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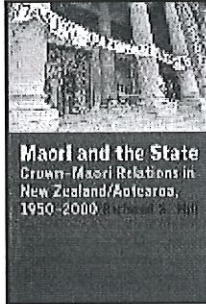
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Author: Richard S. Hill

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# MAORI AND THE STATE: CROWN-MĀORI RELATIONS IN NEW ZEALAND/AOTEAROA, 1950-2000

## THE 'FISCAL ENVELOPE' AND ITS CONSEQUENCES

[Previous Section](#) | [Table of Contents](#) | [Up](#) | [Next Section](#)

### *The 'Fiscal Envelope' and its Consequences*

In late 1994, the government provided a catalyst for a united Maori endeavour by calling for a public debate on a raft of proposals to guide future Treaty settlements. It had already signalled in the Sealord deal that it had in mind a total sum to cover all settlements, having made clear that reparations could not be pegged to any concept of 'just' or replacement compensation for that which had been lost (even if it were possible).

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PAGE 252

such things out). In May 1994, it had been reported that officials and ministers were closing in on an overall settlement sum (which would include a valuation placed on land or other resources transferred). Not only were there 'fiscal constraints' on the Crown, but it was expected that a total settlements figure would be needed before any tribe would sign up to a final Treaty settlement. That was certainly the position of the claimants at the most advanced stage of negotiations, Waikato-Tainui.

In Doug Graham's formulation, a 'Treaty settlement envelope' would allow for settlements to be 'consistent and fair' relative to other settlements and to a total pool of available resources. After much internal (and highly contested) intra-state deliberation in which Treasury analyses featured large, the Crown unilaterally fixed the 'fiscal cap' at a billion dollars, to be paid out over a ten-year period. Whatever the merits of the fiscal cap, or its amount (and, to take one example, TOWPU's and TPK's recommended figures were greatly in excess of Treasury's), iwi negotiators could now consider any Crown proposals in relation to the total resources in the state's Treaty coffers. The pioneering Tainui and Ngai Tahu settlements came, in fact, to include a 'relativity clause', with the Crown agreeing to increase their settlements if the fiscal cap increased in the future; their portions of the settlement envelope would always remain at 17%.

When the Crown put its 'Treaty Settlement Proposals' out for consultation, the only non-negotiable element was the fiscal cap. Enormous Maori anger at both this unilateralism and the relatively low level of the cap greeted the release. The proposals, many of which did reflect some discussion with Maori and which the Crown was prepared to adjust, were completely overshadowed by the issue of the billion dollar imposition. Soon known as the 'fiscal envelope proposals', they were interpreted throughout all quarters of Maoridom as a 'breach of tino rangatiratanga'. Under the auspices of Sir Hēpi Te Heu Heu, a thousand people from all round the country, representing a full range of tribes and Maori organisations, met in January 1995 at Hirangi marae in Turangi to discuss a unified response.

From the hui, a unanimous message went out to the Crown, definitively rejecting the imposed fiscal envelope as a massive violation of rangatiratanga. Delegates noted, in particular, that no partnership of the type supposedly embodied in the Treaty could tolerate unilateral pronouncements from one side, especially on a subject so crucial as resolving past breaches of the Treaty. The Hirangi hui demanded Crown respect for rangatiratanga, canvassed several constitutional models under which the Crown might meet its Article Two Treaty obligations, and by unanimous decision proposed a major Crown-Maori constitutional review on the basis of the Treaty of Waitangi.



Waitangi Day was particularly tense that year, and Pakaitore/Moutoa Gardens in Wanganui were occupied by Maori activists in a confrontational stand-off that lasted until May, riveting the attention of the nation (and producing considerable pakeha backlash). Emotional and dramatic opposition to the fiscal envelope was expressed at regional consultation hui organised by the Crown during February and March 1995 – an enormous 'public relations disaster' for the Crown. The organiser of the hui, TPK's chief executive, noted that Maori 'across the political spectrum' were for the first time 'united in opposition to the government's policy proposals'. The theme of all the hui, and of protests throughout New Zealand, was reclaiming rangatiratanga.

