THE TREATY OF WAITANGI TODAY

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Paper delivered for CCE
University of Waikato
Hamilton 23.7.87
Gisborne 30.7.87

INTRODUCTION

The Treaty of Waitangi is a document of three simple clauses which provided the charter for the establishment of a nation-state in New Zealand on the basis of a co-equal partnership between Maori and Pakeha. Under the first clause in the Treaty, the chiefs conceded the right of kawanatanga (governance) over their lands to the British Crown. This gave the Crown the right to establish the necessary state machinery of a central administration, judiciary and enforcement agencies to control British nationals already settled in New Zealand and to bring peace between warring tribes.

Under the second clause of the Treaty, the Crown recognised the rangatiratanga (chieftainship) of the Maori people over their lands, homes and treasured possessions. Rangatiratanga implies mana (power, authority, sovereignty), the two are inseparable, and so the chiefs in no way surrendered their sovereignty under the Treaty. It would seem that in translating the Treaty, Busby and Williams substituted the word kawanatanga for mana because they knew that no chiefs would have signed the Treaty had the word mana appeared in the first clause. As Ross (1972:19-20) has so clearly demonstrated, the word kawanatanga is a missionary transliteration of governor. Since there was no governor as a referent or model by which the chiefs would have understood the term, it is likely they construed it to have a benign meaning especially since kawanatanga was used in missionary prayers for example: "That all our doings be ordered by thy governance." In view of this analysis, the concession of kawanatanga to the Crown and the recognition of rangatiratanga over land we can make sense of the statement by Nopera Panakareao when he signed the Treaty at Kaitaia that

> "The shadow of the land goes to Queen Victoria but the substance remains to us" (Adams 1977:235).

The third clause of the Treaty simply conferred on the Maori the rights and privileges of British citizenship. Although these

rights were subsequently suspended during the Land Wars, the third clause is relatively uncontroversial and so the rest of the paper will concentrate on the conflict between Maori and Pakeha that arose out of the differing interpretations of the first two clauses.

The English version of the first clause of the Treaty translates kawanatanga as sovereignty. This cunning translation is the shaky foundation on which the Crown rests its claim to sovereignty over New Zealand and the Maori people. The Treaty was a morally dubious transaction and subsequent acts of the Crown were calculated to make good its claim.

In the first instance, the major portion in the centre of the North Island was effectively outside the Treaty because the paramount chiefs Te Wherowhero of the Tainui confederation of tribes and Te Heuheu of the Arawa confederation were non-signatories. The beach-heads of British sovereignty were confined to the Bay of Islands, Auckland and the New Zealand Company settlements at New Plymouth, Nelson and Port Nicholson (see appendix of Maori land-holding in 1860).

During Governor Grey's first term of office, he instituted a massive land-buying policy designed to "extinguish native title by fair purchase." But as the settlers flooded in to take up the land, the chiefs perceived the danger of being outnumbered in their own country. They responded by organising intertribal meetings to discuss kotahitanga (unification). These meetings culminated in the election of a Maori King in 1858 as the expression of mana Maori motuhake (national Maori sovereignty). The chiefs envisaged a conjoint administration as provided for under the Treaty and Section 71 of the New Zealand Constitution Act 1852. The King was to preside over Maori land while the Governor ruled over Crown land. But this was not to be. The Governor triggered off a land war in Taranaki. The War was extended into Waikato and the Bay of Plenty and the New Zealand Settlements Act 1863 passed to expropriate Maori land.

In the penultimate battle of the Land Wars General Cameron was defeated at Gate Pa. Taking land by conquest to extend Pakeha hegemony into native districts was not a viable option and so after a minor battle at Te Ranga peace was made. The war cost 3 million pounds, and many lives for the paltry return of three million acres of land. At the end of the Land Wars the Crown held 10 million acres of land while the tribes still held 16 million acres in the North Island. A more efficient method of expropriating the remainder was devised in the creation of the Native Land Court in 1867. The Court functioned to transform tribal title into individual title cognisable under English law. But initially the Court was obliged to put only ten names on a court award to a block of native land. These ten were treated as individual owners with power to alienate. They were readily suborned into alienating the land by shyster lawyers, land sharks and unscrupulous government land agents. By the turn of the century less than five million acres of land remained in Maori ownership. As Sinclair (1959:144) whimsically observed, the Pakeha's peace proved to be more devastating than his wars.

