

Government lying about road 'reforms'

'Public Access'

No. 11 April 1999

ISSN 1172-3203

Late last year Government released its 'Better Transport Better Roads' consultation paper in its latest bid to convince New Zealanders of the worth of its road 'reform' package.

Government has made repeated assurances that—

- roads will not be privatised
- existing rights of public use will remain unchanged
- there is no provision for pedestrians or cyclists to be charged
- current road closing procedures will be used

However analysis of Cabinet papers and a draft Roads Bill reveals all of these assurances to be untrue.

As a non-government organisation with an interest in roads as recreational amenities, Public Access New Zealand (PANZ) eagerly devoured this document seeking answers to key concerns about public ownership and rights of public use. At face value the paper looks acceptable on these aspects, providing concrete assurances that public use rights and public ownership are not imperilled. However minor contradictions and ambiguities in wording could result in very different outcomes for the public.

In view of this it was prudent to check the assurances against Government's actual decisions. Just as well we did. It took detailed scrutiny of all 1000 pages of Cabinet minutes and papers, and the Roads Bill, to reveal the Government's real agenda is not what 'Better Transport Better Roads' would lead most people to believe.

Our roading heritage

New Zealand's public roads provide the essential framework that permits our property-owning democracy to function. Roads consist of strips of land, usually 20 metres wide, that are largely vested in the ownership of district and city councils subject to an inheritance from England of centuries-old common law, reaffirmed by New Zealand's courts. This establishes rights of unhindered passage for everyone. Roads also provide rights of 'frontage' to private and public properties. Without assured legal access, properties will become landlocked and valueless. Half the Queen's Chain along water margins consist of public roads, being both formed and unformed varieties, and all other public lands are dependent on roads for access.

Roads are of primal importance for everyday life, both urban and rural. Everyone uses them and there are no alternatives.

Freedom of passage is essential for a democratic society to function, for without this, citizens have no means of exercising their right under the Bill of Rights Act to freedom of movement. PANZ believes that the road 'reforms' will conclusively destroy these basic human rights.

Government proposes a commercial model for managing roads that depends on a regime of direct user pays. This envisages electronic surveillance of users by overhead gantries or satellites, and tolling or billing of vehicle owners. This is in place of an existing mix of indirect taxes, levies and rates to pay for the construction and maintenance of formed roads. Government envisages that eventually all roads, not just congested motorways or new roads, will be funded through tolls.

Formed roads – private in practice

Only nominal land ownership of formed vehicle roads will be retained by councils or Government. Roding companies will have possession and occupation rights. In law such places are deemed to be private, not public. Consequently all users, including the council 'owners', will be liable to become criminal trespassers if they enter on to roads without consent or cannot pay their way.

Unformed roads – 'non-operative', disposable

Currently whether a road is formed or unformed has no bearing on its legal status or public rights of use. Approximately 100,000 kilometres of unformed roads account for half the roading network, but are now to be deemed 'non-operative', including a large part of the 'Queen's Chain'. Through redefinition of the meaning of 'road' they will become 'residual' and prime targets for disposal.

With rights of legal access to individual properties removed through road closures, property rights will be severely depreciated, with much land becoming inaccessible and worthless. That is unless private access arrangements can be struck with a multitude of new owners over the privatised roads.

Contents

Government's road 'reform' lies	1
Public camping grounds	4
Treaty Minister—	
Maori 'sovereignty'	4
Governor-General—	
Maori 'partnership'	5
'Truth or Treaty?' – book review	6
Court of Appeal rules on road	6
Access News	7

Rights of passage – to be extinguished

Cabinet has approved a raft of specific measures that completely contradict a well-aired Cabinet decision that existing public rights of use will not be extinguished. Government isn't even proposing limited replacement rights under statute – there simply will not be any. Road use will be entirely at the pleasure of profit-driven roading companies.

Pedestrians and cyclists may be charged

Government has made provision for *it* to charge *all* users. Therefore its assurance that there is no provision for pedestrians or cyclists to be charged *only* applies to roading companies.

No right of appeal against closing roads

Road closing procedures will mirror existing provisions but with one crucial omission. The roading companies will enjoy a discretion as to whether or not they forward objections to the Environment Court.

Government has also instigated amendments to the Resource Management Act that will repeal requirements for road frontage. If enacted this will likely remove the retention of property frontage as the primary protection against road closure. This is a major threat to the rights of private property owners.

Short of an armed invasion the road 'reforms' are the biggest threat to civil liberties and property rights that New Zealanders are ever likely to face.

