions of Governor Grey in abolishing of the Protectorate, and to evaluate the long term effects of these actions. It is hoped that the Protectorate will be rescued from the ignominy which has surrounded it and its many positive efforts recognised.

Chapter One: Protection

By late 1838 the British Colonial Office had finally admitted that colonisation of New Zealand was a reality and that official intervention by the British Government was a necessity if it wished to retain any control over its citizens in that country.² The slippery slope towards the reluctant annexation of New Zealand by Britain has been well explored by historians over the years and needs little expansion for the purposes of this thesis. The political and legal difficulties with which the Colonial Office had to deal, and the conflicting views of opposing parties which acted as pressure groups on politicians and civil servants as they attempted to formulate a policy for New Zealand, are also well documented. However, wherever one stood, on the continuum of opinion regarding the colonisation of New Zealand, one issue was apparently agreed on by all. This was the need to protect Maori. Missionaries, politicians, civil servants, and New Zealand Company officials all included in their rhetoric the necessity of protecting the aboriginal population of New Zealand. The notion of protection for Maori and their rights was part of the debate from the outset. The British national consciousness had been aroused by the anti-slavery movement, and with the success of campaigns in that area, broadened to envelop the welfare of indigenous peoples throughout the world.

In 1837 a report was tabled in Parliament by a House of Commons Select Committee regarding aborigines in British settlements. While recognising colonisation of other lands as appropriate, this report called on the British nation to "tolerate no scheme which implies violence or fraud in

² Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852*, Wellington: A.R.Shearer, Government Printer, 1968, p.24.

taking possession of such territory” and to “take upon itself the task of defending those who are too weak and too ignorant to defend themselves.”³ The report went on to express the belief of the Committee that unless steps were taken to protect the indigenous peoples of colonised countries their extinction was inevitable, and, given the “advantages” Britain had over these nations, this was unacceptable. An outcome of this report was the creation, that same year, of the Aborigines Protection Society.⁴

Those interested in the causes championed by this society (and the earlier anti-slavery movement) were designated “humanitarians”, a somewhat nebulous term with no apparent social, political or religious boundaries, although it did tend to be a middle-upper-class phenomenon. Humanitarianism reached its zenith during the 1830s and had considerable political influence through the Aborigines Protection Society and the Church Missionary Society, in particular the persistent Dandeson Coates. Thus the Colonial Office was impelled to include in their policies a recognition of the need to protect Maori. Many see this as inevitable given the humanitarian persuasion of successive secretaries of state, and the permanent under-secretary of the Colonial Office, James Stephen. However, even the New Zealand Company was including ostensible plans for the guarding of Maori welfare in its policies but this was probably a gesture designed to win over the influential humanitarian lobby.

But what exactly did “protecting” Maori mean? As it turned out, opinions on this questions were widely varied and strangely similar, all at the same time. The Colonial Office, as always, steered its own path between the conflicting views of the missionaries at one extreme, and the New Zealand

³ Report of House of Commons Committee on Aborigines in British Settlements, June 26, 1837, [Extract], in Kenneth N. Bell and W.P. Morrell (eds), *Select Documents on British Colonial Policy 1830-1860*, Oxford: Clarendon Press, 1968, pp. 545-552.

⁴ Keith Sinclair, “The Aborigines Protection Society and New Zealand”, M.A. Thesis, University of Auckland, 1946, p. 16.

Company and its settlers at the other. Unfortunately, as so often proved to be the case in early New Zealand colonial history, hazy official ideas regarding the meaning of protection led to ambiguous, indefinite wording in policy, and a consequent susceptibility of that policy to the manipulations of whichever party had an upper hand at the time.

The perceived need for protection of Maori stemmed from the observation that colonisation had a negative impact on indigenous peoples. This was acknowledged by the 1837 Committee in their Report on Aborigines, and was a widely accepted belief.⁵ In a homily addressed to would-be colonists the Reverend Montague Hawtrey, a supporter of systematic colonisation and the New Zealand Company, remarked:

The most distressing circumstance connected with civilization is, that it involves something which tends to the destruction of native life. The true cause of this remarkable phenomenon remains undiscovered; but under its operation the aborigines are said to be disappearing like snow melting beneath the sunbeams.⁶

The preface to Dieffenbach's *New Zealand and Its Native Population* comments on the "homicidal character" of colonisation⁷. Swainson refers to "that process of extermination under which uncivilised tribes had hitherto disappeared when brought into contact with civilisation."⁸ Some attempted to discover the exact causes of population decline. William Fox listed "deep seated scrofulous disease ..., depravity among the women ... drudgery imposed upon the women ... polygamy [and] female infanticide" combined with "a depression of spirits and energy which, in the mind of the savage,

⁵ Bell & Morrell, p.545.

⁶ Reverend Montague Hawtrey, *An Earnest Address to New Zealand Colonists, with Reference to their Intercourse with the Native Inhabitants*, London: John W.Parker, 1840, p.50.

⁷ Ernest Dieffenbach, *New Zealand and its Native Population*, London: Smith, Elder & Co, 1841, p.vii.

⁸ William Swainson, *New Zealand and Its Colonization*, London: Smith, Elder and Co., 1859, p.100.

ensues upon his contact with civilised men” when he saw his inferiority by comparison with them.⁹ Others suggested alcohol as a cause of the decline, including the 1837 Committee which advocated the prohibition of liquor sales to indigenous peoples.¹⁰ However, there was more than this. Terry believed that it was because governments failed to provide “a just and adequate system of protection for them”.¹¹ The good doctor Hawtrey postulated that:

the main requisite for their support and preservation is that JUSTICE should be done to them; and that if savage tribes have hitherto melted away before the white man, it is only because the white man takes so little trouble to discover what is justice, when he stands in the threefold character of judge, jury and principal party in the suit.¹²

Likewise Dieffenbach blamed “unjust laws” and a lack of judicial protection which prevented Maori from a “timely incorporation” into colonial societies.¹³ This general agreement on the negative effects of colonisation on Maori led to the first “given” in the general understanding of protection, which was that protection meant the preservation of the Maori population from extermination, if possible.

Although an indication of positive intentions towards Maori, the notion of protection was an inherently negative one implying weakness and inferiority. The 1837 Report referred to those “too weak and too ignorant” to protect themselves.¹⁴ Weakness of Maori was regarded as ridiculous by some who pointed to their numerical and military strength.¹⁵ Presumably then,

⁹ William Fox, *The Six Colonies of New Zealand*, London: John W. Parker, 1851, pp.54,55

¹⁰ Dieffenbach, *Appendix to New Zealand and its Native Population*, London: Smith, Elder & Co, 1841, p.2; also Bell & Morrell, p.549.

¹¹ Charles Terry, *New Zealand : Its Advantages and Prospects as a British colony : with a full Account of the Land claims, Sales of Crown lands, Aborigines*, London : T. & W. Boone, 1842, p.215.

¹² Hawtrey, p. iv.

¹³ Dieffenbach, *Appendix to New Zealand and its Native Population*, p.2.

¹⁴ Bell & Morrell, p.546.

¹⁵ Swainson, p.182,183.

ignorance was regarded as their disadvantage. Violence, at this time, was not the threat to Maori. Rather, it was the threat of exploitation by land-seeking colonists that was the concern. According to the British view, the weakness and inferiority of Maori was in their degree of "civilisation", which led the British to assume that Maori were not sophisticated enough to cope with manipulative land buyers.

Civilisation of races was viewed hierarchically by the British. At the apex of this scale were, naturally, the Victorian English. The 1837 Committee expressed this view clearly. "They (native peoples) are found in all the grades of advancement, from utter barbarism to semi-civilization."¹⁶ Maori, while not considered as degraded as other indigenous peoples such as the Aborigines of Australia, were nevertheless viewed as of subordinate status.¹⁷ An old settler stated, "[T]heir intellect merely requires a little cultivation to place them on a footing with their civilised brethren."¹⁸ Confusion, and apparent contradiction in English beliefs, were not uncommon however. For example, Lord John Russell referred to Maori as more deserving of British protection because they were:

not mere wanderers over an extended surface nor tribes of hunters, or of herdsmen; but a people among whom the arts of government have made some progress; who have established by their own customs a division and appropriation of the soil; who are not without some measure of agricultural skill and certain subordination of ranks; with usages having the character and authority of law.¹⁹

In the same document, however, Russell also refers to Maori as having "all the bad habits of an indolent, predatory, and wandering life, united to distrust of

¹⁶ Bell & Morrell, p.547.

¹⁷ Lord Stanley to FitzRoy, August 13, 1844, NZ4:1845 (1), pp.3,4.

¹⁸ William Brown, *New Zealand and Its Aborigines: Being an Account of the Aborigines, Trade and Resources of the Colony; and the Advantages it now Presents as a Field for Emigration and the Investment of Capital*, London: Smith, Elder, and Co., 1845, p.10; see also Hawtrey, p.10.

¹⁹ Lord John Russell to Hobson, December 9, 1840, NZ3: 1841 (311), p. 27.

their employers, and inadequate appreciation of the rewards of industry.”²⁰

These ideas resulted in a paternalistic, often patronising, attitude being adopted by European towards Maori. “You must use the same patience and forbearance with them which a parent or wise instructor would use towards a wayward child,” advised Reverend Hawtrey.²¹ The New Zealand Company apparently approved this pontificating tone.

But the first object to secure is the favourable disposition of the British colonist toward his New Zealand fellow citizen. He should feel towards him as a father towards a child; as a being imbued with great knowledge, powers, and intellect, towards a frail and wayward creature which had been committed to his care.²²

Missionaries also exhibited patronising and paternalistic attitudes, as did the officials of Government.²³ Paternalistic and superior attitudes are also overtly expressed in the 1844 Select Committee Report on New Zealand. The Report refers to the “power which their (settlers) superior civilisation gives them over the rude natives of the soil”, and Maori are treated simply as inferior beings in need of improvement which the British can provide.²⁴ “The rude inhabitants of New Zealand ought to be treated in many respects like children,” the Committee stated, “in dealing with them, firmness is no less necessary than kindness.”²⁵ References throughout the report to the “true interests” of Maori reflect the inherent belief in the superiority of British culture and the need for its adoption by Maori as the only path to progress and civilisation.²⁶

²⁰ Ibid, p.29.

²¹ Hawtrey p.11.

²² *New Zealand Journal*, No.3., March 7, 1840. Similarities in style and wording between this article and Reverend Montague Hawtrey’s “*Earnest Address*” suggest the same author is responsible for both. Hawtrey was openly supportive of the New Zealand Company.

²³ Hawtrey, p.18; Donald McLean to his cousin Duncan, April 21, 1846, Maclean Papers, 0032-1308.

²⁴ Report of the Select Committee of the House of Commons, NZ2:1844 (556) p.4.

²⁵ Report (1844), p.10.

²⁶ Report (1844), pp.7,10.

This paternalism derived from a sense of superiority led to another important idea inherent in 'protection' as Victorian English understood it. This involved something it was not. Protection was not intended for the preservation of the Maori culture and way of life. Instead it was merely a kind of framework within which Maori culture could be 'humanely' obliterated as part of the broader goal of amalgamation. This was the ultimate goal even of missionaries and humanitarians opposed to large-scale colonisation. The aim of amalgamation was underpinned by the sense of superiority felt by the English towards the 'less civilised' Maori. References throughout virtually all contemporary sources dealing with Maori use vocabulary such as 'savage', 'barbarous', 'degraded', 'inferior' in describing them. It was the responsibility of those higher on the perceived hierarchy to introduce those lower to the benefits of civilisation, against their will if need be.²⁷ The Report of the 1837 Committee on Aborigines expressed these sentiments clearly:

The British Empire has been signally blessed by Providence, and her eminence, her strength, her wealth, her prosperity, her intellectual, her moral and her religious advantages... were given for some higher purpose than commercial prosperity and military renown... 'Can we suppose otherwise than that it is our office to carry civilisation and humanity, peace and good government, and, above all, the knowledge of the true God, to the uttermost ends of the earth?'²⁸

Thus, it was tacitly understood that the Maori were to be introduced to the British "for the purposes of civilisation."²⁹ As a new colony, New Zealand was viewed by humanitarians as an ideal place to "try the experiment whether a fragment of the great human family, long sunk in heathen darkness, could be

²⁷ Marjorie Barnard, *A History of Australia*, London: Angus and Robertson, 1976, p.651.

²⁸ Bell & Morrell, p.546.

²⁹ Hawtrey, p.18.

raised from its state of social degradation, and maintained and preserved as a civilised people."³⁰

Amalgamation, or assimilation, was multi-faceted. Not only were Maori to be absorbed spiritually, culturally and socially into the British way of life but economic, commercial and political amalgamation was anticipated. The different emphasis put on the priority of each component of amalgamation was to become apparent as different parties vied for power within New Zealand. Whilst the Protectorate of Aborigines was in operation spiritual, educational, cultural, social and to a certain extent, political goals were at the forefront of the minds of those working to assimilate Maori into the new society. Unfortunately scarcity of resources and personnel, made the achievement of these goals impossible. Lack of success in these areas was used as a weapon against the Protectorate by its enemies. Once the New Zealand Company and its settlers gained a greater share of power, economic concerns prevailed, and the amalgamation of Maori economically became the supreme goal. This was manifested in the drive to bring Maori title to land increasingly into line with English law thus making land more available for European purchasers. The communal land holding of Maori was a barrier to "free trade" which was the economic ideal of the day, and to individual land ownership which was believed to be the basis of wealth.³¹ The Protectorate, operating under a directive to protect the land rights of Maori, was thus viewed with extreme negativity.

This leads to another vital aspect of the notion of protection as understood by English colonists. Although downplayed, if not completely avoided, by Hobson in his Treaty negotiations, the issue of English interests

³⁰ Swainson, p.100.

³¹ Peter Adams, *Fatal Necessity: British Intervention in New Zealand 1830 - 1847*, Auckland: Auckland University Press, 1977, p.55; William Fox, *Colonization and New Zealand*, London: Smith, Elder & Co., 1842, p.4.

was integral to the essence of protection. Protection of the Maori was to ensure protection of the British, along with their colonising and commercial activities. The appointment of Busby as British resident, although regarded as a failure, had been “partly with a view of protecting British commerce ... and partly to repress the outrages ... against the Natives.”³² The missionaries were highly aware that commerce had given them their foothold in New Zealand and through Dandeson Coates had lobbied the Colonial Office for the continuation of Busby’s appointment to protect those interests and thus their missionary activities.³³ In his instructions for Hobson, Lord Normanby commented on the rich resources and geographical position of New Zealand as being desirable for Britain to possess. The potential of New Zealand was regarded as unmatched, in Normanby’s opinion, and there was “no part of the earth in which colonisation could be effected with greater or surer prospect of national advantage.”³⁴ And while claiming Britain was intervening in New Zealand largely out of concern for the Maori, it is highly unlikely that, even at this point, intervention would have been considered without the added incentive of advantages for Britain. Caution was urged when negotiating the Treaty, particularly in regard to land, for carelessness could be “fatal to the prosperity” of the new colony, as it had been in others.³⁵

Thus, at the time the Treaty of Waitangi was negotiated, the protection ‘policy’ was simply a resolve to prevent the extinction of Maori if possible, and ‘raise’ them in the scale of civilisation, whilst ensuring the safety and prosperity of the new British settlements. The lack of practical methods with which to attain these ends made some pessimistic. William Brown, for example, remarked, “It is vain to hope that the natives ... may escape the fate

³² Goderich to Bourke, 14 June 1832, cited in Wards, p.9.

³³ Adams, p.147.

³⁴ Lord Normanby to Captain William Hobson, August 14, 1839, British Parliamentary Papers, Colonies (New Zealand), Irish University Press Series, NZ3: 1840 (238), p.37.

³⁵ Ibid, p.38.

which has hitherto attended the aborigines of other countries when brought into connection with civilised man, while the proper means for ensuring to them a better destiny are either unknown or neglected.³⁶

What then, were the 'proper means' to protect Maori? The Colonial Office decided that a Protector of Aborigines was the solution. This idea had been tried in Australia, and although it was eventually unsuccessful, this outcome was not then known.³⁷ On forming a government Hobson was instructed to create this "indispensable" position.³⁸ The appointee would be an individual "expressly appointed to watch over the interests of the aborigines as their protector".³⁹ His duties would include "promoting the civilisation" of Maori, and facilitating land purchases from Maori under the proposed pre-emption clause of the anticipated Treaty. When Hobson specifically asked for clarification of the duties expected of the Protector he was told nothing more than that the Protector would be his subordinate and further than that Hobson should use his discretion.⁴⁰ Thus, not only were the implications of the Treaty not thought out beforehand, neither were the implications of protection. It was in this vague atmosphere that the first governmental department devoted specifically to the care of Maori welfare was established.

³⁶ Brown, William, pp. 2,3.

³⁷ Barnard, p.655.

³⁸ Lord Normanby to William Hobson, August 15, 1839, NZ3: 1840 (238), p.41.

³⁹ Lord Normanby to William Hobson, August 14, 1839, NZ3: 1840 (238), p.39.

⁴⁰ Lord Normanby to William Hobson, August 15, 1839, NZ3: 1840 (238), p.44.

Chapter Two: The Establishment of the Protectorate

The Colonial Office decision to appoint a Protector of Aborigines was prompted by the recognition that systematic colonisation, according to the theory of Edward Gibbon Wakefield and espoused by the New Zealand Company, signalled an important alteration in attitudes towards New Zealand colonisation. The pivotal point was land. Prior to annexation about two or three thousand Europeans had randomly collected on New Zealand shores. This population included missionaries, escaped convicts, deserting seamen, and those known as 'respectable' settlers. Of the latter most had come to benefit from the trading prospects and natural resources of the country. Scattered in small settlements and trading stations around the coastline, few of these Europeans owned large amounts of land. Some of the Church Missionary Society missionaries acquired considerable land holdings and this was to become a difficulty for them later. Most land was, however, still in Maori hands.

The New Zealand Company plans for systematic colonisation hinged on the ability of its agents to obtain large amounts of land cheaply and quickly. The thousands of immigrants who arrived in New Zealand under the company's auspices over the next few years were lured by the prospect of abundant, easily acquired land. Most had already chosen allotments in London before leaving. Hawtrey, safe and warm by his fireside, wishfully, and naively, thought more kindly: "The disposition which impels mankind to seek a home in distant countries is not the single wish of acquiring riches, but a very complicated feeling and results from some of the most natural instincts and generous aspirations of the human heart."⁴¹ William Fox was, perhaps, more realistic. After a dire account of overcrowding, poverty and disease

⁴¹ Reverend Montague Hawtrey, *An Earnest Address to New Zealand Colonists, with Reference to their Intercourse with the Native Inhabitants*, London: John W.Parker, 1840, p.11.

endemic in parts of Britain he wrote, "[T]here is a very large body of persons in this country who are thrust to the very verge of civilisation, and whose condition *must* be bettered, let them emigrate where they will."⁴² Colonists did not forsake their homeland, sacrifice life savings, and submit their families to an arduous, possibly perilous, sea journey months long, for the thrill of adventure and a widened world view. They set sail prepared to risk death and work hard because they believed they would be able to improve their lives and acquire material wealth which they had been unable to do in Britain. They came because they wanted land.

Recognition of this, along with the ideals of protecting Maori 'sovereign' rights, led the Colonial Office to stipulate firstly, that what was to become known as the 'pre-emption clause' be written into the Treaty of Waitangi. This clause, as is well known, gave the right to purchase land solely to the new government, although Maori understood the clause to mean that the Crown had the right of first refusal. And, placed in the position of making the necessary land purchases for the government was the Protector of Aborigines. By making the Protector of Aborigines responsible for all land purchases it was envisaged that Maori would be safeguarded from land speculators, and prevented from alienating land that may have been necessary for their future well-being. It was the Protector who would have to take the vague notions of protection and turn them to practical application.

By mid-February 1840 the search for a Protector of Aborigines was underway. This was not a simple task for Hobson, who was limited in his choices by certain prerequisites which were considered essential. The most important of these were a knowledge of the Maori language, and a good understanding of their customs and usages. Lacking these basics, the retinue

⁴² William Fox, *Colonization and New Zealand*, London: Smith, Elder & Co., 1842, p.17.

of officials Hobson had inherited from New South Wales were wholly unsuitable, not only for the Protectorate office, but for any office, if Hobson is to be believed.⁴³ The Protector was also required to have a genuine interest in the welfare of Maori. Few Europeans other than the missionaries had spent long enough in New Zealand to develop these requirements, and, with his personal humanitarian and evangelical inclinations, Hobson was predisposed to choose from among this group.⁴⁴

The missionaries themselves were certainly not opposed to this and the Reverend Henry Williams appears to have been in discussion with Hobson on the subject. On February 18 Williams wrote to George Clarke Senior and suggested that he consider the position of Protector of Aborigines.⁴⁵ Clarke was a senior CMS missionary who had been in New Zealand for approximately sixteen years. Of humble origins, Clarke had trained in carpentry, and as a gunsmith, before training to be a missionary in England. Since 1831 he had been running the CMS model farm at Waimate. Clarke enjoyed living in New Zealand and had developed a liking of, and a respect for Maori. He had learnt the Maori language and was familiar with Maori customs. As an unordained catechist he was eligible for the role of Protector, unlike his ordained brethren who were bound to their calling. His initial response to Williams' suggestion, however, was not encouraging - he was committed to his mission work, he said, although he did agree with Williams that the Protector should be of missionary origin.⁴⁶ The two discussed other possibilities but Clarke "after a severe struggle and refusal of the situation" was eventually persuaded to accept. "The position in which I am now placed by the Government and by

⁴³ S.M.D. Martin, *New Zealand : In a Series of Letters; Containing an Account of the Country Both Before and Since its Occupation by the British Government*, London: Simmonds & Ward, 1845, pp.117,118.

⁴⁴ Paul Moon, *Hobson: Governor of New Zealand 1840-1842*, Auckland: David Ling Publishing Limited, 1998, p.238.

⁴⁵ Reverend Henry Williams to George Clarke Snr, February 18, 1840, Clarke Papers, ATL, qMS-0468.

⁴⁶ George Clarke Snr to Henry Williams, February 21, 1840, Clarke Papers, ATL, qMS-0468.

the unanimous opinion of my brethren is anything but what I expected or wished." he wrote on April 25 of that year.⁴⁷

Clarke's suitability for the position of Chief Protector has been debated ever since. Hobson genuinely believed Clarke was well suited to the task although many others did not.⁴⁸ Questioned by the House of Commons Select Committee of 1844, Walter Brodie stated that he supposed Clarke had been appointed simply because he had been hospitable towards Hobson on his arrival in New Zealand.⁴⁹ William Brown said that while Hobson had no doubt chosen the best from those available, and Clarke was undoubtedly "a kind-hearted, amiable man", he was "neither by education, nor by mental endowments, at all qualified for the arduous and difficult duties that devolve upon him."⁵⁰ The New Zealand Company were also quick to judge Clarke on his lack of formal education, styling him "Mr Gunsmith Clarke" in reference to his humble origins.⁵¹ However, it was for his knowledge of Maori language, and his experience in dealing with Maori, that Clarke was selected, not his administrative abilities, which he made no pretensions of having. In the 1950s McLintock criticised Clarke's lack of administrative training, but at the same time remarked that his "competently written reports" show that Clarke was no fool.⁵² Governor Robert FitzRoy, whilst acknowledging Clarke's lack of training, found him "industrious and intelligent."⁵³

The latter comment also serves partly to refute the assertion that

⁴⁷ George Clarke Snr to Church Missionary Society, April 25, 1840, Clarke Papers, ATL, qMS-0464.

⁴⁸ P.D. Gibbons, "The Protectorate of Aborigines", M.A.Thesis, Victoria University, 1963, p.8.

⁴⁹ Walter Brodie to House of Commons Select Committee, NZ2: 1844 (556), pp.104, 105.

⁵⁰ W. Brown, *New Zealand and Its Aborigines: Being an Account of the Aborigines, Trade and Resources of the Colony; and the Advantages it now Presents as a Field for Emigration and the Investment of Capital*, London: Smith, Elder, and Co., 1845, p.145.

⁵¹ *New Zealand Spectator and Cook's Straits Guardian*, November 22, 1845.

⁵² A.H. McLintock, *Crown Colony Government in New Zealand*, Wellington: R.E.Owen, Government Printer, 1958, p.178.

⁵³ Robert Fitzroy: Letter to an unnamed person, November 4, 1844, FitzRoy Papers, ATL, qMS-0794.

Clarke was "indolent and ineffectual" while Protector of Aborigines.⁵⁴ This unfortunate comment is unfounded. Whilst a missionary Clarke had proved himself to be an energetic, enthusiastic and diligent worker.⁵⁵ If the sheer volume of physical work Clarke undertook as a missionary is not enough to prove his industry, he also endeavoured to improve himself with a steady programme of self-education.⁵⁶ As Protector, Clarke produced copious amounts of records, reports and correspondence, and undertook lengthy and strenuous journeys around the country, often on foot.⁵⁷

Notwithstanding Clarke's efforts at self-improvement, in many of the contemporary criticisms of Clarke, and even in McLintock's review, an undertone of elitism pervades. McLintock comments that "in a humbler sphere he would no doubt have proved an excellent citizen."⁵⁸ Octavius Hadfield, believed that many of the missionaries, including Clarke, were "ignorant men who have been advanced beyond their proper station in life."⁵⁹ This class consciousness was a barrier that was virtually impenetrable, and inescapable even in the new colony.