STATUTORY CONTRADITION OF THE TREATY

The contradiction of clauses 1 and 2 of the Treaty by the invasion of Maori lands was matched by a series of statutory provisions some of which are cited here to illustrate their range and the time frame in which they were implemented.

1. The 1841 Land Claims Ordinance which declared land not actually occupied by Maoris as "wasteland" and deemed to be property of the Crown.
2. The New Zealand Constitution Act 1852 which based the right to vote on a small amount of property held in individual ownership. Communally owned land did not qualify thereby denying the Maori the right to vote.
3. The Suppression of Rebellion Act 1863 which suspended the right to habeas corpus for those deemed to be in rebellion.
4. The New Zealand Settlements Act 1863 for the confiscation of land belonging to tribes which were deemed to be rebels.
5. The Native Reserves Act 1864 which placed all reserved native lands under Pakeha control (land commissioners, the Public Trustee and latterly the Maori Trustee). These lands were leased to Pakeha settlers on a long-term basis at minimal rentals.

6. The Native Land Act 1865 which established the Native Land Court to transform tribal land into individual ownership thereby facilitating its alienation.
7. The Maori Representation Act 1867 which established the four Maori seats when on a population basis they were entitled to twenty seats in a House of seventy members.
8. The Native Land Act 1887 which allowed for the alienation of land designated as reserves.

Unwarranted invasion and confiscation of land and statutory betrayal of the Treaty drove four Maori deputations to seek redress in England. The chief Parore in 1882, King Tawhiao in 1884 and King Te Rata in 1914 sought a Royal Commission of inquiry into Maori grievances. They met bureaucratic obstruction and obfuscation. Ratana's deputation in 1924 met the same fate. Ratana's petition in 1930 to ratify the Treaty was fobbed off by the Parliament's resolution to "publish the Treaty" and hang it in the schools of the nation as a "sacred affirmation".

TESTING THE TREATY BEFORE THE COURTS

The power of the Treaty to protect Maori rights was tested in the courts of the land. A selection of some of the key judgements serve to indicate the cavalier way in which the Treaty has been handled by the Courts.

In the case of the Crown v. Symond 1847 (NZ PCC:387), the Supreme Court ruled the Treaty of Waitangi as having no relevance. The only valid title to land must emanate from a Crown grant. This ruling was an absolute negation of Clause 2 of the Treaty.

The most telling blow against the Treaty of Waitangi as a protection of Maori rights was delivered by Justice Prendergast in the case of Wi Parata v. The Bishop of Wellington in 1877. Judge Prendergast declared the Treaty to be "a simple nullity". The Crown's right to sovereignty in New Zealand was based on discovery and priority of occupation, as the territory was inhabited in the Judge's opinion "only by savages" (3 NZ Jur (NS) SC 72).

In the case of Tamihana Korokai v. Solicitor General (1913, 32 NZLR:321) concerning the ownership of the bed of Lake Rotorua under the Treaty of Waitangi, the court of Appeal ruled that it was up to the Native Land Court to determine whether the Maoris were owners of the lake bed according to native custom. World War I intervened and the case was suspended until 1920. When

the case was resumed, the Crown avoided possible embarrassment and the setting of a successful precedent based on the Treaty by negotiating a compromise. The result was the Arawa Lakes Agreement 1922 by which the fee simple of the lake was vested in the Crown in exchange for 40 fishing licenses to the Arawa tribes and an annuity of $6,000 to the Arawa Trust Board.

Further blows to the mana of the Treaty were struck in a major judgement delivered by Judge C. Myers (NZLR 1939:120). He declared that the Treaty could be enforceable only as part of municipal law and no legislative authority had been granted to the Treaty. Similarly, Viscount Simon in the Privy Council ruled that rights conferred by the Treaty could be enforced in the Courts only if they had been incorporated into municipal law.

Despite these adverse judgements on the Treaty, Maori people continued the struggle for recognition of their treaty rights up to the present time. In the 1960s two celebrated cases concerning Maori fishery and riparian rights were taken to the Court of Appeal.

In the Maori claim to the bed of the Wanganui River (NZLR 1962: 600), the Court ruled that the ownership of the bed of the river was vested in those who had Court orders of ownership in the banks. Similarly in the Ninety Mile Beach claim (NZLR 1963:461), Judge North ruled under Section 12 of the Crown Grants Act, that once Crown grants were made along the foreshore, the ownership of land between low and high-water mark remained with the Crown.