The changes were initiated by the current Prime Minister in her earlier capacity as Minister of Transport who, at the time, denied that motorists would be billed through an electronic toll system. Such proposals are now being vigorously promoted by Maurice Williamson. Senior officials are currently engaged in an extensive programme of presentations around the country stressing what they see as the benefits while omitting to mention the highly unpalatable aspects of their proposals. The official presentation of these so-called 'reforms' depends heavily on 'spin-doctoring' and is reminiscent of what has happened to health services.

Tolling is designed to allow private roading companies to become established, PANZ believes preparatory to total privatisation of the roading network. Government intends, contrary to overseas practice, to apply their direct user-pays model to *all* roads. No alternatives are envisaged. Profit-driven roading companies will be free to apply their model *everywhere* without restraint, despite Government propaganda that tolling will be confined to 'designated' roads for the purposes of new road construction or discouraging road congestion. The Government's papers make no provision for designating roads as toll roads or 'no-toll roads'. They make provision for tolling *any* road. No other country has contemplated such a drastic step.

Tinkering with Government's proposals will not provide solutions that protect public freedoms. The 'reforms' *depend on* direct tolling and the physical exclusion of users that do not pay – there is no other way it can work. Cabinet papers acknowledge this by specific decisions to physically bar non-payers. They do not make any provisions that allow those effectively imprisoned at home to continue to visit the local supermarket, place of work, family or friends.

Some tolled motorways acceptable

PANZ acknowledges that there is a limited place for toll roads. Tolling is currently confined to designated motorways. However these are not public roads in their full sense with attendant common law rights of use. They are special entities for 'motors' only. Pedestrians, cyclists etc are excluded.

Tolls have historically been used to repay the construction costs of major bridges, tunnels etc. Their application could be extended to highly congested roads. A recent proposal in Auckland for a parallel bus-only motorway designed to relieve car congestion on the existing motorway is a possibility. This innovative idea does not require the 'reforms' Government has in mind for it to be implemented. It also seriously undermines a major plank of Government's justification for its 'reforms'.

Tolling should be confined to designated motorways, *provided convenient alternative public roads are available for vehicle and other road users.*

There should continue to be prohibition of tolls on the real public roads – our common (law) roads.

Improved road management needed

There is room for improvement to the funding and management of roads. PANZ will be recommending to political parties as election year policy, the enactment of a statutory duty on district councils to assert and protect public rights of passage. This is so as to overcome a major problem of adjoining landowner obstruction to public use along many unformed roads. This approach has been successfully applied in England. Currently there is an almost universal unwillingness by Councils, despite have all the powers they need to remove obstructions, to act in the wider public interest.

There should be a retention of a variety of *indirect* taxes, levies and rates to fund roads but by more effective targeting of the heavy transport-high road wear sector. Indirect, because this is making users pay for their construction and maintenance but without infringing their rights of movement and privacy in their daily affairs. Property rates have a place to contribute towards roading costs. The existence of formed access, especially good access, causes appreciation in property values which land owners can capitalise on at any time. There must continue to be no charging for use of unformed roads.

Universal tolling must be rejected

There needs to be resounding public rejection of the Government's market forces model, to the extent that it feels imperilled electorally. Commitments must also be obtained from other political parties that they will not proceed with this model if they form or support the next administration.

All political parties must recognise roads as essential public infrastructure serving individual freedom, community and property access needs, and not just the interests of the transport sector.

The central principle that must prevail is that everyone lawfully in New Zealand must retain the right of unhindered passage over public roads.

The Government's proposals *depend on* surveillance, hindering, obstructing, and barring people who cannot pay their way. A universal toll system cannot work in any other way.

Government's vision of a market forces paradise must never be allowed to happen. No other country has been unhinged enough to try. If enacted, gross injustices will arise with consequent probability of serious public disorder. People will simply refuse to become prisoners in their own homes because they cannot pay a toll. Perhaps Government has considered this, but feels that this new regime will shortly have the technological means to monitor and control the populous if required.

The major contributor towards an Orwellian state will be news media and public incredulity that, in the absence of any compelling national crisis, any New Zealand government could possibly contemplate such basic infringements to human rights.

Consequent paralysis in thought and action, even when exposed to damning evidence that the Government is lying, will likely ensure that the so-called road 'reforms' proceed.

What you can do

Write a submission by 30 April 1999: 'Road Reforms' Ministry of Transport, P O Box 3175, Wellington

Raise issues in news media

Lobby AA, local government etc

Lobby political parties and MPs

Make this an election issue

(Analysis of the 'reforms' is available at the PANZ web site)



© Garrick Tremain

These are the Government's words...

