

particular time and place. The artist we know as Hodges Tuhituhi experienced a disturbing but entrancing double-sided vision when he sailed with Cook through the Pacific. For Simmons his artistic vision continues to speak to us because he experienced for a time something that is familiar in Oceanic countries like Aotearoa New Zealand. Hodges's work 'is a hybrid, a tense synthesis' (p.153) standing between European traditions and new artistic visions resulting from the encounter with other worlds brought about by exploration and colonisation. His gift was to visualise that different world without asserting a coloniser's claim to possess it permanently. And so, the book returns to McCahon who felt he was a part of Aotearoa 'but not of it'; he did not quite 'feel at home' (p.294). He sensed the psychological splitting in the coloniser's consciousness. They did not fully belong to the *whenua* (land/placenta). They did not recognise the place of the people of the land. For Simmons the vision of the artist is a gift that creates relationships between giver and receiver through the generations: the spirit of Hodges's gift is felt in McCahon's own waterfalls. Their vision is of an Aotearoa where the descendants of European settlers — the Pākehā — while belonging to that place also accept a sense of difference, that haunting sense of not quite being at home, because it remains someone else's. For Simmons this is the gift in Tuhituhi's works that still speaks to us.

After the second voyage Cook gave his wife, Elizabeth, a piece of Tahitian *tapa* cloth. She cut it into the shape of a waistcoat as a gift for him on his return from his third Pacific voyage. He never came home. The gift was never finished. For Elizabeth it became a treasured link to her late husband. Through that small gesture of love and remembrance she created a 'hybrid garment'; one that connected her own world with the Pacific and all those other explorers of the familiar and the strange; not only Hodges but also Mai, the Society Islander whom Tuhituhi painted on his visit to England. Like us today, standing upside down in Aotearoa, they all explored 'the intricacies of cross-cultural encounter' (p.120).

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Lords of the Land: Indigenous Property Rights and the Jurisprudence of Empire. By Mark Hickford. Oxford University Press, Oxford, 2011. 552pp. NZ price: \$129. ISBN: 978 0 19 956865 9.

MARK HICKFORD'S *Lords of the Land* explicates the concept of 'native title' as a variegated construct, contested by the British Empire and Māori throughout the early-to-mid-nineteenth century. The contest was over not just property rights but also the control of space or territory in the New Zealand colony following the 1840 Treaty. This oft-debated construct thus represented an on-ongoing negotiation over political authority and autonomy, a negotiation that perhaps reached its climax in both pamphlet and physical wars over the Waitara.

Hickford reprises the basic Waitara narrative in his penultimate chapter, but his concern is really with the intra-Anglo legal-political debates. He does, though, have some elegant reflections on Wiremu Kingi's lordly pronouncements, while suggesting (somewhat provocatively?) that Te Teira was the real political innovator in this milieu. This suggestion reflects Hickford's stress, throughout the book, on the nature of native title as political and cultural rather than legal, in fact more about *realpolitik*. His is a 'legal history' which downplays the significance of definitions emerging from colonial case law, preferring to draw on a much broader and richer narrative of 'political constitutionalism'.

While the subject of the book is British imperial history or, rather, a slice of the legal-political history of one of the British world's nineteenth-century colonies, the modality

of the book is intellectual history. The book is replete with references to Hickford's intellectual exemplars such as J.G.A. Pocock, John Burrows and Stefan Collini, while also sharing insights from the latest secondary literature in intellectual and British imperial history, including from relative newcomers Zoe Laidlaw and Lisa Ford.

Intellectual history is a modality concerned with close textual analysis of written sources — in this case, both the public and private epistles and memoranda of public men, many of which Hickford has studied in British archives. In *Lords of the Land*, this methodology carries an argument about the right way to interrogate and understand the British imperial past and, in particular, the New Zealand colonial narrative of the late 1830s to the early 1860s. As a clue to the book's central argument and even its underlying purpose, the intellectual mode stands for the proposition that British imperial history was dynamic, contingent and variegated; that what may now seem like an inevitable stream of events and policies, in which Māori populace and polity became subjugated by and subsumed within a fledgling British colony or *imperium*, was in fact not inevitable. In a telling, and perhaps insightful, turn of phrase, Hickford says: 'Our beginnings never know our endings ... these failures [the Native Council Bill 1860 and others] remain important. They allow the recovery of otherwise lost pathways.' By subjecting to close scrutiny all the variations and positions in policy debates and choices, it is possible to apprehend 'alternative possible worlds': how things might have been if, for example, a parliamentary majority in either the imperial centre or its periphery had decided to vote one way instead of another on a contested issue ('contested' is, appropriately, one of the author's favourite words).