Much of the criticism of Clarke no doubt originated in his opposition, with most other missionaries in New Zealand, to large-scale colonisation, which immediately set him at odds with the New Zealand Company and its adherents. Clarke had been prominently involved in missionary requests for official government intervention in New Zealand.⁶⁰ This, however, had been an attempt to protect the mission work among the Maori rather than to encourage colonisation. Clarke's acceptance of the position of Protector of

⁵⁴ Keith Sinclair, *A History of New Zealand*, Harmondsworth, Middlesex, 1959, p.76.

⁵⁵ G.W. Shroff, "George Clarke and the New Zealand Mission, 1824 -1850", M.A. Thesis, University of Auckland, 1967, pp.125, 126; see also p.214.

⁵⁶ Ibid. p.210.

⁵⁷ Gibbons, p.14.

⁵⁸ McLintock, p.178.

⁵⁹ Octavius Hadfield, cited in Gibbons, p.10.

⁶⁰ Ian Wards, *The Shadow of the Land: A Study of British Policy and Racial Conflict in New Zealand 1832-1852*, Wellington: A.R.Shearer, Government Printer, 1968, p.3,20.

Aborigines was prompted by his belief that he could continue to be of service to the Mission Society as well as to the Maori. Clarke did not see himself as entirely severing his connections with the Society, and viewed his new position in the light of an extension of his missionary work.⁶¹ Although criticisms of missionary interference in government later arose, at this time the Imperial Government was not only favourable towards, but relying on the continued work of the Mission societies to support their efforts towards amalgamation. This had been encouraged by the 1837 Report on Aborigines which urged that missionaries be supported in their endeavours for these, they believed, tended towards the “improvement” of native peoples.⁶² Colonial government support for the missionaries was viewed by Lord John Russell as one of the most important steps that could be taken in the ‘protection’ of the Maori.⁶³ However, as Wake notes, in his article on Clarke and native policy, the missionaries experiences in New Zealand prior to 1840 had led them to “acknowledge that the truth of the Gospel and the superiority of the European way of life were not universally self-evident.”⁶⁴ This valuable insight, which was not always grasped by newcomers to New Zealand, was to be reflected in the Protectorate policy of George Clarke, and to imperceptibly lead him away from the “strict” notions of protection as generally understood.

Despite his personal misgivings Clarke took up his new duties with the zeal and energy which characterised all his undertakings. Clarke was a practical man who sought practical solutions to problems before him. His approach to the Protectorate was no different. He was accustomed to hard

⁶¹ George Clarke Snr to Church Missionary Society, April 25, 1840, Clarke Papers, ATL, qMS-0464.

⁶² Report of House of Commons Committee on Aborigines in British Settlements, June 26, 1837, [Extract], in Kenneth N. Bell and W.P. Morrell (eds), *Select Documents on British Colonial Policy 1830-1860*, Oxford: Clarendon Press, 1968, pp. 545-552.

⁶³ Lord John Russell to William Hobson, NZ3:1841 (311) p. 149.

⁶⁴ C.H. Wake, “George Clarke and the Government of the Maoris 1840-45”, *Historical Studies Australia and New Zealand* 10, 39, (1962), pp. 354, 355.

work, and the patience which he had learned in his years as a missionary was to be a valuable asset in his new appointment.

Clarke was faced with an enormous task. A large Maori population was spread throughout the country, and the settler population was rapidly increasing. As Protector of Aborigines, Clarke was placed in a difficult position. Although he saw it as his task to mediate between the two races, and to administer “even handed justice” to both, the very title with which he was known led settlers to believe Clarke was biased in favour of Maori.⁶⁵ At the outset of the Protectorate only Normanby’s original instructions to Hobson contained any guidelines for the fledgling department. These specified that the Protector would obtain land for settlement “by fair and equal contracts” with Maori. As Protector, Clarke was to ensure that this entailed no “distress or serious inconvenience” to the Maori.⁶⁶ The same document went on to state that Clarke would also be responsible for “promoting their civilisation” - a “comprehensive expression”, as Normanby noted, “for whatever relates to the religious, intellectual, and social advancement” of Maori. This would be done, Normanby expected, in conjunction with the missionaries who had already begun these tasks. Promoting civilisation included suppressing customs considered abhorrent, such as cannibalism, bigamy, infanticide and human sacrifice, but Clarke was to ensure that Maori in the process of being assimilated were “carefully defended in the observance of their own customs, so far as these are compatible with the universal maxims of humanity and morals.”⁶⁷ As well as these tasks Clarke’s department was to mediate in disputes between the two races, and, if possible, in inter-tribal conflicts.

Lord John Russell, successor to Normanby, expanded on the theory and

⁶⁵ George Clarke Snr to Donald McLean, December 14, 1844, McLean Papers, ATL, qMS-1306; William Swainson, *New Zealand and Its Colonization*, London: Smith, Elder and Co., 1859, p.184.

⁶⁶ Lord Normanby to William Hobson, August 14, 1839, NZ3: 1840 (238), p.39.

⁶⁷ Ibid, p.40.

practice of the Protectorate, as he envisaged it, in December 1840, and again in January 1841. Generally in agreement with whatever instructions had gone before, Russell authorised Clarke to appoint subordinates and suggested that Protectors be invested with legal powers so that they could represent Maori in any legal proceedings in which they might become involved.⁶⁸ Russell also floated the idea that Maori could be formed into a militia, on the grounds that Europeans would only come to respect the native race if impressed by their strength, or their usefulness. Another important suggestion made by Russell, and taken up by the Protectorate, was the mapping of Maori lands. No doubt, in the Government's mind, this was to facilitate the purchase of lands for settlement, as they were yet ignorant of the lack of 'waste lands', commonly believed to be freely available. Between 15 and 20 per cent of any proceeds from land sales which were finalised was to go to the Protectorate, to finance its activities. Also on the subject of finances, Russell dictated that unless the Protector faithfully submitted half-yearly reports to the Governor, there would be no payment of the Protector's salary.

Russell had also been impressed by a report submitted by Captain George Grey regarding the aborigines of Australia. Russell sanguinely described the report as "an 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."⁶⁹ However, the essence of this report was at odds with Clarke's approach to protection and amalgamation, and it was this elemental difference of opinion that led to the eventual abolition of the Protectorate.

Russell, despite the lengthier treatment of the role of the Protectorate in

⁶⁸ Lord John Russell to William Hobson, December 9, 1840, NZ3: 1841 (311), p.28; also January 28, 1841, NZ3: 1841 (311), p.52.

⁶⁹ Ibid, p.29.

his despatch, was still largely unsure of the specifics of policy which should be adopted in achieving the ends to which the British aimed. He summed up the objectives as:

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 which tend 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.⁷⁰

However, he reaffirmed Normanby's sanction for Hobson to use his discretion when it came to the actual methods in reaching those goals. Hobson, in his turn, deferred to Clarke. Thus Clarke was faced with the task of attaining highly idealistic and wide-ranging goals with little or no policy to guide him.

Clarke needed assistance if he was to make any headway in his duties. His attempts, however, to find suitable men to take up positions as Protectors under his leadership were not particularly successful in the first months. The prerequisites were still the same as those Clarke had been required to fulfil, fluency in Maori language being the most fundamental. "[H]owever well educated a gentleman may be, unless he speak the native language, he will be unable properly to perform the duty of a protector," was one contemporary observation.⁷¹ Clarke himself specified men "of strictly moral habits, acquainted with the native language, and deeply interested in the social and moral welfare of the natives."⁷² But, like Hobson, Clarke faced a shortage of suitably qualified candidates. Fluency in Maori was not an ability desired, nor achieved, by many settlers. Indeed, over the six years of the Protectorate this difficulty eased only slightly.

⁷⁰ Ibid.

⁷¹ Willoughby Shortland to Lord Charles Stanley, 21 November, 1843, NZ 2: 1844 (556), p.255.

⁷² George Clarke Snr to William Hobson, March 1841, NZ3:1842 (569), p.99.

At the end of 1840 only Henry Kemp, son of Clarke's childhood friend and missionary colleague, had been employed by the Protectorate as a part-time clerk. The following year Clarke appointed his eldest son, George Clarke Junior to the position of clerk and interpreter. Edward Williams, son of missionary leader Henry Williams, was appointed one month later. Neither Kemp nor Williams was successful. Kemp resigned at the end of July 1841, citing ill health, although Hobson's report to the Colonial Office insinuates lethargy and indolence. Hobson was more specific about Williams who "retained his situation just so long as he was kept in comparative idleness" and resigned (at the same time as Kemp) when ordered to an assignment in the South.⁷³ Howls of derision echoed from the offices of the New Zealand Company in London on reading Hobson's despatch describing their brief sojourn in the Protectorate. "This is rich; - what a beautiful compliment to the next generation of missionaries.... Captain Hobson selects 'two of the most intelligent,' and they prove 'inert and unmanageable'.... What in the name of wonder, must those be whom he passed over as unsuitable to his purpose?"⁷⁴ Fortunately for Clarke his own son did not fail him.

In July 1841 Edmund Halswell was appointed as Protector of Aborigines, Southern District. Halswell was an English lawyer nominated by the New Zealand Company to administer the land reserves which it had proposed to set aside in the Port Nicholson for the benefit of Maori.⁷⁵ In actuality Halswell's appointment with the Protectorate was little more than nominal - a political manoeuvre by Hobson to gain some measure of control over the Company's reserves. Clarke was not impressed with this appointment, questioning both Halswell's qualifications and neutrality, and

⁷³ Hobson to Principal Secretary of State for the Colonies, December 15, 1841, NZ3: 1842 (569), p.188.

⁷⁴ *New Zealand Journal*, No. 116, June 8, 1844.

⁷⁵ Joseph Somes, NZ 2: 1844 (556), Appendix, pp.36,37.

requesting that he be replaced. "An efficient protector is much needed in that district; the gentleman hitherto holding that appointment being deeply interested in the Company's affairs, and ignorant both of the language and of the customs of the natives, must be considered incompetent for such a situation."⁷⁶ By the time Clarke submitted this report he had effectively managed to supplant Halswell with his son, by giving Clarke Junior a more permanent appointment assisting in the Spain Commission in Port Nicholson.

After serving a brief apprenticeship as clerk in the Protectorate office in Auckland, George Clarke Junior acted as interpreter in the trial of Maketu for murder. He was then sent south, on the recommendation of the Chief Justice William Martin and the Attorney General William Swainson, to act as interpreter for William Spain's investigation into New Zealand Company land claims at Port Nicholson which opened in May 1842.⁷⁷ George Junior had been brought to New Zealand as an infant by his parents when they arrived to begin work with the Church Missionary Society. As a child he had grown up playing with Maori children, most notably Hone Heke. Consequently he had observed Maori society and customs from a young age and learned the Maori language.⁷⁸ His ability in the language was such that he was sought after as a tutor by those wishing to learn it, Sir George Grey and Edward Shortland among others.⁷⁹ His education had been completed under the tuition of William Williams and his greatest desire was to enter the church as a minister.⁸⁰ Clarke believed his upbringing had given him "the ability to put myself mentally in the Maori's position, and to look at questions through his eyes, as well as through those of the white man," and that this ability enabled

⁷⁶ George Clarke Snr to the Colonial Secretary, January 4, 1843, NZ2: 1844 (556) Appendix pp.121,122.

⁷⁷ George Clarke Jnr, *Notes on Early Life in New Zealand*, Hobart: J. Walch & Sons, 1903, p.44.

⁷⁸ Ibid., pp.15-18.

⁷⁹ "George Clarke Remembers ... Three Letters Written by George Clarke, in 1904, to Dr T.M.Hocken of Dunedin", *Auckland-Waikato Historical Journal*, No 55., September 1989.

⁸⁰ Clarke, *Notes on Early Life*, p.21, 40.

him to mediate between the two races in later years.⁸¹ In Port Nicholson Clarke Junior underwent a baptism of fire as he genuinely attempted to represent Maori interests in the Spain Commission. The New Zealand Company, already antagonistic to George Clarke Senior, believed "little good could come of the son of such a man."⁸² According to Edward Jerningham Wakefield, however, this "premature aversion was changed into laughter when they saw a gaunt lad of 18, who had evidently got his tail-coat on for the first time."⁸³ This derision grew out of an underestimation of the character of George Clarke Junior. The young Clarke acted with a maturity and resolve which belied his years. He was confident, not only in himself, but in the rightness of the cause of which he was the representative. As it dawned on the Company agents that the enquiry was not merely a formality, and that Clarke Junior was no pliant youngster to be manipulated according to their wishes, they became increasingly hostile. The four thousand or so settlers whose futures hung precariously on the outcome of the Commission vented their frustrations on Clarke. Of all those appointed to the Protectorate, George Clarke Junior suffered, perhaps, the most vicious personal attacks. By November 1843, after the Wairau incident had exponentially aggravated racial tensions, and with the death of his closest friend John Campbell, Clarke was brought to the verge of nervous collapse:

[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.⁸⁴

⁸¹ Ibid., p.35.

⁸² E.J. Wakefield, *Adventure in New Zealand, Volume Two*, London: John Murray, 1845 (Facsimile edition - Auckland: Wilson and Horton), p.194.

⁸³ Ibid.

⁸⁴ George Clarke Jnr to George Clarke Snr, 30 November, 1843, Clarke Papers, ATL, qMS-0469.

Even at this, the lowest point of his career, the young man would not “act rashly” or desert his post but waited for his father’s advice, thus serving to illustrate the depth and strength of his character. He went on to represent Maori when the Spain Commission moved to Taranaki, where once again all his skills of diplomacy were called on when the decision initially went against the local iwi. From Taranaki Clarke Junior proceeded to Otago where he assisted in the purchase of land for the proposed settlement of Dunedin.⁸⁵ Following this he was posted in the Bay of Islands where his childhood playmate, Hone Heke, was stirring.

In 1841, however, this was largely in the future, and George Clarke Senior was still struggling to find others suitable for the post of Protector. “Mr Clarke very properly calls my attention to the want, felt in all the districts, of sub-protectors for the direction and instruction of the native population,” wrote Hobson at the end of the year, “but I am wholly unable to find suitable persons for the office.”⁸⁶ Clarke supported this statement. “I feel utterly at a loss to recommend to his Excellency any gentleman capable of efficiently performing the duties of a sub-protector,” he commented, and went on to suggest a “liberal salary” be offered as an inducement.⁸⁷ The rapidly worsening state of colony finances would not permit this, however.

The following year, 1842, was to see a slight improvement in the staffing situation. In the Hokianga, Thomas Forsaith had been trading in timber and farming for several years on land purchased from Maori at Mangawhare. On the discovery of a skull on his property, however, the Forsaith family were wrongly suspected of having desecrated a grave and subjected to the custom of muru by the Hokianga chief Tirarau, leaving the

⁸⁵ Clarke, *Notes on Early Life*, p.65.

⁸⁶ William Hobson to Principal Secretary of State for the Colonies, December 15, 1841, NZ3: 1842 (569), p.188.

⁸⁷ George Clarke Snr to William Hobson, September 30, 1841, NZ3: 1842, (569), p.190.

family with nothing. When the Forsaiths were proved innocent of the accusation Tirarau forfeited several hundred acres of land to the government in compensation. This land was not awarded to Thomas Forsaith, however. He moved his family to Auckland and in January 1842 took up an appointment with the Protectorate, based on his experience with Maori.⁸⁸ Forsaith has also been described as having a "stern evangelical cast of mind" which no doubt further recommended him to George Clarke.⁸⁹ Forsaith served in the Protectorate until its abolition, a staunch supporter of Maori rights and the Treaty of Waitangi. Horrified by the findings of the 1844 Select Committee which upheld New Zealand Company rights, he went on to become a vigorous political enemy and critic of Governor Grey's regime.

By February 1842 Henry Tacy Kemp's health had improved enough for him to be reinstated and he was designated Protector of the Northern District. Little is known of Kemp as a person. Circumstantial evidence points to his being a rather colourless individual. His father, missionary James Kemp, was believed to be a pliant, unassertive follower, rather than a leader, and there is nothing to suggest his son was otherwise.⁹⁰ No complaints regarding his performance are recorded, likewise no praise. Kemp's work was undertaken and discharged satisfactorily with apparent stolidity. Certainly his inoffensiveness was enough to recommend him to George Grey, who retained his services in the Native Department with which he replaced the Protectorate in 1846.

Inter-iwi feuding in 1842 brought the Thames and Tauranga area to the Government's attention when the Christian Maori of the region petitioned the Governor for his protection. As part of Government attempts to bring

⁸⁸ Alan Ward, *A Show of Justice: Racial 'Amalgamation' in nineteenth century New Zealand*, Auckland: Auckland University Press, 1995, p.58; *The Evening Post*, August 18, 1934.

⁸⁹ McLintock, p.305.

⁹⁰ Shroff, p.99.

about peace Doctor Edward Shortland, younger brother of the Colonial Secretary Willoughby Shortland, was appointed, in August, as Protector for the Eastern District, where he resided at Maketu. Fortunately for the Protectorate, Edward Shortland appears to have been a very different character from his brother, whose reputation was less than flattering, involving as it did insinuations of less than honest dealings in land and a somewhat overbearing, rude and self-satisfied manner.⁹¹ Edward on the other hand was regarded by others as an affable, good natured companion.⁹² Shortland's religious beliefs are not clear. Occasional references to observance of forms of worship indicate that he was nominally, at least, a Christian, but it does not appear that he had the evangelical bent of Clarke.⁹³ Nor did the strict legalism observed by Donald McLean affect him.⁹⁴ Despite accusations of nepotism in his appointment, Shortland appeared to be aptly qualified for his position. He was intelligent and well educated and since his arrival in New Zealand had developed a deep interest in and sympathy for Maori.⁹⁵ His flippant remark to Abel Best that the Maori were "a nation who cultivate war, pork and potatoes, and chew - each other" belied his genuine interest in Maori as a people.⁹⁶ This led him to record anthropological observations regarding them during his travels throughout the South Island as a Protector, which he

⁹¹ S.M.D. Martin, *New Zealand : In a Series of Letters; Containing an Account of the Country Both Before and Since its Occupation by the British Government*, London: Simmonds & Ward, 1845, p.117.

⁹² "George Clarke Remembers ... "; see also Nancy Taylor in Abel Best, *Journal of Ensign Best*, Wellington: R.E.Owen, Government Printer, 1966, pp.58,59.

⁹³ Edward Shortland, *The Southern Districts of New Zealand: A Journal, with Passing Notices of the Customs of the Aborigines*, London: Longman, Brown, Green & Longmans, 1851, pp.212,221,222.

⁹⁴ Ibid. Shortland's writings show him not adverse to engaging in activities on a Sunday, such as travelling, crossing rivers, engaging in correspondence, which Donald McLean would not do. For example, a letter addressed to McLean includes the line "I shall close and conclude this hasty scrawl tomorrow, Sunday (altho' against your principles of breaking the Sabbath by Acts of Penmanship)..." ATL, qMS-1307.

⁹⁵ Atholl Anderson, "Edward Shortland" in *The Dictionary of New Zealand Biography*, Volume One: 1769-1869, Wellington: Bridget Williams Books, Department of Internal Affairs, 1990, p.395.

⁹⁶ Best, "Journal of Ensign Best", p.366.

published on his return to England. His sojourn in the South Island came after a year in the Thames area. After a brief return to Maketu he was posted in April 1845 to Port Nicholson, where he reluctantly became involved in the continuing discord over New Zealand Company land claims. Four months later he was sent to assist in the northern disturbances as an interpreter for Colonel Despard. After the Protectorate was abolished Shortland left New Zealand, but returned for extended periods several times. He always retained an active interest in Maori, particularly land difficulties.

1843 resulted in little change in Protectorate staffing. John Campbell, after serving the customary couple of months as a clerk in the Auckland office of the Protectorate, was appointed Protector of Aborigines for the Western District. Campbell had been recommended to the position by George Clarke Junior, his close friend.⁹⁷ Campbell was a government surveyor but had been dismissed when the financial straits of the administration forced a reduction of numbers. Sympathetic to Maori, and of similar views to Clarke Junior, he expressed his eagerness to obtain a post within the Protectorate. Before proceeding to the Wanganui and Taranaki area Campbell spent two or three months assisting Clarke Junior at Port Nicholson. Unfortunately, almost a year to the day of his recommendation of Campbell for a position as Protector, Clarke Junior was writing to tell his father of his friend's demise before he could take up his appointment in Taranaki.⁹⁸

One man's loss was another's gain, and in 1844 a replacement for Campbell was found in Donald McLean, who was to go on to a significant political career after the abolition of the Protectorate. A Scot of humble birth, McLean had come to New Zealand in 1840, shortly after the signing of the Treaty. After odd-jobbing in the Coromandel and on Waiheke Island, where

⁹⁷ George Clarke Jnr to George Clarke Snr, November 25, 1842, Clarke Papers, ATL, qMS-0469.

⁹⁸ George Clarke Jnr to George Clarke Snr, November 30, 1843, Clarke Papers, ATL, q MS-0469.

he became fluent in Maori, McLean came to the notice of Andrew Sinclair, Colonial Secretary under Governor Robert FitzRoy. McLean was very devout, having been educated, after the death of his parents while still a youngster, by his uncle, the Reverend Donald McColl. Proceeding to the Taranaki region in July 1844, McLean served there as Protector for eight months until the abolition of the Protectorate. Although his service in the department was relatively short, McLean impressed his superiors, and was popular with both Maori and settler alike. Even when hatred of the Protectorate, the Protectors, and the Governor reached its zenith, McLean retained the friendship of some of the most hostile settlers.⁹⁹ McLean's underlying motivation was to act as the patriarch of his family, which had scattered after the death of their parents, and regather them under his patronage and care, and to restore his family fortunes to what they once had been. To do this he had to achieve financial stability and the Protectorate offered an avenue to this end. McLean, therefore, was not a truly disinterested advocate of Maori, and motivated by his own self-interest and ambition, he was able, chameleon-like, to adjust to whatever situation he found himself in.

Throughout its existence the Protectorate's work was supplemented by a small number of clerks and/or interpreters. The most significant of these were Edward Meurant and Henry Clarke. Appointed in 1841, Meurant was an ex-convict who had spent time as a sealer in the Foveaux Strait. From there he had moved to the Waikato, where he married a Maori woman and established a family.¹⁰⁰ Meurant worked alongside several of the Protectors, such as Clarke Junior and Shortland, during his time with the Protectorate. Others in the Protectorate regarded him as intelligent. But he was never to rise above the position of interpreter, in all probability because of his convict

⁹⁹ Peter Wilson to Donald McLean, December 28, 1845, McLean Papers, ATL, 0032-1307; also Citizens of Taranaki to Governor Grey, April 9, 1846, McLean Papers, ATL, 0032-1308.

¹⁰⁰ Gibbons, p.21.

record. 1843 saw the temporary appointment of another of George Clarke's sons, Henry, as an interpreter to the Land Claims Commission under Richmond. He received a permanent post as clerk and interpreter the following year.¹⁰¹

Thus in six years Clarke gathered a nucleus of men for the Department, the most significant of whom were the Protectors. United by a humanitarian interest in the welfare of the Maori, and a commonality of religious belief, these six men endeavoured to fill the role that had been assigned them. They were further united by a mutual belief in the importance of the Treaty of Waitangi, and a desire to uphold its terms as understood by Maori. The Protectors were supported in these underlying personal principles by the first two Governors of the colony, Hobson and FitzRoy.

Clarke summed up the role in August 1844. A Protector was "to watch over the interest, to protect the persons and property, and advance the social and moral improvement of Her Majesty's Aboriginal Subjects."¹⁰² This role was illustrated in the practices of the department during its existence.

¹⁰¹ Gibbons, p.25.

¹⁰² George Clarke Snr to Donald McLean, August 2, 1844, McLean Papers, ATL, qMS-1306.

Chapter Three: Putting Theory into Practice

The practical duties devolving on the individual Protectors were varied. The general admonition to watch over the interests of the Maori included, according to George Clarke, mediating in disputes between Maori tribes, encouraging Maori to rely on the Crown Colony governmental administration, and suppressing customs considered highly offensive to morality such as cannibalism. Protectorate duties also included mediating in quarrels with European settlers, and generally keeping superior officers informed of "every passing event" within designated districts.¹⁰³ Land purchasing was, from early in the existence of the Protectorate, also part of the Protector's duty. The Protectorate was also involved in the Land Claims Commissions, as representatives of Maori and as interpreters.