Otago Daily Times, October 28, 1997

Alliance leader Jim Anderton's claim that motorists will be billed through an electronic toll system for using roads have been denied by Transport Minister Jenny Shipley.

Mr Anderton said yesterday the Government would decide within a few weeks on a system that would lead to motorists being presented with road-use toll bills.

He said officials working on changing the way roading was funded would recommend in the next few days that the Government should adopt a user-pays approach.

The scheme would mean all central and local government-owned roads would be run by state-owned enterprises competing against private road providers.

Electronic toll booths would be set up to record a car's registration number and the roads a motorist had used, Mr Anderton said.

A bill would be sent out at the end of the month. He said the social and environmental cost of such a scheme for private cars would be enormous.

However, Mrs Shipley said yesterday the claims were "another of Jim Anderton's flights of fancy".

All trials of electronic pricing technology showed the system Mr Anderton had described was "at least 10 years away".

...on privatisation

'Better Transport Better Roads'

"No existing publicly owned roads would become privately owned as a result of Better Transport Better Roads".

Cabinet Strategy Committee, 3 August 1998

"The current definition of road under the Local Government Act 1974...includes unformed roads commonly called "paper roads"..."

"The basis of the proposed definition of road land...is...land currently comprising present legal road but excluding paper roads/unformed roads..."

Maurice Williamson, 11 March 1999

" 'Better Transport Better Roads' does not propose any changes to the current status of paper roads."

...on public rights

'Better Transport Better Roads'

"Existing rights of public use will remain unchanged"

Cabinet Strategy Committee, 3 August 1998

"Common law rights provide current users with rights of unrestricted passage over roads".

"Denying access to non-paying vehicle users to the roading network would be ... contrary to the common law"

Cabinet 17 August 1998

Agree that in order to enforce tolls, road service providers be able to "deny physical access to vehicles whose operators have not yet paid the toll".

Draft Roads Bill

Clause 65. "If a toll is being collected, the road service provider may...deny physical access to vehicles whose operators have not yet paid the toll."

Clause 153. "If authorised by a rule made under the Land Transport Act a road service provider may...impose restrictions, requirements, or prohibitions in respect of any road... concerning vehicles and other road users... Erect on any road controlled by it...any other thing (other than gates and cattle stops) that may stop or impede the use of the road".

...on pedestrians and cyclists

'Better Transport Better Roads'

"There is no provision for pedestrians or cyclists to be charged to use roads".

Draft Road Bill

Clause 316. "The Governor-General on recommendation of the Minister may make regulations for the following purposes-

"Specifying persons by whom road use levies and vehicle levies are payable". "Without limiting the generality of the above...different amounts of rates of road use levies may be imposed in respect of different classes of persons or motor vehicles or fuels, or on the basis of different times of use, or on any other differential basis".

...on road closure

Cabinet 5 October 1998

Agreed...that "current road closing procedures" will be used.

'Better Transport Better Roads'

"The provisions for temporarily or permanently closing roads would be similar to existing provisions".

Draft Roads Bill

Schedule 3. Permanently Closing Roads

"A road controlling authority may...forward any objections received...to the Environment Court..."

Public camping grounds unique Kiwi inheritance

Sandra Coney

The New Year started at Piha with what we reckon must have been the first Fire Service callout for 1999. On the stroke of midnight, revellers sent a flare which sank slowly into the bush, followed by a suspicious pall of smoke. Next minute the new siren wailed (old timers say it reminds them of World War II air raid warnings), summoning the long-suffering volunteer fire crew. Surely, one for the Guinness Book of Records.

There's never a dull moment here. Dinner at the Piha Surf Club was delayed while multi-talented chef Nick Kinghorn took out the rescue boat after a swimmer was spotted floundering in the surf off Lion Rock. Diners' hunger pains were assuaged by more than the usual number of trips to the bar.

But by far the topic of the moment is the fate of the Piha Domain. Last Sunday the locals gathered at the local Barnett Hall to debate the issue at the AGM of the local ratepayers' association.

This is a "bring a chair" occasion, someone having absent-mindedly thrown out the seating in a had rubbish collection some years ago. My mother was by far the best turned out of the gathering, having dressed up for the occasion in pale pink twinset and pearls.

Waitakere City Council proposes to either close the camping group or commercialise it. The first option would deny holidaymakers—especially those of low incomes—the chance of a holiday at the beach. But the second option would lead to a loss of public use of much of the domain.

The camping ground is costing the council \$20,000 a year in maintenance, plus capital costs from time to time. The council no longer wants to pay—hence the attraction of handing the entire responsibility for the ground to commercial operators.

