

THE HISTORY OF POLICING IN NEW ZEALAND
VOLUME ONE

Policing the Colonial Frontier

PART 1

Richard S Hill



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NEW ZEALAND POLICE

MAXIMS FOR GENERAL GUIDANCE OF MEMBERS OF THE POLICE FORCE

- 1.—Constables are placed in authority to protect, not to oppress, the public.
- 2.—To do which effectually they must earnestly and systematically exert themselves to prevent crime.
- 3.—When a crime has been committed, no time should be lost nor exertions spared to discover and bring to justice the offenders.
- 4.—Obtain a knowledge of all reputed thieves, and idle and disorderly persons.
- 5.—Watch narrowly all persons having no visible means of subsistence, and repress vagrancy.
- 6.—Be impartial in the discharge of duties, discarding all political and sectarian prejudices.
- 7.—Be cool and intrepid in the discharge of duties in emergencies and unavoidable conflicts.
- 8.—Avoid altercations, and display perfect command of temper under insult and provocation, to which all Constables are occasionally liable.
- 9.—Never strike but in self-defence, nor treat a prisoner with more rigour than may be absolutely necessary to prevent escape.
- 10.—Practice the most complete sobriety; one instance of drunkenness will render a Constable liable to dismissal.
- 11.—Treat with the utmost civility all classes of the community, and cheerfully render assistance to all in need of it.
- 12.—Exhibit deference and respect to the Magistracy.
- 13.—Promptly and cheerfully obey all superior officers.
- 14.—Render faithful and speedy account of all moneys and property taken possession of in the execution of duty.
- 15.—Be perfectly neat and clean in person and attire.
- 16.—Never sit down in a publichouse, and avoid tippling.
- 17.—It is the interest of every man to devote some portion of his spare time to the practice of reading and writing, and the general improvement of his mind, for ignorance is an insuperable bar to promotion in the Police Service, as well as in all other services and walks of life.

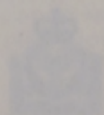
*The History of Policing
in New Zealand,
Volume One*

*The Practice of Convict Social
Control in New Zealand,
1767-1867*

Part One

Richard S Hill

Historical Publications Branch
Department of Internal Affairs



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**The Theory and Practice of Coercive Social
and Racial Control in New Zealand,
1767–1867**

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1986

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Preface

'Police history is an area grossly neglected by scholarly writers', noted an English historian recently. This is a truism often repeated in despairing tones in academic circles and literature in various parts of the globe. It is scarcely an exaggeration to say that in New Zealand historiography policing has been not so much 'neglected' as totally ignored, with most references to it being at best passing and inaccurate. In 1940, a century after the appointment of the first regular policemen in New Zealand, the editor of the Police Association journal called for study into the evolution of the country's police, realising that the production of a serious history would require an 'extensive preliminary period of research'. Seventeen years later the same publication lamented that its periodic request for 'data on early policy history has not met with a very ready response'. Those few amateurs who dabbled with the subject were daunted by its complexity: dozens of separate police forces, ranging in size from one-man to hundreds, jostled for attention in the first few decades of the history of the colony. With a continued lack of academic interest in the mechanisms of social control, the New Zealand Police itself finally made a move by commissioning a narrative history of policing in New Zealand. A resultant typescript, covering some aspects of policing in the first 80 or so years of the colony, had been completed by the mid 1970s.

It was later decided that a comprehensive and publishable police history be produced. At this point the New Zealand Government's Chief Historian, Ian McL Wards—whose own research into early New Zealand military policies had brought him an appreciation of the significance of policing—arranged with Police Commissioner K Burnside for access by two historians to those archives and records still under police control. These historians were the present author, whose second volume will examine the history of the New Zealand police from the establishment of the Armed Constabulary through to the end of the First World War, and Graeme Dunstall of Canterbury University, whose commission was to research the modern history of the police in New Zealand. Through a policeman with historical interest and qualifications—Sherwood Young—who was delegated by the Commissioner of Police to liaise with the two police historians and facilitate their work, the New Zealand Police provided all possible assistance to the project, although of course that organisation bears no responsibility for the text of the history.

Policing the Colonial Frontier

Most of the contents of *Policing the Colonial Frontier* are based upon primary sources, particularly official documents held by National Archives, and newspaper files held at the Alexander Turnbull and General Assembly Libraries, but also materials held at various repositories throughout New Zealand. The consulted documentation was vast in size and scope but its usefulness uneven: despite the enormous amount of research conducted, whole portions of the history—including some crucial developments—had, in view of the many gaps in the record, to be pieced together speculatively from fragments of information. A bibliography will accompany the forthcoming second volume. Meanwhile, the comprehensive (though selective) references in the present work will guide those wishing to do further reading or research, while the index of first reference appearance of (mostly) secondary works cited more than once is an additional aid. Most quotations in the text are taken from original source material, in an effort to give the 'flavour' of the times; these should not, of course, be regarded necessarily as the sentiments of the author. Nor does the book pretend to offer a Maori perspective on the imposition by the pakeha state of policing modes in New Zealand.

Nineteenth century technical usage is retained where there are no modern equivalents, such as the 'effective' or 'working' head of a police force. This refers to the person who regularly makes the strategic and/or operational decisions in a force whether holding titular headship of it or not, a position often juxtaposed to a superior officer conducting mostly only formal or overview duties as nominal head of police. Historical terminological convention has been followed at times—use of the word 'officer' as synonymous with the term 'commissioned officer' for example—but in some cases a plethora of contemporary usage has been simplified by the use of the most consistently utilised expression of the time: 'district constables' to describe the part-time country policemen known also under other titles such as 'special constables' or 'rural constables'. Use has been made of some modern technical expressions of policing, such as 'surveilling' or 'proactive', but in general the tone is 'historical': within quotations contemporary spellings have been retained, as generally have versions of Maori and European place-names used at the time. The word 'constable' refers both to the ancient British office of 'constable' and to the rank of 'constable'; to avoid confusion as much as possible, where forces had alternative terminology for their lowest rank—especially 'private'—this is used. Maori names are spelt as per the most consistent use in the (almost invariably pakeha-generated) material consulted.

In early colonial New Zealand the state function was frequently

decentralised to a very considerable degree, policing more so than most other facets of governance. That this book reflects this fact introduces what might appear to be distortion of perspective: the weighting given to the minute Hawke's Bay provincial force might be perceived as disproportionately great compared to that given the far bigger Otago armed police force. Yet the capacity to apply coercive control was of equal importance to the state authorities in Napier as it was to those in Dunedin; in the absence of a centralised police system, the policing mechanism of each devolved state organisation in New Zealand was, given its terms of reference, intrinsically as significant as any other. Due consideration is given however to the factors which made some forces of more transcendent influence in the evolution of policing in New Zealand: the control of race conflict, and of goldfields regions, in particular. Heads of the various relatively autonomous police forces have been identified as a useful pointer for future research, particularly that into the complexities of runanga policing.

In the course of traversing a great deal of new ground, a number of historiographically 'controversial' stances have been taken; to have explicated the full reasons at each point would have precluded inclusion of much material on policing *per se*. Footnotes containing references to non-primary material will direct people to, *inter alia*, a reading of points of view which do not necessarily coincide with those of the author; the selectivity of the references must be stressed, however, and obvious sources frequently used—such as Guy Scholefield's *Dictionary of New Zealand Biography* (1940)—are not always included. All quoted primary documentation is, unless otherwise stated, held at the New Zealand National Archives.

I owe especial thanks to: Ian Wards, who first 'sold' me the idea of tackling the policy history and thereafter provided unflagging advice, encouragement and critiques; Historical Publications Branch editor Penelope Wheeler, for her comprehensive editing, checking and querying of the manuscript and her preparation of the index; the Police History Liaison Officer at Police National Headquarters, Chief Inspector Sherwood I Young, for a vital support-services role which went far beyond the call of duty; Richard Greenaway, who spent a great deal of his own time assiduously researching the Canterbury provincial archives in Christchurch, without which help the Canterbury sections of the text would have been far less comprehensive; Lands and Survey historian Brad Patterson, for sharing the problems of manoeuvring in uncharted historiographical waters; Professor W David McIntyre and Miles Fairburn, whose assessments of the draft contained fruitful crit-

iques; my wife Jane Tucker, for her unflinching support through some difficult times and for her own invaluable assistance with the project.

I wish to thank all members of the New Zealand Police who have contributed in various ways; they are too numerous to individualise here, but I must particularly mention Graeme Dallow, Barry Thomson and the late Isla Jones. I wish also to thank many staff in various research institutions, particularly National Archives, where the bulk of my archival research was conducted. Archivists who have shared specialist knowledge of the intricacies of policing archives include Michael Hodder, Ken Scadden, Mark Stoddart, Stuart Strachan and Bruce Symondson (National Archives), Dr Michael Hoare and David Retter (Alexander Turnbull Library), and Peter Miller (The Hocken Library). Individuals who have volunteered enthusiastic help include a number of other archivists who have kept their eyes open for relevant material, black-powder firearms expert John Osborne, and a network of academic, librarian, police and 'amateur' volunteer help throughout the country and overseas, some of which is reflected in the footnotes. Because of the decentralised nature of policing, and the fragmentary nature of archives for some regions, a great deal of 'low-yield' newspaper research was necessary. When this overwhelmed me, I called in research assistance from time to time, and as a result newspaper research was done for this volume by Cathy Marr (who continued to supply useful information after joining National Archives), Lou Ormsby, Michael Parker, and Brent Taylor.

Lack of resources precluded any protracted research at key archival repositories in Auckland and Dunedin, and Joy Stirling and Michele Poole respectively filled in the gaps. Useful suggestions were provided by Dr James Belich and David Green of the Dictionary of New Zealand Biography project, and by Louise Greig. I thank Government Publishing for taking on the project, Chris Lipscombe and Sue Kerr for following it through, and the staff of the Government Printing Office for production of the books. I owe the maps to the skills of Tim Galloway aided by research by Penelope Wheeler. The acting head of the Historical Publications Branch for most of the two years since Ian Wards' retirement, Ian McGibbon, supervised editing and the Branch end of the work's production. The Internal Affairs chief typist Mary Dooley and other departmental typing staff in Wellington and Christchurch, and New Zealand Police typists—especially Dale Hartle of the Police College—created excellent typescript out of impossible handwriting, text was word-processed by Annette Harfield, Hine Mason and Debbie Schrammel. Throughout the project Internal

Preface

Affairs Librarian Peggy Mole and her staff provided tolerant library support services for a user who would persist in requesting works unavailable in New Zealand. During the undertaking Professors David Hamer and J Colin Davis, and Graeme Dunstall, provided appreciated encouragement. A full list of acknowledgements will be appended to the forthcoming second volume of the policing history. Needless to say, the author alone is responsible for the text presented in the book.

Richard Hill
Senior Historian
Historical Publications Branch
Department of Internal Affairs
5 November 1984

The Function of Policing and its British Development

Historians, theoreticians and practitioners of policing agree upon only one thing: that studies of policing, of 'regulation, discipline and control', are in a primitive phase of development. Yet an understanding of the present, and an enlightened stance on the way forward to the future, require at their very core a knowledge of the purpose of policing and of the evolution of police forces, those organisations which have the right to coercively constrain public and private behaviour. The essence of being a police officer, to adapt the definition of a leading policing theoretician Egon Bittner, is possession of the sanctioned potential for applying 'non negotiably coercive force' in his/her role as 'custodian of official order'. Most such wielders of the capacity to legally coerce are agents of a state institution. Official police personnel embody and symbolise the ultimate power of the state and operate laws which in aggregate amount to 'all-purpose control devices'. This together with their possession of the ancient common law office of constable enables them to coerce 'almost anyone on formally defensible grounds'. They keep watch over all aspects of social activity, and whenever necessary intervene to check any behaviour deemed by the state to be subversive of 'order and regularity'.

Through history, economic and therefore political controlling sectors of societies have exercised the superintendence and direction of their populaces in a variety of fashions. Mechanisms available to the state along a 'control continuum' range from those situated at a repressively coercive extreme—including warfare—to those which are purely ideological; in J K Galbraith's terminology, from 'condign' power to 'conditioned' power. Decision-makers in the state select at any given time those devices which are deemed appropriate to meet the perceived current social control needs of the controlling sectors, subject to the constraints of political expediency and availability of resources. The requirement for a high level of potential or actual coercion diminishes as the 'troublesome' classes and/or races within societies 'stabilise', thereby affording greater security to the central power base and the economic

interests it represents. The cheapest and most desired mode of control is that located at the passive or hegemonic end of the continuum, whereby the mass of the population act of their own accord in ways which are approved by the controlling sector. When hegemonism prevails most people, by means of state and extra-state ideological 'conditioning', have individually and collectively internalised 'correct' patterns of thought and activity, which they regard as legitimate, 'natural', 'moral', even inevitable. 'Conditioned' control, in short, is posited on the emergence of a consensual viewpoint having pervaded a great proportion of the inhabitants of the territory under scrutiny.

The degree of 'order' in a society normally depends primarily upon factors other than those of policing, ranging from the long-term, continuity of resistance to exploitation on the part of Irish peasantry for example, to the short-term—an economic recession, say, or the growth of radical political ideas. It is therefore seldom viable to attempt to determine the 'effectiveness' of a police force except in very specific circumstances wherein a clear definition of aim has been postulated by its controllers and non-policing factors can as far as possible be eliminated. The movement of a policing apparatus on to a hitherto officially 'unpoliced' goldfield would provide an example of such circumstances, but even here difficulties of assessment become apparent in this volume. For such reasons the historian of policing is obliged in general to discuss the 'perceived' effectiveness, from the point of view of the state and/or public, of a particular force or its methods. All the same, at all times policing is an indispensable tool of the state. It is moreover an instrument not confined to the coercive section of the control continuum, but one which penetrates deep into the various social control mechanisms, including those clustered at the hegemonic end of the continuum.¹

From the beginnings of social formation, forms of policing and other controls began to emerge. As societies grew in sophistication, their incipient ruling strata would increasingly make use of men who had displayed specialist skills in coercion as their control agents whenever required. Possession of the means of coercion helped emergent ruling groups to consolidate their power bases, and ensured that they were able to impose and maintain specified modes of societal behaviour deemed to be appropriate to time and place. This was the case for both the most primitive of tribes wherein division of labour had barely begun, and the complex

Greco-Roman systems which utilised a vast array of employees specialised in the tasks of coercion.

The Roman occupation of Britain superimposed upon collectivist/tribal kinship modes of control a tightly structured system of social control which combined both military and civil policing. Coercion by army and by police have always been distinguished by differences of degree rather than kind, and through most of the history of policing there was no clear demarcation between the two interwoven strands of control situated towards the coercive extremity of the control continuum. In nineteenth century New Zealand some constables were neither more nor less than soldiers, some soldiers were *de facto* policemen, a situation unusual only for its clarity in an area normally blurred. Historically, constables were generally considered to be a reserve military body for mobilisation by the state in potential or actual emergency; conversely, soldiers were frequently called upon to conduct duties generally considered to be of a 'policing' nature. In any society police and/or army could be used instrumentally to undertake the coercive 'goal attainment' role of imposing upon sectors of the population various objectives perceived by the political expression of the dominant economic class as those equating to a desired state of 'order and regularity'. The normal division of labour between the two coercive arms of the state generally obfuscated their unity of purpose. In 'using force to subdue internal aggressors, police are like soldiers, who use force to subdue external aggressors', wrote Herbert Spencer, keen observer of modes of societal control last century.

Conversely, however, contiguity and interaction on the control continuum should not disguise the fundamental difference of operational function between police and military, one representing the first line of defence of the state, the other the last line. With aggregations of 'internal aggressors' (as defined by the state) suppressed and a state-labelled situation of normalism being worked towards, the function of first-line defence of state interest usually rests with the police, who become less manifestly coercive in appearance and methods as turmoil recedes and stability and compliance evolve. In such circumstances the mode of policing moves gradually along the control continuum in a direction away from that of the coercive pole, for the key purpose of police now becomes that of 'order maintenance', which is the most usual function of policing/social control in 'advanced' societies. In these conditions policemen are, in the eyes of many people for much of the time, no more than symbols of rather than wielders of the coercive might available to the controllers of society.

That being said, military organisational norms pervade 'modern'

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policing organisations, ensuring that with any onset of perceived social disequilibrium there are the methods and resources available to the police for a move (rapidly if necessary) back towards the coercive pole of the continuum. The difference between policing and soldiering, then, as Spencer noted, was that of normative method: the policeman is usually a soldier acting alone, soldiers are usually policemen acting collectively. In short, all coercive agents of state are engaged, potentially or actually, in the business of norm enforcement on behalf of the dominant socio-economic/racial groups in society as organised in their political expression in the state.²

In the wake of the Roman withdrawal from Britain, Anglo-Saxon collectivist modes of order imposition and order maintenance once again prevailed. But as certain tribal groupings grew increasingly powerful, particularly as the result of federalising tendencies, a concomitant specialisation of order tasks evolved. This was gradually systematised—especially by King Alfred the Great of Wessex and his successors—and by the late ninth century a form of ‘social contract’ had emerged. The ‘normal’ condition of society, as defined by the resource controllers in their political capacity, would from now on be legally constituted as ‘the King’s [or Queen’s] Peace’. In return for adherence to the modes of behaviour decreed by the ruling groups to be desirable, the individual was guaranteed that an injury to himself (or to a lesser degree, herself) or to his/her property was classified as an injury to the King’s Peace, to the Crown itself. A violation of the rights (as determined by the rulers) of one individual by another was now seen to be different only in degree from collective armed rebellion against the dominant groups and their milieu of rule, the state. It was this idea of a ‘social contract’ which was eventually exported to the farthest corners of the empire, although the operational parameters of the definition of the King’s Peace adjusted flexibly to local and changing circumstances. What was interpreted by state authorities in 1840s England as an offence ‘against the peace of our Lady the Queen, her crown and dignity’ might well not be perceived as an offence—or at least an offence worth bothering about—in the chaos surrounding the establishment of a new antipodean colony.

King Alfred had also systematised the mechanisms for promoting order which were embodied in the communal Anglo-Saxon societal units. In a system of what was essentially indirect royal control, collective responsibility for norm enforcement was placed more formally than before squarely upon the ‘tithing’ unit of around 10 families, and upon the organisation of the ‘hundred’, representing some 10 tithings. Wherever possible, communal

accountability to the monarch for the actions of the members of these Anglo-Saxon control groupings was delegated by the King to officials heading each of the tithings and hundreds, and these men were superintended by the King's representative at shire level, the sheriff. It was a period of transition from kinship to territorial communities, some spatially concentrated, others scattered. The gradual formalisation of what had been no more than customary tribal organisation reflected the increasing centralised control of the monarch and his socio-economic power base. Control of the official tithing was overseen by the hundred moot, with those tithings units which had allowed members to violate desired norms being punished by fines or more severe forms of deterrent retribution. At the shire moot level, the sheriff on behalf of the King mediated with regionally powerful men and with representatives of the lower level of the order-system. In areas farthest from the reach of the centralising tentacles of monarchy, parallel—though regionalised, even localised—formalisation of tribal-based peacekeeping institutions occurred, ensuring a degree of continuity of social control when such areas succumbed to the sway of the central state. In 1030 AD, by which date two-thirds of England had been networked by the official tithing pattern, King Knut decreed that enrolment into that system was compulsory throughout his territories.

With the advent of the Norman occupation from 1066, alien techniques of social control were enforced upon the conquered people. But the value to the centralised ruler of the shire/hundred/tithing system was at once appreciated and rather than abolishing it King William set about to remould it. A twin system of societal control therefore now operated. The first component was Norman feudalism, under which feudal lords legally kept tight socio-economic control of their tenants by such means as manorial 'courts leet'. The second was the old system—renamed the frankpledge—dominated regionally by the sheriff, whose territorial unit of jurisdiction was now designated a county. In such ways were the norms of the conquerors imposed upon the conquered by indirect as well as by direct controls. Inevitably there was tension as a result of the superimposition: between the operation of the King's Peace by the direct representative of the King, and its interpretation by quasi- or near-autonomous feudal magnates, a friction exacerbated by a tendency for the sheriff himself to gain semi-autonomy from the King. From the early twelfth century the monarchy began a centralising drive against accretions of regionalised power, a process which was ultimately both to supersede feudal power and to bypass the role of the sheriff. It was based essentially upon the surviving, indeed flourishing, order mechanisms of the hundred/

tithing system—built, that is, upon the foundations of the strategy of indirect control.³

Travelling emissaries of the King increasingly ensured that the revamped Anglo-Saxon institutions were exercising social control in general accordance with the wishes of the central power. Local men of substance were appointed to conduct this surveillance on a continuing basis during the absence of the superintending officials, and they in turn began to make direct use of the mechanisms of hundred and tithing (or their regional equivalents) for the enforcement of normative behavioural requirements. Late in the twelfth century Richard I regularised these developments: all 'free men' were to sustain a quota of arms in order to operate the collectivised indirect control system of policing, and certain local officials were to be designated 'constables' for the purpose of inspecting households to ensure that the quota was maintained. It was no accident that the word 'constable' was adopted from a term for high Norman royal officers, itself rooted ultimately in an important Roman military institution. Concomitantly the higher officials of the realm—central, regional and local—in their capacity of superintending the peacekeeping operation were accorded the title 'Conservators of the Peace'. The regional and local incumbents of this office were essentially chiefs of police operating the royal requirements of order within their territorial areas of jurisdiction.⁴

In the mid thirteenth century the words 'high constable' and 'petty constable'—the first of what became a standard differentiation between 'high' and 'low' policemen—definitively replaced the lingering expressions 'hundredman' and 'tithingman' by royal writ. The subordination to the Conservator of the Peace of the officials responsible for imposing and maintaining order was firmly regularised. In 1285 Edward I drew the various threads of the frankpledge system together in the Statute of Winchester. Although the office of constable had been utilised in the courts leet, its crucial positioning in the centrally-imposed order system was to be of far greater importance in the long run. The hundred, now firmly a territorial unit, was to have two constables whose functions (such as undertaking the arms quota inspections) were supervised by the 'chief constable'. Earlier in the century the beginnings of urbanisation had required a royal decree that towns and villages were to provide their own policing arrangements, and this was now schematised. In the 'watch and ward' method a mix of constables and other citizens (on compulsory, rotating duty) supervised the approaches to their towns and dwelling-clusters nightly; those in the larger boroughs were organised into units called 'wards'. Superintending the entire strategy of keeping the King's Peace, in both

rural and emergent urban areas, were the royal agents, the Conservators of the Peace. 'Low' policemen acted on behalf of the 'high' police intelligence gatherers ('the eyes and ears' of the state) as instruments ('the hands') of state.⁵

Subsequent developments in the strategy of keeping the King's Peace were little more than fine-tunings of the basic system set out in the Statute of Winchester. The ecclesiastical administrative unit of the 'parish', for example, was purloined as the most suitable unit firstly for the superintendence of the rural village, and then of the urban population, and all eligible men within the 'parish' boundaries were liable for the duty of serving as constable for a year at a time. From the second quarter of the fourteenth century the Conservators of the Peace were reorganised into the new office of Justice of the Peace (JP), which constituted a landmark in Plantagenet centralising tendencies—an 'important fact in that long process by which all men and institutions were brought under the direct and supreme authority of the state'. In 1361 the institution of JP as local Crown agent with administrative and executive functions was further systematised by Edward III's Justice of the Peace Act, which also gave the officeholders a judicial function. That legislation, still the statutory basis for the office of JP (or magistrate) at the time of the founding of the colony of New Zealand, had resulted from an upsurge of unrest against artificial lowering of wage rates and conscription of labour during the labour-shortage aftermath of the Black Death. The JPs were given wide powers under it to suppress resistance to the established order, including the right to demand sureties for good behaviour from persons deemed riotous or tumultuous.⁶

The JP, controller of the office of constable, was an appointee of the Crown, normally a member of the 'gentry' (or higher within the landed strata) in the countryside and of the merchant sector in the town. On behalf of the Crown the magistracy gradually encroached upon the prerogatives of both sheriff and court leet, a process facilitated by its ability to command the services of the constables. When Tudor monarchs determinedly suppressed social unrest they used the JP/Constable system as the mainstay of their efforts to reimpose those concepts of deportment which they considered most applicable for preserving the established order. One key factor in the perceived disorder, the growth in capitalist modes of economic relationships, itself prompted an alteration in the control system: men of substance called up to serve as constable would frequently prefer to continue untrammelled pursuit of profit in the money economy and were now allowed to pay substitutes to undertake their duties in the office of constable. This departure would

eventually bring discredit to the office, for those obligated to serve would hire the lowest bidder for the office, frequently thereby appointing men marginalised by a developing economy which had left them behind. Many observers, Shakespeare included (Dogberry and Verges in *Much Ado About Nothing*), ridiculed such poor quality constables.⁷

All the same, the JP/Constable system remained the linchpin of the strategic mechanism of control of the populace. Indeed JPs continued to increase their power so that on behalf of the monarchy they—in F W Maitland's phraseology—'gradually became rulers of the country'. A JP's fundamental brief was to prevent or suppress breaches of the King's Peace, his function to be that of 'primarily a police officer'. In 1590 the Commission of the Peace—the terms of reference for the office of JP—gained the wording that it was to retain for centuries: the general peacekeeping brief of the JP was honed as an instruction to enforce governmental decisions made for the 'good of the peace'. It was normally possible to leave this enforcement procedure to the discretion of the JPs in their respective localities. Across the Channel the word 'police'—with Greek and Latin linguistic roots relating to the imposition and preservation of social order—was now gaining currency as a general description of government control devices of many types, such as public health agencies. Its semantic transference to England was to be long postponed by hatred amongst the purveyors of 'official ideology' of Oliver Cromwell's brief regime, whose centralised mechanisms of repressive control, antithetical to the notion of the strategy of indirect control, were regarded by the owning classes as continental in ethos.⁸

Indeed, with the overthrow of the Interregnum, decentralised/delegated power bases were cherished more jealously than ever by the aristocracy, gentry and merchant classes from whose ranks the JPs were drawn. Limitations placed upon the King's power by the House of Commons during the Restoration ensured that magistrates became increasingly divorced from immediate supervision by the monarch and his central officials. The nightwatch established in 1663 to supplement parochial constables in sprawling London was not directly a creature of the King even though its personnel were nicknamed 'Charlies', and a decade later JPs gained the right themselves to appoint constables, including unlimited numbers of special constables in emergencies. Resistance to any hint of direct centralised control of policing was reinforced by commentaries on the French monarchy's repressive police forces, particularly the spy/patrol police system implemented in Paris by Louis XIV in 1667. The Bill of Rights extracted from the English monarch in

1688 ensured that the local power bases of the landowning class were secured: not only would there be no centralised monarchical policing but also proscribed was the 'raising or keeping of a standing army within the kingdom in time of peace unless it be with consent of parliament'. All told, by the eighteenth century policing was decreasingly controlled in any meaningful sense even indirectly by the Crown. The ruling classes held devolved social control firmly in their own (regional and local) hands. Yet the fact remained that all policing officials—high and low, judicial or lay—remained state agents, whatever the mythology which later arose, based on the relative autonomy which had been gained by the JP. The central administration retained a high profile in crucial and well demarcated areas of state—and a capacity to reclaim the power which had been devolved to regional or local level.⁹

'The British state, all eighteenth-century legislators agreed, existed to preserve the property and, incidentally, the lives and liberties, of the propertied', E P Thompson has observed. From the point of view of the dominant classes, their system of control and order was rational and effective to this end. With the extraordinarily rapid onset of the Industrial Revolution from the later years of that century, however, theorists began to conclude that the existing organisational mode of the 'containing and coercive' agencies was becoming anachronistic in a period of fundamental alterations in the means and relations of production. In particular, defenders of socio-economic privilege feared the massive degree of 'Movement' caused by new economic trends. The old order, at least by comparison, had been posited essentially upon stasis. The JP/Constable system had been required for containment purposes only when class/community-based mechanisms for order broke down, in circumstances which usually just involved individuals or small groups, mass-based defiance being regarded as a state emergency and treated accordingly. With the inexorable onrush of industrial capitalism, large numbers of working people were displaced from the class and informal/communal controls of their localities. Those who became concentrated into the turbulent urban areas—especially London—were perceived as posing a collective threat to what contemporaries marvelled at as the new 'accumulation of property, extensive beyond all credibility'. And beyond that, workers' resistance (objective as well as subjective) to the work and extra-work disciplines required by the new modes of production was seen to endanger the very fabric of the state and the interests—old and new—which it represented. Theoreticians, usually from the dominant urban sectors which stood to benefit most from increased control of the working masses, began to apply them-

selves to working out new forms of social disciplinary techniques. To the fore of these considerations was re-examination of the policing methodology.¹⁰

The police function *per se* was not in question. The need for imposition and/or maintenance of social conditions defined by the politico-economic controllers as desirably normative was a purpose which transcended both time and alterations in the dominant mode and relations of production, distribution and exchange. It was the manner of exercise of that function which was seen to need, at very least, supplementation to meet the new problems of order apprehended as being thrown up by the Industrial Revolution; and, soon, to meet the order problems of the 'colony' of Ireland, for which a separate but not unrelated set of disciplinary orientations was under consideration. Whereas policing reform in Ireland was relatively easy to implement, the English process was convoluted: the rural gentry and urban merchants who provided the core of the JP-headed social control mechanism resisted changes which would erode their own power bases. Such resistance waned gradually as it was perceived that the working class 'movement' away from old social bondings threatened the socio-political order itself. The 'old police' had proven incapable of handling serious rioting, and the use of the military to repress disorder was increasingly seen as a coercive mechanism which—whatever its short-term success—was counter-productive in a broader perspective because of the deep-seated hatred of the authorities which it engendered. The newly theoreticised modes of state social discipline were progressively implemented during and after periods when there seemed to be some substance to the never-absent unease amongst ruling circles over the revolutionary potential of the English workers or the Irish peasantry.¹¹

The outcome of half a century of policing debate, experimentation and evolution in England and its territories was to be transplanted to the new colony of New Zealand. In the antipodes there had already been a great deal of indigenised adaptation of the new methods of control whenever and wherever conditions demanded. The state in New South Wales—which had varying degrees of jurisdiction over New Zealand until 1841—and then in New Zealand itself, in carrying out its fundamental task of creating and maintaining conditions of 'order and regularity' conducive for aggregated private profit maximisation, was to a greater or lesser degree relatively autonomous from control by the classes whose interests ultimately preoccupied it. For the sake of the long-term

'good' of the owners of land and capital the antipodean state might well override the short-term interests of individuals or collectivities, whatever the extent of their wealth and power. The police mechanism, the all-purpose agency of the classes dominating the state, the agency servicing the state's basal Lockean concern for 'the Preservation of their Property', was inevitably involved from time to time in 'condign' application of sanctions to individual members of those classes. But in the very nature of things, particularly in a new colony in which pakeha social bonding had yet to be fully re-created and Maori tribal bonding was in some ways an inhibition to European settlement, the main policing targeting was necessarily directed towards those who by class or race were perceived to threaten—actually or potentially—state-envisioned concepts of order and regularity, the transplanted (though adapted) order of social and economic relationships. The presence of a series of thriving, competing and often resistant Maori mini-states in New Zealand was to present the imperial and colonial authorities with a number of peculiarly indigenised problems of control, but they never lost sight of the fundamental purpose of policing.

The amount of coercion perceived to be needed, and its availability, waxed and waned according to demand and supply, time and place, conditional upon the priorities decided by legislative and executive arms of state regarding the allocation of (usually scarce) resources. At the 'condign' extreme of the continuum of modes of control undisguised military suppression could be put into effect, sometimes involving police personnel as in the New Zealand wars of the 1840s. At the opposite pole lay the strategy of hegemony, the legitimisation of the existing order, the mobilisation and reproduction of the passive or active consent of the mass of people occupying subordinate social space by dint of their race or class. In broad terms the history of socio-racial control in nineteenth century New Zealand involves a gradual and uneven (in both location and time) shift in the prevailing control mechanisms from the overtly coercive extreme of the continuum towards covertly coercive and then hegemonic modes. By the end of the century the great majority of pakeha New Zealanders, at least, had in a general sense accepted the legitimacy of the values held by the dominant classes and ordained by their representatives in the state. The overtly coercive measures available to the state, symbolised by the daily presence of the patrol policeman in the streets rather than by the less-visible military, therefore rarely needed mobilising except—and then unremittingly—against individual or small-group violators of the legitimated norms of behaviour.¹²

It was the formal division of the New Zealand apparatus of state

coercion into police and military organisations in 1886 which signalled the uneven but sure transition from a predominantly coercively policed society. This overall trend resulted from economic and hegemonic factors largely outside the sphere of influence of the police. The 'expropriation of consciousness' by official and dominant-class control of the means of persuasion ensured that increasingly most people obeyed most of the normative rules most of the time. Once the pioneering phase of New Zealand history was over, police were no more than the most visible component of a 'highly complex system of social control'. Nevertheless, their omnipresent capacity to generate non-negotiably coercive force on behalf of an ultimately all-powerful state made them the most crucial single component. Evidence presented in this book, in explicating the unevenness of the development from the nexus of 'coercion' to that of 'consent', cautions against too superficial a perception of the trend towards what might be called (depending on one's ideological persuasion) either consensual belief patterns or social control by the implantation of 'false consciousness' in the mass of the subordinate classes. Pre-1840 and early colonial New Zealand comprised a large number of localities and regions which were to a greater or lesser extent economically, racially or socially self-contained, and this was reflected in a mosaic pattern of social control. At one extreme of the control continuum soldier-constables might be engaging in close-contact combat with Maoris deemed to be insurrectionist while at the same time elsewhere in the colony small farmers would be carrying out, on a part-time basis, any policing duties required by their local JP, the representative of both the dominant rural class and of the state. The apparatus of coercion was, in short, flexible in its capacity to respond to any type of behaviour which threatened ruling definitions of 'order and regularity' as interpreted by key state agents on the spot. All responses, however, were arrayed on the same plane, as a leading New Zealand politician acknowledged at the conclusion of the period surveyed in the present volume: 'If a policeman goes to take a riotous man, and that man knocks him down, and that policeman calls another policeman to his assistance, that is a little war, resistance *vi et armis* to the constituted authorities of the State.'¹³

Moreover, the police had a more pervasive role to play than to fight 'little wars', even in the period of hegemonised control. At the beginning of the nineteenth century the emergent modern British state had been seeking to propagate a self-image as a neutral arbiter between individuals and between classes. Integral to this approach was utilisation of the longstanding portrayal of 'the law' and its application as being non-discriminatory between all citizens

regardless of race, class or creed. Authorities from as far back in time as Socrates were appropriated in support of this official orthodoxy. After the establishment of the London Metropolitan Police in 1829 its first Commissioners, Charles Rowan and Richard Mayne, sought to gain an elusive acceptability by ideologically subsuming their 'new police' beneath the supposedly value-neutral judicial system. Although the constables of 'The Met' were essentially state agents who were responsive to the requirements of the dominant classes through the mediation of the political executive, it was claimed—and increasingly believed—that they were accountable to and agents of 'the law' alone, moreover a law which had become seemingly disembodied from the state and transferred to a reified magistracy. The imagery was consciously fostered that the police were autonomous from the political and legislative sectors of the state, were indeed the impersonal bureaucratic embodiments of a purportedly impartial system of justice run by an independent judicature. This legitimacy rationale was to be exported to the colonies, where—as in Britain—it would remain the 'official' version of the police relationship with state authority.¹⁴

Yet from its very inception the claim was hardly convincing for a number of reasons. That the 'impartiality' of 'the law' will not bear examination by the historical microscope is a truism; one historian has concluded that the 'greatest of all legal fictions is that the law itself evolves, from case to case, by its own impartial logic, true only to its own integrity, unswayed by expedient considerations.' Even when legal wordings do embody formal equity the oft-quoted sarcastic praise of Anatole France suffices to indicate how meaningless this can be in the absence of anything approaching actual socio-economic equality: 'the majestic equality of the French law, which forbids both rich and poor alike from sleeping under the bridges of the Seine'.

In essence, then, law is a means towards 'order', and important issues to be ascertained are what at any given time and place constitutes the prevailing official definition of order, whose interests the aggregated components of that definition primarily serve, and how this is done. The historical quest of the state and the interests it represents is for the exact conjunctural mix of definitional ingredients in the concept—forever changing as offences against law or decorum are highlighted or downplayed, labelled, delabelled and relabelled—of 'order and regularity', consistent with the availability of resources and know-how to enforce such standards. Study of both 'the law' itself, and the differentiation of its application as between subordinate and superordinate

classes, points to a 'distinct gap between the substance and the ideology of the law'.¹⁵

Thus 'the law' in eighteenth century England provided not only 'pliant, instrumental functions' on behalf of the gentry and aristocracy but also had hegemonic significance. It 'existed in its own right, as ideology; as an ideology which not only served, in most respects, but which also legitimized class power.' In Douglas Hay's words, the members of the ruling class were 'acutely aware that their security depended on belief—belief in the justice of their rule, and in its adamant strength'. Hegemony and coercion—overt and/or covert—are complementary factors whose relative importances are adjusted as societal changes cause instrumental arms of state to pay more or less attention to disorder and the most appropriate and affordable ways of tackling it.¹⁶

Integral to many applications of state attention to the control continuum—and often crucial—is the policing agency, whose *modus operandi* of following up surveillance with the placing of constraints upon others' behaviour is inimical to a further Rowan/Mayne legitimization theory of policemen being nothing more nor less than consensually-operating 'citizens in uniform'. 'The coercive force of the state, embodied in law and legal repression, is the traditional means of maintaining the social and economic order', and constables—'old' and 'new'—are the traditional regular means of applying, potentially or actually and if necessary non-negotiably, 'condign' restraint upon the citizenry. To be sure, the duties of the constable had over the centuries been superintended by the JP—but by the JP in his capacity as state executive agent rather than as a personification of the judicial arm of state. Yet the shapers of the image of the 'new police' extrapolated even further: not just that constables were traditionally creatures of an impartial judiciary wielding an impartial law, but that they were servants of 'the law' alone and responsible to no person. The concept of 'the law' had, then, first been transferred intrastate to a reified juridico-magistracy, and then become altogether disembodied from the corpus of state. The same propagandists claimed, moreover, that paramilitarisation of policing organisation effected no change in the location of the constable's authority as being vested solely in 'original powers' rooted anciently in 'the law'.

The reality was different. Even had the constable been traditionally responsible to the judiciary and/or to 'the law' alone, the creation of 'The Met' placed 'new policemen' firmly under a different set of masters. What is more, these superiors were far less free from control by the political executive than had been the JPs, for the Commissioners were creatures—most directly so—of the political

arm of state. To claim that the office of constable derived from 'original authority' vested in common law—itself a further negation of the theory of police power amounting to no more than citizen power put into uniform—and unaffected by the establishment of the 'new police' was to mystify, to deliberately choose a 'strategy of consent' by cultivating the appearance of 'autonomy' from the state. Few policing historians now dispute that the 'history of the constable's office demonstrates that the constable has never acted free from command or subordination', and in the eyes of academia—if not within much of the policing world *per se*—the 'original powers thesis' and its accompanying ideological baggage 'has been laid to rest'. But the theoretical obfuscation was imported into nineteenth century New Zealand, despite the overwhelming evidence—some of which appears in the text of this volume—that the colonial police not only acted on behalf of the political executive and the interests it most represented but also frequently operated under the explicit direction of the politicians. As for 'the law' in practice, a provincial newspaper voiced a colonial truism in 1862 in noting about constables: 'With the law they have nothing to do ... knowledge of the law is not required—merely a knowledge of their duty.'¹⁷

Quite apart from the doctrine of accountability solely to an impartial law and/or its magisterial guardians, the Rowan/Mayne 'consent strategy' incorporated another key element: the policeman as embodiment of accepted values, as moral exemplar, as behavioural missionary proselytising (especially his 'own', lower class) people by force of example. If the policeman was citizen in uniform, conversely the bona fide citizen was policeman in non-uniform, but first the 'new police' had to be moulded accordingly. 'Everything that can heighten in any degree the respectability of the office of *Constable*', wrote the first influential 'new police' theorist Patrick Colquhoun, 'adds to the security of the State'. For he and other propagandists for the industrial middle class—the 'real' rulers of nineteenth century Britain, despite a nominal hold by the aristocracy on the House of Commons for much of the century—considered that policing had to do with more than coercion, was over and above that a bid to alter 'the Morals of the People'. Constables were to play the most direct of roles in the process of hegemonisation, converting 'the vicious and immoral habits of the people' into emulation of the behaviour of 'the middle ranks of the Community; whose manners are generally as virtuous as the others are depraved'. In the opinions of the proselytisers of the bourgeoisie, nothing could be more important than to 'give the minds of the People a right bias. This is only attainable through the medium of

a well-regulated Police'. Although they grossly overestimated the viability of the police role in the process of moral and behavioural conversion, the determination of the reformers to have constables instil 'Industry and Frugality' and other such desired values into the working class fitted complementarily with the Rowan/Mayne strategy of consent: as 'respectable' behaviour became for various reasons socially internalised, working people would increasingly come to appreciate that pillar of virtue the 'respectabilised' constable, who would be seen as having all along been attuned to what Macaulay called 'the general rules which govern the world'.

Meanwhile there was an extraordinarily difficult task ahead for those who were employed as constables. 'Respect' for the office had always been based essentially upon the fact that its occupants held the capacity to wield the state's coercive power, which was in the final analysis non-negotiable. A goldfields poetaster epitomised this coercion-based 'respect' thus:

Cease the music, stop the dancing,
Lay the fiddle down,
For King Cassels is advancing
Straight to Logantown.

So women now must cease to smile
And men forget to laugh,
But sit in silence all the while
They their potations quaff.

And who can cause this fear so great?
Ah—if you only knew,
An officer of Otago's state,
A sergeant of the Blue.

From hence all mirth and music fled,
And now all revelry must cease,
The town lies silent as the dead,
When comes the Sergeant of Police.

The 'respectabilisation' of the constable was an even more daunting prospect considering that the office was a 'tainted' one. Its occupants, normally short-term and badly rewarded, were almost invariably recruited from the working class or even sometimes from those marginalised sectors of society perhaps most usefully referred to collectively as the lumpenproletariat—but more normally at the time given appellations such as 'scum' or 'the dregs of humanity'. New holders of the office of constable, therefore, themselves had firstly to be converted to 'correct' ways of conduct and their superiors found this a far from easy task. To take one example, as Anthony Trollope noted bluntly during his travels New Zealanders

were 'very fond of getting drunk', and policemen were in this respect archetypical products of their social milieu. Moreover, given that the most effective moral exemplars are those who have unquestioningly internalised the values they are propagating, social proselytisation posed a particularly difficult problem for colonial New Zealand authorities. The discrepancy between the preferred constable, the moral exemplar with 'sound' patterns of belief as well as of behaviour, and the actual constable—often distinguishable from his class of origin by little more than his uniform—highlighted tensions within the strategy of consent.¹⁸

The history of the 'new police' in Britain, and of its transplanted form in New Zealand, is in essence dichotomised. The 'consent strategy', making gradual and uneven gains as part of a broader social control perspective, always operated alongside the wielding of coercive power in accord with current state perceptions of order requirements. The degree of autonomy of the state from the dominant classes, the degree of autonomy of the police from the state, differed as circumstances of time and place dictated, but in the final analysis all officially exercised superstructural power had been delegated by the Crown. The demands of order, at a time of rapidly altering modes and relations of production in Britain and of the founding of a colony in New Zealand, initially required some Draconian policing remedies, and in this exercise the 'quality' of policemen was not of primary importance. For the 'new police' were originally constituted to in the short-term *impose* state-desired modes of behaviour upon the working and marginalised masses thrown together in London by the displacements of the Industrial Revolution. The volatile working class needed to be disciplined—to the new rhythms of production and by the suppression of leisure-time behaviour which generated turbulence and disorder, including but by no means exclusively 'crime' and rioting. Collectively, the masses were viewed by the dominant classes as 'the dangerous class', posing at very least an implicit threat to the established order and hence bringing renewed state emphasis upon the coercive end of the control continuum. Only with the imposition or restoration of 'stability' could the groundwork be laid for the functioning of the various ideological apparatuses of state (including the policeman in his role as 'moral entrepreneur of public propriety') and extrastate nature.

The space along the continuum between initial harsh coercion and full establishment or re-establishment of 'regularity and security' is generally itself an everchanging ideological—even at times actual—battleground: the 'pacifying' and stabilising processes seldom follow a direct linear progression. In particular, resistance to

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repressive and ideological control is frequent, especially from those subjected to the most unequivocal form of social control, physical coercion—in the early New Zealand context, many Maori tribes and the often itinerant members of the subordinate pakeha sectors of society. There was nevertheless an overall, ongoing movement towards ‘consent’ in both Britain and its farthestmost colony. By the time of the founding of the modern New Zealand Police Force in the mid 1880s the great majority of people in both countries had largely internalised state-desired modes of behaviour. The presence of the lone and minimally weaponed patrolling policeman in town, suburb or countryside was sufficient—in the words of recent Home Office researchers—to ‘render explicit the state’s interest in the maintenance of order’.¹⁹

That being said, the policeman-type who emerged from changes generated by the Industrial Revolution had of course a far more instrumentalist role than that of assuming the position of the ever-visible symbol of state power. By definition, what distinguished him from other state agents was his licence at all times to apply coercive force to citizens violating the codes of behaviour laid down as requisite under the officially approved climate of regularity and stability, particularly to those who were actually or potentially perpetrating ‘crimes’. Offences against the prevailing official concept of order which are deemed to meet a certain minimum level of seriousness are defined by the state as crimes; the definition of any single act or omission as a crime is specific to period and/or social organisation. Even those so categorised which at first glance might seem to be entirely unproblematic may turn out on closer examination to be less so. Sometimes, for example, the state will sanction the committing of murder, as with extralegal executions of captured rebels during the Anglo-Maori Wars. ‘The common property of criminal kinds of behaviour is simply that there are laws against them, and agents empowered to enforce those laws’, so that in the final analysis a ‘crime’ has no independent existence outside its definition as such at a given time by the state and/or its agent.

The notion of ‘the King’s Peace’ incorporates the capacity of the state alone to define what actions, including ‘victimless’ activities conducted in privacy, constitute greater or lesser breaches of or threats to the desired modes of order and regularity and thereby to the existing or desired social order and its relations of production. As one researcher concluded from a study of a mid nineteenth century British region, ‘what was criminal was what the authorities defined as criminal’. Another, discussing ‘crime and society’ in the

previous century, noted that 'theft is given definition only within a set of social relations, and the connections between property, power and authority are close and crucial. The criminal law was critically important in maintaining bonds of obedience and deference, in legitimizing the status quo, in constantly recreating the structure of authority which arose from property and in turn protected its interests.' The application of 'the law' itself varied amongst different agents of state: a publican 'special constable' on the Canterbury Plains of colonial New Zealand, far from the nearest regular policeman, might take a far kinder attitude towards drink-related disorder than the beat constable inspecting a public house in Christchurch.²⁰

The artificially constructed imagery of the police as existing primarily to 'fight crime'—with 'crime' usually defined in such instances as grave violations of laws—is one of the most pervasive of the several police mythologies, permeating even to the very core of the police occupational subculture itself. The 'struggle' against 'crime' is in actuality, disparate studies agree, but a minor component in the history of policing. Most police in most places have spent most of their time and energy doing things which do not involve 'crime-fighting'. The prevention and detection of 'crime' is subsumed beneath the overall police function of carrying out the 'first and most general object of the state', namely imposing and maintaining what Sir James Stephen called a stable 'state of things in which the various pursuits of life may be carried on without interruption'. Of course the combatting of crime—however defined—remains not only a significant practical policing duty but also a crucial factor in the legitimating process of the 'strategy of consent'. But the convergence of research findings indicates that, once a certain physical police profile and/or broad methodology has been attained, levels of 'irregular' societal behaviour are little affected by modification of policing techniques or accretion of force size, except in situations of direct mass challenge to the authority of state.

This relative inability of policing to alter offending rates once an 'efficiency plateau' has been reached was not however received opinion in the nineteenth century. Certainly no one in New Zealand thought to challenge statements such as Judge Alexander Johnston's that the 'comparative efficiency of the police in different districts' of the colony had a great bearing upon the statistics of 'crime'. Yet quite apart from the fact that crime is that which is labelled crime at any given time or place, police had no control over the deep-rooted causations of violations of the 'state of public tranquillity'. Differing levels of crime largely reflect, in the last

instance, differing socio-economic patterns. In the words of a serving police officer, in fundamental preventive terms 'police are really relatively unimportant', particularly after attainment of the maximal deterrent level.²¹

This 'plateau of efficiency' is of changing elevation as the structure of the economy and society and/or the grip of hegemony tightens or loosens, although there was no hegemonic colonial New Zealand concept of a maximum deterrent level beyond which rapidly diminishing returns for state expenditure would set in. Not questioning that more and 'better' policing must of necessity reduce offending, nineteenth century New Zealanders with an interest in social control constantly debated as to appropriate police numbers, organisation and approach. In effect the state, constrained by both scarcity of resources and the commentary of articulate 'public opinion', was forever searching for the current 'plateau of efficiency'. 'Crime' statistics, given the large number of variables, can have little significance *per se* for the policing historian. Alterations in the composition and/or interests of ruling groups will produce changes in the 'labelling' of offences or in enforcement policies, while collection and collation practices frequently altered. Climbing 'crime' graphs may indicate new levels of reportings of offences, or lowering of police 'efficiency' and/or numbers, or social and economic factors, or all of these or none of them. All the same, the policing historian must investigate state and public perceptions of levels of offending. Politicians and state officials pay close attention to monitoring the contemporary version of 'public opinion', and the vocal 'gentlemen' from whose milieu emanated 'public opinion' in the nineteenth century were prone to see apparent rises in rates of specific types of offending as 'crime waves'. Whether such a circumstance existed or not, perceptions of it would lead to strong pressure for increasing the quantity and/or quality of policing. Conversely, in times of perceived drops in rates of offending, the political executive—particularly if state resources were scarce—would depress the level of policing. It is the authorities' perception of crime levels rather than 'real' crime rates—even were they possible to ascertain—that are of significance in the present volume.²²

'Poverty, misery, these are the parents of crime', wrote William Cobbett, echoing a truism amongst contemporary commentators during the early decades of the British Industrial Revolution. Intensive study of available statistics of the period, with known variables adjusted, has indicated that economic hardship did indeed breed, at very least, property crime. The resolution of such 'points of tension in the new society that was born during the years

1750-1850' was one of the purposes of the creation of the 'new police', beginning with the areas where the uprooted population was most concentrated and where informal bonding restraints and mutual social aid mechanisms had yet to be re-established. It is probable that with the advent of most 'new police' forces in the industrialised world and its sphere of influence they did operate initially as at least partly successful devices for the suppression of property offending. In the early colonial years of New Zealand, to achieve this alone—quite apart from addressing those other parts of the social order defined by the rulers as dysfunctional—the police were obliged to take a more instrumentalist approach than that of 'The Met'. For they were faced with both a white population torn from traditional British bonding arrangements or from the tightly controlled Australian convict colonies, and an indigenous race for which the Colquhounite phrase 'undisturbed enjoyment of Property' had a quite different meaning from that held by the pakeha.²³

With communal mutual support amongst New Zealand Europeans at only an incipient stage of development, in periods of economic recession poverty-based property crime in a region might well rise. But a frequently accompanying phenomenon, a fall in drunkenness and associated assault rates, would sometimes provide a hard-pressed government with a rationale for lowering its spending on the expensive police system. The resultant combination of rise in property offending and lowering of police profile could quite possibly have produced a real decrease in police effectiveness, an analysis that was not uncommon at the time. But the lines of debate were confused by the adherence of many to a new ideological orthodoxy which had surfaced in the wake of the establishment of the London Metropolitan Police. It was perceived that to directly equate crime and poverty was too simplistic, but rather than refining the relationship a new approach to 'crime' had become received wisdom by the time of the founding of the colony of New Zealand. Now, it was believed, offending was the result of a rational calculation by an individual who was by definition either morally weak, his/her senses perhaps dulled by alcohol, or innately evil. This intellectual perspective incorporated the observation that, in vastly increasing the amount of moveable goods, industrial capitalism had greatly widened the means of temptation: hence the calls for ever more effective policing lines of defence of the social order, and growing support for a Colquhounite patterning of the minds of the lower classes, including the use of policemen acting as exemplars as well as coercers. Such a perspective, held too rigidly, ignored that 'constellation of fundamental social and economic

forces' which forced people—particularly those near the margins of survival—to engage in extralegal acquisitive, disorderly or riotous behaviour. Thus unrealistic policing expectations were harboured by public and politicians alike, particularly at times when—as in early colonial New Zealand—the task was essentially that of order-imposition.²⁴

The policing task under the British JP/Constable system had been posited to a significant degree on the division of function between JP as 'eyes and ears' of the state and constable as its 'hands'. With the advent of the new modes of policing, the constable assumed both roles so that surveillance and coercion, always complementary, were now fused into the same office. It was believed, moreover, that the crucial means of combining maximum surveillance with optimal capacity to intervene coercively was a system of patrolling, a keynote feature of both Irish and new urban policing. This flexible device was as central to the policing of New Zealand at the end of the century as it was at the beginning of the colony: it could manifest itself as random mounted inspection of 'backblocks' areas or as the regular 'same beats' system—'fixed points' being reached at set times—of the large urban areas. What had changed drastically in the meantime however was the degree of surveillance: the ratio of police to public had decreased enormously as a result of socio-economic and, inasmuch as direct Maori defiance of the state had virtually ended, racial 'stabilisation'. Factors such as the decline of itineracy amongst working people had enabled the process of hegemonisation to flourish, so that the growth in 'conformity' paralleled—although at a different normative level—that in Britain, where even the correlation between economic depression and property offending began to lower as the century progressed. In both countries the ubiquitous patrolling policeman was seen as adequate to deter the decreasing proportion of would-be offenders, mainly by means of his symbolic personification of the power of the state to detect and discipline. The 'condign' power wielded by the policing organisation had moved from overt to covert or potential manifestation; policing had moved from centre stage of social control to the wings.²⁵

But its role, even in a hegemonised society, cannot be underestimated. 'The law' is an abstract providing no more than a 'pool of prohibited behavior out of which police and prosecutors select some cases for action'. The first and crucial process of sifting—of selecting who qualifies as an offender in need of punishment—occurs at the level of the constable's encounter with a citizen who

has in his/her view engaged in errant behaviour. Study after study of policing past and present has demonstrated that the individual constable wields, at the interface with the public, a vast amount of 'discretion' to act as he/she sees fit in order to contain potential or actual behaviour labelled as deviant. As 'soldiers acting alone', the lowest units in the policing hierarchy therefore possess enormous discretionary power over the lives of the citizenry, particularly since the propensity of the law is to provide definitions of offending which are so broadly based that constables are able to 'arrest almost anyone on formally defensible grounds, with relatively little effort'. Every day of the year police personnel on behalf of the state 'draw the outer perimeter of law enforcement'.²⁶

The constable's traditional oath bestowed an obligation to preserve the peace, not to enforce the law. 'When the need to enforce the law conflicts with the need to enforce the peace', Lord Scarman explains, 'the law shall be enforced only if, or to the extent that, it is in the public interest to do so.' The constable in the field, usually young, and trained to be a 'compliant soldier-bureaucrat', is charged with the immense responsibility of defining, frequently in a situation demanding an instant decision, whether or not a particular activity is in the view of the state 'in the public interest'. Although it is only in recent times that police academics have begun acknowledging that 'discretion' was 'part and parcel of our daily work', it was inherent in the differentiation of emphasis between soldier and policeman from the very beginning of the 'new police', where the constable was (in the words of a British Royal Commission) 'as a general rule, placed alone, to perform his duty on one or more beats or patrols'. The continual police resort to the use of discretion, arising from the difference between their normative modes of deployment and those of the military, is in short the major distinguishing feature between the two major coercive lines of state defence, the first and the last.²⁷

Because of the centrality to policing of the application of discretion at the interface with the public, the police occupational subculture looms as of critical importance. Researchers have shown that when the new constable 'joins his first operational station his indoctrination in the theory of the organisation begins'. This 'theory' incorporates not only the written rules, but also the subculture's 'unwritten rules' which frequently violate the force's formal regulations and also 'tend to transform' the new constable into an 'authoritarian agent of control'. This process of acculturation coexists uneasily with current advocacy of 'community policing', 'policing as service', constable representing 'philosopher, guide and friend', and indeed with the older imagery of consensual policing,

but it is resolved by portraying those elements of policing practice which violate the regulations and come to public notice as aberrations rather than as regular 'irregularities'. Sociologists and historians of policing, however, have noted that police behaviour which routinely transgresses the 'rules' of the force and the laws of the country (assaults of 'rough justice' nature, for example) are explicitly sanctioned by the constables' occupational subculture, including in some circumstances—although implicitly and 'within reason'—at high levels of the hierarchy. Commonly, training in what is referred to within the job as 'real' police work, whose requirements involve almost invariably the overriding of the ostensible rules of the organisation and of the state from time to time, is actually gained directly from non-commissioned officers (NCOs) as well as from co-rankers.²⁸

This ideological insulation between the police subculture and a public which knows little or nothing of its ethos or even of its existence, is clearly related to the fact that the energies of the constable are orientated towards the actual or potential offender, towards 'low life', so that most people are not members of the police 'clientele' most of the time. But it also has a deep historical root. At the time of the introduction of the new police it was realised that their usefulness as 'all-purpose control devices' would be gravely diminished were they to be integrated with the citizenry, particularly with the 'dangerous class' from which most of them were drawn and which supplied the major target area for the imposition of acceptable modes of behaviour. Policemen were, then, to be alienated from society by definition, and the Metropolitan Commissioners made further use of this principle in the role they allotted them in the process of hegemonisation. The declassed constables were held up to the poor and the unruly for their emulation as paragons of all the correct ways of thinking and acting. Fully accepted into no one segment of society, their encounters with their own kind being usually at least potentially adversarial, policemen gradually incorporated the conceptual segregationist barrier between police and public into their own subculture. In their isolation from the vast majority of the citizenry, they came to see themselves as the 'thin blue line' alone responsible for warding off the forces of chaos, anarchy and crime.