That May, even tribes preferring to work independently of others in their dealings with the Crown agreed that issues of common concern should be handled in a kotahitanga fashion. Those working within the Maori Congress launched a national debating exercise on ways of embodying rangatiratanga in constitutional arrangements. At a hui in Taranaki it was agreed that, while diversity within the Maori world needed respecting, the 'commonalities shared by all Maori' meant that unity was possible. Indeed, unity was necessary in order to attain mana motuhake, Maori autonomy. The bottom line was that 'Maori should be able to determine their own futures, control their own resources, and develop their own political structures'.

With much frustration at the lack of progress on achieving such rangatiratanga, other high profile occupations of claimed land and property followed Moutoa Gardens. The old Takahue School, the empty Tamaki Girls' College, Kaitaia airport, Coalcorp-owned land in Huntly and the disused Taneatua railway station were among sites occupied during the course of the year. Like Bastion Point in the late 1970s, the occupations involved a 'layering of grievance upon grievance', with land and Treaty issues intertwined. The Crown's declaration of the fiscal envelope added an overarching grievance around which all protesters and occupiers could agree. Few people expected the Crown, immediately at least, to rescind or raise the fiscal cap. But many believed that the furore which greeted it might compel the government to open consultation with Maori on various issues of rangatiratanga.

Yet the chances of this seemed slim. A number of ministers and officials wrote off the various criticisms of the government's approach to Treaty settlements, as well as to occupations, as driven by radicals. They refused dialogue with anyone taking direct action, seeing this as an issue of public order and therefore for the coercive authorities to handle. And most strongly of all, they continued to reject any discussion that might imply constitutional change, ring-fencing Treaty settlement issues from any talk of



constitutional or other arrangements to effect recognition of rangatiratanga. Separately or together, such refusals to engage further fuelled the mid-decade propensity for direct action. Moana Jackson spoke for many in declaring that addressing the Treaty involved not just redressing historical grievances but also 'looking at all the issues of political power, constitutional restructuring and so on, which are part of the treaty'.<sup>17</sup>

In a letter written to Sir Hepi Te Heu Heu a week before a second Hirangi hui in September 1995, Prime Minister Bolger reiterated the longstanding Crown view that 'the sovereignty of Parliament is not divisible'. There being 'no political will to alter fundamental constitutional arrangements of the nation', he invited the hui to 'consider the development of the Crown/Maori relationship within manageable parameters which take into account the indivisibility of Parliament'. Sir Hepi affirmed in his opening address, however, that the hui had been convened precisely to focus on 'ways Maori can assert their tino rangatiratanga' in relationship to the state. In view of the government's disinclination to debate such issues, the hui almost completely ignored the Crown's views, and it declined an invitation from Bolger for its representatives to join an officials' working group on settlement matters. Speakers emphasised the need for constitutional reform and the processes which might be used to achieve it. The head of TPK later reported that indigenous sovereignty was affirmed by many young Maori, who 'were listened to politely by the many chiefs who were present, and were certainly not dismissed out of hand. It is clear that the issue of sovereignty and tino rangatiratanga will not go away'. The prime ministerial response was to restate that the Crown 'cannot negotiate the division of sovereignty'.

The hui provided a deliberate and powerful statement by Maori that if the Crown continued to refuse to consult over appropriate ways of recognising rangatiratanga, Maori would decide matters independently and only then take their position to the politicians. While unilateralism was not ideal, there seemed to be little choice. The second Hirangi meeting was followed by a third in April 1996, which had double the attendance of the first, and called for the 'decolonisation' of New Zealand. This could come about through the 'establishment of protocols governing relationships between Maori and with the Crown', and these needed to be followed by 'constitutional change'. A new constitutional model could be developed incorporating Maori tikanga and a Maori worldview, with the various processes requiring 'expos[ure of] the effects of the Pakeha colonisation process' before the ultimate goal of rangatiratanga could be attained. As one commentator put it, 'sooner or later the government will have to face the issue ... because governments come and go ... but Maori will still be there with their agenda of tino rangatiratanga'.<sup>18</sup>