Council officer say greater rights would go to the operator along with a longer lease so as to justify investing more money in the camping ground. These rights could include such things as fencing the area, locked gates, security lighting, power points over the sports area, and the erection of cabins or other buildings. The public could be kept out of the ground and the main toilet block in Piha.

The commercialised camping ground would lead to a need to extend sewerage treatment facilities. A large gravel bed plant, recently erected amid controversy on the non-camping part, would need to be enlarged and more public domain space used as effluent disposal fields, entry closed off by warning signs.

All that would be left for public use would be the lagoon parking area and a rough field used for overflow parking in summer but which is swampy in winter.

This is not just a parochial issue. The Waitakere council's shrinking view of its role is mirrored by the state. It is quite possible to argue the Waitakere City, containing as it does all the popular West Coast beaches, has an obligation to run at least one public camping ground. Somehow, in today's climate, a camping ground is not regarded as "core business".

The drive to privatisation converts public assets to private profit. In this case a fully developed facility with ratepayer-funded ablution blocks and sewerage system (upgrades cost \$200,000 in the past two years) are to be diverted to private control. Long-established public access to land is to be curtailed.

The domain lands were the reserve contributions made by the Rayner Estate when it subdivided Piha in the 1930s. The Commissioner of Crown Lands said the area was for the enjoyment of the public and he established a local domain board, made up of bach owners and farmers. They laid out the grounds, including the camping ground, largely out of their own pockets.

The domain is still the only flat open space in Piha and acts as the village green. People have been used to freely walking into and through the area, regarding it as their space.

There has not been a "them and us" relationship between camping ground and community, with the divide marked by fences, gates and prohibiting signs. Instead, the relationship has been synergistic, with locals accepting the loss of their open spaces and sports field in the holiday season in return for their restoration in off-peak months.

Locals have welcomed the campers into their community because the space is shared and campers have no extra privileges or rights to exclude.

We tend to think of heritage areas as formally designated building and parks, but camping grounds are a unique part of our Kiwi cultural inheritance. At Piha, where unpretentious baches are giving way to Tuscan-style palaces, the public domain represents a vestige of the old egalitarian principles New Zealanders used to hold dear.

Retaining this is as much worth fighting for as the Urewera panels of Colin McCahon.

Sunday Star-Times, 'Thinking Aloud', January 10, 1999

Maori claims for sovereignty lack credibility

Rt Hon Sir Douglas Graham
Minister in Charge of Treaty of Waitangi Negotiations

February 23, 1999

The NZ Maori Council has stated that it will lobby APEC countries to recognise Maori sovereignty based on the Declaration of Independence 1835. I suspect they will not be remotely interested. Not only is it nothing to do with them, but the Declaration has already been judicially considered by the Courts.

In 1993 Justice Temm stated "It's full significance is a matter of interest to historians but is no longer of any relevance to lawyers in NZ. It's effect, such as it was, was overtaken by the course of events when the Treaty of Waitangi was signed in 1840 when Governor Hobson issued his Proclamation of 21 May in that year, and when the Royal Proclamation ratifying the Treaty was published in the Gazette on 2 October 1840. From that year on the writ of English law began to run in NZ but it had not operated here before."

'Sovereignty' continued...

The Declaration was a document signed by 35 chiefs with the encouragement of well intentioned and concerned missionaries. It was recognised by London as evidence of the existence of a sovereign people which prompted London to negotiate the Treaty under which the right to pass laws was given to the British Crown. Once the Treaty had been confirmed, sovereignty, as it is commonly understood, passed from Maori to Britain. If Maori are still sovereign as some claim, then Maori have effectively terminated the Treaty and have no rights under it. They cannot have it both ways. In light of the claimed rights under the Treaty, and the settlement of Crown breaches of it, it would be surprising if Maori want to rescind it.

But what actually is the "sovereignty" being claimed by the Maori Council? Is it that Maori should have the sole right to pass laws binding on all New Zealanders or just on Maori? The first is simply fanciful and the second would depend on Maori support. Where is that support? Do all Maori wish to be subject somehow to Maori-generated laws but no others? How would it work? Would Maori living in Auckland be subject to laws that are different to those applying to the non-Maori living next door? New Zealand is quite different to Canada where Indians enjoy limited self-government on Indian reservations. Here Maori do not live on reservations - they are fully integrated.

So, not only does the Declaration of Independence of 1835 have no standing whatever, not only was "sovereignty" transferred by the Treaty, not only has Her Majesty's Government lawfully exercised that "sovereignty" for over 150 years in fact, but, from a practical view, any "Maori sovereignty" is totally inconsistent with today's world.