THE TREATY AS A FOCUS FOR NATIONHOOD

Despite political, statutory and judicial denial of the Treaty, New Zealands growing sense of nationhood sought symbolic expression through the Treaty of Waitangi. In 1940 the Centennary celebration at Waitangi was marked by the opening of the Treaty House with a contingent of Maoris led in a haka (war dance) by Sir Apirana Ngata. In 1954 the first visit of a reigning monarch was marked at Waitangi by a special celebration. This visit set the basic pattern for the format of the celebrations with the presence of a frigate in the Bay, a naval parade, platitudinous speeches by politicians and Maori leaders about the Treaty as

the foundation and cornerstone of nation-hood, a service led by a minister of religion, and action songs by a Maori culture group. In subsequent years and with the advent of television, the annual Treaty celebrations became a spectacular two hour media event.

The reification of the waitangi celebrations was backed up over the last twenty five years with statutory moves by the various governments of the day. The first of these was the Waitangi Day Act 1960 declaring 6th February as a national day of thanksgiving in commemoration of the signing of the Treaty of Waitangi. The New Zealand Day Act 1973 made Waitangi Day a public holiday. This Act gave legal status to the long-standing practice of our overseas embassies observing the 6th February as New Zealand Day in their host countries. Opposition to the change of name to New Zealand Day was allayed by the Waitangi Day Act 1976 which reverted the commemoration to the original name.

Statutory backing for pumped up ceremonial was a poor substitute for substantive action on Maori grievances underlying the Treaty of Waitangi. This the Government soon learned to its cost. The 1971 Waitangi celebration was marked by vigorous protest action from Nga Tamatoa (The Young Warriors). Tamatoa called for ratification of the Treaty, and proclaimed a "day of mourning" for what was lost under the Treaty, 63 million acres of Maori land. The Government sought solace by consulting its in-house QUANGO the Maori Council. Inspite of its conservative face, the Council responded with a submission citing 14 statutes including the Rating Act, Public Works Act Petroleum Act, Mining Act and the Town and Country Planning Act which contravened the Treaty of Waitangi (Te Maori Jnl NZMC January 1972). The Government response to these Maori initiatives was the Treaty of Waitangi Act 1975 which established the Waitangi Tribunal to inquire into Maori claims submitted to it and to examine and report on proposed legislation referred to it by Parliament.

The architect of the Waitangi Tribunal was the Hon. Matiu Rata. His original intent was to make the Tribunal restrospective to 1900 but he could not get this measure past the Maori Affairs Committee and so the jurisdiction of the tribunal was limited by Section 6 (C) to claims after the Act came into force. Furthermore

the Tribunal had no power to make awards. It was in effect, a Clayton's tribunal, a cosmetic low-cost concession similar to the decision to hang the Treaty in the schools of the nation. It was clearly not a serious attempt to address the suppressed grievances of Maori people.

THE MORAL HIGH GROUND

The history of colonisation and Pakeha hegemony in New Zealand is characterised by the power of Parliament enacting laws without moral scruple to the derogation of the Treaty of Waitangi and the detriment of the Maori people. Yet despite 145 years of cavalier treatment, Maori faith in the moral force of the Treaty has never wavered. They have revered it as much as the English have the Magna Carta. In this respect the Maori occupies what Justice Berger (1985:180) has termed the moral high ground. Urbanisation of the Maori has in Freire's terms (1972:148) culminated in knowledge of the alienating culture which leads to transforming action resulting in a culture which is being freed from alienation. In the 1970's Maori activists with decolonised minds returned to reclaim the moral high ground of self determination through a powerful Maori land rights movement. Its manifestations were the Maori Land March of 1975, the 507 day occupation of Bastion Point in 1977 and occupations of disputed land at Raglan and Awhitu. The political expression of this contemporary activism is the mana motuhake (Maori sovereignty) movement.

The foment of Maori activism in the seventies took some time to focus on the Waitangi Tribunal as a vehicle for the mediation of Maori grievances. The first sitting of the Tribunal on 7th June 1977 took place in the ball-room of the Hotel Inter-continental. The case involved a breach of the fisheries regulations, namely the taking of shellfish with Scuba gear by Mr Joseph Hawke. The complainant claimed a traditional right under the Treaty to take the shellfish, the method of taking having no bearing on the case. The Tribunal concluded the case was not well founded and made no recommendation.