In 1874 the foremost politician in New Zealand at the time—Julius Vogel—agreed in Parliament that the institution of constable was a 'highly honorable' office insofar as it was indispensable for the defence of the state, but no parliamentarian would 'deliberately train a son to fill the position', not even the 'higher and more useful position of a detective'. This caveat in itself pointed to the

profound gulf between those inside the policing occupation and the rest. As every policeman knew, it was surveillance patrolling which was at the very core of 'new policing', the detection angle being no more than a component of 'prevention'; the specialist detective was at that time, contrary to popular belief, little more than an optional extra. To be sure, the central government had for more than 20 years by 1874 devolved most policing activities to regional state institutions. Yet Premier Vogel's own newspaper had some 13 years before closely monitored the imposition of a disciplinarian patrol-police system upon the goldfields province of Otago, and if he, as both apex of government and one who had studied the subject, did not know the rudiments of modern policing then the ideological barrier between police and public was scarcely to be wondered at.

Vogel's parliamentary comment reflected too a growing gulf between police and non-police components of state. 'High policemen' had been gradually—if very unevenly—gaining operational autonomy from the political arm of state. Whenever order-imposition had featured prominently on the state agenda politicians had paid considerable attention to policing. By the final quarter of the nineteenth century, however, with the Maori definitively conquered and the pakeha showing a more pliant degree of 'governability', New Zealand policing had moved along the control continuum in the direction of order-maintenance. So long as the coercive state agents who conducted police operations were generally attuned to the objectives of the politicians and the interests they served, 'high police' officials were normally left to handle the job at their own discretion. The full development of that process will be considered in the successor volume.²⁹

The Quest for 'Peace and Good Order' in pre-1840 New Zealand

PART ONE

The Adaptation of British Modes of Policing Control to the new Antipodean Frontier, 1767–1853

was the first indication of European presence that would both delay the territory's formal acquisition by a European power for almost two hundred years and eventually secure it. Indeed the *pataka* did not even set foot upon New Zealand soil until Captain James Cook and some of his crew disembarked – to some shock – from the exploring vessel *HMS Endeavour* on 2 October 1769. Heading a scientific expedition initiated in 1767, Cook, pursuant to secret instructions, was exploring the possibility of establishing a colony in New Zealand and of utilising the country to the interests of British 'Trade and Navigation'. But official interest in the territory was instead focused on his reports concerning nearby Australia, where aboriginal tribes were too weak and degraded to offer significant resistance. In this area which Europeans had regarded as *terra nullius*, a desert or uninhabited land – it was decided in 1788 – the American colonists having been seen as a natural obstacle – to establish a colony of white men would offer possible commercial and strategic advantages, including the capacity to exploit the resources of New Zealand.

Since the beginning of discussions about including some portion of the antipodes in the British imperial frontier, New Zealand had been regarded by some authorities as within the British sphere of global influence. Its timber and flax used for manufacturing cotton and canvas, which in particular be of value for a nation whose wealth had depended heavily upon its maritime strength. From the time when Governor Arthur Phillip arrived in Australia to establish

CHAPTER I

The Quest for 'Peace and Good Order' in pre-1840 New Zealand

Regulation by the Policy of 'Minimum Intervention'

The white man (pakeha) came to New Zealand in search of profit, a quest involving, inexorably, continuing consideration of the most effective modes of social and racial control. The first known Europeans to sight the country, members of a Dutch East India Company expedition of 1642, were seeking new lands to exploit. But armed resistance to their presence from the Maori, the race that had inhabited the country it called Aotearoa for a millennium, was the first indication of interracial problems that would both delay the territory's formal acquisition by a European power for almost two hundred years and eventually ensure it. Indeed the pakeha did not even set foot upon New Zealand soil until Captain James Cook and some of his men disembarked—to more bloodshed—from the exploring vessel HMS *Endeavour* on 8 October 1769. Heading a scientific expedition initiated in 1767 Cook, pursuant to secret instructions, was exploring the possibility of establishing a colony in New Zealand and of utilising the country in the interests of British 'Trade and Navigation'. But official interest in the antipodes soon instead focused on his reports concerning eastern Australia, where aboriginal tribes were too weak and dispersed to offer significant resistance. In this area which international law regarded as *terra nullius*, a 'desert or uninhabited land', it was decided in 1786—the American colonies having been lost as a carceral receptacle—to establish a convict colony which would also provide commercial and strategic advantages, including the capacity to exploit the resources of New Zealand.¹

Since the beginning of discussions about including some portion of the antipodes in the British imperial frontier, New Zealand had been regarded by some authorities as within the British sphere of global influence: its timber, and flax used for manufacturing cables and canvas, would in particular be of value for a nation whose wealth had depended heavily upon its maritime strength. From the time when Governor Arthur Phillip arrived in Australia to estab-

lish the new colony of New South Wales in 1788, New Zealand was considered as an economic adjunct to the newly acquired possession. Moreover the early New South Wales authorities generally considered it to be a political 'dependency', given that the commissions of the first four Governors defined the eastern boundary of their territory as 'including all the islands adjacent in the Pacific Ocean'. At times they interpreted this as extending their boundaries almost as far as South America, although always north of the penal colony's southern boundary, whose extension eastwards bisected the South Island of New Zealand.²

The Maori reputation for savagery had prompted Phillip, before his departure for Australia, to request that when a convict in his charge committed murder or sodomy he be allowed to send the offender 'as a prisoner to the natives of New Zealand, and let them eat him'—this would be a deterrent far greater than mere legal execution. But five years later the first sealing gang was operating at Dusky Sound, and trading soon quickened as a result of interest in New Zealand flax by Lieutenant-Governor Philip King of the Norfolk Island dependency of New South Wales. Furthermore it rapidly became clear that the Maori were willing to host a pakeha presence in the interest of a mutually beneficial trade. As well as sealers and traders, off-shore whalers began to call at New Zealand harbours, and runaway convicts arrived individually, often to be absorbed into Maori society as 'pakeha-Maoris'. By the beginning of the nineteenth century, especially given the fluctuating presence of shore-based sealing ventures, New Zealand was 'caught in the net of empire'.³

The indigenous society upon which the pakehas were intruding regulated itself by means of Polynesian institutions. Described by an astute pakeha observer as a 'democracy, limited by a certain amount of patriarchal influence', Maori society had self-regulating mechanisms together with hereditary strata of chiefs (ariki or senior chiefs, and rangatira) superintending control of behaviour within tribal and sub-tribal (hapu) boundaries. These structures of control were aided by the tohunga's suasion of the minds of tribespeople. Violations of 'customary law' or of tapu were handled by physical coercion emanating from the authority of the chiefly caste, or by the mental coercion wielded by the controllers of Maori religion. Armed attacks by Maoris upon pakehas usually arose through the violation by the latter of tapu, often unwitting violation such as that of Abel Tasman's men during the first pakeha visit in 1642. Interfering with chiefly authority was almost certain to produce violent reaction: in this way the French explorer Marion

du Fresne and nearly two dozen of his men died in a battle in the Bay of Islands within three years of Cook's first visit.⁴

With the beginnings of pakeha industry and trade in the 1790s, both races in general recognised that each could benefit from the other. But the very presence of the pakeha sowed seeds of future conflict. Inevitably, as the quest for profit widened the racial interface, Maoris at the points of contact began gradually to shrug off tribal constraints, particularly where tribespeople were incorporated into the localised economies of pakeha capitalists. Break-downs in chiefly authority, and altering power configurations, produced consequences and adjustments disruptive of 'tranquillity'. The coming of the pakeha brought a potential for the exacerbation of indigenous warfare not only in this but also in a number of other ways. Maoridom consisted of a large number of often competitive power centres and it was therefore quite possible for groups of Maoris to be set against one another, intentionally or otherwise, by white men hunting short-term gains. Pakeha life and property was, consequently, at all times endangered by the possibility of becoming in some fashion entangled in intertribal and intratribal struggles over the land and its resources. With the widespread procurement of the musket by Maoris in the nineteenth century, traditional tribal warfare took on much greater destructive potential.⁵

Pakehas had no qualms about exploiting resources they considered ownerless but which the Maori, grouped in collective social units, controlled if not 'owned' in the European sense; spar collecting expeditions were accompanied by the killing of resistant Maoris. Moreover, a number of pakehas trading in New Zealand and the Pacific Islands, masters and crew alike, had been brutalised by upbringing, by treatment as convicts, by living and working conditions. This, combined with a pervasive belief in the racial and cultural superiority of the British (or Americans, or French) over 'savages', was reflected in brutalities inflicted upon peoples considered sub-human. Ethnocentrism often at first precluded appreciation of the ability of Polynesians to retaliate in a coordinated fashion through the coercive mechanisms of tribe or hapu. But under Maori customary law such as utu (exaction of 'compensation') retaliation could be imposed upon any members of offending tribes—including the white tribe. In such manner a revenge attack occurred at Otago early in the nineteenth century on a ship owned by a Hobart Town whaler. There was a repeat attack three years later when another of his vessels visited, and again many years afterwards.⁶ In order for commerce and industry to flourish, potential capitalist investors in New Zealand saw, at least a minimal

degree of order and regularity amongst Maori and pakeha alike was necessary. Under such pressure, the expansion of the imperial frontier from New South Wales to New Zealand gradually came under as much protection as Britain was able to supply at any time to a region on the outermost fringes of an empire already severely overstraining her control resources.

As early as 1793 Lieutenant-Governor King had been urging that an official settlement be established in New Zealand to benefit 'the commerce of Great Britain and these colonies'. At the time when whaling was establishing itself as a major industry 'off New Zealand' King, who had become Governor of New South Wales in 1800, took the first state action towards imposing order and regularity upon interracial contact in the South Pacific. In appointing a missionary as Justice of the Peace in Tahiti in 1802, he was stretching the eastern boundaries of New South Wales far into the Pacific—part of his overall plan to encourage and diversify the economic expansion of a colony suffering from monopolisation in trade.⁷

In his continuing endeavours to promote commercial intercourse with New Zealand—and thereby to reorientate New South Wales from carceral to capitalist in emphasis—King was soon to firmly include the islands of Aotearoa across the Tasman within his boundaries. In 1804 he ordered investigations into charges of brutalities against Maoris inflicted by Robert Rhodes, master of the *Alexander*. In 1805 he instructed the Commandant of Norfolk Island to send livestock to the Bay of Islands from time to time, 'to promote and secure those advantages' given to whalers by local chiefs over the preceding few years. On 26 May 1805 he issued the first official British law applying to Maoris: those who had been brought to New South Wales, usually as ships' crew, were to be well treated while there—and the government would employ and maintain them if necessary. They and other indigenous Pacific Islanders could be removed from the colony only after the Governor was satisfied that they were to be returned to their homes, and as employees they were to be given the same rights as British citizens. It was of the 'utmost consequence to the interest and safety of Europeans frequenting those seas, and more particularly the South Sea whalers, that these people should suffer no ill treatment'.⁸

That year the most influential pro-pakeha chief in New Zealand, Te Pahi of the Bay of Islands, visited Sydney after receiving the first gift of livestock, complained of maltreatment of Maoris by whalers, and 'made very shrewd and just remarks on the laws and

police of the colony'. The Governor treated him royally, undertook to ensure his safe return aboard a government vessel, and promised to attempt state protection for the Maori. This, King reported to his superiors, 'will ensure that great advantage to our whalers' would continue under Te Pahi's protection and that the Ngapuhi chief would aid the British state 'whenever that country is explored'. But the problem with such promises and orders was that, as soon as ships left the shores of New South Wales, no machinery existed to police the activities of those aboard. King's premature recall in 1806, after being outwitted by the officers of the New South Wales Corps (who monopolised in particular the liquor trade upon which he had attempted to crack down), prevented him from establishing the framework for any such machinery.⁹

Thus, violence against the Maori continued, even against Te Pahi. In 1806 the brig *Venus*, pirated by her convict crew, made several landfalls in northern New Zealand; atrocities were committed and two women of rank, including a relative of the Ngapuhi chief, were kidnapped and later deposited ashore in an enemy area as exchange for goods. They were eaten, and it appears that the pirates met the same end in retaliation for their stirring up of tribal animosities, a fate shared by a considerable number of pakehas at that period. The following year the timber trader *General Wellesley* kidnapped Te Pahi's favourite daughter and her 'pakeha-Maori' husband and, despite years of searching including another trip to Sydney, the chief never located her. In 1808 the captain and crew of the *Parramatta* decided to throw Maoris overboard and use them as target practice instead of paying them for the provisions they had supplied—which proved to be a fatal mistake when the ship was wrecked nearby. By then pakeha involvement in such events was so common that a missionary aboard a whaling vessel in the Bay of Islands expressed surprise that the Maori did not kill all whalers in response to European 'cruelties'. Similar sentiments were expressed by other contemporary observers. Certainly, without general Maori perception of the mutual benefits of the trade nexus many more reprisals of swift and terrible nature would have been carried out.¹⁰

The year 1809 saw the most important, because most publicised, reprisal of all. En route to New Zealand the master of the *Boyd* had flogged and humiliated a young rangatira who was working his passage back from Sydney. When the ship put in at Whangaroa for spars the youth's father Te Puhi engineered an attack upon it and the massacre of most of the pakehas aboard. Just as du Fresne's expedition had slaughtered ten times more Maoris than the number of Frenchmen killed, retaliation now led to massive and grat-

uitous counter-retaliation. Although Te Pahi of the Bay of Islands had actually made efforts to save those pakehas from the *Boyd* who had survived the initial killings, it was believed at the time that he had orchestrated the attack. Thus in early 1810 the masters and crew of five whalers and a sealer plundered and destroyed his village (pa) of Te Puna (which comprised more than a hundred dwellings), wounding the chief who had been the pakeha's best friend in New Zealand, slaughtering six dozen men, women and children and wounding many more. Intertribal war later resulted between Te Pahi's people and Te Puhi's, and in the course of it Te Pahi was killed.¹¹

Reports filtering through to Sydney soon suggested that, in the words of the Senior Chaplain of New South Wales, Samuel Marsden, 'we are the aggressors'. But it was not until Marsden had a chance to investigate the *Boyd* affair in New Zealand in 1814 that the Te Puna chief was posthumously exonerated. Meanwhile it was believed that even the friendliest of Maoris could not be trusted, and official British and New South Wales notices to this effect were issued as warnings to South Seas whalers. Intermittent armed clashes between Maoris and pakehas continued until 1815, and (less frequently) for more than a decade beyond: in 1817 crew from James Kelly's sealer *Sophia* sacked the largest Maori settlement in the South Island, at Otago, massacring many of its several hundred inhabitants. In the aftermath of the 'Boyd Massacre', trade with New Zealand had slumped; for more than three years Marsden could not find any master willing to transport the first Christian mission across the Tasman.¹²

Meanwhile Governor Lachlan Macquarie was determined to create the conditions for boosted antipodean trade and industry by implementing rational policing in New South Wales. In 1810 he reformed policing in Van Diemen's Land and in Sydney 'with a view to preserve the Peace and Tranquility'. That same year he encouraged the emancipist Simeon Lord (who had been charterer of the *Boyd*), and other Sydney merchants who had kept the possibility of New Zealand-derived profits 'steadily in view' despite the 'Massacre', to pursue the idea of a flax growing and manufacturing settlement in New Zealand. He not only made Lord a Justice of the Peace in New South Wales, but also offered to make his partner Thomas Kent a JP for New Zealand. This was intended not only to safeguard the venture, a spearhead for future industry on New Zealand soil, but to help improve Maori-pakeha relations in general by the presence of a state official in the country. Moreover Marsden was enthusiastic to begin his long-intended mission to New Zealand under the protection of a magisterially policed settle-

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ment. The idea of a JP in New Zealand fell through however when Kent and others, concerned about the scheme's viability, withdrew from the company formed to establish the settlement—and the expedition sent in the ship *Experiment* prudently left the Bay of Islands upon arriving there soon after the pakeha slaughter at Te Puna pa. Had Kent proven to be the first British official in the New Zealand it would have been an inauspicious beginning; he was described (typically) by a later Governor as a 'Bankrupt and a very worthless character'.¹³

The non-existence of any machinery to impose an ordered state of affairs in New Zealand was highlighted by the lack of action over the massacre at Te Pahi's pa. Although New Zealand continued to be seen by the New South Wales state as akin to a 'dependency', such legal initiatives that did occur in response to similar circumstances foundered in the judicial system. Theodore Walker and the crew of the *Mercury* had raided Te Pahi's plantations in 1809, but depositions were not taken in Sydney for four years. The case was supposed to proceed from there to England, but three years later had still not done so. When in 1812 Marsden reported a case of cruelty to a Maori sailor, Macquarie could do nothing more than instruct discharge of the victim and forbid the master, under the 1805 order, to employ Maoris in New Zealand or New South Wales.¹⁴

In 1813 Marsden made general representations to Macquarie about pakeha depredations in New Zealand and the South Pacific, actions which led to acts of 'indiscriminate revenge'. Macquarie, who shared with Marsden a mixed commercialising and evangelising mission, acknowledged that such actions were 'at once repulsive to humanity and interest'. After a major review of policy, on 1 December 1813 Macquarie issued an order that the indigenous inhabitants of New Zealand and the South Pacific were 'under the protection of His Majesty'. No ship would be cleared for departure to their territories unless a bond for £1000 were signed, subject to forfeiture if local customary law or property were not respected or if indigenous peoples were removed without the consent of their chiefs or of the Governor in the case of women. Moreover further penalties would befall those who committed serious offences such as 'acts of rapine, plunder, robbery, piracy, murder or other offences against the law of nature and of nations, against the persons and properties of any of the natives.'¹⁵

The new rules were to operate from the beginning of 1814, and that year was also to see the beginning of Macquarie's longer-term

plan to solve problems of order in New Zealand. Marsden's intention to form a mission in the country had been long delayed by repercussions of the *Boyd* affair, but now Macquarie authorised him to finalise plans to convert and 'civilise' the Maori. With the East India Company monopoly in the South Pacific having ended, a burgeoning of New South Wales-based trade would be encouraged, especially in New Zealand. There was no coercive machinery available from Sydney to police the 1813 proclamation; the aim was for tribal authority in New Zealand to operate in conjunction with state authority in Sydney in order to impose European-style 'order and regularity'. Marsden had close links with the inheritor of Te Pahi's influence, young rangatira Ruatara of Rangihoua/Te Puna in the Bay of Islands, a Ngapuhi who had been brought to the point of death by maltreatment by pakehas before rescue by the chaplain. In March 1814 lay missionaries William Hall and Thomas Kendall sailed on an exploratory mission to the Bay of Islands, where they were hosted by Ruatara. In August they disembarked from the missionary brig *Active* at Sydney along with principal chiefs Ruatara, Hongi Hika and Korokoro, and minor chiefs and attendants. The chiefs were given copies of the 1813 order for distribution to visiting captains, an action which helped 'sell' them the idea of European settlement; official sanction of the views of the rangatira seemed to imply protection against pakeha depredation.¹⁶

The chiefs, from different Bay of Islands areas, wanted most of all the temporal benefits of contact with Europeans—benefits such as the acquisition of pakeha agricultural techniques, a factor that loomed large with Ruatara. For the colonial state, in turn, the motive of temporal benefits predominated. Missionary activity would 'pacify' the Maori, smoothing the way for British and New South Wales capital. When Marsden and the mission left Sydney in late 1814, the Senior Chaplain carried instructions to report fully on the suitability of exploiting New Zealand resources, up to and including the establishing of an official settlement. In the event of a favourable report, Macquarie was determined to persuade Britain 'to form a permanent establishment on those Islands'. At that very time Simeon Lord and his business partners were again attempting to revive their idea of trading establishments, concentrating on flax and spars, in New Zealand; as part of the deal, they had recommended to Macquarie once more that the person sent in charge of such a project should be created a JP.¹⁷

Macquarie, grappling with ways of utilising the mission as an advance guard of civilisation and regular trade, now applied the idea of a JP, which had also been taken up by Marsden, to the

mission. On 9 November 1814 the Governor appointed one of the three resident missionaries to be stationed in New Zealand as a member of the Commission of the Peace for New South Wales, with the title 'Resident Magistrate in the Bay of Islands'. This appointment of schoolteacher Thomas Kendall to be a magistrate across the Tasman was of far wider implication than its traditional interpretation as merely 'part of a measure to control the recruitment of Maoris as seamen on British ships and the debarkation of sailors and others at New Zealand'. The JP, intended as the first of other such appointments in commercially viable areas of the country, was to be the linchpin of a policing partnership between colonial state and Maori chiefs. His function was to reduce interracial friction which operated to the 'great prejudice of the fair intercourses of trade'; he was to control order and trade 'throughout the islands of New Zealand, and those immediately contiguous thereto', and be 'respected and obeyed'.¹⁸

Under Macquarie's hand the status of New Zealand was thereby officially upgraded, at least in the eyes of the colonial state, to that of a 'dependency' of New South Wales. This occurred on the basis of the 1786 Order in Council which annexed to his colony 'all the islands adjacent' between latitudes 10°37'S and 43°39'S, the upper three-quarters of New Zealand lying within that zone. British subjects were now by Government Order forbidden to land anyone in New Zealand, as well as to remove Maoris from the country, without the permission of the local chiefs. Further, their permission had to be certified in writing by Kendall or any further JPs sent. Violators of these police rules of the 'dependency' would be punished in New South Wales 'with the utmost rigour', and if they proceeded direct to England the appropriate documentation would be sent on for similar action to be taken there. The Secretary of State for the Colonies approved of the mooted partnership between the antipodean state and trans-Tasman chiefly authority. Presents that Marsden had taken to give to chiefs would tend to 'conciliate them to British interests, and to secure a more favourable reception in the island to those of His Majesty's subjects who may be disposed to settle or trade there'.¹⁹

Previous rules relating to New Zealand were, therefore, tightened and added to, and for the first time an official resident apparatus of coercion was attempted. Apart from the new (and unpaid) Resident Magistrate, the three principal Bay of Islands chiefs who had been visiting Marsden were 'invested with power and authority' for the purpose of aiding Kendall to carry out his functions. Their chiefly authority was in general to be obeyed, while specifically the three—Ruatarua, his uncle Hongi Hika and Korokoro (whose pa at Paroa

became the favourite whaling anchorage after Te Pahi's death)—were to 'receive due obedience from all persons to whom these Orders have reference', particularly pakeha masters wishing to land non-Maoris in New Zealand or take on Maoris as crew. The three chiefs were to act as the authorised policing authority of the independent chiefs of the 'dependency' of New Zealand—in reality, of the Bay of Islands area and points north—and were delegated the powers of certification vested in JPs. Their recompense was a cow each, their uniform a 'suit of military officer's clothing'.²⁰

The primitive police apparatus was to prove unequal to its allotted task, although all seemed well at first. On *Active's* mid December landfall in New Zealand, at North Cape, the chiefs went ashore to spread word of the new situation, and local Maoris promised Marsden that when they were maltreated they would seek redress from the designated authorities rather than revenge themselves on European vessels. Marsden, *inter alia*, negotiated a peace between the still-warring followers of Te Puhi and the Rangihoua tribespeople. At the Bay of Islands, just prior to his departure in February 1815, the missionary leader illustrated to the Maori Kendall's authority as JP. A pakeha aboard a whaling vessel had stabbed a local chief and struck his wife, and when Kendall examined the case as directed he undertook to send—along with five captured convicts—the documentation back to Sydney with fellow JP Marsden. Since the crew had sided with their own countryman and the Maoris had therefore been prepared to kill them, Maori satisfaction with this resolution of the problem meant that a dangerous situation had been defused.²¹

Such success was however ephemeral, for a number of reasons. By himself Kendall had no power to determine guilt and punishment; if he sent documents to Sydney, he might not receive a satisfactory reply for months, even years, by when the offender would long since have left. When detaining serious offenders, escaped convicts and stowaways, he had neither a lockup nor even a promised supply of leg irons and handcuffs. Attempts at detention led to easy escapes. When he asked visiting captains to gaoil prisoners aboard ship they were wont to liberate the prisoners to make up crew numbers. When Simeon Lord in 1815 made another attempt to establish a business in New Zealand (an effort abandoned when Thames district Maoris forcibly retaliated against fraud perpetrated by one of the masters), two captured runaway convicts handed to the expedition by the Resident Magistrate as replacement crew for return to the authorities at Sydney were instead placed aboard an expedition ship headed for Tahiti. At that time this left three convicts in Kendall's charge, but the mission

could not afford to maintain prisoners as the New South Wales state would reimburse only the cost of passage to Sydney. The intermittent availability of such passages raised gaoling costs to prohibitive levels, so that very soon Kendall was routinely declining to accept prisoners unless six months' provisions for each were provided. In short, problems of distance, time and resources soon allowed offending captains to ignore the orders of 1805, 1813 and 1814, and applications for certification of actions taken in New Zealand gradually fell off.²²

The policing functions assigned to the chiefs might have worked if the New South Wales state had been prepared to reward them meaningfully, or at least reimburse them for expenses incurred in capturing and detaining offenders on behalf of Kendall, but there were no funds to spare. Moreover the key Maori chiefly policeman Ruatara, upon whose territory at Rangihoua the mission was built, had died within a week of Marsden's first departure from New Zealand. Although Hongi and Korokoro pledged to continue protection of the mission they were based elsewhere (Korokoro in the south of the Bay, Hongi near Waimate), and policing aid from the chiefly policemen and their allies was only occasional, indeed usually forthcoming only in emergencies and/or when Maori forces happened to be at hand. One such crisis occurred in November 1815 after Kendall refused to certify the offloading of a member of the crew of the whaling vessel *Phoenix*, on the grounds that the master was distrusted by Rangihoua's Maoris because of his leadership of the attack on Te Pahi's pa. The first mate and other seamen began to attack and demolish the JP's house but Kendall, holding them off with a sword, was quickly rescued by a force of a hundred armed Maoris, who would have severely retaliated had not the magistrate restrained them.²³

Quite apart from the lack of regular and reliable coercive apparatus at the Bay of Islands, there were other fundamental problems associated with Kendall's role. These were signalled by the outcome of his first case, the sending of the documents to Sydney about abuse of a chief's mana: there *was* no outcome. Such problems had been predictable. At the time that the mission was forming in Sydney the *Cumberland* returned from a South Pacific voyage that had been replete with appalling murders of Islanders, but 'too many of Sydney's leading citizens were implicated as owners of vessels or importers of cargo to allow misdeeds to be sheeted home'. In New Zealand, both Kendall and chiefs soon came to realise that the process of appealing to the legal authorities in Sydney was virtually futile. A Bay of Islands chief travelled across the Tasman to testify to a fraud perpetrated upon his tribe by a

whaling master, but the full bench of magistrates appointed by the Governor to hear the case treated Maori testimony as worthless. When, also in 1815, two chiefs brought a case against Lasco Jones, a master notorious for atrocities against the Maori race, the bench refused to investigate; other cases brought by Marsden also foundered.²⁴

The Sydney magistrates were on safe enough legal ground, since the appointment of JPs, the issuing of rules and the declaring of 'dependency' status for New Zealand were all extralegal. Although Britain tacitly accepted the New South Wales habit of conducting such policies in South Pacific territories, it never legally endorsed the practice, and by the 1830s British and Australian authorities agreed that such past promulgations had no legal status. In any case Australian JPs were not renowned for their adherence to legal niceties, and the motivation of the Sydney magistracy in particular lay elsewhere than in the law. Magistrates in the New South Wales capital were frequently also traders, or at least moved in elite circles dominated by local capitalists, and their ethos of untrammelled pursuit of profit maximisation at any given time by any given merchant had no place for contemplation of the wider effects of any of the specific methods employed. The milieu in which the magistracy operated comprised people characteristically possessed of a short-term perspective, one that was 'unsympathetic to the native', one which approved of actions such as those of the captain who had fired grapeshot among Maori families assembled on a beach in order to 'strike terror into the minds of these natives, and convince them of what power we possessed'.²⁵

Yet the ultimate safeguarding of trading ventures meant obtaining Maori approval, or at least acquiescence, for the Maori would not for long be intimidated by terrorist tactics. That sector of the state which was both headed and personified by Macquarie had the clarity of vision to realise that the most fruitful conditions for generalised profit maximisation in New Zealand were being damaged by the behaviour of the masters and crews against whom the magistrates were so loath to act. The Governor looked forward to a process of trade escalation following decreasing racial tension: under missionary influence, a 'scared' and docile Maori workforce would evolve to service colonies of farmers and entrepreneurs, and the state itself would benefit from the unimpeded and increasing flow of taxable revenues. The process was not to be so smooth, and racial tension, sometimes culminating in pitched battles, showed no signs of significant lessening. Even those traders with a perspective not entirely constricted by laissez-faire ideology tended to see

only a middle-run solution to the problems of profit, albeit one sought by Macquarie as part of his grand strategy: a state-provided coercive apparatus to fend off attacks upon their ventures by hostile Maoris. Faced by powerful obstruction from both within and without the colonial state, and by the absence of suitable policing apparatus, Kendall acknowledged in early 1816 that his magisterial authority had become 'merely nominal'. He had been powerless to prevent or punish a European massacre of up to a hundred Maoris in the Thames area; his mentor and superior Marsden, within a year of the Resident Magistrate's appointment, was reporting to Britain that Europeans in New Zealand 'commit every crime with impunity'.²⁶

By 1816, then, Kendall was largely confining his activities to those of 'moral' policing over the few pakehas and the many Maoris in the Bay. He tried to prevent 'gross immoralities' and the 'profanation of the Lord's day', duties which, he lamented, 'exposed me to occasional insult'—including from fellow missionaries William Hall and John King, who were usually at loggerheads with him over trading and other matters. The focus of their resentment tended to be his possession of state authority, and at one point in their rivalry Hall destroyed magisterial documents, at another tried to shoot the JP. Kendall was also, as the commander of the *Active* testified, 'insulted by the crews and even by the officers of British whalers'. He was powerless to impose European concepts of order upon even his own friend, business partner and chiefly policeman Hongi, who in 1818 set out on an expedition to the East Coast which in the course of almost a year destroyed 500 villages. 'Constable' Korokoro's name too was 'heard with terror 200 miles from the Bay of Islands'. In 1825 Hongi—the foremost warrior chief of his time—attacked the people of his now deceased fellow policeman. Even more discouraging for the state, by 1819 not a single Maori had been converted to Christianity, whilst many imitated the behaviour of the mission staff (often assigned convicts addicted to a life of drunkenness and fornication) rather than listen to the Resident Magistrate's strictures, one symptom of this being disruption of church services by Maoris. The circumstances of the mission, too, encouraged a development that was to directly counter Kendall's instructions to develop peace and regularity. Increasingly, the hapu of the dominant northern tribe of Ngapuhi were prepared to accept only the musket in exchange for provisions and services, and its use dramatically heightened the disruptive effects of tribal warfare. The missionaries had to trade to survive: from 1821 until his death in 1828 from war wounds Hongi, his warriors equipped with many a musket supplied by Kendall and his

fellow missionaries, would launch devastating warfare upon conventionally armed tribes.²⁷

By 1819 it had become clear that the shadowy policing apparatus of the New South Wales state not only could not keep order even in the Bay of Islands let alone all of New Zealand, but was in several ways involved in actually fomenting potential large-scale disorder. In an attempt to rectify such a situation the Church Missionary Society in London had appointed a Superintendent to take charge of the mission, and that year Marsden brought across to the Bay of Islands the appointee, John Gare Butler, the mission's first ordained clergyman. As well as having full control over the operations of the mission and its staff, the Reverend Butler was from 24 July 1819 also New Zealand's second JP. From the time of the arrival of his new superior Kendall ceased all pretence of magisterial function, openly defied Butler, acquired infamy for gun-running, drinking and 'immorality' prior to his expulsion from the Missionary Society in 1822, and ended his life as an Australian timber trader.²⁸

In 1816 the British judicial authorities had ruled that New South Wales magistrates were not competent to determine cases of misconduct against indigenous Pacific peoples; such cases could be dealt with only by the Admiralty Sessions in England. The sets of rules issued by King and Macquarie having been revealed as legally invalid, both New South Wales authorities and missionaries had requested at very least the right of colonial courts to try serious offences committed by British subjects in Pacific territories. This however occurred at the time when the British state, in the wake of the Napoleonic Wars, had been reassessing a Pacific policy which had overstretched its resources for too little return. As a result, even its policy of 'minimum intervention' was now to be further minimised, and as part of the revised outlook Britain implicitly repudiated the New South Wales tendency to draw New Zealand and other territories within its legal boundaries. The first expression of this reorientation was contained in a statute of 1817, albeit an interventionist measure occasioned by continuing missionary representations about Maori retaliation to pakeha aggression and its potential for damaging the intertwined process of the saving of souls and the creation of profits. The Act (57 Geo III c. 53) included New Zealand among a list of countries deemed outside British legal jurisdiction; all were 'savage' countries under the control of no European powers, 'places not within His Majesty's dominions'. 'Murders and manslaughters' committed by British citizens in the named countries were forbidden, but deemed to have been committed as if on the high seas.²⁹

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This clarification of New Zealand's hitherto vague legal status, being coupled with no provision of devices to enable order to be imposed on New South Wales' frontier across the Tasman, went very little way towards meeting antipodean requests. Not until 1823, for example, were Supreme Courts established in the Australian colonies, removing the anomaly that the judicial system of Ceylon was the nearest that was competent to try serious crimes. Of more fundamental potential importance, the missionaries had joined Macquarie and various mercantile interests in urging Britain to permit a garrison of soldiers to be stationed in New Zealand. This would provide stable conditions for trade, industry, settlement and the 'civilising' of the Maori. Yet under the reorientation of British Pacific policy the state could give no serious consideration to providing an expensive coercive apparatus in New Zealand. Thus the liability of British subjects to British law while in 'savage' countries, emphasised in 1817 and confirmed in 1823, remained to all intents and purposes largely a paper obligation in Aotearoa and elsewhere. The overall intention of this legislation was to set the legal framework for positive intervention in the event of extreme violence and disorder in such territories.³⁰

Although the 1817 Act disavowed previous interpretations of New Zealand as British soil, it did not recognise the country's indigenous rulers as constituting a sovereign power. 'Savage' countries not under the legal umbrella of European powers were designated uninhabited by international law, and New Zealand fitted the prescription for *terra nullius*. With 'independent' New Zealand not regarded as sovereign, it fell by dint of historical evolution clearly (if informally) within the British sphere of politico-economic influence. Thus Macquarie felt no compunction about acceding to Marsden's request to appoint Butler a Justice of the Peace; in spite of the 1817 statute, the Governor followed the Kendall precedent to create him 'resident magistrate' in 'the British Settlements at New Zealand', and characterised his role as being 'to keep His Majesty's peace' in the 'dependency' of New Zealand.³¹

On his arrival in New Zealand in August 1819 with mission reinforcements totalling almost two dozen, Butler established a second mission in the Bay of Islands, on Hongi's land (to Koro-koro's chagrin) at Kerikeri, and made it his mission and policing headquarters. The 38 year old clergyman took his state responsibilities seriously, and secured chiefly cooperation in return for teaching systematic techniques of cultivation. He attempted to use his magisterial and policing powers whenever possible. In 1820 for example he committed four soldiers off HMS *Dromedary* for trial

in Sydney for the killing of a seaman who had been trying to rescue a Maori boy from a brutal beating, and Private James Dunleavy was eventually found guilty of murder. Butler sent a steady flow of intelligence documentation back to New South Wales, not all of it related to 'criminal' matters (of which there were three cases in 1821), and was considered valuable enough as a 'high police' agent of surveillance for the departing Governor Macquarie to recommend successfully in 1822 that his successor, Sir Thomas Brisbane, reissue Butler's commission as JP.³²

But as with Kendall, Resident Magistrate Butler's lack of funds, lockup and regular coercive force meant that he was only rarely able effectively to carry out his state duties, usually only when a naval vessel was visiting the Bay. The *Dromedary's* visit in 1820, with Marsden aboard to ease relations with the Maoris during Captain R Skinner's investigations of the suitability of New Zealand timber for spars, was such an occasion. On Butler's information, a sergeant's guard from the 84th Regiment detachment on the ship conducted the first coercive policing operation by paid state personnel in New Zealand. The troops, who had been guarding the spar-collecting operation, arrested the infamously brutal Captain Abimelech Riggs, master of the American sealer *General Gates* (which had brought Marsden and Butler over the previous year). The ship was seized and returned to New South Wales, where Riggs was found guilty of violating his bond by transporting unauthorised convicts from New South Wales to New Zealand. It was the first trial for an offence which was often committed, and the captain's means of selecting his cheap labour crew resulted in a £6000 fine and a nine-month detention of his ship.³³

Between naval visits Butler found his magisterial and policing tasks as daunting as had Kendall. Not only were the Maoris 'very insolent' in their resistance to pakehaisation but by February 1820 he was even confessing to Marsden that 'he could not govern the Europeans' at the mission. His task was worsened by a doubling of European shipping to the Bay of Islands that year, and he had often to reiterate his predecessor's refusal to take custody of convict stowaways while not able to enforce the law prohibiting their disembarkation without his permission. Moreover although throughout the 1820s shipping numbers did not dramatically increase, tribal warfare reached its bloodiest heights ever as a result of Maori possession of muskets. Fighting, frequently instigated by pro-European chiefs, was already increasing by the time of Butler's arrival. Ngapuhi from the Bay of Islands led by Hongi and Te Morenga had devastated the Ngatiporou of the East Cape, and 1819 saw Ngapuhi and Ngatitua from Hokianga and Kawhia

storming through the southern North Island. Such warfare, fundamentally the result of economic pressures which were exacerbated directly and indirectly by the presence of the pakeha, was a Maori form of social control, but it was unacceptable at the best of times to the Europeans because of its disruption of the various pakeha modes of production and distribution—more so when the musket dramatically altered its hitherto restricted scope and impact. Yet within months of arrival the new JP had been 'prevailed upon to pollute his hands with the same traffic' indulged in by Kendall and other missionaries, the trading of muskets in return for resources to make the mission viable.³⁴

In February 1820 Butler's magisterial tasks were made easier in the short term by the departure of Kendall for leave in England, the latter having been obstructing his duties. In the long run however it was this trip which had led to even more severe problems of disorder in the country. For Kendall took with him, as well as Chief Waikato, his 'policeman' friend Hongi and when the trio returned in mid 1821 the great warrior chief had in Sydney traded the copious presents designed to ensure his 'loyalty' for large numbers of muskets for use against his tribal enemies. Two months later he headed a two thousand-strong taua (war party) travelling southwards to virtually annihilate rival tribes, and in the following year he inflicted huge casualties upon the Waikato people. Butler's opposition to Hongi's aggressiveness dampened the relationship between chief and official and thereby lowered the Resident Magistrate's efficacy as a mediator of race relations in the north. While Maoris generally refrained from retaliating against continuing provocations offered them by Europeans in the 1820s, this was due to a desire to encourage the continuance of a trading relationship already endangered by the spillover effect of tribal warfare rather than to any missionary or policing influence, an attitude misinterpreted by the pakeha as one of military weakness. In evidence before Commissioner J T Bigge, appointed in 1819 to investigate the condition of the colony of New South Wales—a task which took several years—Ensign A McCrae felt that a British military presence could readily quell tribal warfare. He had been aboard the *Dromedary* in 1820 when Captain Skinner had reported that a hundred troops would be sufficient to meet any Maori force, and this became accepted wisdom for the next two decades.³⁵

Bigge's terms of reference in respect of New Zealand however were restricted to investigating race relations rather than encompassing the means of quelling intertribal and interhapu disorder. The only conclusion he could draw from the evidence presented, particularly that upon which he most relied (from McCrae), was

that the 'Dreadful acts of cruelty' committed by pakehas (especially whalers) upon Maoris of 'friendly' and non-friendly persuasion alike, were damaging to prospects of trade and industry. The single magistrate on the soil of Aotearoa did not possess the 'means of rendering effective assistance to the natives against the oppressions of the crews of European vessels, and of controlling in any degree the intercourse that subsists between them.' Yet, he concluded, the Maoris were anxious for 'order' and for trade.³⁶

Bigge was aware of the legal barriers to greater state intervention, and recommended that the ostensible purpose of the 1817 Act—to allow serious crimes committed in New Zealand to be tried in New South Wales—be given effect. Such purpose was duly enacted in 1823 when for the first time Australian courts were given specific jurisdiction to impose British legal penalties upon Britons who had offended in New Zealand. But this gained little practical significance because it originated as an integral part of a package of proposals, the rest of which was ignored. In essence, Bigge wished to turn New Zealand into a *legal* 'dependency' of New South Wales, which would mean that non-British subjects guilty of serious crimes in New Zealand could also be brought before the colonial judiciary; and, more importantly, that the Governor could legally 'appoint magistrates, as well as constables, to the Islands of New Zealand'. To complement this new, legal policing apparatus, which would begin by employing two 'respectable persons' as constables at £20 per annum each, there would be occasional visits by warships. Not only would these control pakeha behaviour particularly during the whaling season, but also they would 'increase the respect that the natives already feel for the naval and commercial superiority' of the British as a result of the *Dromedary's* long visit.³⁷

Bigge's suggestions for New Zealand essentially reflected Macquarie's long-held views, although the two were bitter enemies in their rival analyses of the condition of New South Wales. Their area of shared opinion however cut across the 'minimum intervention' policy of the British state. The 1823 statute, reiterating that New Zealand was a non-British territory, ensured that anyone enquiring about settling there would be told that 'no encouragement is given by Government to settlers to proceed to New Zealand'. Official British policing of Aotearoa remained minimal. When in 1827 a seaman was convicted of stabbing another in New Zealand waters, the conviction was quashed because of legal inadequacies in the 1823 Act. Few people were brought before the judiciary either under it or an 1828 successor enactment (which closed a loophole by giving English courts the same rights as Australian courts to try offences committed in New Zealand as part of the

introduction of English law to New South Wales). Even had the judiciary wished to act, it could often do little because the legislation made no provision for swearing (pagan) Maoris under oath. And the apprehension of anyone other than a pirate, escaped convict or mutineer could not legally occur in New Zealand unless accompanied by a warrant presented by an Australian magistrate. In 1832 the Colonial Office acknowledged that the Acts of 1817, 1823 and 1828 were practically unenforceable in New Zealand. Indeed, legal actions concerning New Zealand were normally taken under legislation applicable to British subjects anywhere, such as that relating to escaped convicts or to the conduct of masters and crews towards each other.³⁸

Britain's resolute determination to intervene no more than minimally, despite Bigge's recommendations, seemed to have been endorsed in 1823 by the redrawing of New South Wales' southern boundaries to allow the hiving off of the new colony of Van Diemen's Land (later Tasmania). Any extension across the Tasman of the new 39° 12' S latitude southern boundary of New South Wales now meant that even if the term 'adjacent' islands included New Zealand, it could only refer to a portion of the North Island. Prior to his recall in 1825 Sir Thomas Brisbane requested clarification of the situation and the answer was implicit in the instructions given to his successor as Governor of New South Wales (Sir Ralph Darling): New Zealand was not legally part of New South Wales, and indeed the Van Diemen's Land boundaries had no reference at all to 'adjacent' islands. Meanwhile would-be promoters of settlement schemes had been dealt with firmly. Baron Charles de Thierry, who had 'purchased' land through the mediation of Kendall (who used his title as JP to great effect in such matters), was told firmly in late 1823 that his plan for colonisation was void since it was mistakenly 'founded upon an assumption that that island is considered as a possession of the Crown'.³⁹

Yet by then there were major pressures upon the British state, particularly by British and colonial shipowners, traders and whaling interests; all such schemes envisaged the presence of a British coercive apparatus in New Zealand. Lieutenant-Colonel E Nicolls of the Royal Marines, for example, submitted a plan for a 'military colony' of 350 men 'trained in long habits of submissive obedience to one competent authority' (viz, himself) and able to pose 'united strength' to any opposition. When the first company to bring organised settlement to New Zealand was established it was envisaged that troops would accompany the expedition, and hopeful

officers applied for their command. But the Secretary of State for the Colonies would concede only that troops stationed at New South Wales might if necessary cross the Tasman to rescue the settlers from any disturbance. After the five dozen Scots tradesmen selected by this first New Zealand Company as its advance guard had arrived first at the Thames and then at the Hokianga in 1826, the idea of settlement was abandoned because of their vulnerability to Maori attack, and the expedition repaired to Sydney—although a handful of the migrants settled in the Hokianga to form the nucleus of a community which by 1829 numbered some 30 pakehas. By then they had begun to ‘feel a Confidence in being able to protect each other’, but this was mainly because they fell under the protective umbrella of a local chief who welcomed the trading opportunities they created.⁴⁰

The proponents of a military presence had two basic assumptions. First, that it would be necessary to prevent both Maori attacks upon pakeha persons and property and the ‘wanton outrages’ upon Maoris by Europeans which were normally the causes of Maori resistance. The British interests in New Zealand which were ‘springing up’ by the middle and later 1820s would rapidly increase under the mantle of military-cum-policing protection, so a petition by two dozen seal and whale traders assured the authorities. Second, a coercive force was seen to be required because full order and regularity presupposed the quelling of any intertribal or intratribal warfare that might break out. The 1823 and 1828 legislation omitted to proscribe the most important offence of all against peace and stability, the fomenting of tribal warfare—or the fostering of activities which themselves often led to such warfare, such as the trading in preserved heads. Disruption caused by indigenous warfare in 1827 caused the Wesleyan mission at Whangaroa to be evacuated; it was plundered and destroyed in the process of warfare between Te Puhi’s people and the invading forces of Hongi.⁴¹

By the mid 1820s the British state was beginning to buckle under the tremendous mercantile pressure placed upon it to intervene in New Zealand; from this point onwards, traders became a more significant influence upon the course of events than missionaries. Nicolls’ proposal had already been seriously considered, but the state had been frightened off by Marsden who, in an attempt to retain the country as a missionary-controlled domain, claimed that ‘some regular form of government’ would of necessity have to accompany such permanent military intervention. On the other hand the undertaking by Secretary of State Earl Bathurst to pro-

vide protection for the New Zealand Company settlers in an emergency was a precedent for intervention of some sort and, in light of the refusal to send a permanent military force, there had been suggestions for a second best—for intermittent naval protection of trade and settlement, following Bigge's recommendation of 1823.⁴²

In mid 1826, as a result of a petition by London merchants, the Admiralty agreed that its East India Squadron warship which was normally stationed at Sydney would visit New Zealand from time to time, and upon request from the New South Wales state. Even so, this commitment to a degree of policing by the globally over-stretched Royal Navy was universally viewed as inadequate by those with interests in New Zealand, including influential men amongst the increased numbers of individuals now involved in running the state in New South Wales upon its gaining of representative institutions for those of its free population who had substantial means (following the Van Diemen's Land breakaway from the parent Australian colony). The new state institutions themselves pressed for meaningful British naval and military intervention in the interests of trade and industry, but their members continued to rally behind traders reported by missionaries for violations of 'order and humanity' in New Zealand. The quest for stability in New Zealand, continued by new Governor Darling, was thereby made the more difficult, particularly given his propensity to clash with various elements of the state.⁴³

Meanwhile, settlement in New Zealand was gradually increasing. Flax, spars and even shipbuilding enterprises had been established at the Hokianga, and John Guard began operating the first of the South Island shore-based whale fisheries in 1827. The Bay of Islands, however, was to remain the major focus of settlement until British annexation; in the 1820s its pakeha population increased threefold. By 1823 not only was Kendall on the eve of expulsion from the missionary community, ostensibly for fornication with a Maori girl, but also the Reverend Butler's period as Superintendent was drawing to a close. That August Marsden arrived at the Bay of Islands and prevailed upon Butler, who had not only turned to trade to relieve his financial problems but also to alcohol to relieve the tensions accruing from his twin position of temporal and spiritual policeman, to withdraw from the mission in advance of a committee of missionaries finding him guilty of drunkenness and general unsuitability. On November 14 he left New Zealand with Marsden, bound for suspension from all connection with the Church Missionary Society, and New Zealand was minus the presence of a permanent JP. Kendall, whose commission in that office had lapsed, continued to function as an informal policeman by

mediating between the races at the Bay until he finally left New Zealand in February 1825.⁴⁴

After his arrival in New South Wales Governor Brisbane had ratified Butler's place on the Commission of the Peace, but the Bigge report of February 1823, in requesting that it be legal for Governors to appoint JPs in New Zealand, broadcast the extra-legality of Butler's position. When Marsden installed an ex-naval officer, the Reverend Henry Williams, as Butler's successor as head of the New Zealand mission that August, Williams could not therefore be accorded the status of JP for the very reason that the non-legality of such a step had been highlighted in official correspondence: there could be no further British acquiescence in the expedient. Nevertheless based at his headquarters at the new mission station at Paihia, across the water from Kororareka, Williams acted vigorously as informal high policeman at the Bay of Islands and nearby points. In the turmoil caused by the tribal warfare of the 1820s he even evolved an irregular police/military force of 'mission Maoris' to cope with parties raiding pakeha property—a force that numbered a hundred by 1827. Away from the Bay, informal policing was conducted by those in charge of the few pakeha commercial establishments, men who—as with the proprietors of the major Hokianga timber operation—saw that profits rested upon making their operations 'as regular and orderly as possible'. Sometimes pakeha proprietors operated under degrees of authority bestowed by colonial authorities. In 1823 when Captain John Grono arrested a sealing gang at Chalky Inlet and replaced it with his own, the apprehended gang having contained some runaway convicts, he attempted to justify his actions by reference to his licence to apprehend convicts in New Zealand.⁴⁵