At the heart of many of the duties of the Protectorate was the desire to maintain peace throughout New Zealand. Clarke described the work as a "Mission of Peace".¹⁰⁴ Often these varied tasks were intermingled and could range in nature from straightforward, easily solved disputes at an individual level to highly complicated and sensitive matters with the potential to disrupt the entire country. Always underpinning these tasks of 'protection' was the Government's ultimate goal of amalgamation of the Maori people into European culture. As the Protectorate undertook these tasks, deeper issues continually surfaced and pressed themselves on the notice of George Clarke. The most important of these were the question of sovereignty and its implications as a result of the Treaty of Waitangi, the 'waste' lands debate, and the difficulty of applying British law to Maori. These issues were at the root of every conflict between the two races and Clarke endeavoured to come to terms with them as his department continued to develop.

¹⁰³ George Clarke to Donald McLean, August 2, 1844, McLean Papers, ATL, qMS-1306.

¹⁰⁴ George Clarke to Donald McLean, August 3, 1844, McLean Papers, ATL, qMS-1306.

Perhaps a pertinent question to ask is to what extent the Protectorate actually came into physical contact with Maori. For the first two years Protectorate staffing was highly unstable, and at no time was it considered adequate to the task. By the time of its abolition in early 1846, six Protectors were engaged to meet the needs of an estimated 70,000 to 90,000 Maori.¹⁰⁵ Maori society was orally based and personal contact with iwi was a vital part of a functional relationship, particularly if, as with the Protectorate, one party wished to have influence over the other. With a ratio of one Protector to as many as 15,000 Maori, personal interaction between hapu and Protectors was limited and irregular. Clarke required his Protectors to visit "every inhabited portion" of their designated districts at least once every year.¹⁰⁶ This was not frequent enough to maintain a visible presence before Maori or counteract the far more numerous disaffected settlers ready at any opportunity to disperse anti-government sentiment. When Protectors did visit outlying areas they found local hapu anxious for reassurance regarding the intentions of the Government. Almost every report submitted by Clarke included some incidence of Maori having been unsettled by misinformation or rumour, but he remained optimistic.

Taking into consideration the attempts which have been made by many of our ill-advised and inconsiderate countrymen, to prejudice the minds of the natives against Her Majesty's Government, by taking advantage of passing events, misrepresenting and distorting them to suit their purpose... I think it a matter of great satisfaction that the confidence of the natives in the just and benevolent intentions of Her Majesty's Government is not shaken.¹⁰⁷

Two months later, however, he was less positive. On a visit to the Bay of

¹⁰⁵ Ian Pool, "Te Iwi Maori. A New Zealand Population: Past, Present and Projected", Auckland: Auckland University Press, 1991, p.58.

¹⁰⁶ George Clarke Snr to Donald McLean, August 2, 1844, McLean Papers, ATL, qMS-1306.

¹⁰⁷ George Clarke Snr, 31 July 1844, NZ4:1845 (369) p.81.

Islands he found Maori concerned and disgruntled by Europeans “who were continually telling them that they were enslaved, and the Government were their oppressors.”¹⁰⁸ Four months after this Clarke was seriously concerned. In reference to what he saw as seditious influences at work in the Bay of Islands he reported, “I fear that most of these causes are in active operation elsewhere, even in the most remote parts of this colony; and that, unless some effective measures are used to counteract their evil influence, similar results must inevitably ensue.”¹⁰⁹ “By effective measures” Clarke meant more than reassuring talk, for Maori had informed Clarke that they would watch the actions of the Government with “jealousy” before being convinced of their benevolent intentions.¹¹⁰

There is, however, an important point to note when reading the foregoing remarks of Clarke. The first comment, written in July 1844, was an attempt to summarise the mood of Maori throughout the country, at the end of a report. The second two were area-specific, referring to the growing unrest in the Bay of Islands. Reports which were specific in nature tended to reflect more insight into the tribal politics which dominated Maori society and were an integral part of its functioning. The Protectors, more than other Pakeha, were aware of this extremely important “variable” in the great “experiment.”

In order to help overcome the difficulty of maintaining contact with Maori, and to counteract the continuing problem of subversion by anti-Government Europeans, the Protectorate began publishing a newspaper in the Maori language. *Te Karere Maori* was published on a monthly basis from early 1842. Its contents were an eclectic mixture of proclamations and ordinances relating to Maori, current events, and moral stories. An early

¹⁰⁸ George Clarke Snr, September 30, 1844, NZ4:1845 (369) p.39.

¹⁰⁹ George Clarke Snr, January 1, 1845, NZ5:1846 (337) p.11.

¹¹⁰ George Clarke Snr, Early 1841, NZ3: 1842 (569) p.94.

issue published a Maori version of the Treaty. Clarke also consciously used the paper to teach Maori about British law.¹¹¹ He and his colleagues reported a steady demand for each issue, from the increasingly literate Maori people. Clarke Junior claimed that “wherever I have been travelling they have shown the greatest eagerness to possess them, and acquaint themselves with their contents.”¹¹² Clarke Senior requested that at least 1,000 copies per month be made available for free distribution and was confident that, on the assurance of his missionary contacts, the paper was “calculated to interest and improve the native population”.¹¹³ A settler, William Brown, however, believed that, while the newspaper had potential, the articles published were, in his view, “impracticable, and far removed from the daily interests and concerns which engross the minds of the natives.” The newspaper, he claimed, should also have been published in English so that “the public may not only be a check upon what may be communicated, but also be led to take an interest in it.” Brown, who had arrived in 1840, also assured his readers that his concerns were not “the result merely of warm feelings generating such a wish, but proceed[ed] from an intimate knowledge of the real character and capability of the natives.”¹¹⁴

These opinions regarding the usefulness and impact of *Te Karere Maori* unfortunately bring us no closer to what Maori thought of the newspaper, or the Protectorate, as the sources are European. What is more, they are conflicting opinions. The eagerness of Maori to obtain the paper does not reflect support for the government, but simply an interest in what was happening in their country. Indeed the opposite conclusion may be drawn

¹¹¹ Claudia Orange, *The Treaty of Waitangi*, Wellington: Bridget Williams Books, Department of Internal Affairs, 1992, pp.97,98.

¹¹² George Clarke Jnr, June 14, 1843, NZ 2:1844 (556) App. 351,352.

¹¹³ George Clarke Snr, September 24, 1842, NZ2: 1844 (556) p.192.

¹¹⁴ William Brown, *New Zealand and Its Aborigines: Being an Account of the Aborigines, Trade and Resources of the Colony; and the Advantages it now Presents as a Field for Emigration and the Investment of Capital*, London: Smith, Elder, and Co., 1845, p.148.

from the popularity of the publication - an unsettled, deep concern for the fate of their land is also likely to have prompted the desire to be appraised of the latest news.

Inter-Maori disputes were deemed by the Government to come within the jurisdiction of the Protectorate and encouraging Maori to rely on officially endorsed British systems of intervention was one of the official duties of the Protectors. Clarke instructed McLean in 1844 to "impress upon their minds the necessity of referring all their grievances to you, and encourage them at all times to send for you." This was part of a long-term goal to show Maori "the benefits arising from the establishment of a well organised Government amongst them."¹¹⁵ No doubt, due to the lack of finances and staff, many inter-tribal quarrels went unattended, but on several notable occasions the Protectorate did intervene. One such dispute was in the Tauranga area. Clarke had been made aware of the potential for difficulty in the region on an earlier visit and in 1842 his concerns were justified.¹¹⁶ Government protection was invoked by Christian Maori of Ngaiterangi, who were attacked by Taraia, a chief of Ngati Tama-Te-Ra who had not signed the Treaty of Waitangi. Several Ngaiterangi were enslaved, and of the slain, a chief and another Maori of rank were cannibalised. Taraia showed his disdain for the Christians by parodying their service in a local chapel, and rolling the heads of the cannibalised chiefs amongst Christian Maori at prayer.¹¹⁷ Taraia openly admitted the incidents to Clarke but refused to acknowledge the right of the Government to intervene in what was a purely native matter. Clarke's initial response was to report to the Government that "If anything is done it must be done by force", but on further consideration, and facing the stark

¹¹⁵ George Clarke Snr to Donald McLean, August 2, 1844, McLean Papers, ATL, qMS-1306.

¹¹⁶ George Clarke Snr, NZ3: 1842 (569) pp. 93-100.

¹¹⁷ Angela Ballara, "Taraia Ngakuti Te Tumuhua", *Dictionary of New Zealand Biography*, Volume One, 1769-1869, Wellington: W.H. Oliver (ed), Bridget Williams/Internal Affairs, 1990, p.428.

reality that there was no sufficient “force” available, along with the possible threat to Europeans in the area, recommended that negotiation be recommenced.¹¹⁸ The use of force, he now thought, would be “highly impolitic”, with the very real possibility of highlighting the Government’s military weakness. Clarke went on to express his opinion that “an efficient number of protectors would do more to prevent the recurrence of such scenes, and to establish the government on a firmer basis, than a large army of soldiers.” In an attempt to bolster its position, and salvage some dignity from having apparently backed down, the Government placed a notice in the ‘Maori Gazette’ which warned the Tauranga tribes that if they engaged in future hostilities with one another the Government would use force to compel them to cease.¹¹⁹

The situation was eventually resolved through conciliation but not before Taraia had made it abundantly clear that he, and many other Maori in the region, questioned the authority of the Government to intervene in native disputes. “Don’t let the Europeans presume with the natives,” he wrote to Governor Hobson. “With the Governor is the adjustment of European affairs, and with us the adjustment of natives.”¹²⁰ It is unlikely that a settlement would have been reached at all had it not contained elements which were pleasing to the traditional usages of Maori. Part of the settlement agreement was that Edward Shortland be appointed to the area as district Protector, and even this move was viewed in the light of traditional values, being seen as a token of esteem by the Governor and recognition of the mana of the chiefs of the area. The move by the Government to buy the disputed tract of land was acceptable to Maori because of the promise of a settlement

¹¹⁸ George Clarke Snr to William Hobson, June 15, 1842, NZ2:1844 (556) p193; June 30, 1842, NZ2:1844 (556) p.194.

¹¹⁹ Alan Ward, *A Show of Justice: Racial ‘Amalgamation’ in nineteenth century New Zealand*, Auckland: Auckland University Press, 1995, p.58.

¹²⁰ Taraia to Hobson, NZ2:1844 (556), p.195.

being established nearby with its attendant opportunities for trade.¹²¹

The published warning to Tauranga tribes against further aggression came back to haunt the Government less than six months later. Willoughby Shortland, Acting Governor following the death of Hobson in September 1842, inadvertently stumbled on further hostilities in the Tauranga region, this time between the hapless Ngaiterangi, and Ngatiwhakaue, and made the ill-judged decision to bring in troops. Clarke Senior and William Swainson protested strongly. Clarke advised that it would be unwise for the Government to be seen taking sides in a tribal dispute and supported the view of Swainson which questioned the legality of the move on the grounds that, once again, the Maori concerned were not signatories to the Treaty, and therefore not able to be considered British subjects.¹²² Chief Justice William Martin and Bishop Selwyn both arrived at the scene and advised discretion. These arguments were sufficient to unnerve Shortland who made a hurried return to Auckland, leaving his brother Edward in charge of somewhat volatile situation with a group of trigger-happy soldiers acting as a buffer between the feuding Maori.¹²³

Back in Auckland the Executive council debated the sovereignty question and although Clarke was not on this council, as Protector of Aborigines his opinion was considered. Swainson argued that the Crown had no authority to become involved in the internal affairs of those who had not signed the Treaty. Shortland, fearing the consequences of admitting only partial sovereignty, argued that as Britain had claimed the whole of New Zealand as its territory, all Maori were now British citizens. Clarke added a twist. Regardless of whether Maori had signed the Treaty or not, the Treaty

¹²¹ Ward, p.59; C.H. Wake, 'George Clarke and the Government of the Maoris', 1840-45, *Historical Studies Australia and New Zealand* 10, 39, (1962), pp. 349.

¹²² Wake, p.350; Wards p.67; Best, p.65.

¹²³ Best, p.65.

itself had guaranteed them the right to practice their own customs.¹²⁴ However, when Swainson argued for the creation of 'Native Districts', where Maori could live without interference, according to customary usages, Clarke replied that to admit that some Maori were not British subjects would be "destructive to the interests and the prosperity of the colony" and that it was "now an act of humanity to both natives and Europeans to consider the whole of the tribes of New Zealand as British subjects."¹²⁵ Clarke went on to suggest reopening negotiations with non-signatories of the Treaty, in an attempt to get them to sign. Shortland, once again, objected, and was supported by the Colonial Office, who also issued a stern rebuke to Swainson. "That a subordinate Officer should attempt to set such claims (i.e. Crown's claim to sovereignty) aside on his private judgement... seems to me utterly inadmissible," wrote Permanent Under-Secretary Stephen, "My opinion is that this is a controversy to be repressed with a strong hand."¹²⁶ Lord Stanley reiterated this opinion, adding "Mr Swainson must be apprized, that neither he, nor any other person who shall oppose this fundamental principle of your Government, can be permitted to act any longer as a public officer under the Queen's commission." Stanley went on, however, to support the suggestion that "native law might be maintained, and the native customs tolerated, in all cases in which no person of European birth or origin had any concern or interest."¹²⁷ Essentially, this was an endorsement of Clarke's opinions - sovereignty asserted over all Maori, with a toleration of native customs where deemed acceptable.

The sovereignty issue did not, however, simply fade away. Many Maori continued to dispute the right of the Crown to assert authority over

¹²⁴ Wake, p.350,351.

¹²⁵ George Clarke Snr, December 29, 1842, cited in Wake, p.351.

¹²⁶ James Stephen, cited in Best, p.433.

¹²⁷ Ibid.

them. This came to a head in the Bay of Islands with the rebellion of Hone Heke in 1845.

Maori did not object to the Crown's right to intervene in matters of conflict between themselves and settlers. Many matters Protectors had to attend to were petty issues which, with Protectorate mediation, were quickly resolved. The trespass of livestock and resulting damage done to crops was a common, and constant, source of irritation to both races. Other causes of complaint were encroachment by settlers on prohibited land or the felling of timber without Maori approval. Reports of this kind of dispute are littered throughout Protectorate correspondence. "[C]attle trespasses which are of frequent occurrence"; "pigs... in the habit of trespassing on Native plantations" were noted by McLean in Taranaki.¹²⁸ Clarke Senior remarked:

The subject of complaint, where Europeans are living in connexion with natives, are the destruction of their pigs, the trespass and spoliation of their crops by cattle, the desecration of the 'nahi tapus,[sic]' the encroachment upon their land, the cutting of their kauri and other timber, with a low abuse held in great abhorrence by the natives, viz. swearing at them.¹²⁹

Most of these matters were resolved relatively easily by the Protectors, usually by arranging a payment or compensation of some sort. Where Protectors were unavailable, however, there was the potential for the situation to escalate. Donald McLean reported such an incident in Taranaki. During his absence, cattle belonging to a Captain King had trespassed on Maori land. As owner, King was prepared to pay for damages, but without the mediation of the Protector, "extravagant demands" were made. The payment of these excessive payments was then enforced by Maori seizing a horse belonging to King. Only the restraint and caution of King had prevented a

¹²⁸ McLean to Clarke, January 10, 1846, McLean Papers, ATL, qMS-1308; Billing to McLean, January 14, 1846, ATL, qMS-1308.

¹²⁹ George Clarke Snr, September 24, 1842, NZ2:1844 (556) p.190.

more serious situation, according to McLean.¹³⁰

This is not to imply that Maori were always on the side of provocation. On the contrary, George Clarke often commented on the extraordinary patience of Maori in the face of severe harassment.

If I merely say, that their general conduct, as displayed amongst a diversity of European neighbours, has been marked with propriety, I should be doing them injustice.... [T]hey have borne with astonishing patience the loss of their property by the hands of Europeans.... I am bound to say they have manifested great forbearance, under the aggravating circumstances of being either directly or indirectly deprived of their cultivations.¹³¹

New Zealand Company settlers, tiring of the lengthy process of the Land Claims Commissions, often attempted to appropriate land without waiting for an official decision. In Port Nicholson Clarke Junior reported that "the white settlers did just as they liked, pulled down fences, drove the cattle on the potatoes. This is the systematic robbery by which the company's settlers deprived the natives of the plantations and all this while they have born it patiently and not even once attempted to avenge their wrongs."¹³² One such settler was Edmund Halswell, the New Zealand Company's "Protector of Aborigines."

Whenever possible the Government Protectors intervened in these quarrels and settled them, often to the satisfaction of both parties. Although mostly minor incidents, these occurrences were part of, and contributed to, the growing aggravation and resentment springing up between the two races. Shortland reported a "mutual feeling of distrust and suspicion", and Clarke

¹³⁰ McLean to Clarke, January 10, 1846, McLean Papers, ATL, qMS-1308.

¹³¹ George Clarke Senior, September 24, 1842, NZ2:1844 (556) , 342-344.

¹³² George Clarke Junior to George Clarke Senior, March 15, 1843, George Clarke Papers, ATL, qMS-0469.

observed a "strong feeling of dislike growing up between the two races."¹³³ These incidents had a cumulative effect on Maori perception of Government and law. Early in 1841 Clarke reported talking with Maori in the Thames and Tauranga area, "One of the Chiefs replied that the Governor's book was very good, likewise his talk (korero), but that they should watch his actions with some jealousy." He went on to warn, "This principle (i.e. unease regarding Government intentions) seems deeply rooted and widely disseminated around, and time only will eradicate the feeling, the New Zealanders being a people who will be better convinced by practical illustrations of the intentions of the Govt., than by lengthened discussions."¹³⁴

The potential for violence on a large scale was brewing beneath the surface of every inter-racial quarrel. This danger increased as Maori became more concerned over their land. In Port Nicholson and Nelson tensions increased daily with the delays over the settlement of the land question. George Clarke Junior was the sole representative of the Protectorate in the area and found it "utterly beyond the bounds of human possibility" to keep the peace between Maori and European whilst also engaged in the Land Claims Commission.¹³⁵ The confrontation at Wairau which resulted in the loss of both Maori and European lives, was the extreme consequence of the conflict over land and highlighted the need for skilled mediators who understood Maori customs and usages. Settlers simply saw vast tracts of apparently unused land and became increasingly frustrated with what they regarded as pandering to Maori claims. The Protectorate, on the other hand, recognised and understood Maori land tenure, and the rights which Maori were defending. Maori appreciated this, and had previously referred cases of

¹³³ Edward Shortland to George Clarke Snr, August 14, 1843, NZ2:1844 (556) App.352; George Clarke, December 21 1843, NZ4:1845 (369), p.80.

¹³⁴ George Clarke Snr, NZ3: 1842 (569) p.94.

¹³⁵ George Clarke Jnr to George Clarke Snr, 8th March 1843; ATL (qMS-0469)

European encroachment and depredation to the Protectorate.¹³⁶ Thus when approached by Captain Arthur Wakefield and others at Wairau in an attempt to affect his arrest, Te Rauparaha refused to accede and expressed his wish to wait for the arrival of George Clarke Junior, and Commissioner Spain, to act as mediators in the quarrel.¹³⁷ This apparent willingness to have the matter mediated by the Protectorate representative and the Land Commissioner may indicate some level of trust by Maori in the integrity of the Protectorate, or the representative of that establishment. There was a recognition that these agents would, at least, present the Maori view of the events to the Government, and were less biased than the New Zealand Company personnel. This request is unlikely to have made a positive impression on the Europeans involved, as they were already antagonistic to the Protectorate.

In the aftermath of the ensuing collision, George Clarke Junior was engaged in gathering information and officially reporting to the Government on the tragic events. His diplomatic skills were also stretched to capacity in endeavouring to pacify the raw feelings of the two races. His attempts drew down the contempt of the New Zealand Company and its settlers. When it became apparent that not only was the Government prepared to listen to the Maori version of events, but had drawn the conclusion that the settlers were to blame for the affair, their wrath knew no bounds. Not that all settlers disagreed with the Protectorate. Samuel McDonald Martin claimed that "Oppressing an already oppressed people, has occasioned the whole of the late Wairau affray" and went on to add, "whatever sorrow and regret we may feel for the unhappy fate of our own countrymen, we must feel almost an equal amount of sorrow and shame for their conduct - not one part of which can we

¹³⁶ George Clarke Snr, June 30, 1843, NZ2:1844 (556), p.344.

¹³⁷ Swainson, p113; George Clarke Jnr, June 29, 1843, NZ2:1844 (556) App.135; also September 12, 1843, NZ2:1844 (556) App.358; S.M.D.Martin, p.167.

approve of, or even help condemning.”¹³⁸ Sympathy with the Protectorate conclusions, however, was sparse. The *New Zealand Journal* was vociferous in its condemnation. Referring to Clarke Junior’s suggestion that European survivors of the incident be tried according to law they raged, “in other words, - to hang them, if found guilty, as an example to those who dare to defend their own lives against the natives! This is Aboriginal Protection with a vengeance! - It is lucky for the survivors that the power of the Chief Protector is not equal to his will.” Not prepared to accept blame for the events, the Company went further, accusing the Protectorate of giving “a false colouring to the affray, excusing the natives and blaming the settlers.”¹³⁹ Blame lay elsewhere according to the *New Zealand Journal* - “[A]ll the blame is attributed to the Nelson settlers - whereas it has been shown that the whole circumstances arose from the precipitancy of the Government officer.”¹⁴⁰ When the newly appointed Governor, Robert FitzRoy, arrived and endorsed the Protectorate’s view of the events at Wairau, the New Zealand Company and its settlers were further enraged and a vicious campaign aiming at the downfall of both ensued. Much of the anger was directed personally at George Clarke Junior. Summing up the situation, he wrote:

The feeling against the Maoris is so strong and the mutual enmity of the two races so great that at times I am driven almost to desperation.... The Government cannot execute the law and the Maories are so exasperated by continual insults and quarrels that it must end in a fearful effusion of blood. Wairau is trifling compared to what must come shortly and nothing but a change in public feeling can avert the blow. Several times it has threatened and I have prevented it but I have not energy or nerves sufficiently to bear it. Ingratitude on the one hand and

¹³⁸ S.M.D. Martin, *New Zealand : In a Series of Letters; Containing an Account of the Country both Before and Since its Occupation by the British Government*, London: Simmonds & Ward, 1845, pp.164,168.

¹³⁹ *New Zealand Journal*, no.115, May 24, 1844.

¹⁴⁰ *Ibid.*, no.107, February 3, 1844.

malice, hatred and contumely on the other 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.¹⁴¹

Although the Protectorate and the Protectors suffered gross vilification as a result of this campaign it is to them that we owe the closest thing to a Maori version of the events at Wairau, and a more balanced view of the affair. According to McLintock a century later, Clarke ought to have taken many of the statements made in the Protectorate reports and "expunged them from the records."¹⁴² No doubt the New Zealand Company, who wished all blame to rest on the Maori people, would have agreed.

In 1843 the New Zealand Company claimed "the greater part of New Zealand is still the undivided domain of nature."¹⁴³ Edward Shortland noted that there was an idea,

"a very favourite one among new comers, who landed full of the idea that there were large spaces of what they termed waste and unreclaimed land, on which their cattle and flocks might roam at pleasure, and to which they had a better right than those whose ancestors had lived there, fished there, and hunted there; and had, moreover, long ago given names to every stream, hill, and valley of the neighbourhood. The older European residents had learnt that, although the theory might be very convenient, it was useless to try to apply it to New Zealand."¹⁴⁴

The debate over 'waste lands' was founded on the inability, or refusal, to recognise the possibility that land could have value other than as an economic commodity. As William Fox commented, "The foundation of all

¹⁴¹ George Clarke Jnr to George Clarke Snr, 30 November 1843, Clarke Papers, ATL, qMS-0469

¹⁴² A.H. McLintock, *Crown Colony Government in New Zealand*, Wellington: R.E.Owen, Government Printer, 1958, p179.

¹⁴³ *New Zealand Journal*, no. 86, April 1, 1843.

¹⁴⁴ Shortland, Edward., *The Southern Districts of New Zealand: A Journal, with Passing Notices of the customs of the Aborigines*, London: Longman, Brown, Green & Longmans, 1851, p.259.

wealth is the soil.... But soil uncultivated is of little more value than the barren rock.... If wealth be the object sought, the possession of soil is but one step towards its attainment; labour must be applied before wealth can be obtained.”¹⁴⁵ Colonists came to New Zealand with the belief that there were vast amounts of easily obtainable land available which only needed the application of their labour to yield the wealth they dreamed of. Hawtrey encouraged this view writing, “The New Zealander in his native state has as little notion of the value of labour as he has of the value of land.”¹⁴⁶ The reality was vastly different. In New Zealand settlers encountered an indigenous people who did not lay emphasis on land for its economic potential, but nonetheless held deeply rooted views of land based on its spiritual value. Maori society and culture was bound to the land in a way that was unintelligible to most, if not all, Europeans. The closest Pakeha could come to an understanding of Maori ties to land was by coming to terms with customary systems of land tenure, and this the Protectorate attempted to do. In the process they showed that the concept of ‘waste land’ was nonsense to Maori, and exploded many of the myths settlers had deceived themselves with in the hope of procuring land easily. “No mistake could be greater than the notion that the Maoris were without law in their relations with one another, or that there was any looseness in their notions of the tenure of land,” wrote George Clarke Junior in retrospect.¹⁴⁷

¹⁴⁵ William Fox, *The Six Colonies of New Zealand*, London: John W.Parker, 1851, p.4.