The second case heard at the same time as the Hawke one was brought by the late T.E. Kirkwood concerning the threat to

traditional Maori fisheries on the Manukau Harbour by the proposed Auckland Thermal Number One Power Station. The New Zealand Electricity Department did not proceed with the project and so the Tribunal did not have to make a recommendation.

Neither of the first two cases tested the mettle of the Tribunal by putting it into the position of having to make a decision and forward unpalatable recommendations to the Government. However, a memorandum by D.V. Williams of the Law School to the Minister of Maori Affairs on how the Tribunal conducted its hearings had a considerable effect on the future of the Tribunal. Williams argued that the Chairman's adoption of court procedures and its adversary style of conflict resolution was not obligatory. The venue of the Hotel Intercontinental Ballroom was alienating and inappropriate. The alienating effect on Maori claimants was exacerbated by the constant mispronounciation of Waitangi by the Registrar and two members of the Tribunal, and the failure to use Maori procedures of mihi (formal greeting) whaikorero (speech in reply) and karakia (invocation). Williams recommended that future sittings of the Tribunal be held on marae.

The inconclusive nature of the first two hearing of the Tribunal gave credence to Opposition criticism that the Tribunal lacked "teeth". In general, Maori people lost interest in the Tribunal as another meaningless Pakeha gesture to the Treaty of Waitangi. Five years passed before another case was lodged with the Tribunal by Aila Taylor on behalf of Te Atiawa in May 1981. Te Atiawa claimed that effluent from the Motunui synthetic fuel plant would pollute their traditional fishing grounds. The claim cited the shellfish reefs by name that would be affected and the hapu (sub-tribal) owners and kaitiaki (custodians of those reefs). Taylor had taken his claim first to the prelimiary hearings of the planning committee of the local authority and the Planning Tribunal. Having lost at these hearings, in desperation Taylor turned to the Waitangi Tribunal as a last resort. In keeping with the recommendations of the Williams memorandum the claim was heard on Manukorihi Marae at Waitara. Another significant change was the appointment of a Maori, Judge Durie as chairman of the Tribunal. This appointment changed the power relations so that there were two Maoris to one Pakeha on the Tribunal. The hearings elicited Maori values pertaining to food, conservation, spirit-

uality and hospitality in the use of shellfish resources. At the end of the hearing the Tribunal concluded that the Atiawa fishery would be prejudicially affected by the outfall. The Tribunal ruled that the Treaty of Waitangi obliged the Crown to protect Maori fisheries from the consequence of development on the land, and recommended that the Motunui outfall be discontinued This ruling by the Tribunal marked the watershed of the Treaty's standing between Maori and Pakeha. It served notice that the Treaty could no longer be ignored by the Pakeha, and the issues it underpinned must be addressed.

When the Prime Minister Mr Muldoon was asked about the Tribunal's findings on Motunui he responded by overriding its recommendations He argued that the Motunui Outfall had Cabinet approval. The water right for Motunui was already secured and there was no guarantee of an alternative water right for use of the existing Waitara outfall. Te Atiawa responded by calling two hui (assemblies) at Manukorihi Marae and Parihaka. The first hui at Manukorihi advocated resort to activist tactics. Suggestions included disbandment of Maori Councils, boycotting the Royal Tour, appeal to the Federation of Labour to take industrial action and calling on the four Maori M.P.s to resign. These militant proposals were symptomatic of the changed mood of the Maori people. But the Parihaka hui (reported in the Auckland Star 18.4.83) ruled out militant response. It was decided to continue negotiation through "proper channels". Three days later a Te Atiawa deputation met with the Prime Minister. Mr Muldoon's first offer was to run a trial using the existing water right for the first ten years, then if there was evidence of pollution of shellfish beds other arrangements would be made. This transparent non-concession by the Prime Minister was undercut by the subsequent issue of a government commissioned report stating that the Motunui effluent could be discharged through the Waitara outfall as an interim measure, but in the long term a new outfall would have to be constructed. Throughout these developments it became clear there was a singular lack of support for the position staked out by the Prime Minister. The hearings of the Tribunal were widely reported in the media. Indeed the militant meeting at Manukorihi televised to the nation the depth of Maori feeling over the issue and the support they had from local authorities, Pakeha environmental groups and

others who believed in justice as an abstract principle divorced from economic and political considerations. In publicising the proceedings of the Tribunal the media raised the level of public consciousness concerning the issues surroundin the Motunui outfall so that political mystification and bluster in the face of a patently just cause were no longer acceptable. In an editorial on the Prime Minister's rebuff to the Tribunal the New Zealand Herald (30.3.83) commented that the Government had made itself appear inflexible, thereby failing a key test of its concern for the moral basis by which two races share one country. Recognition of the moral high ground on which the Treaty stands gave the Tribunal a form of power that was not envisaged by the architects of its legislation.