By mid 1827 Henry Williams could claim with justification that the mission (in which his brother William now played a prominent part) had gained considerable influence over the conduct (if not the souls) of the Bay of Islands Maoris, and missionary mana increased the following year when the missionaries negotiated a peace between Maoris of the Bay and Hokianga, their first success at mediation between conflicting tribespeople. Although Hongi, the last of the three original Maori policemen ('ever the missionary's friend'), died of war wounds in 1828, Maoris in proximity to the missionaries and to 'orderly' commercial establishments increasingly turned to pakeha-style solutions for breaches of pakeha-style 'order'. When for example a Paihia mission Maori's slave was found committing robbery, a Maori assembly acted as jury and sentenced him to a flogging. Pakeha and Maori alike would combine informally to conduct major policing operations whenever

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necessary if a warship were not present. In early January 1827 when the brig *Wellington* sailed into the Bay of Islands, in his role of chief informal policeman Henry Williams, together with fellow missionary W Fairburn and two whaling captains, discovered that en route to Norfolk Island it had been seized when its 'cargo' of 66 convicts overpowered their dozen-strong military guard. Missionaries coordinated the resulting police operation. After the crews of the whaling ships *Harriet* and *Sisters* had attacked and disabled the brig, Maoris based at Paihia rounded up convicts who had been allowed to land as the price of safeguarding their captives aboard the pirated ship, whilst the missionaries shaped manacles. Most of those convicts who escaped the initial roundup were gradually captured by Maoris who sold them back to the missionaries. Pending transport back to Sydney aboard both *Sisters* and *Wellington*, under the control of the same military guard which had initially been overpowered, the recaptured convicts were gaoled aboard the whalers or shackled ashore in the hastily forged irons. Although even Darling acknowledged that they had committed no unnecessary violence and public opinion saved many of them from the noose, eventually five of the 'pirates' were hanged. The colonial and imperial states sanctioned the entire policing operation by reimbursing all incurred expenses.⁴⁶

From the turn of the decade the pakeha presence in New Zealand greatly increased, boosted by the founding of shore whaling bases, mainly in the South Island. Over the next 10 years dozens of such establishments sprang up, so that by 1840 there were 30 of them in the Marlborough area alone. They were places where men were said to 'practice every species of iniquity without restraint. . . . The very soil is polluted. The very atmosphere is tainted.' But the major problem area of pakeha disorder remained the Bay of Islands, which saw a spectacular rise in the number of visiting ships—from an average of 20 a year through the 1820s to three dozen annually at the turn of the decade, 89 by mid decade, and 155 by 1839. To service these ships, particularly the whalers from various nations, large mercantile store and ship repair establishments were set up. Where white men visited and settled, brothels and grogshops followed and what became the main Bay of Islands town of Kororareka gained a reputation in the 1830s for disorder, debauchery and death. By the middle of the decade there were 300 Europeans in the Bay area, perhaps 500 by the end of 1836, over half of them characterised by 'respectable' merchants and missionaries as 'riff-raff'. A sizeable proportion of the 'lower' denizens were

escaped convicts; some 15 years before, the missionary JPs had knowledge of only one escapee in the area.⁴⁷

Internal policing of pakeha commercial and fishery establishments, particularly those specialising in flax manufacturing (at its height at the beginning of the decade) and whaling, was conducted with rigour by the owners or their agents. Brutal disciplining led sometimes to death; whaling master Edwin Palmer fatally beat a teenage employee who had allowed a whale-boat to be wrecked. Draconian methods were particularly prevalent in the South Island whaling settlements, some of which—the Weller Brothers' bay station on Otago Peninsula, Palmer's partner John Jones' whaling and agricultural establishment at Waikouaiti, or Te Awaiti in Tory Channel—became sizeable towns of a hundred or more people. When asked as to his mode of discipline, the Te Awaiti headman replied: 'I knocks 'em down, Sir'. Whaling settlements were moreover 'at once the embodiment of order and disorder', since 'excessive work' under rigid control was followed by periods of 'excessive idleness' during which boredom was drowned in a massive consumption of alcohol sold by the companies. This service was provided partly in the interests of further profits but also because endemic drunkenness was a form of discipline, keeping employees dulled and 'captive' during their off-duty hours. The Tory Channel stations housed, shuddered a missionary, 'specimens of human nature in its worst state'.⁴⁸

It was a vicious circle since drunkenness, together with the brutalised backgrounds and lifestyles of many of the employees and some of the masters of those establishments, frequently led to problems of order of serious potential consequence: neighbouring Maoris were subject to pakehas 'robbing, plundering and deliberately murdering' tribespeople. 'That the New Zealanders have been most cruelly used, abused, and ill-treated by our countrymen, may not be denied', reported a northern trader. The 'Acts of outrage to the Natives' which Darling had noted as being typical of men from visiting whaling vessels were now institutionalised at permanent localities ashore. The state feared armed retaliation (particularly in the South Island where most bases were located) which might well spread throughout New Zealand. Certainly there was evidence that armed resistance was quite possible, and trading captains would warn each other of danger spots: 'Beware of the Natives Plentey at Preservation' scratched on a rock; a notification by J B Weller to James Kelly in 1833 that Otago Maoris intended taking reprisals upon his property for acts of aggression committed by him which stretched back to the 1817 massacre by the crew of Kelly's *Sophia*, a warning which proved to be prophetic when one of Kelly's ships

was plundered the following year; a broadcasting in Sydney by Weller's people that the Otago Maori were in the mood for attack. As it happened the trade and industry of entrepreneurs stationed in the South Island did not markedly suffer from Maori retaliation, but this was mainly due to the fact that not only were its tribes never numerically strong but they were also greatly weakened by pakeha-introduced disease, by addiction to alcohol plied at the settlements, and by the musket warfare which descended upon them from the north.⁴⁹

In the North Island, especially in its northern section, the pakeha existed on Maori sufferance. Ethnocentric attitudes and actions, however, led to much interracial trouble, and even a tough whaling captain could echo Marsden in acknowledging that 'the Europeans were the aggressors'. Proprietors of large establishments were easily able to defend their property. Gilbert Mair, for example, employed a band of local Maoris to act as a private police force at his trading station at Te Wahapu near Kororareka. But elsewhere, with increasing numbers of pakehas arriving and a corresponding increase in race tension, informal missionary-based policing was decreasingly able to cope, and all Europeans were potentially endangered by Maori retaliation. This possibility was now exacerbated by growing Maori fears, which had been reported by the Admiralty as early as 1827, that the imperial power would eventually take possession of their land. By 1830 Darling was considering the appointment of a British Resident at the Bay of Islands, an official who would deploy 'a few Troops to enforce regularity on the part of the Whalers' and receive chiefly backing in his efforts to keep the peace. It was an idea which combined submissions from local traders and from those missionaries who now believed that informal controls needed supplementing by state coercive powers were the country to be 'civilised' in the desired fashion.⁵⁰

Interneccine warfare was at this time not infrequently caused by European action. This was a factor which had been present ever since pakeha contact, the actions of convicts aboard the captured brig *Venus* for example having led to Ngapuhi decimation of the Ngatiporou a dozen years later, but many chiefs now realised that the future of their tribes and even of their race was in jeopardy if musket warfare continued. They looked to the British state for measures which would at least prevent that European intervention in their affairs which had so often led to fatal consequences. On 8 March 1830 Marsden arrived at the Bay of Islands and witnessed the consequences of one such intervention—an ongoing war that had already cost 70 casualties in an engagement at Kororareka together with severe disruption of commerce. The so-called Girls'

War (really a commercial dispute, with which some of the many Maori women aboard a whaling ship were connected) had, Marsden reported, been started deliberately by whaling master William Brind. Local chiefs, after successful mediation by Marsden and Henry Williams, demanded that the European state take responsibility for the behaviour of its subjects.⁵¹

In submissions to Darling that August, Marsden supported the Bay chiefs' desire for a *pax britannica*. But he repudiated the option involving the presence of troops, the almost universally accepted formula for intervention. Ostensibly this rejection was on the grounds that soldiers would be tempted by Maori women, but in reality it was because the presence of an official with control of troops would take the overarching direction of affairs within New Zealand out of missionary hands. Marsden advised instead that a 'small Armed King's vessel with proper authority' should be stationed in New Zealand waters. Not only would this deter pakeha-induced disorder but it could also facilitate the capture of runaway convicts who waited in New Zealand for ships to take them away from the South Pacific. More importantly still, it would provide coercive backing for a type of Maori theocracy ruled over by 'civilised' chiefs converted to Christianity. Darling observed that the Church Missionary Society had seemingly 'gained an ascendancy over the minds of the Natives' and indeed in the 1830s, as a result of the disruptive impact of the European upon the traditional Maori way of life, significant conversion was to begin.⁵²

Deferring to the advice of the overall controller of his New Zealand missionary-policemen, Darling endorsed the idea of an armed vessel and emphasised to Britain the importance of trade with New Zealand: in the first seven months of 1830 nearly 60 ships had visited that territory. But by early 1831 the potential for large-scale disruption of order in New Zealand was so great that both Marsden and Darling reverted to the idea of appointing a British Resident who would have coercive force to support his decisions. The chief catalyst for this was the news which reached Sydney of an incident that had occurred in November 1830, after Darling's 'armed vessel' submissions; it was the gravest European involvement so far in intertribal warfare. In return for the promise of a cargo of flax, Captain John Stewart of the brig *Elizabeth* had taken a hundred-strong war party led by Ngatitao chief Te Rauparaha from Kapiti to Akaroa harbour in the South Island. There the warriors hid in the hold until Ngaitahu chief Tamaiharanui and followers came aboard unarmed, 'as is usual with them when visiting European vessels for the purpose of trade'. The chief, his family and several dozen other Ngaitahu were taken captive and imprisoned aboard

the brig in an operation handled by Stewart and his first mate. Tamaiharanui's three local pa were attacked and destroyed and their inhabitants massacred. The captives, some of them (especially Tamaiharanui and others of chiefly rank) destined for the cooking pot, were transported back to Kapiti by Stewart along with baskets of flesh, some of which was eaten en route.⁵³

With the *Elizabeth* and her crew at Sydney, the arrival of news of the Akaroa expedition presented Governor Darling with a chance to utilise the 1828 statute; this would help deter further pakeha involvement in tribal war, and save the commercial link with New Zealand from the irreparable damage which would occur as a result of interracial war. But although the judiciary acknowledged that a 'transaction of a criminal character' had occurred which 'would generally entail a capital punishment', it doubted the applicability of the 1828 statute. This judgment reflected the interests of the merchant circles (including the powerful Charles Wentworth, co-owner of the brig) in which the judiciary moved, views which were expressed loudly in the Sydney press. Darling however ordered criminal charges to be laid against Stewart and four of his crew.⁵⁴

It was not until early April 1831 that the Governor—having been under powerful local capitalist pressure to move cautiously but now required to report to London on the matter—enquired about progress on the case, to find that his police and legal officials had stalled proceedings. This had enabled merchants to smuggle all of the accused except for Stewart out of Sydney—and ensured too that the crucial witnesses left town, as happened seven years later when John Jones and Edwin Palmer sabotaged the latter's manslaughter trial. Chief culprit in the procrastination over the *Elizabeth* affair was Crown Solicitor William Moore, whom Darling had frequently requested the colonial government to dismiss—but who faithfully represented the views of the executive and the social strata upon which it was based and hence remained in office to plague even the Governor's successor until finally removed by the Colonial Office. Darling insisted that at least Stewart face the court, but in time the colonial officials ensured that he too went free. English officials were angered: the offenders could have been tried under the 1828 legislation, and even if this had been genuinely in doubt other legislation such as the Foreign Enlistment Act could readily have been used. The Secretary of State for the Colonies condemned what he clearly perceived as tactics of sabotage: why, in particular, had the 'murderer' Stewart been given bail? The whole affair had been 'conducted in an inefficient and discreditable manner'. Well into 1832 British officials themselves made fruitless efforts to bring Stewart and his men before English law courts.⁵⁵

Meanwhile, in Sydney in April 1831 the Governor and Marsden realised they had probably been foiled in their plans (albeit half-hearted on Darling's part) to make an example of Stewart and his men. Marsden recorded that 'Something must be done, or all commercial connexion' between New Zealand and New South Wales 'must cease'. The Governor concurred that, without redress, Maoris would 'avenge themselves on the European Settlers'. After consulting Marsden, Darling proclaimed that it was time to 'cultivate feelings of mutual good will' with the Maori, an objective which was 'highly important for the merchants and traders of this Colony'. Thus he ordered a stop to the traffic in preserved heads and threatened to impose dire penalties upon those detected by customs officers to be still importing them. The trade quickly fell off, and had disappeared by mid decade. But European involvement in it had been only a minor cause of internecine Maori warfare, and the major purpose of the proclamation was to symbolise for the benefit of Maori leaders that the New South Wales state was about to act in a more decisive manner.⁵⁶

The substantive action agreed between Marsden and Darling was to seek the appointment of a salaried official, the British Resident, who would be equipped 'with proper authority to notice the misconduct of the Europeans, and to whom the natives can appeal for redress' in lieu of taking retaliatory action against pakeha persons and property. The Resident's presence would 'tranquillize the minds of the Settlers, who are apprehensive that their lives will be made answerable for the proceedings of their Countrymen'. The criteria for the position required access to some form of coercive apparatus, particularly if—as Darling intended—the office was to be a 'foundation' which could be 'extended and improved to our Advantage'. Anticipating that in the light of recent developments the British state would grant the appointment of a Resident, for which there was precedent in the Pacific, Darling determined to establish the office as quickly as possible. Meanwhile he urged that the official should have a vessel at his disposal, a request that was to be read in conjunction with his previous application for an armed vessel: the Resident was to have control over forces of coercion. Wishing for a person used both to privation and to commanding armed forces, Darling opted for Collet Barker, a man renowned for his success in 'conciliating' hostile aboriginals; but Barker's luck had run out, for on 30 April he was killed by Australian tribespeople.⁵⁷

The Governor next opted for the person he had first considered

for the New Zealand position, the explorer Charles Sturt, like Barker a captain in the 39th Regiment and currently Commandant of the Norfolk Island garrison. But by the time Sturt reached Sydney in October after being delayed by illness he found his appointment had lapsed because Darling had received notice of recall and had just left the colony. When the new Governor Sir Richard Bourke arrived in Sydney several weeks later he was inundated by advice, particularly from influential traders and their political friends, to continue with the scheme of the Resident. This was because the *Elizabeth* affair had spotlighted a dichotomy in the thinking of the Sydney man of means, who had been inclined to protect members of his own class from punishment for offences against 'savages' but who was now increasingly aware of the repercussions (even in the short run) that an escalation of interracial strife in New Zealand would be likely to have upon his profits. Darling had noted that the increasing trade with New Zealand was 'of great importance to this Colony' and that the Maori would 'no doubt acquire a taste for our manufactures'.⁵⁸

Whether or not the British government would allow the Resident to have a naval force at his disposal was problematic. In case of refusal, and meanwhile, Darling had searched for the best way of enabling the Resident to muster some coercive power whenever necessary: assuming that the 1828 statute had legalised the appointment of JPs in New Zealand, he envisaged the Residency as a magisterial appointment. However his Attorney-General ruled that because New Zealand was not a 'dependency' no such appointment was possible. Thus the Resident could be commissioned to detain escaped convicts, even to arrest those against whom a warrant had been issued in Sydney, but he could not exercise judicial authority and discretion in New Zealand nor establish fully functioning constabulary or administrative machinery there. As Governor of the Cape Colony, Bourke had developed skills in 'pacifying' indigenous peoples, particularly through encouraging missionary work and promoting interracial trade, and he appreciated that such policies worked only if the state operated from a position of strength. But the Attorney-General's ruling had thrown even the minimal temporary expedient of providing a Resident with effective legal authority into disarray. The New South Wales government was agreed that a Resident together with a 'Military Guard' was now the minimum solution to protecting British interests in New Zealand, yet Bourke and his Executive Council knew that to unilaterally order a naval vessel to support the Resident, or to provide him with armed forces to man a garrison and/or a colonial vessel, would be a gross violation of the British policy of minimum

intervention. It was a decision for the British state and nothing could be done in the meantime.⁵⁹

Seeking 'Maintenance of Tranquillity', 1832-8

In January 1832 the Secretary of State for the Colonies, Lord Goderich, approved Darling's submission regarding the appointment of a British Resident as the precursor and initiator of order, regularity and expanded trade in New Zealand. In principle it was accepted that settlers and traders should be protected from Maori interference, partly by ensuring that pakeha activities such as those which had led to the *Elizabeth* atrocity did not recur to embroil British persons and property in intertribal or interracial warfare. But intervention was to remain as minimal as possible: since Britain's imperial expansion had continued to stretch her naval and military resources there would be neither a permanent vessel in New Zealand waters nor any chance of British troops on New Zealand soil, 'at any rate, until they can be more easily spared from other duties'. Thus instead of gaining a military officer with legal and actual access to coercion in New Zealand, the New South Wales government was allowed a civil official with no greater coercive backing than the possibility that there would be more frequent naval visits to New Zealand than in the past.⁶⁰

Moreover to ward off criticism from and obviate the possibility of pre-emptive action by its imperial rivals, France in particular having been feared by British business interests for some years to have ultimate designs upon the country, the Crown repeated that it had no political control over New Zealand. Thus any final chance of the New South Wales state adopting a second-best solution to the status of the Resident, by being authorised by Britain to appoint him a JP albeit without access to military or naval force, was lost. More seriously still, the Admiralty declared that while it might increase the incidence of its occasional naval visits to New Zealand, its commanders had no jurisdiction on the soil of a country deemed non-dependent. It was neither 'expedient nor safe', in view of both the frequency of intertribal warfare and the presence in Aotearoa of numerous individuals from rival imperial nations, for intervention to occur ashore: if British subjects needed protection they would at most be received aboard naval vessels. With this reiteration of the attitude taken towards the first New Zealand Company, on a formal level little had been changed by the decision to appoint a Resident.⁶¹

The Quest for 'Peace and Good Order'

A New South Wales viticulturist and minor official, 31 year old James Busby, was visiting Britain at the time of the decision to allow official representation in New Zealand. As he was equipped both with an aristocratic patron and a submitted pamphlet outlining a British Residency scheme for New Zealand, it was natural that the Colonial Office should—in March 1832—appoint Busby to the position. To help compensate for his lack of coercive apparatus, it was stated, the Resident was to be given legal powers even more significant than those of a magistrate. Thus that year the Under-Secretary of State for the Colonies, Viscount Howick, introduced a bill allowing the New South Wales state to pass laws 'for the prevention and punishment of crimes within any islands of the Southern Pacific Ocean not being in His Majesty's Dominions to provide for trial and punishment thereof, either within the Colony or within the islands themselves'. The definition of such crimes was specifically to include assisting tribes in warfare, or fomenting or encouraging tribal warfare. But because this measure implied the wielding of coercive force by the British Resident if it was to prove effective, it was not taken particularly seriously by the Colonial Office. The latter had toyed with the idea of supplying the appointee with troops but when the Commander-in-Chief had pointed out in February 1832 that such a scheme would amount to a 'new colony' and hence cut through the policy of minimum intervention, this was rejected. Even had Howick's bill been passed, then, it would have meant little in practical terms; indeed before Busby left Britain the Colonial Office had a reasonable idea that the bill was not a viable measure, and the government eventually allowed it to lapse.⁶²

The British had in 1827 for their own reasons of state disregarded the norms of international law and 'recognised' for the first time the sovereignty of a tribal authority (in Tahiti), and the Howick measure would have enabled this to be repeated with regard to Maori chiefly authority. The bill, which followed Busby's own plan, would furthermore have empowered the Resident to negotiate a treaty with the chiefs which included his right to exercise coercive powers over British subjects on their soil. In mid June 1832 Lord Goderich responded to a missionary-inspired plea by 13 northern New Zealand chiefs for protection by implicitly accepting their sovereignty. They would, he promised, receive 'friendship and alliance' with Britain if they supported the Resident. But words were cheap: Tahiti notwithstanding, the precluding by international law of sovereignty being vested in 'savage' peoples was used as a means to escape the costly implications of Howick's intended legislation.

It was now stated that no statute could enable Busby to negotiate with non-sovereign chiefs an extension of New South Wales law to cover British subjects in New Zealand, and neither could Britain legislate for an 'independent' territory. The politicians could have secured passage of Howick's bill had they wanted, and in fact in 1836 a similar general measure (introduced in order to give extra-territorial jurisdiction to JPs in areas north of the Cape Colony) was passed which made ongoing efforts to reintroduce Howick's measure redundant; moreover some 40 years later Britain would claim a local jurisdiction along the lines of Busby's plan in a 'savage' territory. The immediate upshot for New Zealand affairs in the 1830s was that New South Wales was forced to pay a salary of £500 to an official with very few legal powers and no practical means of coercion over British subjects. Although Busby's perception of his role as being that of laying the groundwork for British annexation happened as it turned out to coincide with his historic role, this was not the state's precise intention in making his appointment. The British authorities viewed his function as that of Aotearoa's high policeman, working with influential Maoris and pakehas to preserve 'the Internal tranquillity of New Zealand which is so necessary to the maintenance of a close commercial Intercourse between the Inhabitants and those of Great Britain'.⁶³

When Busby landed in New Zealand on 5 May 1833, after a fruitless seven month wait in Sydney for news of the fate of Howick's bill, he possessed none of the protective mechanisms for which the northern chiefs had petitioned. Maoris came to call him 'the watch-dog without teeth'. He had requested that Bourke provide him with tradesmen 'Assistants' who would also be sworn in as constables, but the languishing of the bill made this impossible. In any case it was highly unlikely that New South Wales would have borne the considerable expense of sufficient constables for the suppression of serious disorder. To protect himself and his family he was instructed to attempt to persuade 'friendly' chiefs either to live near him or to provide him with a Maori guard, although New South Wales was not prepared to provide him with any extra money to reimburse such a guard since his salary had been intended to cover all expenses. Only when he had been in the country for a year, and suffered armed attack, was a sum of £60 per annum provided for such purposes. Since this was to be divided among 20 Maoris, it was not surprising that few recruits, and none of them permanent, were forthcoming. When, later, Van Diemen's Land refused to contribute to the upkeep of the Residency's costs, all hope of a permanent Maori military policing force was lost. In any case, even if such a guard had been constituted it would prob-

ably have been monotribal, arousing intraMaori rivalries and thereby countering the *raison d'être* of the Residency as expressed in Busby's terms of reference, the 'maintenance of tranquillity throughout the islands'.⁶⁴

Bourke's instructions to Busby closely followed those endorsed by Lord Goderich. Although without coercive machinery of any kind, with missionary help he should work with the chiefs and through their authority induce Maori adherence to order and regularity. He was to gain influence over them by the 'skilful use of those powers which educated man possesses over the wild or half-civilised savage', preferably without incurring expenditure. So far as resources were concerned, at most he could apply to the Governor for (inexpensive) gifts for the chiefs. He was to encourage them to establish a settled, pakeha-influenced form of government complete with judicial machinery, and this would eliminate inter-tribal warfare. The burden of imposing order and regularity upon New Zealand would thereby be taken away from New South Wales and the success of the Busby mission would rest primarily on the 'influence he should obtain over the Native Chiefs'.⁶⁵

The missionary JPs and naval policing visits had attempted to instil order by repressing British 'outrages' against Maoris and by capturing escaped convicts, but as the Reverend Richard Davis reported in 1832, New Zealand remained in a 'very turbulent state'. It was Busby's almost impossible task to singlehandedly coordinate and supplement such disciplinary measures in an effective fashion in a period of minimised state spending. Even if he were able to secure a bench warrant from Sydney for the arrest of a British citizen, he was supposed to obtain Maori aid in apprehending and detaining the culprit—assuming the latter was still by then in the area. With no guarantee of Maori cooperation, realising that any state rewards—even were they forthcoming—would be inadequate to secure a regular Maori police operation, and denied even a small pakeha police establishment, Busby had on 18 March 1833 proffered compromise proposals: that a warship accompany him to New Zealand and remain a few weeks to display a show of might, or that a police or troop detachment spend some time in the country. In the latter case, when the might of empire backing had thereby been demonstrated the party could withdraw and leave him with a single policeman who was acquainted with the convict muster and who would preside over a lockup. These proposals too were rejected on grounds of cost effectiveness, and when that same year the first sworn constable set foot on New Zealand soil it was as a prisoner aboard the vessel *Bee*. The captain had absconded from Hobart after kidnapping a local policeman sent to arrest him, and when the

ship departed Aotearoa for the South Seas the constable was still held hostage. Busby arrived at the Bay of Islands to apply instructions reflecting (in the words of a nineteenth century historian) 'so much of the policeman', but he had no coercive mechanism to support him during the years when the 'real foundations of the colony were laid'. Reiterated pleas for a police force, such as a case presented in 1834 for the employment of four constables—two pakehas and two young chiefs—as well as of a regular Maori guard, fell on deaf ears.⁶⁶

Feeling among the New South Wales elite was summed up in the mid 1830s by one of its number currently dwelling in the Bay of Islands: 'The appointment of the Resident in the first instance, without the necessary powers to *be useful*, was a wanton sacrifice of the dignity of our Government, and a worse than useless tax upon the good people of New South Wales, who are obliged to pay him.' Quite apart from Busby's lack of police or troops, his legal position itself was precarious, based at it was upon the 1828 legislation. The New South Wales Chief Justice himself later assessed that it was not possible to issue warrants for arrest of offenders in New Zealand, contrary to Bourke's instructions to the Resident of 13 April 1833. Two years before Lord Goderich had envisaged indemnity if the Resident arrested a freeman in mistake for a convict, and had even stated that 'any measures of coercion and restraint, which the Resident may reasonably adopt, may be vindicated on the grounds of necessity, even if they cannot be strictly defended as legal.' But at very most, guarantee against the effects of being sued for damages was only implicit.⁶⁷

The almost impossible nature of the task Busby was assigned was not at first perceived by the Bay of Islands trading and missionary population, which welcomed his appearance. They knew that both in general and in specifics his brief was to promote British trading interests and to produce stability. The several dozen runaway convicts and sailors living in the Bay 'mostly disappeared', some to Hokianga where in June Busby and the local chiefs conducted a police operation which all but two eluded by fleeing from the area. But when Busby proposed a measure to check the flow of runaway convicts to New Zealand by requiring all pakehas to carry a 'passport' issued by the Residency, the New South Wales state declined to sanction it in view of the ostensible reason behind the languishment of the Howick bill.⁶⁸

In lieu of constables, and with Maori cooperation at best intermittent, Busby early began to act as a 'common' policeman himself, in

conjunction with missionaries (with whom he stayed at first) and other 'well-disposed' residents of the Bay. But his powerlessness was revealed when he and other pakehas indulged in a boat chase of Maoris who had allegedly burgled a trader's home; the pursuers had to retreat under a hail of bullets, and threats to deploy a warship were the property not returned came to nothing. Such tactics were hardly conducive to imposing order—even less so if Busby were to expose the paucity of his coercive equipment, a small arsenal of 10 muskets and bayonets provided from Sydney. In addition he soon realised that traders' talk of forming a militia was counter-productive since the pakeha existed in New Zealand on Maori sufferance. Armed pakeha intervention, especially if it were known to the Maori to be state-sanctioned, would have ramifications of great seriousness for the future of the British in New Zealand. Despite such dawning realisations Busby's ethnocentric outlook caused him to make grave errors of judgment well into 1834. That March, for example, he had a warship train its guns upon Chief Pomare's pa at Otuihu, but when Henry Williams intervened he found that the 'offence', seizure of a European's boat, had been committed in response to the latter's non-payment of a debt and fell within the rules of indigenous customary law. It was agreed—contrary to Busby's original ruling—that Pomare be paid in return for release of the boat.⁶⁹

Bourke rubbed home one lesson after the boat chase incident with a homily that the 'line of proceedings marked out for you in your instructions is of a higher character than that which is the duty of a police magistrate or constable, and you should be particularly anxious to preserve the dignity of your station by not making yourself too common, and by acting on all occasions through the instrumentality of the native chiefs.' Busby took heed and indeed had already worked hard to attempt to instil in rangatira attributes recognised in Europe as those of sovereignty; in order to circumvent problems of registering New Zealand-built ships for example he secured the local chiefs' acceptance of a 'New Zealand' flag, which Britain recognised. But despite Bourke's opening strictures the Resident correctly perceived the logic of his position that whatever his instructions he was in actuality a 'police officer', albeit more 'high police' than 'low police' in function.⁷⁰

The practical difficulties which accompanied enforcement policing were indicated by the drifting back with impunity into the Bay again, early in Busby's period of office, of its convict population, particularly to Otuihu which hosted the most brothels and grog-shops. Problems of deterrent social control arose even when he used chiefs to effect arrests; when a burglar was apprehended in

this fashion, the complainant dropped the charge rather than be obliged to travel to Sydney to give evidence. Busby was decreasingly inclined or able to arrange relief and transport for shipwrecked and stranded sailors who might otherwise well stir up 'trouble' amongst the Maori, because he and the transporting captains found it difficult to extract reimbursement from a colonial state concerned to keep spending to a minimum. Moreover his 'high police' role became increasingly the focus of contempt, particularly given his incapacity to mediate successfully between disputants in commercial and other disputes. This was partly because of defects in his personality but mainly because of his inability, in lieu of possessing the 'moral' hold over many Maori minds which was exercised by the missionaries, to apply legal or coercive backing to any decisions taken. As Busby gradually disengaged from 'common' and certain higher policing activities alike, the traditional informal policing role bequeathed to the missionaries by their JP predecessors again came to the fore. When, for example, in a dispute the Kawakawa Maoris seized goods off two captains, Henry Williams persuaded the latter not to attack, and after mediation secured the return of the goods.⁷¹

The Resident continued for years to campaign for the right to have a permanent and properly functioning police. In 1835 the British government again declined to allow a warship or troops in New Zealand on grounds of cost but reluctantly conceded sanctioning the expenditure of £300 per annum (if necessary, to be paid by Britain) with which Busby was to increase his influence over the Maori, particularly through employing Maori police. By now the official policy of New South Wales was to have the Residency withdrawn unless it were provided with meaningful naval backing or at very least with judicial authority since, not surprisingly, Busby was paid little heed by Maori and pakeha alike. Ostensibly on the ground of awaiting adequate authority for Busby, but probably because Bourke felt that the provision of weak coercive force would merely highlight the inadequacies of what would clearly remain the position for the foreseeable future, the Governor neither acted upon the £300 offer nor told Busby about it. For the same reason, when in 1834 the Resident had proposed a self-financing police force which would remain viable by receiving fees from ships visiting the area (the right to do so having been purchased from Bay chiefs whose 'sovereignty' had already been implicitly recognised by endorsement of their national flag) this too was ignored by Bourke.⁷²

It was true that Busby had made little progress in establishing the base for a Maori-ordered, pakeha-influenced stable society in

which pakeha capital was safe. It would have been a difficult task even had chiefly authority remained unchallenged. But the loosening grip of chiefly hegemony following the pakeha impact in areas of interracial contact had by now progressed to the stage where, precisely in the localities where colonial state and traders most sought order and regularity, principal chiefs had lost a great deal of mana. On 30 April 1834 this was illustrated dramatically when a band of Maoris actually attacked the British Residency. Muskets were fired in the course of the plundering of the servants' house, and Busby himself was slightly wounded. Six months later it emerged that minor Waitangi chief Reti was responsible. Local chiefs, who wisely tolerated Busby as a safeguard but were hardly enthusiastic about the Residency, confiscated for the Crown Reti's land at Puketona on Henry Williams' suggestion. The 'sentence' was no doubt prompted by the temporary presence of a warship, and was in any case carried out half-heartedly; Busby's standing had fallen even further.⁷³

The year that Busby arrived in New Zealand coincided with the first significant Maori conversion to Christianity. Not unrelated to both happenings was the beginning of the first resistance cult, the Ngakahi or Serpent movement, which incorporated some of what were seen as the most powerful beliefs of the alien white culture. With Busby's arrival, many northern Maoris began to realise not only that the pakeha was there to stay but that ultimately he would dominate, and they began to search for a *modus vivendi* on the most favourable terms possible for the Maori. The Ngakahi 'adjustment cult', led by the prophet Papahurihia, appealed to those who for all their propensity to adopt certain aspects of the new culture wished to preserve the fundamentals of the old ways. This complicated Busby's police mission, especially when strife broke out between Christian Maoris and cult followers. Although such pressure lessened after the prophet moved from the Bay of Islands to Hokianga, it increased again when the principal chief of the Bay area, the formerly pro-pakeha Waikato, began to consider himself as one of the Hurai (Jews), a conversion to Ngakahi which proved to be durable. Problems of cooperation with the British created by the adjustment cult were to help lead to warfare a decade later.⁷⁴

Although the objective interests of pakeha settlers and traders lay in conciliating those Maoris prepared to accommodate their presence, many individual pakehas continued to foul their own nests and risk retaliation upon others as well. Their ethnocentric view of the world precluded full understanding of their extreme vulnerability. Busby, as well as having to grapple with his own Eurocentrism, found his tasks made all the more difficult by this

inability of many pakehas to foresee the full implications of their own actions. After Reti's attack on the Residency, for example, armed sailors crossed the Bay from Kororareka spoiling for revenge; the Resident had problems in persuading the captains who had brought them that a search by unruly pakehas for the dispersed and unidentified attackers would only escalate interracial tension. He had then to resist pressure from the key merchants of the Bay to make use of their services in meting out harsh exemplary punishment to local Maoris. Busby's biographer commented apropos pakeha behaviour in the 1830s that the 'majority of chiefs showed a loyalty that was, under the circumstances, really surprising'.⁷⁵

The chiefs' goodwill was sorely tested by a supreme example of ethnocentric behaviour which Busby could do nothing to contain because it was conducted directly by the New South Wales state. Just before Reti's attack the barque *Harriet* had been wrecked at Cape Egmont, and as a result of its crew's maltreatment of Maoris a dozen crewmen were killed and the rest taken by the Taranaki tribe to Te Namu. The disreputable whaling master John Guard of Te Awaiti, owner of the ship and believer that the only way to 'civilise' Maoris was to 'shoot them to be sure!', was released to find a ransom for the captives, amongst whom were his wife and children. At first Guard intended paying the small ransom, but bad weather forced his whaling ship on to Sydney where he and whaling captains from New Zealand—particularly those from the troubled Otago region—hatched a plan to persuade the state to perform an exemplary show of force upon the Maori. 'I will not rest here, if a force is not sent down to intimidate them', he told the Executive Councillors. Guard's influence in Sydney was powerful, and the colonial government had no difficulty in deciding upon a show of gunboat diplomacy. Sir Richard Bourke, who realised by now that the Residency plan could not succeed given its lack of adequate coercive power, acquiesced in this view. Whatever the degree of pakeha provocation, the 'savage' was to be shown by might that the state would not allow him to retaliate. Pleas by some politicians that a salutary lesson of that nature might itself lead to massive retaliation, that it cut across the entire policy of the Resident's task of ensuring order through chiefly authority, fell on deaf ears.⁷⁶

Thus the warship *Alligator* and the Colonial Schooner *Isabella*, carrying 68 soldiers between them as well as Guard's armed sailors, set out on an expedition of rescue. The vessels headed straight for Taranaki, without calling at the Bay to notify or consult the twin pillars of official policy and policing in New Zealand, the British

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Resident and the missionaries. Two men were landed to demand return of the hostages but—to secure their own safety—gave an impression that a ransom was being proffered. When a chief offered his services as mediator, he was severely tortured by the pakehas with bayonets and released only when Guard's wife and one of her children were returned, the other child being in the possession of a different tribe. From 28 September the ships, sailors and troops under the command of Captain George Lambert attacked and destroyed three major pa (Waimate, Te Namu and Orangi-tuapeka), wounding and killing many 'innocent' (the word used by a House of Commons committee) Maoris, sometimes in violation of their flag of surrender or the international flag of truce. When the final captive, Guard's son, was handed over, his escort was slaughtered despite the good treatment of all hostages. The expedition was a gratuitous act of war against a people acknowledged to inhabit an 'independent' country. It illustrated that, whatever the current suasive policies to instil order and regularity in New Zealand for the benefit of pakeha profit, underlying them at all times was the coercive might of the British Empire. After the destruction tribespeople were warned by Lambert's proclamation of 11 October 1834 that future molestation of British subjects would incur similar 'most severe punishment', and a dozen years later the officer in charge of the Taranaki police recorded that the affair was 'fresh in the memory of the natives'.⁷⁷

From the point of view of the 1830s Residency policy of working through tribal authority the expedition was hardly tactically wise, for many Maori chiefs of hitherto friendly persuasion were appalled by its actions. Resistance to the pakeha and his religion stiffened and the difference in treatment accorded the pakeha perpetrators of the *Elizabeth* affair and the Taranaki Maoris was noted. Nor did it escape attention that it was Captain Lambert who had brought samples of flags across the Tasman to show to the northern chiefs 'in their collective capacity', and that it was the *Alligator* which had in supposed acknowledgement of chiefly sovereignty saluted the chosen flag. Marsden expressed the view that the 'merchants and the Government should aid' rather than hinder the civilising efforts of the missionaries: 'New Zealand will be a place for our whalers and other ships' if Maoris were 'treated with common civility'. Busby, aggrieved at not having been consulted and considering that his own negotiating skills could have prevented such 'perpetration of injustice by our forces', felt keenly that the expedition contravened the direction of the policies he was attempting to effect. Various people condemned the whole affair on policy and humanitarian grounds, including some colonial politicians and

HMS *Alligator*'s assistant surgeon W B Marshall: 'Nothing can justify so foul a deed of blood'.⁷⁸

The events of the journey however cannot be explained in aggregate as simply an unwitting blunder by the New South Wales state. Force was inevitable in the circumstances, once payment of the ransom had been rejected. The expedition was intended explicitly to be exemplary, implicitly to be punitive. The same Executive Council session that approved it requested of Britain that a warship be stationed permanently in New Zealand waters, since the Busby experiment was not succeeding. In reporting both this and the results of the expedition, Bourke indicated that the colonial state considered the current position of Resident a costly irrelevance; the *Alligator* expedition was seen as the spearhead of a new departure in policy, an orientation towards more overtly coercive modes of control. In declining the application for a warship the British Government acted out of financial expediency rather than from principle; indeed it endorsed the *Alligator*'s deeds ('a most useful lesson to every Tribe on the Coast') and, by implication, any further such punitive expeditions. The New South Wales authorities would still however have to rely primarily upon the Resident to induce the chiefs to restrain aggressive European behaviour, Maori retaliation to it, and intertribal warfare. All the imperial power would concede was a few detailed alterations in Residency arrangements (in particular, the offered policing grant of £300 which was never taken up), and to give Bourke authority to replace Busby with another Resident. Although the two men had clashed from the beginning, the Governor made no move to replace Busby—knowing that his failures were intrinsic to the nature of his tasks and the lack of available resources.⁷⁹

In 1834 the size of officialdom in New Zealand had been doubled by the addition of an Additional British Resident at the Hokianga. Lieutenant Thomas McDonnell had arrived in New Zealand in 1831 (after invoking the wrath of New South Wales for the illegal employment of convicts as crew) as proprietor of the shipbuilding and trading establishment at Horeke, the largest settlement on the Hokianga through the 1830s. Ruthless, argumentative and acquisitive, McDonnell had since his arrival realised that he could further the interests of commerce in the area—and his own extensive business interests in particular—by becoming a state official. Early on he had submitted the necessity for a 'Consul or Magistrate' to be appointed in New Zealand, and he campaigned on his own behalf to fill any such position, including that of Resident when news of

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Darling's decision to create a British Residency had become known.⁸⁰

Despite Busby's appointment McDonnell persevered. During a visit to London in 1834 he hoodwinked officials into believing that Hokianga was 'entirely separated' from the Bay of Islands by an 'extreme distance' and therefore required a separate colonial official. Because he offered his services gratis, he was made Additional British Resident at the Hokianga, subordinate to Busby. Undeterred by Britain's refusal to allow him any armed force, he returned to New Zealand in mid 1835 determined to make good personal use of the title. Busby was well aware of his main motivation and the two quarrelled at once, with crisis point following the establishment on 15 August at the Bay of Islands of a missionary-inspired temperance society.⁸¹

The society's plan was for local chiefs to place a ban upon the landing of hard spirits. Prominent local traders supported the idea because not only were their properties at risk from endemic disorder but so too were future profits. Kororareka and its environs—such as the pa of Pomare and Titore—had developed such a reputation for drunkenness and debauchery that already ships' masters were exploring the possibility of stopping over at other harbours; dead, deserting or chronically drunken seamen were of little use to them. When HMS *Beagle* called at the Bay of Islands that year, Charles Darwin noted the excessive degree of drink-related 'vice' and turmoil. Busby did not disagree in principle with a temperance plan, and indeed was to become the society's president, but he realised that any such local law would be detrimental to the British policy of attaining order and stability through 'minimum intervention'. It was unlikely that even with their formal acquiescence in the 'legislation' chiefs would attempt to enforce it and, given the absence of pakeha police, its existence would therefore reveal the current hollowness of the approach of assigning governmental and policing functions to the chiefs. On the other hand, if the latter did assign policing functions to some of their followers, many pakehas would resent being interfered with by mere 'savages': race disturbance, even race war, might eventuate.⁸²

McDonnell, however, despite orders that he should 'invariably be guided' by Busby, welcomed the idea of a local ban on spirits as a means of attracting shipping masters to the Hokianga and thereby fostering his own business interests. On 21 September 1835 he presided in his official capacity over a public meeting at the Wesleyan mission at Mangungu. On record as considering chiefs 'utterly hopeless' as legislators, the Additional British Resident had nevertheless ensured the attendance of some of them and

deemed the meeting an assembly of chiefs. Thus, an 'Ardent Spirits Prohibition Law' for the Hokianga area was 'passed'. Chief Moetara and two local pakehas were 'authorised' to apply the 'law'. Led by Henry Oakes, a colleague of McDonnell who already acted as unofficial local police agent for New South Wales (for example, by supplying intelligence and shipping returns), the three designated Hokianga policemen were 'empowered' to search all incoming vessels for hard liquor. Captains attempting to unload spirits were to be subject to harsh financial penalties, the confiscation of both liquor and landing boat by McDonnell and a pakeha committee ostensibly acting on behalf of the chiefs, and if the enforcement officers could prove a case of selling or buying spirits a fine of £25 would be inflicted; at once a vessel in port was forced to pour its rum supply overboard.⁸³

On his appointment McDonnell had received instructions from Bourke which were substantially the same as Busby's, and his actions might be seen on the surface as obeying them: had not chiefly authority been utilised for the 'maintenance of tranquillity'? But in defying the British Resident's views and thereby stripping the 'native authority' system to its essence, he had exposed recognition of chiefly sovereignty as nothing more than a device to further pakeha aims. Busby had now to attempt to convince northern chiefs that the Residency system was in their interests too, that keeping the lid on 'disorder' as defined by the pakeha benefited them as well. He condemned McDonnell for pretending that a gathering of pakehas with a few invited Maoris was a 'legislative authority competent to pass a law interfering with British property' or to create a police force, ordered him to suspend the scheme and decided to convene a bona fide assemblage of all available northern chiefs. Only laws passed by such a body as this would have legitimacy, and the Hokianga 'liquor law' would be overridden.⁸⁴

Busby needed an excuse to convene such a gathering, and found it in the arrival of notification from Tahiti by Baron Charles de Thierry that he intended establishing an independent state in New Zealand on the 40,000 acres at Hokianga which had been purchased on his behalf by Kendall for a small quantity of axes, a normal 'payment' for land in the pre-annexation period. As de Thierry called himself 'Sovereign Chief of New Zealand' Busby had little trouble in persuading chiefs that he was a threat to their own control of the land. On 28 October 1835 he convened 35 chiefs—there would have been more had not McDonnell diverted some to a rival meeting—and easily persuaded them to call themselves 'The United Tribes of New Zealand'. They, and subsequently 17 more

chiefs, signed a 'Declaration of Independence' drawn up by Busby which categorised the country as an independent state under British protection. The second article invalidated any executive or legislative functions exercised outside the auspices of the new United Tribes organisation.⁸⁵

McDonnell's activities had thus forced Busby to organise precipitately what had been meant to evolve—a Maori form of government that transcended tribal boundaries and which would protect the 'Preservation of Peace and Good Order, and the Regulation of Trade'. The United Tribes' constitution provided for an executive—half Maori, half pakeha and presided over by the British Resident—to handle matters between annual assemblages, complete with a racially mixed coercive force at its disposal. The chiefs, representing 'the Northern Parts of New Zealand', wrote to southern tribes inviting their participation in an envisaged grand confederation of tribes. Laws passed in the chiefs' 'collective capacity' at annual 'Congress' could alone have validity in the 'independent' but 'protected' country of New Zealand.⁸⁶

About the differing motivations behind the rival schemes of 'native government', or the probable consequences of McDonnell's spurious Maori government, the New South Wales Governor knew nothing. Bourke saw only that McDonnell had seemingly carried out his instructions almost at once, thus prompting Busby to do likewise but in a prematurely sweeping fashion. He reprimanded the British Resident for going too far in establishing a fully fledged 'form of Government' without first seeking approval from the colonial state, and condemned article 2 of the Declaration for its clear aim of precluding schemes such as that which McDonnell had initiated. Bourke not only endorsed the Hokianga 'liquor law' but actually gazetted it, and commented that by such 'intelligent, prudent and active conduct on the part of their European advisers' the chiefs would be led gradually to a 'knowledge of the principles of legislation'. Influenced by Bourke's reporting of the situation the British government adjudged that Busby had by contrast acted 'with great indiscretion'.⁸⁷

All the same, the New South Wales state could hardly both support the 'liquor law' and repudiate the United Tribes. So Bourke and his executive approved of the new pan-tribal (at least on paper) organisation as an 'approach' to order and regularity and in line with official policy: that of recognising that control of New Zealand lay with the chiefs, but—as Lord Glenelg at the Colonial Office confirmed—with the King continuing to be 'the Parent of their Infant State, and its Protector from all attempts on its independence.' *De facto*, by its recognition of a New Zealand flag Brit-

ain had already recognised—despite international law—Maori sovereignty over a country firmly within its own sphere of political and economic influence, and Glenelg's endorsement of the United Tribes set the seal upon this attitude.⁸⁸

Yet despite endorsing Busby's 'native government' in principle the British state, for financial reasons, resisted the scheme's practical requirement of the supply of a coercive force. Antipodean commentators had long felt that only the sending of troops or constables could secure the 'continuance of the facilities which New Zealand affords to the many British vessels whaling in these seas, as also, the remote, though not less certain advantage, which British commerce generally must shortly derive from its flax, timber, and other produce.' The continued existence of the United Tribes as a meaningful organisation depended upon an input of British police or army personnel, partly to train the Maori component of the proposed coercive apparatus but mainly to mediate between intertribal and interhapu rivalries that would, unchecked, destroy from within a confederate body and its coercive force. In the sustained absence of such British commitment the envisaged apparatus of state did not eventuate and the United Tribes executive, though maintaining a nominal existence, never convened another congress. Financial constraints upon Britain therefore sabotaged development of its own nominal policy of attaining order through the strengthening and influencing of structures of 'native authority'. In the mid 1830s potential returns were insufficient to produce its involvement much beyond insistence on New South Wales paying the British Resident's salary and a willingness to provide some naval and other policing backup for the resident 'high policeman' in Aotearoa.

McDonnell, however, behaved as if he were a JP on British territory. He ranted against Busby's refusal to allow him to intervene officially in civil cases, and showed (reported Busby with reason) 'ignorance of the very nature of his office and the jurisdiction it confers', believing that he possessed formal police powers over pakehas. Typically, McDonnell reported to Busby that he had 'seditious and turbulent spirits to cope with, but I shall keep them under consistent with the laws of my own country and the power delegated to me for their enforcement.' Busby had learnt to be far more circumspect. In cases such as the desertion of seamen, for example, he would normally persuade the complainant captains to contract with local chiefs for the return by warriors of their men.⁸⁹

Busby's worst fears about his subordinate officer were soon confirmed. In ongoing trading and land disputes with Wesleyan missionary William White, whom he called 'this human brute' and

whose business methods were indeed creating turmoil in the area, McDonnell exacerbated the situation by deploying forces of armed Maoris against White's followers. In December 1835 he convened, in pursuance of this feud, a fake Maori 'court' in which Europeans as well as chiefs sat, some of the latter having been induced to join the charade because of an accusation that White had attempted to rape the wife of one of their number. After a 15 hour session the verdict found the 'pseudo Minister' guilty of indulging in sexual intercourse with 'two native females, one of whom has been baptized'. The Additional British Resident was clearly in this and other activities furthering his own power and profits under guise of his official position, but whatever his transgressions he was able to retain his credibility with Bourke so long as the Hokianga liquor law operated.⁹⁰

Here it was Busby who was proven to be correct: the law was impossible to enforce under a Maori legislative and executive authority that had no practical reality. Even the Bay of Islands missionaries, who at first had urged Busby to extend the liquor law to their area, realised this by early 1836. From then they would concentrate, with Busby's fullest cooperation, upon anti-liquor propaganda only. Probably to pre-empt dismissal resulting from Busby's constant supply of information about his fusing of private and public business, McDonnell resigned on 27 July 1836; he now concentrated on continuing his campaign to have the British state appoint him Consul in New Zealand—in vain, although his submissions may well have been influential in causing the Colonial Office eventually to adopt in 1838 the policy expedient which embraced the position of Consul.⁹¹

Whether or not those pakehas interested in the preconditions of expanding trade and industry held official titles, ad hoc policing arrangements were conducted by them to ensure that as much 'order and regularity' as possible prevailed. In particular a number of missionaries, with or without Busby's cooperation and knowledge, continued to act as mediators in interracial disputes where necessary, often being called on by the Maoris themselves. The fame of the informal 'high police' missionaries had so spread that from afar de Thierry, who would not arrive in Hokianga on his abortive mission to establish a sovereign state until November 1837, offered missionaries salaries to act as his magisterial policemen upon his descent on New Zealand. Although the pakehas lived in a state of constant alarm throughout the period of the Residency no interracial clashes of significance occurred in the north. Much of the reason lay with the informal mediatory policing of missionaries.⁹²

Even after it had become apparent that the Hokianga liquor law could not be enforced, Bourke had been reluctant to move against McDonnell because he felt that the Additional British Resident had use as a policeman in view of his capture in November 1835 of (in McDonnell's own words) 'perhaps as desperate a gang as ever were let loose on mankind'. But a policing operation would have occurred whether or not there was a resident official at Hokianga, and McDonnell's official title merely provided the mode of seizure. The barque *Industry* had arrived from Van Diemen's Land, and it emerged that it was under the control of four armed men who had thrown the captain overboard on the way. McDonnell pretended that the crew were obliged to report to his official residence at Horeke, and there with the aid of local 'respectable Settlers' he overpowered the 'pirates'. Henry Oakes (who later applied unsuccessfully to succeed McDonnell as the British official in the Hokianga) headed a small ad hoc police force which took the barque and the captives back to Hobart, where three of the prisoners were hanged. The whole informal policing operation was sanctioned by the New South Wales state paying wages and expenses claimed by participants in the proceedings.⁹³

Informal policing, however, contained inherent dangers to the overall interests of owners of the means of production and distribution; although at times it could aid order, at others it could aid disorder and impede the smooth functioning of commercial intercourse. When J R Clendon's trading establishment seized timber pending payment of a debt by the owner and protected it by force of arms, Busby could do no more than advise the complainant to 'act like an honest man and pay the debt'. As other powerful men gradually built up their own private bands of policemen and soldiers—sometimes regular employees given occasional enforcing tasks, sometimes full-time armed retainers, sometimes irregular (largely Maori) forces—endemic strife and disorder threatened in direct proportion to escalation of control of the means of retaliation. Where Maoris were involved, intertribal and interracial strife became very real possibilities.