Neither the common law nor the Treaty permit "Maori sovereignty". The English common law could not and did not recognise a challenge to the authority of the Sovereign. The Treaty did not include any concept of "joint government" and continued reference to the Treaty as a "partnership" is misleading. Maori and the Crown were parties to the Treaty, and the Treaty created obligations on each similar to those that partners have in a partnership. But it certainly did not create a partnership to govern the country. That function passed to the Crown. The Treaty guarantees to Maori may restrict the exercise of absolute sovereignty by the Crown but even that is debatable.

The Maori Council's assertion of Maori sovereignty has no legal basis. It would, if accepted, be a rejection of the Treaty itself. It is unlikely to be contemplated by the vast majority of New Zealanders, including many Maori. It could not be capable of being put in place anyway. In summary, it is a concept which requires a pretence that the last 200 years has not happened.

It would be much more constructive if those arguing the case devoted their time to working through the practical difficulties of blending two cultures which have much to offer each other. At the same time they should be prepared to accept the law as pronounced by the Courts. A great deal is still to be done to address the valid grievances of Maori from past breaches of the Crown's Treaty obligations. When that is done, Maori will have the chance to close the disparity gap and join the rest of us. We should all work towards a united, peaceful country rather than promote separatism and division.

PANZ commentary

This pronouncement from Sir Douglas, and the following view from the Governor-General, are long overdue. These 'official' viewpoints have regard to the simple words of the Treaty as held by the Courts, and to history, not to the many fanciful constructs the Treaty grievance industry has generated over the last decade. These have distorted and defied the actual terms of the Treaty beyond belief.

We sense frustration and exasperation on Sir Douglas' part. It seems that despite his best endeavours to settle Maori 'claims' they simply do not end. There are over 700 lodged with the Waitangi Tribunal and some claimants who have 'settled' are coming back for more. However there are more challenging political 'claims' being conducted outside of the Tribunal process. They appear to have no limits. Perhaps Sir Douglas has attempted to draw a line in the sand, however his Government is being held to ransom by 'independent' MPs who strongly subscribe to a 'sovereignty' view.

It is with some satisfaction that PANZ reads that the Treaty "certainly did not create a partnership to govern the country". We said the same back in 1993 when we challenged the notion of 'partnership' as it was being applied to the conservation estate. We have received much 'stick' for our views, which runs against the prevailing orthodoxy. However we have always believed that public affairs should be run with less heat and passion and more regard to fact and reason. We hope that Sir Douglas' reassessed views signals a more 'judicial' approach hereonin.

We do not believe that Government has ever believed that there was a 'partnership' and related concepts of 'co-management' etc. derived from the Treaty. It has suited political agendas to promote such. Just about every Government agency now actively promotes 'partnership' with Maori, some, such as DOC, with what we suspect is far greater enthusiasm than originally intended. This is despite the effective disenfranchising of every other citizen. It is about time this dangerous nonsense lost official sponsorship.

Governor-General on 'partnership'

Government House
New Zealand
18 March 1999

The Governor-General has asked me to reply to your letter...enquiring about the use of the word partnership in his Excellency's speeches concerning the Treaty of Waitangi....

The concept of partnership has been developed by the New Zealand courts in several important cases. But it has been made clear that the term is not used to equate the treaty relationship with the conventional legal understanding of partnership. This is clear from other references to, for example, "a relationship akin to partnership", or "in the nature of a partnership". These analogies have been used to describe and give emphasis to what is the overriding Treaty principle, namely the reciprocal obligations of the Crown and Maori to act towards each other reasonably and in the utmost good faith.

For a fuller discussion, I refer you particularly to the judgements of the Court of Appeal in *New Zealand Maori Council v Attorney-General*, a 1987 case reported in volume 1 of the *New Zealand Law reports* at that year at p651.

Yours sincerely
Hugo Judd, Official Secretary

Court of Appeal decision welcomed

Late last year the Court of Appeal overturned a High Court ruling that confirmed that the Maori Land Court had the power to return ownership of a public road to Maori.

Earlier in the year the Wairoa District Council was ordered by the Maori Land Court to return to the Maori owners of the adjoining Papuni Station a 4 km length of unformed road on the north bank of the Ruakituri River. The road is used for walking access to the Urewera National Park (PANZ has reported on this in 'Public Access' Nos. 4 & 6).

The Council and the Government appealed these decisions. As local body land including roads, is legally deemed to be 'private' despite roads being held in trust for a public purpose, any order returning a road was seen as a huge precedent. The rulings meant that potentially *any* private land was within the jurisdiction of the Maori Land Court. Furthermore, the ruling was seen to provide Maori as a way of bypassing Waitangi Tribunal proceedings and also avoiding negotiation with Government over land claims.