In response to the shift in public opinion, the Prime Minister modified his position and introduced the Synthetic Fuels Plant (Water Right) Bill into the house to apply for a water right at Waitara. When the Minister of Energy Mr Birch introduced the Bill into the House he said its main provision to use the Waitara outfall as an interim measure was in line with the recommendations of the Waitangi Tribunal. In the meantime the long-term solution of a new regional outfall estimated to cost $17 million was left in abeyance.

The success of the Atiawa claim revived Maori interest in the Waitangi Tribunal. Over the next two years the Tribunal sat to hear claims on the Manukau Harbour, the Kaituna River, Waiheke Island, Orakei and the Maori Language before the Tribunal was dissolved at the end of 1985.

The Manukau claim brought by Mrs Nganeko Minhinnick on behalf of the Huakina Development Trust and Te Puaha ki Manuka (The guardians of Manukau) was the most comprehensive claim to come before the Tribunal. It encompassed a number of issues including degradation of the Manukau Harbour fishery by farming and industrial development, the discharge of water taken by New Zealand Steel from the Waikato River into the Manukau Harbour, the confiscation of Waikato lands in the last century, and the taking of land in this century for forestry purposes by the State as well as for public works.

Although most of the issues raised in the evidence heard by the Tribunal were outside its jurisdiction because they occurred before 1975, the hearings served to place them on record. They laid bare for public scrutiny the past history of injustice that could not be remedied by a Tribunal confined to grievances after it came into being. Despite this impediment, the Tribunal took the opportunity of the hearings to establish a number of fundamental principles in its report.

The Tribunal argued it was bound by the Treaty of Waitangi Act to provide for the practical application of the Treaty which can no longer be treated as a "simple nullity". Furthermore, the Tribunal was bound by the Act to have regard for both the Maori and English texts of the Treaty. Although there are discrepancies in translation between the Maori and English texts, the Tribunal followed McNair's ruling in the Law of Treaties that the two texts should help one to interpret the other. According to precedents set in the Supreme Court of the United States, treaties should be construed in the sense they would naturally be understood by the indigenous people.

In view of the current debate on Maori sovereignty, the Tribunal commented that rangatiratanga (chieftainship) under Clause 2 of the Treaty is inseparable from mana, the only Maori equivalent to sovereignty. The Tribunal argued that the Maori retained his mana without denying that of the Queen. By stating that "in both texts, the intention to record an appropriate priority and respect to the Maori people is very clear" (p 91), the Tribunal was validating its two major propositions quoted here.

1. In the Maori view the tribes owned the Harbour and foreshore within their tribal areas as a matter of Maori customary law. The Maori text affirms that ownership because it guarantees to the Maori people the ownership of all their taonga (treasured possessions) (p 93).
2. The Treaty did promise the tribes an interest in the Harbour. That interest is certainly something more than that of a minority section of the public, more than just a particular interest in particular fishing grounds, but less than that of exclusive ownership (p 94).

The first proposition asserted the Crown's obligation to recognise Maori customary law pertaining to ownership of shoreline resources while the second one balanced off the Maori right with the rights of the Crown. These propositions accord with Berger's assertion (1985:176-177) that in view of the decolonisation of countries where indigenous populations were in the majority, the claims of indigenous people who are locked into nations they can never hope to rule must now be considered.

> Some nations oppose recognition of indigenous rights ostensibly out of concern over the possibility of secession and the need for greater industrial development. Indigenous peoples do not usually struggle to separate from the nation-state nor to achieve independence within national boundaries; they want to maintain control over their own lives and their own land. (Their) claims are claims to limited sovereignty (Berger 1985:177).