The peace was threatened in this way most gravely in Hokianga where in 1835 the 'Piratical Parson' White had helped head a force of several dozen followers in a rampage of destruction of Maori resources, particularly pigs and dwellings. This 'battle of the pork' was followed not only by McDonnell's 'trial' of White but also, a year later, by the 'battle of the plank' when in a commercial dispute between Koutu sawmillers and Captain W Crow, McDonnell gath-

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ered dozens of armed settlers to face the Maori forces of Crow (which were gathered under the auspices of ex-'policeman' Moetara) and his trading ally the Reverend White. In the resulting confrontation bloodshed and serious disorder were averted only by other missionaries' efforts at peacekeeping; but following that, White's forces attempted to kidnap McDonnell, abandoning their efforts only because of the firepower of the latter's 11-gun Horeke battery. The British Resident ignored pleas for intervention by his ex-subordinate, whom he in any case blamed for most of Hokianga's problems of order. Ever since the ostensibly official public 'trial' McDonnell had urged Busby in vain to take proceedings against the missionary for 'sedition'—namely, for using Maori forces in his trade war against McDonnell. Now, not only did Busby consider it another case of the pot calling the kettle black but he also assessed, in the absence of any official and regular force of his own or of the United Tribes, that any intervention between such determined antagonists was likely to be at best fruitless and at worst productive of still greater chaos.⁹⁴

Even Busby's specific brief to identify and apprehend convicts had fallen by the wayside in the absence of mechanisms of coercive control, however well he knew that dwelling in New Zealand there were 'many who on investigation would prove to be convicts'. Both penal colonies across the Tasman eventually stopped sending him lists of escapees. His policing 'successes' were reliant upon special circumstances, such as a situation amenable to mediation or the visit of a British warship. Yet even the latter was no guarantee of his ability to assert his diffuse authority. As early as 1833 the commander of HMS *Buffalo* had refused to help Busby recover property allegedly stolen 'in a most piratical way' by Maoris because 'the good opinion of the chiefs and Natives generally' was needed in order to obtain a cargo of spars. Such incidents continued: in 1838 the commander of HMS *Conway* was prepared to go to the Thames to safeguard pakeha interests, but rejected a request by Busby for the transport there of 'friendly' Maori chiefs for the purposes of furthering the policies of the Residency.⁹⁵

In any case the visits of warships were infrequent. This was one reason, noted Bourke, why his resident official in New Zealand had been unable to increase his mana over chiefs. The instructions for the establishment of the Residency had explicitly provided that Busby was to 'rely for success in his mission chiefly on the influence he should obtain over the Native Chiefs', but this had not proved particularly viable because of British unwillingness to provide any serious coercive capacity. The Governor made this point to the Colonial Office in 1835, the Secretary of State acknowledg-

ing in reply that 'little if any advance towards civilization has been made by the Natives'. The imperial state was moreover aware that Busby had 'failed in establishing any influence over his own Countrymen resorting to New Zealand. The consequence is that the lives and properties of British Subjects, including even the Resident himself, are in a state of utmost insecurity'. Lord Glenelg had a shrewd idea that what he called the 'inherent difficulties of Mr. Busby's situation' were responsible to a large degree for this lack of progress. But official policy would not depart from that of the application of 'moral suasion' over the chiefs, aided by doses of bribery: with his annual grant the Resident purchased 'presents of provisions and clothing to the New Zealand Chiefs, without which it would be hardly possible to carry on any useful intercourse with them'. Sometimes the presents were symbolic of the indirect policing role ascribed by the pakeha to principal chiefs. That same year the Colonial Office instructed Busby to provide a suit of armour for 'His Highness Titore' who was told that he would 'do well to cultivate' the Resident since goodwill between the two races would 'advance the Commercial Interests and wealth of both'. British intervention remained minimal, until the press of circumstances dictated the evolution of policy departures.⁹⁶

In retrospect the watershed year for such change was 1836, when the rapid increase in European settlement began. This was the year of the largest volume of land sales in the Bay area, a development triggered by Australian speculative interest following the United Tribes' Declaration of Independence. Factional disputes in and between tribes and hapu over selling rights naturally followed, beginning in January on Busby's front lawn at Waitangi. Here Chief Waikato of Kaihiki, the lesser claimant, suddenly abandoned mediation by the British Resident in favour of trial by strength, and before his unarmed Ngati Manu rivals could take refuge in the Residency two of their number lay dead and four wounded. Waikato, best friend of Thomas Kendall JP and his 'policeman' Hongi, principal owner of the land upon which the first mission had stood, was becoming increasingly disenchanted with the pakeha presence: it was not surprising that he was soon to become the leading member of the Ngakahi resistance cult.⁹⁷

Violence spread, partly as a result of the continuance of Chief Waikato's feud and the beginning of others, partly because of the influx of more escapees finding their way across the Tasman following a relaxation in convict discipline, some joining Maori factions and encouraging tension. A pakeha grogseller and thief who had organised a Maori plundering party, for example, was in February rescued by his Maori allies from confinement aboard a ship he

had tried to rob. As a result of increasing disorder, early in 1836 Busby characterised the situation as an emergency and renewed requests for troops to be sent to support the imposition of regularity under the auspices of the United Tribes 'government'. When Governor Bourke declined to do more than send a warship, on stated grounds that troop deployment might well be productive of rather than preventive of disorders, Busby requested permission to leave missionaries in charge of his official and policing duties so that he could proceed direct to London where he hoped to be able to persuade officials to overturn 'minimum intervention'. Although Busby felt alarmed enough about the increasing disorder to send his family to live in Sydney, Bourke considered his fears exaggerated and denied him leave—no doubt fearing that his own overburdened state would have to bear the brunt of increased, and costly, intervention. Busby reacted by declaring that, in reality, his office was 'in abeyance' until a British decision on whether and how much further to intervene was known.⁹⁸

Technically Bouke's assessment was correct in terms of current British policy: there was no immediate danger to British life and property. But historically Busby was to be proven in tune with developments, especially as by 1837 disorder threatened to become endemic. Followers of Papahurihia were creating problems for white settlers and traders, especially in the Hokianga area and—allegedly with Chief Waikato's concurrence—European homes were being raided. At Kororareka, reported Marsden, 'drunkenness, adultery, murder, etc, are committed'. Pakeha violence was epitomised by an armed attack that occurred on 18 June 1837 on the home of Kororareka storekeeper Captain John Wright, whose family were reportedly 'half murdered' in the course of the plunder of the building by three whites. A chain of events which unfolded from this incident proved that, given state determination, the laws of 1823 and 1828 were indeed operable. British intervention in New Zealand was, inexorably, increasing.⁹⁹

As a result of increasing European settlement, intraMaori rivalries over land had been intensifying and culminated in April 1837 with the first major tribal warfare (between followers of Chiefs Pomare and Titore) in the Bay of Islands for seven years. The pakehas petitioned Bourke for armed protection and at once he sent HMS *Rattlesnake*. The rapid cessation of hostilities after its arrival was probably influenced by the warning given by its captain, William Hobson, that if British interests were harmed the Maori would suffer: the *Alligator* expedition was keenly re-

membered. Prior to the *Rattlesnake*'s departure for Sydney in July, a Maori policing operation had captured two of the pakehas accused of conducting the armed robbery of Wright's home, and Hobson undertook to transport them to Sydney. To ensure conviction, Busby contracted to pay for the passages of witnesses. One of the accused was dismissed for lack of evidence, but the 'big ruffianly-looking' leader of the gang, Edward Doyle, unable to prove his contention that he was not a British subject, was hanged near the end of the year.¹⁰⁰

The case received great publicity. It showed that British citizens fomenting disorder and violence in New Zealand and the Pacific were indeed within reach of the state. It was not legality that had been lacking, but perceptions of the necessity for coercive state intervention. The hanging was, proclaimed New South Wales, 'a salutary warning to all persons who may be disposed to commit similar acts, and by convincing them that, however remote, they are not beyond the reach of justice, will render such outrages less frequent in future.' The following year, during sensational court hearings over the killing of the youth Charles Denahan at Preservation Inlet, the Attorney-General placed the New Zealand actions of the accused (Edwin Palmer), despite the latter's vociferously voiced arguments otherwise, as firmly 'within the jurisdiction of the Honourable Court'. Certainly Palmer and John Jones ensured that the trial, and a subsequent charge against them for perverting the ends of justice, proved abortive. But the Attorney-General's words received great circulation, lending support to his hope that 'this and other trials which had taken place, would have the effect of convincing parties that the Court of the Colony has the same jurisdiction over offences committed in New Zealand as if they were committed in Sydney.' Meanwhile Busby had been told to publicise the Doyle case in New Zealand to Maori and pakeha alike. Although to forestall possible future actions against himself for false imprisonment he had still to obtain a 'warrant' from the shadowy executive of the United Tribes before apprehending non-convict pakehas, he could be reasonably sure that provided he ensured the capture of 'guilty' people no such actions could succeed on the basis of the law.¹⁰¹

The visit of the *Rattlesnake* not only indicated that the British would not tolerate intra-Maori disturbance that disrupted the commercial activities of their subjects, and provided the means for ensuring the execution of Doyle, but it also resulted in two brief 1837 reports whose combined effect in focusing attention on New Zealand was to lead to the decisive abandonment of 'minimum intervention'. Both acknowledged chiefly independence in theory,

but proposed *de facto* control of order and regularity by the British state in practice. The first was by Captain Hobson, who had been briefed by a Governor increasingly alarmed at the tenor of Busby's and missionaries' reports on the state of New Zealand to investigate the situation and make appropriate recommendations. His report utilised both experience of the situation in India (as had previous schemes for New Zealand) and the Declaration of Independence of the United Tribes.

Hobson envisaged that the chiefs would cede to the British a number of enclaves suitable for fortification, particularly in the European-settled areas of the Bay of Islands, Hokianga and the whaling haven of Cloudy Bay in the northern South Island. In these resultant dependencies of New South Wales, British capital would be protected by the state, and Britons operating outside their boundaries would use them as sanctuaries in emergencies. 'Factors' would control the enclaves, including—in their capacity as magistrates—the regulation of order, and the 'Chief Factor' in Aotearoa would be accredited as Consul to the United Tribes. In observing the benefits of 'good order', chiefs would learn the rudiments of pakeha government and policing and impose upon their people various European-style institutions. Bourke endorsed the plan, which first drew Hobson to Colonial Office attention, although later Hobson himself would acknowledge its key weakness: before the Maori had time to absorb and emulate British concepts of order, European traders, speculators and settlers operating outside 'factory' boundaries would exacerbate the type of disturbance that had caused the commissioning of the report in the first place. Therefore, he subsequently concluded, the only solution to the problems of order and property inside New Zealand was to extend British sovereignty, supported by the coercive might of the state, throughout the entire country.¹⁰²

As for the second crucial report, after the Declaration of Independence Busby had abandoned his own original ideas of an enclave-style system in favour of a scheme based upon an elaboration of the concept of the United Tribes. His model had adhered to his job specifications, and envisaged expanding the United Tribes into a real 'paramount authority', the Confederation of Chiefs. Yet although in theory the Maori government would legislate, in practice it would endorse decisions of a Council of Europeans headed by himself and these decisions (rubber-stamped by the Confederation of Chiefs) would be backed by a network of European JPs, by police under their control, and by European troops totalling the usual figure of one hundred. He now revived this plan, which was based upon British protectorates in nominally independent Indian

border territories and the Ionian Islands, as an alternative to Hobson's. Although it was only partially accepted by his superiors, Busby (and the missionaries, who were won to it as the most likely way of preserving their ascendant political influence and who even envisaged a 'native police' at Busby's disposal) continued to lay the groundwork for the success of any future such scheme by encouraging intertribal cooperation along pakeha-approved lines.¹⁰³

In any case, events were beginning to overtake plans based upon formal acknowledgement of New Zealand 'independence'. The portrayal of disorder contained in the reports ensured that British policy-makers took more seriously similar assessments which had already reached Colonial Office desks. Settlers in Aotearoa were increasingly strident about the protection of their property, already valued at a substantial £750,000. Fears were growing of American and French competition, especially in whaling, and even of French annexation after the implementation by that country of naval patrols in New Zealand's vicinity from 1835. In May 1837 a powerful combination of the remnants of the first New Zealand Company, and men interested in profiting from Edward Gibbon Wakefield's ideas of transplanting pre-industrial English class structure to the colonies, formed the New Zealand Association. By the end of the year their lobbying, although opposed by the Church Missionary Society and allies, was making an impact upon institutions of state. In mid December they passed on a petition by 40 British shipowners and traders for colonisation to protect the large amount of capital already invested in the area, and on 20 December Secretary of State Lord Glenelg announced that the government was prepared to consider the establishment of a colony in New Zealand. It offered the Association a Crown charter modelled on those of early colonial North America.¹⁰⁴

'The Force of Circumstances'

Years before, when Busby had just been appointed British Resident, it had been stressed to him in England that the encouragement and preservation of trade was the prime consideration of his position. The British Residence, built on elevated land at Waitangi, symbolised this role, commanding as it did a view of the most important trading and settlement areas in the country. From it Busby had contributed a stream of intelligence reports on trading matters in particular and on the state of the country in general back to New South Wales. In the classical method of the high

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police official, he had acted as the 'eyes and ears' of the state, even if lacking in policing 'hands'. Busby's report of 16 June 1837, which contained his Confederation plan, had arrived at the Colonial Office on 18 December, weeks before Hobson's, and it indicated that trade and settlement was too entrenched in New Zealand for missionary-influenced chiefs to be entrusted with ensuring order unaided. Whereas the Resident's plan provided a facade for British rule, however, the British state now made—partly on the basis of that plan's analysis of the situation—the crucial decision to drop all pretence and intervene *de jure*, and it was here that Hobson's plan came in for considerable attention.¹⁰⁵

Traditionally, historians of New Zealand have clung to an 'almost universally held belief that in New Zealand an attempt was made, by deliberate choice on defined grounds, to carry out an experiment in practical idealism'. The acquisition of New Zealand was thus viewed as the consequence of the triumph of British religious/humanitarian desire to protect the Maori from the depredations of the 'low' Europeans frequenting their territory. To question that a 'new and noble beginning in British colonial policy' had begun was 'tantamount to denying a heritage'; but as recent historiography has shown the 'humanitarian' factor was subsumed under state motivations a good deal more hard-headed. Furthermore, the 'evangelistic' thread of thought which undoubtedly exercised the minds of a number of influential policy-makers in Britain was itself, by aiming to 'civilise' and 'tranquillise' the Maori, objectively a manifestation of the religious social control mechanism which had proven its effectiveness throughout many centuries. The claim that British intentions towards indigenous New Zealanders were 'noble' has in the past been focused partly on the small amount of coercive force used in the first few years of the colony. But employment of 'moral suasion' related only to method, not to purpose: it was an inexpensive mode of subjugation, useful as a stop-gap measure at the time when the control resources of Empire remained overstretched.¹⁰⁶

The use of coercion in pursuit of state aims in New Zealand before, during and after annexation in 1840 was in fact implicit at all times, sometimes explicit. By 1838 it was only a matter of time, had long been a potential logical development of the antipodean scenario, before Britain's informal encompassing of New Zealand became formal acquisition. The most industrially advanced nation in the world, in its general momentum of imperialist expansion into economically and strategically valuable territories, and specifically motivated as it was by relentless pressures to extend the New South Wales frontier, had ineluctably no choice but to create a new

colony in New Zealand. The fact that at first only minimal overt coercion was used was a result of certain tactical and strategic considerations which arose from the enormous costs of worldwide empire. In the process of the acquisition of Aotearoa, the Maori were to be persuaded that the extension of empire was in their best interests and that they should not therefore put the British state to the great expense of having to combat gruelling resistance. The device worked for a time, and so when Chief Nopera Panakareao stated in May 1840 that 'the shadow of the land goes to Queen Victoria, but the substance remains to us' many influential chiefs agreed with him. In view of the widespread nature of such beliefs in Maoridom the mode of coercion that prevailed prior to the outbreak of interracial warfare in 1845 could be of less overt a nature than that of large-scale military occupation. This mode primarily took the form of policing that was until 1840 intermittent and often informal, from the time of Hobson's arrival as Lieutenant-Governor regular and localised.¹⁰⁷

In 1838 the British state acknowledged that the Residency had 'proved the most part inoperative', and the position of the coercion-less Resident was so manifestly anomalous that the New South Wales state was rebelling against paying his salary. To fill the policing vacuum naval visits of inspection were paid, especially to dampen disorder amongst the increasing numbers of shore whaling bases and to investigate Maori resistance to pakehas. Lieutenant P Chetwode of HMS *Pelorus* conducted 'police duties' amongst Maori and pakeha in the Cook Strait whaling areas. Gathering together all the Maoris he could find in the vicinity of Te Awaitei, where local tribespeople had recently expropriated property from brutal whaling master Joseph Thoms, Chetwode told them that 'so long as they did not interrupt Englishmen, a man-of-war would always be friendly towards them'. He was however acutely aware of the provocations proffered to the Maori by the local pakehas, 'a disreputable and lawless set, distrusting each other, and telling innumerable falsehoods to support their villany'. He had even at one point to intervene when an American ship was about to fire on one of its own shore parties in a dispute over a whale.¹⁰⁸

Americans had been a particular problem but their government, acting in response to pressure from whaling entrepreneurs, appointed James R Clendon as its Consul in New Zealand that October. This wealthy British shipowner and merchant had shown his ability at high policing by successful mediation in intertribal warfare the previous year and, as well as possessing a private coercive force, had been associated with most attempts to impose 'order' upon affairs in the Bay of Islands. Although technically

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Clendon never possessed any legal right to act as Consul, since in the eyes of international law the Maori possessed no machinery to issue the required documentation, from the time he raised the American flag at his establishment at Okiato in May 1839 he acted as a political and police official for Americans in New Zealand. Soon he was reporting that chiefs had 'when applied to apprehended all deserters' from American vessels at his request, and he supplied intelligence reports revealing the importance of American ventures in New Zealand: 62 American ships called at the Bay of Islands in 1839, for example. Sometimes he operated jointly with Busby. When investigating the case of a British house 'attacked and pulled down by a party of armed Americans', the pair found that the grogseller occupant had been harbouring absconders from an American whaler. Clendon reported that most Kororareka inhabitants were 'convicts escaped from New South Wales and get a livelihood by decoying seamen from their ship—and shipping them at an enormous advance—on board of any other vessel that may have been in like manner distressed'. He urged that American warships visit New Zealand to protect American interests, particularly from the 'lawless wretches in the whaling Bays of Cooks Straits'. But by then Captain Hobson was only a week away from leaving Sydney in January 1840 in order to acquire New Zealand for the British Empire.¹⁰⁹

Following the failure of the New Zealand Association's plans, which were considered to involve the state in too much expenditure *vis-à-vis* the limited financial risks contemplated by the investors, Glenelg announced in December 1838 that he would replace the British Resident with a Consul and he offered Hobson the job. The position would involve an approach combining elements of both Hobson's and the Busby/missionary proposals. Imposition and maintenance of pakeha concepts of order and regularity would remain in the hands of the chiefs, who would be gradually 'civilised' through tutoring and example, and ultimately a 'theocratic' Maori government—albeit firmly guided by resident British agents—would emerge. Simultaneously with this process, Hobson would be empowered to acquire by cession the sovereignty of areas inhabited by substantial numbers of British. The hybrid plan was already anachronistic, however, and although it existed in the context of requests for the stepping up of naval visits to New Zealand it did not specify the extent of coercion which would be available to the Consul either within or without the ceded areas. The Association's aborted bill, before Parliament earlier in the year, had grap-

pled with the problem more forthrightly—imposing and keeping the peace depended upon British provision of a 'form of internal police' including a 'colonial corps or militia'. Hobson would not respond to the offer until the means of coercion was clarified.¹¹⁰

Meanwhile an event at Hokianga in May 1838 highlighted the unreality of the missionary premise of a Maori theocracy carrying out European-desired rules and regulations. Here, ostensibly under the auspices of local chiefs, two young Maoris who had allegedly killed settler Henry Biddle were 'tried' before a farcical 'court' presided over by Busby, and a white 'jury' found them guilty. The chiefs, requested by the Resident to execute the two prisoners, saved one on account of his youth but executed Kati, the other accused. Busby justified his actions as an expedient to prevent disorder: white settlers, even Maori allies of Biddle, would otherwise have retaliated against Kati's people. The problem was, Busby himself admitted, that no such 'trial' would have occurred had not both accused been tribal slaves. Thus, although the Colonial Office endorsed the proceedings, the circumstances revealed clearly to the state that a Consulate accredited to the chiefs was no solution to future problems of Maori-generated 'disorder' on the trans-Tasman portion of the New South Wales frontier. In essence the concepts of order held to be desirable by authorities in the two cultures were incompatible: in the final analysis 'correct' Maori behaviour was posited on the perceived needs of the tribal or sub-tribal collectivity, 'proper' European behaviour on conditions suitable for the maximisation of profit by the individual owner of the means of production and distribution.¹¹¹

The individual capitalist, of course, frequently found it in his interest to combine with others, and during the month of Kati's trial and execution the Kororareka economic elite established its own policing regime. This was within pakeha policing norms. Since the growth of disorder and irregularity in eighteenth century Britain, consequent upon the expansion of commerce and industry, the state had encouraged the formation of private, armed policing and paramilitary organisations amongst the upper and middle classes. These had been confirmed by legislation of 1796 which 'legalised the formation of armed associations of the wealthier classes to put down by force the unrest of the poor'. Even before the turn of the century the principle had migrated to New South Wales when free settlers formed an 'Armed Association' to guard against insurrection on the part of Irish political prisoners from the 1798 rebellion. The tradition of private police organisations remained strong, particularly in Sydney.¹¹²

From October 1830, amidst urban and rural disorder in Britain,

the idea underwent renewal when Home Secretary Sir Robert Peel urged the inclusion of bourgeois sectors of society in 'volunteer associations for the defence of property'. By the later 1830s, when already hundreds of specialised communal associations existed to catch felons, further expansion of armed associations was envisaged. In 1839, for example, Lord John Russell officially encouraged the formation of new 'associations for the protection of life and property' to meet the challenge of Chartism and promised that the state would supply them with arms. The only criteria for the existence of such bodies were that they should have as their aim the guarding against or suppression of specific or generalised discontent from lower socio-economic levels of population, and that they operate in conjunction with the constituted authorities of state—in particular by handing over 'offenders' to the magistracy.¹¹³

In 1833, when adult pakehas in the Bay of Islands numbered around 200 and Kororareka was already infamous as the 'Hell' of the Pacific, the 'Principal Inhabitants' of the town had drawn up a set of self-policing rules; even some liquor sellers had realised that a continuing reputation for total disorder would induce whaling masters to 'refresh' elsewhere. A key clause in the agreement attempted to prevent the excessive drunkenness that accompanied cut-throat pricing competition by providing 'That no Member be allowed to undersell an other with respect to spiritous liquors.' To keep within British laws relating to individual rights the signatories stressed to Busby that they were a 'Union Benefit Society' interested only in applying their rules to voluntary members. Even so, Busby warned, there was 'no authority in this country to enforce the payment of a fine, and any parties attempting to do so would be guilty of a criminal offence'. Had Busby possessed the legal power to comply with a request to sanction the new organisation—which he did not—he could not have done so, given the context of Britain's determination to regard Aotearoa as a non-dependency, had the members contemplated coercive enforcement of penalties upon errant colleagues.¹¹⁴

Yet without the element of coercion the rules had of necessity in the turbulent atmosphere of Kororareka to remain pious platitudes: even if members likely to violate the regulations joined the Society, they could leave at any time in order to escape even paper liability for the stiff fines levied on those harbouring deserting seamen, employing Maoris to settle quarrels, and so on. The Resident could give the Society no more than his general support in its desire to 'clean up' the town by 'moral policing' and other legal means, such as that of arbitrating between disputants. In the absence of any emergency in the form of potential or actual attack

by a sizeable number of people, therefore, the Society as a formal body collapsed. All the same, a pattern had been established. Its 'rules' on morality were revived within two years by the temperance movement, and the propensity of the mercantile elite to band together for ad hoc policing purposes continued because 'our very existence depends upon unanimity and good will among ourselves'.¹¹⁵

Within a few years of this abortive first association in Kororareka, such informal policing by the increasing number of traders with a vested interest in order had led to a definite quietening in tone as the town evolved towards what William Wakefield noted with surprise—just prior to annexation—as a place of 'tidy and thriving appearance'. This general process of evolution towards regularity made all the more alarming the resurgence by 1838 of a minority but disruptive clique of convicts and runaways, the appearance of marauders of the ilk of Doyle, commercial rivalries which culminated in armed clashes, riotous scenes during the whaling season, and the resistance of Ngakahi Maoris. In response, on 23 May 1838 the Kororareka Association was formed. Unlike its predecessor, it claimed jurisdiction over the entire Kororareka township and its (defined) environs, and it was conceived of partly as a body for collective defence against riot or (especially Maori) attack, partly as a general police agency on behalf of the property-owning elite which comprised its membership. Every member was to provide himself with specified arms, subject to inspection by an Association officer. In this sense, it was an outgrowth of schemes for a militia which had been in vogue ever since Busby had been greeted on arrival by a suggestion from merchant Samuel Polack that a militia be formed.¹¹⁶

No concerted attacks on the town ever eventuated before Aotearoa was annexed by Britain in 1840, and indeed local chiefs generally cooperated with Association leaders—for Maori institutional social controls had long since been in decline in this area of intimate racial intermixing. The organisation's *raison d'être* therefore increasingly came to be that of policing: the powerful socio-economic elite which had emerged was (with reason) confident that the New South Wales state would acquiesce in such activities, the pressures for gaining control over the affairs of Aotearoa having escalated since the days of the Benefit Society. Rather than being a body of 'respectable' men versus all other 'lawless' non-missionary inhabitants (the traditional interpretation) the Association was a body comprising those with capital and power—including men like Benjamin Turner, an escaped convict and grogshop proprietor whose deeds included attacking his commercial rival Polack and

forcing him out of the Bay. Its members neither consulted Busby nor requested his endorsement; and unlike their official policing counterparts in the pre-annexation period they made no token efforts to go through the charade of pretending to operate under Maori government endorsement. But where they went beyond the bounds of British state-sanctioned 'private' police organisations, eschewing the caution of their predecessor organisation, was in their pretension to establish what was in effect a legislative and judicial regime for the Bay of Islands.¹¹⁷

Even if non-members refused to obey any of their police regulations 'every Member shall unite to oblige such person to abide by the Laws' in ways which transcended the operations of a policing regime. Any seven members could 'try' suspect elements (whose definition was later stretched to include commercial enemies of powerful members) and, if the Resident refused to act upon a 'guilty' verdict, they were 'authorised' to punish the transgressors by various methods that included tarring and feathering and banning from the area. All tenants in the town were deemed to come under the full contractual laws applicable to members, the Association would 'arbitrate' in rent disputes, and its decision would be binding. The privatisation of the exercise of 'justice' over British subjects, for which—unlike the private sector in policing—there were no broad precedents in the home country, was a serious breach of legality.¹¹⁸

Busby's official view could not change from that expressed upon the establishment of the Union Benefit Society, that men were not 'legally justified in resorting to any measures which would be contrary to law if resorted to in England'. He carefully therefore kept clear of all Association affairs. But at no time did he initiate legal action against members of the Association when they apprehended and punished other British citizens. He acquiesced in the Association because it reduced disorder, protected property, guarded against Maori attack, and generally performed throughout the entire Bay of Islands duties for which he was responsible but which he had no resources to carry out. For despite the overall 'regularisation' of life in Kororareka over the years the process was only relative; it was at the height of the Association, indeed, that the American whaler captain had defied both it and Henry Williams by gathering the armed force which tore down the Kororareka house which had harboured deserters from his ship. A Sydney merchant who arrived at the Bay only a year before annexation noted that Kororareka was still 'notorious' for 'containing, I should think, a greater number of rogues than any other spot of equal size in the universe'. Busby appreciated the missionary view that the violence

of vigilantism was inclined at times to breed even greater evils than those already existing, and he issued occasional local warnings. But the workings of the Association were omitted from his official reports since in the final analysis he tolerated it because in his eyes its benefits outweighed its disadvantages. No court judgment against Association leaders was ever given, a reflection of their wealth, power and official connections in New South Wales; by annexation in 1840, upon which they could begin to wind down their organisation, they had created a *de facto* mini-state, complete with experts in 'policing', in the Bay of Islands area.¹¹⁹

Although the decision to appoint a Consul was made within the theoretical framework of 'native authority', conditions which William Hobson attached to his acceptance of the position in February 1839 pointed to inherent problems in this design. He demanded in particular to be 'furnished with the means of exercising efficient control over British Subjects resorting to those Islands', especially inside ceded territory, and that implied the command of coercive forces. Acceptance of this by the state, after years of rejection, was a logical consequence of the recent decision to contemplate application of the 1837 Hobson plan by which pakeha-settled parts of New Zealand were to be acquired from chiefs while in return the latter's territorial integrity and socio-political control in the non-ceded areas would be guaranteed by Britain. Although this option was not the first choice of the missionary societies they were prepared to accept it as a second-best, as a compromise, since as Colonial Office permanent head James Stephen said in March—'In fact the Colony does exist'. On 27 May 1839 Letters Patent extending New South Wales boundaries to include any such ceded lands were drafted, following the departure from Britain aboard the *Tory* of the preliminary expedition of the second New Zealand Company, the reconstituted New Zealand Association. On 4 June legal experts assured Secretary of State Lord Normanby that New South Wales borders could extend to include annexed parts of New Zealand.¹²⁰

The momentum continued: Hobson himself insisted that his original plan was a 'minimal' position that was now being overtaken by the press of events, and that 'the force of circumstances' now favoured the acquisition of sovereignty over all of New Zealand. The publication of the Letters Patent on 15 June gave notice of New Zealand being firmly within the British sphere of influence. Sir George Gipps' commission as Governor-in-Chief of New South Wales now covered any territory which might be acquired in New Zealand. By 11 July, with the final draft instructions to Hobson

worked out, the Colonial Office officials had been converted to the view that the realities required full acquisition of sovereignty. Meanwhile, hundreds of pakehas, many of them capitalists in search of land speculation opportunities, had begun to pour into the Bay of Islands and its increasingly wide hinterland, and even further afield. William Barnard Rhodes, for example, 'purchased', with partners, more than 100,000 acres at Akaroa as well as other land in the South Island, and wrote from Sydney: 'My principal object on arrival in New Zealand will be to purchase all the land I can from the Chieftains for the purpose of reselling again in small portions hereafter to parties who are expected in great numbers from England.' John Jones was planning what proved to be the first systematic colonisation venture in the South Island, an agricultural settlement at his whaling base at Waikouaiti in Otago.¹²¹

With such large expansion of informal empire, it was inevitable that formalisation of the expanded antipodean imperial boundaries would soon occur. Thus it was that in the orders issued to Hobson by the British state on 14 August 1839 he was given not only the 'usual instructions' for Consuls, but also placed in a 'separate capacity' as a result of New Zealand's special situation. He would spearhead a British 'paramount influence in that quarter of the globe. There is probably no part of the earth in which colonization could be effected with a greater or surer prospect of national advantage.' Immediately upon Hobson's arrival, British settlers were to gain a clear indication of the imminence of full sovereignty by a proclamation that no land titles in New Zealand were valid until confirmed by Crown grant. Hobson, as well as having been appointed Consul on 30 July 1839 to exercise 'some controlling authority' over Britons in New Zealand, was also therefore designated Lieutenant-Governor of 'that part of the New South Wales Colony which has thus been extended over the New Zealand Islands'.¹²²

The only point at issue was the speed of the process of gaining full sovereignty. The Colonial Office left that to Hobson's discretion, knowing full well that his predilection was for immediate acquisition of the whole country, but allowing him to proceed with caution in case Maori resistance threatened to involve the need for (costly) military intervention. New Zealand mythology would have it that the basis of annexation was the 'Treaty of Waitangi', signed by 'sovereign' chiefs: had the majority of chiefs assembled at Waitangi refused to sign, 'Hobson could not have annexed the country'. But a question posed to the Secretary of State for the Colonies by a contemporary, as to whether if Hobson failed to 'cede' territory from the Maori Britain would abandon her designs

in New Zealand, was merely rhetorical. The basis of acquisition was the 'fact of settlement' by over 2000 Britons in a territory deemed 'vacant' by international law; upon this was posited Governor Gipps' proclamation on 14 January 1840 of the extension of his frontiers to include New Zealand and the appointment of Hobson as his Lieutenant-Governor in that country. Immediate and total acquisition had been decided upon and implemented. The pretence of acquisition by treaty cession was a device both to defuse Maori resistance by appearing to sanction their retention of 'the substance of the land', and to avoid providing the settlers with the representative institutions to which a 'colony of settlement' was entitled. In addition it was a theoretical deconstruction of the edifice of 'indigenous sovereignty' earlier erected by the British for their own purposes. Traditional historians, puzzled by the apparently 'anomalous constitutional position' of Hobson announcing himself as Lieutenant-Governor immediately upon landing on New Zealand soil on 30 January, before even the initial 'Treaty' signatures were procured, took Waitangi at its face value.¹²³

Thus although it was not until 21 May 1840 that British sovereignty over all New Zealand was actually proclaimed—and even that was before emissaries had finished hawking the 'Treaty' to chiefs in the major areas of pakeha contact with the Maori—in theory it had existed from 14 January, the date from which British and New South Wales law was deemed to apply to all people on New Zealand soil. The formalities of international law were completed by Gipps' publication of the fact of his proclamation of that date. Technically, in the fortnight before Hobson and a handful of officials and police arrived at the Bay of Islands on 29 January, the British Resident was the sole official and policeman on the soil of the new British colony of New Zealand. When the annexation party arrived and negotiated with the initial Maori signatories to the 'Treaty' in early February 1840 there were no land-based military means of coercion at the new Lieutenant-Governor's immediate disposal, a fact which seemed at the time—and since—to confirm the 'official' thesis that the British were deliberately creating an experimental 'just society in which two races, far apart in civilization, could live together in amity'. In reality, by 1839 the Empire was growing rapidly at a time when the British Prime Minister was committed to reducing military expenditure; a sizeable coercive force in New Zealand was deemed neither expedient nor necessary, especially in light of the recent reports from Busby and the missionaries that Maori chiefs were by and large amenable to and cooperative with the pakeha. It would be some time before Nopera Panakareao summed up a growing reassessment by a num-

ber of 'Treaty' chiefs that in actuality the 'Substance of the land goes to the Europeans, the shadow only will be our portion'. And armed resistance consequent upon realisation of this would take a little longer to eventuate.¹²⁴

In lieu of troops, Secretary of State Lord Normanby had suggested in August 1839, Hobson should either raise a militia among the Europeans or embody an armed police force, ideas borrowed from the New Zealand Association bill of 1838. But Hobson realised that the mobilising of Europeans, particularly those already settled in New Zealand, into a militia might well be counter-productive: ethnocentric over-confidence by armed pakeha groups sanctioned by the state could easily spark off interracial conflict. Nor would such a scheme be suitable for controlling endemic turbulence amongst the pakehas. On the other hand, it did not seem to the Lieutenant-Governor that the 'resources of the Young Colony can afford a sufficient body of Police to awe the Natives into obedience or to support my demands when I should be obliged to use force.'¹²⁵

By the time the 'Treaty' was first signed, 6 February 1840, the British state had partly relented and granted Gipps permission to send a few troops as soon as news was received of annexation. But in the Bay of Islands, so far as the Lieutenant-Governor knew Lord Normanby's words still stood; viz, not only could there be provided no troops but 'nor can I foresee any definite period at which it will be practicable to supply that deficiency'. Apart from naval resources, five New South Wales mounted policemen supplied Hobson's entire formal police and 'military' backing during the events leading up to the formal signing of the 'Treaty' on Busby's lawn. When troops did arrive in mid April however they joined almost at once with the hastily reactivated 'Kororareka Association' to put down a threatening Maori crowd in town. The use of coercive force in the process of acquiring New Zealand, always implicit, was now explicit.¹²⁶

When Hobson had departed Sydney, Dr S Martin noted archly that the state was 'not likely to be very nice as regards to the means' of gaining possession of Aotearoa, in which he had purchased land. It was clear to him that in view of the lack of availability of troops the 'seizure of the dominions of an inferior but independent people' would be cloaked by the 'farce' of Britain 'formally' requesting Maori consent. The 'Treaty' chiefs did not understand the meaning of British 'sovereignty', which was translated as *kawanatanga*—literally 'governorship', for which their nearest precedent was the British Residency—and when the dawning of realisation began so too did armed resistance. Only at that

point was Britain's hard pressed military establishment forced by circumstances to transfer large troop numbers to New Zealand. In the several years till then much of the control of order in New Zealand had been left to small police forces in each main pakeha settlement. These, controlled by local Police Magistrates, were an import of the policing method prevalent in urban areas of New South Wales. Their relative weakness in a newly occupied 'savage' territory embodied and symbolised the fact that in the first half dozen years of the colony, control mechanisms lay in the main closer towards the non-overt sector rather than the repressive extreme of the continuum of coercive social control.¹²⁷

'New Police' and New Colony

Panopticism and the British and Colonial Police Magistracy

Hobson's instructions left him with a great deal of latitude. With regard to policing, apart from the vague suggestions of a militia or armed police they mentioned only that he would need to recruit a 'superintendent of Police' and that he should consult with Governor Gipps as to the most appropriate form of constabulary.¹ There were several police systems functioning in New South Wales when he arrived there in December 1839, including one operating in the convict colony's populated areas which was a hybridised version of the most modern system in the world, that of 'new police'. Since, clearly, pakehas in the beginning stages of the new colony across the Tasman would tend to congregate in nucleated settlements, Hobson and Gipps between them chose this modified mode of 'new police' as the main initial method for policing New Zealand: an urban beat system under the control of Police Magistrates. The origins of both beat and Police Magistracy policing lay deep in the problems of controlling the world's biggest metropolis, London.

The magistrate had for centuries been the key British official at the interface with the public, tasked with the imposition of 'order and regularity' and the 'preservation of tranquility'. Some of these 'high policemen' had been 'higher' than the rest. From the time of the Stuarts a 'court justice' had been selected—traditionally from the Middlesex or Westminster magisterial benches—to act as spy and policeman ('confidential services') directly for the royal family. In his capacity as 'eyes and ears' of the very top layer of state machinery he was, in addition to the normal fees collected as a metropolitan JP, paid handsomely from secret service funds, and he surveilled activities in London which were deemed likely to threaten the state and the 'social fabric'. Colonel Sir Thomas de Veil, a wealthy businessman, was made Court Justice in 1734, and after his opening of a 'public office' in Bow Street five years later he became recognised as Chief Magistrate of the metropolitan area. This was a fitting melding of roles for a country witnessing the

preparatory stages of the Industrial Revolution. As de Veil recognised, the crucial threat to the existence of the 'established order' headed by the monarchy was no longer from aristocratic plots but from the potential mobilisation of the agglomeration of people gathering in the London metropolitan area as the result of far-reaching socio-economic changes. This message he imparted to other metropolitan magistrates, and even the infamous 'trading justices' appreciated that their best interests, and those of their class, lay in taking heed of his warnings and surveilling the state of turbulence in their areas so that pre-emptive measures could be taken when necessary.²

The role which had been carved out for the Bow Street magistracy, coordinating political intelligence and social control mechanisms in the capital, was confirmed by the salaried title of 'principal justice for Westminster' given to novelist Henry Fielding when he took over de Veil's offices (and 'secret service' remuneration) in 1748. He and his half-brother and successor John Fielding presided over the initial social containment necessitated by the disruptive processes which were eventually to culminate in the predominance of industrial capital from midway through the nineteenth century. Masses of people moving into urban areas, particularly to London, were thereby removed from the rural kinship networks which had in the past shielded them from the extreme effects of hard times. Their frustrations with the new situation into which they had been swept by forces beyond their control and comprehension boiled over into rioting and other types of 'disturbances'. Property crimes caused by both absolute and relative poverty increased, and there emerged marginalised urban sectors of society many of whose members lived partly or wholly on the proceeds of 'law-breaking'. The socio-economic fabric was taut and under threat of tearing, as owners of property (both 'old' and 'new') in town and country recognised, and the state responded in various ways: including powers of summary justice vested in JPs being enormously increased through the century by legislation such as the new Riot Act of 1714, or—30 years later—the Vagrancy Act which enabled the gaoling of those refusing to work for the 'usual and common wages' or of travellers 'not giving a good account of themselves'. The Fieldings advocated that in the metropolis, the area where the 'dangerous class' was most concentrated and therefore most potentially menacing, appropriate response by the state to both individual and mass violation of the 'natural order' demanded the prerequisite of an efficient and modern measure of surveillance.³

The Fieldings' policing ideas centred on extending, systematising

and 'professionalising' the methods of policing surveillance which had been evolving over centuries but which had failed to adapt to the relatively sudden problems of modern London. The innovations involved, first, making policing a paid occupation rather than one dependent upon compulsory performance of the duties of constable for a year and/or a levying of fees for police work performed plus a share of fines paid by convicted persons. Symbolically, John Fielding often urged that he be given an expanded state salary to cover all his official duties rather than have to rely on covert 'secret service' money and fees; practically, his brother had established from those financial resources made available to Bow Street the first English police force to receive wages (even if only indirectly) from the state. This was at first a motley collection of former parish constables, but an increasing number of perceptive members of the state executive could not fail to contrast them with other London policemen, especially with the constables attached to the Middlesex Bench of 'trading justices'. These policemen tended to see enrichment of themselves and their controllers as their *raison d'être* and many of them were in actuality flagrantly members of the 'criminal underworld'.⁴

The second key to the Fieldings' innovations, another which along with state-paid policemen emerged as an essential element of New Zealand policing from 1840, lay in the *method* of surveillance which was employed. Hitherto, policing below JP level had largely involved *reactive* response to events after they had disturbed the social and economic order, except in provisions for guarding entrance gates to boroughs after the hours of darkness and similar measures. But from the Bow Street 'police office' there emerged in gradual fashion from the mid eighteenth century a *proactive* system of patrols, both mounted and foot. Herein lay the germ of the concept of *preventive* policing which was to culminate in the establishment of the 'new police' in London in 1829—and which was followed by imitations throughout the English-speaking world, including in Sydney in 1833 and in New Zealand urban areas from the point of British acquisition in early 1840. Regular patrolling was partly for purposes of intimidation, to symbolise and if necessary to actualise the all-pervading presence and power of the state, and partly for reasons of surveillance. Patrolling policemen came to learn all facets of their district and its inhabitants, and the possession of such knowledge by the state was the prerequisite for 'corrective' action when 'order and regularity' was threatened by individuals or crowds. The designed effect of surveillance by patrol was that it would be preventive of disruption to established order. A high degree of certainty of detection would deter people from

offending; obvious and constant police visibility would serve to remind potential offenders of the risks they ran. But the Fieldings' efforts were necessarily limited in scope, and the Bow Street Night Patrol, which surveilled access roads into London as well as its inner streets, was still less than six dozen strong as the end of the century approached. Thus disruption of order in the capital continued, largely unrestrained by the various parish-based police forces which differed from each other only in terms of their relative ineffectiveness but which were, all the same, subject to increasing scrutiny—including in 1770 that of the first of nearly a dozen parliamentary committees.⁵

Theorists amongst in particular the emergent capitalist class perceived the value of the full-time, patrolling constable—especially in London, the largest industrial city in the world. If the capital city became unmanageable, the battle for control over the turbulent masses throughout the country was as good as conceded by the state and the interests it represented. Some reformers indeed regarded a centralised metropolitan police as the essential nucleus of a nation-wide police force. In 1780, the year of John Fielding's death, London's anti-authority/anti-wealth 'Gordon Riots' (whose suppression by the military led to 275 deaths, large numbers of wounded and 25 hanged) spurred a great deal of discussion on the most appropriate mode of social control in the capital city. Within three years Lord Shelburne's reforming government attempted to pass legislation to tighten policing control in London, the failure of which effort was partially redeemed in the eyes of the reformers by the creation of the Home Office, whose function was the prevention and suppression of public disorder and the ensuring of 'regularity' in the affairs of the realm.⁶

In retrospect the Gordon Riots are seen as a watershed in the evolution of the idea of the 'new police', but reformers had half a century of uphill struggle ahead for a number of reasons other than the obvious one of cost. Legislative domination still lay with the landowning class, whose localised state power bases—rooted in the office of JP—as well as the interests of the powerful urban Justices were threatened by the executive's increasing propensity to centralise administration and expand the scope of its intervention in response to Britain's altering economic structure. The possibility of central executive control, firstly over the London police and then over the police in the rest of the nation, was the most important challenge of all to the continuance of the relative autonomy which the interests represented by JPs had carved out for themselves over the centuries. Of even more importance, there was deeply entrenched ideological opposition especially amongst the bur-

geoning capitalist class to centralised policing mechanisms which could give the state and its traditional allies tempting new implements of tyranny. Control of the means of coercion and surveillance, it was recognised, could lead not only to an overtly repressive police but also to an unseen political police such as that of Louis XIV in France. The 'continental' mode of policing was frequently contrasted with that of England; indeed the very word 'police', in vogue across the Channel, was only used in England—and then cautiously—after the Fieldings employed it to encapsulate their ideal of a body of men involved professionally and systematically in enforcing social control.⁷

Nor was it an accident that the Fielding brothers were the first to establish specialised detective branches of policing in Britain. The techniques of patrol/prevention, relying ultimately on the deterrent of near-certain apprehension if an offence were committed, required supplementing by covert surveillance in order to increase the effectiveness of the deterrent. In mid century, then, Henry Fielding had employed 'thief-takers', a fact kept secret for a long time partly because—in his brother's words—a detective police was considered 'extremely obnoxious' and partly because of the previous association of detection with 'thief-catchers' who earned a living through convictions resulting from perjury and other illegal means. The Fieldings also began to make a systematic—if still primitive—approach to monitoring the lives of individual criminals in particular as well as of the 'dangerous class' in general. Bow Street quickly became an experimental collation centre for surveillance results; Henry's publication of the outcomes of specific cases was greatly expanded by John's circularisation to various enforcement authorities of bulletins describing London 'criminals' and their movements, predecessors of the *Police Gazettes* established in New Zealand a century later. With the setting up of the Home Office—the first head of which, Lord Shelburne, had spoken in Parliament at the beginning of the Gordon Riots of the need for a centralised French-style police surveillance system—a network of state informants quickly spread out from London to cover the whole country.⁸

After Britain lost colonial markets with the wresting of American independence in 1783, trade depression ensued at a time when population growth was burgeoning, and a concomitant increase in 'crime' began to manifest itself. With the spread of the idea, and to a lesser extent the practice, of the patrol and detection mechanisms of surveillance and control, new Prime Minister William Pitt made a comprehensive attempt in 1785 to centralise and professionalise policing in the metropolis. In a 'police bill' which he introduced to

Parliament all the elements of the subsequent legislation of 1829 were embodied: Crown-appointed and paid Commissioners of Police (a term borrowed from Scotland, where there was less resistance to new ideas of social control) to superintend the entire policing system of the metropolis, surveillance conducted by salaried police patrolling 'beats' (a term borrowed from Bow Street methods). Although Bow Street Chief Magistrate S Wright had assessed that a professional police could have easily prevented the Gordon Riots, Pitt's attempt was premature: proponents of that civil libertarian ideology which was rooted in fear of central state repression went on the offensive against the bill, radical Whig leader C J Fox in particular rallying the street crowds behind him. The urban poor realised that surveillance by the state would be inherently discriminatory against the working class, with the constabulary focusing on the streets it frequented. In the face of widespread Whig-led protest, and opposed by the JP interest—especially that in the metropolitan commercial centre, the City—Pitt had no choice but to back down.⁹

Thwarted in its attempt to modernise policing on a grand scale, the political executive turned to stealthier methods of implementing more effective policing, especially in the context of the spread of revolutionary ideas with the onset of the French Revolution. Bow Street mechanisms of control were tightened and then in 1792 some were greatly expanded in area—albeit with systematised beat patrolling omitted, a vitally important concession to prevalent 'official ideology'—with a private bill whose semi-replication of the 1785 measure gained ministerial support. The resulting Middlesex Justices Act, which survived radical opposition, created in effect seven new Bow Street-styled 'police offices'. To combat the widespread corruption resulting from privatised justice, the new legislation established three salaried magisterial positions at each of the new offices, the incumbents to be appointed by the Home Secretary. These Police Magistrates could appoint up to six full-time paid constables at each office. As the civil libertarian opposition realised, to no avail other than to extract a concession that the operations of the Act were to be a temporary expedient, this represented far more than a removal of private enterprise from a portion of the criminal justice system. Its real implication was indicated by the giving to the Police Magistracy constables extra powers of arrest—of vagrants for 'idle and disorderly' offences, for example, *à la* previous efforts by the Shelburne ministry—and in the theoretical origins of both itself and its abortive predecessor of 1785, John Fielding's 'plan of police'.¹⁰

Moreover the 1785 experiment had actually been successfully

replicated within a year by the creation in the Irish capital of a paid, centralised constabulary headed by three 'commissioners'. Dublin, equally socially affected by the altering rhythms of economic life, had thus acquired a modernised police system. This could occur because unlike in Britain there were few ideological constraints prevailing within significant sectors of the Anglo-Irish ruling class. Ireland was a colony under military occupation, the great majority of her people unreconciled to the British presence: social control there was seen in England as a 'special case' necessitating departures from the ideology of 'freedom'. The 1792 Police Magistracy legislation for London, complete with enhanced powers for constables, was—in the words of F W Maitland a century later—a 'copy in faint colours of the Dublin measure'. Although there were adjustment problems with the London experiment—'trading justices' appointed as Police Magistrates continued to trade, constables were paid so little that some sold 'advice' to prisoners—it became so permanent that the 'police offices' (renamed 'police courts' in 1834) survived for a century and a half, albeit losing their policing role in London in favour of a purely judicial function just prior to the annexation of New Zealand. From the beginning, true to their origin in the Bow Street and therefore 'court justice' system, the new Police Magistrates received detailed instructions from the Home Secretary. Obligated to attend the Home Office daily, they acted as the 'eyes and ears' of the government, reporting on the activities of their constables and providing intelligence assessments of threats to the state and to the established order.¹¹

The employment of non-entrepreneurial police was gradually expanded. A government plan of 1799 to reorganise the police in London along professional lines came to nothing, but in 1802 and 1811 the number of constables at each police office was increased to eight and then 12 (with limits abolished in 1821), and in 1813 the first Police Magistrate outside London was appointed in the sprawling urban area of Manchester. That year the Home Secretary further extended the tentacles of the executive by stipulating that his approval was needed for the Police Magistrates' choices of constables, and that constables could not now be dismissed without his permission. The Police Magistracy system had by then been transferred across the world to Sydney, where Governor Lachlan Macquarie had inherited a confused policing system consisting of unpaid convict constables, night-time military patrols and hours of curfew—to the detriment of 'order and property'. Macquarie, who had observed the operations of the Police Magistracy constables during a spell in London as Assistant Adjutant-General, imple-

mented soon after his arrival in Sydney in 1810 the first 'professional' police force in Australia.¹²

The provision of stipendiary policemen—magisterial and humble—to exercise surveillance was however only a partial, temporary response to the problems of order emanating from the Industrial Revolution, a view that was often expressed, most forcefully so from the 1790s by one of the Police Magistrates, Dr Patrick Colquhoun. This former merchant gave explicit theoretical coherence to the ideas implicit in reformist views since the time of the Fieldings' innovations, in what he called 'the new science of police'. The 'human sciences' which arose in the eighteenth century, premised on the belief that humankind could be scientifically explicated, were in the process of being applied—as yet only by individual thinkers—to strategies of societal control designed to meet the inevitable social disruptions accompanying the rise of industrialism. In what became the 'classical school' of criminology, control of disturbance was posited upon 'crime' being the result of a rational choice by the individual perpetrator; if the risks were too great, the would-be 'criminal' would desist. The deterrence implicit in this preventive solution to problems of social control could be manifested in various ways—by near-certainty of detection by the police, for example, or by altering carceral policies. There was, in particular, the crucial dimension of state control of the 'dangerous class': riot and other forms of collective disruption were conducted by individuals acting *en masse*, so both the likelihood of harsh reaction by coercive authorities to any manifestation of such disorder, and the knowledge that state surveillance agencies might well be able to pinpoint individual participants, was designed to deter the great majority of individuals from taking part. Only the most foolhardy—or the hungriest—would therefore, it was believed, participate in say a food riot.¹³

The new ideas were 'liberal', but envisaged at the same time a significant degree of state intervention. 'In contrast to a paternalist conception of order that allowed only a constricted political right, but tolerated a wider range of customary, popular liberties, liberalism extended formal political rights while sharply reducing public tolerance for popular disorder'. The reform movements which were developing—police, penal, political—inextricably interlinked 'humanitarian philanthropy' with strategies of domination over the bodies, and ultimately the minds, of the masses. The application of discretionary social control by state agents at local level was becoming outmoded because of rapid socio-economic developments. Labour was now 'free', a prerequisite for the burgeoning of capitalism, but needed to be redisciplined to meet the requirements

of 'new' capital. Dr Colquhoun, acutely aware that the escalating quantities of moveable property in particular, and in the final analysis the very preservation of the state and its interests, would receive progressively less protection from the existing system of policing in an age of 'moving' labour, turned to the new philosophers for guidance. Jeremy Bentham, whose patron was Lord Shelburne, the founding Home Secretary, was the most influential among them. The watchword of the mode of implementation of what became known generally as 'Benthamism' is that of 'inspection'—an update of the ancient policing principle of 'surveillance'. The principle of 'utility'—'the greatest happiness of the greatest number' as defined by the state—rested on a concentration of administrative and executive functions which was crucial if all obstacles in the way of the maximisation of these desired ends were to be removed. The forgoing of liberties by certain sectors (prisoners, lunatics, the surveilled classes) was the necessary price to pay for 'utilitarianism': hence a Bentham scheme of the 1770s to allow the judiciary, on police advice, to consign unemployed people to jobs, especially to public work schemes 'under a kind of half-military command'. Bentham always stressed that unless criticisms had outlets rebellion would occur, so the model citizen could 'censure freely'—but had also to 'obey punctually'.¹⁴

In 1791 the radicals' ideas of social discipline were embodied in Bentham's *Panopticon, or The Inspection House*. This work adapted his brother's concept, of a factory disciplined by means of total surveillance, to a prison which would be preventive in its effect. Bentham and others were quickly to apply the 'inspection principle' of Panopticism to far broader measures of social control. In their projected usage of its polyvalent institutional mode of operation the reformers perceived no ultimate theoretical limits to state intervention, since political security for the rulers depended, *inter alia*, upon attainment of a certain degree of economic security for the ruled. Herein lay the intellectual origins of what became, a century later, the 'equalitarian state socialism' of, amongst others, the liberal/Liberal governments of New Zealand. This form of redistributive statism envisaged such bureaucratic interventions as would remove the material basis for temptation to violate 'order and regularity', without altering the fundamentals of the established order. Crucially, the method of intervention and its degree of success depended on the extent and accuracy of information provided by state agents. Panopticism postulated methods of surveillance by officials to enable continuous observation of targeted subjects—including, as far as policing surveillance was concerned, potentially all citizens but with particular reference to the 'dang-

ous class' and the sub-proletariat. The 'new police' mode of surveillance enabled maximum state response to deviation from norms of behaviour themselves undergoing change. It was the most vital of the 'network of mechanisms that would be everywhere and always alert' and create on behalf of the state and its interests the 'disciplinary society'.¹⁵

