

(Levine & Vasil, 1985)

Maori (in the name of 'Her Majesty the Queen of England') the full, exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties which they may collectively or individually possess, so long as it is their wish and desire to retain the same in their possession . . . . Apart from its continuing evocative power, the Treaty retains its significance in establishing a twin set of official attitudes: (1) the Maori is to be protected by Government; (2) the Maori has certain natural rights which, moreover, are to be given a legal basis and official recognition.

Out of this matrix of attitudes there has arisen a mix of agencies and programmes designed exclusively for the Maori people. In their way, of course, these coincide with the protective role established by New Zealand's governments towards all New Zealanders, Pakeha and Maori alike. The New Zealand State has been assigned a paternal role towards both 'the Native population' and 'the great number of Her Majesty's Subjects who have . . . settled in New Zealand.' Maoris are eligible to participate in the programmes and services provided by the New Zealand welfare state. The additional supports extended to the Maori alone constitute a welfare state within a welfare state, and the agencies established to administer them function with considerable autonomy.

Captain Hobson established in 1840 a Department headed by a Protector of the Aborigines, assisted by four Sub-Protectors. Their functions were to: care for the children (with special emphasis on education and moral development); protect the Maoris from injustice; establish and maintain good relations with the Maoris; provide opportunities for the Maori to labour; foster an appreciation of citizenship. This forerunner of the present-day Department of Maori Affairs lasted only six years, when it was replaced by the Native Secretary's Office. Under Governor George Grey, a variety of measures were introduced to improve Maori-Pakeha relations, while the introduction of European law in Maori districts was facilitated by providing Resident Magistrates' Courts presided over by European Magistrates assisted by Maoris. Other institutions established during this period included the Native Land Purchase Department (officially established in 1853) which implemented Treaty of Waitangi provisions giving the Crown 'exclusive right of pre-emption over such lands as the proprietors thereof may be disposed to alienate . . . .'

In 1856 the Department of Native Land Purchase and the Native Secretary's Office were merged. While administratively neat, this union joined political and commercial functions so as to give an impression that acts of Government were inseparable from an intention to acquire Maori lands. Already too there were indications that the management of Maori affairs by the New Zealand Government

gave unprecedented responsibility to the administrators concerned so that they acted in a sphere unchecked by either the Executive (Governor) or the House of Representatives. In 1861, during the 'Maori Wars', the two offices were again separated. In 1862 the Native Secretary's Office was described as the Native Office (headed by a Native Secretary), and in 1864 the Native Department was lodged within the Colonial Secretary's Office. Further name changes followed, and at various times the management of 'Native' affairs has been amalgamated with the Defence Department (during the 1870s) and the Justice Department (during the Liberals' administration, from 1893-1906, and during the 1916-1921 period). In 1947, the Department of Native Affairs slipped away into history to be replaced by the Department of Maori Affairs. In 1967, the Department merged with the Department of Island Territories to form the Maori and Island Affairs Department. The Islands Division was transferred to the Ministry of Foreign Affairs in April 1975, with the Maori Affairs Department retaining responsibilities for Pacific Islanders' housing and welfare in New Zealand. One of the issues between the British Crown and the British settlers in New Zealand, during the Maori Wars, arose over the government of the Maoris. Who was responsible for their Government? Who was to pay the cost of governing the Maoris? That the Maoris needed government, by the Pakeha, was not in itself a matter of dispute. The British sought to transfer responsibilities to the colonial government, with little success: the House of Representatives refused to accept! (This too parallels the overall New Zealand political experience, marked by an unwillingness to accept full responsibility for self-government, cherishing a secure tie with Britain.) In 1863, following a refusal of the Maori people, the settlers' government reluctantly agreed to undertake the chore. This was an inauspicious beginning for the management of Maori affairs by the Pakeha.

The Maori Lands Act of 1862 led to the abolition of the Native Land Purchase Department in 1865, and subsequent purchase of Maori lands was carried out by Native Land Purchase Agents employed by the Government on a commission basis. The potential for abuse in such a system was very quickly achieved in practice, and so the Native Lands Purchase Department was revived, subsequently to be amalgamated once more with the Native Department (in 1885).

Land disputes have been central to Maori-Pakeha suspicions and misunderstandings. After the Maori Wars had begun, it became apparent that peaceful land transactions required an independent tribunal to investigate and establish the ownership of Maori lands. One intention too was that Maori customary titles would be rendered into a form amenable to English law. In 1862 a Court was established



(presided over by a European Magistrate), and in 1865 the basis of the present-day Maori Land Court was instituted. Its purposes were to: define Maori proprietary rights; transform Maori customary title into a legally useable format; assist in dealings in Maori lands; aid in the peaceful settlement of the colony.

There are additional components to the administrative superstructure of contemporary Maoridom. These include the Maori Land Boards, not well known to many New Zealanders but of great importance to the Maori people. In 1886 legislation was enacted intended to avoid further loss by Maoris of their land. A Commission established five years later recommended (among other things) that the management of Maori lands be delegated to a Native Land Board under the direction of Maori Committees representing the owners. Despite much delay, in 1900 the Maori Land Council was established, as the antecedent of the present-day Maori Land Boards constituted originally in 1905.