As the book's detail is traversed, it is possible to pick out a few discrete swipes at some current historical and legal orthodoxies. These emerge from the book's central narrative, or rather, textual analysis, but their appearance means the author is aware of his New Zealand audience, as much as the Oxbridge audience obviously intended by the publisher (with the author himself being an Oxford DPhil). Hickford comments that native title as it is currently understood by many Commonwealth lawyers (including the pre-Pocockian Paul McHugh) is emphatically not the native title of the early-to-mid-nineteenth century. Critically, in the legal-political world of Chief Justice Martin and his contemporaries, native customary law (or 'customs' and 'usages') was most often seen as incommensurate or incompatible with English legal forms and hence a court of inherent jurisdiction (such as the old 'Supreme' or High Court of the nineteenth century) would confront a justiciability issue — whether it was competent legally to pronounce on an issue of Māori customary law. (This point could be interpreted as a polite poke at some of the New Zealand Court of Appeal's reasoning in the landmark *Ngati Apa* judgment of 2003, namely, that the English common law introduced into New Zealand at 1840 comprehended or was modified by local custom or Maori customary law.)

Hickford argues that because Māori customary tenure was not immediately readable in English property terms, the colonial-imperial polity in New Zealand had to devise political or legislative means to overcome this translation problem. Early attempts included the resident magistrates, followed closely by the Native Land Court. And Hickford is at pains to explore the many other variants proposed as 'experiment[s] in legal design or architecture', such as the Native Council Bill 1860, which made it through the House of Lords but was withdrawn in the Commons.

In a similar vein, Hickford contends for micro-histories which would show, he suggests, how Māori autonomy was lost at different times and in different ways in particular localities (it is not enough to explain loss of Māori autonomy as a single nationwide process resulting from population parity or swamping by the British settler population). He takes a side-swipe, too, at James Belich's 'myths of empire' meta-narrative, arguing that to talk about 'myths of empire' is to 'obscure rich debates within the histories of colonization'. Instead Hickford prefers an interpretation that sees the British Empire of

the eighteenth and nineteenth centuries as an ‘empire of variations’ and not an ‘empire of uniformity’ (to use James Tully’s phraseology).

Beyond his argument for a textually focussed and multi-layered intellectual history of Britain’s New Zealand ‘empire’, Hickford’s enthusiasm for his subject-matter shines through. The density of the analysis will not appeal to some readers, but arguably reflects the subject-matter that Hickford is seeking to explicate — to the extent that it sometimes feels the book itself is written in a nineteenth-century literary style! Some curious little metaphors seem to be of Hickford’s authorship — as when he compares Māori to so many Alfreds looking askance at the rapidly increasing Danish settlements! But what looks like a flight of imagination in fact mimics historical tropes or analogies employed by his nineteenth-century ‘public moralists’ (to borrow a phrase from Stefan Collini).

Lords of the Land is an ambitious attempt to analyse most of the key legal-constitutional debates of New Zealand’s first 25–30 years. From waste lands to Waitara, to the electoral franchise contortions — Hickford’s fine-grained analysis adds richness, depth and nuance to these debates by showing how the Anglo protagonists drew on distinct intellectual sources and vocabularies. Worthy of note, although in a somewhat circumstantial and peripheral fashion, is the fact that the author is both an academic legal historian (as this book attests!) and a practising lawyer, who has advised the New Zealand government on twenty-first-century ‘native title’ policy debates. Dr Hickford is acutely aware of the continuity between the past and present life of native title. As he says in commencing his conclusion: ‘Indigenous property rights in empire were made and are in the making still.’ It seems Aotearoa New Zealand’s ‘political constitution’ is still very much alive.

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Piano Forte: Stories and Soundscapes from Colonial New Zealand. By Kirstine Moffat. Otago University Press, Dunedin, 2012. 275pp. NZ price: \$45.00. ISBN: 978 1 877372 79 7.

AS KIRSTINE MOFFAT POINTS OUT in her preface, Jane Campion’s well-known film *The Piano* (1993) haunts her historical study. The film’s image of a grand piano deserted on a beach is ‘both a powerful symbol of the incongruity of the piano in this context, its status as an “alien” intruder, and a moving testimony to the personal and cultural value of the instrument that accompanied the owner to the far side of the world’ (p.9). These words not only sent me off to re-view the film, but wonderfully frame Moffat’s detailed exploration of the piano within colonial New Zealand, and how its presence contributed to the development of a distinctive aural culture that was linked to but differed from the ‘old world’ of Britain.

This history begins in 1827, with the arrival of the first piano — a Broadwood grand square — in New Zealand. This instrument had been made in England and imported to Sydney, where it was purchased by the parents of bride Elizabeth Mair, who took it to Paihia when she commenced married life. Over the next century, countless pianos became central to the leisure of settler New Zealanders. By the 1930s, however, the growing popularity of the new technologies of phonograph records, the radio and the ‘talking’ movies had displaced its cultural pre-eminence.

Moffat examines this golden age of the piano through a comprehensive reading of memoirs and personal papers, novels, musical compositions, visual depictions and instruments — for there are many older pianos still in existence. Such extensive archival research establishes, without question, the significance of the piano, and the book’s eight thematic chapters draw this out. This is a history that builds up its evidence and punch