

demonised but more frequently ignored' (p.97). Head proposes a broader consideration of Maori motivation, particularly their willingness to engage in the possibilities, as they saw them, of 'citizenship' and especially the material, administrative and intellectual benefits (economic/technological, governance, literacy, Christianity).

This is thoughtful analysis, but hardly revisionist. If anything it is quite retro, certainly to the times before Treaty syndrome in the 1980s. If she said then what she is saying now, nobody would have taken exception. And indeed her ideas are also very reminiscent of some nineteenth-century interpretations of Maori strategy, for example John Gorst's interpretation of the King Movement as an attempt at engagement with Pakeha systems rather than a rejection of them. What makes Head's article significant, and I think it is a very significant contribution, is perhaps less any novelty in her views and more in the fact that it is cause for us to reflect upon the extent to which New Zealand's historical paradigms have changed so much in the past 20 years.

I have perhaps unfairly selected only three articles for comment, but they are the standout ones for me. Other contributions from Andrew Sharp, J.G.A. Pocock, Angela Ballara, Judith Binney, Mark Francis and P.G. McHugh all make useful contributions, making this, collectively, a most stimulating publication.

I notice some editorial sloppiness. Oliver has the *New Zealand Journal of History* wrongly starting in 1972, and Angela Ballara refers to the *Journal of Pacific Studies* when in fact it should be *Journal of the Polynesian Society* (n.40).

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Waitangi and Indigenous Rights: Revolution, Law and Legitimation. By F.M. Brookfield. Auckland University Press, Auckland, 2000. 253 pp. NZ price: \$39.95. ISBN 1-86940-184-0.

AS DAVID BARAGWANATH STATES in the foreword: 'This is a timely book', no less so if this review is a little late. The book offers some expert and in-depth analysis into the very heart of what most people simply (often unquestioningly) assume is the legitimacy of our democratic constitution. Internationally the West is crusading for democracy as actively (and brutally) as it ever has, and issues of national self-determination are a major focus of international attention.

This work is so timely and contains such a wealth of legal knowledge and solid thought that a review of a few hundred words hardly does it justice. It is a highly detailed book, richly flavoured with case law and underpinned by an expert understanding of the legal process. Every page or two provokes such thought that reading it is slow going, though rewardingly so. The first part builds the concepts of revolution and legitimacy, and the second applies them to the experience of New Zealand.

This book works from a definition of revolution that is broad, in fact, probably too broad, embracing peaceable and gradual change. While interesting, the definition teases the reader a little — what, for example, becomes of the great, distinctive, sudden and violent revolutions of 1789 or 1917? If all but the absolute preservation of the status quo is revolution, does the word not begin to lose its meaning?

It is an unfortunate sounding example, but I have always thought Hitler's rise to power was a revolution in Germany, yet no one calls it such and Hitler himself, after the Munich Putsch of 1923, deliberately sought a constitutional path to power. Does this not bring us right to the issue? Brookfield may be right, the assumption of British sovereignty in 1840 may well have been more than Maori conceded in the Treaty and this is a useful field of debate in itself. Brookfield argues that the pre-1840 constitution (based on hapu/

iwi custom) was usurped by a new 'revolutionary' constitution brought by the British. But what if the Treaty was a starting point, and what authority the British assumed beyond 1840 was assisted by Maori co-operation, more than resisted by Maori opposed to change? Government and Maori spent vastly more time at peace than in conflict between 1840 and the end of the nineteenth century. One of the principles of the Treaty as defined by the courts in 1987, acknowledged the need or right to develop, so that Maori were not frozen in their situation as at 6 February 1840, and nor was the relationship between government and Maori.

Valuable in this work is the relationship shown between revolutionary change, or rebellious change, and legitimacy. Legitimacy is an assumption that 'this is how it all ought to be', reinforced by the appearance of justice being administered by neutral courts. The courts are, however, a fundamental component of the state and therefore of the regime in power. As Brookfield notes, 'it is clear that as long as the courts . . . exist, they will uphold the legal order of which they are part', be that old or new. Though, says Brookfield, the old courts may, and indeed have, validated new regimes brought about by revolution. Southern African jurisdictions are quoted in support of this contention, where it has been determined by the courts that new revolutionary governments are 'lawful' where they have been successfully established, effective and uncontested.

The cynic may look upon this from quite another perspective — as purely legal window-dressing; the courts had no choice but to acknowledge these regimes. It is the regime that legitimates the courts, not the other way around. After all, when the Russian Constitutional Court declared Yeltsin's abolition of Parliament illegal in 1993, Yeltsin simply abolished the court! A realist may argue, therefore, that there is nothing new under the sun, or in this book. Revolution is about who makes the law — not about who administers it. The courts reflect the legitimacy conferred by the actual power of the state.

That is not to say the change in New Zealand was not fundamental; the modern constitutional basis of power is a *revolution* in terms of its sheer size and difference from what preceded it, and this book captures the essence of that enormous change. However, if the Treaty is a founding document, it does not make a revolution if something is built on it that looks quite different 150 years later; what nation has not changed fundamentally over that time? This book seriously explores the nature of constitutional change and political development in New Zealand, and revolution or not, it is a superb contribution to the cause of understanding it.

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Boundary Markers: Land Surveying and the Colonisation of New Zealand. By Giselle Byrnes. Bridget Williams Books, Wellington, 2001. 158 pp. NZ price: \$39.95. ISBN 1-877242-90-X.

IN THOMAS PYNCHON'S 1997 NOVEL *Mason & Dixon*, about the two British surveyors who marked the boundary between Pennsylvania and Maryland in the eighteenth century, surveying is depicted as an emerging Enlightenment enterprise: as Dixon reminds Mason, 'tis the Age of Reason . . . we're Men of Science'.¹ In Giselle Byrnes's book *Boundary Markers* the work of surveyors in New Zealand is recovered as part of the nineteenth-century colonial project. Using the work of influential writers like Paul Carter (also interested in Enlightenment knowledges) Byrnes shows how surveyors in the nineteenth century transformed 'space' into 'place' (p.5).