<sup>17</sup> Walker, 'The Genesis', pp 14–5; McKinnon, *Treasury*, pp 410–11 (p 411 for 'breach of tino rangatiratanga' and 'public relations disaster' quotes); Joint Methodist Presbyterian Public Questions Committee, *Politics Not Justice: The Government's Treaty Settlements Policy*, Wellington, 1999, pp 2–7 (p 6 for 'united in opposition' quote); Office of Treaty Settlements, *Crown Proposals*, pp 24–7; Orange, *An Illustrated History*, pp 217–9 (p 217 for 'consistent and fair' quote), pp 220, 222, 226, 229–32; Graham, *Trick or Treaty??* pp 58–60, 64–6; Durie, Mason, 'Tino Rangatiratanga', in Belgrave, Michael, Kawharu, Merata and Williams, David (eds), *Waitangi Revisited: Perspectives on the Treaty of Waitangi*, Auckland, 2005, pp 4–9 (p 7 for 'commonalities' and p 8 for 'own resources' quotes); Harris, *Hiko*, pp 134–6 (p 136 for 'layering of grievance' quote); Roberts, John, *Alternative Vision, He Moemoea Ano: From Fiscal Envelope to Constitutional Change: The Significance of the Hirangi Hui*, Wellington, Joint Methodist Presbyterian Public Questions Committee, 1996, pp 3–5, 6–7 (for 'looking at all the issues' quote); Durie, *Te Mana*, pp 230–31; Walker, 'The Treaty of Waitangi', p 71.

<sup>18</sup> Joint Methodist Presbyterian Public Questions Committee, *Politics Not Justice*, p 6; Roberts, *Alternative Vision*, pp 9–23, 28–30 (p 9 for 'sovereignty of Parliament' and 'no political will' quotes, p 10 for 'ways' quote, p 12 for 'cannot negotiate the division' quote, p 17 for 'expos [ure of] the effects' quote, p 23 for 'establishment of protocols' quote); Durie, *Te Mana*, p 235; Gardiner, Wira, *Return to Sender: What Really Happened at the Fiscal Envelope Hui*, Auckland, 1996, pp 230–31 (p 231 for 'were listened to politely' quote); Melbourne, *Maori Sovereignty*, p 31 (for 'sooner or later' quote).

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[Previous Section](#) | [Table of Contents](#) | [Up](#) | [Next Section](#)

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## MAORI AND THE STATE: CROWN-MĀORI RELATIONS IN NEW ZEALAND/AOTEAROA, 1950- 2000

### THE HUNN REPORT

[Previous Section](#) | [Table of Contents](#) | [Up](#) | [Next Section](#)

#### *The Hunn Report*

By the beginning of 1960, publicity about social maladjustment in the cities had focused the Labour government's attention on Maori issues. Crown monitoring put figures to popular perceptions: 'Maoris appear in disproportionate numbers in the Court records and their

educational achievements (but not their capacity) are below par.' Under sustained fire for ignoring their own party's policies, Labour ministers were attempting to find more efficient ways and mechanisms for interacting with Maori and solving the problems arising from urban resettlement. Prime Minister Nash, in particular, had become increasingly aware of a general Maori disquiet about, or even hostility to, the Department of Maori Affairs. Relating essentially to perceptions of departmental paternalism and inefficiency, such widespread attitudes were seen as a major impediment to progress.

One significant line of advice on addressing the difficulty was posited on reports that committees and welfare agencies were still held in high regard. A full 10% of Maori, in fact, were estimated to have some kind of connection with an official committee. It was argued that progress on Crown-Maori relations could best occur through building on the concepts which had originally underpinned the committee system. If committees were to be given greater powers and range, they could become anchors for better integrating the department with Maoridom and attuning its bureaucrats to the needs of the people. It was in the context of such advice that the government was prepared to accede to several significant demands made by individuals and groups supporting and operating through the institutions of the 1945 Maori Social and Economic Advancement Act. At the very least, addressing some of their wishes was increasingly seen as better than ignoring them and thereby handing ammunition to elements within Maoridom which advocated a more confrontational stance.

PAGE 89

Not only were concessions made over representation in the official system, moreover, but also on issues such as coordinating arrangements between departments dealing with urban adjustment – a response to criticisms from delegates at the Young Maori Leaders' Conference, among others, of 'piecemeal' bureaucratic procedures. It was just as a number of new arrangements were being put in place that the Labour government lost office in late 1960. The incoming National administration, despite its formal commitment to laissez-faire policies, was not averse to planning and social intervention. Moreover, it appreciated that it would need to rely a great deal for its success in Maori policy on the staff of the public service, especially those in Maori Affairs who mediated between the official committee system and the government. Given its small Maori base, in fact, the government would need to lean particularly heavily on its officials for policy and operational advice. Fortunately for Prime Minister Holyoake and his ministers, the DMA officials had already undertaken a complete re-examination of Crown-Maori relations.