¹⁴⁶ Hawtrey, *An Earnest Address*, p36.

¹⁴⁷ Clarke, *Notes on Early Life*, p.45.

Chapter Four: A Widening Gap

Over the years that the Protectorate was in operation the Protectors gathered and documented as much information pertaining to Maori land tenure as they could. This was compiled in a comprehensive and useful report by Clarke summarising the basis on which Maori claimed and held their land. The information was made known to the Colonial Office:

From a very early period, the whole of New Zealand seems to have been divided into districts accurately defined, generally by mountain ranges or rivers; and must have been well known by the accurate description they have given to every little creek, valley, promontory and bay throughout the island, the names of which have been handed down by tradition from generation to generation, and which still continue to define the territorial rights of the chiefs, descended from the early proprietors.¹⁴⁸

Not only was it made clear that every piece of land in New Zealand was known, named, and claimed by Maori but the various methods by which title was asserted and proven were also elucidated. Discovery, inheritance, conquest, gifts, and all the intricate details of rules governing the rights of possessors were illustrated, along with what happened to those rights should an individual be taken captive in war. Clarke also listed the various methods of proving ownership to lands, such as recital of whakapapa, having cultivated the land, or exercised recognised acts of ownership such as hunting, fishing, or the burial of family members. The Protectorate demonstrated over the years it operated that it recognised the validity of these proofs of ownership. In many instances Maori claims to land were ratified using whakapapa or proving acts of ownership, to the satisfaction of

¹⁴⁸ George Clarke Snr, October 17, 1843, NZ2:1844, (556) App.356.

the Protectorate.¹⁴⁹

The issue of the land rights of absentee owners was discussed in considerable detail by Clarke in his report. People fleeing in fear from a powerful enemy, or taken as captives and enslaved, maintained their territorial rights, and captors, unless prepared to establish a claim to the territory by occupation, made no pretension to own the land of their slaves. Claims of sovereignty over a district by right of conquest "would be treated as contemptible and absurd." "I have known slaves tenaciously maintaining their territorial rights while in a state of captivity... and have been warmly reproved by these men for doubting the validity of their title," wrote Clarke. He went on to detail and enlarge on the various permutations that could occur through conquest, captivity, and seeking refuge in other territory. All this was particularly important for the Taranaki people who contested the land purchases of the New Zealand Company in their area whilst many of them were in captivity in Waikato, or in exile for fear of Waikato. Land Commissioner Spain later disallowed the rights of the absent Maori but Clarke had already endorsed the Taranaki claim in his report, and went on to support the tribe in opposition to Spain with a further memorandum on the subject in 1844.¹⁵⁰ His belief was that "a tribe never ceases to maintain the title to the lands of their fathers."¹⁵¹

As Chief Protector, Clarke also made it very clear how strongly Maori felt about their lands. In regard to each other, the tribes "watch and guard against any encroachment upon their respective territories, either from friends or foes, with as much vigilance and anxiety as any independent

¹⁴⁹ Examples of Protectorate accepting these proofs of ownership given by Thomas Forsaith, September 2, 1843, NZ2:1844 (556) App.353, and Edward Shortland, September 7, 1844, NZ4:1845 (247), pp.102,103.

¹⁵⁰ George Clarke Snr, October 1, 1844, NZ:1845 (369) p.103.

¹⁵¹ George Clarke Snr, October 17, 1843, NZ2:1844 (556) App. 359.

civilised state.”¹⁵² In regard to the new threat from settlers , “We would rather die fighting than be made slaves, or suffer our country to be taken from us,” the people of Waikato and Thames asserted.¹⁵³ In Port Nicholson the Maori declared, “they would not leave the places where they had buried their fathers, nor leave the land which had long nourished them and their children.”¹⁵⁴ Clarke supported them in these assertions, using the Treaty of Waitangi as evidence of the good faith of the Government:

They had, I said, in their hands the magna charta of the country, securing to them everything which would make them respected. Their land and everything they had was their own, and no one could possess themselves of an inch of it without their consent. England ... would treat with them, and act towards them with a scrupulous integrity as free men.¹⁵⁵

Clarke’s understanding of land tenure enabled him to point out some of the difficulties that would arise in land purchasing, and the necessity of having skilled negotiators for this task. Along with lack of understanding of the intricate complexities of land division and ownership, the most fundamental mistake made by unskilled purchasers was misunderstanding Maori motives for “selling.” In many instances Maori did not intend to alienate large blocks of land for ever, and merely intended to share their land with Pakeha for the purpose of obtaining both European goods and a market for their produce, not to mention satisfying traditional objectives such as the increase of mana. Settlers were desired, and encouraged, to enhance the economy, and standing of local hapu, with the expectation that they in turn would contribute to the community with which they became associated.

Land was allocated to them on this basis. ‘Sale’ was not a concept

¹⁵² George Clarke Snr, July 31, 1844, NZ4:1845 (369) p.78.

¹⁵³ George Clarke Snr, Early 1841, NZ3: 1842 (569) p.98.

¹⁵⁴ George Clarke Snr, November 1841, NZ3: 1842 (569), p.172.

¹⁵⁵ George Clarke Snr, Early 1841, NZ3:1842 (569), p.98.

comprehended in Maoridom. "[T]ransactions posited as land sales by one race were contracts for long-term social relationships for the other."¹⁵⁶ Clarke reflected partial understanding of this when he reported, referring to Port Nicholson:

[T]hey thought they would be conferring a benefit, as well as reaping a benefit, by allowing Europeans to cultivate beside them.... The primary object of a New Zealander parting with his land is not only to obtain the paltry consideration which in many cases is given them for their land, but to secure to them the more permanent advantages of finding at all times a ready market for their produce with their white neighbours.¹⁵⁷

Clarke then pointed out, "[T]his important end is at once defeated upon the assumption of a total alienation as claimed by the New Zealand Company."

In his report on Maori land tenure Clarke revealed another common mistake that many Europeans, including the New Zealand Company agents, had made when attempting to purchase land. This was assuming that chiefs were owners of large tracts of land and had the autocratic right to dispose of land belonging to a whole tribe. "[B]ravery in war, and consequent power and rank as a chief, will not always determine the individual to be a landed proprietor; a man may be a great general, and yet a small landholder."¹⁵⁸ Chiefs may have had individual claims to land, however so did every other member of the tribe, right down to the children who learned from an early age how to stake their claim through cultivating the land.¹⁵⁹ Furthermore, only land which had been cultivated, or had a recognised act of ownership performed upon it, could be claimed in this particular way. "In other respects their claims and titles become more general; the 'hapus' and families claiming, in common with the principal chiefs, what may be very properly

¹⁵⁶ Muriwhenua Land Report, Waitangi Tribunal, GP Publications, 1997, p.1.

¹⁵⁷ George Clarke Snr, November 1841, NZ3:1842 (569) p.172.

¹⁵⁸ George Clarke Snr, October 17, 1843, NZ2:1844 (556) App. 356.

¹⁵⁹ George Clarke Snr, October 17, 1843, NZ2:1844 (556) App. 357.

termed their waste lands.” While a chief may have had the right to first propose the alienation of a piece of land, the consent of all principal members of the tribe was required to validate it. These lands “possessed in common, involving the interests of so many claimants, are exceedingly difficult to purchase, and may be reckoned as among the most fruitful sources of their quarrels and disturbances.” Individual Maori could “dispose of small portions of land without embroiling themselves with their neighbours, and with manifest advantage; but in attempting to dispose of large tracts they are certain either to injure themselves or come into collision with others.”¹⁶⁰ Communal ownership could extend to other property such as livestock, waka, or implements, and in every case acutely jealously guarded the rights of every individual. “No people in the world are more particular than the natives on these subjects,” wrote Clarke, “and more especially in respect to their land.”¹⁶¹

Associated with this misunderstanding of the power of chiefs was the failure to recognise that Maori authority operated in reverse to the structures on which British authority was based. Britain, as a monarchy, based its authority in a centralised institution with power moving down and out to the masses. Power became diluted in the process, with those at the bottom having relatively little control over their lives, or social mobility. Maori authority, flowed from mana which was an indestructible power conferred by the gods. Sources of mana were widespread, and moved up from the people. Thus the continuing exercise of mana by rangatira was to a significant degree dependent on the support of the local community. Social mobility was possible.¹⁶² While recognising the necessity of communal support in certain

situations, the Protectors did not clearly recognize this fundamental

¹⁶⁰ George Clarke Snr, November 1, 1843, NZ2:1844 (556) p.360.

¹⁶¹ George Clarke Snr, October 17, 1843, NZ2:1844 (556) App. 357.

¹⁶² Muriwhenua Land Report, Waitangi Tribunal, GP Publications, 1997, p.29; Cleve Barlow, *Tikanga Whakaaro. Key Concepts in Maori Culture*, Auckland: Oxford University Press, 1991, p.61.

difference, referring to the chiefs as “despotic” and “punishing in an arbitrary manner.”¹⁶³

Clarke was also aware of other difficulties in making land purchases, one of which he highlighted in his report. If, during negotiations for a land purchase, objections to the purchase were made by some of the owners which were overruled by the earnest, unremitting persuasion of the buyer, the validity of the sale could later be called into question. “The natives cannot stand against importunity from those they deem their friends, and never fail to say, in such a case, that a consent was extorted from them.”¹⁶⁴ The desire of the Maori to maintain friendly relations with prospective purchasers who held out the promise of a market for produce, European goods and increased mana put immense pressure on landowners. Furthermore, the threat of turning with these advantages to another tribe if agreement could not be reached, could drive Maori into a bargain which they did not really wish to make, and later regretted.

The Protectorate was often able to discover complexities of tribal politics which were fundamental to disputes over land sales. Territory claimed by more than one individual or tribe could be sold in an attempt to gain ascendancy over an enemy. “It is from purchasing lands, the right to which is thus contested by two parties, either of whom will gladly avail himself of an opportunity to sell independently of the other, that Europeans have unwarily fallen into so many difficulties,” reported Shortland.¹⁶⁵ Likewise, selling lands over which the vendor could establish no claim was not unknown. These political complications were at the root of the difficulties at Port Nicholson,

¹⁶³ George Clarke Snr, July 1, 1845, NZ5:1846 (337) p.134; Donald McLean, December 17, 1844, NZ5:1846 (203) p.143.

¹⁶⁴ George Clarke Snr, October 17, 1843, NZ2:1844 (556) App. 359.

¹⁶⁵ Edward Shortland, August 15, 1843, NZ2:1844 (556) App.355.

and of which the New Zealand Company agents were ignorant.¹⁶⁶ Only careful investigation, which no-one could accuse the New Zealand Company of, could avoid these pitfalls. Protector Forsaith recommended, "I would take the liberty of strongly advising, that in any future purchases Her Majesty's Government may make from the aborigines, that no article of payment be delivered until every dissentient voice is silenced, and the boundaries accurately defined."¹⁶⁷

As a step towards unravelling the Gordian knot of Maori land ownership the Protectorate suggested that areas claimed by iwi and hapu be marked on a map, and a registration of titles be made. Title to land would be "acknowledged and confirmed precisely" as they stood at the time of the signing of the Treaty of Waitangi. This record would be regarded in the light of an official public record which would be referred to when future land sales took place.¹⁶⁸ Without this official demarcation of territorial boundaries the future of the colony would remain unsettled, Clarke warned.¹⁶⁹ No action was taken on this suggestion during the existence of the Protectorate.

The result of this considerable knowledge regarding Maori land tenure led Clarke to declare, in 1844, to Governor FitzRoy:

It will be obvious to His Excellency, from the very complicated nature of the question, that no purchase could be effected, except by a person possessing some considerable knowledge of the principles by which the claims of the natives are governed, and that to perform such service satisfactorily would require considerable time, and that large tracts of country could not possibly be obtained without prejudicing the interests or coming in contact with the prejudices of some of the tribes.¹⁷⁰

¹⁶⁶ George Clarke Jnr, December 13, 1842, NZ2:1844 (556) App.123-125.

¹⁶⁷ Thomas Forsaith, September 2, 1843, NZ2:1844 (556) App.354.

¹⁶⁸ George Clarke Snr, June 1, 1843, NZ5:1846 (337) p.113; July 31, 1843, NZ2:1844 (556) p.348.

¹⁶⁹ George Clarke Snr, June 1, 1843, NZ5:1846 (337) p.111.

¹⁷⁰ George Clarke Snr, NZ2:1844 (556) p.360.

The lack of this specialised knowledge had led many land purchasers to believe that “they have accomplished more in the space of a few hours in the way of purchasing land, than the Government, under every advantage, can accomplish in as many years.”¹⁷¹ Nevertheless, Clarke did not wish to be the individual responsible for purchasing land.

Land purchasing though, in accordance with the pre-emption clause of the Treaty, had been the first duty assigned to the Protector of Aborigines.¹⁷² The reasoning behind this was that if an individual assigned to watch over the interests of the Maori was also responsible for purchasing land for settlement, he would not allow Maori to be cheated, or to alienate land which was essential to their future well-being. In theory this sounded plausible but practice revealed hazards and difficulties which Clarke found it impossible to resolve. He made his feelings known early in his appointment.

During the year I have made two or three important purchases of land on behalf of the Crown, which however have led to various remarks among the natives, more or less prejudicial to my duties as chief protector; they being apprehensive that their interests in connexion with this department are less studied than those of the government. On this point I have been unable fully to satisfy them, great pains having been taken by inconsiderate Europeans to show them the incompatibility of the two duties, as well as the great disproportion between the price the government gave for their lands, and the amount they realised when resold.¹⁷³

Hobson reported to the Colonial Office that the duties of land purchaser “interferes in some measure, I fear, with his conservative vocation of protector” and that there was “no natural connexion between the office of a land commissioner who buys land for the government, and that of protector of

¹⁷¹ George Clarke Snr, September 30, 1841, NZ3:1842 (569) p.189.

¹⁷² Lord Normanby to William Hobson, August 14, 1839, NZ3:1840 (238) p.39.

¹⁷³ George Clarke Snr, September 30, 1841 - NZ3: 1842 (569)p.190.

the rights and liberties of the aboriginal proprietors of the soil.”¹⁷⁴ Shortland, while Acting-Governor added, “The Government, by becoming a purchaser of land, is placed in a position which tends to lower its dignity in the eyes of the natives generally.”¹⁷⁵ The Secretary of State, Lord Stanley, agreed. “I consider it very desirable that the protector should be relieved of the office of negotiating purchases of land from the natives, which I consider inconsistent with the character he fills.”¹⁷⁶ However, he made it very clear that no further finance for the Colony’s administration would be forthcoming from the Colonial Office, thus ruling out the employment of a dedicated land-purchase officer. The Protectorate, therefore, was obliged to continue with purchasing land, although Clarke continued to express his distaste for doing it.

A further issue which constantly pressed its notice on George Clarke was what he termed “the inapplicability of the English law” to Maori. His experience in a wide variety of situations had firmly established him in this opinion. When requested to justify this statement he gave several reasons. Firstly, he pointed out, the Treaty of Waitangi had guaranteed the Maori their customs including the chief’s prerogative of adjusting their own quarrels where no Europeans were involved. Chiefs were concerned over the diminution of their influence and authority and would not support a system of law that ignored this, or caused further erosion of influence.¹⁷⁷ Secondly, custom and usages “if not absolutely at variance with the spirit of English law, in all cases, are... diametrically opposed to its administration, and especially inimical to its tardy operation.”¹⁷⁸ This tardiness of operation

¹⁷⁴ William Hobson to Secretary of State, December 15, 1841, NZ3:1842 (569) pp.188,189.

¹⁷⁵ Willoughby Shortland to Lord Stanley, NZ2:1844 (556) App.340.

¹⁷⁶ Lord Stanley Stanley to William Hobson, June 10, 1842, NZ3: 1842 (569) p.190.

¹⁷⁷ George Clarke Snr, October 19, 1844, NZ4:1845 (369) pp.35-37.

¹⁷⁸ George Clarke Snr, July 31, 1843, NZ2:1844 (556) p.346.

resulted from the difficulty of bringing native cases to court because of the great distances between the settlements and the majority of the Maori population. Furthermore, Clarke argued, “[I]ndependently of the Waitangi treaty, if we view the natives as British subjects, amenable to British law in all its manifold ramifications, we necessarily subject them to great hardships, and in carrying out this principle inevitably afflict them with injuries of a very grievous character.”¹⁷⁹ The end result of this inapplicability of British law to Maori had led to a “discrepancy between the actual state of things, and the positive and well-defined benevolent intentions of Her Majesty’s Government towards the aborigines.”¹⁸⁰ This discrepancy, along with a variety of other causes, was steadily dissolving Maori respect for the British Government. Clarke feared, at least, a revival of old practices (if, indeed, they had truly been extinguished), at worst, outright rebellion. In Clarke’s opinion the uprising of Hone Heke bore out this viewpoint.¹⁸¹

In his usual practical manner Clarke attempted to solve the problem, as he saw it, by suggesting a system of native courts, supported by legislation which would sanction customs and usages deemed acceptable to morality. Clarke did not claim to have devised a perfect plan, but suggested that it be adjusted and improved as its practical working suggested. The rudiments of the system would involve the organisation of native courts throughout the country. These courts would adjudicate in cases where only Maori were concerned, administering justice according to native usage, with no admission of appeal against the decision. In legal proceedings where both Maori and Pakeha were involved, appeals to higher courts would be admitted. The “President” of such a court system would be the Protector of Aborigines acting in association with designated principal chiefs of the district in which

¹⁷⁹ Ibid.

¹⁸⁰ Ibid, p.347.

¹⁸¹ George Clarke Snr, January 1, 1845, NZ5: 1846 (337) p.11.

the court was operating. A list of eligible chiefs in each district would be submitted to the Governor for approval. In cases involving Europeans, the responsibility for the court would be shared with a Justice of the Peace or Police Magistrate. The jury would, in Maori cases, consist of six natives, and in a mixed trial a jury comprised of equal numbers of each race would be empanelled. Clarke believed that these arrangements would ensure fairness and enable the Protector to be “employed in the administration of justice without the shadow of suspicion.”¹⁸²

The native courts would operate, as frequently as circumstances deemed necessary, in the vicinity of populous villages, or other localities considered eligible by the Protector. The Protector could, in an emergency, call for a special court session to be held. He would also be responsible for keeping records of the proceedings of such courts.

Clarke anticipated several advantages from such a system. Firstly, he claimed such courts would in a short time give the British colonial administration an “intimate acquaintance” with native customs and usages which formed their common law. A further advantage was that Maori would see “that their own chiefs have a voice in the administration of justice” and that “the chiefs themselves would feel their importance as the aristocracy of the land, and see it in their interest to maintain so honourable a position by enforcing obedience to their decisions.” The chiefs would provide a vital link between the Crown Colony government and the tribes. This would also answer, to a certain extent, the problem of the loss of influence by the chiefs.¹⁸³

Clarke advised several cautions that ought to be observed in the event of such a system being implemented. It was of vital importance, first of all, to communicate clearly and efficiently with Maori over any changes to be

¹⁸² George Clarke Snr, July 31, 1843, NZ2:1844 (556) pp.347,348.

¹⁸³ Ibid, p.348.

introduced. "Nothing seriously affecting the usages and customs of the people should be done, without reference to them through their chiefs," Clarke advised. Furthermore, "Those usages and customs which are to be abolished should have reasons assigned for such procedure; their substitutes pointed out, and publicity given to them." Somewhat sanguinely he added, "Time will enforce respect to such abolition without coercion."¹⁸⁴ Referring to Acting Governor Shortland's query as to whether Maori would submit to the authority of such courts, Clarke again recommended reliance on chiefly authority to ensure this. "I would recommend that the executive power be vested entirely in the chiefs, because their decision in most cases would be tantamount to the enforcement of the sentence."¹⁸⁵ Enlarging on this concept he added that, as:

[T]he moral influence of a decision of native chiefs is such as to be equal, in most cases, to an executive power, I can scarcely entertain a doubt of the result. This fact places a remarkable trait in the character of the natives in a very striking light, and shows that there is a foundation upon which to work, an innate sense of honesty and integrity.¹⁸⁶

As Acting-Governor, Shortland forwarded Clarke's recommendations with a covering letter which expressed some support for the idea of native courts, but concern at the possible costs involved. Shortland did not enlarge on the expense he anticipated, and in light of the financial straits in which the Colony found itself, native courts, as suggested by Clarke, would have been a comparatively economical alternative to a fully serviced system of British-style courts. Shortland also was apparently not convinced by Clarke's assertion that investing executive power in the chiefs would be "tantamount to the enforcement of the sentence" as he averred that "it would be unsafe to

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

risk the trial, unless the hands of the executive were strengthened by the presence of a sufficient military force.”¹⁸⁷

Regardless of whether or not Shortland’s opinion carried much weight with the Colonial Office, Clarke’s plan was resisted. Legalising Maori usages would not only imply weaknesses in British law, it was thought, but would suggest that there was some validity in ‘barbaric’ practices. This was an admission that the majority of even the most enthusiastic humanitarians were not prepared to make. To advance Maori in the arts of civilisation required holding before them the ideal model to which they could aspire. The integrity of the British law was considered inviolable and concession of any sort, therefore, was deemed unacceptable. Governor FitzRoy’s Native Exemption ordinance of 1844 was a genuine, but watery, attempt to provide some sort of interim measure.¹⁸⁸ Compared to Clarke’s scheme it was a mere token, and Clarke, while applauding the intent, saw it merely as the commencement of “correcting early mistakes.”¹⁸⁹ However, even this was rejected by the Colonial Office, who failed to ratify it.

It is important to realise that while modern opinions may view Clarke’s suggestions as progressive and ahead of their time, Clarke himself made no such pretensions. He saw the proposals as merely temporary expedients in an transitional phase of the advancement of Maori towards civilisation. This explains why he earlier refused to endorse Swainson’s call for the creation of Native districts. Clarke’s ultimate goal remained the assimilation of Maori into European culture, however he recognised the need for an intermediate phase to allow the metamorphosis to take place. More than this, Clarke saw that practical measures needed to be devised to enable the transition to take

¹⁸⁷ Willoughby Shortland to Lord Stanley, October 30, 1843, NZ2:1844 (556) App.340.

¹⁸⁸ Alan Ward, *A Show of Justice: Racial ‘Amalgamation’ in nineteenth century New Zealand*, Auckland: Auckland University Press, 1995, pp.66-68.

¹⁸⁹ George Clarke Snr, July 1, 1845, NZ5:1846 (337) p.134.

place. While Lords Russell and Stanley, and James Stephen, had expressed a willingness to tolerate temporarily the practice of traditional usages, they saw no reason to devise a legally recognised transitional programme to initiate Maori in an understanding of British law. Clarke, at grass roots level, and always practical, was not satisfied with mere well-meaning philosophy.

In the search for the meaning of 'protection', this reluctance to relinquish the smallest concession in the matter of Maori custom provides a useful marker. Preservation of the culture was not the ultimate aim, and even though Clarke envisaged his suggestions as temporary expedients, he had overstepped the mark in his role as Protector. Protection of life and limb was acceptable. Protection of land rights was tolerable, although growing less popular. Entrenching traditional customs in legislation was utterly unthinkable. A move of this sort could open the door to arguments undermining the very philosophical foundations of colonisation and allow Maori time to consolidate in a way that could prove to be irreversible. While from the perspective of the 21st century this may be seen as desirable, in the Crown Colony of 19th century New Zealand it was repugnant.

Clarke did not feel this repugnance for he was genuinely free, in a greater degree, from the racial prejudices harboured by most of his contemporaries. His respect for Maori is reflected in his reports, and he called for his peers to divest themselves "of all prejudice," and to look at Maori society in a comprehensive manner, not focussing on "striking peculiarities." "[I]t is too common to endeavour to measure the New Zealander by the European standard," he claimed.¹⁹⁰ "Mutuality is the mental state most needed for good race relations," declares the Muriwhenua Land Report, "...and the test for mutuality is mutual comprehension and respect."¹⁹¹ George

¹⁹⁰ Ibid.

¹⁹¹ Muriwhenua Land Report, Waitangi Tribunal, GP Publications, 1997, p.12.

Clarke and the staff of the Protectorate came closer to achieving this than any of their contemporaries.

Two years after the submission of his original proposals, and seeing his worst fears fulfilled, Clarke was still calling for action along his suggested lines. Barely avoiding an 'I-told'you-so' tone, Clarke nevertheless made his feelings abundantly clear and came the closest he dared to issuing a rebuke to his superiors.

I feel persuaded that many, if not all, of our difficulties would have been prevented had we legalised those native customs which are not repugnant to the fundamental principles of morality, and had we invested the well-disposed and most intelligent of their chiefs with magisterial authority; but instead of this, we have been so apprehensive lest any portion of the executive power should pass into their hands, that our firmest friends have been shaken in their confidence in our ultimate intentions.¹⁹²

By the time this was written, however, the sun was setting on the Protectorate. The political lobbying of the New Zealand Company had paid off, and Captain George Grey had already been selected to replace FitzRoy as Governor.