Colquhoun argued in his 1796 *Treatise on the Police of the Metropolis*, which proved so popular that it ran through seven editions within a decade, that the 'well ordering and comfort of Civil Society' could no longer be adequately provided by a policing system which stressed apprehension of offenders after the committing of an offence, with deterrence still posited on the severity of punishment. The activity of surveillance needed to be organised along the proactive lines begun by the Fieldings—patrols—but with the element of prevention (including predictable detection) elevated to the overriding principle of operation. Panoptic principles, therefore, required that the state agents of coercion should not only be all-seeing but be seen to be all-seeing. Patrolling policemen would be the highly visible actual and symbolic embodiment of the overt power of the state to impose obedience to desired norms of behaviour upon potential offenders (who were, in reality, mainly members of the 'dangerous class' and the strata beneath it). To ensure that individual policemen did their job in state-approved fashion when out on their patrols, they would themselves be under close scrutiny from their superiors, and those superiors would in turn be under scrutiny—and so on, just as in the carceral Panopticon the guards as well as the prisoners were under unremitting supervision. The Colquhoun adaptation of Benthamite utilitarianism to preventive/patrol policing had its ideological opponents, particularly since he made no effort to disguise his admiration for centralised continental spy-police forces, but it gradually gained ground along with other radical ideas on the control of the population.¹⁶

In particular, John Howard and other prison reformers had taken up the Benthamite principle of the state as all-seeing 'Keeper'. French carceral innovators were to triumph with the opening of Mettray Penitentiary on the same day in early 1840 that the New Zealand Company's first settlers arrived at Port Nicholson, exactly a week before Lieutenant-Governor William Hobson arrived at Kororareka. British penal Panoptic ideas led to the opening of Pentonville Penitentiary two years later and many imitations quickly followed. In these detention centres discipline of the body as the focus of carceral policy had been replaced by discipline of the mind—just as, in policing, discipline of the collective

mass mind would increasingly be the target of the 'new police'. The 'crime waves' of 1790s and post-1815 Britain, and the state-feared 'movement' of masses and individuals set in motion by the agricultural and industrial revolutions, had thrown the whole current strategy of punishment and policing into confusion. From the Colquhounite point of view, the regarding of crime as part of a wider pattern of insubordination by the recently alienated and impoverished masses led inexorably to the imposition of hierarchical discipline and routine upon them. This would ultimately become internalised among most individual members of most target groups—were they surveilled and disciplined in the microcosmic Panoptic prison or in the macrocosm. 'He who is subjected to a field of visibility, and who knows it', in the words of Michel Foucault, 'assumes responsibility for the constraints of power... he becomes the principle of his own subjection'.¹⁷

Central to the Colquhounite adaptation of Panopticism was the notion that the country's policing should be under centralised control: at the peak of a hierarchy of command would stand the political executive's representative, the Home Secretary, whose central board of police would coordinate intelligence gathering and the policing responses thereby necessitated. Such ideas were too countervailing to existing 'official ideology' to have any chance of immediate implementation, but their partial concrete expression in the Police Magistracy offices—encompassing by 1829 117 out of London's 3044 policemen—as well as in the various Bow Street patrols provided a constant reminder of the new modes of surveilling and containing the various manifestations of 'depravity' in the capital city. It was Colquhoun's treatise which inspired Captain John Harriott and other private merchants to establish a government-subsidised Marine Police at Wapping in 1798, the first force organised exclusively on professional preventive-patrol lines. Colquhoun and Harriott collaborated to secure, by a statute drafted by Bentham, this force's transformation at the beginning of the new century into the ninth (Thames River) Police Office, operating under the Home Office.¹⁸

Benthamite philosophy gave intellectual legitimation in Britain to reforms which would have occurred in some form in any case. Bentham voiced the 'assumptions, values and prejudices' of 'new capital', assisting processes which were to have similar results for similar reasons elsewhere. The Victorian bureaucratic/inspectorial/disciplinary society was squarely situated in the new modes of production and the new class alignments thereby created: Bentham and his followers gave systematic attention to the precise methods of operation of the required new measures of social con-

trol. By 1800, as a result of their influence, the 'panoptic modality of power' was being experimented with in a determined fashion: new ideologies were beginning to break through old. There were already pointers—quite apart from the police offices—to the practical subsuming of ancient by modern theory. In response to the growth of wage labour, trade unions had begun to form in the last decade of the eighteenth century. Legislation at the end of the century, which declared illegal any combinations for the purpose of extracting better wages and conditions from employers, could be no more than a temporary device of containment. Additionally, a relatively sudden upwards movement of property offence statistics in the last third of the eighteenth century had prompted another development in the growth of the 'new police' in 1805.¹⁹

That year the government established the final of Pitt's major policing innovations, Britain's first uniformed police, the Horse Patrol. Its 52 constables and two Inspectors were an 'extraordinary departure' from the past insofar as their military-style uniforms (including scarlet waistcoat, hence their nickname 'Robin Red-breasts') made them much akin to overtly coercive continental forces. This was at a time when Napoleon had perfected the 'police state' under the hated Minister of Police Joseph Fouché, but the British government surreptitiously avoided widespread civil libertarian criticism by presenting the new system of 'patrol beats' along the roads leading into London as the revival of John Fielding's mounted patrol, as merely part of a process of rationalising and enlarging current Bow Street police operations. Nevertheless the ex-cavalry troopers in the new 'Bow Street Patrol' had full constabulary powers throughout the whole of greater London. This final component of the apparatus of a preventive police, a distinctive uniform (although it would later be made less dramatic), was soon accepted as a commonplace of London life. Moreover, the degree of surveillance-visibility was heightened all the more by the fact that, unlike in the past, the new patrols operated by day.²⁰

There experimentation rested, in the face of powerful oppositionists who saw centralised police surveillance as the 'thin end of the wedge of governmental despotism' or as taking away their *de facto* autonomy—in the City, in the provincial localities—in the use of police to interpret state interests in their own way. Tory politician Robert Peel, son of an industrialist, was to the forefront in attempting to break down opposition to patrol/surveillance and to spread Colquhounite ideas among the socio-economic elites and their parliamentary representatives. Evidence mounted of the lack of effectiveness of the 'old police', and in 1812 the parliamentary select committee on policing—the first of four to be convened over

a period of six years—called for a 'well arranged system of Superintendence, Vigilance, and Controul' in the metropolis. In the next year the Horse Patrol was placed under the direct superintendence of the Home Office. The subsequent select committees however continued to expound the old ideology, that a Benthamite police would function as a substitute for the peacetime standing army, the latter a concept which had long been regarded as unacceptable, as a potential instrument of domestic despotism.²¹

Meanwhile from 1812 onwards Peel, in his capacity as Chief Secretary for Ireland, a 'conquered country held by force', was able without conclusive opposition in Britain (for the same reasons as those applicable in 1786) to experiment with patrol/surveillance policing across the Irish Sea. In face of opposition from the quasi-autonomous rural Irish magistracy, to be sure, a plan for an all-Ireland constabulary had to be shelved, but in 1814 Peel steered through Parliament the Peace Preservation Act. This placed under paramilitary policing arrangements those Irish districts designated in terms of the Insurrection Act as 'disturbed'; the chief method would be that of highly visible and armed patrols conducted by full-time policemen controlled by Stipendiary Magistrates specially selected by Peel himself. Although the 'peelers' were ostensibly no more than a temporary, localised measure Peel intended that they should be the nucleus of the Irish-wide force to which he aspired. The success of these police, mainly former military NCOs, in subduing opposition to the English rulers ensured that the new constabulary gradually grew into a centralised policing system, the first step towards this coming in 1822 when the Peace Preservation Police system was greatly expanded on a national basis and renamed the Irish Constabulary. Its uniformed patrols represented 'alien Conquerors ruling a hostile population which was in chronic disorder and periodic revolt'; members of the Constabulary force, whose *modus operandi* was to have a significant impact upon New Zealand policing, were repressive agents of the British state, and manifestly so. Not only did their patrol system aim to *prevent* violation of 'good order and security', they also *suppressed*, by methods up to and including military operations, actual outbreaks of overt dissent.²²

Although the Irish situation showed clearly that preventive/patrol policing was by its very purpose and nature intimidatory, articulate public opinion in Britain generally failed to appreciate that it was an application of Colquhoun's methods. This was partly because the popular image of the Irish Constabulary was that of mounted units of armed men operating out of fortified posts at strategic points in the countryside and putting down rebellion in

the fields, an image which encouraged people to think upon the men more as (rural-based) soldiers than as police. It was not seriously believed by many that the government would contemplate policing British streets with quasi-soldiers. Ireland remained a 'special case': endemic rebellion required tough measures inconceivable in, say, the capital city of the 'most democratic country in the world'. In 1818, the year that Peel relinquished his Irish Secretaryship, a parliamentary committee rejected submissions by Bentham for a Ministry of Police to introduce 'rational' police practices into Britain, categorising such preventive policing as 'odious and repulsive' because of its openly spying nature.²³ Yet in just over a decade a 'new police' was indeed set up in London. Its two founding Commissioners had connections with the machinery of repression in Ireland, and one had served in the Irish Constabulary. Benthamite policing methodology had triumphed as a result of the heightening clash of classes after the Napoleonic Wars.

Between the Gordon Riots and the founding of the 'new police', the most visible manifestation of mounting class conflict—open rioting—had escalated, there being some seven dozen serious riots in the metropolitan area alone during that period. The watershed years were 1815–17, when post-war demobilisation and economic depression exacerbated the endemic tensions indigenous to the fast growth of the capitalist economy. Contemporary writers noted from this period onwards the contiguity of working-class political and economic disaffection with burgeoning crime rates. The state and its interests feared crime and revolution as different but inter-related elements of the same syndrome, the politico-social alienation of the poor arising from the birth of a fundamental new mode of production. The emergence of the redisciplined society moved closer. In 1817 England established Europe's biggest penitentiary at Millbank, which reflected (albeit very partially) the inspection principle, whilst throughout the country magistrates increasingly called on the military to suppress manifestations of dissent. When in March 1819 workers gathered at St Peter's Fields, Manchester, in peaceful support of widening the franchise, soldiers charged and killed and maimed. After this 'Peterloo', repression intensified at the hands of Home Secretary Lord Sidmouth and his magisterial agents, who were during the ensuing decade given increasing powers over the 'dangerous class' which (especially in the unsettling process of adaptation to the new urban areas) rioted and stole and seemingly threatened revolution from below.²⁴

Use of military and magisterial repression was clearly an inade-

quate response to the new scale of problems concerning order, particularly after the Caroline Riots of 1821 had indicated the vulnerability of the state to mass street action. The obvious advantages of a professional police whose training would include riot control gave the police reform movement a weapon of great significance. That year Sidmouth drew the traditional Bow Street foot patrols which had been operating since the time of the Fieldings into the central city area alone, where they were raised to more than a hundred personnel, divided into territorial units and placed under a strictly hierarchical discipline. It was an experiment in practical Colquhounism. To fill the patrol-surveillance gap between the centre and the Horse Patrol operating further towards the edges of the metropolis, the Home Secretary greatly increased the size and scope of the Horse Patrol and provided it with a 'Dismounted' section which acted both as a reserve emergency force and as a unit of patrol operating out to a five mile circumference. In both sections of the Horse Patrol the men were under even tighter discipline than were the beat police working from Bow Street: they could not go more than a certain distance from their station without permission, and could be instantly dismissed if found drunk. Such regulations were to dominate certain types of forces in New Zealand and other colonies later in the century.²⁵

In the very month—January 1822—that he became Home Secretary Robert Peel devised plans for a centrally controlled London-wide police force able either to prevent or crush any form of crime or political dissent up to an insurrectionary threat to the state. As he wrote privately, he required a 'Body of Gendarmerie (to be called by some less startling name)', some form of transplant of the Irish 'peeler' to Britain, and he drew up plans accordingly. Because of continued ideologically-based opposition, Peel attempted to secure endorsement by a select committee convened by himself. Although this tactic failed, he utilised some of the committee's recommendations to make further Colquhounite gains. He grafted on to the Bow Street foot patrols operating at night in the centre of the metropolis a Day Patrol of three Inspectors and two dozen full-time constables; for the first time central Londoners were subjected to 24-hour uniformed surveillance, with opposition muted because once more the reforms were disguised as expansions of Bow Street rather than admitted as innovations of significance.²⁶

All the major components of Colquhounite police ideas had by now been tested by the state. Temporarily blocked from assembling them on a London-wide scale, Peel turned to other facets vital for the creation of the 'disciplinary society'. Bentham and his followers had long averred that the deterrent of harsh punishment, including

the death penalty for numerous offences, was counter-productive: the harshness of the penalties made juries reluctant to convict. Peel, at one with the Whig reformers in their desire to make penal provisions more certain of application and therefore more deterrent, began to reduce the number of capital offences and to rationalise the law. Benthamite inspection-principle ideas as the basis of state control spread rapidly as employers increasingly recognised and applied themselves to the dilemma of how to 'pursue the capitalist transformation of the social order without somehow destroying its stability'. In a free market economy the state would be forced to assume disciplinary functions hitherto discharged by paternalist employers, and penal, industrial and other social disciplines thus 'developed along the same trajectory of severity' and style. Urgency in imposing surveillance-discipline quickened with the greater industrial action which followed the repeal of the Combination laws and with the beginning in 1824 of another perceived steep climb in the generally rising crime rate. Not only were rural masses streaming into London, the major centre of manufacturing and trading in Britain throughout the century, but the artisan population too was becoming proletarianised—and people unable to find employment were forced into marginal modes of survival. From 1826, with the onset of an economic depression far more serious than that of 1815, and with growing support amongst persons of influence for Peel's interlinking of proletarian distress with crime and public riot and disorder, the Home Secretary was able to begin to focus his energies once more upon policing.²⁷

There was undoubtedly a social crisis in Britain in the later 1820s. But whereas there was consensual support among thinkers and decision-makers for the idea of the penitentiary, intellectual opposition to centralised patrol policing had yet to be overcome. The displacement of civil libertarianism from the ruling paradigm required a focus upon the *collective* nature of the threat to the state and the emergent new 'established order'. Thus Peel and his co-thinkers constantly stressed that disruption and riot were not conducted so much by individuals qua individuals but by individuals thrown together into masses, by huge numbers of individuals drawn inexorably into new activities by the socio-economic transformations of the age. Whereas the 'old police' might have been able to adequately contain individual violators, even when these occasionally teamed up, it could not cope *in toto* with the 'dangerous classes'—the proletariat, and those marginalised layers of society comprising the lumpenproletariat. Certainly the last line of defence of the state and propertied interests, the military, could be utilised in emergencies, but preventive control was more effec-

tive—and, in the final analysis despite the large cost of professional police, cheaper. Even if preventive measures failed, a hierarchical, paramilitary police was seen as the most appropriate means of averting a threat to the state. 'A crowd is like a great volume of water; harmless as long as its embankments are kept in repair and, if necessary, strengthened, but capable of an infinite amount of mischief if once allowed to break its barriers'. A professional police could regulate the embankments of the London crowd in a way that the military could not; the government could not afford many Peterloos, for they gave ideological ammunition to oppositionists. The major argument that Peel and the Colquhounites used, however, was one with immediate impact upon the propertied classes: the threat that the 'dangerous class' posed to property (especially 'moveable' property), and ultimately to the established state itself.²⁸

When his authoritarian co-thinker the Duke of Wellington became Prime Minister in 1828, Peel secured a 'rigged' parliamentary select committee to consider the questions of policing and the alleged increase of crime amongst the capital's 1.8 million people. In mid year it provided a predictable recommendation for a Colquhounite force responsible to the Home Secretary, whose existing professional police by then totalled 450 in any case. All existing police bodies in the metropolis, it proposed, should be subordinate to a general police office, and Peel drafted a bill accordingly, intending that the new metropolitan force would be a nucleus for a nation-wide police system. In accord with Colquhoun's ideas, the new force would be controlled by two 'Justices' (soon called Commissioners) who would exercise executive rather than judicial powers, the latter being in normal circumstances held in reserve. Bentham had always argued that utilitarianism transcended party boundaries, and by 1828 discontent from below, originating in the depression and manifesting itself markedly in urban rioting, had disposed of most of the civil libertarian opposition to a preventive 'new police'. The very existence of the established order was perceived to be at risk, for sectors of the working class and lower middle class were agitating for radical political change, and for the first time industrial muscle—unions, picketing, striking—was being flexed in a serious fashion. Remaining ideological fears amongst most parliamentarians were stilled by Peel's concentration, when introducing the bill in April 1829, upon statistics said to show a recent upsurge in crime. The historiographical debate about the accuracy or otherwise of these figures is not immediately relevant; what is significant is that fear of the working class and the underclass was decisive in enabling Peel easily to pass legislation giving him the utmost discretion in establishing a 'new police'.²⁹

Peel wanted his 'new police' to approximate the Irish Constabulary as closely as possible, and sought out military advice on the appointment of a soldier conversant with Irish policing to be the senior of the two Commissioners in charge. The man chosen for the position, one of the key criteria for which was that he be 'accustomed to strict discipline and the power of enforcing it', was Sir Charles Rowan, who was to take his disciplinary ideas straight from military literature. On the same day, 7 July 1829, a young ex-Cambridge barrister, Richard Mayne, was appointed as Rowan's junior partner. The new system was to operate at first in only part of the metropolis, and—as had been the case in Ireland—the Commissioners gave preference to discharged NCOs in filling the thousand vacancies for constables. There were, nevertheless, still ideological constraints: as police recruits are told in New Zealand today, 'opposition to the Bill would have been far more fierce' had its 'implications' been realised. Peel at first intended that the new police be uniformed in military fashion but quickly substituted for scarlet and gold the (by now) 'quiet' blue of the Horse Patrol. The uniform was still a statement of the power of the modern national state to control its citizens, but the most overtly militaristic connotations were now absent, an impression heightened by the top-hat headgear. Firearms were available, but at police stations only—even the wooden baton carried on the beat was to be kept hidden—and all ranks but that of sergeant were named to sound non-military.³⁰

Vestigial upper and middle class opposition was generally dissipated reasonably soon after the 'new police' went on to the streets on 29 September 1829. Far from being the shock-troops of an executive plot to curtail the liberties of the elite, Peel's constables were clearly instead what promised to be an effective means for securing property and profits. Complaints came increasingly to focus not on police 'oppression' but on unsatisfactory protective performance by constables. The working class and marginalised sectors of society on the other hand realised at once that the 'bobbies' were 'really soldiers; it was no matter whether they were cloked in blue or red'. It had been definitively clarified two years before that constables' powers of arrest greatly exceeded the common law arrest rights of citizens; now people were confronted with a patrol/surveillance police symbolising the 'indefinite world of a supervision that seeks ideally to reach the most elementary particle, the most passing phenomenon of the social body... the infinitely small of political power'. It is a myth that beat police 'became acceptable overnight' to most people, that the new Metropolitan police were *consensual* in contradistinction to the *imposed*

police of Ireland. On the contrary, the 'Blue Army' was widely detested and (often physically) opposed, its members characterised as 'blue locusts' plaguing those already burdened down by an economic system which made life a desperate struggle for survival.³¹

The traditional distinction between two fundamental types of policing, that of 'making the community itself responsible for upholding the law' versus 'quasi-army of occupation', places the 'new police' in the former position. This amounts to a claim that 'The Met' was no more than the organisational modernisation of a consensual framework within which the holders of the ancient office of constable worked. Yet historians who have argued in this fashion get into difficulties when they begin to examine the ramifications of their stance. A belief by an Australian police historian that 'new police' effectiveness in London rested 'very largely upon the moral force of public opinion in support of the police' of necessity results in a surprised caveat that when the system was transplanted to Sydney four years later it 'could hardly be said to represent the local community'. The origin of the mystification over the purpose and nature of the Metropolitan-style police lies in the establishment by Peel, Rowan and Mayne of a 'deliberate strategy bidding for consensus at a time of very real class conflict'. Generalised working-class acquiescence in the presence of the 'new police' had to be fought for, and emerged only gradually—and partially—over a long period of time.³²

There were good social and economic reasons for the gradual acceptance by much of the working class of the ideological 'legitimacy' of the new concept of order, including of omnipresent inspection by the 'new police' and other bureaucratic agencies of state. As surveillance was focused most intensely on the 'dangerous classes', and especially on the *demi-monde* areas publicised by Colquhoun, an important side effect emerged: not only were the lives and properties of the well-to-do safeguarded, but the presence of beat police also ensured that working-class life and property themselves became in general somewhat less risk-prone. Moreover Rowan and Mayne from the beginning, quite apart from this unplanned benefit, strove consciously for the 'broadest available source of external legitimisation'. Constables were to do more than show respect merely to their social superiors, they were exhorted to 'Treat with the utmost civility all classes of the community, and cheerfully render assistance to all in need of it'—words which, New Zealand police were told 140 years later, 'still hold good today'. It was Rowan who drew up—as well as the rules on organisation and duties—the 'Maxims for General Guidance', basing them on the methods of Henry Fielding's assistant, Saunders Welch, High Con-

stable of Holborn, and on the ideas of Sir John Moore—who taught that the best and most effective way of extracting obedience was if the person responsible for disciplining had the respect of the person being controlled. The first of the 17 maxims, which were to be exported around the world and drummed into New Zealand policemen until well into the twentieth century, exhorted that 'Constables are placed in authority to protect, not to oppress, the public'. Additionally, 'new police' were required to 'display perfect command of temper under insult and provocation', to be 'perfectly neat and clean in person and attire', to 'Never strike but in self-defence'.³³

To these methods for gaining the 'consent' of the policed to being policed was inextricably linked a strategy of theory that was based partly on the fact that from the very beginning the Commissioners were acutely aware that 'The Met' was a creation of the Tories. It would only be a short matter of time before the bourgeoisie gained greater access to the political arena, thereby setting the scene for a change in government. In working out a strategy for indicating that inspection-principle policing was above party, Rowan and Mayne quickly appreciated that the police could be presented as being above class by the same means. Police were not, the Commissioners claimed, agents of the state executive, despite their subordination to the Home Office: constables held 'original'—not 'delegated'—authority, they were responsive and responsible to only the supposedly 'impartial' body of practices and writings making up common and statute law. Drawing upon Welch's *Observations on the Office of Constable*, which situated the origins of the 'constable' deep in the communal-based policing of Anglo-Saxon times, Rowan and Mayne tirelessly propagated the doctrine of 'impartial service to the law, in complete independence of policy'. This quickly became the 'official school' of police ideology, reiterated constantly by various wings of the state, police included, and enshrined in the bitterly disputed 1968 judgment of Lord Denning that the constable was 'not the servant of anyone, save of the law itself'.³⁴

The perception of the police as responsible to 'the law' alone was able to gain ready acceptance because of centuries of constabulary subordination to JPs, who had come to be seen as personifying 'the law'. In the course of obfuscating that the 'new police' was a qualitative departure in the *methodology* of policing *vis-à-vis* the 'old police', Rowan and Mayne claimed—erroneously—not only *de jure* autonomy for the JP but also that his control over policemen had been traditionally exercised in his *judicial* capacity alone rather

than (in Maitland's words) as the 'state's man of all work'. The new theory conveniently overlooked the crucial point about the Metropolitan constables—that they held not only the *office* of constable but also more importantly the lowly *rank* of constable in a rigidly disciplined paramilitary organisation. In grappling with this fundamental theoretical contradiction exactly a century later a British Royal Commission, wanting to reiterate the official ideology of 'the law' as 'master' of the constable, was forced into the tortuous argument that police ranking is of 'administrative' not 'legal' significance. But in the process of 'legitimation', the Rowan and Mayne claim for *de jure* police autonomy from state executive control became generally accepted for most of the ensuing history of the 'new police': police were seen as impartial wielders of the impersonal, supposedly neutral authority embodied in 'the law'. The *de facto*, *operational* autonomy gradually acquired by the force, an autonomy able to be rescinded by the executive at will and able to be granted precisely because all police were rigidly tied to a command structure allowing no discretion in policy matters unless sanctioned by the Commissioners, was confused with *de jure* autonomy. That the policeman is 'nobody's servant' because the law is his master is a 'modern fiction' deliberately fostered by Rowan and Mayne.³⁵

This conscious strategy of legitimation provided a firm theoretical foundation for a rapid extension of the patrol method's assumption of the classical police role of surveillance and coercion. Within a month of the move on to the beats in 1829 the 'iron disciplinarian' Wellington was congratulating Peel on the success of the 'new police', who covered the central area of London (excluding the City) grouped into 'divisions' which were in turn subdivided into sections of eight beats apiece. Each beat was the territorial responsibility at any given time of an assigned constable, but the system was flexible insofar as the beats were interlocked into a vast mutual support mechanism. Neighbouring parishes, quick to appreciate the superiority of the new method of control, opted into the system and within a year most of greater London was under uniformed patrol-surveillance. The ability of the 'bobbies' to quell riots without great bloodshed and destruction was vindicated from the first 'terrible licking' given to the London crowd (whose key slogans became 'Down with the Peelers' and 'No New Police') in 1830, at a time when the state feared that political and industrial discontent would fuse to enable continental revolutionism to spill over into Britain; and within two or three decades 'The Met' had virtually eliminated riot as a method of protest. Moreover, as a result of the riots of 1830 a Whig administration which was more disposed to

use the state for purposes of social control than were the Tories came to office that November.³⁶

The 1830s was—in the words of an English historian—‘the most important decade in our police history’, and New Zealand inherited the fruits of its reforms. The perceived ability of the ‘new police’ to prevent both petty crime and continued disruption to public order was soon widely commented on. Working-class resistance to what the Metropolitan police themselves now acknowledge to have been in fact an ‘alien force’ began to subside in its ferocity, resulting from growing realisation by the poor that their lives and however minimal properties were gaining a degree of protection—and from an increasing propensity for patrolmen to obey instructions by using discretion when dealing with the ‘respectable poor’ in order to win them over. The government’s strategy though went well beyond compelling the ‘dangerous class’ to desist from wrong-doing and unacceptable behaviour merely through fear of the probability and consequences of being caught by the uniformed agents of surveillance. The aim was the positing of the emerging capitalist order upon the *consent*, active or passive, of most people. The inspectorial society, developing rapidly in the 1830s under the coordination of the Home Office, required of its state agents of surveillance that they act as ‘missionaries’ bearing the message that middle-class values, behaviour and social control were both ‘natural’ and ‘just’. Working-class people were to internalise middle-class mores, so that they would first refrain—through guilt—from contravening ‘acceptable’ behaviour, and later themselves extol and perpetuate the ideologically rationalised demands of the emergent new socio-economic order.³⁷

Yet this was to be done through the medium of a ‘new police’ recruited from the working class and paid salaries low even in proletarian terms. The new recruits were ‘being asked nothing less than to renounce the language, customs, and loyalties of their class’. They were expected to embrace middle-class virtues and impose them upon their own people, acting as standard-bearers for a world-view alien to their own upbringing. As a ‘bureaucracy of official morality’ they were to be the key functionaries in the ‘experiment in transference of respectable values’ to the working class. There were powerful incentives within the force for its members to succeed at this: the most important break from the military tradition was Peel’s dictum (already applied partially in Ireland) that, except for initial and carefully selected appointments, ranks were generally to be ‘filled up from below’. This was partly to

exclude 'gentlemen' incapable of providing active supervision in a line of duty requiring far more use of discretion and 'dirtying of hands' than did London club existence or even officer life in the army, and when the policy was introduced to New Zealand in the 1850s there was an increase in the standard of policing for this very reason. But it was also designed to motivate the most promising men to strive for 'perfection'. The more 'intelligent' working-class men were sought out, those believed able to assimilate new ideas quickly, for the police mission included no less a task than the reshaping of popular culture as a prerequisite for the 'due preservation of Order, Decency and Propriety, and for the protection of Property'. Like the contemporary missionaries in New Zealand the new police were to combine moral and material policing.³⁸

The major motivation for having a large force (3283 by the beginning of 1831) of low-paid working-class police in London rather than a smaller more elite force was that the new policemen would *know* the mores and habits of the people whom they were surveilling; they would be of them but not for them. Their 'normalizing gaze' upon the working class was to be founded upon two crucial understandings: of the state-desired definition of normalcy and of the populace upon which this was by coercion and ideology to be imposed. The men could avoid accusations of class treason, amongst at least some sectors of the 'dangerous class', by emphasising the new ideology of their responsibility to 'the law' alone. Indeed the law, including the legislation of 1829, gave them great power to intervene in working-class and under-class life. In reality anyone whom they chose to declare 'loose, idle and disorderly' could be arrested. The bulk of arrests in the 1830s was for offences against middle-class standards of street behaviour, and it was joked that the police were operating under the 'Breathing Act'. Progress towards the Benthamite dream of the 'disciplined mass' was remarkably rapid. A 'comparative docility' was quickly obtained from large sectors despite persisting and deep-rooted rejectionist feelings. By 1835 Mayne was noting as 'Proofs of success' that negative comments in newspapers were then rare, and already a parliamentary select committee had praised 'The Met' as 'one of the most valuable of modern institutions'. By the time that New Zealand was annexed, London had been 'subjected to an astonishingly far-reaching system of official regulation and restraint'.³⁹

This transformation was due partly to the Rowanite strategy of legitimation, an approach which included factors other than those of requiring the constables to 'secure and maintain the respect and the approval of the public' and providing the police with a non-military aspect. The development of such other facets could be

uneven and tortuous. Incorporated into the deterrent effect of near-certain apprehension, for example, was the establishing of better facilities for detection of offences, but an attempt by Mayne to secure more specialised detection services was vetoed by Rowan as being too evocative of the continental spy-police system for the public—working class and civil libertarian middle class—to stomach as yet. Particularly after the humiliating 1833 exposure of radical political activist William Popay as a police infiltrator, Mayne was forced to operate surreptitiously in heightening the detection element of prevention. He persevered and gradually introduced the right of plain clothes operation in specific circumstances, although it was not until two years after the annexation of New Zealand that a miniscule Detective Department was established at Scotland Yard, a postponement not insignificant in the delayed development of systematic detection-surveillance in New Zealand.⁴⁰

In various and varied ways, then, the 'new police' were rapidly gaining legitimation during the 1830s and the Metropolitan force was therefore able easily to swallow up not only the parish police but also the Bow Street Horse Patrol and, in 1839, the River Police and the Magistrates' Police Office forces. By then only the City force remained separate in London (as to this day), and that mainly because it had been remodelled along Peelite lines. Moreover the 'new police' quickly spread outside the metropolis. In 1835 Whig Home Secretary Lord John Russell's Municipal Corporations Act required all English and Welsh boroughs to establish full-time constabularies. Although at first many complied only nominally, or by establishing traditional bodies of police, increasingly the Metropolitan force was taken as a prototype. Its personnel were frequently called upon to help organise and/or man the new urban forces; the government forced its own Home Office-controlled preventive police forces temporarily upon Birmingham, Manchester and Bolton when their authorities proved tardy.⁴¹

Towards the end of the decade the growth of organised working-class and lower middle-class political and economic activities, centred upon the demands of the Chartists, led to a tightening in 'new police' discipline. In 1839 the Metropolitan Police was statutorily reformed and expanded to encompass 700 square miles and its men given dramatically increased powers and duties—both within London and when operating outside it—including the enforcement of many 'new crimes' suppressing working-class behaviour. Naturally, increased repression led to increased retaliation. In the year of New Zealand's acquisition, for example, 'new police' were resisted in Middleton and Lancaster, and at Colne where the 'most

prolonged and serious of all Victorian anti-police episodes' occurred during a 'bitter war of attrition against the new police'. Now, with the propertied classes of Britain under implicit, sometimes explicit, attack, ideological opposition to preventive police from radical intellectuals, increasingly muted as the 1830s progressed, almost completely faded away.⁴²

The early Victorian years have been correctly viewed, in retrospect, as the pivotal period for the practical application of modern social control theorising: not only had the actions of the newly created proletarian and sub-proletarian elements of society prompted the state to set out to transform that society in the image of the middle class, but a set of sophisticated control mechanisms—in particular the 'new police'—had been forged to effect the metamorphosis and were doing so with considerable success. By the middle of the century middle-class hegemonic rule was assured, and crime statistics were beginning a dramatic downwards slide that was not to stop for decades. By the end of the century it was commonplace 'wisdom' that the police existed not just to coerce recalcitrants 'but also to encourage a general recognition of the unwritten code of manners which makes for social progress and good citizenship'; and common knowledge too that the substantial majority of people outside Ireland had come to accept most aspects of the established social, economic and political order most of the time. There had been an overall trend away from overt manifestations of conflict in British life, the triumph of the 'utilitarian' ethic which decreed that forcible crushing of resistance to the established order entailed an inefficient use of resources. The 'new police', in the long run, were a cheaper form of coercive social control than anything else which could be envisaged, and thus it was that the method of patrol-surveillance had spread quickly around those areas of the world, including the United States and the antipodean colonies, which were within the British ideological/intellectual sphere of influence.⁴³

While in the final analysis the spread of the new ideology of 'consent', concomitant with the spread of the inspectorial society, was the major method of social control, it should be stressed that popular rejection of physical and moral coercion remained significant even decades after the implementation of the 'new police'. Even in the Establishment's *Punch* the stock figure of the 'friendly bobby' did not appear until the 1850s. The 'omnibus mandate' from the state to the constables made them feared and detested in many pockets of working-class life for generations; in other sectors the omnipresence of the 'bobby' was acquiesced in as an unpleasant fact of life, rather than welcomed. Conflict remained implicit. In

1887, just after the founding of the modern New Zealand Police, the head of 'The Met' depicted a traditional local fair as a 'class question on which as Commissioner of Police I can say little beyond the fact that it gives the police trouble to keep order, and that while one class certainly enjoy it, its existence is the cause of annoyance to others'. But the process of hegemonisation was, despite constant resistance, inexorable. Five years earlier a Yorkshireman had reminisced on how the 'first policeman came into our midst, to plant the thin edge of the wedge, which was to revolutionize our manners and customs . . . I put a great deal of this severance from ourselves of old customs down to the advent of the policeman in uniform'.⁴⁴

When the new modes of control were first exported to the antipodes, those mechanisms lying at the more overtly coercive extreme of the continuum of state discipline were naturally emphasised because of the extra dimensions of Australian convictism and colonial 'rawness'. In adapting the London Police Magistracy system to Sydney in 1810, Macquarie had sharpened its coercive profile. Centralised under Superintendent D'Arcy Wentworth, an aristocratic Irish ex-convict and businessman, the new force conducted patrol-surveillance of military resonance in a system—boasted the Governor—'not surpassed by that of any City in Europe'. The police regulations enforced from the beginning of 1811 imposed a comprehensive range of social controls over the populace, and Macquarie frequently added new prohibitions. John Bigge's investigations into New South Wales from 1819 were dominated by a state desire to tighten social discipline in the colony—particularly by means of retributive discipline upon convicts—as a deterrent to the increasing trend to social rebellion in Britain. In 1825, as a result of Bigge's policing recommendations Captain Francis N Rossi was appointed Superintendent of Police, in theory for the whole colony, although his jurisdiction in practice was normally confined to Sydney, where he reorganised the police along the latest Bow Street Police Office lines.⁴⁵

The 'new police' idea then had been percolating through to Sydney insofar as the coming 1829 London reform was a modification and enlargement of concepts inherent in the Police Magistracy forces. But since in New South Wales a greater coercive capacity was required, Rossi had frequently requested that his force be expanded in size and scope. To an even greater degree than in the British urban areas, the social make-up of Sydney was lumpen-proletarian and manual working class, and the danger of political

combinations by current and released convicts alike, perhaps organised by Irish political exiles, had always been a fear. Moreover the rapidly expanding colonial capital was chaotic and unhealthy: habits and pleasures of working people, often liquor-related, tended to clog the confined streets, hindering the overall pursuit of profits—as did also the practices of many businessmen and shopkeepers themselves. Finally, in the year of Rossi's retirement, 1833, new Governor Richard Bourke, enthused by influential Benthamite friends in London, decided to place Sydney under the same type of detailed regulations as those applying in London. Clause after clause of his Sydney Police Act was copied from the 1829 legislation, joining others of more indigenous origin. 'Beating carpets flying kites breaking horses driving barrows and carriages on pavements' were all regulated; seamen and convicts were required to carry passes at night; 'Rain not to be allowed to drop from eaves of houses on foot-ways . . . Slop night soil etc. to be conveyed away only at certain hours.' The supervision of these new standards of 'cleanliness and order' would require, Bourke told the Colonial Office, reorganisation of the 'Constabulary something in the way of the London Police'.⁴⁶

By the time that knowledge reached Sydney of British concurrence that a 'new police' was essential in that city 'for the protection of Property and for the Summary repression of Disturbances', Colonel H C Wilson had long since created a Metropolitan-influenced system to superintend the working of the Sydney Police Act. The key difference from Scotland Yard was that Peel's severing of the 'judicial-police nexus' was carried out in neither theory nor practice, and the 'new police' in Sydney emerged as a considerably modified Police Magistracy. Wilson, as Chief Police Magistrate, both controlled the force and continued to undertake judicial functions, together with two subordinate Police Magistrates. Judicial control was not necessarily inherently inimical to Benthamite policing theory, and Peel's own Irish creation, the Peace Preservation Police, had been controlled by salaried practising magistrates. The 1829 device of making the London Commissioners only nominal JPs had been introduced because of the tendency for even salaried magistrates in the imperial capital to drift from their major role as 'eyes and ears' of the state. In the colonies the state had from the beginning relied heavily upon magisterial social control, and following Bigge's recommendations for New South Wales it was decreed in 1826 that salaries could be paid to key magistrates for state surveillance purposes, utilising constables; in the countryside civil police had all along been controlled by JPs. It was logical that Bourke should place his new beat constables—uniformly

dressed in blue jackets—under Police Magistracy supervision, with the eventual Colquhounite aim of phasing out all of Wilson's judicial duties.⁴⁷

With a principal object of policing, that of 'continued surveillance of the entire population', firmly to the fore, Chief Police Magistrate Wilson began to paramilitarise the Sydney police. Inspection of the men (sometimes at unexpected times and places) by more senior ranks ensured that they more conscientiously conducted their own inspection of Sydney's crowded thoroughfares, and the Metropolitan beat system was followed as far as was applicable, with adaptations mainly to allow greater coercive capacity. Men were now equipped with staves, and for the first time went on patrols, singly and at regulation pace of 2½ miles per hour. They were provided with ever-increasing powers of social control, greater even than those available to British police. Ex-Metropolitan policemen were soon imported to help fine-tune the new system, and within three years an extra one hundred constables had brought the Sydney total to 181; soon after, London terminology of rank—Inspector, Sergeant, Constable—replaced the old Sydney positions of Conductor, Wardsman and Patrolman. In 1838 the system was considered so successful that legislation was passed which provided for the establishment of Metropolitan-style forces, also under Police Magistrates, in urban areas outside the capital. Under this Act, when New Zealand became a dependency of New South Wales at the beginning of 1840 the Police Magistracy adaptation of the Metropolitan beat-surveillance system was transported across the Tasman to become the foundation of policing British New Zealand.⁴⁸

This was at a climactic point in imperial policing history, for 1839 had seen not only great expansion in the statutory scope of the Metropolitan police and the transfer of Colquhounite policing to troubled Canada, but also an enactment to encourage the establishment of 'new police' forces in the non-urban spaces of Britain. The County Police ('Permissive') Act resulted from a Royal Commission set up by Lord John Russell, and its passing was procured partly because of the very success (or so it was said by exponents of the 'migration thesis') of the urban 'new police' in driving the criminally-motivated into rural areas. Moreover it was recognised that the disturbances generated by Chartism and related urban movements could not necessarily be contained within city limits and so were endangering the entire approved social fabric. The year 1840 saw, therefore, the beginnings of the permeation of 'new police' methods into the farthest corners of the mother country as well as of her worldwide empire.

The policing exercise posed major problems for the Lieutenant-Governor of New Zealand. Hobson needed no persuading as to the efficacy of the Sydney Police Magistracy system which as commander of the *Rattlesnake* he had exported to Port Phillip in 1836, but at the time that he arrived in Sydney en route for New Zealand he found that Wilson had been suspended, pending dismissal, from the position of Chief Police Magistrate. This action had resulted from Wilson's corrupt use of state resources, including policemen, the culmination of a series of scandals (notably an accusation of having sexual relations with a female convict whom he was supposed to be adjudging) which had received wide publicity. The force, under temporary leadership, was both demoralised and in the process of being reduced, partly to get rid of unsatisfactory members, partly because of financial constraints and partly because by now relative order had been imposed upon Sydney.⁴⁹

By focusing antipodean attention upon the Sydney beat-police system, the publicity and scandal surrounding Wilson was to ensure that many New Zealand settlers condemned any trans-Tasman migration of urban patrol policing as symptomatic of 'inflicting penal institutions on the Colony'. Nor was Hobson able to recruit satisfactory personnel from amongst the surviving police of the New South Wales capital, for they had just received a pay rise intended as a morale-booster. Their pay now exceeded that which would be offered for a service in New Zealand which would be replete with all the privations of a new colonising venture, and only those expecting to be purged for unsatisfactory performance were offering their services. Moreover New South Wales Governor Gipps, anxious to retain his best officials in Sydney, was offering only 'second-rate' men as leading officials for New Zealand, men who seemed to be 'selected for their known incompetency'. There was not one official provided by Gipps in whom Hobson could place trust, a problem which, in the search for a chief of police, was magnified by the crucial importance of such a post—particularly in the absence of permission from Britain for an accompanying detachment of troops. On 17 January 1840, three days after New Zealand legally became a British possession and only a day before Hobson left Sydney for the Bay of Islands, he appointed as his 'Chief Magistrate and Superintendent of Police' his trusted friend Willoughby Shortland, who had accompanied him from Britain. Shortland, a 35 year old lieutenant in the Royal Navy, had no policing experience and his £300 salary was low in terms both of officialdom in other colonies and of the status of the position.⁵⁰

Hobson and Shortland decided not to recruit from the handful of current and former Sydney policemen who were offering. Colonial

conditions, and demoralisation under the disgraced Wilson, had meant that the Rowan/Mayne strictures on 'unworthy' behaviour had failed to take root amongst the colony's constables. They had been attempting to survive on pay rates lower than those offered to day labourers and this was enough to result in the majority of past and present New South Wales constables—including those still serving who were likely to lose their jobs in the reductions and hence willing to resign in favour of New Zealand service—being renowned for venality and drunkenness. They were hardly men who could be relied upon to suppress disorder on a raw frontier unaccustomed to anything more than minimal policing constraint, let alone to act as exemplars of approved virtues. The New Zealand police would instead be recruited internally at the pakeha settlements. It would have at its disposal the whole repressive corpus of New South Wales law, complete with a large range of 'vagrancy' and 'idle and disorderly' offences introduced in 1835 which enabled policemen within the broadest of discretionary powers to discipline almost anyone they wished.⁵¹

The newly appointed Chief Police Magistrate still had no policemen available for the founding of the new colony in Aotearoa. His own search for even a handful of suitable staff having been unavailing, Hobson had asked Gipps on 13 January to supply him with an Inspector and four sergeants possessing at least some acquaintance with policing. But on the day of Shortland's appointment New South Wales Colonial Secretary E Deas Thomson, after an abortive search by Sydney authorities, washed his hands of the matter by notifying the Lieutenant-Governor that as of six months before it had been the responsibility of Police Magistrates to recruit their own police staff. During his final hours in Sydney Shortland sought out suitable NCOs for New Zealand police service, without success, although at the last moment he did manage to locate a suitable candidate for the position of 'working' head of police, or Chief Constable, albeit at insufficient notice for the recruit to be able to accompany the founding expedition. This rank was an old one which had survived the 'new police' reforms in Sydney (and which had in any case been implemented at the Metropolitan Police Magistracy offices by Peel from 1822): in 'new police' forces headed by JPs who retained judicial functions it was necessary to have day-to-day control of each force delegated to a 'professional' policeman of expert policing knowledge, to an 'effective' head of police. The Irishman selected for this position across the Tasman, Benjamin Woods, was formally appointed New Zealand's first Chief Constable on the day after the *Herald* sailed with Hobson and his entourage. Woods had recently arrived in Sydney with his family.

Of Protestant shopkeeping background and Irish Constabulary career, he was prepared to accept the low salary of £85 per annum plus rations because he had not yet found antipodean employment. He was ordered to gather together policing resources and follow his superiors on the next ship to New Zealand, scheduled for early February—although in the event it did not leave for another month.⁵²

By the time that Hobson made his request to Gipps for NCOs, he had become reconciled to there being no chance of a detachment of soldiers accompanying him to New Zealand. But Maori chiefs would hardly be impressed with the coercive strength of a state that could muster for the establishment of a new colony, apart from a naval presence, only a 'high policeman' and possibly a few police NCOs. There would also be a practical problem upon arrival at the Bay of Islands: while local pakehas were being recruited and taught the rudiments of policing, who would impose a temporary minimum standard of acceptable behaviour in the vicinity of the main settlement, or provide the armed escort necessary to uphold the dignity of the office of Lieutenant-Governor? Who would conduct surveillance, convey messages, be entrusted with significant missions outside the boundaries of the settled Bay areas? To solve these problems, Hobson modestly—and therefore partially successfully—requested provision by Gipps of a minimum of 13 troopers of the New South Wales Mounted Police. He was allowed to take with him a detachment totalling five, headed by a sergeant, and they were quickly to be joined by six others.⁵³

New South Wales Mounted Police and New Zealand Police Magistrates

Mounted police had proved their worth in England as patrol police responsible to Bow Street for handling and deterring violations along the main highways into London. The Horse Patrol had then broadened the paramilitarily patrolled area of London by conducting surveillance along roads closer to the metropolitan centre, its quasi-soldierly nature emphasised not only by its uniforming but also by the provision of the Dismounted branch which normally surveilled by foot but could assemble as a united mounted unit with its parent body if necessary. Because of the obvious utility to the government of an elite mobile force of disciplined constables, most with cavalry training, the Bow Street Horse Patrol became the first patrol police in the country to be placed

under direct executive control. It was this concept of a highly mobile form of patrol which in 1814 was transplanted by Peel to Britain's nearest colony, Ireland. The Peace Preservation constables and their successors in the Irish Constabulary would conduct mounted patrols in 'disturbed' areas, often in small groups for mutual support, feeding information back to the state on the current attitude of the subject Irish. Ex-military men, the constables drilled regularly, were at all times prepared for skirmishes, and could rapidly converge in the event of emergencies, handling anything up to and including sizeable engagements. As Peel acknowledged, the constabulary was a device for *imposing* state discipline upon an unwilling populace; only in the fullness of time would the overt nature of coercion over the mass of people begin to wither as they learnt to become 'obedient without much extraordinary compulsion'. Meanwhile, mounted patrolling would be an integral means of overt social control, and the Irish Constabulary quickly became regarded world-wide as the model for the semi-military mode of policing insubordinate peoples.⁵⁴

Bearing in mind the dual considerations of preventive patrolling and surveillance on the one hand and on the other the ability to rapidly concentrate and conduct operations which included military manoeuvres, Commissioner Bigge had recommended the establishment of an Irish-style force to police the vast New South Wales country areas. The mobility and flexibility of a disciplined and mounted police would enable it to carry out two main purposes: to suppress Aboriginal resistance to encroaching settler expansion in the interior, and to enable closer control over convicts—those still in bondage to the state, including prisoners drafted into the service of men of property, as well as those who had escaped and become 'bushrangers'. It could be expected that such a force, under the general direction of a headquarters base at Sydney, would treat targeted sectors of the populace—including those of convict stock allegedly prone to 'harbour' bushrangers—as subjugated people with few, if any, rights. As in Ireland, the mounted police would be transferred frequently from station to station, to ensure that the men remained alienated from the locals and, whatever the theory, they would be subject in practice to the control of only their own superiors rather than of JPs. The equivalent of Irish conditions required the equivalent of Irish solutions.⁵⁵

In 1825 Governor Brisbane had anticipated British assent to the creation of such a force, and embodied two dozen men as the New South Wales Mounted Police. Their military potential was emphasised by their weaponry, regular army issue carbines, pistols

and sabres, and by their adoption of the uniform of the 14th Light Dragoons. Within a short period this aspect was strengthened by exclusive recruiting amongst the regiments, the volunteer police troopers—over a hundred strong by 1830—remaining subject to military discipline during their police service. Mounted constables were registered as supernumeraries on their regimental rolls, and for pension purposes were regarded as soldiers. Through the later 1820s and in the following decade the Mounted Police were generally successful in keeping down the incidence of bushranging, aided from 1830 by Draconian legislation that departed from the basics of British law by placing the onus on the accused to prove their innocence.⁵⁶

More importantly, the troopers were the shock troops of frontier expansion, with a key role to play in quelling Aboriginal resistance to the loss of tribal lands. They were, in fact, little more than elite soldiers, mounted troops who however received supplementary allowances above ordinary military pay and rations. The military facet of their role had been re-emphasied in 1837 by the appointment as Commandant of Major James W Nunn, an authoritarian who dramatically tightened discipline and sought to boost *esprit de corps* and therefore efficiency. Within two years he had secured the right for mounted policemen to make a career in the force rather than being obliged to leave the colony when their regiments departed. Nunn insisted that promotions or demotions of police troopers should be based entirely on their performances as constables, divorced from regimental considerations, and he culled out men with bad records. The newly hardened Mounted Police, personally commanded by the major, made an example of resistant Aborigines in early 1838 by massacring dozens of the poorly armed 'enemy'. The 'Embarrassing circumstances' (in the words of the colony's Attorney-General) of this action were condemned as counter-productive at all superior levels of state, including that of the Secretary of State for the Colonies Lord John Russell.⁵⁷

It seemed logical that a Mounted Police detachment should be chosen as a substitute for military accompaniment of the official party to the New Zealand frontier in 1840. When settlement had begun to spread outwards from embryo Melbourne in 1838, Mounted Police troopers had been sent to ensure that the settlers were unmolested by blacks or renegade whites. The force was sizeable (now totalling 155 men) and considered to be of 'highest calibre': two thirds, for example, could read and write. At headquarters in Sydney Major Nunn operated with nine 'dismounted' staff and from these were chosen the five men to accompany Hobson's founding expedition. When Hobson had made his request for a

detachment the *Herald* was scheduled to leave in two days, insufficient time to fetch and prepare mounted troopers from the countryside. The authorised number of reinforcements, including a commissioned officer, and troop horses would have to follow the dismounted troopers to New Zealand at the earliest opportunity. The senior of the 'rank and file' of the dismounted troopers aboard the *Herald* was Corporal Lewis, and his tiny complement of privates included John Moore and Robert Hancock. The leader of the pioneering party, Sergeant Ward, was to be the first 'effective' head of police to operate within the new colony of New Zealand.⁵⁸

HMS *Herald* arrived at the Bay of Islands on 29 January 1840, and the following day a crowded cutter, 'four policemen stuck in her bows', brought the Lieutenant-Governor and his entourage to the beach at Kororareka. The troopers escorted Hobson to the church, where he read to the assembled Maoris and pakehas legal pronouncements making it clear that New Zealand was irrevocably British. As double indemnity, in mid year New South Wales legislated to legalise all policing and judicial activities conducted in New Zealand from 14 January, more than a fortnight before Sergeant Ward's men conducted the first patrol-police surveillance in the colony.⁵⁹

The 'dismounted mounted police', during the days leading up to the signing of the 'Treaty' of Waitangi, patrolled Kororareka's 'main street', the beach, pending Shortland's gathering of a scratch force of civil police. There was no great urgency for the immediate implementation of civil police beat patrolling in the town, given that it had become more 'settled' following the recent influx of Australian businessmen and speculators, many of whom had strengthened the operations of the Kororareka Association. But there remained some disorder in need of suppression, and this enabled Hobson to demonstrate to the local chiefs a benefit of British rule in that the British state brought with it a capacity to impose order and regularity upon unruly pakehas. Thus the troopers, apart from providing as impressive an escort for Hobson as could be improvised, made clear—if only, to a large degree, symbolically—that the new regime would not tolerate turmoil. Hobson spoke of their role in terms of the 'imposing effect which their appearance produces on the Natives', and their uniforms and arms represented the power behind the Crown when they presided over the 'Treaty' negotiations on Busby's front lawn.⁶⁰

Governor Gipps' arrangement with Hobson had been to double the number of mounted trooper NCOs and privates in New Zealand by the despatch aboard the vessel carrying the main batch of officials of reinforcements totalling five mounted rank and file con-

stables and 10 horses. The promise was kept, and when the storeship *Westminster* departed Sydney on 3 March after a month's delay it was carrying a corporal and four mounted privates travelling steerage and attending the troop horses. In addition to the ranks, Gipps had arranged for a commissioned officer to head the New Zealand detachment: Lieutenant Henry Dalton Smart, until now commander of one of the five Mounted Police divisions (that at Bathurst), travelled cabin class in the company of his civil counterpart Chief Constable Woods. Smart was one of Nunn's new breed of mounted police, having joined from the 28th Regiment in 1838. En route for New Zealand the trooper reinforcement had work to do; aboard the *Westminster* were tradesmen contracted to work for the state, and some were perceived to require disciplining. Smart arrested a rebellious stonemason, and was forced to call his troopers to arms when it appeared that the prisoner's companions were about to rescue him.⁶¹

After the arrival of the additional mounted police on 14 March, Hobson was able for the first time to establish patrols outside the immediate Bay of Islands area, a show of strength to Maori and pakeha alike. Lieutenant Smart was sent to the Waimate mission, on the road to Hokianga, so that from a central position he could superintend deployment of his men at both major areas of pakeha settlement. In the first few months small mounted trooper units moved from settlement to settlement in the north, conducting surveillance for the Lieutenant-Governor and impressing upon the populace that the new state required and would enforce 'discipline and order'. Hobson considered that the Mounted Police 'in the first formation of the colony, have been very important', in fact 'indispensable', in lieu of adequate military support.⁶²

After the troops landed in mid April the importance of the Mounted Police as a semi-military body decreased, except insofar as their mobility gave them the potential to focus their energies quickly upon any distant troubled area accessible by road or track. There were however few of these: northern New Zealand consisted 'almost wholly of impenetrable bush' criss-crossed by rivers, and even at the Bay of Islands itself, which 'may be said to be nothing but a succession of gullies', the constables could barely find 'room enough to exercise their horses' or fodder for them. The mounted troopers were an institution created for the vast, level, forestless and virtually river-free plains of New South Wales, and (one commentator noted, with exaggeration of degree rather than of kind) 'no two countries in the world could be more dissimilar'. When the military detachment arrived in New Zealand its commander noted that police troop horses were 'nearly starved' and that even the

route linking the police camp with Kororareka was an 'impassable swamp'.⁶³

But the Mounted Police could of course carry out their patrol duties and special surveillance missions 'dismounted' if necessary. Of more fundamental importance and concern to many of the citizenry was their concept of the inappropriateness of a semi-military force, used to applying the rigorous legislation of a convict colony to black and white alike, surveilling a 'colony of settlement'. Originally the troopers were quartered at mission stations, but their 'arrogance' soon caused ruptures with the missionaries. The Paihia unit, for example, was after complaint by Henry Williams banished to Puketona, on the road to Waimate, because of its persistence in cutting down mission trees for firewood—and mission peach groves and pigs at the new location proved equally to be at risk. The troopers' behaviour sprang from, and in turn emphasised, their main role as symbols of overt coercion over pakeha and subject-race alike, and most whites vociferously considered them unsuitable for policing a non-convict colony. Later that decade indeed, when Sydney's Chief Police Magistrate was urged to swear in Mounted Police troopers as constables for his city, he refused on grounds that naked coercion was inappropriate for a population by then mostly 'free'.⁶⁴

As Police Magistracy coverage of settled areas consolidated, and endemic Maori or pakeha disorder of serious nature did not eventuate, the Mounted Police detachment became—recorded a newspaper editor—increasingly little more than an 'embellishment, emblematical of power, to Government House'. The Sydney headquarters section had always provided bodyguard and ceremonial facilities for the New South Wales Governor, and the New Zealand detachment afforded Hobson a similar service. This grew to be, increasingly, its *raison d'être*. When on 13 May 1840 Hobson, having moved from Paihia, established the new colony's first capital at Clendon's Okiato trading post, renaming it Russell, the Mounted Police main barracks were established there. Lieutenant Smart became Hobson's aide-de-camp, and an escort of troopers provided a retinue for the Lieutenant-Governor on his travels. Headquarters barracks for the detachment moved to Auckland in March 1841 when Hobson transferred his capital, its duties by now being almost entirely confined to those merely symbolic of state coercive power.⁶⁵

On 16 November 1840 a British charter had authorised the formal separation of the new colony from its parent colony of New

South Wales, and this news reached Hobson in April 1841. The implications for the Mounted Police were clear: they were a constitutional anachronism in a colony about to become independent of New South Wales. But Hobson was loath to lose the security, dignity and convenience of a small but mobile police force ready at all times for whatever duty he required of it. He thus applied for permission to retain the detachment. Gipps consented, noting that New South Wales now claimed 'no control whatever over these men'. But although New Zealand bore all expenses and allowances relating to the detachment from 1 April 1841, the troopers were still officially members of their regiments and hence under the ultimate control of the officer commanding the troops in New South Wales, Sir Maurice O'Connell. On 30 November of that year the latter, realising that Smart's detachment was now little more than a bodyguard for Hobson, ordered its return to Sydney.⁶⁶

Hobson however had been portraying the detachment to O'Connell as providing him with an important reserve power, a semi-military police of rapid mobility that would be essential in the event of major disturbance. When O'Connell's message reached him, he had a reason within this term of reference to apply to delay the transfer: there was widespread pakeha fear that events surrounding the apprehension of Maori murderer Maketu 'threatened to involve the Country in revolt'. Major Thomas Bunbury, possessing delegated authority in his capacity as commander of the hundred-strong New Zealand detachment of troops, accepted this, conscious of the paucity of the military presence in the new colony. The respite could be no more than temporary, and in any case by early 1842 there were internal pressures within New Zealand for a reduction in expenditure on the Governor's expensive escort, which with the death of Trooper Patrick Finn had now fallen to a strength of 10. The state had purchased the troop horses from New South Wales at the time of political severance, and now Hobson was forced to sell the majority of them. It was an act of desperation, for it removed his arguments about a mobile reserve of rapid deployment capacity. With the 'troopers' now revealed to be essentially little more than a government ceremonial guard their final removal by O'Connell was merely a matter of timing. Hobson accepted that this particular detachment would have to return to New South Wales, but expressed vigorously to the Australasian commander of troops that the appearance of Smart's men in attendance upon him had been 'most imposing' and essential in order to awe the Maori, who were considered to be 'so strongly imbued with martial feelings': it was an 'absolute necessity' that he be given a similar guard composed of men of 'soldier-like steady-

ness'. He requested permission to establish a 'dismounted Mounted Police' based upon recruits from those troops which were stationed in New Zealand, and it would be headed by Smart who wished to remain as the Governor's aide-de-camp.⁶⁷

When the Colonial Office considered the application, officials noted that the New South Wales Mounted Police Department had been established to handle the special problems of order resulting from the imposition of a convict colony amidst a resistant aboriginal population, whereas the provision of added dignity to the representative of the Crown could be seen only as an incidental consequence of, not a justification for, any such expensive force. Indeed with the cessation of convict transportation and the relative taming of the Australian frontiers the New South Wales Mounted Police itself was to become decreasingly needed: the authorities were soon to allow it to decline in numbers and efficiency and by the time of its abolition in 1850 it had become infamous as a refuge for drunkards and incompetents dumped on it by their regimental commanders. Hobson, his application given short shrift by Britain, was forced to see the entire New Zealand detachment of New South Wales troopers depart the shores of his colony on 30 April 1842—and then humbly to request of Bunbury the provision, as a personal favour, of a private as orderly at Government House.⁶⁸

The Mounted Police detachment had arrived in New Zealand when its parent body was at its peak. There was no doubting its 'efficiency' and its invaluable backing for Hobson's initial establishment of the colony, particularly in the early days before the arrival of Bunbury's troops. But the 'efficiency' of the 'catskins' (as they were nicknamed) was within terms of reference disliked by most categories of colonists; the difference between 'free' New Zealand and 'convict' New South Wales was keenly felt, and heavily armed police were perceived as properly belonging only to the latter. Few besides Hobson and his officials were sorry to see the last of the small but overtly coercive police force. It was to be four more years before another Irish Constabulary-style body was acceptable to the majority of pakehas, and then only in the context of Maori insurrection.