At the beginning of the 1960s, in the middle of the most intensive period of urban migration in New Zealand history, few observers would have disagreed that it was timely to revisit the premises and implementation of the 1945 legislation under which Maori Affairs operated. Its structures had been worked out at an early stage of urban migration, before it was clear that this migration would become both huge and permanent. In his capacity as Minister of Maori Affairs, Nash had eventually been forced to give more serious attention to Maori aspirations. In early 1960, he tasked his department with investigating the state of Maoridom. This initiation of a comprehensive 'stocktaking' of Maori policies, management and 'assets', both human and material, was designed to provide a factual basis for more coherent and coordinated forward planning. In addition to providing a better knowledge basis for addressing the many problems relating to urban relocation, Nash had other outcomes in mind as well. He had, for example, become convinced of the need for the state to finally redress the problems arising from the relentless fragmentation of ownership of interests in Maori land – particularly the consequent locking-up of would-be productive farmland. More generally, he and his ministry believed that the pace of urban migration meant that it was now timely 'to prevent further dissipation of [Maori] material resources'; Maori should be able to build upon, rather than lose, those assets they still retained. In doing so, they would both better integrate into pakeha society and contribute to the general prosperity of the nation.<sup>6</sup>

Maori welcomed the proposed review as being, among other things, one way by which they might be able to further pursue both rangatiratanga and socio-economic betterment. On the surface, the prospects of the Crown acceding to autonomist aspirations at this time were far from likely. Elements within the bureaucracy and polity, for example, had even expressed disquiet at the government's endorsement of the regional groupings coordinating the tribal committee system. In the eyes of many left-leaning or liberal-minded pakeha, moreover, use of any remotely 'separatist' terminology was anathema, resonant of South Africa or the southern United States. Even those who empathised with the Maori aspiration for self-determination generally placed it well behind the goal of socio-economic advancement. For them, the material benefits brought by urban migration and the loosening of tribal identities considerably outweighed, in the final analysis, any cultural or governance difficulties Maori might face – let alone any aspirations they might harbour to effect rangatiratanga. Few pakeha observers, in fact,



believed that greater political autonomy was compatible with significant socio-economic progress, given the extent to which (in their eyes) the latter implied integration into the world of the pakeha. The best that could be achieved was for 'remnants of Maori culture to be perpetuated' in the process of Maori procurement of full equality before the law and socio-economic parity with white New Zealand.

In the context of this pakeha-led discourse, on 18 January 1960 Nash appointed a senior public servant (Deputy Chairman of the Public Service Commission), Jack Kent Hunn, to head the DMA as Acting Secretary and Maori Trustee for a fixed period. He was tasked with both carrying out the stocktake and injecting an increased vigour and sensitivity into the DMA. On the basis of his findings on the state of Maoridom, Hunn's review was to recommend any structural and policy changes which might assist both departmental operations and the state's immediate, medium-term and ultimate goals for Maori. In other words, what was publicly billed as essentially a stocktaking exercise was designed to have an instrumental result – not just better use of 'Maori assets' but, relatedly, better policies to rapidly implement the socio-economic advancement of the Maori people. As with most liberally minded pakeha of their era, Labour politicians and the top DMA and other officials saw these improvements as coming about principally through implementation of the assimilationist vision.

Hunn's formal terms of reference, then, essentially relating to 'an accounting of Maori assets', masked the broad-based nature of the review of the position of Maori in society which he set at once in place, and from which he aimed to formulate recommendations for future policy. Nine interdepartmental research teams conducted the enquiry, travelling and consulting widely. In an exhausting and remarkable few months, the investigators examined, collated and probed a huge range of statistical, policy and operational matters relevant to Maori. Hunn coordinated the findings and developed the recommendations. 'The Hunn Report', completed in August 1960, would become one of the most famous documents of Crown–Maori interaction in New Zealand history. Surveying trends in population, land settlement and titles, housing, education, employment, health, legal differentiation, crime and other matters, its findings, commentaries and conclusions were thoughtful and comprehensive. They made clear that Maori continued to lag far behind pakeha in all socio-economic indicators, and remained an essentially marginalised people.

