

Reviews

The Treaty of Waitangi. By Claudia Orange. Allen & Unwin/Port Nicholson Press, Wellington, 1987. 312pp. Maps, bibliography. NZ price: \$49.95 hardback, \$29.95 paperback.

THE CESSION at Waitangi is quite unique among treaties making over territories to the Crown, because of the construction put upon its terms. Without it, New Zealand might well have become a colony by settlement and, almost certainly, by conquest. Unlike the Australian Aborigines, it was agreed that Maori tribes possessed, in James Stephen's phrase, a 'national character' and negotiable sovereignty. Amerindian lands were taken or ceded for annuities. African annexations by cession were pretty limited, compared with colonial protectorates. Most of their inhabitants have preferred to forget loss of independence by treaty. But in New Zealand the instrument of British imperial expansion became a charter of Maori rights and a national icon.

It is in no small measure due to historians and to the Maori people themselves that the Treaty has been kept alive and revived as a covenant to be honoured in the 1980s. The fate of the original signed versions reflects the decline in importance attached to the document – widely distributed at first in unreconciled copies and translations; nearly destroyed by fire; damaged by indifferent preservation, until rescued for public ceremonial from 1940. Ever since it was first ratified by gazetting, the politics of control over assets have made the Treaty contentious, sometimes denigrated, sometimes extolled, often wrongly compared with Magna Carta, which other historians have also had to exhume from the overburden of the past.

Dr Orange has undertaken to set the record straight on the origins and centrality of the Treaty in New Zealand's history in two ways: first, by an exegesis of its terms; and, second, by explaining the context in which those terms have been used by both Maori and Pakeha from the period of annexation to the present day. The result is a scholarly and critical summation of previous writings on the Treaty, containing much of the essential background to our understanding of the ways in which Maori prosecution of the case, based on Waitangi, has evolved institutionally and constitutionally.

Inevitably, perhaps, in a book which covers about 180 years of Maori and Pakeha history, some of the discussion has been curtailed. The pressing reasons for a cession by treaty towards the end of the 1830s, in addition to international law, the humanitarian lobby, and company colonization, must include Colonial Office rejection of other options such as partial annexation and a vague protectorate or control through a charter which was not favoured by Lord Glenelg. It was, therefore, not merely 'wise' to secure Maori assent to New Zealand's change of status (p.32): the Treasury required such a cession (and avoidance of a Parliamentary debate) after the extension of New South Wales boundaries

to bring the colony under an administration funded by revenue from trade and from the Crown's right of pre-emption. The Treaty was needed, it is true, to protect the Maori by the unusual method of making them British subjects; and it was required to protect and restrain settlers under the civil government, which was the principal objective of Lord Normanby's instructions, to be paid for by a state market in 'unsettled lands'. Politically, the Treaty was a device to satisfy, not 'savages', but Law Officers and parliamentarians.

Thus, there are contradictions in its aims from the beginning. Dr Orange has no difficulty in illustrating, by skilful analysis of the drafts, the transliterations of the key terms and phrases, the ceremonial signing, that Hobson, Busby, Henry Williams, and their subordinates were hastily expedient and economical with explanations about the implications of the articles, however painstaking they were in collecting supplementary signatures. Maori suspicions about the contents of the 'governor's book' are equally well explored as challenges to administrative application of pre-emption and settler laws hardened into assertion of rights in the Waitara episode and a measure of unified opposition through the King movement. Undoubtedly, the 1840s and 1850s were full of lost opportunities; and such an expression of separate identity under a Maori king, Dr Orange contends, 'could possibly have been accommodated' into an association with government (p.144), though it is not explained how this might have operated to exercise authority over the undefined Maori districts allowed in the 1852 constitution. Until the warfare of the 1860s, the Treaty remained, however, the accepted basis of Maori-Crown relations, but was in dispute as the basis of Maori-Pakeha administration, in which it could be redefined by local legislation without a new debate on its terms. Indeed, the drift into war can be seen as an alternative to constitutional debate, when Maori knowledge of the Treaty had evidently progressed by the time of the Kohimarama assembly in 1860. Local politicians, assisted by a devious governor, simply side-stepped the contentious issues such a debate would have raised; and, by defining resistance as rebellion, ministers could deploy one interpretation of the Treaty to justify confiscation, which the Crown did not disallow. After 1870, as Dr Orange makes clear, the Treaty was irrelevant to settler society, as domestic legislation eroded guaranteed rights and sought amalgamation of Maori subjects; and redress sought from the Crown was bound to fail, however uncomfortable the publicity for the Colony.