PANZ has taken an active interest in this case and has provided advice to a 'User Group' of recreationalists who have pursued this matter over an extended period.

At the outset of legal proceedings PANZ was concerned at the almost complete absence of consideration of roading law by the Maori Land Court. The Court made erroneous assumptions which led to its determinations. We believe that this court went way beyond its competency. We are therefore pleased that the Court of Appeal has reversed its primary decision ordering the return of the land.

The central argument of Papuni Station was that the Council was obliged to return the land to them, as original owners, because Council had failed to form this section of road. The Maori Land Court agreed with this on the erroneous basis that council had not honoured a 'duty' to form the road and they ordered the vesting of ownership back in Papuni.

The Court of Appeal disagreed and held that the Maori Land Court was in error concerning the latter's jurisdiction over general 'private' land. The Court of Appeal also held that the Maori Land Court lacked the power to make a vesting order in respect of the road.

The Court of Appeal observed that the Council has a general obligation to all its ratepayers and is not obliged to stop (ie. close) a road or to proceed to develop it. "Furthermore, the paper road continues to be used for foot traffic. It is therefore in use as a road".

This decision reaffirms what has long been established—

- roads exist for all forms of traffic; they are not dependent on vehicle use to justify their existence.
- whether they are formed or unformed/'paper' has no bearing on their status as roads.
- no adjoining landowners have rights or entitlements for 'return' of land once dedicated as road.

However it appears, as far as Government and various Maori claimants are concerned, as if none of the above matters have been established. Government's sole motivation for proceeding with this appeal case appears to be have been confined to protecting truly private land. This particular road was of no consequence to them. Neither it appears is the future of every other unformed road in the country which Government has set on a course for disposal to Maori and others on the basis of the erroneous assumptions they challenged and defeated before the Court of Appeal.

One matter remains unresolved on the Papuni case. The Maori Land Court issued an injunction against the Council forbidding it from consenting to or allowing the formation of a benched walking track over the road. The Court believed that a 'nuisance' to the owners of Papuni Station would arise from these minor earth works. This injunction still stands. The Council and Crown did not appeal this matter. PANZ believes that this injunction is unjustified and deserves to be overturned. Meanwhile users of the road can continue to use it as best they can.

Book Review – "Truth or Treaty?"

David Round's recent book, "Truth or Treaty?" – by far the best and most authoritative treatment of the subject yet to appear – should be read by anyone concerned by current trends in the direction of our society.

Recreational and ecological priorities, as well as the wider issues of democracy, are now under threat from hitherto unexpected sources – and the menace is escalating. This is especially so since the conclusion of the Ngai Tahu "settlement". Mr Round's account of the shameful connivance of Ministers, Departments, and the Courts, in defrauding New Zealanders of their inheritance is impossible to read without growing anger. Anger too, is the only fitting response to a secretive and dubiously-legal process that is creating a de-facto apartheid in a once-decent society, and sowing the seeds of future disillusionment and eventual racial strife. Mr Round does not attempt to gloss over past injustices or present shortcomings, but demonstrates conclusively that the cure is immeasurably worse than the disease.

The grievance industry, together with its symbiotic alter ego, the Waitangi Tribunal, have become a permanent social cancer, mutating endlessly with the "evolution" of Treaty "principles", and the process, as Mr Round makes very clear, will never end until we find the guts to shrug off spurious accusations of racism and insist on open and honest debate.

To that end this book is a magnificent contribution. Fearless, at times scornful, witty, and passionate, it ranges easily from the enduring precepts of ancient civilisations to the solemn idiocies we now endure. Its central argument – that the Treaty has outlived its usefulness – is presented with a cultural, historical, legal, and philosophical élan that inevitably counterpoints the inadequacies of what now passes for education.

A warning, This book should be left strictly alone by the politically correct, in whom it will induce apoplexy (which may explain the widespread critical silence attending its publication). For the rest, however, as well as being a pleasure to read, "Truth or Treaty?" will furnish an essential arsenal for dealing with the racist subtext that animates the Treatyists.

Dave Witherow

Truth or Treaty? Commonsense questions about the Treaty of Waitangi. David Round. 1998.
Canterbury University Press.