Various Maori properties were administered by the Public Trust Office until the enactment of the Maori Trustee Act in 1920. Under this, the Maori Trust Office came into existence a year later as a separate Department to manage Maori Reserves and Estates. The accumulated funds from this administration were separated in this manner from other Public Trust funds and provision was made for the Maori Trust Office to provide loans to Maoris to finance farming and other activities. In 1934, the Maori Trust Office was amalgamated with the Native Department. This provides the basis for the present-day situation, where the permanent head of the Maori Affairs Department has held the position of Maori Trustee as well. In this manner, the Secretary administers not merely the funds provided to the Maori Affairs Department by Parliament's annual vote, but as well the funds earned by the Department's management of Maori lands held in trust by it.

The management of Maori affairs by Government has always involved a range of functions. The particular responsibilities of individuals and agencies may alter over time, but there has been a remarkable continuity of problems and services. Maori-Pakeha problems are perennial, and so the institutions designed to deal with them have a long lifespan too. From time to time, particular responsibilities become transferred from one agency to another, as a result of new Government policies or a change in the nature or definition of a problem. The Department of Maori Affairs in particular has conducted a wide range of programmes and services in its history. These are managed by separate divisions with the Department. At one time, under the Native Trust Ordinance of 1844, the Department had responsibilities in the area of Maori education. These were transferred to

the Education Department in July 1879. The legacy of this administrative change is still with us, for despite his interests in Maori language and education, the Secretary of the Department of Maori Affairs does not have direct responsibility for Maori education. The administrative approaches taken by Government, towards the management of Maori land, education, and other social services, may make a major impact not merely on the effectiveness of particular policies but on the attitudes of Maoris towards the agencies and administrators defined as responsible.

The Department of Maori Affairs in the 1980s has a very active Social Services Division, an outgrowth of the Maori Welfare Division which in turn was established following the work of the Maori War Effort Organization in the Second World War. Today the Department engages in the following range of activities: social work; housing finance and advisory services; pre-apprenticeship training for trades; subsidy for marae improvements; promotion of Maori art and culture; farming finance and advisory services. It also plays an important role in advising private organizations, and the Government, on matters affecting Maoris and Pacific Islanders, and has a major role in matters relating to Maori land and development (including, but not confined to, work related to Maori lands held in trust).

Closely associated with the Department are various statutory bodies. The Maori Land Board supervises the Department's activities in housing and land development and establishes policy for the investment of funds held by the Maori Trustee. The Maori Purposes Fund Board (established in 1935) administers a fund which comes from Maori sources, including annual grants from the profits of the Maori Trustee. The Board may support projects in housing, education, social and economic advancement but has more recently been active in sponsoring cultural activities. The Maori Education Foundation is not controlled by the Department of Maori Affairs but is attached to the Department of Education. It was established in 1961 to further the education of Maori children from pre-school to tertiary level.

Perhaps the most visible component of the Maori Affairs Department is the Social Services Division. This Division employs over 100 community officers in various branches around New Zealand. These officers advise the Department on matters affecting the welfare of the Maori community, and have close contact with individuals, families and groups who may benefit from their advice or from Departmental support. The Division also operates a subsidy scheme for Maori tribal committees, which may be utilized to support construction of buildings on maraes.

The Maori Land Court has augmented its initial functions in response to various enactments relating to the development of Maori



agencies such as the local authorities and Catchment Commissions, to be notified of proposed applications for Maori fishing ground reserves, and to be heard.

We have no authority to award costs or to make recommendations with regard thereto, but we would consider appropriate, an ex gratia payment by the Crown to Aila Taylor as representative of the hapu, for their efforts to protect that which in our view the Treaty guaranteed a protection . . .

[Report signed by:

Edward Taihakurei Durie, Chief Judge of the Maori Land Court  
Walter Max Willis, District Court Judge  
Sir Graham Stanley Latimer, J.P.]

#### Appendix Four: Maori Economic Development Summit Conference 1984 — Final Communiqué

Following its election on 14 July 1984, the fourth Labour Government convened an Economic Summit Conference, held at Parliament in September. At its final session, the Conference agreed to a communiqué which included the following clause:

The Conference considers that the position of the Maori is of concern. The gap between Maori and Pakeha has been widening. Racial tension has been growing and many Maori young people have been alienated from the wider community. The Maori people and their resources continue to be under-utilized and underdeveloped. To reverse this will require positive initiatives for consultation with Maori communities about their future, policies to deal with Maori unemployment, and self-help.

It was also announced that there would be a Maori Economic Development Summit Conference to be held in October. Following a series of regional meetings, the national conference, involving participants from throughout Maoridom, was assembled in Wellington. The final communiqué, embodying a consensus on a range of issues and problem areas, is reprinted below in its entirety.]

In calling the Maori Economic Development Summit Conference the Minister of Maori Affairs set the following objectives:

- to examine the economic situation of New Zealand as it affects Maori people;
- to assess the economic strengths and weaknesses of Maori people in New Zealand;
- to obtain a commitment from those attending the Conference;
- to support policy changes necessary to obtain socio-economic parity between Maori and non-Maori.

The Conference endorses these objectives and pledges support to achieve them.

The Conference recognizes that pursuit of these and the other objectives identified at the Conference needs clear priorities, bold actions and appropriate resources to achieve them.

#### *The Current Situation*

Maori Economic Development is intertwined with the economic development of New Zealand. If there is no growth in the New Zealand economy, Maori standards of living in comparison with the non-Maori will slip even further behind. Consequently there is a fundamental and