Until the *Westminster's* arrival, New Zealand's sole Police Magistrate Willoughby Shortland, given specific jurisdiction over the environs of the main Bay settlement on 8 February, had relied on the dismounted New South Wales troopers to conduct most police business and especially to patrol Kororareka, although they were supplemented by a handful of locally-recruited constables. A small

house in the town had been quickly hired by Hobson for Shortland's 'personal accomodation with the understanding that it shall be used as a temporary Court House'. It would also serve as police headquarters at first, in liaison with the main camp of the Mounted Police detachment. Although on 18 February Shortland's jurisdiction was extended from Kororareka to include the entire 'Northern District', there could as yet be no expansive attempt to impose order. That very day Hobson reported a case of armed piracy which the authorities had to ignore because of the 'imperfect state of our Establishments'.⁶⁹

The Lieutenant-Governor had already pleaded for, at very minimum, four companies of troops, frequent visits by warships, and a greater semi-military police capacity in order to 'maintain the Dignity of the Crown, and secure the due execution of the Laws' amongst Maoris and pakehas alike. But in expanding Shortland's role to include the 'general control and regulation of Affairs' in the most established pakeha areas of the new colony Hobson had little choice but to instruct him that 'society can only be restrained from excess and Crimes by Moral Influence and by the judicious application of the power you actually possess'. By such phraseology the myth of 'moral suasion' as a deliberate choice of social control policy became part of the New Zealand legend.⁷⁰

The task of imposing patrol-surveillance policing upon a pakeha population that prided itself on being 'free' was not an easy one, although initial difficulties were somewhat eased by the quick deflection of Shortland from intimate connection with policing. Birth and breeding had created in him a personality regarded by a great many pakehas as arrogant, even 'obnoxious', yet as Rowan and Mayne had recognised a decade before to a significant degree tact stood between success and failure for patrol policing in a perceived 'free' environment. Three weeks after Waitangi, Hobson suffered paralysis through a stroke, and on 9 March he appointed Shortland as acting Colonial Secretary to bear the brunt of public business: Police Magistracy duties now came a very second best.⁷¹

For a brief period the advance guard of Mounted Police, together with improvised patrol constables, had controlled Kororareka virtually with a free hand, awaiting the *Westminster*. After its arrival there disembarked—along with officials, mounted police, troop horses, tradesmen and labourers—the professional policeman recruited in Sydney, 47 year old Chief Constable Benjamin Woods (also referred to, in those days of interchangeable title, as Inspector, Sub-Inspector and Head Constable), who had travelled first-class with Lieutenant Smart. Woods had joined Peel's Irish Peace Preservation force in 1815, and had worked up to the position of

District Head Constable in the Constabulary before moving to clerical work. His knowledge of patrol-coercion of a hostile population ensured that he would become the most prominent policeman in the north in the colony's first decade, and beyond: after first inducing a sense of 'order and regularity' amongst the pakehas, he had increasingly to face Maori disturbance as the full implications of the white presence in New Zealand gradually dawned.⁷²

After the initial signing of the 'Treaty' Hobson had realised that even the handful of Mounted Police based at government headquarters would frequently be required to travel into the Bay of Islands hinterland, if not further afield, thereby disrupting local patrol arrangements. He told Gipps that for the permanent civil police establishment at Kororareka he would need six policemen to operate under Woods, the occasional hired services of a boat crew, and a clerk of the bench to assist at the Police Magistrate's headquarters. Chief Constable Woods had recruited two NCOs (whose rank he first designated 'constable', then later 'sergeant') in Sydney, and now set about recruiting some reasonably permanent 'sub-constables', whom he later retitled 'constables'. 'To complete the metamorphosis', commented a Kororarekan returning to his town that May for the first time since annexation, 'the appearance of policemen, sauntering along with an idle step, but with busy and searching eyes, indicated clearly that the occupation of the old tarring and feathering association was gone forever.' Conditions were harsh, and even the Chief Constable was at first forced to live with his family in a tent. The imported sergeants had been lured from their Sydney pay of four shillings (4s) per day by promise of rations in addition to pay, but these did not eventuate, and nor were the rewards for capturing runaway convicts which had previously supplemented their pay now available. By mid year they, their wives and infant children were still located in draughty tents, weathering out the winter. The quality of locally recruited men, offered only 3s per day for the position of constable, was not high and dismissals, especially for drunkenness, were frequent. Even one of Woods' most effective policemen, Sergeant Wilson Kirkland, had been fined and dismissed for assault before the end of the year.⁷³

Although Woods' policing experience had been acquired in the context of overt repression of the Irish Catholic majority, his sergeants had operated within the Metropolitan-influenced patrol system of the Sydney Police Magistracy and he had observed its working during his brief stay in New South Wales. Sufficient of the legitimisation approach of Rowan and Mayne therefore filtered through to the Bay of Islands police force to ensure that Woods'

Magistracy policemen were a welcome alternative to the overtly coercive 'catskins'. All the same the objective basis of policing, the suppression, potentially or actually, of any behaviour calculated to disturb the smooth operations of the political economy, had not altered, and its application to urban areas of the antipodes meant that a greater amount of overt coercion was applied than in London. The colonies presented distortions in the normal class composition of British society. Not only was a large percentage of the population from 'the dangerous classes', of low socio-economic position in origin or actuality, but within that percentage there was an abnormally high proportion of those who inhabited marginalised sectors of society.⁷⁴

The class location or origins of most urban colonials meant that individually and collectively they were regarded as potential agents of disruption of peace and order, and Maoris living in and around pakeha towns were regarded as requiring an equal or greater degree of discipline. Hence the perceived need for unremitting surveillance and for the state to have the capacity to intervene positively when patrol policemen reported potential large-scale disorder. Given the special circumstances of colonial towns it was logical that the discretion to apply the 'omnibus mandate' in varying doses should be given to the 'eyes and ears' of the government, the Police Magistrates. All JPs had been gaining extra powers of social control since the beginning of the Industrial Revolution, and these powers were magnified in double adaptation first to the New South Wales frontier and then to its extension across the Tasman. Alone of all Governors in the Empire, however, Hobson had (at first) no authority to appoint any magistrates, stipendiary or honorary. At the founding of the colony only his friend Shortland occupied a Police Magistracy, Gipps having been unable to provide from Sydney men of sufficient social status and competence prepared to endure the privations of and accept the low salary offering in New Zealand. On 18 February Hobson wrote to the New South Wales Governor of his requirement for several more Police Magistrates in view of the nucleated pattern of pakeha settlement: at Hokianga, which he had already visited; at Cloudy Bay in the South Island, to control the whaling settlements; at the projected settlement area in the Manukau-Waitemata area; at Port Nicholson, believed to be in the process of settlement by the New Zealand Company.⁷⁵

At this point Hobson had just mandated Shortland to undertake the 'general control and regulation of Affairs' in the Colony, clearly intending that his Chief Police Magistrate would *inter alia* exercise a supervisory and coordinating role at the top of the policing and judicial hierarchy. He now requested Gipps to authorise the

appointment of five Police Magistrates, suggesting one man already in New Zealand, Captain William Cornwallis Symonds, agent of a company intending to establish a Wakefield-style settlement on the Manukau-Waitemata isthmus. Hobson knew Symonds' father, the Navy's Surveyor-General Rear-Admiral Sir William Symonds, and was impressed with the captain's 'energy, zeal, manly bearing and urbane manners', which he saw as 'qualities much wanted in a new colony'. Three days after his application was written Hobson embarked in HMS *Herald* to explore the isthmus as the possible site of his permanent capital. However when his stroke forced a return to the north, he left Symonds and Chief Surveyor Felton Mathew behind to investigate the area.⁷⁶

Hobson had, additionally, two friends in New South Wales whom he suggested Gipps should choose as Police Magistrates for New Zealand: Thomas Beckham and Charles W Smith, both officers in the 28th Regiment, the former having occupied a leading position in the New South Wales Mounted Police. As for the other two vacancies, he required no more than that the appointees should have—apart from appropriate societal status—legal knowledge and 'Physical Energy'. On 17 March, Thomas Beckham was duly sworn as a JP in preparation for his new position in New Zealand. Smith was to follow when he had sold his commission but this plan did not eventuate. On 28 and 30 March Gipps' choices, Charles Barrington Robinson and Michael Murphy (the latter selected to replace Samuel Asher, who had fallen ill), were sworn in as magistrates. Hobson was authorised to appoint the new Australian JPs and Symonds as Police Magistrates at £250 salary, and was told, without a great deal of conviction, that the appointments should enable him to 'carry on the operations of your Government without any serious difficulty'.⁷⁷

Hobson backdated Robinson's appointment as Police Magistrate to the day on which he was sworn as a JP, making him the second civil police head to be appointed for the colony. Murphy's appointment followed, as soon as his resignation as clerk to the Parramatta bench of magistrates took effect, and on 16 June Beckham too became a Police Magistrate for New Zealand. The three arrived at the Bay of Islands on 30 June aboard the *Chelydra*. Shortland, who in theory coordinated the operations of the Police Magistracy forces, had been absent on state business to the south since late May, along with Lieutenant Smart: Chief Constable Woods had been in sole effective control of policing the Bay settlements since then. Murphy, because of the extensive legal knowledge he had acquired, was now appointed Police Magistrate at the new capital of Russell. Robinson was placed in charge of Woods' police force at

the main settlement of Kororareka, and Beckham was sent to the Hokianga. Police Magistrate Symonds, whose appointment as JP in New Zealand—in common with other local residents whom Hobson wished to act as magistrates—had required the special intervention of the New South Wales Supreme Court, acted on roving commission as the 'eyes and ears' of the Lieutenant-Governor.⁷⁸

Policing Variations in the 'Southern Settlements'

The initial colonial policing arrangement was not destined to last long because of developments in the south of the North Island. New Zealand Company immigrant ships had disembarked settlers at Port Nicholson from 22 January 1840, a week after the British acquisition of New Zealand, and Company officials and leading settlers had established their own governmental, judicial and policing organisation; the state could not countenance such a system of competing authority. When Hobson landed at the Bay of Islands on 30 January he had ordered the local 'rival state', the Kororareka Association, to cease its operations at once, which it did (although it remained as a benefit society until its formal disbanding that June), its members in general welcoming the arrival of the colonial state apparatus. To complement Hobson's minute land-based coercive force they organised loosely under names such as the 'Kororareka Volunteers' from time to time, aiding the state when the police (and after 16 April, the military) could not cope—former Association members arranging for the surrender of Maketu in 1841, for example. But such action was on an ad hoc basis only. Except in emergencies, or at least during crises of some degree, men of property were normally not keen to interrupt their livelihood or pursuit of profits by participating in private policing or military activity. The British government had recently discovered this when its suggestion of armed voluntary bodies to protect property from continuing Chartist unrest was received without enthusiasm, and the scheme was to be dropped altogether in 1842. Likewise, at the time of the Maketu agitation, when the New Zealand government requested Bay of Islands citizens to take measures of 'privately organising armed bodies' they did not respond.⁷⁹

In the first years of official administration the colonial state's problems with the New Zealand Company settlements were of opposite nature. Here the need was to suppress the settlers'

propensities to form vigilante and military bodies, not only every time a Maori threat was perceived but also when Maoris stood in the way of their acquisitive aspirations. There had not even been a pretext of land purchase at Lambton Harbour, where the bulk of the Port Nicholson settlement moved, and naturally the original inhabitants resisted to the best of their abilities. The state's desire was to prevent interracial war resulting from pakeha attitudes and actions, and its efforts to stop wholesale expropriation of land pending legal investigation gained it the enmity of Company settlers. The latter wanted to minimise conflict, but were prepared to entertain it if necessary. The very first contact between the colonial state and the Port Nicholson (called Wellington from November 1840) leadership was adversarial, and nor in the circumstances could it have been otherwise. In the anticipated initial absence of British state coercive mechanisms the Company had arranged for its first settlement 'self-defence' measures in the event of Maori attack, and expedients to ensure that 'anarchy and disorder' did not prevail. It was in the interests of the colonial state to place Port Nicholson under its control, and an opportunity to provide a symbolic show of strength was provided by the methods of regulation chosen by the Company for the settlement.

Prior to the sailing of Company advance ship *Tory* the Colonial Office, as a result of its intention to annex all of New Zealand, had warned the Company that it would not be legal to establish a 'system of government' in New Zealand independent of the Crown. But because of the state's intentions the Company, determined to maximise its profits by pre-emptive action, rushed ahead with its immigration plans and thereby precluded governmental acceptance of what would in different circumstances have been welcomed, the (free) provision of coercive protection at the founding stage of settlement. On 15 September 1839 the passengers aboard the first three immigrant ships assembled at Gravesend were told by Company officials that a precondition for their departure was that they should all sign a 'Provisional Constitution' in order to prevent 'aggressions upon social order' at the new colony. They would thereby pledge subservience upon arrival to a 'machinery for the administration of law and the enforcement of justice' to be managed by a committee of leading settlers empowered to 'make regulations for preserving the peace of the settlement'. This was a step which even the Company, while falsely denying responsibility for originating the document, later acknowledged to have had illegal consequences when acted upon in New Zealand; in deciding to establish a 'provisional government' the Company was setting up what amounted to a rival state—albeit temporarily—within a terri-

tory that the government had already declared its intention of quickly annexing.⁸⁰

At Port Nicholson, even after the Company leaders knew that Hobson had already arrived as Lieutenant-Governor the self-governing arrangements proceeded and the ruling 'Council' of prominent settlers first met early in March 1840. This was in response to a perceived need for the 'imposition of some restraints upon the actions of individuals' amongst the immigrants and the crews of the 'several ships at all times in the harbour': 'irregularities' which had already occurred would escalate into a 'state of very great disorder and insecurity' unless machinery of coercion were established 'for the maintenance of law and order among Her Majesty's subjects and the aboriginal population'. 'Legitimacy' was provided by a pretence that the 'United Tribes' policy, the recognition of chiefly sovereignty, was still the basis of British actions in New Zealand. Thus the local 'government' soon acquired by 'treaty' an agreement from some local 'Sovereign Chiefs' that the Company 'constitution' could operate within their territories; on this purportedly 'legal' basis a machinery of regulation and coercion was created. All pakeha males were obliged to muster and drill, ready for armed call-up by Council President Colonel William Wakefield, the Company's Principal Agent in New Zealand. Such a body was intended primarily to be reactive to 'danger' from the Maori—but it had also the potential to be used proactively and expropriatively and therefore to be productive of interracial strife.

Although under British law appropriation of judicial power was just as illegal as unauthorised taking of military power, 30 year old ex-Spanish Legion Major Richard Baker was appointed 'Police Magistrate'. Son of the Middlesex Coroner, Baker was sufficiently 'gentlemanly' to indulge in duelling, and to faithfully represent the interests of the Company officials and settler elite who dominated the illegal state. From amongst the steerage immigrants the regime selected two 'constables', James Smith and G J Cole, and they in turn were authorised to select 'petty constables' as needed, beginning with one apiece. The small police force was divided between Petone, the original landing site at the swampy mouth of the Hutt Valley, and Thorndon at Lambton Harbour several miles away. The Company police patrolled in makeshift uniform of blue tunic and Peelite top hat, and the 'beneficial effects of this became immediately apparent'. One of their allotted tasks was to dampen interracial tension. A colonist recorded witnessing an example of the race-conciliation activities of the Company police: a sailor had struck principal chief Eponi's daughter, prompting angry Maoris to rush him and his two companions. 'The constables, who were for-

tunately to hand, rescued the offender, probably from immediate death, and persuaded the natives to allow him to be punished by the authorities.' Otherwise the many pakehas present 'would probably have interposed . . . so that what might have been a frightful disturbance, attended with considerable bloodshed and loss of life, was converted, by the timely interposition of the constables, into a peaceful appeal to the law.'⁸¹

Edward Jerningham Wakefield, son of Edward Gibbon Wakefield and nephew of Colonel William Wakefield, and propagandist for the Company, claimed that in early Wellington 1500 pakehas and several hundred Maoris lived harmoniously, without serious breach of 'laws to which they were bound by nothing more than a voluntary agreement, and which could summon no physical force'. But in fact the working-class colonists had been forced to sign the agreement at Gravesend, and signatories and non-signatories alike were subject to 'Police Magistrate' Baker's coercive system. A wooden Company house at Petone served as a lockup, and soon had customers. Even Wakefield junior recorded that a 'few lawless wanderers from other parts and still fewer quarrelsome emigrants had been checked in their disorderly outbreaks by the police'. Indeed, the efforts of Baker's 'constables' were 'most especially directed' against 'rude outcasts from society'.⁸²

In England the directors of the Company, confronted with legal opinion that the Port Nicholson administration was unlawful since it was irrevocably clear that the Crown's intention was to acquire all of New Zealand, attempted to salvage the situation. The Reverend John Gare Butler was extracted from a minor clerical post in Sheffield, given a nominal Company position and despatched aboard the *Bolton*, which arrived in Port Nicholson on 21 April 1840. The 59 year old ex-missionary had been brought back to New Zealand because his name had never been removed from the New South Wales Commission of the Peace and he was still, therefore, a JP for New Zealand in the eyes of the New South Wales state. As such he could appoint constables, imprison offenders against British law, and conduct a whole host of activities under the broad mandate given to magistrates. He was to be a 'front' to legalise the activities of the Council and its coercive agencies. Activities carried out by 'constables' could now be said to be exercised lawfully, authorised by a real JP, and Butler did indeed gain some responsibilities over the appointees—although the calibre of constables was such that at times he had to prevent policemen themselves from creating disorder. When, for example, a 'saucy constable' refused to give a Kapiti Maori full payment for a pig, Butler gave the

aggrieved party a blanket to meet the outstanding amount and alleviate interracial tension.⁸³

Well before Butler's death a year after his return to New Zealand, however, the illegal Wellington regime had been ousted as a result of a sequence of events beginning a week before his arrival. On 14 April 1840 Captain John Pearson of the *Integrity* had appeared before 'Police Magistrate' Baker after his (forcibly resisted) 'arrest' on 'warrant' for violent offences against the charterer of his ship. In Jerningham Wakefield's words he then 'defied our puny constabulary force' (by now half a dozen strong) and escaped to his ship from his 'cell' aboard the *Tory*. The Company 'government' decided that to seize him by force of arms from his ship would be overstepping the limits of defiance of Hobson's government. The *Integrity* sailed for the Bay of Islands, Pearson vowing revenge on the leaders of the 'rebellion' in Wellington; from him on 21 May Hobson first learnt full details of the 'republic' established in the south. To make it crystal clear that the British writ extended over all of New Zealand, Hobson at once proclaimed full British sovereignty over both the North Island (on the grounds of the 'Treaty' of Waitangi, for which signatures were still being collected) and the South Island (on grounds of 'discovery' by Cook). To follow this up, the state would make a show of force at Wellington 'to put the people there in order' and the *Integrity* was chartered for the purpose.⁸⁴

The disciplinary expedition was considered so important by Hobson that he entrusted it to his acting Colonial Secretary Willoughby Shortland, at that time still the colony's only resident Police Magistrate. In addition, with the purpose of superseding the unofficial (albeit the constables were now, with Butler's arrival, lawfully so appointed) police force in the south pending the establishment of a bona fide Police Magistracy force there, the head of the Mounted Police detachment, Lieutenant Smart, boarded the vessel with five of his men. As a show of state strength and a last resort in case the Company refused to obey orders to disband its 'illegal association', Lieutenant A D W Best and 30 soldiers (a third of the 80th Regiment detachment which had arrived the previous month) sailed with Shortland and Smart. It has been traditional to view Hobson's characterisation of the Company government as 'High Treason', as being something 'regrettable', a 'sad lack of judgment', 'highly ridiculous'. Yet its Council had clearly acted, as Hobson noted, 'in contempt of Her Majesty's authority' by establishing its own agencies of coercion and it had not done so in ignorance. Indeed a settler representative of the illegal regime had accompanied Captain Pearson to Russell and offered to 're-cede'

the Wellington area to the state in return for a grant of local self-government, a plan foiled when Hobson branded the Company 'treaty' as a 'shallow artifice'. The Lieutenant-Governor could have come to no other conclusion than that the Company leaders in both Britain and New Zealand were deliberately violating British sovereignty in pursuit of their own interests. Hobson's emphasis upon the Council's illegal appropriation of the state's right to create magistrate and constables was vindicated later in the year when Pearson sued Baker in Sydney for unlawful gaoling and assault, and the ex-'Police Magistrate' had as a result to pay out more than £100 to Pearson (an amount which Baker recovered from the Port Nicholson 'Council' in theory, from the Company in practice).⁸⁵

Despite all this, in the final analysis the interests of the Company's colonists (summed up in Shortland's words as to 'preserve the peace and to protect their property') were coincident with the aims of the tiny state machine directed from Russell. Hobson did not require Gipps' advice to be conciliatory and take no further action, for Shortland had already been instructed not to irritate unduly the Wellington leaders. In a message to William Wakefield Hobson noted the need for regulation of the new settlement and trusted that the coercive measures taken were temporary and for the restraint of licentiousness only—in which case the three JPs he had sent (Shortland, Smart and Best) could cope easily enough pending permanent arrangements. While aware that the illegal regime had much greater implications than that of being merely a temporary operation to police excesses pending the arrival of state coercive machinery, the Lieutenant-Governor instructed Shortland to do no more than remove the non-lawful 'office-holders' and return any property confiscated by the illegal 'Police Magistracy'.⁸⁶

On 2 June, two days after Colonel Wakefield had put the 'militia' provision of his constitution into effect to face Maori opposition to the seizure of the Lambton Harbour site, the official party arrived at Port Nicholson. It had been confidently predicted that Shortland would behave in the 'most obnoxious manner', and it was true that his personality prevented him from being capable of fully carrying out Hobson's instructions to be conciliatory. The colonists, busily ousting the indigenous inhabitants of Pipitea and Te Aro from land they had not sold, actually welcomed the arrival of state coercive power (particularly troops) as a buffer against the Maoris, but Shortland interpreted literally Hobson's call for Company settlers to 'submit to the proper authorities in New Zealand, legally appointed'. Thus before he disembarked on 4 June after being delayed by adverse weather, Shortland sent ashore a constable to pull down the flags of the local 'Sovereign Chiefs' under

whose authority the 'provisional government' purported to operate. This was hardly tactful, especially since the constable in question, Cole, was one of the two policemen originally appointed by the illegal regime. Having gone north and joined Shortland's Bay of Islands police on 7 May, he had been appointed Chief Constable for Port Nicholson after Pearson's arrival with news of the illegal government. From 9 June Cole began putting together a Police Magistracy patrol force in Wellington, beginning with his erstwhile colleague and Company 'loyalist' James Smith as well as with other 'Company police'.⁸⁷

Meanwhile the presence and behaviour of the Mounted Police had enraged the Port Nicholson settlers. The settlement leaders had at once obeyed Shortland's instructions and disbanded their 'illegal association' and its policing apparatus, and thus any need for overbearing tactics by the state had dissipated. Settlers regarded the dismounted troopers, symbols of overt state coercion, as suitable only for a convict colony: the catskins were viewed, in the words of Company employee Charles Heaphy, as having been sent by the state 'for the intimidation of the inhabitants'. In the days before Chief Constable Cole's full establishment of a civil police they paraded the beach in a 'particularly repulsive' manner, heavily armed with carbines, sabres and fetters. The troopers had taken immediate control of Baker's prisoners and incarcerated them in a thatched house selected by Cole at Thorndon as the main police station and lockup, and here too Smart quartered his men, along with (from 11 June) the locally recruited constables. By the end of the month Cole had a force of 16 men—half of them tradesmen—operating under him, four (including Smith, constable number one) at the Hutt site of 'Britannia' at Petone, where a number of the colonists had elected to stay. Company settlers complained that the state was providing inadequate protection for 'the security of property', but in reality their quarrel was a political one.⁸⁸

To hammer home the lesson to the Company about the illegality of its regime, the JP leaders of the military and police detachments declared Baker and Smith guilty of assault in detaining Pearson whilst also convicting Pearson for assaulting the charterer of the *Integrity*, the offence for which he had initially been 'arrested'. Baker, for whom this was the first step towards his humiliating legal defeat in Sydney, was fined £5, and his erstwhile 'constable' James Smith 5s. And the symbolic 'occupation' by the forces of the state did not finish when regularity was imposed: quite apart from regular patrolling by the Police Magistracy force nominally headed by Shortland, the inhabitants of Wellington continued to be sub-

jected to irregular patrolling by the heavily armed Mounted Police, and to the obvious presence of troops quartered in barracks.⁸⁹

This southern policing arrangement was not designed to have any permanence. Even before Robinson and Murphy reached the Bay of Islands William Wakefield had heard that Hobson planned to send them both to Port Nicholson: on Shortland's return to the capital the country was to be divided into two police districts, a northern one under jurisdiction of Chief Police Magistrate Shortland, and a southern section centred at Wellington. An unexpected event precipitated the new management system and altered it in detail. On 11 July 1840 the inhabitants of the Bay of Islands awoke to find that the French frigate *L'Aube* had arrived in port and the colonial state soon learnt that it had been ordered by its government to protect a French colonising venture headed for Banks Peninsula in the South Island. Hobson, pending official confirmation of the intentions of the French Commodore, Charles Lavaud, formulated a plan. He would, if it appeared that the French were to contest British sovereignty of parts or all of the South Island, pretend to send Murphy and Robinson direct to Port Nicholson as Chief Police Magistrate and Police Magistrate respectively. To these positions they were appointed on 17 July. Their immediate task, however, would be to pre-empt French territorial aspirations in New Zealand. Three days later Lavaud refused either to contest or to admit British sovereignty: he would suspend instructions to acquire sovereignty of portions of the South Island but remain in New Zealand waters to protect the French colonising expedition and its property until he received orders from Paris.⁹⁰

At once Hobson put his plan into operation. To remove all doubts about British sovereignty he would establish 'effective occupation' of Banks Peninsula by a device recognised in international law. The two Police Magistrates were to proceed direct to the disputed area and conduct acts of state, including holding court and mounting police operations. Robinson, a fluent speaker of French, would remain stationed in the area as Murphy's agent for all government purposes after the Chief Police Magistrate had left for permanent posting at Port Nicholson. Secrecy was such that even the two police officials were not informed of the plans until the eve of their departure. On 22 July HMS *Britomart* sailed from the Bay of Islands, its ostensible purpose being the 'conveyance of two magistrates to Port Nicholson', its real object that of pre-empting any French claims to sovereignty. In establishing the British flag on Banks Peninsula the Police Magistrates would be aided

by a small detachment of New South Wales Mounted Police. After a stormy voyage the government expedition reached the safety of Akaroa harbour ahead of Lavaud who, not seeking to proclaim French sovereignty himself, had departed the Bay of Islands at a leisurely pace, in fact five days after the *Britomart*. On 11 August, the British flag hoisted, the Police Magistrates held court at Akaroa. Conducted before local Maoris and some pakeha stockmen resident in the area and attended by dismounted police troopers, the proceedings were quickly ended in the absence of any cases to try. Similar steps were taken at the Maori settlement of Onuku and at the three pakeha whaling stations on the Peninsula, with Captain George Hempleman being in the process cautioned over the brutality of his policing of the Maori staff—virtually slaves—at Peraki.⁹¹

In the few days before the arrival of *L'Aube* and the French colonisation vessel *Comte de Paris* Murphy enrolled four local British citizens as constables in Robinson's force, and thus it was at Akaroa where the first South Island police station was set up. Amicable relations were established between Lavaud and the British authorities, and an 'arrangement' was reached whereby the Commodore would remain based at Akaroa to look after French interests but would not contest British sovereign authority. When Murphy and the police troopers left for Wellington aboard the *Britomart* on 27 August, Lavaud put Robinson up in *L'Aube* pending his establishment ashore; that day the 'arrangement' was solidified between the Police Magistrate and the Commodore into a 'status quo' agreement that was to prevail until instructions from Paris were received over the issue of sovereignty and Lavaud's role in New Zealand waters. Under the 'status quo' Lavaud would not interfere with Robinson's jurisdictions as general agent of government and Magisterial policeman; on the other hand, Robinson would not unduly antagonise the five dozen French settlers, who continued—with a handful of German immigrants—to believe that they were on French soil. When Robinson was ready to move into his Akaroa house in October, Lavaud protested that the Police Magistrate's plan to fly the British flag above it would destroy his own authority over the French. Robinson, who appreciated Lavaud's order-maintenance role amongst the French community, agreed to refrain from this symbolic act in what seemed to him a small concession, particularly in view of Lavaud's willingness to provide coercive force from his warship should the Police Magistrate require it.⁹²

This was a comforting assurance for Robinson, whose police force at the time of his move ashore numbered only a sergeant and

two constables. Although the combined permanent French, British, German and Maori population of Akaroa totalled little over one hundred, problems of order were rife. The settlement had gained a reputation for drunkenness that rivalled Kororareka's, particularly in the whalers' visiting season. When rowdiness ashore became too great, Robinson would supplement his police patrols by arranging with Lavaud for an all-night patrol by French marines. When later in 1840 his constables were resisted by four armed men when seizing illegal liquor, Robinson enlisted the support of Lavaud's forces in executing a warrant against the culprits, one of whom had to be gaoled aboard the corvette because of his 'violent conduct and bad manners'. There was disorder to suppress beyond the vicinity of the town as well, particularly at the whaling stations whose masters were reluctant to lose *de facto* autonomy over their servants as a result of state interference. In addition, Robinson's area of supervision nominally covered all of the South Island except the Cook Strait region, including equally disorderly whaling and other pakeha settlements along the Otago/Southland coastline. His requests for a magistrate and police to be stationed in Otago were not met, and thus he needed at all times to be prepared to take a policing expedition south in an emergency, particularly if pakeha behaviour in Otago threatened to precipitate interracial war.⁹³

By the end of the year it was rumoured that *L'Aube's* departure was imminent. This was a prospect that worried Robinson, not only because of the French provision of emergency policing but also because Lavaud kept iron discipline over his fellow nationals. The 'status quo' agreement had not given the Commodore exclusive jurisdiction amongst the French settlers but in situations wherein other nationalities were not involved this had been happening with Robinson's tacit consent. French violators of a set of police rules promulgated by Lavaud for his own countrymen had in such circumstances been seized, adjudged and punished aboard *L'Aube*. Perceiving the Police Magistrate's reliance upon his informal policemen to control French and non-French alike, by December Lavaud was insisting in return that the 'status quo' in actuality gave him exclusive formal right of jurisdiction amongst the settlers of the Nanto-Bordelaise Company. Robinson, ever tactful in his dealings with the man who held the bulk of coercive power in the area, decided not to make a stand until an absolute need arose for him to intervene amongst the Frenchmen. Because of Lavaud's aid with preventive patrolling and in controlling the French, he had needed to deal with fewer than a dozen appearances before his court in a three-month period.⁹⁴

Robinson's agreement with the French authorities on the spot

was an intelligent solution to his local problems of social control, and was later approved by Hobson. The Akaroa police force was the most isolated in New Zealand, and this in itself increased the Police Magistrate's dependence on Lavaud: with the cost of living at Akaroa correspondingly enormous, the problems of a police wage inadequate even for constables in the North Island settlements were greatly magnified for Robinson's men, so that police turnover was high and 'quality' low. Robinson's policies evolved in response to the realities of his situation in Akaroa; by Christmas 1840 even Murphy had yet to receive any of the official *Gazettes*, and communications with Akaroa were tenuous. New rules being formulated by the government, such as authorisation for Police Magistrates to notify each other direct (rather than via the Colonial Secretary) about escapes from state custody, might take many months to reach this farthest outpost of the state—as might the notifications themselves.⁹⁵

In Port Nicholson Chief Police Magistrate Murphy found the Company settlers still at odds with the state. Hobson's June decision not to select the town, by far the colony's biggest settlement, as the capital had been angrily denounced. They were further incensed when HMS *Britomart* finally arrived on 3 September carrying only a single government/police agent instead of the two they had been notified to expect. Moreover the Company and settler elite felt slighted at having to deal with the government through Murphy. The arrogant Shortland had been bad enough but at least was a man of 'breeding'; Michael Murphy, on the other hand, although attested by Gipps as possessing 'a very competent knowledge of the law'—he had recently updated *The Australian Magistrate*—had not long before been merely a clerk in the Ordnance Office in Sydney. When Murphy backed up his constables after several confrontations with the elite, the worst suspicions of the leading settlers seemed confirmed. After a not untypical fracas between soldiers allegedly spurred on by a 'ruffian in the police-force', and servants of a leading settler, the latter complained bitterly about the allegedly tyrannical mode of Murphy's intervention.

Yet Murphy had risen to great heights at an early age because of his 'comprehensive understanding' and his skilful abilities in handling situations involving the 'complication of opposing interests'. It was because of Murphy's immediate appreciation upon appointment in Australia of the problems which must result from the 'heterogeneous nature and peculiar circumstances of the population of New Zealand' that Hobson had chosen him for the sensitive

Wellington position. It proved a wise choice, for Murphy, despite the prejudices ranged against him, did begin to establish good relations with the settlers. Heaphy soon reported approvingly that the southern Chief Police Magistrate had attained 'gentlemanly deportment', and he noted that Company settlers 'rejoiced in their deliverance from the annoyance and overbearing authoritativeness' of Willoughby Shortland, who had left for the north in mid September.⁹⁶

Despite this, continued conflict between the state and the Company was inevitable. There was no alternative to endemic friction between the settlers, who wanted to get on to the land regardless of Maori propensity to resist, and the state, which required the most orderly system of land alienation possible. In the broad perspective then, Murphy, as the local representative of the enemy, was by extension himself the enemy—although acknowledged even by Jerningham Wakefield to be personally the least disagreeable of enemies. The best the Company and its leading settlers could hope for from him was a reduction in the amount of friction. In some circumstances Murphy's state duties precluded any chance of conciliation at all. When Hobson required tradesmen to build his capital of Auckland, Murphy was ordered to solicit Company-imported men with promises of free passages north and rent and provisions at nominal costs. Although his constables did the actual luring at immigration barracks, and there was a temporary recession and labour surplus at Wellington in any case, Murphy could not avoid the full force of Company hostility.⁹⁷

The 'Goodly Guardians of Order' in 1840

The Lieutenant-Governor had entrusted arrangements for the establishment of the capital at Auckland to the second Police Magistrate to actually practise in New Zealand, Captain W C Symonds. His name had been added to the Commission of the Peace in Sydney on 17 March 1840, the same day as had Beckham's, and Hobson in a letter of 3 April was authorised to appoint him a Police Magistrate at once. From the beginning Symonds, though nominally stationed at the temporary capital of Russell, had no specific policing duties there and acted as the Lieutenant-Governor's itinerant representative of state; Hobson did not even bother sending him the general Police Magistrates' instructions, drawn up originally for Shortland, until he was several weeks into his position.⁹⁸

Symonds was the typical early colonial official: 'good' birth, young, military background, variegated sources of income, incapable of separating public from private affairs and barely required to do so. He was on half pay from the 96th Regiment, and as antipodean agent for the Manukau and Waitemata Company he had in 1838 'purchased' the Auckland isthmus from the widow of an alleged earlier purchaser. Just prior to his appointment as Police Magistrate, at which time he was handling 'Treaty' of Waitangi negotiations for Hobson in that area, he had written to his Company's Edinburgh headquarters advising it to proceed with its schemes to colonise the isthmus. Now, as Police Magistrate, he finally persuaded the Lieutenant-Governor that the Waitemata Harbour site examined by Hobson prior to his stroke was ideal for New Zealand's capital city. Symonds set about 'repurchasing' part of the area for the government and headed the official party that took formal possession of the site on 18 September 1840.⁹⁹

As the first police official at the embryo capital of Auckland, Symonds, unable to find local constables to help supervise its establishment or ensure the 'tranquillity' of its hinterland, imported some from the Bay of Islands. Hobson secured cancellation of the Police Magistrate's recall to his regiment so that he could remain the 'eyes and ears' of the government in the area. A key initial problem was to find sufficient tradesmen and labourers to build the new town, those brought in originally from the Bay of Islands having proven too few—hence the 'raid' on Wellington. The retention of workers already on the payroll, particularly the skilled tradespeople, was a second priority addressed by Symonds. Their demand for better quality liquor, for example, had to be met in spite of severe problems of order created by alcohol. Strict police regulation of its availability was deemed necessary since drunken tradesmen meant inadequate progress. To meet problems of quantity and quality of alcohol, the founding Auckland police concentrated on suppressing slygrog sellers attracted to the area by news of the emergence of the new capital, whose pakeha population, Hobson found when he visited in October, was growing quickly. There was also increasing activity in areas such as Thames-Coromandel across the Hauraki Gulf, where there already existed established clusters of pakehas which included 'desperate vagabonds'—and where by the end of 1840 disorder and drunkenness threatened trade and race relations. Some of those seen as the 'worst characters' encouraged Maori resistance to the state in order to safeguard their own illegal activities. In early February 1841 Hobson allowed Symonds to send two constables to the Coromandel to impose order: the first outstation of the Auckland force was

thus established before the arrival of the Lieutenant-Governor and his entourage at the new capital in mid March.¹⁰⁰

On 21 July 1840, with the departure of Murphy and Robinson for the south imminent, Symonds' energies focused on the Auckland isthmus, Shortland absent in Wellington and Beckham at the Hokianga, Hobson requested permission from Gipps for a new Police Magistrate for Kororareka and Russell. He recommended Kororareka resident Arthur Edward McDonogh, and by 12 September permission had been received for this appointee to begin supervising the 'highly onerous' tasks of Woods' police force. It soon became apparent to Hobson and Shortland however that the new Police Magistrate for the 'Northward country' was not suitable for the responsibility of 'keeping the peace' in the key Bay of Islands area. For one thing, to call McDonogh's financial abilities inadequate is to put the kindest construction upon his behaviour with state funds; in early November Hobson recalled Thomas Beckham from the Hokianga in order to supersede him at the Bay. Beckham had proven himself a competent Police Magistrate: operating from Thomas McDonnell's residence he had quickly engaged constables and by October asserted Crown authority over the clusters of pakeha settlement along the Hokianga 'River'. A stern 'stickler for procedure', he would have no problems handling affairs of state, including finances, in the important Magistracy position at Kororareka and Russell.¹⁰¹

With Beckham's arrival in the Bay, McDonogh was transferred to take over the duties of government/police agent at Hokianga, where the police force that November consisted of a Chief Constable, two constables and two boatmen. As well as in excess of two hundred Europeans in the area, there were an estimated 5000 Maoris, and fortunately for the new Police Magistrate Beckham had established good relations with local chiefs. But nothing could save McDonogh from financial chaos. By the end of the year Beckham was complaining that his predecessor had taken to Hokianga moneys belonging to the Kororareka office and had refused to answer his letters on the subject; and the government was forced to castigate McDonogh for his 'want of perspicuity' in the matter of paying his Hokianga police. By mid 1842, in fact, the financial muddle of McDonogh's brief period at Kororareka had still to be fully resolved: standing accused by Woods of expropriating a constable's clothing allowance, McDonogh alleged in return that his former Chief Constable was guilty of a 'foul falsehood', even though the two had worked so harmoniously together that the Police Mag-

istrate had recommended Woods for promotion. In truth, effective control of Kororareka's operational activities had been entirely in Woods' hands both before and during McDonogh's period of nominal control: under him a police barracks had been established, and the level of surveillance over the population regularised. Woods survived charges of drunkenness levelled at him after McDonogh's departure, and in December 1840 was chosen by Hobson to become the first Chief Constable of Symonds' Auckland police.¹⁰²

Kororareka was a fast-growing town of 1000 towards the end of the year, but because of Chief Constable Woods' firm control of order within its environs Hobson was able to station Beckham at Russell, although the interim capital boasted, besides the state establishment (including troops), fewer than two dozen people. Hobson's motivation was to uphold the dignity of the state by having on hand a permanent high official at a time when the other officials were due gradually to leave for Auckland. The police boat took Beckham the seven miles to Kororareka twice weekly. Prominent Kororarekans, already for months embittered by the decisions to place the capital first at Russell and then at Auckland, were now enraged that Hobson had appointed a 'police magistrate to administer justice, and prevent crime, where there were no inhabitants to require the one or to commit the other.' In response to such protests, Hobson posted temporarily in the bustling town the final Police Magistrate to be appointed in 1840, after his arrival in Kororareka with servant and two tons of baggage on 25 November. New South Wales Governor Gipps had chosen to give this Police Magistracy position to a pious naval officer, Gilbert Francis Dawson, and it was Hobson's intention eventually to send the new police official to Wellington as assistant to Murphy. At Kororareka Dawson learnt the rudiments of policing, and his presence there enabled Beckham to continue to reside at and superintend—complete with a detachment of 20 soldiers—the government buildings at Russell after Hobson moved to Auckland.¹⁰³

In 1838 New South Wales Police Magistracy rules had standardised constables' weaponry as musket and bayonet, but the first patrol police in the new colony used whatever was to hand. New Zealand Police Magistrates, delegated operational autonomy over the discipline and organisation of their forces, ordered whatever weapons they saw fit. Before going to the Hokianga, for example, Beckham had ordered seven muskets and cutlasses and 14

pistols while the Wellington force, still New Zealand's largest although it had consolidated to around a dozen by November, was to be equipped with carbines and cutlasses. Unlike the Mounted Police—the Wellington detachment of which left with Shortland aboard the *Britomart* on 16 September—civil patrol police did not carry their arms with them at all times, normally leaving them at barracks for use in emergencies only; nevertheless Police Magistrate constables were still generally disliked by the colonial population because of their intensive surveillance activities. This feeling of antipathy was strongest among Port Nicholson settlers who saw the patrols as visible representation of an oppressive state, particularly since the southern North Island colonists were under fairly tight Company control and therefore less disorderly than those elsewhere: despite the large population, Shortland heard only 20 court cases in the first five weeks of 'occupation', a number of these left over from Baker's illegal regime.¹⁰⁴

Wellingtonians knew that the real disorder, including positive opposition to regularity, lay elsewhere in the south, particularly in the whaling settlements of the Cook Strait area which were legendary for constant 'fierce quarrels and wild orgies'. Jerningham Wakefield opined of them that 'never, perhaps, was there a community composed of such dangerous materials and so devoid of regular law'. Others went further: 'If there be Pandemonium on earth, it must be constituted by the settlement of a number of whaling gangs in the midst of a native population. The Europeans are, as a matter of course, vicious and abandoned; but they have made the natives of Cloudy Bay equally so'. These areas fell within Murphy's purview but, just as Robinson at Akaroa had inadequate resources to cover any but the Banks Peninsula whaling stations, Wellington's Chief Police Magistrate was also limited by resources and reacted to events outside Port Nicholson only in unusual circumstances. In October 1840 public pressure forced him to venture forth for the first time, to investigate the deaths of all five crew of a boat at the mouth of the Wairau River. Taking Best and some troops and constables he proceeded to Cloudy Bay where 'friendly' chiefs handed over some Maori suspects. Murphy's examination of the case concluded that the pakehas had drowned and that the prisoners had merely found and then sold goods from the shipwreck. This decision created one of the Chief Police Magistrate's many setbacks in his efforts to gain the trust of at least the significant Company settlers, for the people of Port Nicholson were convinced of the guilt of the captives.¹⁰⁵

Murphy took advantage of the expedition to investigate the state

of order in the whaling settlements of Cloudy Bay, Queen Charlotte Sound and the Kapiti coast. His reports confirmed contemporary stories of endemic drunkenness and disorder, and of ill-use of Maoris that might well lead to their concerted retaliation against the pakeha. A not untypical whaler 'appeared to have an opinion that the Natives were not human beings, and that he could do as he liked with them'; when cautioned by Murphy he replied that 'if not allowed to shoot them, probably he could mix arsenic or some thing with spirits for them'. At the worst area, Cloudy Bay, Murphy temporarily stationed two constables to impose order, the first outstation of the Wellington force apart from the Akaroa establishment. The small detachment was soon joined by Wesleyan missionary Samuel Ironside, who was active in informal policing duties amongst Maori and pakeha alike. Murphy was under strict instructions, as were all Police Magistrates, regarding the maximum number of constables he could employ. Thus although controlling the largest force in the colony he could not even temporarily send constables to control the other 'abandoned and profligate' whaling settlements. He pleaded for the speedy arrival of a promised subordinate Police Magistrate, together with provision of a vessel for the newcomer to use on patrols of the whaling areas. He also begged for immediate permission to employ extra police: one for the Marlborough Sounds, five up the western coast of the North Island in the Porirua/Kapiti/Waikanae area, two further north at Wanganui (an area about to be settled as an overspill settlement of Wellington), and two headquarters replacements for the men sent to Cloudy Bay.¹⁰⁶

But already the New Zealand state was in financial difficulties. Far from promptly providing an assistant high policemen and 10 new constables Hobson sent only a promise that a Police Magistrate would be sent to assist Murphy as soon as possible. To a further request that the southern Chief Police Magistrate be allowed to establish a specialist 'water police' for the harbour, Hobson pointed out that the swearing in as constables of boatmen currently employed by the government would entail increasing their pay: he would reconsider only when tonnage duty at Wellington could defray all expenses. Faced with logistical problems, Murphy now decided to keep his dozen policemen clustered in Wellington, available for service elsewhere *en bloc* if necessary. There were three men apiece at Petone and at headquarters (plus Cole and a Gaoler at the latter), two each at Kumutoto and Taranaki pa, one at the heads. In the event of emergencies, he could supplement his police force with the small troop detachment

which remained at Wellington, for it was the 'duty of the military to aid the civil power when called upon by a Justice of the Peace'.¹⁰⁷

Emergencies were most likely to be, of course, interracial in character. This was the possibility which haunted all state officials. In his general instructions to Police Magistrates, first issued to Shortland on 18 February (and later also to Smart), Hobson had dwelt almost exclusively on such problems. As well as acting as mediators between the two races, police were to exercise discretion in applying English and New South Wales laws and standards to Maoris. In 'all cases that admit of such a compromise', policemen were to settle disputes involving only Maoris 'according to their own Usages and Customs'. To avoid the Mounted Police stirring up enmity amongst the Maori by treating them as they had been wont to do the Aborigine, the troopers had been instructed to utilise the arrest and custodial facilities of chiefs rather than to detain Maoris themselves. Prejudice against the Maori was of course not confined to the mounted constables but was prevalent amongst the generality of pakehas, including those working-class and other people temporarily acting as policemen. From the very beginning of annexation, Maoris were arrested for breaches of British law in the streets—laws they often did not know about and would not have been able to understand in any case. Friction was inevitable, the more so following Gipps' refusal to entertain Hobson's plan to modify the criminal justice system's application to Maoris, particularly in regard to offences and disputes in which all parties were Maori.¹⁰⁸

Most police activities however were more conducive to decreasing race friction; most importantly, constables impounded wandering stock which destroyed Maori crops. Police Magistrates indeed strove hard to ensure that interracial tension was mitigated as far as possible by police actions. Soon after his arrival at Russell Murphy had requested that a constable be appointed for stationing at an important pa, the main tasks being to protect Maoris from the 'agressions of the numerous bad characters' (particularly whalers and sawyers) living in and around it and to prevent the Maori inhabitants obtaining excessive amounts of liquor—a potent source of trouble. But however thoroughly policemen were trained to transcend their own ethnocentric perspectives on life in order to defuse potential causes of strife between white and brown, general pakeha attitudes on race meant that the struggle was all uphill.¹⁰⁹

Upon his arrival at Akaroa Robinson found attitudes to the Maori, especially amongst whalers, 'truly deplorable'. Pakehas vio-

lated the persons and properties of Maoris 'with almost complete impunity owing to their superior means of aggression and defence', and some were not averse to kidnapping Maoris for slave labour, torture or sex. The captain and crew of the *African*, for example, had got away with kidnapping three Maoris—one of whom died at their hands—and violently raping a 10 year old Maori girl. Such incidents were not uncommon and if they were to continue, Robinson realised, there might well be generalised Maori revenge upon pakehas that would involve the innocent and disrupt the smooth operations of colonisation. Although Banks Peninsula Maoris were demoralised and relatively few in number, they had more powerful allies further south.¹¹⁰

The reports of the several Police Magistrates confirm Robinson's allegations that whites were mostly responsible for tensions with what were characterised in intelligence reports as 'quiet and intelligent' Maoris living in and around pakeha settlements. In October 1840 Lieutenant-Governor Hobson wrote that the 'Natives are not to be feared, indeed if I could restrain the low black guard whites from insulting them, I should never have the slightest trouble with them'. At that same time the Akaroa Police Magistrate had heard of no 'case of outrage of any description' committed by local Maoris. The 'greatest part' of his time was devoted to 'redressing their grievances' against the pakeha. Many of the latter, comforted by ethnocentric feelings of superiority, considered that if race war eventuated Maori resistance would quickly collapse before the might of British civilisation. Such lack of concern about exacerbating interracial tension was taken even further by some: race war was seen as inevitable and the sooner the showdown the better. In the long run, such appraisals were proven to be, if unpalatable, nonetheless realistic. The state however was meanwhile fully conscious that in the final analysis the numerical balance of power still lay with the Maori; at least until it could be provided with adequate coercive force, the state's prime objective was to ensure that race harmony prevailed. Police Magistrates, constricted by what Hobson had euphemistically called the 'imperfect state of our Establishment', were concerned mainly with mitigating tensions at the interface of contact between the races at the nucleated pakeha settlements. When such tensions erupted into confrontation they were forced to call upon military help where it was available and, as a last resort, upon armed settler volunteers only too pleased at the chance to crush the 'savage' (albeit an attitude rather more reflected in theory than in practice, especially if no remuneration was involved).¹¹¹

As early as 20 April 1840, only four days after the first landing of

troops—nearly a hundred soldiers of the 80th Regiment—in the country, Chief Police Magistrate Shortland was faced with the besieging of the Kororareka courthouse by 300 armed Maoris who were angered by the arrest and court appearance of one of their number on a charge of murder. They were held at bayonet point by a scratched-together force of troops, constables and ex-Kororareka Association 'police' while missionaries explained the basics of the British criminal justice system and persuaded them to disperse. This test of their acquiescence to British legal procedure ended prematurely and inconclusively when the accused died of dysentery caught in the flood-prone lockup of the Kororareka police. In following months, troops were several times called in to help break up interracial disturbances. In June, for example, they helped Chief Pomare at Kawakawa to overcome a band of European whalers in a dispute that had originated in the refusal of the latter to pay the usual reward for the return of a deserter.