Access News

Please send clippings (with date and source) to PANZ

Road reforms breach rights

Otago Daily Times, December 12, 1998

Having violated the Fair Trading Act with regard to drivers' licences, Maurice Williamson now proposes to invoke road reforms, which contravene the universal declaration of human rights. Detaining drivers going about their lawful business or impounding vehicles without trial appear to be in direct contravention of this declaration, specifically Article 13 which states that everyone has the right to freedom of movement and residence within the borders of each state; Article 9, no-one shall be subjected to arbitrary arrest, detention or exile; Article 12, no-one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, not attacks upon his honour and reputation; Article 17, no-one shall be arbitrarily deprived of his property; Article 10, everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in determination of his rights and obligations and or any criminal charge against him and Article 20, no-one may be compelled to belong to an association.

Does the Minister intend to ignore these rights as well?

Mark Munroe

Council declines bach extension

The (Westport) News, December 16, 1998

Allowing one bach on road reserve to extend would open the floodgates to others, the Buller District Council has decided. Fox River bach owner, "Jockey" Thomson, wanted to extend his kitchen by 1.5m.

Council's regulatory services manager, Terry Archer, said council has declined similar application for building extensions in the past. Approving one would open the floodgates to 70 baches which occupied road reserve in Buller.

Council's policy provided for licences to occupy, but specifically prohibited any extension, Mr Archer said.

Mayor, Pat Odea, said council should negotiate each application on its merits. He said Mr Thomson's extension was very small; declining it seemed unreasonable.

Mr Archer said council should be consistent. It had turned down applications for smaller extensions before. "I'm a little concerned about mixed messages."

Council approved his recommendation to decline the application.

Anglers create own access way

The Oamaru Mail, December 15, 1998

Frustrated anglers have created an access track to the Waitaki River after the original track off Ferry Road was blocked by the landowner last month.

Papakaio farmer and fishing enthusiast John Macdonald, who has been involved in creating the new track, said it had been made by a group of dedicated anglers using chainsaws and a grader owned by a neighbour Bill Pile.

The new track, which was started on Saturday afternoon, was created because anglers wanted to retain access to the river at ferry Road, he said.

Ferry Road was one of the most popular access points to the river but it could no longer be used by the public after farmer Lyndon Hawkins closed it off with a locked gate. The track ran through Mr Hawkin's land...

Mr Macdonald said it was difficult to gauge how much support there was for the new track, which has been graded through Department of Conservation land on an old paper road which runs off Ferry Road.

"There were a lot of people over the weekend who came to watch the track being made – some of them were clapping"...

Otago Daily Times, December 23, 1998

"The district council said anyone could open up a paper road along its surveyed line, and the regional council said it could cross a stream provided there was no major disturbance..."

At present [the track] is suitable for four-wheel-drive vehicles only because resource consent is needed from the regional council to construct a culvert across a stream.

Advertisement: Road for Sale

West Coast Messenger, January 29, 1999

"Beautiful Blackball \$59,000 – House and 2 1/4 acres +1.2 acre road reserve

"...a well maintained family home...on a flat well fenced 2 acre block and additional road reserve..."

Farmers look to public access sale as lifeline

New Zealand Herald, January 25, 1999

Auckland farmers with a slice of paradise are lining up to sell public access to their land so that they can hang on to their heritage.

They do not want to part with their properties around the region's multi-million coastline, which in some cases have been in the family for generations.

But making a living is hard because the land is mostly marginal for farming.

A handful, including the owners of the southern part of Ponui Island, near Waiheke Island, have turned to the Auckland regional council, offering to sell public access rights – in a sense a privately owned extension of the council's 37,000ha network of regional parks.

The council is looking closely at the idea.

However it is opposed by City Vision councillor Mike Lee. The parks committee member said access deals would be a public subsidy for private landowners...

"Taken to its logical conclusion there would be no need to secure parks—instead we would have rented private 'regional parks'."

Only if there was spare money after buying important land should rental access be considered, he said. Its risk was that the council could not prevent the land's sale...

A council parks policy manager, Neil Olsen, said access deals would be cheaper for rate payers than purchases, although in some places buying was preferable to protect land.

Access deals would not give the council a legal interest in the land, so a caveat on the title would be needed to protect the council's ownership of improvements such as toilet blocks and tracks...[but no protection for public use. Ed]

...Peter Chamberlin, whose forebears bought Ponui land from the Government in 1853, said last week that farming on

the island had become increasingly difficult since the early 1980s and was now totally uneconomic.

"If we can get some support and go on farming and the support involves yielding some access-controlled access by the public to some of the native bush and some of the walks—then perhaps that's one way of us as a family being able to continue living here."

Anglers may face fees for access

Timaru Herald, January 8, 1999

Upper Waitaki runholders are considering charging anglers a fee to cross their private tracks leading to the Ahuriri River.