The foundation of later Maori success in obtaining redress is traced to the Kotahitanga movement and, paradoxically, to the separatism practised through periodic conferences, committees, and the abortive experiments with parliaments. It has not been easy to convey the full extent of social and economic change as a background to this period of the late 1880s and 1890s, when doggedness in local self-government, financed by partial entry into the rural and urban cash economy, and the leadership of a small educated élite, kept Treaty terms under review. Only one chapter covers the long period from 1890 to 1987 and suffers, I think, from compression, because treatment of institutional opportunities for redress is summary and omits discussion of the political and institutional results of Maori welfare legislation for mobilization of opinion and action on more fundamental grievances. Ironically, Pakeha gestures towards the unity of the nation, through incorporation of the Waitangi site as a symbol of cultural identity, and the enactment of Waitangi Day only served to emphasize differences of interpretation about the significance of the Treaty. It is clear, too, from Dr Orange's own research that experience in self-help through the War Effort Organisation and in central government taught increasingly urbanized Maori how to work through the Labour Party and the civil service. The Maori Council, which became a focal point for much of this effort, is not well covered, and its detailed work on infringement of Maori rights under the Treaty, particularly from 1979, may have been more important than the protests surrounding Waitangi Day. The ground for the Waitangi Tribunal of 1975 and the strengthened version of 1985 was well prepared by

Maori spade work in preparation and submission of cases with far-reaching constitutional and political implications.

Pakeha acceptance of this development and incorporation of the Treaty by legal revision, based on historical analysis, into domestic law is, of course, the result of a political act and yet another interpretation of the 'spirit of the Treaty' through primacy of the Maori text. New Zealanders might do well to recall that, in Normanby's instruction to Hobson, protection of both settlers and Maori under the law was sought; and they may yet regret that so little consideration has been given to a Bill of Rights embodying the 'Waitangi spirit' for society as a whole. If such a movement develops, this well-researched and lucid study will be an indispensable guide to what that spirit has been, how it has been abused, and what it may yet become in a new covenant for two cultures in a single nation.

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Ngaa Mōrehu: The Survivors. By Judith Binney and Gillian Chaplin. Oxford University Press, Auckland, 1986. 218pp., illus. NZ price: \$38.50.

NGAA MŌREHU: The Survivors, by Judith Binney and Gillian Chaplin, is a series of poignant glimpses into the lives of eight Maori women, linked by their common association with the Ringatū faith. In some ways the collection is adventitious, arising as it does from Binney and Chaplin's journeys in search of information about Te Kooti, the founder of Ringatū, and Rua Keenana, whom some consider to be his anointed successor. But I doubt if the women would see it that way, for they all share an experience of the world in which things to do with Te Kooti and Rua do not happen by accident. Their narratives about their lives take the powers of tapu completely for granted, whether in dreams or in god-granted gifts of prophecy and healing, the existence of guardians which appear as owls, rainbows, or sparrow-hawks, in cursing, or in signs and omens that shape the course of history. At the same time, most of the women have had close contacts with Christianity, either through local missionaries or at church schools, and the contradictions involved have had to be settled within their families in struggles which were on occasion momentous. As Maaka Jones recalls of her grandfather, Te Kohi Delamare: 'You see, he had that Maori mana, and he had become a Christian, and he knew that he couldn't carry both. He had to get rid of that Maori mana, Maori maakutu. What you'd call exorcism. . . . So they warned him! And his daughter, the eldest of the family, Polly, she nearly lost her life because of that, while he was in the course of doing it. . .' (p.83).

Contacts with Europeans are a common theme in the accounts, and almost all of the women tell of close relationships with particular Pakeha, as teachers, husbands, or relatives: yet, perhaps because the Europeans involved had freely chosen to enter Maori communities, they were evidently not seen as a source of conflict or further contradiction. This is well captured by Heni Sunderland, in speaking of her grandmother who taught the children European fairy-tales in Maori, and her grandfather, descended from an early settler, who had 'all the niceties of English people' (p.114); by Heni Brown (p.49); and by Putiputi Onekawa, when she said of her wedding day: 'Mr Laughton and all my Pakehas were there, that loves me when I was running away' (p.164).

The warmth of these recollections helps to explain the easy confidence established between the researchers and the women they talked with, and it makes one wonder how well Europeans might fare in the reminiscences of a parallel sample of younger, urban-