At times the presence of the military ensured that the best interests of the state were served *in spite of* the Police Magistracy. Conscious of their troops' role as the final line of defence of the state, officers in charge did not always adhere to the wishes of the local political agents of the state, as an incident in Wellington in December 1840 illustrated. When a local tribal war in the Wanganui area threatened to complicate Company land claims Murphy, who as the result of assiduous wooing by the settler elite had temporarily succumbed to the local equivalent of the 'aristocratic embrace', attempted to have Best march his troops overland to suppress it. Best's excuse in refusing, that he had not been authorised by his commanding officer, was feeble, for the lieutenant in charge of the troops at Wellington had the authority to deploy his men as required. His real motivation was to avoid sparking off an Anglo-Maori war, particularly in circumstances where the pakeha was heavily outnumbered. On reflection Murphy must no doubt have been relieved at Best's stance, which was approved by the government. Hobson's instructions to the Chief Police Magistrate stated clearly that only if British property and life were endangered by tribal war was he to 'draw around you all the force you can collect'.¹¹²

Comforting as it was for the key agents of the state, the Police Magistrates, to have military aid on hand for genuine emergencies, the presence of those troops caused police many headaches. They spent a great deal of their off-duty hours drunk, and comprised a disproportionately large section of the offenders appearing before the court. Moreover because of the recruitment of troops from the lowest socio-economic levels of British society, including from the

lumpenproletariat, there were 'desperate' characters amongst the regiments from New South Wales. In the first dozen years after New Zealand's annexation, of its 98 offenders who were sentenced in the colony's courts to transportation to Van Diemen's Land a third were soldiers. When Best's men left Wellington for Auckland in early 1841 the Company settlers were at one level glad to see them go, whilst nonetheless castigating Hobson for leaving the settlement 'unprotected'.¹¹³

'Respectable' settlers were not necessarily enamoured of police behaviour either. Although most of the first policemen in the country were tradesmen, they were often only very temporary employees awaiting a chance to ply their trade and were soon succeeded in the force by men from lower strata of society. The 'new police' idea deliberately incorporated low pay for constables partly on the grounds that like was best policed by like, and a Sydney constable's pay was lower than that of the lowest paid day labourer. Even had the New Zealand state wished to make a radical break from this norm, its slender financial resources would have precluded such a move. As it was the apparently small amount of £1619 7s 7d spent on Police Magistracy constables' wages in the first year of official settlement loomed disproportionately high in state expenditure. The Police Magistrates were authorised to pay 3s 3d per day to constables, 2s 9d to sub-constables, figures which meant that even day labourers, despite being forced to sign term contracts upon entering the police, would treat the job as only a temporary one, pending better offers. In April 1840 the Russell police boat crew, engaged on contract by Shortland a month before, deserted because of low pay. The incident was treated as a strike—the first recorded in the post-annexation period—and the 'strikers' imprisoned, but the Police Magistrates were soon forced to acknowledge that threat of gaoling was no solution to problems of retention. So, soon after the founding of the colony term contracts were tacitly ignored, and then abandoned. From thenceforth, policing was often conducted by men who could not hold down even day labouring jobs.¹¹⁴

Long before the end of 1840 a clear pattern within the policing occupation had emerged. Policemen tended to be at worst marginalised individuals unable to get jobs elsewhere because of drinking or other (usually related) problems, at best unskilled labourers subsisting on police pay between jobs. Alcohol consumption was one of the few pastimes available to the colonial working class, and drinking and policing went hand in hand—even in the elite Mounted Police detachment. When Lieutenant Smart's men

in Russell missed out on their rum ration, the Governor himself had to be contacted about the 'emergency'. Of course drinking would often lead to inefficient or 'disorderly' behaviour, and so Police Magistrates watched their men closely. 'Bad, been Drunken' was a not uncommon report upon a constable, and despite shortages of recruits a number of dismissals occurred for 'repeated bad and disgraceful conduct'. Even the first police clerk in New Zealand, W C Hayes at Kororareka, did not see out 1840 in the position because of drink-related offences, and there were frequent public accusations that the police were 'doing just NOTHING which they ought to do': while they drank in public houses, prisoners escaped, night beats were neglected, 'police and other Government regulations are ill-enforced or not enforced at all'. Towards the end of 1840 the Bay of Islands newspaper was condemning 'the whole of the police department' in the area.¹¹⁵

Police indulgence in alcohol and the tensions of police life, including those flowing from subsistence-level pay, produced scenes that shocked 'respectable' people. In September the same newspaper had reported a vigorous quarrel between a Kororareka constable and his wife at the entrance to their tent: 'Truly, such are the goodly guardians of order'. In December its editor wrote of the town as possessing 'little better than a disorderly police'. Tension between police and public was in any case implicit in the function of the 'new police': through surveillance, patrol and (supposedly) example, they were expected to impose upon the citizenry state-determined standards of behaviour. Whereas 'respectable' people saw them as failing in these tasks, sizeable sectors of the working class and lumpen elements saw constables as agents for suppression of their street-orientated and public house/grogshop pastimes. After July 1840, when JPs were empowered to license public houses, there was state revenue as well as public order at stake in superintending drinking patterns. An even greater amount of police attention than before was therefore now devoted to suppressing slygrog shanties, and resistance—often violent—by grogshop proprietors and customers was frequent. The lower classes shunned those of their number who had 'betrayed' them by joining the 'enemy', a factor which itself heightened police turnover rates.¹¹⁶

Because of the high cost of living and the shortage of British subjects at Akaroa, Robinson had the gravest difficulties of all in retaining personnel. The founding policemen had soon resigned, and it was to compensate for this 'very awkward position' and subsequent rapid resignations that he had of necessity to accept policing of the town by Lavaud's men. Three of five men sent south by Murphy from Wellington were out of the force by the end of

1840, one of them the violent offender who had been locked up aboard *L'Aube*. The two remaining constables were threatening to resign because they were 'almost actually starving from want of means to purchase stores etc'. The cost of living problem of constables throughout the colony—and therefore the state's problem of retention—was compounded, particularly at Akaroa, by invariably late pay. Hobson's only concession in response to many complaints was to authorise monthly instead of quarterly wage payments, so that at least the money arrived more frequently—even if still late, often by months.¹¹⁷

Towards the end of 1840 Lieutenant-Governor Hobson did relax his inflexibility on the whole question of the low pay of constables, but in a direction calculated to benefit the state. Because of the transitory nature of police employment and the fact that the men were required to purchase their own uniforms, few had acquired them. Even those who intended remaining for some time could not normally afford the sum of £5 required, and would resign when pressure to buy uniforms was applied. At McDonogh's suggestion the Sydney system of adding threepence (3d) per day to the wages of men prepared to buy their own uniforms was adopted. To ensure that those opting for the scheme did not default by premature resignation they were obliged to contract to serve for a year, and the Police Magistrates looked forward to a certain degree of staff permanence. But because of a clerical error at government headquarters, many police signed in the mistaken belief that the daily 3d was additional to (instead of included in) the newly quoted rates of 4s 3d for sergeants and 3s 6d and 3s for constables and sub-constables (who were soon normally designated first and second class constables). It was difficult for policemen, especially those with families, to survive on the actual rates, let alone to be able to purchase uniforms; a tendency arose for men to break the contract in the only possible way, by securing dismissal for 'improper behaviour'.¹¹⁸

Hobson proved unbending on the only factor other than substantially higher wages that could have secured a degree of police stability: a willingness to depart from a fixed wage for the entire country. Policemen could survive financially in Kororareka, not in Akaroa. Colonial Office officials were conscious of the propensity for 'persons in authority in new and remote colonies' to adhere rigidly to established procedures rather than adapt to circumstances. This fault pervaded the fledgling New Zealand civil service to the detriment of police efficiency, particularly as the (imperfect) channels of communication were fraught with bureaucratic delays. These factors, combined with the chronic shortage of public funds, had

widespread repercussions. After four prisoners escaped from Wellington's flimsy gaol, Lieutenant Best refused to endanger the reputation of his troops by placing them on sentry duty over a structure so insecure that escapes were inevitable. As a result valuable police resources had to be diverted from patrol to guard duty, a state of affairs that earned for the military officer Hobson's displeasure, yet the real problem lay in procrastination over constructing suitable buildings there and elsewhere. Bureaucratic difficulties dogged all aspects of state administration in the new colony. Although at Kororareka Woods shared the government boat with the Customs Department, the latter's demands were given precedence since it was a revenue collecting agency for a state desperate for income—and to the Customs Department precedence meant in practice monopoly. At the end of 1840, after numerous squabbles, Hobson laid down regulations requiring the Chief Constable to have a written order from Beckham, seven miles away by land, before he could use the boat. Only if Customs responded to such an order with another document in writing to the effect that the vessel was already in use, could Woods hire another boat. Hot pursuit was hardly a viable option for the police of the major northern town!¹¹⁹

At the end of 1840, then, the Police Magistracy in New Zealand had been established as planned in two sections: the north, with nominal headquarters at Beckham's Russell office but based essentially upon Kororareka's sizeable force, and smaller stations at the Hokianga and Auckland; and the south, with the country's largest civil police force at Wellington, a smaller station at Akaroa and a temporary station at Cloudy Bay. By 3 May 1841, the day that the dependency relationship with New South Wales was formally severed and Hobson became Governor of the Crown Colony of New Zealand, the only change in policing distribution had been brought about by repercussions of the shift in the northern focus of pakeha population away from the Bay of Islands to the new capital at the Waitemata. Beckham, left in charge of policing in the Bay of Islands, had managed to resist relocation of some of the colony's most experienced policemen to Auckland—in particular Chief Constable Woods and Sergeant Bartholomew Hore of Kororareka—but the size of the far northern force had diminished and that of the new capital had been augmented.¹²⁰

Few of the policemen were anything other than transitory employees, either filling in whilst looking for better paid work or, because of various kinds of defects, being subject to dismissal for failing to meet certain minimum standards expected of men whose job was partly that of proselytisation by example. The outlines of New Zealand policing for much of the rest of the nineteenth cen-

tury had already become apparent: apart from a few semi-careerist constables on the one hand and ephemeral lumpen employees on the other, constables were working-class men who were unversed in policing. They had taken on ill-paid policing work between jobs, and in so doing become alienated from their own people through conducting surveillance over and attempting to impose state modes of behaviour upon them. They faced a tough pioneering society with minimal human and material resources. New Zealand had been annexed with a minimum of expenditure, and was to be policed in like manner. This was the case until several years later when various tribes and hapu took up armed resistance against the pakeha and the role of the military *vis-à-vis* the indigenous population—'to keep them in subjugation' in Bunbury's words—needed supplementing by a completely reconstituted and far more expensive form of policing.¹²¹

'The Tranquillity of the District' Disturbed: The Police Magistracy 1841-6

Crisis and Mediation in the 'Southern Settlements'

The first nucleus of pakeha settlement to be added to the areas occupied by the end of 1840 lay 127 miles north of Wellington, at the mouth of the Wanganui (or Whanganui) River. Settlers unable to be placed at rugged Port Nicholson or its environs arrived from February 1841 at the town of Wanganui (soon officially renamed Petre by the New Zealand Company, eventually to revert under pressure of popular usage to its Maori name). The Wanganui district fell under Chief Police Magistrate Murphy's jurisdiction, but he had no spare constables at his disposal—nor indeed any able to be trusted to police an area that had as yet no magistrates. While informal policing was coordinated by Company representative E Jerningham Wakefield and three other leading landowners, there was great pressure upon Murphy to establish a Police Magistracy force at the settlement. This was wanted ostensibly to keep in check the 'low' whites drifting to the area who indulged, it was said, in drunkenness, debauchery and robbery. In reality the main perpetrator of the first two factors was Wakefield himself, and endemic disorder amongst the very small number of 'rough' elements was of nuisance value only to the flourishing of trade and agriculture. The real problem was that the local Maoris disputed the occupation of some of the land. State forces of coercion, even if so small as to be mainly of symbolic import, were sought in a hope that they would indicate to the Maori the gravity of continued resistance to the occupation of the contentious Putiki lands, and to the presence of the pakeha in general. The Company and its settlers would have preferred their local leaders—soon to be designated JPs—to have had the power to appoint and control constables, but as state policy was firmly that of the 'new police' they had little choice but to campaign for the installation of a Police Magistracy system.¹

It had been planned that ex-naval officer Gilbert Dawson would

be 'Itinerant Magistrate in charge of the Whaling Stations, in Cook's Straits', but his move south as the long awaited assistant to Murphy was delayed by the need for him to superintend order in Kororareka until the focus of pakeha settlement in the north had shifted to Auckland. Subsequent delays followed, including a spell in charge of judicial and policing functions in Auckland during Symonds' absence on an exploring expedition from early April 1841. Here Hobson was not alone in finding Dawson's aristocratic arrogance insufferable and his conduct 'disrespectful'; the capital's postmaster protested at the Police Magistrate's 'violent impulses' when complaining of noise from the post office public counter which was located in the courthouse, a factor which in the end drove Dawson to 'administering justice under the canopy of heaven'. The police official's heart was not in his duties, and as soon as he perceived that a man of means could make enormous profits from land dealing Dawson requested permission to resign in order to have the freedom to travel and speculate; this was declined in view of the shortage of Police Magistrates, a decision which was to have major embarrassing consequences for the state.²

In August 1841 a temporary crisis of some substance occurred in Wanganui when settlers were forced to band together for two nights to stop sawyers and other Europeans from attacking their property. On the 19th Dawson finally arrived in Wellington, with the Governor. The latter found Company pressure for police to be stationed in Wanganui so great that he at once abandoned the idea of Dawson patrolling the whaling stations and appointed him instead in charge of government/police affairs at Wanganui. Dawson set off with a 'small attendance of constables' on a week-long journey overland. The Wellington policeman approved by Hobson as Wanganui's founding Chief Constable, John Garner, a butcher and former New Zealand Company employee who knew the area so intimately as to have gained the informal title of 'Father of Wanganui', meanwhile arrived aboard a schooner on 2 September with his sergeant, Henry Nathan. 'In my instructions it was stated that the place was full of runaway convicts and whalers, and other bad characters, which I was to apprehend and bring to justice.' So alarmist had been the reports that Wellingtonians, Garner later recalled with a degree of exaggeration, had given the founding policemen a 'fortnight to live'. As their vessel sailed into the river port the Chief Constable 'fired off two brace of pistols, to inform the inhabitants that Government had sent officers to protect them, and also to inform the runaway convicts that I had arrived; instead of those I found four magistrates and a few settlers.' The condition of 'constant riot and disorderly state of affairs' which according to

Police Magistrate Dawson prevailed amongst sectors of the pakeha population was quickly suppressed. The small number of 'disruptive' individuals, including runaway convicts, who had made their way to the settlement now moved off again, to even smaller pockets of European settlement inland and in Taranaki. Soon Dawson's constables were experiencing few problems of order on their regular patrols.³

As in Wellington the main problem relating to 'order' centred upon the attempt to avoid interracial conflict over land. The Maori denied having sold any land south of the Wanganui River, but settlers living in the swampy township on the northern bank were anxious to establish farms in the disputed area. As government policy was if at all possible to allow contested land to be occupied pending legal investigation of ownership, Dawson joined existing missionary efforts to persuade the Wanganui tribespeople to allow surveying of the disputed area. But when the southern bank Putiki people firmly drew the line at settlement, Dawson had of necessity to make clear to the Company that his constables would not be able to aid settlers forcibly repelled from land upon which, legally, they were no more than squatters. After incidents of confrontation the settlers were forced to remain on the northern bank awaiting arrival of Land Claims Commissioner William Spain's investigation—which in the event did not begin until May 1844. Moreover the government refused requests to supply more police, or any troops, lest this should give the settlers cause to succumb to temptation and attempt a martial solution to their problems.⁴

Although Dawson's options were highly limited by government policy and by lack of coercive strength, he was reviled by both the Company and the 150 pakeha settlers. His 'wishes and intentions' were characterised as those of 'intimidating-the inhabitants and thwarting the prospects of the colony'. When he fined E J Wakefield 17s for firing a salute on the sabbath, a reflection not only of the Police Magistrate's piety and his alliance with those 'informal policemen' amongst the Maoris, the missionaries, but also of the Company's own demands for order in the streets, it was interpreted as blind prejudice against the settlers. In Wellington Principal Company Agent Colonel William Wakefield conducted a campaign against the government which focused on its 'eyes and ears' in Wanganui, Dawson, the sole high official posted there. Wakefield wrote to a settler that 'prospects of Security and wealth' depended upon the 'increasing power of the Company. The hostility of the local Government must either give way or be removed'. Rumours were spread that the policies of government and the operations of

its Police Magistracy ensured that the settlers were 'not able to protect themselves against the natives'.⁵

During 1842 Dawson was preoccupied with the exigencies of his position, undertaking for example gruelling tramps to Wellington to attend quarter sessions. A year after his arrival in Wanganui he had been provided with neither clerk nor offices, and controlled all police, judicial and Maori (as Sub-Protector of Aborigines) duties from his own house. Problems were constant. As was the case with many magistrates Dawson's legal experience was limited and therefore his use of discretion, exercised in isolation from legal and policing experts, could lead to severe difficulties—as in fact it did when the schooner *Industry* was illegally seized and sent to Customs at Wellington for suspected smuggling.⁶ Such actions on Dawson's part, coupled with his openly expressed arrogance and pride, produced a climate of hostility against him: the settlers did not object to his delight in receiving displays of deference from the Maori, but resented his expectations of deference from themselves. Thus when the local elite found an opportunity to discredit the Police Magistrate, and by extension the government, it had no difficulty in arousing majority pakeha opinion against him.

On 27 November 1841, the eve of Dawson's marriage, Chief Constable Garner heard a rumour that two young brothers recently dismissed from the police force by Dawson had accused the Police Magistrate of sexually molesting them. He reported this to the Wanganui bench of magistrates, who rejected the accusation against one of their number as a 'most unfounded and malicious calumny'. However immediately the Company heard of the accusation it set about destroying Dawson's public reputation, and in January 1842 Jerningham Wakefield referred to the homosexuality charges in open court. The Wanganui magistracy had recommended that Dawson take proceedings against his accusers, but he had opted for allowing the matter to die away. Now that Wakefield had revived it, public pressure forced Dawson to lay a criminal information at the first available sitting of the Supreme Court. Although the ex-constables' story had substantially altered, a point in favour of the Police Magistrate, the judge at Wellington dismissed his information on the grounds of the length of time that had elapsed. The scandal dragged on and eventually, on the excuse of a petition with the signatures of a third of the adult male population (some of them, allegedly, fraudulently acquired), the local Wanganui JPs wrote to the government in November 1842 that they now felt 'degraded' sharing the magisterial bench with Dawson.⁷

On the surface the reasons for this volte-face by the Wanganui

magistrates were convincing: they had initially exonerated Dawson of the molestation charge on account of his social and political respectability *vis-à-vis* 'boys of unknown reputation', but they had become uneasy when he did not act upon their recommendations to clear his name. However by their own admission all that had occurred in the intervening year, apart from the petition, was that Dawson's 'uncourteous demeanour on the Bench' had rendered their relationship with him 'embarrassing and void of confidence'. The whole affair suggested a set-up but Shortland, administering the affairs of state since the death of Hobson on 10 September 1842, was primarily concerned to placate the Company as best he could pending the arrival of the new Governor. On 20 January 1843 he wrote to Dawson notifying him of his dismissal. Dawson would never be placed at the head of any other community as Police Magistrate, he was told, unless he could prove to Land Commissioner William Spain, whenever that government agent's tight schedule enabled him to visit Wanganui, that he was innocent. The ex-Police Magistrate remained in the settlement throughout 1843 and well into 1844, fighting for reinstatement and attempting to prove that the whole affair had been engineered by the Company. He demanded an independent commission of enquiry, but received neither it nor the promised investigation by Spain, whose land investigations had delayed his progress to Wanganui. The drawing out of the affair merely gave the Company and leading settlers further fuel for their opposition to government constraints upon their designs to alienate Maori land indiscriminately: newspapers publicised the dispute in great detail and Dawson was never able officially to clear his name of homosexuality, a heinous accusation at that time.⁸

Dawson's unfortunate personality had given Shortland an excuse to accept the local magistrates' stated reasons for the final breakdown in their relationship with the Police Magistrate. Their opposition was, he told Dawson, 'purely of a personal nature' rather than political in motivation, and occasioned by 'haste and want of judgement on your part in the performance of your duty', strange words in the mouth of a man himself renowned for want of tact. When Administrator Shortland was dismissed as Colonial Secretary a week after the arrival of the new Governor Robert FitzRoy in late 1843, FitzRoy confirmed Dawson's ousting as a small price to pay for the possibility of ushering in better governmental relations with the southern settlers. Whether or not the first Wanganui Police Magistrate had made homosexual advances to young constables, in retrospect Dawson's contention that the settler elite had wished 'to make it a matter of history that the Government were in

the habit of employing the vilest creatures in situations of trust and respectability' must be vindicated.⁹

By the time of FitzRoy's arrival the groundwork seemed to have been laid, at least in Wanganui, for a *modus vivendi* between the state and the Company settlers. The dismissal of Dawson (from 3 February 1843, the date of his receipt of Shortland's letter) had considerably increased the power of the Wanganui magistracy—and therefore of the wealthier settlers—for Shortland had refrained from filling the vacant position. Because of the uncertainty over land titles, the town had not flourished. Dawson had pointed out that the 'public opinion' of which the JPs had spoken was constituted of the views of at most fewer than six dozen adults. A 400 square foot gaol/lockup/police station had been built but when it was completed in February 1842 Garner had 'no prisoners to put in, so I bought plenty of potatoes and pumpkins, and filled it, excepting where I slept and had my desk'. In late 1841 Dawson had reported only a single recent case of disorder, and that was riotousness and drunkenness on the part of his own police sergeant. In such continuing circumstances the government had calculated after the removal of Dawson that the expense of a Police Magistrate could not be justified, and control of Chief Constable Garner's police was vested directly in Murphy in Wellington. This had meant in practice closer involvement in the maintenance of order by the local unpaid magistrates, particularly senior JP Samuel Popham King, a situation regularised when later in 1843 a positive decision was taken not to replace Dawson. With one of their number acting locally as government agent in charge of order surveillance, settler leaders found that state interpretations of local requirements moved closer to their own.¹⁰

While the institution of Police Magistracy was having its reputation besmirched in the lower North Island its next expansion, to the new Company settlement of Nelson in the northern South Island, had more serious ramifications: it resulted in the first post-annexation armed clash between Maori and pakeha. By later 1841 the site for the township had been chosen, and in anticipation of work and trade pakehas were drifting to it. Resident agent Captain Arthur Wakefield (brother of William and E G Wakefield) was soon lamenting that a 'host of runaways have taken up their abode' at Nelson before the selected immigrants had arrived. While acting as unofficial high policeman and securing the swearing in of constables whenever policing activity was required, Wakefield

requested a permanent Police Magistrate and police force to ensure that order and regularity would greet the new arrivals.¹¹

Convention decreed that officials, particularly those who were direct representatives of the Governor, should be of sufficiently high class. Hobson was not particularly satisfied with the calibre of some of the Police Magistrates selected by Gipps but had been forced to retain them as the pool of available men of adequate pedigree was very limited; because of this scarcity the Nelson appointment was delayed. Eventually the position of Nelson Police Magistrate, and with it 'nearly all the government offices in the gift of Governor Hobson' for that area, was given to a wealthy 26 year old who held letters of recommendation from Lord John Russell and other dignatories. The appointee was a barrister of the Inner Temple, Henry Augustus Thompson. Young men—usually 'younger sons'—of upper middle class and upper class environments seeking quick fortunes in the colonies sometimes found it hard to adjust to the rawness of colonial life, but Thompson was in a category of his own, regarded by contemporaries as not only an incompetent official but also a 'pitiful creature', 'very eccentric, with a want of self command, almost childlike'—indeed, a 'lunatic'.¹²

On his appointment at Auckland on 2 February 1842, a day after the first immigrant vessel arrived at Nelson, Thompson was told that his establishment was to consist of a clerk, Chief Constable, sergeant and two 'privates', as constables were now frequently called. While NCO pay remained at 5s per day, to attract privates the lower pay level had risen to 4s per day, although this was soon reduced to 3s 6d when adequate numbers of recruits were forthcoming. Whilst the arrival of the Police Magistrate was awaited, order amongst the newcomers was maintained by Company JPs supplementing their existing pool of part-time constables by swearing in men who had acted as constables aboard the immigrant ships. A typical sailing would have at least two—sometimes considerably more—immigrants so designated in return for a flat payment of £2 each. When he arrived at Nelson Thompson found that the usual inadequate preparations and shortage of available land had forced colonists to camp on government reserves, and in his first manifestation of 'very eccentric' behaviour the Police Magistrate ordered the squatters off the reserves and 'cried and stamped' when they refused. He was soon observed 'stamping and tearing out his hair on the smallest provocation', and being forced to operate as the 'eyes and ears of government' out of a tent did not improve his temper. Historian Alfred Saunders, who had known Thompson, later characterised his appointment as 'criminal'.¹³

Thompson expended money and inserted 'Government Notices' in newspapers without authorisation, set up a private legal practice, and like McDonogh proved himself to be 'careless' with public money: he was often reprimanded by the Governor. This is not to say that Thompson's difficulties were all self-created. Government financial frugality ensured that there was little available cash for the contingencies that inevitably arose during exercise of the policing function, and communications with the capital had first to be channelled through Thompson's nominal superior, the Chief Police Magistrate in Wellington. Initially policemen were able to contract debts on behalf of the state, but word spread that the Treasury at Auckland might well delay payments for months, perhaps years—or even dishonour them. A boat hire proprietor advertised a warning not to deal with government functionaries on credit, having discovered that Thompson had no local funds from which to pay him for services provided to the police—and many businessmen took his advice. The low salaries offered to privates and the lateness in payments (no pay at all had been received by November 1842, and after some of the backlog was cleared there was still habitual delay, with September's pay for example being given out the following January) meant that no sooner did Thompson appoint staff but they left or had to be dismissed for neglect of duty. By the end of 1842 this second biggest settlement in the colony was languishing because of shortage of land and capital, and there was a consequent rise in crime. 'Robberies are so numerous, the offenders so frequently undetected, that to speak of anything like protection from the constabulary force, such as it is, would be farcical. The benefit derived from the Police establishment of Nelson is as near zero as possible'; men of means were reportedly sleeping with firearms beside them.¹⁴

The colonists blamed their woes on the government rather than on the Company, and Thompson as government agent was generally shunned. This alienation—and his character—enabled a handful of elite settlers and Company officials, particularly Arthur Wakefield, to 'befriend' him and by flattery and cajolery persuade him that state and Company interests were compatible. Thompson was led to believe that Maori retaliation to indiscriminate seizure of land could be easily handled by the local pakeha, even though professional military help was not immediately available as the Wellington detachment of troops had long since been sent to Auckland. The first link in the chain of events that led to Thompson becoming the first (and last) New Zealand head of police killed on official duty began in October 1842, when Maoris from the fertile Motueka area complained at the Nelson Police Office that Captain

Wakefield would not pay them for their land and declared that they would therefore prevent pakehas from settling on it. Thompson gave them short shrift: if they interfered 'they would be put into prison'. Pakehas from Nelson were by then probing the northern South Island for exploitable resources, and some had settled on disputed land at Massacre (renamed Coal, later Golden) Bay. Although they had not purchased mineral resources they went ahead with lime and coal extraction, despite Maori veto, adding insult to injury by denying local chief Puakawa's people a share in the resulting trade. Thompson, enmeshed in the small, indolent social world of the Nelson elite, was in spite of his initial misgivings prevailed upon by Wakefield and other prominent settlers in November to organise a punitive policing expedition to the area, after Puakawa's men had sabotaged the limeworks and prevented mining and tree-felling. He swore in about 20 'special constables' and with Wakefield, three regular constables and others sailed to Motupipi. 'We were well armed', he recorded in his diary, and the Maoris were intimidated. In an open air 'court' he fined the chief 10s and an equal amount in costs, asserted the British state's concern for the sanctity of property, and basked in the luxury of being the hero of a landmark 'victory' against the Maori. Wakefield (who privately referred to Thompson's 'instability of temper and continued interference in trifles' but nevertheless now socialised with him a great deal) and the leading settlers were overjoyed at the precedent which had been established.¹⁵

Even Shortland was impressed and was prepared to overlook his representative's irrationality and inadequacies in order to gain respite from Company attacks upon the state. In March 1843, when the Nelson elite refused to accept the Administrator's appointee for the position of judge, this judicial function was then added to those already held by Thompson, as his powerful backers in England had urged. But the Motupipi 'victory' over the remnants of a tribe decimated by warfare proved to be Pyrrhic, giving Thompson and the Company unwarranted confidence that Maori resistance to encroachment on disputed land could be easily swept aside by a show of 'force' in the form of small numbers of armed but untrained pakehas. The Police Magistrate was now prepared to send police expeditions to arrest collectivities of Maoris, something he had balked at in the recent past. In direct proportion to the Company leadership's flattery of him, Thompson had become both a tool in their hands and outrageously arrogant—to the point of taking actions which were blatantly extralegal, such as extending the jurisdictional powers of his Police Magistrate's court.¹⁶

There occurred in April 1843 an event which had a profound

influence upon Maoris in the Cook Strait area. Late in the previous year Cloudy Bay trader/speculator James Wymen's Maori wife Rangihaua Kuika and infant son were discovered with 'their heads nearly severed from their bodies'. The temporary police station in the district had been removed, and the police vessel which Hobson had sanctioned in February 1841 to patrol the whaling areas had never eventuated. Outside the purview of whaling station discipline, missionary Samuel Ironside conducted informal investigations in conjunction with local chiefs. As a result of their enquiries they had arrested an employee of whaling master John Guard, escaped convict Richard Cook, who was clearly guilty (and later confessed). Ironside had persuaded the Maoris not to take their own form of justice against him, and Chief Police Magistrate Murphy had fetched him to Wellington and committed him for trial. It seemed as if Waitangi's promises of equal justice between the races were to be fulfilled, and Maoris from many parts flocked to Wellington in April to view a murder trial which gained added significance from the fact that Kuika had been of high Ngatitōa rank, related to the great warrior chief Te Rauparaha.

By then Murphy, who had been alive to the importance of placating the Ngatitōa, had been replaced by an incumbent to whom—along with Crown Prosecutor R D Hanson, an ex-Company man—the case was of no great moment. The establishment of guilt rested definitively with the testimony of Cook's Maori wife, who had chanced upon the murder scene. Her evidence however was ruled inadmissible after Ironside was forced to admit that he had legally married the couple, and in the absence of the presentation of further evidence—of which there was plenty at Cloudy Bay—Chief Justice William Martin directed the all-white jury to acquit the prisoner. As Ironside acknowledged, Maori outrage was justified for they had impeccable 'grounds for believing that had it been a white man who had been murdered, Cook would not have been acquitted.... They knew that evidence could have been obtained by sending over to Cloudy Bay.' Wellingtonians were loath to admit that a pakeha was capable of sex-murder and child-murder of a gravity far in excess of the crime committed by the Maori murderer Maketu, who had been hanged in Auckland with full Maori acquiescence. To Ironside, it seemed that the attitude of the authorities was that 'It was only a Maori girl'. Cook Strait Maoris, and those throughout the colony as word spread, compared Cook's freedom to flee New Zealand with the fates of Maketu and Kati before him, and their opposition (particularly that of the Ngatitōa) to expanding European encroachment stiffened.¹⁷

Armed confrontation was soon to occur over Ngatitōa territory

in the fertile Wairau plains near Cloudy Bay. Although no European land titles were valid until confirmed by the Land Commissioner, the New Zealand Company had been determined to proceed with settling the plains as an overspill of Nelson settlement—on the basis of a perfunctory purchase from a pakeha who had no ownership rights over them in any case. While survey arrangements were being made, powerful Ngatitoa chiefs Te Rauparaha and Te Rangihaeata had visited Nelson in March 1843 and given warning that resistance would greet any surveying prior to Commissioner Spain's investigation. Company survey parties nevertheless left Nelson in April, local Maoris obstructed the survey, and after the two chiefs and some followers crossed Cook Strait from the Kapiti coast in late May they did exactly what they had notified Arthur Wakefield they would do—expelled the surveyors from their territory. They took care not to harm pakeha persons or possessions, the only destruction being the burning of a 'hut built of raupo and poles put loosely and hastily together'. But Nelson opinion was enraged and Arthur Wakefield had little difficulty in persuading Thompson that he should repeat the Massacre Bay *tour de force*; a warrant was issued for arrest of the two chiefs for arson of a 'house', albeit one built with materials owned by the Ngatitoa by trespassers on their own tribal land.

Not only was Thompson acting illegally, he was also violating government instructions. He was now to all intents and purposes fully a servant of the Company rather than of the government, and ordered the reluctant captain of the official brig *Victoria* to prepare to take an armed expedition to Cloudy Bay. Accompanying the Company officials, settlement leaders, Nelson's Chief Constable Thomas A Maling (a man of military experience) and three of his constables, all of whom had their own weaponry, were nearly three dozen working men who had little choice but to serve on the expedition since their livelihood—relief employment on the roads—depended upon Company goodwill. Thompson bothered to swear in only a dozen of his expedition as special constables, although he supervised the handout by the Company of firearms to the labourers. He was supremely confident that the 'strong arm of the Law' would decisively crush Maori resistance to the expansion of settlement.¹⁸

When the two parties met at Tuamarina on the plains on 17 June 1843, Thompson took a small advance party across a river and ordered Te Rauparaha's arrest by the Chief Constable, who was burdened down with cutlass, brace of pistols, handcuffs and leg-irons. When the chief resisted, the Police Magistrate 'quite lost his senses, as he always did under excitement', attempted to make



Thomas Kendall with Hongi Hika and Waikato, 1820.



Te Pahi.



James Busby, British Resident.



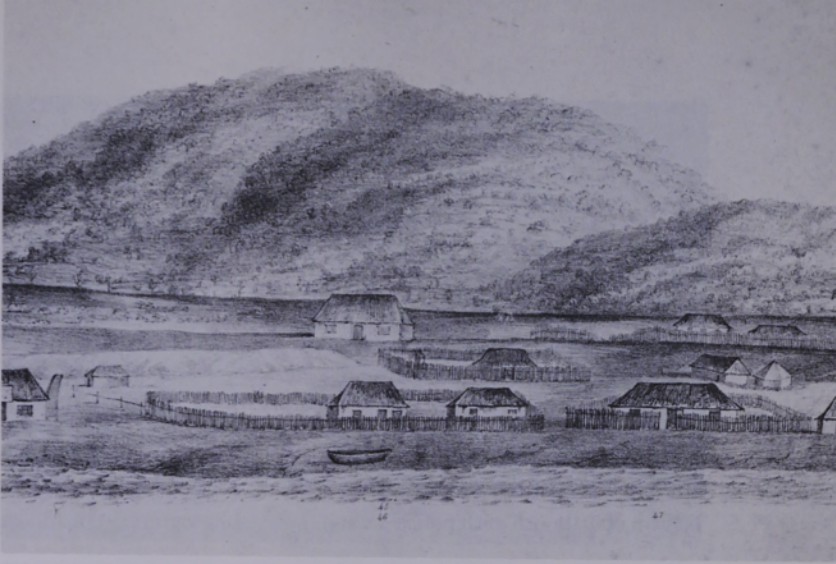
Police Magistrate W C Symonds (far left, with Ernst Dieffenbach) hearing an accusation of murder, 1841.



Thomas McDonnell, Additional British Resident.



Willoughby Shortland, founding Chief Police Magistrate.



The 'barn-of-all-work' including post office, church, court and police station (large unfenced building), Wellington 1841.



Police station/lockup built by John Garner in Wanganui in 1842.



Nelson courthouse with police lockup, 1840s, photographed in 1860s.



Lewis Stuart, Otago Armed Police Force detachment, with Margaret Stuart.



John Garner, founding Chief Constable at Wanganui.



Wanganui, September 1841 (police office above smoke).



Police Magistrate Henry King's home and the York Stockade, Wanganui, 1846.



Police Stockade, Porirua, sketched by William Swainson, 1849.



Te Wherowhero, chiefly policeman, 1847.



Te Rauparaha, sketched by John Gilfillan in 1843, the year of the 'Wairau Affray'.



E W Seager, Canterbury Armed Police Force detachment.



Henry France, Otago Armed Police Force detachment.



D S Durie, Inspector in charge of New Munster Armed Police Force.



J E FitzGerald, Sub-Inspector of Canterbury Armed Police Force detachment.



A Maori Armed Police Force constable, 1850.

the arrest himself and, 'rolling his eyes and stamping', ordered the rest of his forces to cross the river. The pakehas advanced, from their ranks a musket shot rang out, alarmed whites opened general fire, and Rangihaeata's wife Te Rongo and other Maoris fell dead. Only a few weeks earlier a policeman had recorded that in the wake of Cook's acquittal the Maoris were saying 'if it had been a Native that had murdered a Whiteman he would have been punished & if ever a Native killed a White Man after this they will not give up'. Now, with feelings inflexible on both sides, there ensued a savage battle in the course of which the undisciplined pakehas scattered when Maori victory seemed assured.

Afterwards, asutu for his wife, Rangihaeata tomahawked to death Thompson, Wakefield and seven other pakehas (including a constable) who had surrendered. As a result of the encounter four Maoris and 22 pakehas died, including 30 year old Chief Constable Maling (who crawled into the bush to die, his body undiscovered for years) and two regular constables, whilst the third constable, a special constable and two survey assistants were wounded before escaping. Te Rauparaha considered the murder of Kuika, as well as the killing of Te Rongo, avenged. Thomas Maling, John Coster and William Gardiner were the first of a number of regular New Zealand police to die in the course of battle against the Maori, and seven special constables fell with them: E Stokes, J McGregor, E Cropper, W Northam, H Bomforth, T Tyrrell and I Smith. True to form, after the battle Thompson was found to have 'a quantity of hair in one hand', which he appeared to have pulled from his head the instant before he was tomahawked. The Chief Constable's handcuffs and leg-irons were circulated from pa to pa in the North Island as symbols of pakeha intentions towards the Maori.¹⁹

It was commonly believed in the north that the Company settlers would be satisfied only with the 'extermination of the natives', and the Nelson leaders in mistaken expectation of generalised Maori attack almost welcomed the chance for a final showdown. While the man who had been Thompson's police sergeant since September 1842, George Quinlan, attempted to keep order in the streets of the township, Company arms and ammunition were issued to settlers and hundreds of men sworn in by the magistrates as special constables under the auspices of a 'committee of protection'. Similar alarmist Company-led preparations to meet an expected attack occurred in Wellington. Cool heads were few, among them radical Wellington newspaper editor George White, who lost his job for noting Maori forbearance and condemning settler alarmism. The

southern head of police, former Hokianga Police Magistrate A E McDonogh, took advantage of this turn of events to appoint White as provisional Police Magistrate at Nelson in place of the deceased Thompson. White had proven his worth to the state by acting as Police Magistrate after Murphy's dismissal, and he left Wellington with two constables on his mission to ensure that the Nelsonians did not spark off interracial warfare.²⁰

White's specific instructions were to take over all public offices in town, suspend all Company surveys, investigate the background to the Wairau affray, and report on public feeling. His arrival as representative of a state which was blocking the aspirations of the settlers was greeted with hostility, and Nelson JPs would recognise him only as a fellow magistrate—on the grounds that an Assistant Police Magistrate, McDonogh's official position, had no authority to appoint an acting Police Magistrate. This attitude deliberately misinterpreted the institution of Police Magistracy as being merely a judicial agency: White was in reality the legitimate agent of the state's legitimate agent in Wellington, and fully authorised to control the state levers of coercion. Shortland later confirmed his appointment as temporary Police Magistrate from 1 July.²¹

The Administrator nevertheless regarded White's commission as a distasteful expedient, since the ex-editor was infamous for being a supporter of Chartism (albeit of 'moral force' rather than 'physical force' variety), an atheist, an enthusiast of Tom Paine, and the first town clerk of the Wellington Municipal Corporation, itself—for some—a suspiciously 'democratic' institution. Much of this was anathema to most men of substance, particularly to the socio-economic elite firmly in control of the Nelson settlement. Conscious of his duty to the state, however, White strove to win the confidence of the settler leaders, and indeed was so conciliatory towards the local JPs that Shortland later reprimanded him for it. The interim colonial head of state left White in charge in Nelson only because of a shortage of non-Company 'gentlemen' prepared to take on the position at £250 salary, an amount considered inadequate even though it was nearly four times that received by a private. However conciliatory White may have been, nothing could alter the anti-state hostility of the Company settlers—fanned by Shortland's refusal, later endorsed by the Colonial Office, to take punitive measures against the Ngatitōa chiefs. The blame for the affray was placed by the state squarely, and correctly, upon the shoulders of Police Magistrate Thompson who, albeit seduced by the Company, had organised and led the fatal expedition.

What was most needed, the Administrator had calculated upon hearing news of the Wairau affray, was the filling of the vacant

Chief Police Magistracy position in Wellington with an official able to resist Company pressures (from both sides of Cook Strait) and willing to act fully in accord with government policy. He quickly appointed to the position an officer of the 96th Regiment who possessed considerable military and administrative experience, Major Mathew Richmond. The new Chief Police Magistrate reached Wellington on 24 July, accompanied by a detachment of troops. At once he asserted central government control by disbanding, to the fury of the settler leaders, all the volunteer units which had sprung into being under magisterial sanction. Moreover to his chagrin White was (with McDonogh) divested of his 'political' functions, which would now be firmly in Richmond's hands, and the Nelson Police Magistrate therefore found himself confined to policing and judicial matters. Even so, the conflicting pressures of his positions—state agent in Company town—soon made White anxious to relinquish the reins of office, and newly arrived Governor Robert FitzRoy, pious and Tory, obliged in February 1844 by asking him to resign. The new Governor's probable motives indicated the complexity of the position of Police Magistrates in the south: FitzRoy had already rid himself of Colonial Secretary Shortland, whom he blamed for many governmental problems, and White was seen, contradictorily, as an amalgam of Shortlandism, atheism and other unreliable ideologies and as being over-anxious to conciliate the Nelson elite.²²

FitzRoy replaced White with Nelson's Sheriff, Donald Sinclair, the JP who had led initial opposition to White's appointment. On the surface it was a curious move, particularly in view of a post-Wairau announcement that Sinclair and the other three JPs who had in the wake of the affray signed warrants for the arrest of the chiefs would not reappear on the new Commission of the Peace. But Sinclair had military experience of value for policing, was of substantial farming background and hence could identify with the Nelson economic elite, yet having previously accepted an official position was not too closely associated with the Company leadership. It was an appointment, then, which attempted to drive a wedge between Company officials and the settlement's social leaders—but not too hefty a wedge. To help counter expected Company attack on Sinclair, FitzRoy had graced him with the title of Chief Police Magistrate (even though financial exigencies dictated a salary of only £200, actually lower than that of ordinary Police Magistrates). The downgrading in status of the Nelson position under White was thereby reversed; although Sinclair was to be subordinate to Richmond, who was very soon to be elevated to heights well above the position of Chief Police Magistrate, he was

accorded the role of the 'Representative of Government at Nelson'. He remained in the position until the abolition of the local Police Magistracy in 1847, then succeeded to the newly created position of Resident Magistrate.²³

Throughout his period as Police Magistrate, charges were persistently levelled against Sinclair by Company leaders, beginning with allegations that he was a 'drunken nonentity': his drinking was 'too often discernible in his ludicrous assumption of magisterial dignity'; he took inadequate measures against the (in actuality, imaginary) possibility of Maori attacks in 1845 and 1847; he behaved offensively towards his fellow JPs by not consulting them on his police appointments; he was guilty of 'arbitrary and illegal conduct, or a gross ignorance of the law, or both'. These and other such charges were all rejected by the Executive Council. His political longevity, unusual for the key government official in a Company settlement, was doubtless because a section of influential settlers backed him throughout the Company-inspired vilification. In Nelson, as in Wellington and elsewhere, settlers had become disillusioned at the persistence of Company lies and broken promises whilst years passed and adequate, secure sections of land never materialised.²⁴

The second Police Magistracy to be established in 1842 was in the isolated Taranaki district, midway between Wellington and Auckland on the western coast, where an offshoot of the New Zealand Company, the New Plymouth Company, had established a settlement from late March 1841. Here Company officials strove initially to suppress disorder caused by drunkenness—the 'effect of the labourers having no amusements'—with ad hoc policing measures. Aboard the second immigrant ship, which arrived on 3 September 1841, was the man who as the New Plymouth Company's Chief Commissioner was charged with 'superintending the social condition'—58 year old Captain Henry King RN, who at once took stern control of the imposition of order. King remained leader of the settlement for only a month, since his Company was absorbed by the New Zealand Company and in the process he was superseded; but Hobson, who had been impressed by King's abilities to control Maori and pakeha alike, exploited the situation by appointing his fellow naval commander to the position of Police Magistrate at New Plymouth on 22 March 1842 (backdated to the first day of the year). In turn King appointed one of his fellow passengers of the voyage out, John Newland, as Chief Constable in charge of establishing a police force to control the town's one thousand pakehas

and its Maori environs. Extra help was hired when necessary, and during Maori 'scares' the JPs would swear in literally hundreds of the townsfolk as special constables.²⁵

It seemed at first as if a grave mistake had been made with the Police Magistracy appointment, for soon afterwards rumours spread that King, despite his half-salary from the Navy, had indulged in slygrog selling. Hobson ordered a magisterial investigation, at which two of the five local JPs wished to press for conviction. However new Company Resident John T Wicksteed realised that his task would be smoothed by the cooperation of a grateful and knowledgeable Police Magistrate and persuaded them otherwise. Henry King therefore resumed his official duties and the appointment emerged as a rare success story for the government, above all in the avoidance of interracial war in an area with more potential for it than any other in New Zealand. E J Wakefield had 'purchased' vast tracts of land from the handful of resident Maoris, ignoring the rights of non-resident hapu from four different tribes. When the Waikato, who had conquered Taranaki and enslaved or dispersed most of its people, descended upon New Plymouth in later 1841 their rights were in turn purchased by the government. But when that tribe, converted to Christianity, released many of its Atiawa slaves in the middle of the following year the scene was set for endemic interracial friction, for the ex-slaves, upon returning to their Taranaki lands, found pakehas ensconced upon them. Wicksteed's containment of their initial resistance by confronting them at Waitara with a force of armed specials—sworn in by magistrates who were creatures of the Company—provided no more than a breathing space before the same problems resurfaced, particularly when the trouncing of the pakeha in the Wairau affray gave confidence to other Atiawa exiles to return home to Taranaki.

The settlement's isolation ensured that the Company leaders in New Plymouth were more aware of the vulnerability of the pakeha than were their counterparts further south. Wicksteed in particular, after some early truculence fed by the fact that the local arms and ammunition stocks were in his own hands, worked closely with King to avoid a triangular hostility between Maori, state and Company. After Governor FitzRoy overruled Spain's decision that the original purchase had been valid, and confined the pakehas to a mere 3500 (repurchased) acres in and around the town, it was Wicksteed who pointed out to William Wakefield that this was based on the reality of Atiawa coercive might. All through, King played the part of conciliator between white and brown, and the absence of warfare can to a not insignificant degree be attributed to the mediatory efforts of the Police Magistrate and his men. Even

Jerningham Wakefield paid him a compliment by finding him to be no more than 'hopeless'.²⁶

Henry King's was one of the few Police Magistracy appointments that the early New Zealand state did not regret, and by the beginning of 1845 his small police establishment had survived remarkably well compared to others. It had lost the Chief Constable's position, but its initial core strength of sergeant and two privates had remained intact, partly because New Plymouth constables were needed for conveying mails and official communications north to Auckland and south to Wanganui, partly because of King's good relationship with the capital. Indeed New Plymouth, although initially a Company settlement, soon orientated itself north as well as south, a skill cultivated by the Police Magistrate. In this he was aided by the fact that his Magistracy, because of its central location in the North Island, was the first in the colony not to be placed under the responsibility of the Chief Police Magistracy at either the capital or Wellington: a third fully autonomous police district had been created. Survival of the force had also been due to government awareness of the potential danger to the social fabric from the New Plymouth working people, who by 1843 had been driven to the verge of destitution by the languishing of the local economy and the refusal of the Company to meet its commitments to the imported labour force. Although Wicksteed averted actual revolt in October 1843 by rescinding a Company decision to abolish relief works, the labourers and their families remained hungry (their payments having been minimised) and resentful, some of them forced into the 'trade of pig and sheep stealing'. King and his men kept them under surveillance, and moved fast to neutralise manifestations of crime and of resistance, particularly inclinations to attack Company representatives and property. In early 1844 four men found guilty of burgling a house were given an exemplary sentence of ten years' transportation apiece.²⁷

The final 1842 appointment to a Police Magistracy position was that of Cambridge-educated Dr Edward Shortland, 30 year old brother of Willoughby Shortland. Like Henry King, Dr Shortland was of Devonshire naval stock, and in mid 1841 he had become private secretary to Governor Hobson. In August 1842 he was appointed Sub-Protector of Aborigines, at the same time being given the title of Police Magistrate to provide him with weight in the difficult task of policing the Maori-pakeha interface from his base in the troubled area of Tauranga. In 1843 he also undertook interracial mediatory duties in the southern areas of the South

Island, including helping Robinson reconcile the Maori to the presence of the French at Akaroa. While managing not to alienate the whites, by insisting for example that property expropriated from the pakeha be returned, he also convinced a number of resistant Maoris that methods such as trampling over the garden of the Nanto-Bordelaise Company's agent were counter-productive as a means of extracting payment for lands unlawfully occupied by the French settlers. As roving 'eyes and ears' of the political executive, especially during the period when his brother was Administrator, Dr Shortland was a high policeman *par excellence*, although he had no permanent constabulary force at his disposal, making use of regular or special constables when necessary. It was doubly fitting that he should have been given a 'high police' title, for all Protectorate officials conducted policing duties amongst the Maori, reporting on their disposition and attempting to persuade them to cooperate with the pakeha—particularly in selling their land to the state—in order to avoid race war.²⁸

Policing and War in the Northern District

William Symonds, founding Police Magistrate of Auckland and Chief Police Magistrate for the northern North Island after the new town became New Zealand's capital, was Hobson's right-hand man, 'much to the disgust of the older and superior officers'. Several weeks after the Lieutenant-Governor was installed at Auckland (13 March 1841) Symonds and a police party were sent on an expedition to explore the North Island interior with surveyor and naturalist Ernst Dieffenbach. En route the police searched for outlawed pakehas living in the bush, but the major purpose of the journey was to provide accurate information to the head of state on some of the colony's most important unpenetrated areas. It was of course because the Governor relied on Symonds to such a great extent that when the latter had been recalled to his Regiment in New South Wales in 1840 Hobson had secured cancellation of the order.²⁹

On 13 November 1841 however Symonds resigned his Magisterial position in order to more singlemindedly pursue business interests, going at once to meet the Manukau and Waitemata Company's first immigrant ship, *Brilliant*, which had recently arrived in Manukau Harbour after a harrowing 10 month voyage. The newcomers had found awaiting them not a flourishing town as promised, but steep, virgin, bush-covered hills. On 23 November the

Brilliant's untrustworthy longboat sank in a squall on the harbour, and the immigrants whom Symonds' Company had cheated looked on as he battled the seas for more than an hour and then disappeared beneath the waves just short of the shore. His newspaper obituary could have been written by Hobson: 'The untimely fate of this truly estimable and highly gifted gentleman has cast a gloom over our whole community. In him were centred all the virtues which most adorn this life.' Upon his resignation from the position of high policeman it had been confidently predicted that he would soon return to officialdom, but now the government had lost one of its 'ablest and most efficient officers'.³⁰

Symonds' departure however did not noticeably alter the pattern of policing in the capital, which had since July been firmly in the control of effective head of police James Smith, Chief Constable for the Waitemata district. In January Beckham had resisted the transfer to Auckland both of his own Chief Constable and of Sergeant Hore, but had been ordered to send constables to the growing town. Among the transferees, Smith had soon been singled out by Symonds as the best leader for the small force. A 30 year old 'professional' policeman, he had been one of the two effective heads of police appointed by the illegal New Zealand Company government in Wellington. Then, after his appointment to Chief Constable Cole's force he had been sent north in late 1840 to replace the dismissed Russell gaoler, and had on 6 January 1841 also been given the title of Chief Constable at the dying first capital of the colony. When sent to Auckland within a fortnight of this appointment, therefore, he already held the rank of Chief Constable, and took over acting control of Symonds' embryo police force. Smith provided the most significant element of continuity in the early history of Auckland's police, being still Chief Constable in April 1845 when his responsibility was limited to the centre of the city only (with Chief Constable Woods, evacuated from the sacked town of Kororareka, given for almost a year responsibility for policing the capital's suburbs). Upon the abolition of the Auckland Police Magistracy in late 1846, Smith was transferred to the new Armed Police Force as a sergeant.³¹

While Symonds had been exploring the interior in 1841, G F Dawson had acted as temporary Police Magistrate at the capital en route for what was at the time planned to be the itinerant Police Magistracy around the whaling stations. After Symonds' resignation from his official position, New Zealand's founding Attorney-General Francis Fisher, who had recently been superseded in that position by a Colonial Office appointee, filled in as Police Magistrate. He was replaced at the beginning of 1842 by 40 year old

Felton Mathew, the former town surveyor of Sydney who had arrived in New Zealand aboard the *Westminster* with Woods and Smart. Pending the outcome of Mathew's appeal to the Colonial Office against supersession as New Zealand's first Surveyor-General, Hobson had offered him the position of Chief Police Magistrate at £300 per annum. Mathew's appeal was not to succeed—partly because his speculation in town lots exceeded even the copious profit-making activities of other colonial officials—and his judicial/policing regime would last for three years before he obtained long-term leave on half pay to return to Britain to seek a better position.