Buscot Station owner Tony Gloag is consulting other farmers in the area in the hope of taking united action in introducing a fee for anyone wanting to cross their land. He believed most landowners would support the move.

Mr Gloag's land provides one of the main access routes to the Ahuriri River. He said yesterday that it was inevitable he would soon follow the lead of his neighbour, Ben Omar Station Ginger Anderson, who recently imposed a fee for those crossing his land.

The fee has already reduced traffic by about 50 per cent.

"...it is not unreasonable that access over private land should be subject to permission from the landowner and that there should be some compensation to the owner who grant such a privilege."

"...However Fish and Game field officer Mark Webb was concerned by the latest move by Waitaki runholders which he said hindered the Council's job of maintaining and improving the access to rivers for anglers.

"It makes it difficult when farmers close their doors. We will have to look at alternative routes and paper roads. Maybe they will be prepared to open up other roads where it is perhaps less costly to maintain."

Omarama Promotions Bureau chairman Peter Casserley said it would be a sad day for New Zealand when anglers have to pay access fees. However, he believed it was a sign of the times.

Farmers' image needs a boost

Otago Daily Times, March 12, 1999

Farmers need to improve their image, according to PPCS and Ravensdown chairman Jim Pringle.

Mr Pringle was addressing the high country field day in Omarama last week and explaining the skills farmers needed to influence people in authority. He said farmers sometimes had an uphill battle fighting their causes because their approach was wrong. While farmers understood what was practical and logical, they had to get through to the people they were dealing with.

No matter how impractical authority representatives appeared, farmers should not start off "kicking them in the shins".

It was more important to come to a meeting well-informed and hear the person out before responding.

Positive aspects put forward by other parties should be acknowledged, he said.

The farmer was more likely to gain concessions with a reasonable approach.

Mr Pringle said he had a property with a river and a paper road. Hundreds of people used the "road" for fishing, swimming, picnicking and walking.

It was important to remember 90% of the public were a joy to know.

"We need these people and we should leave them with a good image of farmers," he said.

Federated Farmers High Country Field Day

Omarama, March 4, 1999

Hon David Carter, Associate Minister for Food, Fibre, Biosecurity and Border Control

"...I have been aware for some time of the rumblings over last year's Crown Pastoral Land Act...

...The Crown Pastoral Land Act is now 8 months old and entrenched policy. It is time we all, Government, environmentalists and farmers, moved on from the bickering that has marked the debate over the future of High Country farming.

The Act you now have before you is the best possible compromise that could have been reached between the various interest groups involved in the High Country's future.

Not only does it safeguard your interests, it has provided you with a platform for the reform of the 2.5 million hectares of Crown pastoral land tenure in the South Island.

The new Act is an enormous improvement on the old system, and has opened the way for farming and conservation interests to both be listened to.

That's no mean feat when you are talking about an area as special and as unique as our South Island High Country, an area which all New Zealanders feel they have an ownership of, but which you have special empathy with....

...Whether you like it or not, the environmental lobby has acquired an increasingly vocal voice. The environmental lobby in this country has moved from being a fringe element to being a concern to many, in fact most, New Zealanders. You, and I, can no longer afford to ignore or dismiss the representations of the conservation lobby....

The new Crown Pastoral Land Act reflects this cultural change by requiring the Commissioner of Crown Lands to take into account the desirability of protecting the inherent values of our High Country land. The Government wants to own and protect areas of significant inherent value, and this is something that is now demanded by many New Zealanders.

In the Government's eyes, the Crown Pastoral Land Act is the best possible compromise between the expectations of environmentalists and farmers, that could have been reached....

...The Act has facilitated the ability to allow for tenure reviews of high country leasehold land, and the freeholding of parts of current leasehold properties...

...Many farmers I know felt vulnerable under the old act; the new Crown Pastoral Land Act has given you the opportunity to create some certainty in your future....

...I'd encourage you to be happy with the deal and to make it work...."

Public Access

Published by Public Access New Zealand Incorporated.
R D 1, Omakau 9182, Central Otago. Email: panz@es.co.nz
Phone & Fax (03) 447 3554. Occasional publication.
Single copy \$3.00 (incl. GST), plus \$1.00 postage.
Overseas rates on application. Free to PANZ Supporters.
Editor: Bruce Mason

© Public Access New Zealand Inc. This publication is copyright. Except for rights under the Copyright Act, and for reproduction of one article with acknowledgement of publication name and issue, with author if cited, no part may be reproduced without the prior permission of Public Access New Zealand. Contributed material may also be copyright to the authors and require their consent for reproduction.