¹⁹² George Clarke Snr, July 1, 1845, NZ5:1846 (337) p.134.

Chapter Five: A Rival Plan for Protection

The involvement of the Protectorate in the Land Claims Commissions, particularly in the Port Nicholson area, put it on a direct collision course with the New Zealand Company. The Company was not hampered by a lack of personnel, and initially, at least, had more than adequate finances. It was also powerful in terms of political influence in England. Not only had the Company been disappointed in its desire to have a major voice in the political administration of the new Colony, it found itself subject, in New Zealand, to a regime whose philosophies and ideals ran counter to its own. The Protectorate of Aborigines, under the guidance of George Clarke, upholding the land rights of Maori, and advocating a gradual approach to assimilation was a stubborn impediment to the plans of the Company. The two could not coexist in the new Colony, and the demise of the humanitarian/Christian based administration under Hobson and FitzRoy, and the Protectorate, was essential to the advancement of the New Zealand Company plans. In an increasingly hostile environment, the many small successes the Protectorate achieved were not enough to outweigh the aggressive political lobbying of the New Zealand Company.

The New Zealand Company had acknowledged the strength of the humanitarian lobby in its early stages of negotiation with the Colonial Office. This was indicated by the inclusion, in the outline of their colonisation scheme, of proposals for reserves of land to be made for Maori. The 'native reserves' were to consist of one-tenth of the land purchased by the New Zealand Company. In the town areas each lot of land would consist of one acre, and the lots reserved for Maori would be interspersed with those of the European settlers. In rural areas the same system would be applied to hundred acre lots. In reality the lots were 'elevenths' - one portion to every

ten set aside for settlers. The intention was to rent out the land reserves initially, the proceeds of which would provide a benefit fund for Maori. However once Maori had learnt to appreciate the economic value of the land the reserves would be made available for them to live on in a suitably civilised style. The scheme was conceived in England, based on English land systems, with no thought given to Maori methods of land transfer or usage.¹⁹³ The possibility that Maori would not wish to participate in, even resist, the scheme was not considered. It was simply presumed that the superiority of English culture was self-evident and that Maori were "most anxious for civilisation".¹⁹⁴ As a result of his experience as a missionary, George Clarke Senior had been disabused of this idea, and therefore the Protectorate's Maori policy was founded on a recognition of the fact that Maori were still pursuing their own agendas and traditional goals. It was the persistent failure to recognise, or acknowledge, this that led to conflict in the Port Nicholson area.

The reserves for Maori were to be allocated through the same lottery system which distributed land to all the settlers. However, whereas settlers were allowed to choose their sections in the order determined by the lottery, Maori were not consulted. Their lots were chosen for them, sometimes in London.¹⁹⁵ This system, which was incomprehensible to Maori, resulted in considerable dissatisfaction on their part and added to their growing concerns over land. The New Zealand Company claimed that the reserves it had made for Maori were fairly distributed, with some of the best land going to Maori through the lotteries.¹⁹⁶ They also claimed that the land was generous in

¹⁹³ Patricia Burns, *Fatal Success: A History of the New Zealand Company*, Auckland: Heinemann Reed, 1989, p.89.

¹⁹⁴ Reverend Montague Hawtrey, *An Earnest Address to New Zealand Colonists, with Reference to their Intercourse with the Native Inhabitants*, London: John W.Parker, 1840, p.10.

¹⁹⁵ Ibid. pp.114,158.

¹⁹⁶ J.Somes to G.W.Hope, NZ2:1844(556) App.36,37.

extent and would afford them “ample means of subsistence” and “a large fund for the amelioration of the moral and physical condition.”¹⁹⁷ Further justification for their plan was that “the advantage to the New Zealanders of the native reserves is the national importance they will derive from their improved value in future years.”¹⁹⁸

The decision to appoint a Commissioner to manage the native reserves was not made until July 1840. The man appointed was Edmund Storr Halswell, a lawyer, who had been involved with colonisation schemes since the days of the New Zealand Association, and who had financial interests in the Company.¹⁹⁹ It was assumed that part of his duties would include protection of Maori, although because sovereignty had been proclaimed over the whole of New Zealand by the Crown, the Company directors would not specifically instruct him in this area. Rather, they advised Halswell to “cordially co-operate” with the Government protectors.²⁰⁰ The Aborigines Protection Society applauded the appointment, and Lord John Russell gave Halswell a letter of introduction to Governor Hobson. This letter precipitated a small power struggle by suggesting Halswell be given an official role in management of Maori affairs. Presumably the Company, anxious for any foothold in Government, approved. Hobson, however, saw this as an opportunity to gain a measure of control over the Company through its native reserves, and he appointed Halswell as Protector of Aborigines for the Southern District in May 1841. Although Halswell insisted that he be free from the official control of George Clarke, Hobson expected him to submit to Government orders, on the grounds that having established the reserves for

¹⁹⁷ William Wakefield, cited by George Clarke, in George Clarke Snr, October 28, 1843, NZ2:1844 (556) p.276.

¹⁹⁸ Hawtrey, *An Earnest Address*, p.31.

¹⁹⁹ Burns, p.148.

²⁰⁰ New Zealand Company Directors to Edmund Halswell, October 10, 1840, NZ2:1844 (556) App.669.

Maori the Company no longer had any rights to such land, and Halswell's appointment as New Zealand Company Commissioner was, therefore, null and void.²⁰¹ Halswell continued to communicate with the Company directors, however. Having had authority over the reserves effectively taken from them, the Company moved to distance itself from any potential failure. "How well the plan which we devised may ultimately work experience will decide, if the local government, into whose hands we have been compelled to resign the native reserves, shall embrace the spirit of our plan, and steadily carry it into execution." wrote the Company Governor, Joseph Somes.²⁰²

Halswell had left England with vague instructions from the Court of Directors of the New Zealand Company. Lack of information made specific guidance impossible and Halswell was left to gather data on which the directors could determine the policy for management of the native reserves. These instructions were dated October 1840, and given the lengthy delays involved in communication, and the time necessary for gathering relevant information, it was unlikely that Halswell could expect further direction within a year.²⁰³ As it was, over a year passed before Halswell submitted his first official report to the Company.²⁰⁴ A year later, in December 1842, he was informed by William Wakefield, that, as the Company no longer were involved with the reserves, Halswell's services were not necessary.²⁰⁵ Dispensing of Halswell's services completely cut the Company ties to the reserves, and thus they excused themselves from any formal responsibility for the protection of the Maori people.

²⁰¹ Edmund Halswell, April 15, 1845, NZ5:1846 [722] p.7; P.D. Gibbons, "The Protectorate of Aborigines", M.A.Thesis, Victoria University, 1963, p.188,189.

²⁰² J.Somes to G.W.Hope, NZ2:1844(556) App.36,37.

²⁰³ New Zealand Company Directors to Edmund Halswell, October 10, 1840, NZ2:1844 (556) App.668,669.

²⁰⁴ Edmund Halswell to Secretary of the New Zealand Company, November 11, 1841, NZ2:1844 (556) App.670-674.

²⁰⁵ William Wakefield to Halswell, December 1842, NZ5:1846 [722] p.5.

The New Zealand Company believed Edmund Halswell to be eminently more qualified for the position of Protector than George Clarke or any of his appointees, despite the fact that on his arrival in New Zealand he had no experience of dealing with Maori and no knowledge of their language or customs.²⁰⁶ His university education, legal qualifications and standing as a gentleman, were regarded as giving eligibility superior to the senior Protectorate staff and the New Zealand-educated Clarke Junior.²⁰⁷ 'Pukunui', as Halswell was called by Maori on account of his stout build, was middle-aged, and, according to Patricia Burns, neither clever nor perceptive.²⁰⁸ He came to have an unfounded confidence in his own power over Maori in the Port Nicholson area.²⁰⁹ His reports to the New Zealand Company directors show a genuine, though patronising, concern for Maori welfare, although his emphasis was on speedy amalgamation, showing no regard for a transitional period as stressed by the Protectorate.²¹⁰ George Clarke, with no official control over Halswell, was unconvinced of his suitability for the role, not only because of Halswell's inexperience of Maori culture but because of his financial involvement in the New Zealand Company. Almost two years after Halswell's appointment, Clarke remained unimpressed. "An efficient protector is much needed in that district; the gentleman hitherto holding that appointment being deeply interested in the Company's affairs, and ignorant both of the language and of the customs of the natives, must be considered incompetent for such a situation," he wrote.²¹¹ Although Halswell did not become aware of this statement for another two years, he was highly

²⁰⁶ J.Somes to Colonial Office, NZ2:1844 (556) App.36,37.

²⁰⁷ E.J.Wakefield, *Adventure in New Zealand*, Volume II, London: John Murray, 1845 (Facsimile edition - Auckland: Wilson and Horton), p.194.

²⁰⁸ Burns, p.148.

²⁰⁹ Burns, p.220.

²¹⁰ Edmund Halswell to Secretary of the New Zealand Company, November 11, 1841, NZ2:1844 (556) App.670-674.

²¹¹ George Clarke Snr, January 4, 1843, NZ2:1844 (556) App.122 .

affronted. His purpose in coming to New Zealand, he claimed, was entirely void of self-interest. Only the desire to promote "the melioration of the native race" had drawn him thither. "My great aim and purpose have been to promote as much as possible here the plan recommended by Captain Grey in his report as to the natives of South Australia." This, in itself, was unlikely to impress George Clarke.

Clarke's concerns over the impartiality of Halswell led him to suggest that the native reserves should be administered by someone who had no connection with the New Zealand Company. The result was the institution of a committee which was comprised of Halswell, the Police Magistrate and the Crown Prosecutor. The Committee was instructed to advertise the reserves for lease, and such was the optimism regarding the scheme that plans were made as to how the resultant income would be spent on a number of welfare related projects. Hopes went unfulfilled, however, with only two leases arranged and less than £70 collected. Two major difficulties hampered the plan. Firstly, leases were limited to no more than seven years. Understandably, settlers were unwilling to invest time and money in land that might only be available for such a short term. The second difficulty was the unsuitable nature of the actual reserves themselves.

In mid-1842 the Committee was replaced by a Native Trust. The trustees were George Clarke, Bishop Selwyn, and the Chief Justice William Martin. Halswell acted as the Trust's agent. Despite the Trust's abolition of the seven year lease limit, no revenue was generated. In a burst of enthusiasm Bishop Selwyn borrowed £100 from William Wakefield, and with another £100 of his own, set up a school and hospital for Maori. However, when further finances were not forthcoming the two schemes melted into oblivion.²¹²

²¹² Gibbons, pp.193,194.

The original instructions of the Court of Directors, which were issued to Halswell, had asserted that the purpose of making reserves of land for Maori was to "civilise the native race, by means of a deliberate plan." Furthermore, while confessing the experimental nature of this plan they claimed for it the distinction of being "the only systematic attempt ever made to improve a savage people through the medium of colonisation." The aim was to prevent the Maori suffering the fate of other indigenous peoples, namely that of becoming "degraded, oppressed, and finally exterminated by coming into contact with a more advanced, more energetic and more powerful people."²¹³ However, in accordance with contemporary beliefs regarding protection, the preservation of Maori cultural values was never considered part of the New Zealand Company plan. Maori religion, language, style of living and customs were regarded as part of their barbarity.

The assumed reason for the lamented fate of other aboriginal races was their "having been all reduced to one level in society, namely that of the poorest order among the colonists." Thus, the aim of the Company was to "guard the chief families against this cruel debasement, and to sustain them in a high relative position, by giving them property in land." This view had been further expanded in an article, penned by Reverend Hawtrey, in an edition of the *New Zealand Journal*:

[N]othing would tend more immediately to let down and totally to change the character of the whole New Zealand population, than a disposition to overlook this institution (chieftainship), and place all the inhabitants upon the same level.... We should gladly admit him to civil or military posts within the colony; but we cannot suppose him to be prepared for either.... Every chief who disposes of lands to the British crown, and consents to liberate his slaves, should have allotted to him, within the

²¹³ New Zealand Company Directors to Edmund Halswell, October 10, 1840, NZ2:1844 (556) App.668.

British settlement, such a tract of land, proportional in the case of each several chief to the extent of territory which he has ceded and the number of slaves to whom he has granted their liberty as would place him in as favourable a position with regard to the possession of landed property as the principal English settlers. This land should be kept in reserve for him and his family, until by education and intercourse with civilised people he had learned to estimate its value.²¹⁴

These assumptions reveal not only a total lack of understanding in regard to the nature of Maori society, but also reflect the source of their conception. Edward Gibbon Wakefield's scheme of colonisation was based on preserving the class structure of Victorian England with the relocation of that structure to new territory. Wakefield, and the Company directors, were not incorrect in assuming that a similar structure existed in New Zealand among Maori, but the presumption that the foundation of that structure was economic was false. Therefore, the supposition that giving chiefly families landed property would preserve their status was equally flawed. The civilising process itself, based as it was on an economic foundation, held within it the very elements which would erode the fabric of Maori society. There was a failure to recognise that Maori society was founded on spiritual and societal values which would be destroyed by the imposition of economic imperatives, thus condemning the Company's 'experiment' to defeat before it began.

Some of these arguments could also be levelled against the Protectorate given that it too aimed towards the 'civilisation' of Maori. Two essential differences existed, however, which would have minimised cultural damage. The first of these was the speed at which the Protectorate envisaged amalgamation taking place. George Clarke advocated a gradual process with some provision made for Maori custom and lore. His policies also were based on the assumption that Maori proprietary rights to land must be protected.

²¹⁴ *The New Zealand Journal*, No. 3, March 7, 1840.

The Protectorate recognised, and accepted, that land could only be bought in small tracts at such a time as Maori were willing to sell. The preservation of Maori land ownership effectively protected the culture, although Clarke may not have been consciously aware of this. The New Zealand Company were driven to acquire land as speedily as possible, and their respect for, and toleration of, Maori culture was minimal. Their idea of 'protection' was little more than keeping Maori alive throughout the colonising process.

In their plans to preserve what they believed were the "classes" of Maori society, the New Zealand Company made no provision for those who were not of chiefly families. These people do not rate so much as a mention in the Company plans and one is left to wonder what was to become of them. Perhaps, as in England, the poor would be left to fend for themselves, or throw themselves on the mercy of charitable institutions.

Whilst Company officials denied personal gain as a motive for their involvement in systematic colonisation, the fundamental principles on which they operated were economic. The drive to ease overpopulation in England was an attempt to reduce poverty, and better the lots of those at the lower end of the social scale. The more affluent colonists certainly would not have considered the prospect of emigrating had it guaranteed a dwindling of their wealth. Furthermore, it was the acquisition of apparently easily obtained land that was the drawcard of the Company, and land was considered to be the basis of wealth. "The foundation of all wealth is the soil," wrote Fox and this was the motivating tenet of the New Zealand Company and its settlers.²¹⁵ This perspective led them to believe that the land of the Maori "was valueless to them, and acquired value entirely from the capital expended in emigration and settlement."²¹⁶ Communal land ownership acted

²¹⁵ William Fox, *The Six Colonies of New Zealand*, London: John W.Parker, 1851, p.4.

²¹⁶ New Zealand Company Directors to Edmund Halswell, October 10, 1840, NZ2:1844 (556) App.669.

as an impediment to the establishment of an English-style society built on an ethic of free enterprise, and the attainment of individual wealth. Thus the economic amalgamation of Maori via the breaking down of communal land holding became the primary objective of the New Zealand Company immigrants. Protection was incidental.

The creation of native reserves in small blocks, interspersed with the lands of settlers, was an integral element of the Company's plan for protection and civilisation of Maori. Not only was it inexpensive, it was relatively effortless, although these were not the reasons hailed for its ingenuity. Allowing the aboriginal inhabitants to continue to exist according to native usage, in large blocks of land removed from the white population, as had been the case in North America, would "encourage savages to continue barbarous."²¹⁷ Living in close proximity to the settlers would enable Maori to absorb and imitate European culture. William Fox applauded the system, and graciously added that Maori would eventually be elevated to such a level that "intermarriage with the lower classes of settlers" might even occur.²¹⁸

The Company directors hailed the advantages of the scheme -

This tenth, they will not be slow to understand, will, when surrounded by the activity of civilised life, place more comforts at the disposal of the natives, than the whole of the land would have yielded them in their own hands. They are not hunters but cultivators. Hence a small breadth of land will be sufficient for their subsistence, especially when they are taught to adopt European modes of culture, which they are eager to do.²¹⁹

Halswell thought this was a distant aim. He despaired over the inclination of Maori to hold fast to traditional customs. His reaction to this, however, still reflected the forceful, no-tolerance approach advocated by the Company.

²¹⁷ Ibid.

²¹⁸ William Fox, *Colonization and New Zealand*, London: Smith, Elder & Co., 1842, p.15.

²¹⁹ *New Zealand Journal*, No.10, June 6, 1840.

"[N]othing short of breaking up the pāhs and locating their inhabitants in decent huts, in small villages on their own reserves, and by degrees associating them with the white population, will render them generally fit companions for any, even the lowest of the settlers."²²⁰ The Protectorate was not so sure that this plan was sound, and expressed more concern for Maori welfare. "It seems an established principle, that the nearer the natives are brought to a large population of whites, the more they become affected and injured in their morals by the collision."²²¹ Ernest Dieffenbach corroborated this opinion. "I have always observed that the natives who hover about the settlements of Europeans are far inferior to those in the country: they are not only more unhealthy, but also become an ill-conditioned compound of the dandy, beggar, and labourer."²²²

Halswell's desire to break up the Maori pa flew directly in the face of the Government, and Protectorate, promise to Maori that their pa and cultivations would not be harmed in any way, nor would they be forced to leave them. Governor Hobson had told Colonel Wakefield he could attempt to persuade Maori to leave these areas, but "no force or compulsory measures for their removal will be permitted."²²³ Maori were also informed of these decisions, and consequently Wakefield blamed Maori refusal to leave their pa and cultivated grounds on the "mischievous exhortations" of George Clarke Senior who had accompanied Hobson on his visit to Wellington.²²⁴ Wakefield also advised the Company directors to "take steps with the Home Government to counteract the designs of the missionary protector." These areas, he warned, "promise an abundant source of difference and inconvenience". In

²²⁰ Edmund Halswell to Secretary of the New Zealand Company, November 11, 1841, NZ2:1844 (556) App.671.

²²¹ George Clarke Snr, January 4, 1843, NZ2:1844 (556) App.122 .

²²² Ernest Dieffenbach, *Travels in New Zealand*, Volume 2, London: John Murray, 1843, p.147.

²²³ Governor Hobson to Colonel Wakefield, September 6, 1841, NZ2:1844 (556) App. 546.

²²⁴ Colonel Wakefield to Secretary of the New Zealand Company, November 5, 1841, NZ2:1844 (556) App.547.

this at least, he was right.²²⁵

Halswell had been instructed by the Company directors to ascertain to what extent chiefs were fit to undertake the management of the native reserves themselves, either by letting them or cultivating them themselves.²²⁶ Halswell's direct answer was that they were not capable of such a task. However his report in general is confusing and contradictory. He wrote that "though, taking the natives as a body, they are not capable of undertaking the management of their lands, there are individual instances where the letting and renting of land are well understood."²²⁷ He went on to give an example of a chief who had asked for a piece of a native reserve. Thinking the chief wished to cultivate on it, Halswell pointed an area out, only to discover later that the man's intention was to let the land to settlers and live off the proceeds of the rent. Why this concept could not be taught to, or understood by Maori in general, Halswell did not explain for in the same report Halswell remarks several times on the quick intelligence of Maori and their aptitude for learning. He also cited many instances of Maori turning commercial situations to their advantage. Local Maori no longer dressed flax in the traditional mode, Halswell claimed, because they had discovered that they could make more money as labourers. Less canoes were being built as Maori acquired whale-boats and set up commercial fishing operations with considerable success. Many tribes were engaged in agriculture, producing goods which they sold to settlers. Halswell then stated, "They quite understand their own interests, and really require, individually, little or no actual protection."²²⁸ Halswell did also illustrate how Maori could be taken

²²⁵ Colonel Wakefield to Secretary of the New Zealand Company, October 12, 1841, NZ2:1844 (556) App.547.

²²⁶ New Zealand Company Directors to Edmund Halswell, October 10, 1840, NZ2:1844 (556) App.668.

²²⁷ Edmund Halswell to Secretary of the New Zealand Company, November 11, 1841, NZ2:1844 (556) App.671.

²²⁸ Ibid.

advantage of in commercial transaction by unscrupulous settlers, however he went on to remark that "these deceptions never occur twice."²²⁹ The assumption, therefore, that Maori were incapable of managing their own lands appears to have been based on convenience rather than reality. To have initiated Maori too early into European economic practices in reference to land, would have been to make them aware of the value of land to the settler. Land prices would rise and the New Zealand Company's desire to obtain land cheaply, thwarted, thus threatening its very existence. The Company were, therefore, engaged in a delicate balancing act of encouraging the assimilation of Maori whilst keeping them in a state of tutelage in those matters convenient to themselves.

Although the Government assumed control of the Company's native reserves, and the Protectorate, via George Clarke, was therefore indirectly involved in their management through the Native Trust, not all Protectorate members agreed with the native reserves scheme. George Clarke Junior, in particular, was strongly opposed to the system on the grounds that Maori would effectively be left without land to live upon, and would lose their control over the land they had. He made his views very clear to his father in a private letter. "[T]he system of reserves in the Company's settlements is most pernicious in its effects and pregnant with evil," he wrote. The New Zealand Company, Clarke Junior explained, claimed to have bought areas encompassing all the land of several tribes and this in itself was highly questionable. If, for the sake of argument, he continued, these purchases were valid, then local Maori would have no rights to cultivate any land but the reserves made for them. However, it was proposed that these reserves be leased. Unless it could be shown that there was sufficient land for the support of Maori, as the New Zealand Company claimed there was, then moves to

²²⁹ Ibid.

lease the land to Europeans were highly unjust. Having argued thus, Clarke Junior persisted, "Now it is a notorious fact that the reserves with the cultivations are barely adequate to support the natives - or will be insufficient for the purpose in a few years - but besides all this we have no rights, legal or equitable, to let an inch of the reserves without the consent of the natives." Notwithstanding his youth, or the fact that his father was a trustee involved in the proposed leasing of the reserves, Clarke Junior displayed the strength of his convictions declaring:

I must tell you honestly that if I am here and the Govt. persist in letting reserves without the consent of the natives I shall oppose it by protest firmly and respectfully whatever may be the consequences... I have not written to advocate a point but because it is my conscientious opinion... [that] I am right and (pardon me for saying so) that you are wrong.²³⁰

The arguments of his son began to have an effect on the elder Clarke whose refutations of Company claims began to reflect the views of Clarke Junior:

Supposing the Company's lands to have been all fairly purchased, or, in other words, supposing it had never been disputed, still the majority of the native reserves at Wellington have been so partially selected as to render them unfit for cultivation, and ineligible for leasing, in order to realise funds for their 'subsistence,' or for the 'amelioration' of their moral and physical condition.²³¹

Furthermore, he reported:

With reference to the reserves in this district, very little has been accomplished, most of them being in positions disadvantageous for the realisation of funds, by letting them out on lease; and the few that are better situated are claimed

²³⁰ George Clarke Jnr to George Clarke Snr, April 1, 1844, Clarke Papers, ATL, qMS-0469; see also July 17, 1843, cited in Gibbons p.195.

²³¹ George Clarke Snr, October 28, 1843, NZ2:1844 (556) p.276.

and used by the natives themselves. The Protector of the district states, that all the reserves which are available for the purposes of native cultivation will be required by them, in order to raise food for their own subsistence.²³²

Opposition to the native reserve plan did not come only from opponents of the New Zealand Company. Two significant criticisms came from men who had originally been allied to the Company and had come to New Zealand under its auspices. Richard Davies Hanson had acted as William Wakefield's deputy, and had espoused the cause of systematic colonisation for many years. The reality of the system, however, left him disgusted and in 1842 he submitted a report to the Aborigines Protection Society outlining his objections. The other major critic of the reserve plan was Ernest Dieffenbach, a doctor who travelled to New Zealand, as the Company's naturalist. While he commended the intentions behind the plan, Dieffenbach believed it to be "impracticable." Maori were more suited to rural life and would never settle on the town allotments amongst Europeans, except for single individuals, he claimed. These individuals would not be the chiefly members of Maori society who would consider themselves degraded by being forced to live among labourers. "What an injustice would be committed if we were to take from them the land which they occupy, and which they have cleared, and were to restrict them to that portion which has fallen to them by a lottery in London." The Maori ought to be consulted in the matter of what land they were to remain in possession of, wrote Dieffenbach, for it was unjust to "separate a tribe from the spot where they were born, where they have hitherto dwelt, and where they have buried their kindred." While Dieffenbach recommended as sufficient "ten acres of arable land" for each individual of a tribe - man, woman and child - he went on to note that the

²³² George Clarke Snr, July 31, 1844, NZ4:1845 (369) pp.77-83.