The report was, implicitly, an indictment of post-war governments' implementation of the Maori policies originally set in place by Labour

in the 1930s. More positively, it constituted a manifesto of proactive measures for assisting Maori to acquire parity with pakeha, something seen to be a matter of urgency if New Zealand's much vaunted race harmony was not to be jeopardised – and if Maori were to contribute their full potential to the national good. With an election looming in November, the Prime Minister 'sat on' the report. His official reason for delaying its release was that he did not have sufficient time to study it. If that were true, given that he was a man of prodigious report-reading capacity, it would say a great deal about the Labour leadership's priorities. But the major reason for non-release of the Hunn report in election year was to avoid publicly highlighting (in pakeha eyes) 'the Maori problem' and (in Maori eyes) the government's inability or unwillingness to seriously address indigenous marginalisation. In his delaying tactics, Nash may have been motivated by more than just electioneering. Labour knew that it was in trouble with the electorate, and Nash later said that he suppressed the report in order to deny National the chance to use its statistics as anti-Maori ammunition in the heat of an election campaign – thereby possibly preventing an incoming conservative government inheriting unfortunate policies conceived in haste.

The Hunn report has been demonised in recent years, but generally for anachronistic reasons. Critics have tended to condemn its lack of interest in Maori autonomy. It is unrealistic, however, to expect official analyses and recommendations made in 1960 to have encompassed rangatiratanga. Any such review would naturally fall within the constrained parameters of the received wisdom of officials and politicians concerned, for whatever reasons, to improve the socio-economic lot of Maori. Hunn told his working parties that the stocktake should not question the thrust of the Crown's socio-economic intentions with regard to Maori: 'The main purpose is not to examine *what* we are doing for the Maori people but to ascertain the *rate* or *tempo* at which it is being done in relation to the dynamic growth of the Maori population.' Social, educational and economic advancement was the urgent and overriding priority expressed within the report.

Maori, of course, did aspire to parity with pakeha social, educational and (especially) economic standards. But the Hunn report, a product of Crown assumptions and priorities, did not reflect their oft expressed aspirations for Crown recognition of rangatiratanga. In urging, instead, a speeding up of official programmes, it sought to provide both the solution to Maori social and economic problems and to 'the Maori problem' perceived by the state. Its recommendations aimed to hasten



the assumed natural evolutionary path towards the 'integrationist' version of assimilation and (ultimately) the 'distant end-result' of 'final blending'. Efforts to accommodate ways of 'seeing and doing' that were different from those of Anglocentric culture were not on any state agenda.<sup>7</sup>

On 17 January 1961, soon after Labour lost the election, the Hunn report was released to the public by the new Minister of Maori Affairs, J R Hanan, the third-ranking minister in Cabinet. There was, no doubt, a political element to its publication. The National government could extract mileage from the fact that an official enquiry had implicitly indicted Labour ministers for failing to adequately address the needs of one of their own most stalwart sectors of support. National held out hope that it could use this as a lever to gain some increase in the scant backing it received from Maori rank and file. However, the views of Hanan and like-minded colleagues on Maori policy differed little from those of Labour politicians and 'progressive' officials. All reflected, to a greater or lesser degree, the broad post-war consensus which had been emerging on the need for both Maori socio-economic progress as a fast-track towards assimilation. Moreover, such beliefs formed part of a liberal package on issues such as race-based discrimination and the virtues of equality of opportunity. When Hanan and other liberal minded pakeha read the Hunn report, they saw their own views presented in a forthright and systematic fashion. When he took on ministerial responsibility for Maori Affairs, the new minister (in Hunn's testimony) 'soon became devoted to the Maori cause'.

For the first time, then, an official analysis had comprehensively taken into account the various post-1945 developments both among Maori and in society in general, and drawn policy conclusions within a broad context of 'enlightened' national and international thought. Hanan depicted the Hunn report as having 'a fundamental bearing on the well-being of the Maori people, the well-being of New Zealanders as a whole, and on race relations in New Zealand'. He viewed the report's recommendations as a general blueprint for indigenous policy in New Zealand, and told Hunn even before its public release that it 'was to be Government policy in its entirety'. On 2 February 1961, Hunn was confirmed as permanent head of the Department of Maori Affairs and placed in charge of overseeing the new policy directions.

In one sense, both Hunn's recommendations and the government's decision to adopt the main thrust of these as policy were bold steps. In addition to proposing measures which could be effected fairly rapidly,