RETROSPECTIVE POWER

Although the Motunui decision of the Waitangi Tribunal marked the turning point in how Pakehas responded to the Treaty, the momentum of Maori activism against the Waitangi celebrations continued. The Hikoi (Peaceful march) by 3,000 people to stop the 1984 "celebration" at Waitangi saw the two major Maori political movements of the 19th Century, Kotahitanga and the Kingitanga present a united front to the Government. So powerful was the Hikoi as a statement of Maori self-determination, that the Governor General Sir David Beattie, against the advice of the Prime Minister, agreed to meet with the Hikoi. That this historic meeting did not take place to reverse a century of obstructionism by politicians was due to police intervention. The police would not agree to the full Hikoi meeting the Governor in front of the Treaty House. They insisted on a smaller deputation of 100 representatives because from a policing point of view this smaller number would have been more manageable than the full Hikoi. In other words, security considerations as perceived by police determined a political question of the relationship between Her Majesty and her loyal subjects.

The Hikoi was followed in September by a national hui organised by Te Runanga Whakawhanaunga i Nga Haahi (The Maori Ecumenical Council of Churches) to discuss the Treaty of Waitangi. One of the major

proposals of this hui recommended

> That the Waitangi Tribunal be given retrospective powers to 1840 to hear grievances and that adequate resources be made available to the Tribunal and to applicants (complainants) to ensure the grievances are fully researched (He Korero Mo Waitangi 1984:4).

This resolution was taken on board immediately by the Labour Government which had slid into power on a snap election two months previously. Before the House rose at the end of the year the Government introduced a Bill to amend the Treaty of Waitangi Act 1975. That a Labour Government moved with such alacrity to meet Maori demands, considering its rather indifferent record over the previous forty years of its tenure of the four Maori seats under the liaison with the Ratana Church, was indicative of the political pressure mounted by Maori activism. The break with Labour by the Hon. Matiu Rata to found the Mana Motuhake movement to wrest the four Maori seats from Labour forced the pace on Maori issues within the Government.

The Treaty of Waitangi Amendment Act 1985 was passed on 9 December with hardly a ripple of public comment which is quite surprising considering the effect the amendments to the Waitangi Tribunal are likely to have on the settlement of Maori grievances. Section 3 (1)(a) amends Section 6 of the principal Act to extend the jurisdication of the Tribunal to hear claims retrospective to 1840. In the light of the Manukau claim, the significance of this amendment means that the serious issues raised concerning unjust confiscation of Waikato lands in the last century and the unconscionable taking of Maori land by the Crown for sand due reclamation, forestry and other public works must now be addressed. The Waitangi Tribunal opens a window on our colonial past to the extent that there are presently a hundred or so cases pending a hearing by the Tribunal. The largest claims are those of the Waikato tribes and the Ngai Tahu of the South Island.

The backlog of cases before the Waitangi Tribunal, together with its limited capacity to do research, and the tardiness with which the Government is responding to the Tribunal's findings

on cases already heard, is engendering disillusionment among the Maori people. Some are resorting to the High Court to resolve their grievances under the Treaty of Waitangi and meeting with success.

The judgement by Justice Williamson in the High Court at Christchurch in August 1986 was the first indication that the Treaty was more than just a "simple nullity". Judge Williamson found in favour of Te Weehi when he ruled that the Treaty of Waitangi overruled any act or fishing regulations where Maoris take seafood for their own use. This belated recognition of the mana of the Treaty over a century after the Prendergast judgement was further reinforced on 2 June 1987 by the judgement of Justice Chilwell in the High Court appeal by the Huakina Development Trust against the Waikato Valley Authority. Justice Chilwell ruled that Maori spiritual and cultural values cannot be excluded from consideration in matters pertaining to the Water and Soil Conservation Act 1967.

The Williamson and Chilwell judgements were precursors of an even more important case brought by the Maori Council before the Appeal Court to stop the transfer of Crown land subject to potential Maori land claims to State Owned Enterprises. On 29 June 1987 the Court reached two major conclusions:

> "First that the principles of the Treaty of Waitangi override everything else in the State-Owned Enterprises Act".
>
> "Second that those principles require the Pakeha and Maori Treaty partners to act towards each other reasonably and with good faith" These judgements <u>in toto</u> mean that in future all statutes enacted by Parliament will have to be measured against the Treaty of Waitangi. The Court's advocacy of partnership between Maori and Pakeha means a return to the original compact entered into under the Treaty 147 years ago. In effect, nation-building in New Zealand has entered the post-colonial era of social transformation towards biculturalism, a polity of two people in one nation.

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