Church Missionary Society had suggested that two hundred acres for each missionary child be used as a guide in the land purchases of the missionaries. If ten acres "is not thought sufficient for the children of a missionary, who have no claims to the land, I should assert that it is not sufficient for a native, there being no reasonable ground for making a difference between them," he added. Dieffenbach's most radical suggestion was that Maori had "the best chance of being preserved as a nation, and becoming civilised, by following their own inclination, and becoming landed proprietors or peasants."²³³ This was contrary to the ideal of racial amalgamation, however, and the New Zealand Company did not consider it necessary to listen to advice born of practical experience, and continued to rely on theoretical and "dangerous nonsense" such as that proffered by the Reverend Hawtrey.²³⁴

Halswell did share some similar, and genuine, concerns with the Protectorate. The health of Maori was one such issue. Halswell was horrified by the local pa. He believed they were the root of many Maori health problems. "The native pahs - the crying evil - being a mass of filth and vermin, disease in various shapes always prevails."²³⁵ However, although Halswell waxed at length on the subject, in his first report, no significant action resulted. The Company directors had instructed Halswell to gather information on the "existing wants of the native race, and to point out those objects to which, in your judgement, the revenues of the reserves may be most fitly appropriated, to the end of promoting the moral and physical well-being of the native chiefs, their families and followers." However, this was followed closely by a disclaimer of responsibility for Maori welfare. "[T]he duty of protecting and watching over the welfare of the native-born subjects of Her Majesty in New Zealand, has devolved entirely and exclusively on Her

²³³ Dieffenbach, *Travels in New Zealand*, Volume Two, pp.145-151.

²³⁴ Burns, pp.208- 210.

²³⁵ Ibid.

Majesty's Government." Not everyone felt the Company so easily excused from this responsibility, however and had the Company felt a genuine solicitude for the welfare of Maori, they would not have been so quick to disavow any responsibility in the matter.

Halswell believed that the persistence of the Maori language was an impediment to amalgamation. This was a general belief of proponents of systematic colonisation. "There can be no doubt, that in order to its rapid advancement and civilisation, we must hope that the English language will become universal throughout the country," wrote Hawtrey.²³⁶ While, unlike many other Europeans, Halswell expressed appreciation for the beauty and expressive nature of the language, he stated that a knowledge of English by Maori would have prevented many of the difficulties between the races. Learning English would also lead to faster assimilation. "Their aptitude generally is remarkable, and it is obvious, with proper encouragement, they would soon not only acquire our language, but adopt our customs to a certain extent," Halswell remarked.²³⁷ The idea that perhaps settlers should learn Maori language was not even considered, let alone expressed, for the assimilationist thinking was based on the assumption that English culture was superior and therefore ought to replace that of colonised peoples.

While Clarke and the Protectorate staff also believed that English would eventually supplant the Maori language, once again, their opinions were grounded in the reality of experience with Maori, and they were prepared to wait for a gradual change.²³⁸ And while they would have agreed with Halswell that many inter-racial conflicts were the result of language difficulties, the Protectorate did not see the problem as being that of Maori not

²³⁶ Hawtrey, *An Earnest Address*, pp.99,100.

²³⁷ *Ibid.*, p.673.

²³⁸ George Clarke Snr, June 30,1843, NZ2:1844 (556) p.344.

understanding English, but that Europeans did not understand Maori. The difficulties arising from the land purchases of the New Zealand Company were viewed in this light.²³⁹ Clarke, along with other missionaries, had learnt by blunt experience that it was essential to learn the Maori language as Maori had no need or inclination to learn English.²⁴⁰ Edward Shortland wrote that he did not agree "with the opinion that to encourage the study of the language of the New Zealanders is to discourage their learning English. On the contrary... those who are anxious to teach the New Zealanders English will be better able to do so, having first learned their language."²⁴¹ The Protectorate staff were also made aware of the necessity for fairness in matters where language barriers operated. "Make great allowance for Both Europeans and Natives in their little disputes, owing to their ignorance of each others language, but always bear in mind that it is characteristic for Europeans to tyrannise and assume a superiority especially where there is a difference of shade in the skin, and that he has an advantage in always being able to represent the case in his own language," Clarke Senior advised McLean.²⁴²

The concerns George Clarke Senior had regarding Halswell's pecuniary involvement with the New Zealand Company were justified, as the duties expected of him as Protector clashed with his financial interests as a Company investor. The Land Claims Commission, headed by William Spain, was one area where the polarity of the two roles was obvious, and in the light of Halswell's lack of impartiality George Clarke Junior was appointed to accompany Spain to Port Nicholson. Although appointed as the interpreter to

²³⁹ George Clarke Snr, September 30, 1842, NZ3: 1841 (569) p.189.

²⁴⁰ G.W.Shroff, "George Clarke and the New Zealand Mission, 1824 -1850", M.A. Thesis, University of Auckland, 1967, p.48.

²⁴¹ Edward Shortland, *The Southern Districts of New Zealand: A Journal, with Passing Notices of the Customs of the Aborigines*, London: Longman, Brown, Green & Longmans, 1851, p.x.

²⁴² George Clarke Snr to Donald McLean, August 2, 1844, McLean Papers, ATL, qMs-1306.

the Commission, Clarke's activities were really those of a Protector, not merely translating the evidence of Maori in the court, but gathering witnesses, compiling the Maori case, and cross-examining Company witnesses. William Spain did not rush to make a decision regarding his investigations of the land claims in the Port Nicholson area. He was thorough and careful in the examination of evidence, much to the frustration of the New Zealand Company and the settlers who had been placed in such a difficult position by them.

The Commission did not set out to return land to Maori *per se*. The investigation centred on whether purchases were valid, based on the fair extinguishment of Maori title, which William Wakefield claimed was ensured by the system of reserves devised by the Company.²⁴³ If extinguishment of title was judged not to have occurred, compensation would be ordered as a means of effecting it. While doubting the extent to which the Company claimed to have bought land, the Protectorate always envisaged that some land would remain in European hands. In reflection Clarke Junior noted that his actions -

made even the settlers who had bought allotments on the faith of the Company, look at me as if I was trying to oust them from their possessions. I was really most anxious to get them, in any case, out of their difficulties, but I suppose they could not see it ... I knew that the occupying settlers could never have peace until the Maori rights were fairly extinguished.²⁴⁴

This statement provides an interesting insight into the limits of the Protectorate's view of protection.

Clarke Junior's relationship with Halswell was rocky from the start, and progressively deteriorated. Halswell believed that Clarke Junior should

²⁴³ Rosemarie Tonk, "A Difficult and Complicated Question: The New Zealand Company's Wellington, Port Nicholson, Claim" in Hamer, David and Nicholls, Roberta (eds.), *The Making of Wellington 1800-1914*, Wellington: Victoria University Press, 1990, p.38.

²⁴⁴ George Clarke Jnr, *Notes on Early Life in New Zealand*, Hobart: J. Walch & Sons, 1903, p.49.

be answerable to him, as the official Protector for the district, and had been highly offended when he received no official notification of Clarke's appointment to the Commission. Halswell had insisted on his independence from the Protectorate, and George Clarke Senior, therefore he had little foundation for protesting about this supposed insult. Halswell requested to see the instructions issued to Clarke Junior by the Government, but Clarke refused. Spain reported to Hobson that he believed Halswell "wanted to have had the management of the native cases and to have instructed Mr Clarke on the course he pursued but Mr Clarke could not be (blinded?) as to the fact that Mr Halswell came out here as the paid servant of the NZ Company that he is a share holder in that Company." Halswell's land purchases were estimated at 2000 acres and much of this was in the most hotly disputed areas of Wellington.²⁴⁵ Spain was satisfied that Halswell and Clarke Junior's duties were separate and distinct. Halswell persisted, however, in attempting to impose his authority on Clarke Junior, with no success. On one occasion he wrote to his father about having accompanied Halswell to the Hutt Valley to settle a disturbance there. "I have no doubt he will report upon it and shall not wonder if he says that he ordered me to accompany him.... He sees I will not allow him to domineer over me and is, I think, too proud to ask my assistance!!"²⁴⁶

Clarke Junior attempted to defer to Halswell in matters not directly related to the Commission but found this increasingly difficult as the actions of Halswell, at a personal level, aggravated the growing tension in the region. Clarke Junior reported that since his appointment to Port Nicholson he had been "incessantly" petitioned by Maori whose pa and cultivations had been deliberately encroached on by settlers in an attempt to gain possession of the

²⁴⁵ William Spain to William Hobson, July 6, 1842, Clarke Papers, ATL, qMS-0468.

²⁴⁶ George Clarke Jnr to George Clarke Snr, August 15, 1842, Clarke Papers, ATL, qMS-0469.

land. In particular, two individuals, an unnamed person and a Mr Martin were proving troublesome, and Clarke had instigated legal proceedings against them. Regarding Halswell, his official report was discreet. "I did not deem myself authorised to interfere with what was evidently the duty of the protector of the district, and accordingly instructed them to apply to that gentleman."²⁴⁷ However, his private letters to his father revealed a much thicker plot:

The natives have been continually worrying me about their cultivations. They tell me that Mr Martin (who is in charge of Mr Halswell's farm) has pulled down the fences of the cultivations on his section and seized their cultivations and potatoes. Finding it a rather delicate matter for me to interfere with Mr Halswell in such a case I spoke to him privately on the subject but he seems to have taken notice of it. A party of about 40 natives came to me this morning complaining most bitterly. I felt the difficulty of my situation and merely told them I would go and see them and wrote an official letter to Mr Halswell .²⁴⁸

And later, "I am quite tired, sick, annoyed and disgusted with Halswell. The natives are bringing complaints to me every day about his son in law Martin. I have written to him officially, privately, and spoken to him also. He never answers my letters."²⁴⁹ Despite these occurrences Halswell was to write, in 1845, in defence of charges of self interest, made by George Clarke Senior in an earlier report, that:

It is true I was one of the first purchasers of land from the Company, but... on my arrival at Auckland, and understanding the real state of the land question, I scrupulously abstained from asserting any right, or exercising any control whatever over this property; indeed it is only

²⁴⁷ George Clarke Jnr, December 13, 1842, NZ2:1844 (556) p.123.

²⁴⁸ George Clarke Jnr to George Clarke Snr, August 15, 1842, Clarke Papers, ATL, qMS-0469.

²⁴⁹ George Clarke Jnr to George Clarke Snr, October 6, 1842, Clarke Papers, ATL, qMS-0469.

within the last few months that I have ever seen any section of land said to belong to me, unless it has been by accident.²⁵⁰

Both accounts cannot be true, unless, by acting through his son-in-law Halswell could feign innocence.

Clarke Junior was not impressed with other aspects of Halswell's activities which he considered incompatible with his role of Protector. Halswell also held a position as a magistrate and this clashed with his protection duties. "Halswell has never appeared in court as Protector of Aborigines," Clarke wrote, "-how could he attend as ... counsel for a native when he will afterwards have to adjudicate upon the case as Judge? The very notion appears preposterous."²⁵¹ This seemed to be the case in reality as shown by a report of Clarke Senior:

At Port Nicholson a native was accused of stealing a blanket, and committed for trial. After lying several months in gaol he was sentenced to two years; imprisonment for the offence. The judge in this case was a Protector of Aborigines!!! - the jury composed of individuals selected from a community not signalized for their general philanthropy towards the natives.²⁵²

Another case which came before Halswell as judge of the local court resulted in a Maori being sentenced harshly to transportation. Clarke Junior wrote to his father, "I was not here when the native was sentenced to transportation but will apply to know who was acting as protector: how strange it will seem if in my official letter I state that His honour the Judge of the County Court was the only Protector present. Will it not plainly show the incompatibility of the two offices?"²⁵³ Halswell later disputed the veracity of these reports, however there was clearly a conflict of interest in his two positions.

In November 1842 Clarke Junior was officially appointed as the

²⁵⁰ Edmund Halswell, April 15, 1845, NZ5:1846 [722] p.7.

²⁵¹ Ibid.

²⁵² George Clarke Snr, July 31, 1843, NZ2:1844 (556) p.347.

²⁵³ George Clarke Jnr to Clarke Snr, August 15, 1842, Clarke Papers, ATL, qMS-0469.

Protector for the Southern District, supplanting Halswell. Deeply offended, Halswell refused to speak to Clarke Junior, and he later complained of losing the “unsalaried but most cherished office.”²⁵⁴ Young Clarke was far from concerned. His delight is obvious in his letter to his father. “[H]is sun is set. I am unshackled. I thoro’ly despise the man and shall have nothing to do with him any longer.”²⁵⁵ Thus came to the end, the protection career of Edmund Halswell.

The work of George Clarke Junior revealed not only that the land purchasing activities of the New Zealand Company in the Wellington district were “of a very hasty and hugger-mugger character” but that the protection pretensions of the Company were poorly thought out, based on convenience and lacking in sincerity.²⁵⁶ The proclamation of sovereignty, by Hobson, over all of New Zealand, and the declaration of Maori as British subjects in the Treaty of Waitangi, was used by the Company as an excuse to abrogate any responsibility towards Maori.

The New Zealand Company deplored the Treaty of Waitangi, and the protectionist implications it embodied.²⁵⁷ The *New Zealand Spectator and Cook’s Straits Guardian*, a Wellington newspaper largely supportive of the Company, regarded the Treaty as “contracted in ignorance and fraud - productive of poverty, extortion and outrage - upheld merely as a cloak for swindling.”²⁵⁸ Company agents, and most settlers, certainly did not take seriously the notion that Maori were now British citizens with the same rights as themselves. Frustrated at having been thwarted in their attempt to set up a colony with authority, if not independent of the Crown, at least with their

²⁵⁴ Edmund Halswell, July 20, 1846, NZ5:1846 [722] p.11.

²⁵⁵ George Clarke Jnr to George Clarke Snr, November 25, 1842, Clarke Papers, ATL, qMS-0469.

²⁵⁶ George Clarke Jnr, *Notes on Early Life*, p.49.

²⁵⁷ Burns, p.154; A.H. McLintock, *Crown Colony Government in New Zealand*, Wellington: R.E.Owen, Government Printer, 1958, pp.63,67,187.

²⁵⁸ *New Zealand Spectator and Cook’s Straits Guardian*, July 25, 1845.

own members as principle holders of it, the Company had endeavoured to appropriate political power by “offering” their services to the Colonial administration of Governor Hobson.²⁵⁹ Supposing that the seat of Government would be their settlement, the Company was furious when it became apparent that this would not be the case. Their long-winded rantings about the decision of Hobson to make Auckland his capital show a complete disregard for the rights of Maori as British citizens, the majority of whom resided in the upper North Island. Hobson’s choice, the Company claimed, displayed his neglect of “the bulk of Her Majesty’s subjects in New Zealand.”²⁶⁰

The Protectorate staff, on the other hand, promoted the Treaty as an irrevocable document which they were honour-bound to uphold according to the Maori understanding of it. The pre-emption clause of the Treaty, and the appointment of a Protector of Aborigines, had been explained in the instructions issued to Hobson on his departure for New Zealand, as being safeguards against alienation of land which would result in “distress or serious inconvenience” to the Maori people.²⁶¹ Maori had therefore been informed by Protectorate staff, on behalf of the new Government, that they would not be forcibly ejected from their lands without investigation into the titles, and that their pa and cultivations would not be taken from them. Furthermore, George Clarke had instructed the Maori of Port Nicholson to remain on their lands until an official investigation had taken place. This led to the frustration of Company attempts to move Maori from land which the Company claimed to have purchased. A minority of settlers believed the Government had acted properly and asserted that the officers of Government “would have grievously failed in the performance of their duty had they not

²⁵⁹ Secretary of the New Zealand Company to Colonel William Wakefield, December 7, 1839, NZ2:1844 (556) App.539.

²⁵⁶ Joseph Somes to Lord Stanley, November 24, 1841, NZ2:1844 (556) App.207.

²⁶¹ Lord Normanby to Lieutenant-Governor Hobson, August 14, 1839, NZ3:1840 (238) p.39.

done so.”²⁶² Wakefield, however, believed that this had led to deliberate actions by Maori to reclaim land they had willingly sold. He reported to the Company Secretary that “In many places, since the selection of sections by the purchasers from the Company, the natives have inclosed land with the purpose of retaining it, according to Mr Clarke’s recommendation.” He went on to claim that “such land was not occupied, or intended to be so, until Mr Clarke’s mischievous exhortations” and suggested that the Company “take steps with the Home Government to counteract the designs of the missionary protector.”²⁶³ With his limited, if not total lack of, knowledge regarding Maori custom in regard to land, how Wakefield could claim that land was never intended for occupation is questionable.

The Spain Land Commission persevered in its investigations of land disputes and eventually William Spain announced that the claims of the New Zealand company were faulty and compensation was due to Maori. Spain also ruled that Maori had not alienated their pa, cultivations or burial grounds, and that their ownership of these areas must be upheld. Spain believed that failure to do so may have resulted in Maori refusing compensation for other land. George Clarke Junior was instructed to negotiate compensation with Colonel Wakefield. Clarke Junior claimed £1,500 on behalf of all the Wellington Maori. He also insisted that Maori be left in possession of their pa, cultivations and burial grounds - these areas were not to be included in the settlement terms. Wakefield balked at the demands and used them as an excuse to break off negotiations while allegedly awaiting instructions from the Company directors. Caught in the middle, settlers were aware of growing tensions and called on the Company, and the Government, to act to relieve the situation. “If not,” the *New Zealand Colonist* ominously prophesied, “the

²⁶² *The New Zealand Colonist*, August 12, 1842.

²⁶³ William Wakefield to Secretary of the New Zealand Company, November 5, 1841, NZ2:1844 (556) App.547.

irresistible march of events will bring about results from which all would recoil.”²⁶⁴ Less than four weeks later the fatal conflict at Wairau occurred.

This tragedy spurred Wakefield into action but he remained stubborn on the matter of pa, burial grounds and cultivations. The hope that the new Governor, Robert FitzRoy, might side with the Company withered at the reception given in his honour. FitzRoy made it clear that “not an acre, not an inch of land belonging to the natives shall be touched without their consent, and none of their paha, cultivated grounds, or sacred burial places shall be taken from them.”²⁶⁵ Although Wakefield was eventually forced to pay compensation, the matter was far from closed. The various Maori groups had to be convinced to accept the offered compensation, and moved from the land, and this proved to be a difficult task. The Protectorate was involved in this process but it was not completed until after the abolition of the department, by Governor Grey. He eventually used military force to move the last remaining Maori from the Hutt area in 1846. This was not an option open to the Protectorate even if they had considered using it.

Despite the fact that the Protectorate of Aborigines played a vital part in the Spain Land Commission, and gained a verdict that proved the titles of the New Zealand Company to land in the Wellington area were incomplete, the result was something of a Pyrrhic victory. Not only were the forces of the Company and many hostile settlers marshalled against the Protectorate, but even those of more moderate views regarded them as “a drag upon the revenue” of the colony whose chief occupation was to “stir up mischief between the natives and the European settlers... neither more nor less than spies sent about to ascertain if there be any disputes regarding the boundaries of the Settlers’ lands, and to do all in their power to cause dissatisfaction in the

²⁶⁴ *The New Zealand Colonist*, May 23, 1843.

²⁶⁵ Robert FitzRoy quoted by William Wakefield, cited in Tonks, p.55.

minds of the natives.”²⁶⁶ The Maori people too, became less co-operative with the Protectorate as their disdain for the settlers and European systems in general increased. After Wairau, Te Rauparaha expressed his feelings for the Pakeha. “Your justice is equal to your bravery,” he reportedly told George Clarke Junior, who added, “They are thoroughly disgusted with us.”²⁶⁷ He also admitted, “I am daily losing influence over the natives - they have lost confidence in the Government and they hate the New Zealand Company.”²⁶⁸ The resistance of Te Rauparaha and Te Rangihaeata to being removed from their land in the Hutt Valley and Porirua grew out of this increasing lack of respect for European forms of government, including the Protectorate.

The thorough hatred that the New Zealand Company, and many settlers, developed for the FitzRoy administration, and with it the Protectorate, was expressed in a sustained, acerbic campaign of political lobbying, aimed at their removal from power. Letters, petitions, and press articles flowed Londonward in an outpouring of vitriolic criticism. These were supported by the New Zealand Company Office in London which maintained pressure on the Colonial Office, and other political contacts. Their labours began to bear fruit when in April 1844 a Select Committee of the House of Commons was appointed to look into the situation in New Zealand. Chairman of the Committee was Lord Howick, a long time associate of the Wakefields, and advocate of systematic colonisation.²⁶⁹

²⁶⁶ *The New Zealand Colonist*, July, 1843.

²⁶⁷ George Clarke Jnr to George Clarke Snr, August 8, 1843, Clarke Papers, ATL, qMS-0469.

²⁶⁸ George Clarke Jnr to George Clarke Snr, July 17, 1843, cited in Gibbons, p.163.

²⁶⁹ McLintock, p.148.

Chapter Six: The Demise of the Protectorate

The all absorbing topics of conversation here, are the question of the Hutt and the result of the Committee of the House of Commons deliberation at Home. Rumour says that the report of the Comee. is highly favorable to the views of the Company and condemnatory of the proceedings of the Government. It is asserted that the treaty of Waitangi is condemned and regarded as impolitic and unjust and that in future all Lands not actually occupied or cultivated by the Natives, are to be considered as demesne Land, of the Crown. How this is to be reconciled with the whole policy of Government during the last four years I cannot conceive and am quite certain that such a principle cannot now be established but at the point of a bayonet.²⁷⁰

So wrote Protector Thomas Forsaith to his colleague Donald McLean early in 1845, when whisperings regarding the outcome of the House of Commons Select Committee on the situation in New Zealand began to reach the ears of those in local government. It was not long before confirmation of those rumours became official.

The Select Committee met in London from May to July 1844. Chaired by Viscount Howick, the Committee was made up of fifteen nominated members, many of whom were sympathetic to the New Zealand Company.²⁷¹ The Committee listened to the oral testimony given by a variety of witnesses and examined written evidence. In late July, Lord Howick produced a report, including nineteen resolutions, which was passed in the Committee by a majority of one. The Select Committee had been appointed "to inquire into the State of the Colony of New Zealand: and into the Proceedings of the NEW

²⁷⁰ Thomas Forsaith to Donald McLean, 1845, McLean Papers, ATL, qMS-1307.

²⁷¹ Patricia Burns, *Fatal Success: A History of the New Zealand Company*, Auckland: Heinemann Reed, 1989, p.254.

ZEALAND COMPANY".²⁷² The result was an investigation which examined claims and counterclaims of two bitterly opposed sides. On one side, were those who supported a gradualist approach to amalgamation, upheld the Treaty of Waitangi and defended the proprietary rights of Maori to all land in New Zealand. This included the incumbent Secretary of State for War and Colonies, Lord Stanley, the Governor of New Zealand, Robert FitzRoy, and George Clarke and the Protectorate staff. On the other side was the New Zealand Company, and many settlers, who advocated a speedy approach to amalgamation, denounced the Treaty, and called for the vesting of all "waste land" in the Crown.

Over the four years since the Company had first attempted to establish a colony in New Zealand, it had developed a deep animosity towards the government administration in New Zealand and, particularly, the Protectorate of Aborigines. Much of the unpopularity of the Protectorate stemmed from its apparent influence over both governors, Hobson and FitzRoy. One individual claimed, without proof, that Hobson had an "inordinate fear" of the Aborigines Protection Society and this had allowed Clarke, as a Church Missionary Society agent, to acquire "undue power" over the Governor.²⁷³ Not only were FitzRoy and Clarke in agreement on many fundamental issues relating to Maori, but FitzRoy was extremely dependent on Clarke as an advisor, and mediator, in his relations with Maori. Furthermore, he trusted Clarke implicitly, regarding him as the best authority in New Zealand on Maori matters.²⁷⁴ This is understandable given the inexperience of both governors in dealing with Maori, but for the New Zealand Company, which wished to exercise a greater influence over the political direction of the new colony, it was extremely galling. Clarke had

²⁷² Report of the Select Committee of the House of Commons, NZ2:1844 (556) pp.3-14.

²⁷³ G.B.Earp, NZ2:1844 (556) Minutes of Evidence, pp.113,114.

²⁷⁴ Robert FitzRoy, *Remarks on New Zealand*, London, W. and H. White, 1846, p.33.

openly declared his objection to large scale colonisation prior to its occurrence and was regarded as anti-Company in his sympathies. While he remained in a position of influence with seemingly unrestricted authority over Maori matters, therefore over land matters, Clarke was hated by the Company. The downfall of Clarke, his department, and the philosophies supporting it, was the object of the Company.

The Company advocates, led by Edward Gibbon Wakefield, swamped the Select Committee with almost a thousand pages of their evidence. Many of the witnesses who appeared before the Committee to give oral testimony were blatantly pro-Company and anti-government.²⁷⁵ The veracity of much of the evidence is doubtful at best, and a special effort was made to disparage many government officials, including the Protectorate staff. Government officials, including Clarke, were accused of land speculation in Auckland.²⁷⁶ One witness described the New Zealand-raised Clarke Junior's skill in the Maori language as "tolerable", while Edward Jerningham Wakefield was said to have acquired "a very good knowledge" of the language after only four years.²⁷⁷ There were claims that difficulties in race relations only began in the Port Nicholson area after the visit of George Clarke Senior and Governor Hobson.²⁷⁸ Another witness claimed that the Chief Protector had "done more injury to that country, and been the cause of more bloodshed than anybody else."²⁷⁹ Thus the catalogue of specious claims made by Company witnesses regarding those who were unable to be present to defend themselves accumulated.

Although the Report of the Committee delivered a token rap over the

²⁷⁵ Burns, p.254.

²⁷⁶ G.B.Earp, NZ2:1844 (556) Appendix, pp.386, 410.

²⁷⁷ F.A.Molesworth and J.W.Child, NZ 2:1844 (556), Minutes of Evidence, pp.189,231.

²⁷⁸ Ibid.,p.132.

²⁷⁹ W.Brodie, NZ2:1844 (556)Minutes of Evidence, p.28.

knuckles to the New Zealand Company, essentially it was supportive of the Company and highly critical of the policies pursued by the Colonial Office and the administrations in New Zealand. The New Zealand Company, while acting in a “highly irregular and improper” manner in seeking to establish a colony “in direct defiance of the Crown”, nevertheless embodied and espoused, in the Committee’s opinion, the principles on which colonisation should be undertaken.²⁸⁰ The arguments, from that point in the Report, were aimed at proving that all difficulties in New Zealand had emanated from the incorrect policy of the British and New Zealand administrations. Clarke Senior claimed that the resolutions of the Committee were “so evidently drawn up to meet the New Zealand Company’s objects, that I could imagine Mr _____ to have been the author of them.”²⁸¹ Presumably he was referring to E.G. Wakefield.

Throughout the sitting of the Committee all the points of controversy, which the two sides had debated since the earliest days of official interest in New Zealand, were again raked over. The Committee concluded that the policies followed in the colonisation of New Zealand were unfortunate and based on faulty theory. Sovereignty over the whole country ought to have been based on discovery. Had this occurred, claimed the Committee, the difficulties spawned by the “highly inconvenient” Treaty of Waitangi would have been avoided.²⁸² Waste lands could immediately have been vested in the Crown, and if Maori had been granted the rights only to land they occupied, “there would have been no difficulty in giving at once to the settlers secure and quiet possession of the land they required.”²⁸³ Instead the Treaty, in promising protection and guaranteeing possession of lands whether held

²⁸⁰ Report (1844), p.4,12.

²⁸¹ George Clarke Snr to Robert FitzRoy, February 24, 1845, NZ5:1846 (337) p.22.

²⁸² Report (1844), p.5.

²⁸³ Report (1844), p.6.

collectively or individually, had enshrined those concepts in legislation and led Maori to have exaggerated notions of their rights to land, thus retarding the progress of colonisation.²⁸⁴

On this basis the Select Committee regarded the investigation of land claims, in particular the Spain Land Commission, as “protracted and unsatisfactory”, adding to what they saw as unnecessary delay in colonists being granted access to their lands.²⁸⁵ Furthermore, the Spain inquiry was conducted “by Europeans, ignorant both of the language of the natives, and of their barbarous and superstitious customs, on which the claims to land very frequently depended.” The abilities of Protectors and Protectorate input to these investigations, was clearly undervalued and discounted. The Committee resolved that moves to expedite the granting of land titles be made as soon as possible.²⁸⁶

The only direct reference to the Protectorate in the Report was, in fact, made in connection with the Spain Commission. Complications which had arisen in George Clarke Senior’s purchase of land at Mongonui were used to explain the Company’s getting into difficulties over the land sales. It was “peculiarly deserving of remark” that the “Protector of Aborigines himself” had experienced exactly the same difficulties as the Company in this situation, although the Company had been charged with a “careless mode of proceeding.”²⁸⁷ This conclusion was based on the evidence of Walter Brodie before the Committee. Clarke was sufficiently vexed by the “extraordinary misrepresentations” that he prepared a document refuting Brodie’s claims.²⁸⁸

Protectorate documents, including the reports of George Clarke Senior

²⁸⁴ Report (1844), p.4,7,9.

²⁸⁵ Report (1844), p.7.

²⁸⁶ Report (1844), p.13.

²⁸⁷ Report (1844), p.8.

²⁸⁸ George Clarke Snr to the Colonial Secretary, September 1, 1845, NZ5:1846 (337) pp.123-127.

on the subjects of land tenure and traditional customs and law, formed part of the written evidence considered by the Committee, but had no impact on the outcome of the Committee's deliberations. The Report was devoid of any awareness of, let alone sympathy for Maori custom and law. While the Report referred to the "manifest absurdity of attempting to apply the notions of English law, with respect to landed property" to the land question in New Zealand, at no time in the discussion of "waste lands" was customary Maori tenure seriously considered.²⁸⁹ Assertions that all of New Zealand had been known, named, claimed and defended by Maori proprietors for generations were ignored, as was all the information on Maori land tenure gathered by the Protectorate.²⁹⁰ It must be presumed that the information was dismissed as irrelevant due to the prevailing attitudes of cultural superiority and paternalism that are apparent in the Committee's report. While it may be argued that these attitudes also pervaded the Protectorate, there was an underlying genuine regard for Maori and respect for many of their customs and usages which is evident in Protectorate documents.

The efforts of the colonial government, including those of the Protectorate, were dismissed as being based on the faulty theory in regard to the land question, which had supposedly caused so many other problems in New Zealand. Although not specifically singled out, the Protectorate was clearly identified with the policies which were criticised by the Select Committee. "There has been a want of vigour and decision in the general tone of the proceedings adopted towards the natives," wrote the Committee.²⁹¹ Maori had not been made to understand that having been given status as British subjects they were now to "abstain from all conduct inconsistent with

²⁸⁹ Report (1844), p.7.

²⁹⁰ George Clarke Snr, October 17, 1843, NZ2:1844 (556) p.356.

²⁹¹ Ibid.

that character.”²⁹² The desire of the local authorities to deal with “scrupulous justice” to Maori was acknowledged, but the Committee believed they had shown “too much respect for native customs”. This had led to a line of policy which was “injurious to the true interests” of Maori. Maori should have been taught to defer “with almost superstitious reverence” to Governmental authority, and this authority ought to have firmly suppressed all inter-tribal wars, and “all savage and barbarous customs.” The Committee also asserted that “No serious resistance would probably ever have been attempted.” However, “an over-sensitive fear of infringing upon native rights” had resulted in the Government losing its authority over Maori, according to the Report. The question of whether the Crown had ever truly had authority over Maori was never considered, although it was admitted that the Governor was woefully short of military strength. The Committee then referred to “an able exposition of the policy which ought to be pursued” in New Zealand. This was the report of Captain George Grey, Governor of South Australia, on “the best means of promoting the civilisation of the aboriginal inhabitants of Australia”.²⁹³ Grey’s report advocated a forced pace of amalgamation with no tolerance of native customs. It had been brought to the attention of Governor Hobson by Lord John Russell several years before, but had not been adopted. The Committee recommended its implementation as soon as possible.

By contrast with the policies pursued to that point, the New Zealand Company’s “protection” plans through native reserves were considered to be “sound and judicious”.²⁹⁴ The tenth resolution of the Report endorsed reserves for Maori to be “interspersed with the lands assigned to settlers”.²⁹⁵ The actual practical working of the plan was not considered and the Committee ignored

²⁹² Report (1844), p.10.

²⁹³ George Grey, Report upon the best Means of Promoting the Civilisation of the Aboriginal Inhabitants of Australia, June 4, 1840, NZ3:1841 (311)pp.43-47.

²⁹⁴ Report (1844), p.14.

²⁹⁵ Report (1844), p.13.

Protectorate evidence that exposed difficulties, and Maori suffering, associated with the plan. The Committee added the suggestion that the reserves should not be included in the calculations for land which the Government had promised the Company in their agreement to grant four acres of land for every pound spent on colonisation.²⁹⁶

A further suggestion of the Committee was that a land tax be introduced in New Zealand on all undeveloped land, to discourage speculators accumulating large tracts of country with a view to profit in the future. This tax would not be applied to native reserves or land being used by Maori, or the land of the New Zealand Company, provided it annually sold one-twentyfifth of its holdings.

The Report of the Select Committee, together with the resolutions taken, were forwarded to Governor Robert FitzRoy with a covering letter from the Colonial Secretary, Lord Stanley.²⁹⁷ The letter, written in a very personal tone, indicated a strong regard and respect for FitzRoy. Stanley concurred with FitzRoy that the Treaty of Waitangi was valid, and must be upheld, and his attitude to the Report was not positive. While recognising the authority of the Committee's report, Stanley was quick to point out that "the Committee were far from unanimous in their opinions." He noted that the principles contained in the report could "add to the difficulties" which FitzRoy was facing, particularly as they were principles to which FitzRoy was personally opposed. Stanley proceeded to discuss many of the issues the Committee dealt with, and to find 'loopholes' which would enable FitzRoy to avoid implementing ideas he found distasteful. Stanley stated the situation as he saw it. "What you and I have to do is administer the affairs of the colony in reference to a state of things which we find, but did not create, and to feelings

²⁹⁶ NZ2:1844 (556) App.103.

²⁹⁷ Lord Stanley to Governor FitzRoy, August 13, 1844, NZ4:1845 (1)pp.3-9; see also Burns p.255.

and expectations founded, not upon what might have been a right theory of colonisation, but upon declarations and concessions made in the name of the Sovereign of England.” It was a statement taken from the report itself, however, which gave the FitzRoy administration the leeway to continue with its chosen policies. The Committee had stated that although the policy pursued in New Zealand up until that time had been erroneous, they were “sensible of the great difficulty which may now be experienced in changing it”, and given the difficulties of communications and the possibility of changed circumstances, they were “not prepared to recommend that he (the Governor) should be preemptorily ordered to assert the rights of the Crown as they believe them to exist.” Rather the Governor should “be directed to adopt such measures as he may consider best calculated to meet the difficulties of the case, and to establish the title of the Crown to all unoccupied land as soon as this can be safely accomplished.” Stanley seized on this statement. “I rejoice to see that the Committee abstain from recommending that you should act on the principle which they lay down, and for my own part, I cannot take on myself the responsibility of prescribing to you a course which, I believe, would neither be consistent with justice, good faith, humanity or policy.”

While sympathetic in general terms to the policies of FitzRoy, Lord Stanley displayed the common misconception of most English, and believed in the existence of vast amounts of unclaimed, unused land in New Zealand. Stanley expected that FitzRoy had found this to be the case on his arrival in the country and that he would easily and amicably procure large areas by negotiation with Maori. When discussing the directive of the Committee to assert the Crown’s claim to all this land, however, Stanley was cautious. He emphasised the importance of the words “as soon as this can be safely accomplished”. Thus FitzRoy was provided with the excuse he needed for not

complying with this dangerous suggestion. Such a move would have provoked Maori, and the New Zealand Company would have demanded the land award made by Pennington (based on four acres for every pound spent on colonisation) against this assumed Crown estate, further aggravating the situation.

The tax on land not in use, suggested by the Committee, was viewed with some favour by Stanley, whose approbation of the idea displayed his limited awareness of the real situation in New Zealand. Although native reserves were not to be included in the tax, Stanley believed that it was intended to apply to all other lands held by Maori which were not actually cultivated. He presumed that "non-payment of the tax shall be followed by confiscation of a portion of the lands equivalent to the amount of the tax unpaid." Fortunately, this was followed by the admission of possible difficulties; thus Stanley allowed FitzRoy "unfettered discretion" to deal with this matter.

The Committee recommendations paid little or no heed to Maori rights or customs. Likewise the New Zealand Company denied the validity of Maori tradition. At the front line, as it were, the Protectorate experienced the realities of Maori-European interaction. While it may have been criticised for having a bias towards missionary thinking, the Protectorate did, at least, take Maori rights into account and genuinely wish to protect many of them. While some customs, such as cannibalism, were intolerable on any level, there were many which the Protectorate not only saw as tolerable, but sincerely regarded as having merit. Even those usages which were considered abominable by the Protectors, were, they admitted, going to take time to eliminate. Moves to eradicate Maori custom, law, and land rights in the pre-emptory manner which the Committee Report and the Company advocated

would result, the Protectorate believed, in further violence and bloodshed similar to the tragedy at Wairau.

The adoption of a plan such as that of George Grey's scheme for the aborigines of Australia, as recommended in the seventeenth resolution of the Committee Report, would amount to the same thing. Based on principles advocated by the 1837 Report on Aborigines, this plan had been highly regarded by the Colonial authorities in Britain, and recommended to Governor Hobson as a guide to native policy. However Hobson, and his successor FitzRoy, had deferred to Chief Protector George Clarke Senior in matters regarding Maori, for neither could speak the language of, nor had any experience in dealing with, the native people of New Zealand. And in Clarke's eyes the plan had a fatal flaw was opposed to the very principles upon which the Protectorate's programme was proceeding. Grey began his report by stating that previous efforts to civilise indigenous peoples had failed because every system had been founded on an "erroneous principle" that "although the natives should, as far as European property and European subjects were concerned, be made amenable to British laws, yet so long as they only exercised their own customs upon themselves, and not too immediately in the presence of Europeans, they should be allowed to do so with impunity."²⁹⁸ Grey went on, "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." Allowing traditional customs to continue would impede progress and civilisation, in Grey's view, particularly while older tribal members continue to have influence. "[H]owever unjust such a proceeding might at first sight appear, I believe that the course pointed out by true humanity would be, to make them from the very commencement amenable to the British laws," he wrote. This

²⁹⁸ George Grey, Report, NZ3:1841 (311) p.43.

outlook was fundamentally at variance with the gradual and transitional approach which was advocated by George Clarke Senior, therefore he did not attend to the suggestions of the report. The Select Committee did not appear to be aware of this essential element of Grey's approach when they recommended, "That efforts should be made gradually to wean the Natives from their ancient customs, and to induce them to adopt those of civilised life."²⁹⁹ Grey's plan did not allow for gradual inducements.

By refusing to sanction the Committee Report, and by giving FitzRoy permission to move at whatever pace he saw fit, Lord Stanley incidentally bought a little time for the Protectorate and its policies, but this was all. The New Zealand Company, and settlers, did not relent in their campaign to have FitzRoy removed from his position as Governor, with vitriolic newspaper articles and petitions being sent to London with an almost monotonous regularity. In Wellington regular public meetings vilified the government. In Auckland, a group of settlers and traders prepared a petition condemning the FitzRoy government, including the Protectorate. The most significant petition, however, was drawn up in Nelson by Alfred Domett, a young man of literary ability. Domett compiled a document of thirty-five thousand words in which he listed every possible grievance that could possibly be imagined by the disgruntled settlers. Nothing was too trivial to be mentioned, but the FitzRoy administration, upholding as it did, the Treaty of Waitangi, was given special attention.³⁰⁰ The tirade culminated in an appeal for FitzRoy's recall. In London efforts to bring matters to a head continued unabated with vigorous political lobbying undertaken by Company agents. This added to the pressure on the Colonial Office which was already unhappy with the actions of FitzRoy in New Zealand, including the abandonment of pre-emption, and the

²⁹⁹ Report(1844), p.14.

³⁰⁰ A.H. McLintock, *Crown Colony Government in New Zealand*, Wellington: R.E.Owen, Government Printer, 1958, p.186.

issuing of debentures. The news the Company hoped for was announced in early May 1845. A successor was to be appointed for Governor FitzRoy.

The notification of FitzRoy's recall reached New Zealand in October, and celebration throughout the Company settlements was unbounded. In Nelson a day of celebration began with a twenty-one gun salute. Jeering crowds gathered to watch effigies of FitzRoy, Clarke, and Attorney-General William Swainson burned.³⁰¹ Although FitzRoy's recall did not automatically mean the Protectorate was also to be abolished, the associating of Clarke with FitzRoy and Swainson in the burning of effigies reflects how settlers saw him, and the loathing they felt for him. Although cooler heads later reflected more rationally on FitzRoy's governorship, the decision to recall him was made, and a corner had been turned in the administration of the colony.

Despite his youth, and relative inexperience, Captain George Grey was appointed as Governor of New Zealand in place of FitzRoy. His success in rescuing the colony of South Australia from economic depression overruled the negative outcomes of his tenure as governor there. The Colonial Office apparently paid no heed to the fact that, as a result of his stringent economic retrenchment, Grey himself had been extremely unpopular and that *his* effigy had been burnt on the streets of Adelaide.³⁰² Also largely unsuccessful in South Australia had been Grey's native policy, which was based on the principles he had espoused in his report to the Colonial Office.³⁰³ Nevertheless, it was this report which the Select Committee had recommended as a guide to other colonies in dealing with indigenous peoples, and which despite its failure, Grey adhered to.

Grey was a complex man of outstanding abilities which were matched

³⁰¹ McIntock, p.189.

³⁰² Marjorie Barnard, *"A History of Australia"*, London: Angus and Robertson, 1976, p.204.

³⁰³ Keith Sinclair, "George Grey" in W.H.Oliver, (ed.), *The Dictionary of New Zealand Biography*, Volume One, 1769-1869, Wellington: Bridget Williams Books, Department of Internal Affairs, 1990, p.161.

only by his negative qualities. Highly intelligent, self-disciplined, and hard-working, Grey was also ruthless, cold, arrogant and manipulative. His ambition was overriding, and the governorship of New Zealand was simply another opportunity to advance himself. Grey was despatched to New Zealand with virtually a free hand to tackle whatever problems he encountered there. Precise directives were impossible, claimed British Prime Minister, Robert Peel, and therefore "the discretion of Captain Grey will be unfettered by particular instructions."³⁰⁴ Similarly, James Stephen admitted that the directions issued amounted to little more than "go and do the best you can."³⁰⁵

The fundamental differences of opinion regarding dealing with native people which existed between Clarke Senior and Grey did not augur well for the Protectorate. Furthermore, unlike FitzRoy, Grey was not a man to tolerate others of strong views around him, particularly if they were likely to challenge his authority. The influence Clarke had exercised over the previous Governors would not be countenanced by Grey, with his reputation as something of an expert in native matters. His native policy in South Australia had included Protectors of Aborigines but they had been fully subservient to Grey, implementing his ideas on aboriginal matters.³⁰⁶ Clarke's dominance in this area of New Zealand affairs was viewed as a challenge to his authority by Grey.

Despite the recall of the despised FitzRoy, the settlers were not yet satisfied, and in England the Company still agitated against the Protectorate. While it remained, championing the proprietary land rights of Maori, it was an obstacle to the economic aims of the colonists. The Company railed loftily,

³⁰⁴ Peel cited in J.Rutherford, *Sir George Grey K.C.B., 1812-1898: A Study in Colonial Government*, London: Cassell & Company, 1961, p.80.

³⁰⁵ Stephen cited in Rutherford, p.80.

³⁰⁶ Rutherford, pp.53-61.

"Of what use, we would ask, are these doughty champions of ideal wrongs - yclept Protectors - who fatten on the gullibility of the humane and well-meaning public that rewards them so munificently for combating imaginary evils, the mere chimeras of an overgrown fanaticism."³⁰⁷ Four days after the installation of Grey as Governor, the New Zealand press were calling for the Protectorate's removal. "The sun of prosperity will never rise upon this miserable country till Clarke, and with him, the whole of the Protectorate establishment are swept away from the page of our recognition."³⁰⁸ This antagonistic attitude to the Protectorate suited Grey, who, that same day, signalled his future conduct toward Maori when he commented privately that, in his dealings with them, he would "attempt to obtain a personal influence over the chiefs."³⁰⁹ No go-between would be necessary.

Rumour was at work, and the spirits of the Protectorate department were low. Protector Forsaith wrote to McLean:

Mr Clarke writes me to say that some great alterations will be made in our department - there is no money.... To tell you the truth I am getting heartily tired of the present state of things - instead of being able to do anything in the legitimate way of our duty, we are continuously in hot water pleasing neither natives nor Europeans.... The mind is kept in a constant strain of worry and excitement which is really distressing when continuing day after day, and then the anomalous position in which the Protector is placed will never do. If Natives are to be frightened or driven away from a cultivation that they have no right to, the Protector must do it - or at least help to do it, which is most inconsistent.³¹⁰

Three weeks after his return from the Bay of Islands, and his alleged victory at Ruapekapeka, Grey officially notified Clarke Senior that the Protectorate

³⁰⁷ *The New Zealand Journal*, No.122., August 13, 1844.

³⁰⁸ *New Zealand Spectator and Cook's Straits Guardian*, 22 November, 1845.

³⁰⁹ Grey cited in Rutherford, p.83.

³¹⁰ Thomas Forsaith to Donald McLean, 1845, McLean Papers, ATL, qMS-1307.

would be 'remodelled'.³¹¹

This euphemistic term essentially referred to the complete abolition of the department. Only two officers would now be required. A Native Secretary, attached to Colonial Secretary's office, and an interpreter to be included in the Governor's personal staff. Clarke Senior was informed that the position of Native Secretary "will as a matter of right, be considered to devolve upon you, if you should think proper to accept it."³¹² He was not fooled by the calculated insult. The position was "an appointment which, if I correctly apprehend its nature, is simply that of Chief Clerk in the Colonial Secretary's Office," Clarke wrote in a bold approach to Lord Stanley himself.³¹³ "I imagine that His Excellency Governor Grey himself hardly expected that I should accept the appointment on these terms, and I presume that he would have necessarily and justly censured me in his own mind had I done so."³¹⁴ Clarke was not afraid to show his awareness of the personal nature of Grey's actions. His six years of public service, under difficult and trying circumstances, would have been enough, he hoped, to "secure the confidence and approbation of every succeeding Officer to whom the administration of the affairs of this Colony might be entrusted; but in this I think I have been mistaken."³¹⁵ And with even more daring Clarke allowed thinly veiled sarcasm to show through. His resignation, he hoped,

spared His Excellency the trouble and unpleasant necessity of resorting to other measures to remove from Her Majesty's Government an individual, whose misfortune it may be to differ from him in opinion as to the Policy which should be observed towards the Natives, and while holding such different views would be more likely to embarrass the operations of

³¹¹ George Clarke Snr to Donald Maclean, February 6 1846, McLean Papers, ATL, qMS-1308.

³¹² Colonial Secretary to George Clarke Snr, February 5, 1846, NA, G-30/9.

³¹³ George Clarke Snr to Lord Stanley, February 24, 1846, NA, G-30/9.

³¹⁴ Ibid.

³¹⁵ Ibid.

Government by retaining Office.³¹⁶

The circumstances, Clarke asserted, rendered his "resignation in some measure compulsory."³¹⁷ Justifying his refusal of the position of Native Secretary to the Church Missionary Society, with whom he maintained contact, Clarke wrote:

It was never expected by either Govr Grey or any respectable person that I should retain office after such marked disrespect from the Govr from his first landing to the reception of the letter I am referring to wherein I am offered the situation of Chief Clerk in the Secy Office. Had I done so I should ever after have been considered a mere automaton of the Government.³¹⁸

Grey could not simply do away with such a department just because he did not like it, particularly as the Colonial Office had sanctioned a programme of protection in conjunction with the Treaty of Waitangi. The Protectorate had been specifically established on Colonial Office orders, and was regarded as an essential office, therefore Grey had to justify his actions. He did this gradually, skilfully building up in the minds of his superiors the picture of a corrupt, and unproductive department. On February 5, the day he informed Clarke of the Protectorate 'remodelling', he wrote to Lord Stanley and simply informed him that he had, that morning, "given directions for the necessary reductions in the existing establishments" of Government. Claiming to be too busy to elaborate at that time he promised, "I will lose no time in reporting to your Lordship the nature and extent of the reductions I have made in the Government establishments" on his return from a visit to Wellington.³¹⁹ Cuts in spending were always a subject which guaranteed Colonial Office sympathy, and therefore prepared the way for further news.

³¹⁶ Ibid.

³¹⁷ Ibid.

³¹⁸ George Clarke Snr to Dandeson Coates, February 20, 1846, Clarke Papers, ATL, qMS-0464.

³¹⁹ Governor Grey to Lord Stanley, February 5, 1846, NZ5:1846 (448) pp.9,10.

Clarke's letter to Lord Stanley, however, was written before Grey returned to Auckland. Grey was duty-bound to forward it to Stanley.

Furthermore, on April 30 Grey received a report addressed to him from Clarke Senior. Written the day before leaving office, in this report Clarke presumed not only to offer advice to the new Governor, but to criticise him, and to praise the actions of Grey's predecessor, FitzRoy. Clarke insinuated that Grey had not fully succeeded in quietening the murmurs of dissent from Northern Maori. He also took the opportunity to reiterate his opinion that British law was unsuited to Maori needs, and that modification was the answer. "[T]hey should be *led*, not *forced*, into the observance of British law," wrote Clarke. This, of course, was in direct opposition to Grey's belief that Maori should be taught to submit to British law as quickly as possible, without concession.

Grey was infuriated at the actions of the former Chief Protector. The letter addressed to Lord Stanley, Grey forwarded on May 10. He did not send the report addressed to himself, although he had received it ten days earlier, but saved that for later ammunition against George Clarke Senior. Rather he paved the way for complete character assassination, with a missive of his own which accompanied Clarke's letter.

[W]hen I arrived here," Grey wrote, "I found that a department, termed that of the Protector of Aborigines, was maintained at an annual cost of about two thousand and five hundred pounds, of which sum about one thousand pounds was appropriated to the salaries and allowances of Mr Clarke and two of his sons, and that not a single hospital, school or institution of any kind supported by the Government was in operation for the benefit of the natives.³²⁰

The fact that no money was available to pay the salaries of the Government officers, let alone establish health and educational institutions, was not

³²⁰ Governor Grey to Lord Stanley, May 10, 1846, NA, G-30/9.

mentioned by Grey here. He moved on to the alleged unpopularity of the Government with the Maori, and cited both George Clarke Senior, and Junior, as being "equally disliked by the natives and settlers."³²¹ He then insinuated that the two Clarkes failed to observe the proper channels of communication, and communicated privately with one another, leaving other Government officers uninformed about pertinent Maori matters. The consequence of this was that "a series of injudicious proceedings had been adopted towards the natives which had plunged the country into distrust, anarchy and rebellion."³²² This was one of several vague, unsubstantiated charges made by Grey throughout the letter. Another was that he

did not find in Mr Clarke a willingness to assist me, that I found, on the contrary, a tendency on his part to excite alarm by reports of native intrigues and apprehended disturbances... and that the measures which had been adopted in reference to the natives, appeared to me, in several instances, inconsistent with the openness and generosity which should characterise the British nation.³²³

Using this foundation, Grey went on to explain his remodelling of the Protectorate, explaining that, as now the department would be under the jurisdiction of superior officers, there would be no clandestine communications taking place. Money saved would be used to "confer really practical and lasting benefits upon the Natives."³²⁴

Grey concluded his covering letter to Stanley by portraying Clarke Senior as a petulant and disaffected malcontent.

Mr Clarke refused to fall into these views of mine, and threw up his office, and since that time has been a source of embarrassment to me. Upon the whole, however, I think it

³²¹ Ibid.

³²² Ibid.

³²³ Ibid.

³²⁴ Ibid.

very fortunate for the Government that he took this step, as my having ceased to be connected with him is certainly a source of gratification to a large proportion of the native population and I do not consider Mr Clarke to have been fitted for the position he would have held.³²⁵

On June 3 Grey played his next card, calling into question the integrity of the office, and the officers. The business of the Protectorate had been “conducted by the late Protector of Aborigines in so unusual a manner that it is almost impossible to obtain any information on subjects with which that office was connected, as they were shrouded with studious mystery”, claimed Grey.³²⁶ He went on again to charge Clarke with deliberately withholding information from appropriate officers, and bypassing proper channels of communication. Clarke’s office, claimed Grey, operated on a “system which could not but have produced jealousies, quarrels, distrust, and animosity amongst the public servants and Her Majesty’s subjects of both races.”³²⁷

Finally on June 12, Grey forwarded to London the report that Clarke had addressed to him. In an apologetic tone Grey excused his passing on the correspondence by inferring that Clarke may have had revengeful intentions. “I believe the letter was really written with some ulterior object, and not for me; and I fear that if I did not send it on to your Lordship, I might at some future day be accused of having done Mr Clarke an injustice.”³²⁸ He continued-

I regret very much having to forward this letter, and I would much rather have taken no notice of it; for it is, in truth, not only a defence of Mr Clarke’s own conduct, but an elaborate

³²⁵ Ibid.

³²⁶ Governor Grey to Lord Stanley, June 3, 1846, NZ5:1847 (837) pp.5,6.

³²⁷ Ibid.

³²⁸ Governor Grey to Lord Stanley, June 12, 1846, NZ5:1847 [837] p.13.

defence of the acts of my predecessor is very ingeniously made, under the appearance of an attack upon me.... [I]t was my repugnance to have anything to do with the subject which has made me delay forwarding it until this date.³²⁹

Throughout the forwarded report Grey took the liberty of adding his own comments to a variety of statements made by Clarke. These comments questioned, contradicted, and objected to Clarke's account in an obvious attempt to undermine Clarke's veracity. Grey unwittingly betrayed his offended self-importance, however, when he declared, "It is a strange state of things when a Protector can dictate on such subjects to a British Governor."³³⁰ Another comment foreshadowed a further, impending assault on Clarke. "I believe the large pretended [land] purchases of some of the missionaries to have been the chief cause of the disaffection of the northern chiefs," Grey wrote.³³¹

Two weeks later Grey took up this subject in a further attack on Clarke Senior, and his associates, the missionaries. Grey believed that both the Protectorate Department and the missionaries had too much influence in Maori matters. This was particularly true in the north where the Church Missionary Society had been instrumental in persuading Maori to sign the Treaty of Waitangi, and acted as a medium of communication between Maori and the Government. Grey had already clashed with the Reverend Henry Williams, a strong supporter of Clarke, who had objected to the steps Grey had taken in abolishing the Protectorate Department.³³² Thus Grey turned his sights on the missionaries, whom Clarke had rejoined, and attacked them by asserting that they had used their positions to obtain large amounts of land from Maori. In this he had the full support of the New Zealand Company who

³²⁹ Ibid.

³³⁰ Ibid, p.20.

³³¹ Ibid,p.15.

³³² Rutherford, pp.98,99.

had been vociferously accusing the missionaries of land speculation for years.³³³ It was during this campaign that Grey wrote his notorious letter addressed privately to Gladstone, briefly serving as Secretary for War and Colonies, in which he claimed that “these individuals (the missionaries) cannot be put in possession of these tracts of land without a large expenditure of British blood and money.”³³⁴

In London, a twist of fate had occurred to ensure Grey’s triumph, and Clarke’s downfall. Earl Grey, the latest Secretary of State for War and Colonies, was none other than Lord Howick, former chairman of the 1844 Select Committee, who had succeeded to the earldom. The Report of the Committee had criticised the policies Clarke Senior advocated towards Maori as being too deferential to Maori custom, and had likewise encouraged the implementation, as soon as possible, of the policies championed by Governor Grey. Clarke’s attempted defence of himself, therefore, simply reinforced Earl Grey’s already negative attitude to him. Earl Grey informed the Governor that he found nothing in Clarke’s letter to “diminish my approbation of your policy and measures.”³³⁵ He continued, “On the contrary, I feel it to be my duty to say, that the contents of Mr. Clarke’s letter, when considered in connection with his conduct, and his acquisition of land from the natives, have produced upon my mind an impression directly the reverse of that which he seems to have desired to create, and highly unfavourable to himself.”³³⁶

Responding to the missionary land claims, Earl Grey was also swayed by the Governor’s one-sided account. If the law would allow it, the Earl exclaimed, all the missionaries would be dispossessed of this ill-gotten land.

³³³ For examples see *The New Zealand Journal*, No.10, June 6, 1840; No.24. December 19, 1840; No.127 November 9, 1844.

³³⁴ Governor Grey to W.E.Gladstone, June 25, 1846, NZ6:1848 [1002], pp.106,107.

³³⁵ Earl Grey to Governor Grey, January 16,1847, NZ5:1847 [837],p.21.

³³⁶ Ibid.

He continued, "I contemplate with deep regret, the use which has thus been made of an influence, which ought to have been devoted exclusively to the highest and most sacred objects."³³⁷ This righteous horror and indignation now possessed the Governor:

I have neither read in history nor met in real life with a case such as the present in which a few individuals who were sent out to a country at the expense of pious people, in order, that they might spread the truths of the gospel, have acquired such large tracts of land from ignorant savages over whom they had acquired a religious influence, and who, being themselves missionaries, have then assailed with such violence and obloquy a person who has endeavoured to protect the rights of the suffering and complaining natives.... I feel that the course I am pursuing is that of truth and justice to an oppressed people. In that cause I am still prepared to undergo any degree of misrepresentation, of unpopularity, of personal discomfort; and I confidently appeal to other parts of the empire, to other times, and to unprejudiced and disinterested persons to judge between me and the missionary land claimants.³³⁸

Governor Grey had not proceeded openly to accuse the missionaries of claiming land illegally, and it was not until after the 'blood and money' despatch had been used as a basis of complaint to the Church Missionary Society, that the missionaries were made aware of the serious nature of the accusations against them.³³⁹ They, of course, protested their innocence, and the Church Missionary Society, after conducting its own inquiry resolved "to abstain from passing any censure upon their Missionaries."³⁴⁰ The Society also decided that in future, to prevent further scandal of this nature, no

³³⁷ Earl Grey to Governor Grey, March 1, 1847, NZ5:1847 [837] p.48.

³³⁸ Governor Grey to Earl Grey, December 24, 1847, NZ6:1847/8 [1002] p.122,123.

³³⁹ Rutherford, p.133.

³⁴⁰ Copy of letter from Church Missionary Society to George Clarke, George Clarke Papers, ATL, qMS-0466.

missionary connected with the Society would be allowed to “retain for his own use and benefit large tracts of unoccupied land.”³⁴¹ An invitation to the missionaries was given “to rise above selfish considerations, and, if needs be, to make some sacrifices of their own just rights and lawful wishes for the sake of the public good.”³⁴²

The missionaries responded to this suggestion in a variety of ways. Clarke, himself, offered to put his surplus lands in trust for native educational purposes, but Governor Grey would not accept this. Clarke, therefore, divided his land between his eight sons. The Governor, with an almost irrational doggedness, continued to demand that several missionaries, including Clarke and Henry Williams, surrender their lands on the grounds that it was unjust to the natives for them to continue in possession of them. If surrendered, however, the lands would revert to the Crown. Grey would not retract his accusations linking the missionaries to bloodshed in the north, and the missionaries, in particular Williams, vehemently refused to surrender their lands unless he did. Grey began legal proceedings against the missionaries and Clarke’s case was selected as a test case. A protracted legal battle ensued with perplexing complications and eventually, after great expense Grey abandoned the matter, and the missionaries were left in possession of the their lands. Their victory was hollow, however, as many felt their reputations irredeemably tarnished. Williams and Clarke both had their employment with the Church Missionary Society terminated, despite the years of faithful service they had given.³⁴³

In the midst of all this, Robert FitzRoy published a booklet in which he related his experiences in New Zealand. In it he commented on the Protectorate and its abolition. FitzRoy was highly critical of the actions taken

³⁴¹ Ibid.

³⁴² Ibid.

³⁴³ Rutherford, pp.136-141.

by Grey and remarked, "That the British government will confirm so important a change in their conduct and arrangements with regard to the aborigines of New Zealand, as to annihilate the protectorate department, I cannot bring myself to believe."³⁴⁴ Grey counteracted these comments with another despatch which sought to justify his actions.

I considered, and still consider the Protectorate Department, as I found it established, to have been, for all practical purposes, an utterly useless establishment; as also that neither the chief protector of aborigines, nor his two sons, who were also protectors of aborigines, were fitted by either energy of character, or by their industry, to watch over and promote the interests of the natives.³⁴⁵

Grey went on to claim that in the nine months since taking native policy into his own hands that substantial advances for Maori had been made, particularly in health and judicial areas, with the result that "I believe the natives have never previously felt such feelings of attachment and respect for the Government as they now entertain."³⁴⁶ While it was unlikely that Grey could have done all he claimed in such a short time, and changed Maori attitudes so significantly, this was relatively unimportant to many back in London. Used to reports of doom and gloom from New Zealand, Colonial authorities rejoiced that they now had a Governor in the country who appeared to have the situation under control, and the Protectorate of Aborigines, and George Clarke Senior, were regarded as an unfortunate error to be forgotten.

Grey was still not content, however. In late 1847, in a skilful display of insinuation, he implied that the Protectors of Aborigines had taken monetary "gifts" for assisting in land transactions between Maori and private

³⁴⁴ Robert FitzRoy, *Remarks on New Zealand*, London, W. and H. White, 1846, pp.63,64.

³⁴⁵ Governor Grey to Earl Grey, February 4, 1847, NZ5:1847 [837] pp.92-94.

³⁴⁶ Ibid.

buyers during the time when pre-emption had been abolished. Grey furnished several statements from casual, or junior, members of the Protectorate staff as proof, much of which was vague and shadowy. Only one of the Protectors, Thomas Forsaith, was directly named. Grey further implied conspiracy when he wrote, "this appears to be a point upon which it is not easy to gain information."³⁴⁷ Again, those involved were not informed of these accusations, and so it was with surprise that Thomas Forsaith learned of them when the despatches were printed in the Parliamentary papers. By the time Forsaith was able to refute the accusations over a year had passed. Nevertheless he did so forcefully and vigorously. As to Grey's assertion that conspiratorial activities were afoot, he pointed out, "I have never been absent from Auckland since I left the service of the Government; and when these statements were made to his Excellency he might have easily ascertained, if so disposed, whether they were true or false."³⁴⁸ To support his self-defence Forsaith produced written statements from two of Grey's "witnesses" which made plain that Protectors of Aborigines were never involved in the activities implied by Grey. Forsaith then boldly went on,

The fact of his Excellency having taken no step to test the veracity of statements affecting individual character, although it would have been most easy to do so, leads the mind irresistibly towards the conclusion that his Excellency did not wish to discover any flaw in these statements; and that... he was prompted rather by a wish to achieve a certain purpose than by a desire to communicate nothing but the truth.³⁴⁹

Forsaith further asserted that in conveying information with "a precision wearing almost the appearance of design", and in which false inferences were transmitted, Grey was "fostering in the minds of many in this community a

³⁴⁷ Governor Grey to Earl Grey, November 15, 1847, NZ6:1848 [1002] pp.17,18.

³⁴⁸ Thomas Forsaith to Colonial Secretary, April 3, 1849, NZ6:1850 [1136] pp.155-157.

³⁴⁹ Ibid.

sentiment which I am sorry to say is daily becoming more prevalent - that, in framing Despatches to the Secretary of State, his Excellency is influenced more by his views of expediency than by a love of simple truth."³⁵⁰ Grey was forced to retract his false accusations, although in Forsaith he had another vocal and determined enemy.

It was thus that the Protectorate of Aborigines, and the men who staffed it, disappeared from the pages of New Zealand history, in a mire of ignominy and recrimination. George Clarke Senior returned to farming at Waimate. From 1853 to 1855 he served on the Auckland Provincial Council. In 1861 he was appointed civil commissioner in the Bay of Islands, and in 1865 he became a judge in the Native Land Court. He died at the age of 78 in Waimate.³⁵¹ George Clarke Junior, despite being criticised by Grey at the time of the Protectorate's abolition, was employed by the Governor to act as his interpreter and tutor him in the Maori language. Clarke Junior later claimed, "[W]hen Sir George Grey arrived he took me on his staff within a week and I was very much with him. He owed nearly all his knowledge of Maori to me and I spent hundreds of hours in coaching him."³⁵² Clarke Junior, nevertheless left New Zealand within the year and went on to train for the ministry, fulfilling a lifelong ambition. For fifty years he served as a minister in Hobart. From 1890 to 1907 he served as the Vice-Chancellor, and then Chancellor, of the University of Tasmania.³⁵³ The quiet, pliable Henry Kemp was just the sort of man to appeal to Governor Grey as a suitable employee. Kemp took up the position, rejected by Clarke Senior, of Native Secretary and

³⁵⁰ Ibid.

³⁵¹ Ray Grover, "George Clarke" in W.H.Oliver, (ed)., *The Dictionary of New Zealand Biography*, Volume One, 1769-1869, Wellington: Bridget Williams Books, Department of Internal Affairs, 1990, p.83.

³⁵² "George Clarke Remembers ... Three Letters Written by George Clarke, in 1904, to Dr T.M.Hocken of Dunedin", *Auckland-Waikato Historical Journal*, No 55., September 1989.

³⁵³ Grover, p84; P.D.Gibbons, "The Protectorate of Aborigines", M.A. Thesis, Victoria University of Wellington, 1963. p.28.

pursued a respectable, if undistinguished, career in the Colony's civil service.³⁵⁴ Edward Shortland published several books, based on his experiences whilst a Protector of Aborigines. Travelling between England and New Zealand several times, he maintained a lifelong interest in Maori and their welfare, throughout his varied career. It has been claimed that he was the first anthropologist of the Maori. He also served for a short time as Native Secretary between 1863 and 1865.³⁵⁵ Refusing an invitation to work under the Grey administration, Thomas Forsaith set up business as a draper on leaving the Protectorate. A prominent and popular figure in Auckland social circles, Forsaith went in to politics once responsible government had been granted, serving in Parliament in 1853-1855, and 1858-1861. He has the dubious honour of having been Premier for the shortest term in New Zealand history - three days, in 1854. Forsaith lost his seat in 1861, when his strong pro-Maori views alarmed pakeha voters who were in fear of a Maori uprising. He entered the Presbyterian ministry and in 1867 left New Zealand, returning for visits in later years. The last significant member of the Protectorate, Donald McLean went on to the most distinguished public service career of all his colleagues. After a short term in Taranaki as Inspector of Police, McLean became Chief Land Purchase Officer for the Government under the Grey administration. In 1866 he was elected to the House of Representatives, and from 1869-1876 served as the Native minister in the Fox-Vogel ministry. McLean died, comparatively young at the age of 55 early in 1877.

Grey's actions in destroying the Protectorate of Aborigines were motivated by ambition, with little thought given to the long term effects.

³⁵⁴ Gibbons, p.28.

³⁵⁵ Atholl Andersen, "Edward Shortland" in W.H. Oliver, (ed)., *The Dictionary of New Zealand Biography*, Volume One, 1769-1869, Wellington: Bridget Williams Books, Department of Internal Affairs, 1990, pp 395,396; Gibbons, pp.28,29.

Although far from perfect, the Protectorate had endeavoured to uphold Maori rights, promote Maori welfare, and act as a voice for a people struggling to come to terms with a tidal wave of change sweeping over their land and culture. These aims were sacrificed to Grey's autocratic, self-serving ambition. Not content simply and quietly to close the department, Grey embarked on a long, vicious, and unnecessary campaign to destroy the reputations of the leading members of the Protectorate, and erase their efforts and achievements from historical memory. The lack of recognition today of the Protectorate of Aborigines is testament to his success. The wishes of the settlers were fulfilled, for Grey ensured that the Protectorate was "swept away from the page of our recognition."³⁵⁶

³⁵⁶ *New Zealand Spectator and Cook's Straits Guardian*, 22 November, 1845.

Conclusion

In February 1840 the British Government formally annexed New Zealand as a Crown Colony through the negotiation of the Treaty of Waitangi. In accordance with the Treaty which guaranteed the proprietary land rights of Maori, the British Government undertook to provide a measure of protection for Maori in the face of colonisation. Of particular concern was the "systematic colonisation" of New Zealand being attempted by the New Zealand Company. Protection meant little more than the preservation of the Maori race from the perils of colonisation, which the British had observed but did not understand. Consequently their theories of protection were vague and their practices experimental. In order to provide this protection George Clarke Senior, a missionary, was appointed as the "Protector of Aborigines." Over the course of six years he established a small department of six men who endeavoured to facilitate a peaceful transition to British rule by caring for the needs of those who were being colonised.

Tasks assigned to the Protectorate included the purchase of land for settlement on behalf of the the government; the safeguarding of Maori welfare and interests; assisting in the investigation of land titles by the Land Commissions; keeping the peace between Maori tribes; keeping the peace between Maori and settlers; the suppression of "abhorrent" Maori customs such as cannibalism and infanticide; the "improvement in civilisation" of Maori through the introduction of British law; the education of Maori; and generally encouraging Maori to accept British culture in place of their own.

Over the years the Protectors, Clarke Senior in particular, accumulated a wide knowledge of Maori based on experience. On subjects such as land tenure, and Maori custom and law, the Protectors demonstrated sound understanding. They were also aware of the traditional aims which Maori

were still endeavouring to achieve and the concerns which motivated many of their actions. The Protectors did not judge the Maori for these, and in some instances demonstrated a willingness to incorporate traditional Maori custom and usage into the “new” system. This was particularly apparent in George Clarke Senior’s suggestions for legalising Maori custom, and adapting it to work with British law. Had these suggestions been adopted, along with Clarke’s central philosophy, namely “leading” rather than “forcing” Maori to accept British notions, many of the problems that still exist today may have been lessened, or averted. Clarke’s approach to integration would have protected Maori land rights to a greater degree than occurred. This would have freed Maori, somewhat, from the fears they had over their lands, and allowed Maori time to make a reasoned response to the threats to their culture. Clarke’s genuine desire to see Maori chiefs included in the power structures of the country’s administration would have ensured Maori their rightful place in the decision making processes that were to influence the future of New Zealand. Unfortunately, the Protectorate’s approach to protection, based on wisdom born of reality, was ignored by those whose theories were little more than a thin veneer of wishful thinking covering their economic and political agendas.

Rather than being accepted, however, these policies of George Clarke Senior contributed to the demise of the Protectorate. His gradual approach to amalgamation alarmed his contemporaries who objected to the implied challenge to the integrity of British law, and feared the possible entrenchment of Maori custom in legislation. Clarke’s policies also threatened to subvert the New Zealand Company’s programme of colonisation, of which protection of Maori was merely incidental. The abolition of the Protectorate was unfortunate for the ideas expressed by Clarke were, in many respects,

valuable. While it is wrong to consider them "forward thinking", as this implies consequences which Clarke himself did not anticipate or desire, the suggestions made by Clarke carried the potential to provide a smoother transition to a bi-cultural nation with respect for diversity, and genuine power-sharing.

Advocates of a forced pace of amalgamation also attacked the Protectorate on the grounds that it had failed to provide for the welfare of Maori in the areas of health and education. This was, to a certain extent, an unfair criticism of a department hamstrung by a lack of funds and resources. Clarke was highly sensitive to this issue and called for the question to be addressed, to no avail. The virtual bankruptcy of the Colony, and the intransigent attitude of the British treasury made progress in these areas impossible. Grey's criticism, given that he had financial resources at his disposal, which former administrations lacked, was therefore unreasonable and one-sided.

After the abolition of the Protectorate no department, specifically dedicated to Maori was to exist for another fifteen years. These years were critical in the development of relations between Maori and settler, and culminated in the land wars of the sixties. During this time no clear Government policy relating to Maori was developed, relying for much of the time, almost entirely on the personal relationships Governor Grey established with many chiefs. On his departure he left a vacuum which succeeding Governors were unable to fill.

The Protectorate of Aborigines, as established by Clarke, was a useful department that functioned effectively in a limited way. The numerous tasks assigned to the Protectorate were widely varied and difficult and Clarke constantly struggled to meet ever increasing demands in a progressively

hostile environment. The reality of the Protectorate was, that despite noble aims and grand objectives, inadequate staffing and financial means put their achievement out of reach, as the important gave way to the urgent. Activity was often limited to the urgent damping down of hot spots while long term objectives were left on the shelf. Still embryonic in 1846, due to financial limitations, the Protectorate had the potential to act as bridge between the two races, and pave the way for a truly integrated society. Perhaps the most honest evaluation of the work undertaken by the Protectors was given by George Clarke Senior himself. On his resignation he wrote: "I have honestly served the best interests of the Colony, prevented much evil and mischief although I may not have effected much positive good."³⁵⁷

³⁵⁷George Clarke Snr to Dandeson Coates, February 20, 1846, George Clarke Papers, ATL , qMS-0464.

Appendix 1

Colonial Office Administrations 1835-1846

PRIME MINISTER

Viscount Melbourne, April 1835

SECRETARY FOR WAR AND COLONIES

Lord Glenelg, May 1835

Lord Normanby, February 1839

Lord John Russell, September 1839



PRIME MINISTER

Sir Robert Peel, September 1841

SECRETARY FOR WAR AND COLONIES

Lord Stanley, September 1841

W.E.Gladstone, December 1845



PRIME MINISTER

Lord John Russell, July 1846

SECRETARY FOR WAR AND COLONIES

Earl Grey, July 1846



(Permanent Under-Secretary of State for War and Colonies, 1836-1847:
James Stephen)

Appendix 2

New Zealand Crown Colony Administrations 1840-1846

(From 6 February to 3 May 1841, New Zealand was a dependency of New South Wales, administered by Governor George Gipps.)

GOVERNORS

Captain William Hobson, R.N., 3 May 1841-10 September 1842
(Interim government administered by Lieutenant Willoughby Shortland,
R.N., 11 September 1842 - 25 December 1843)
Captain Robert FitzRoy, R.N., 26 December 1843 - 17 November 1845
Captain George Grey, 18 November 1845 - 31 December 1853



COLONIAL SECRETARIES

Lieutenant Willoughby Shortland, R.N., 1 March 1840 - 31 December 1843
Dr Andrew Sinclair, 6 January 1844 - 14 June 1854



CHIEF JUSTICE

William Martin



ATTORNEY-GENERAL

Francis Fisher, 6 February 1840 - 10 August 1841
William Swainson, 10 August 1841 - 7 May, 1856



EXECUTIVE COUNCIL

(in order of seniority)

Governor
Colonial Secretary
Attorney-General
Colonial Treasurer

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