Of London mercantile family and possessed of stern piety Mathew, more than any other Police Magistrate in the colony, applied the idea of the 'new police' rigidly. Any impediment to the smooth commercial operation of Auckland, any irregularity in orderly behaviour, including many a working-class pastime, was to be suppressed. The first permanent capital, its police acting as urban missionaries of middle-class codes of behaviour, quickly acquired a reputation for possessing the most repressive police regime in New Zealand. This was the more so from the middle of 1842, when a steady trade downturn created unemployment and extra disorder and crime and the 'excessively vain' Mathew strove even harder to reshape the populace in conformity with his own codes of behaviour. The strictness of Mathew's control over the constables, and therefore the maintenance of a high level of exemplary oppression, was however to be somewhat mitigated as the result of the assignation of extra duties to the Chief Police Magistrate: from mid 1844, for example, those of Deputy Postmaster General, a position (noted the next Governor) that was 'wholly incompatible' with that of the Police Magistracy. When Mathew returned to New Zealand in March 1847 to take up his previous non-surveying positions—the only concession he could extract from the Secretary of State—Grey declined to reinstate those of his functions involving policing for, strict as Mathew's social control methods had been, circumstances had by then called for a military mode of control. The embittered official quickly left again for Britain, only to die en route.³²

At the time in February 1841 when government institutions began the move to Auckland, the temporary capital of Russell was still a non-town. In March when Hobson and his family and entourage evacuated the first Government House there and Police Magistrate Beckham and a detachment of the 80th Regiment moved into it,

and especially after Dawson left for Auckland, Beckham, isolated from and with no 'high police' representation at the main population centre at Kororareka, allowed Chief Constable Woods to control the Bay of Islands pakehas without a great deal of interference. When Beckham left the colony on private business between 22 May and 10 September Shortland's friend and future father-in-law, the influential Robert Appleyard Fitzgerald, acted as Police Magistrate for the north. An ex-West Indies planter, Fitzgerald had a sinecured judicial career before him, which prevented neither his participation in a famous (illegal) duel in early 1842 nor some unscrupulous behaviour including attempted blackmail of Governor FitzRoy.³³

Although Thomas Beckham was in charge of one of the colony's three principal official establishments (hence his salary as well as Murphy's was increased to parity with Mathew's at the beginning of 1842) he was not much better at the job of the high police official, of acting as the 'eyes and ears' of the state, than Fitzgerald. With Woods focused upon policing the streets of Kororareka, Beckham's intelligence sources in the general Bay area were inadequate, and more than once he misled the Governor over the state of Maori feeling in the area. This was partly because of his remoteness, at Okiato peninsula, from the mainstream of Bay of Islands life. The physical isolation of the northern Police Magistracy however ended in May 1842 when Government House burnt down, forcing him, along with the miniscule population of the former capital, to move to Kororareka. After his return from overseas he here became more attuned to the prevailing degrees of order and disorder in the region, but as government representative he was also the more fully exposed to the fury of prominent local businessmen vexed at the shifting of the capital to Auckland and the subsequent recession in the north. As was the case in the southern settlements, the Police Magistrate's personal traits fuelled the fires of opposition to the government. It had long been said that Beckham had lived at Russell so that he could indulge in 'Bacchanalian Debaucheries' in privacy, especially with a married woman who visited him from Kororareka. By the beginning of 1843 'respectable' townsfolk had scrutinised his behaviour sufficiently to bring against him charges of immorality, such as indecent exposure, and of expropriating public moneys. Without calling upon testimony other than Beckham's, which admitted only the indiscretion of a visit to a 10-pin bowling alley, Shortland rejected the accusations. Bay of Islands opponents of the government were enraged and observed Beckham's activities more closely than ever: henceforth, a permanent aura of scandal surrounded him in the far north. He

managed to retain his position partly because the efficacy of the inspection/coercion practices of his police subordinates compensated for his own shortcomings.³⁴

One of these subordinates was, in addition to being a Bay of Islands constable, also a one-man detective force in the pay of the 'convict service' of New South Wales. In October 1840 the military authorities at Sydney had employed Isaac Shaw as a constable whose mission was to travel to the Bay of Islands, the main area in New Zealand in which runaway convicts congregated. Here he was to identify and capture escapees. His position was a weighty one, carrying the wages of a New Zealand Chief Constable together with free rations; it was modelled on a year-long experiment of 1837-8 when two ex-Van Diemen's Land convicts were appointed at Port Phillip to identify and return convicts to their colony. Although ultimately responsible to the Sydney military, after disembarkation that November Shaw operated under the Police Magistrate at Russell; when not tracking down runaways he conducted normal civil police duties in the Bay of Islands area. He was in essence New Zealand's first policeman to specialise in detection work, and as such was also much in demand for tracing those who had escaped from New Zealand gaols and lockups too. All superiors characterised him as 'efficient', although his procedures were those of a convict colony policeman, picked up whilst serving as Chief Constable and overseer at the brutalising Norfolk Island penal colony. Such methods were deemed by the New Zealand government to be appropriate for dealing with those 'bad elements' who had remained in the Bay rather than follow most of the population and move to the new capital, with its closer state surveillance. Thus not only did the government reward Shaw with £2 for every capture of a runaway convict, and reimburse his travel expenses, but also it paid him for his routine police work in the Bay of Islands.³⁵

After the separation of the two colonies both colonial states kept Shaw on their payrolls, but in September 1841 acting Police Magistrate Fitzgerald dismissed him as civil constable at Kororareka and fined him £5 for assault. Shaw protested that he had been 'set up' by Kororareka inhabitants who had disliked his tough, convict-style policing, and drew attention to the fact that it was his first dismissal in 16 years of government service. Fitzgerald rejected his appeal, but Hobson reinstated him without loss of pay or leave in late November on grounds of the assessment of Beckham (who had meanwhile returned to the Police Magistracy) that the constable was 'the best in this District'. It was a good indication of the process by which the transplanting of the 'new police' system to

New Zealand invoked when necessary a certain degree of overtly coercive methods resonant of those of the Irish Constabulary.³⁶

The state was not, however, altogether at ease with Shaw's procedures. This was partly because of the danger that he might detain persons identified as convicts but who had been legally (if, often, conditionally) freed, thereby counteracting the process of legitimisation inasmuch as the law would be seen as having been violated by its supposed agent. Moreover as runaways gradually left the Bay area (a result both of Shaw's vigilance and of the lure of expanding settlement to the southwards) convict-police methods became decreasingly appropriate. Within a year of Shaw's fine for assault, Beckham was contemplating dismissing him for an incident in which policemen stripped a man naked and dragged him through the streets of Kororareka, the culmination of a 'series of assaults and gross misconduct' by Constable Shaw. In the event, deciding that results were more important than image, particularly since his local Police Magistracy's image was poor to begin with, Beckham dismissed only the other constable involved in the stripping incident. In late March 1843 Shaw received word from Sydney of his recall—the flow of returned escapees having been drying up—and departed at once, leaving behind a tangle typical of his last months in office: a prisoner suspected of being a runaway, whom Beckham released, and claims on the government for reimbursement of monies said to have been expended in state service. Within a couple of years Shaw had reappeared in Akaroa, where he was appointed Chief Constable; after his dismissal for violent conduct in that position he renewed his financial claims and was still pursuing them years later.³⁷

The permanent scandal surrounding the person of Beckham and the behaviour of his police continued to militate against the Police Magistrate's effectiveness as the chief collector of intelligence for the state in the far north. This became of greater consequence when from 16 January 1843, following McDonogh's transfer, Beckham's jurisdiction was extended to cover the Hokianga. Now the only Police Magistrate north of Auckland, Beckham was fortunate to have working heads of police who collected reliable information for him as well as keeping a tight grip upon their patrol systems—Benjamin Woods in Kororareka and Chief Constable Pierce Pierre Tuite at Hokianga.³⁸

Since taking over the Hokianga station at Horeke—an establishment later relocated to the main pakeha population centre at Herds Point (Rawene)—McDonogh had been enmeshed in further financial entanglement. He had indeed taken the October 1840 Kororareka police pay with him, and when Beckham finally

managed to prise repayment from him the cheque was dishonoured. Hobson had summoned him to Russell immediately for an explanation and had considered establishing a board of inquiry into the matter. Owing to the primitive nature of the colonial state all public money to be distributed was sent to Police Magistrates who, by virtue of being 'gentlemen' and therefore supposedly possessing integrity and ability, were paid large salaries. Defaulting officials were normally protected by closed ranks within officialdom, unless local elite opinion happened to be sufficiently virulently anti-government. McDonogh was fortunate that the only 'planned' immigration settlement at Hokianga had been that of Baron de Thierry rather than anything organised by the New Zealand Company.

So Arthur McDonogh survived—and his policemen suffered. Private Charles de Thierry, a son of the deflated 'Sovereign Chief', was for example almost certainly defrauded of £5 15s pay owed him by the Hokianga Police Magistrate in 1842. Many years later the complainant was still, in vain, attempting to extract his money from McDonogh, who had long since moved from Hokianga. As the Bay of Islands declined in economic importance with the move of the capital southwards, the more so did Hokianga. By the end of 1842 an economy-minded government could make no other decision than to abolish the Police Magistracy there and place the local police under Beckham's control from the Bay of Islands. McDonogh, on hearing rumours that his easy billet was to be abolished, attempted to save it by urging instead that his sergeant and two boatmen be made redundant, which would leave an establishment comprising Tuite, two privates, and two boatmen who could be sworn as constables. But on 11 January 1843 McDonogh was sent to Auckland, and there he was assigned to join an official expedition to Wellington: Shortland, about to visit the main southern settlement, wished to placate settler opinion by announcing the long awaited appointment of the extra Wellington Police Magistrate. In this capacity McDonogh would be able to exercise closer supervision over police in the streets, a winning point with all local men of substance.³⁹

With Tuite, who had come to the Hokianga as the de Thierry family tutor, handling the police (and post) office seemingly competently, Beckham seldom visited his outlying station—except when he felt in need of his generous travel allowance of 10s 6d per day. But after the Wairau affray, indigenous insurrection in the Hokianga (the area where a sizeable pakeha population was most outnumbered by the Maori) was feared and the government determined to reinstate there an agent of sufficiently high social

status to act as its 'eyes and ears'. Tuite, a widower with three children under eight, was not quite 'gentleman' enough to qualify, and in any case was suspected of embezzling state funds, and that August he was made redundant at short notice. With money awarded by the Land Claims Commissioner in connection with pre-annexation purchases he departed, embittered, to America. The man selected for the new senior police position was new to both New Zealand and to policing.⁴⁰

The government's problem had been to locate a person of sufficient 'breeding' to act as government agent in the area but at the same time one to whom it would not have to pay a Police Magistrate's salary. Returning from a trip to England in 1842, ex-Additional British Resident Thomas McDonnell had befriended Robert John St Aubyn, who was then about to obtain his first commission after a dozen years of service in the Royal Navy. McDonnell, fond of manipulation, had installed the fellow naval officer at his Horeke establishment. The appointment of St Aubyn, a man of lower class than most officials (his spelling shocked FitzRoy), to a policing position intermediary between NCO and Police Magistrate was seen to be the compromise answer to the dilemma. Thus on 1 September 1843, at the same salary as Tuite (£91 5s, or 5s per day), Lieutenant St Aubyn was appointed to the newly created position of 'Superintendent' of Police at Hokianga, responsible to the government via Beckham.⁴¹

Preoccupied with an accumulating set of his own problems, Beckham left St Aubyn largely unfettered. In July 1844 the northernmost Police Magistrate proved himself unable to cope with the descent upon Kororareka (to which the name Russell had been officially transferred that January) of powerful Bay of Islands chief (and son-in-law of the late Hongi) Hone Heke, whose followers seized the house of a pakeha trader with whom they were in dispute. When Beckham did nothing, the remnants of the Kororareka Association offered him their armed services under his command. He reportedly replied that 'we need not alarm ourselves, as he had arranged everything and that the Police would do their duty. I then asked him how it was the Police had permitted the depredations already committed? We received for answer that we must submit to them until he had force sufficient to protect us. In reply we stated that if he would yield to the request of the inhabitants he could find that there would be force sufficient to repel any further aggressions on the part of the natives'. Up to this point, Beckham's desire to quell any possibility of interracial conflict was in line with normal

state policy, although it infuriated local whites who were anxiously monitoring signs of increasing resistance to the pakeha by northern tribespeople.

Now, as a symbolic act of defiance against the pakeha, the dissident Ngapuhi—whose local economy had suffered after annexation, partly because they had lost the right to levy dues upon shipping at the Bay—chopped down the British flagstaff on Signal Hill above Kororareka. With widespread pakeha lament at the 'honour of my country laid low, without any attempt to prevent it', the state was goaded into action and Governor FitzRoy at once sent 30 troops to the far north. On 22 July, as part of the state's coercive reorientation in order to contain spreading indigenous resistance, he gave the principal policeman at Hokianga autonomy from Beckham. Robert St Aubyn was as a result redesignated Police Magistrate—although his salary remained the same—and ordered not only to liaise with the military but also to report directly to the Governor, who was already in the process of patching up a peace with the Ngapuhi. All the same, the Hokianga began to lose whites for whom problematic race relations had climaxed the uncertainty of economic life in the languishing far north, a state of affairs which ironically helped to ensure the temporary continuance at full strength of its police post. For the ensuing closure of the post office (St Aubyn, incidentally, losing £15 per annum salary from postmaster duties in the process) meant that privates were required in order to carry official and other mail between the Hokianga and the Bay of Islands. A subsidiary police station was established at Waimate as a staging post for the mail run, and Hokianga's privates benefited from dividing amongst themselves a 5s payment for each delivery.⁴²

Interracial relations worsened in the far north throughout the rest of 1844 and St Aubyn, schooled in the art of tactlessness by McDonnell, proved to be an unhappy choice as government agent at Hokianga at a time of tension. Indeed George Clarke, Protector of Aborigines, had reported soon after St Aubyn's assumption of the revived Police Magistracy that the new high policeman had *created* race friction in the sensitive Waima area: when a local chief reclaimed a Maori woman who had been living with a pakeha, armed constables were sent to seize her by force from the chief. With its leading policing incumbent proving to be even less competent in keeping order than Beckham and 'loyalist' chiefs, and a continuing decline in the district's importance for the pakeha, FitzRoy decided at the end of 1844 to finally disband the Hokianga Police Magistracy and its police force altogether. The area would instead be policed from Russell, whose Police Magistrate had been

enjoined 'to be careful to *keep* on the right side by prudent perseverance in *temperate* and *conciliatory* measures', at least until actual Maori attacks 'render hostility unavoidable'.⁴³

Almost at once, however, armed confrontation was on the agenda for the far north, and the new phase of resistance by the forces of Heke culminated in the second violation of the flagstaff on 10 January 1845. A government intelligence agent at Hokianga would now be required after all, and those settlers remaining in the area would need at least nominal protection by officialdom (though in reality their safety was dependent upon 'friendly' chiefs) in the event of hostilities, pending the arrival of soldiers; the decision to disband the Hokianga establishment was therefore quickly rescinded. But it was in fact Kororareka (as the town was still generally known), host to the major official establishment in the far north, which was in danger, as incidents between Bay of Islands outsettlers and the insurrectionist Maori increasingly indicated. Indeed, in mid January Heke attempted to invade Russell/Kororareka in order to destroy its government buildings, an attack averted by Beckham's deployment of the hastily armed townsfolk and of 'friendly' Maoris. 'A night patrol was kept composed of these Townspeople and Police' until 3 February, when supplemented by the reserve presence of a small number of extra soldiers able to be spared from Auckland by FitzRoy, the constables took sole responsibility for the watches. But throughout February Heke was consolidating his support all over the north and, with the important chief Kawiti about to ally his people with the 'rebels', Beckham reported on 27 February that he had 'again issued arms to the Special Constables' and intended 'privately drilling them'. With outsettlers flocking into town, an initial 110 men were sworn as specials, and on the following day Beckham noted that 'Military and Civil patrols are again established' and fortifications under erection.

On 3 March constables, boatmen and then troops from the warship HMS *Hazard* engaged in the first armed clash with the forces of Heke and Kawiti. Russell/Kororareka was 'now completely besieged, being surrounded by Armed parties of natives', but the Police Magistrate still considered that the displayed coercive might of the pakeha would preclude attack. However on the morning of 11 March, with the specials 'harassed and fatigued' as a result of 'constant drilling and labouring at temporary works of defence', Beckham was proven wrong: the upper blockhouse and flagstaff were captured by Heke. Although the lower blockhouse and the township seemed perfectly defensible, later in the day under the cover of the *Hazard*'s guns the entire white population of 400 was

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evacuated to ships which were to transport it to Auckland. The 'rebel' forces then entered Russell/Kororareka and, together with settlers allowed to return to salvage valuables (even newspapers praised Maori 'bravery as well as humanity towards the settlers'), suffered bombardment by the warship as they sacked—albeit largely for symbolic reasons, hence their sharing of loot with pakehas—what for some years had been the country's major town. Old Kororareka was virtually razed to the ground. Nearly 50 people had been killed, twice that number wounded, two-thirds of the casualties being Maoris. The humiliated civil and military officials from the far north were greeted by the government on arrival in Auckland with the refugees with anything but warmth. FitzRoy sourly noted that no one had 'dared to stick to his post' and military experts put the evacuation down to sheer panic on the part of the direct representative of the Governor—Police Magistrate Beckham—and his military advisers. Beckham, who had been in overall charge at Russell, was later 'punished' by the rejection of his claims for compensation for property lost during the destruction of the town."

In Auckland John Jermyn Symonds, 29 year old brother of the deceased Captain Symonds, had been acting as Chief Police Magistrate since 24 January 1845, following Mathew's departure for England. There had been opposition to this appointment ostensibly because of his relative policing and legal inexperience: until recently Symonds had been only an assistant surveyor before a stint in McDonogh's policing establishment. Moreover his methods proved to be such that they did not command universal respect; *inter alia* he had 'sentenced a boy to be imprisoned and whipt twice a week for rudeness to his master, but remitted the whipping at the intercession of the chief-constable.' All the same, the government was appreciative of his propping up of the McDonogh policing regime, and not averse to the vigorous exercise of condign power. It was aware too of the importance of Symonds' family connections, which were the underlying reason behind opposition to his appointment amongst ambitious rival officials. They need not have worried for at the time of the evacuation of Russell/Kororareka Symonds had put in his resignation in order to pursue private affairs overseas, and thus it was that the disgraced Kororareka Police Magistrate became from 19 March 1845 Chief Police Magistrate of Auckland. Although among the less conscientious of the Police Magistrates, Thomas Beckham was a survivor; not only had he now by accident become the leading Police Magistrate in New

Zealand, albeit a temporary appointment, but within a fortnight he had accumulated not one but two assistant Police Magistrates.⁴⁵

In the state of panic in Auckland lest it too fall to the Maori, particularly with the probable imminent deployment of most troops to the far north, FitzRoy at once sought to restore calm. He followed the collective advice of the magistrates in Auckland and regularised a spontaneous assembly-at-arms by decreeing the drilling and swearing in as special constables of all resident male adults, placing the defence organisation of the city in the hands of a committee dominated first by Police Magistrate Symonds and then by Beckham. The Governor quickly regularised this and any future such mobilisations by passing what the government of the colony had long resisted, a Militia Act. He also set about reducing turmoil in the capital by increasing its police coverage. Evacuated policemen from the Bay of Islands were retained on the payroll, and two Auckland police districts formed. From 1 April 1845 the Sheriff of the Northern Division of the colony, Percival Berrey, was appointed Police Magistrate and Gaoler for the inner area, that within a one-mile radius of Auckland's police station; here, it was said, the 'worst Kororareka rabble' were 'hanging about the town and getting drunk every day', creating a major problem of order. Under him Chief Constable Smith supervised inner city patrols by an allotted three constables, with another couple of men detailed to guard prisoners. Berrey, a more perceptive and humane person than his superior Beckham, lost the Police Magistracy position three months later once the immediate fears of invasion had been stilled, although on later absences from the capital by Beckham he was to be called back to take temporary control of the police.⁴⁶

The second Auckland district, containing most of the patrol police in the capital, operated from the edge of the central district out to a wider policing circumference than before—to the very fringe of the town's limits. FitzRoy placed its immediate supervision in the hands of an Irish 'gentleman' of means, John Watson, a friend and a protégé. Watson had been living at Russell/Kororareka and since late 1844 he had been unofficially assisting Beckham to cope with the rise of Maori militancy. This arrangement had been officially sanctioned, although without remuneration, from 28 February 1845 when Watson was designated an Assistant Police Magistrate, the first such position in the northern Police Magistracy system. As reward for his services during the defence and evacuation of Kororareka in the second week of March, Watson was placed on salary of £91 5s, equivalent to Chief Constables' wages of 5s per day, and became Beckham's assistant in policing the outer areas of the capital during the panic. After

Berrey's removal he became the immediate supervisor of all the police of the capital, and Woods continued to report to him rather than to Beckham, Watson's superior. On 27 October 1845 the Assistant Police Magistrate was notified of promotion to Police Magistrate at Akaroa—a gazetted appointment of Frederick Marshall having fallen through—with four days' notice to leave the capital. After a period of transition he was to replace C B Robinson at the head of the colony's southernmost force.⁴⁷

At £150 Watson's new salary was to be half that of a Chief Police Magistrate, £100 less than that of other Police Magistrates. This only partly reflected the declining status of Akaroa, which remained not only tiny but also decreasingly the scene of a nationalities problem as it became clearer that British sovereignty was inexorably in the ascendancy; more importantly, the expenses of putting down Heke's rebellion had led to drastic economy cuts by the state. Indeed from 1 July 1845 not only was Berrey removed from the inner city Police Magistracy in Auckland, but also the entire police establishments at Hokianga and Wanganui were scheduled to be closed down, the Legislative Council having ordered cuts in policing expenditure—one member wanting to close down the police forces at Akaroa and Russell as well.⁴⁸

While it was intended that Wanganui should be formally placed under the umbrella protection of the police in Wellington, the Hokianga fell to overall military control. Its civil affairs were officially in the hands of the new government agent in the north, James Reddy Clendon, appointed Police Magistrate—provisionally—a month after the sacking of Russell/Kororareka and at a time when Tamati Waka Nene's 'friendly' forces were skirmishing with Heke's insurgents in the Waimate area. The site of Russell was quickly reclaimed and Clendon, for symbolic reasons, held a police court there within two months of the sacking. As with Edward Shortland, Clendon had been created a Police Magistrate partly for purposes of mana in his dealings with the Maori. He liaised closely with the troops, 400 of whom arrived at Kororareka at the end of the month to quickly secure the Bay area—in the process conducting a punitive policing raid on Pomare's infamous (though non-insurrectionist) pa at Otuihu, destroying the settlement and arresting its chief. Control of the north was ultimately in the hands of the military leaders (at first Lieutenant-Colonel W Hulme, then Lieutenant-Colonel Henry Despard from New South Wales, who arrived with major reinforcements in June), but Clendon played a key role, helping them with details of the countryside which he knew intimately and acting as a go-between with 'friendly' chiefs. Although he had no constables at his dispo-

sal, there were few of the problems of order usually associated with war zones. Waka Nene and the other collaborationist chiefs policed areas under their purview, while the 'rejectionists' were scrupulously careful to avoid harming the persons and property of pakeha settlers. In any case Clendon had access to manpower, when he required it, from the British military bases.

By 25 July, with stalemate in the war after British defeats or at best Pyrrhic victories—the capturing of Ohaeawai pa only after it had been abandoned following serious infliction of casualties upon its besiegers—and troop withdrawal to Waimate mission, Clendon's position as Police Magistrate in the Northern District was made permanent. In September the British forces fell back to the site of the first capital, Clendon's original land-holding at Okiato in the Bay of Islands, but offensive operations began again late in the year at the instigation of newly-arrived Governor George Grey. After what was touted as the decisive defeat of Kawiti's forces by 1200 imperial and colonial troops at Ruapekapeka in January 1846, a peace was worked out and martial law was lifted on the 24th of the month. Europeans began to trickle back to the far north: the process of resettlement was supervised by Clendon and those of the military who remained at the Bay of Islands, initially under command of Major Cyprian Bridge. The 'occupation' troops were at first based at Busby's would-be township of Victoria at Waitangi and then from July at Te Wahapu.⁴⁹

By March 1846 the numbers of people returning to rebuild Russell/Kororareka and establish the pakeha presence in the area once more had so increased that Clendon hired temporary Maori police to keep order in the streets, pending recalled Chief Constable Benjamin Woods arriving to form a permanent force. Woods inherited upon his arrival on 1 April an atmosphere of racial antipathy stemming partly from the late war and partly from the resistance displayed by the 'low Europeans' frequenting the still semi-ruined urban area to being policed by 'savages'. Clendon had been kept busy averting clashes between the two camps. By May however the town was being 'rapidly rebuilt' and regularly patrolled. With Woods firmly in control of the main Bay of Islands centre and its hinterland, Governor Grey had decreasing use for Clendon, whom he found unreliable as a conduit for his own policies. In mid December 1846 Major James Patience, current senior military officer at Russell, was appointed to the new office of Resident Magistrate for the northern area, and was also designated as having the powers of a Police Magistrate; although Clendon continued to draw salary until the end of the financial year, from 17 December he lost control of the northern police, which carried on nominally

under Patience but effectively under Woods. The northern mode of state coercion had not completely swung back to that place on the control continuum which it had occupied before the sacking of Kororareka, and troops remained in the far north for five years after Ruapekapeka.⁵⁰

'A Complication of Opposing Interests' in the South

When Chief Police Magistrate Michael Murphy arrived at Port Nicholson in 1840 his easygoing nature soon made him a welcome alternative to the overbearing Willoughby Shortland, even amongst Company officials and settlement leaders and despite his social 'shortcomings'. But the relationship between state agent and white citizenry was complex. The interests of Company and state in terms of Maori policy remained in the final analysis irreconcilable, and bitter rifts between Police Magistrate and Company settlers—particularly their leaders—were quickly to arise. When a merchant's ship foundered, for example, the owner took it 'for granted that the Police Magistrate would, as usual, be unable or unwilling to interfere' to protect its cargo against plunder by Maoris, and a vigilante force of several dozen youths set off up the western coast to secure the wreck. Nor did Wellingtonians give any credence to Murphy's finding that the four pakehas drowned at the Wairau mouth had not been murdered by Maoris.⁵¹

Yet Murphy had known before crossing the Tasman that the role of the top policeman would be rendered vulnerable by the 'complication of opposing interests' which prevailed at any given place in the new colony. In applying state Maori policy to Wellington he was keenly aware that its origins lay in a realistic appraisal of the dearth of coercive forces available to the state, but he was also sympathetic to the aspirations of the settlers to move on to their own land as quickly as possible. This the settlers appreciated and—rarest of phenomena—Company praise followed from time to time: he was said to have the 'true interest' of the settlers 'at heart' and to be an 'active' and 'efficient' controller of the police, so much so that whenever he left town limits brawling and disorder were said to noticeably increase. Highest accolade of all, he was reportedly 'on the best of terms with Colonel Wakefield and the more respectable inhabitants' and indeed was on the controlling body of the exclusive Wakefield Club.⁵²

There can be no doubt moreover that the concept of a state-paid police force in the white enclave was highly appreciated by the

great majority of Wellington settlers; indeed the Company directors in England were to complain that their settlements in New Zealand were disadvantaged *vis-à-vis* the northern towns in police numbers, echoing southern settler demands for more patrol constables in the streets. The major strain in the relationship between populace and police was the behaviour of Murphy's constables. Insofar as the Mounted Police had helped keep down disorder in the streets there had been few protests from the well-to-do, despite all the initial complaints about their symbolic meaning. The same applied to the early activities of the Police Magistracy force. When a settler who arrived in late 1840 spoke for elite opinion in commenting that he 'never was in a more peaceable and well-ordered place than Wellington', it was a perspective blinkered by ideology: the 'tone' of the southern settlements had by definition to be 'orderly' because of the carefully 'selected' nature of the immigrants and their moral guidance by those with capital and social position. In actuality, the settler leadership acknowledged when it suited, there was much disorder to suppress. Individual members of the elite were however also prone to indulge in alcohol-assisted disorder. When, with 'disruptive elements' of the working class partially subdued after the pioneering early months of settlement, the police turned to suppressing disorder amongst the elite, the howl went up that police, tyrannical agents of a 'distant and inimical government', were exercising 'irresponsible and undefined authority, which dispensed in capricious quantities a law unintelligible to free Englishmen'.⁵³

Murphy stood by his men: their methods were rough, but no rougher than those used from the beginning towards working-class offenders against order, an attitude which led to a settler leadership campaign against him. 'It is particularly to be regretted that Mr Murphy, who had until then, given such universal satisfaction to all classes of the settlers, should have supported his constables in their illegal and annoying conduct'. The campaign against the police, and by extension against the government, included a public meeting called by local JPs which requested that the settler magistracy take up representation on the magisterial bench in order to counteract Murphy's pro-police sympathies, but the Chief Police Magistrate refused to sit with the first Company JP to claim his place. Quite apart from his personal inclinations, by dint of his role as the agent of the government Murphy had no choice but to continue to act to the displeasure of the Company. Twice in 1842, for example, he refused to issue a warrant for the arrest of Rangihaeata for preventing settlement of disputed land at Porirua,

the only area near Wellington other than the Hutt Valley to which agricultural settlement could substantially expand.⁵⁴

Despite these inevitable strains in the relationship Wellingtonians took into account that Murphy clearly empathised with settler anxiety to get on to the land. Ever since his arrival, Colonel William Wakefield acknowledged, the Police Magistrate had been his 'coadjutor and supporter in every measure I have considered beneficial to the settlement and the Company which he could, consistently with his official capacity, countenance'. Thus, in early 1842, the Principal Agent of the Company offered Murphy the position of Resident Agent in New Plymouth, where local settlers welcomed the prospect of such an 'active, intelligent, gentlemanly person' representing the government at their settlement. Murphy however declined, continued to oppose the Company where necessary, and within a year was to join Dawson in being drummed out of office by pressure from the southern settlers' leadership. He had been the easiest target for Wellingtonian wrath with a government which seemed continually to neglect the colonists' interests; which had not only prevented their unchecked encroachment upon Maori lands but had also, in February 1842, withdrawn Lieutenant Best's two dozen-strong military detachment to Auckland.⁵⁵

Thus it was that in January 1843, during Administrator Shortland's conciliatory visit to Wellington, Company leaders ensured that the Dawson scandal was complemented by one of even more serious impact. For some time rumours had been circulating about the Chief Police Magistrate's private life, and these were now passed on to Shortland. The campaign of vilification against Murphy had begun with an allegation that he had cheated at cards when gambling in the Wakefield Club; he was expelled by a ballot of its members even though there were grave doubts as to the veracity of his two accusers. Although partisan, one newspaper's comment in exonerating Murphy from the charge has withstood the test of time: 'we scarcely ever recollect to have met with a person more punctiliously honorable in all pecuniary transactions'. All the same, in this situation of power rivalry Murphy, like other Police Magistrates, gave his opponents ammunition for their battle to discredit the state. Although he probably did not cheat at cards, he did 'cheat' on one of his constables, whom he sent out night after night on patrol duty—so that he could join the constable's wife in bed. The constable discovered the affair and administered some corporal punishment to his superior officer. When word of the incident leaked out it was worked on by the Company leaders: Wellington JPs refused to sit on the bench with Murphy, attempt-

ing to force him to resign, and on 20 January 1843 Shortland was apprised of the situation.⁵⁶

The Administrator realised the pressures to which his agent of government was subjected in the south. Nevertheless in his search for a *modus vivendi* with the Company he ordered Murphy to resign, although to avoid a 'painful and now needless investigation' he allowed it to be done on the grounds of another (accurate) rumour that the police official had employed a constable on non-public business. Shortland then tried to appoint the disgraced Police Magistrate to the position of clerk of the Nelson Court, a demotion to the position Murphy had held at Parramatta but one that still implied state trust in his integrity and ability. These plans were sabotaged by opposition from Nelson's Company leadership, and Murphy was instead given a temporary government clerkship in Auckland at Chief Constable's wages. But his humiliation at 'irretrievable disgrace' followed him north, and he soon resigned—to die in foreign parts in 1852 at the age of 36 while working as a ship's purser.⁵⁷

While casting about for a successor who could stand up to the Company, Shortland had chosen George White as a temporary Police Magistrate. In view of White's radical propensities this appointment could only have been of temporary nature, and at Auckland in mid March ex-Hokianga Police Magistrate Arthur McDonogh was appointed Assistant Police Magistrate for Wellington, where he would be in sole charge pending the Administrator's location of a Chief Police Magistrate able to conduct Wellington's affairs without disgrace to the state. McDonogh, Shortland knew, was not the perfect choice for the position of key state agent in the south because of his financial unreliability. Nonetheless later that year during the Wairau panic McDonogh—still in charge—did a great deal to lessen the chances of interracial tension being converted into open war of conquest by Company leaders desperately attempting to counteract the effects of the realisation by its immigrants that the New Zealand Company would never live up to its contractual obligations to them. He calmly assessed from his intelligence sources that there would not be any attack on Wellington from the Kapiti coast headquarters of Te Rauparaha and Te Rangihaeata, although to contain the dangerous martial propensities of the whites he sanctioned the establishment of policing/military corps among the adult males pending the arrival of troops for whom he had sent.⁵⁸

That McDonogh as yet had no superior was partly the result of a

thorough re-examination of the colonial administrative system by the Administrator, Willoughby Shortland. There had been some streamlining in 1841 when New Zealand separated from New South Wales, so that for example depositions no longer had to go to Sydney. But in essence the status quo had at that time been retained, the six existing Police Magistrates (W Symonds, Murphy, Beckham, McDonogh, Robinson and Dawson) having merely been redesignated as servants of the new colony. The Police Magistrates Ordinance of 1842 had done little more than extend the judicial powers of the incumbents. In response to the ad hoc evolution of the system, in May 1843 Shortland submitted for approval a new plan to the Secretary of State: 'Each District shall be under the management of a Chief Police Magistrate' who would for large or populous areas be aided by an Assistant. For the North Island ('New Ulster', an administrative division later altered to contain only the northern three-quarters of the North Island) Chief Police Magistrates would be based at Russell, Auckland and Wellington (Northern, Central and Southern Districts), Assistant Police Magistrates at New Plymouth (Western District) and Wellington, with scope to expand to an Eastern District. His South Island ('New Munster', a name later to expand to include the southern quarter of the North Island) agents would take charge of the 'Northern' (Nelson) and 'Eastern' (Akaroa) Districts. The scheme would regularise a hierarchy of command, whereas hitherto secondary state agents of whatever designation had tended to accumulate something approaching quasi-autonomy from their nominal supervisors, the Chief Police Magistrates. In the event a different pattern of regularisation emerged, but this too had the desired concept of hierarchism inbuilt.⁵⁹

Shortland had for some time intended that Major Richmond should become Chief Police Magistrate for the southern regions, hesitating only because the leading settlers would distort the significance of a military officer, even one of Richmond's administrative experience, being appointed government agent at Port Nicholson. But in the aftermath of Wairau the occasion was perfect, and Shortland even departed from normal gazetting practice of taciturnity to declare that he had made the appointment because of the 'excitement which prevailed in the Southern District'. Richmond's appointment on 15 July removed from the Nelson and New Plymouth Police Magistrates their roles as direct representatives of government: they were, said Shortland, now responsible to Richmond, 'to whom alone I delegate any power to act on Political questions'.⁶⁰

When the new government agent arrived in Wellington on

24 July he found McDonogh under siege from settler leaders urging reprisals against chiefs Te Rauparaha and Te Rangihaeata. It quickly emerged that the powerfully positioned Richmond was even less likely to succumb to pressure than had been his Assistant—he at once disbanded the volunteer corps—and he too was therefore ‘mercilessly pilloried’, his name blackened by unfavourable comparisons with even the disgraced Murphy. But neither then nor later could the settler leaders find any personal defects in Richmond which they could use to discredit him and therefore the government; the most damaging accusation that could be levelled against him was that he was the ‘shadow of Mr. Shortland’s own shadow of Royalty’, just an ‘obsequious friend’ of the acting Governor, a dull official who followed instructions to the letter.⁶¹

Dr Martin’s acidic comment that every southern Police Magistrate regarded himself as the direct ‘representative of Sovereignty’ seemed reinforced by Richmond’s elevation in March 1844 to the position of ‘His Honor, the Superintendent’ of the newly created Southern Division of the colony. Yet it was the Company in London which had agitated for the creation of two political divisions in New Zealand, the southern to be centred on Wellington and to be as autonomous as possible; in authorising FitzRoy to create such a scheme upon his arrival the Colonial Office had succumbed to Company pressure and ignored the scheme worked out by Shortland in May 1843. The problem for the Wellington Company leadership however was that FitzRoy did not prove amenable to appointing one of their number to head the new political division—nor even an official deemed sympathetic to their aspirations. The new Governor, finding Richmond absolutely reliable and attuned to official perceptions of order and regularity, elevated him to the £600 per annum position of Superintendent, subject (unlike Police Magistracy appointments) to Crown approval. Even more than other representatives of state in the southern settlements, Richmond was the object of sustained vilification, a public reference to ‘the Major’s slut’ being one of the less impolite invectives hurled by those within the Company milieu.⁶²

Superintendent Richmond was the supreme personal agent of the Governor throughout the entire Southern Division, which covered the bottom quarter of the North Island and all of the colony to its south, his powers thus superseding the quasi-autonomous powers which other government agents in the area had been accumulating. All Police Magistrates in the Division, including Akaroa’s Robinson—who had in May 1842 won the right to report directly to the Governor because of communications delays—were now

directly responsible to Richmond alone. In situations calling for immediate action the Superintendent was authorised to act in an executive capacity without reference to the Governor, although his coercive and financial resources were relatively slender. When Richmond later came to stand up to Grey his usefulness to the Governor, in the role of what was essentially a Police Magistrate who possessed in addition a degree of executive discretion, came to an end; on 19 November 1847 he was sent as 'Superintendent' and Resident Magistrate to replace Sinclair and cover the Nelson area only.⁶³

Richmond's appointment to the Superintendency of the Southern Division in 1844 was accompanied by McDonogh's promotion from Assistant to Chief Police Magistrate. Until then the latter had survived financial embarrassment because Richmond, as Chief Police Magistrate, had untangled the mess in which he had found the public funds when they had been handed over to him by McDonogh, and then ensured that his pecuniarily incompetent assistant had no further control over them. But with Richmond concentrating on his duties as Superintendent, McDonogh's 'deficiencies' as Sub-Treasurer, a position which accompanied the Chief Police Magistracy, had by 1845 become glaringly apparent. By early February he was unable to pay the government £150 which he owed it because he had gambled the sum away, and the Governor decided to get rid of him in a fashion which would avoid yet another public scandal: the Executive Council notified Richmond that from 31 March 1845 his office of Chief Police Magistrate would be abolished.

McDonogh had been propped up in recent months by his devolution of a great deal of his paperwork to J J Symonds, who had on 5 January 1844 been appointed 'additional Police Magistrate for the Southern District of New Ulster and Cook's Strait'—in effect the itinerant Magistracy covering whaling stations and other areas outside Wellington for which Murphy had agitated three years before. As the appointment did not however include the provision of a vessel Symonds tended to be Wellington-bound, more particularly so after his superior officer's elevation in mid year to the position of Chief Police Magistrate enabled McDonogh to hand over to him the entire day-to-day control of the urban area. The farthest Symonds now generally went was to the Hutt on a weekly trip to hold court and check the local state of order.⁶⁴

Indeed Symonds' only extensive journey from Wellington was as government representative aboard the New Zealand Company expedition headed by Nelson surveyor Frederick Tuckett which investigated sites for a Scottish Wakefieldian settlement. In July

1844 it purchased a tract of land at Otago on the south-east coast of the South Island. The Company leaders were already by then enraged about Richmond's appointment as Superintendent, and disparaged the government's motivation in insisting that Symonds and Protector George Clarke accompany the expedition. When the Company propaganda machine directed its attention to Symonds it was helped by his 'certain supercilious taciturnity of demeanour towards the public', and his presence on the expedition was later to be sneered at for allegedly having the unnecessary purpose to 'forbid any proceedings calculated to provide a Breach of the peace' amongst those on the voyage. However the Company's resentment of the officials' presence was not because it was superfluous but rather because they demanded that the purchase be conducted in such a clearcut manner that there could be no future disputes with the Maori over it. Thus Symonds and Clarke insisted on taking Colonel William Wakefield on a fortnight's trek through the snow in order to properly delineate the southern boundaries of purchase.⁶⁵

The Additional Police Magistrate's role in averting current problems of order in Wellington and potential disorder in Otago was crucial; this and his tight control of the public purse strings while McDonogh gambled away his own and others' money won Symonds the approval of the government officials in the capital (if not of the Company, which reviled him with accusations of dishonesty). When at the beginning of 1845 Mathew left his Auckland position on a year's leave Symonds' 'good conduct' was rewarded with the temporary Police Magistracy in Mathew's stead. McDonogh's total collapse was inevitable as soon as Symonds went north, but he managed to struggle through until his appointment was terminated and then to secure the position of captain and adjutant of militia: for all his personal faults, he had expert knowledge of the mechanisms of coercive social control. When the militia unit disbanded six months later McDonogh was forced to go on to half pay—equivalent to full-time remuneration for a private—and eked out a shaky existence (for a 'gentleman') until securing a leadership position in Grey's Armed Police Force.⁶⁶

Beset by difficulties in the north after the sacking of Kororaraka, less than a fortnight before McDonogh's exit from the Chief Police Magistracy FitzRoy made a dramatic attempt to diminish Company-initiated sniping at his policies. The abolition of McDonogh's post as Chief Police Magistrate had been a mere device to divest the state of the incumbent, and it was to be replaced by an ordinary

Police Magistracy carrying out identical functions. Given Richmond's firm control of the Southern Division on behalf of the state, FitzRoy now considered it sufficiently safe to appoint a local settler to the position, one of the members of the Company's 1840 'provisional government', Henry St Hill. Born into a military family, the appointee was considered to be of high 'character and social standing', and in the minor position of Sheriff since 1843—itself a placatory appointment by Shortland—he had proven a capable enough administrator.⁶⁷

It was a risky experiment for the state, since many of the southern colonists had long since turned against the New Zealand Company, whose colonisation strategy had been clearly revealed as based upon false premises; because too working people expected from such an appointment, correctly as things turned out, a policing/judicial regime which discriminated in a blatant fashion in favour of 'gentlemen'. Moreover Richmond had already characterised the new Police Magistrate as a 'hothead' among the elite settlers. When warfare finally broke out with the Maori, indeed, St Hill was to identify with the ruling stratum and tended to unnecessarily raise the temperature of the generality of pakeha inhabitants; with news of the May 1846 attack on a military outpost at Boulcott's Farm in the Hutt, for example, in conjunction with local JPs St Hill ordered out all available militia and landed small-arms men from HMS *Calliope* in order to patrol Wellington at night. Richmond, at the scene of the hostilities, was furious at these tension-heightening moves but this did not prevent St Hill from indulging in further, more manifest, displays of non-confidence in the Superintendent and in state policy.⁶⁸

Mathew Richmond also had problems of control over the state representative at Wanganui. After Dawson's removal in 1843, overall local control of order had devolved upon the senior JP in the area, wealthy landholder Samuel King who, as Wanganui's *de facto* Police Magistrate, was the first unpaid controller of an official police force in the colony. Although quarrelsome and apt to be 'careless' with money belonging to others, he had appeal to FitzRoy because of his willingness ('cheerfully') to carry out government duties without remuneration; in such circumstances there could be little more than nominal control from Wellington. When in 1844 King finally requested payment for policing duties, which were occupying a significant amount of his time, Superintendent Richmond suggested that the Hokianga precedent of a 'Superintendent of Police' be repeated at Wanganui and the position given to King.⁶⁹

That September however, after St Aubyn's acquisition of the

title of Police Magistrate at the Hokianga, King was given the same title and salary, backdated to 1 April. This upgrading of the Wanganui area's policing status resulted from its vulnerability in a period of worsening race relations: indeed later in the year Symonds and other officials were investigating for the government the possibility of the settlement being abandoned altogether. By early 1845 Police Magistrate King was creating problems for Richmond, partly as a result of his handling of public funds, partly because his detestation of the working class led to employment difficulties with his constables; such problems added weight to FitzRoy's inclinations to abandon the stagnating settlement as being more trouble than it was worth. After Richmond was forced to intervene to ensure dispersal of a visiting Taupo war-party—an incident in which interracial bloodshed might well have occurred had HMS *Hazard* and its cargo of troops not been blown southwards away from Wanganui—the Governor decided to withdraw the official presence from the town in the hope that the pakeha residents too would abandon it.

This many had no intention of doing, and to retain at least a modicum of legal coercive muscle King attempted to strike a bargain: he would stay on as unsalaried Police Magistrate, but on condition that he have a private at his disposal as constituting the Wanganui police force. But meanwhile the townsfolk, fearing an attack by sympathisers of Heke and Kawiti after the sacking of Kororareka, clamoured for substantial protection and forced the head of state to rescind his decision. When however Wanganui was again seen to be safe from attack FitzRoy reinstated the plan to remove the Police Magistrate's position, although extending its life until the end of September in deference to the financial sacrifices which King claimed he had made on behalf of the state. The locals were infuriated at the renewed determination to abandon the official machinery at their town, particularly when, in response to a declaration by Wanganui JPs that they would not take over control of the police gratis, the government notified that the depleted state of the Treasury's resources required the withdrawal of constables' pay as well. Local dignitaries established a contingency plan for a 'Kind of democracy', to handle problems of order by vigilante policing, and portrayed official abandonment of the settlement as capitulation to barbarism.

The state buckled under such pressure—little could be more resonant of state 'betrayal' of its citizens than withdrawing a policing regime in such circumstances—and renewed King's appointment, but at the greatly reduced pay of 2s 6d per day. Earning a

salary-equivalent of slightly more than £45 per annum and controlling a minimal police force, Samuel King had again broken new ground. He was now the colony's first, and only, part-time Police Magistrate, a temporary arrangement that in the event was to persist. When fighting broke out at Port Nicholson in March 1846 King requested a troop detachment but this—nearly 200 men, greatly swelling the small population—was not sent until late in the year. Meanwhile the Police Magistrate had attempted to take precautionary measures such as mobilising the male townspeople as armed special constables and even by posting 'friendly' Maori warriors at each house to garrison the town.⁷⁰

The circumstances surrounding the end of King's Police Magistracy in March 1847 indicate some of the problems created by his appointment. It had been troops and a detachment of Armed Police, the new type of force at that time superseding Police Magistracy forces throughout the colony, that had been providing local security for life and property. King's coercive force had been reduced therefore to a single part-time constable, basically to attend to court-based police duties. When the Police Magistrate, still unable to find any rapport with subordinate staff, dismissed his long serving policeman the officer commanding the local troops, Captain J H Laye, declined to spare him a soldier to act as constable. Feeling between the two men rose when King, being anxious to regain full control of Wanganui affairs as head of the local civil official establishment, attempted to announce, prematurely in Laye's view, the imminent end of martial law in the area. Richmond, then Grey, supported Laye's judgment and abolished King's post, a move which was in any case imminent with Armed Police Force and Resident Magistracy institutions replacing Police Magistracies as a matter of government policy. In the normal course of events however King could have expected appointment to the successor post of Resident Magistrate (which did not carry operational control of the police); instead, it was given to Laye.⁷¹

In Wellington Henry St Hill was fortunate enough to survive the 30 April 1847 transition from Police Magistracy to Resident Magistracy, partly because of the greater importance that the state attached to maintaining good relations with the local elite, partly because Grey's tactics for that area had become as hard line as the views of the settler leaders. By the end of the Crown Colony period St Hill had become Grey's 'sort of Official Jack of all trades' in Wellington, although he could hardly be said to have fitted the job description for Police Magistrates—drawn up by the Colonial Office after it heard about Henry Thompson's provocation of the

battle at the Wairau—which stressed the need, above all, for good sense.⁷²

The only one of the Police Magistrates who both served for any length of time and also exhibited what the highest state officers in the land regarded as good sense and wise discretion throughout was the young barrister Charles B Robinson at Akaroa who, although complaining the while of insufficient salary, stayed at the isolated post from 1840 to 1845. Contemporary observers paid frequent tribute to his intelligence, and he was sensible enough to realise that order and regularity in the peculiar circumstances of Akaroa required 'tact and impartiality' between the French and the outnumbered British, particularly given the paucity (sometimes absence) of constables. In December 1841 Hobson gave singular praise to a Police Magistrate in stating that every measure taken by Robinson 'meets with his Excellency's entire approbation'; the Colonial Office agreed with the assessment, and even the New Zealand Company's journal lauded him for his 'conciliatory spirit' towards the French.⁷³

Official approval of Robinson was a result partly of circumstances: alone of the Police Magistrates he had few townspeople to control, for Akaroa never approached the size of even Wanganui, whilst South Island Maoris were few, scattered and dispirited. More importantly, perhaps, there were no other significant persons—except in the French leadership—on hand and very few ever passing through to verify the accuracy of his reports. Murphy might well have considered the exemplary behaviour which they revealed to be suspect: he certainly declined, when he was Robinson's superior, to pass some of them on to Hobson. When more than a decade later politician Henry Sewell visited Akaroa, he reported that the inhabitants universally regarded Robinson, by then a wealthy businessman operating various entrepreneurial schemes, as 'dangerous and mischievous'. All the same, a man whom Robinson had sacked from the police for 'slovenly' work could find few Akaroa people in 1845 willing to sign a petition for the Police Magistrate's recall. Although this was possibly because townspeople feared running foul of a government agent whom no one seemed actually to like, it was more probably due to his efficiency—particularly as embodied in his compact with the French—in keeping the isolated community viable.⁷⁴

Whatever the situation, the state placed total trust in Robinson's ability to keep order throughout most of the South Island, and in 1843 both Colonial and Foreign Offices approved a Shortland

recommendation that accordingly he be promoted. Instead, in the event general financial cuts in 1844 included a one-fifth reduction in his salary to £200. When promotion was next discussed, in early 1845, it was merely as an offshoot of further, greater cuts. With the whaling industry having already begun to decline, it was decided at this time that the Akaroa Police Magistracy should be disbanded. In its place was to be a single unpaid constable 'in charge of the British Colours', while Robinson would serve under Wellington's Chief Police Magistrate and ultimately become Police Magistrate at the Scottish settlement of 'New Edinburgh' being planned for the Otago area.⁷⁵

Robinson however had not only already decided to return to England to undertake business ventures but also considered an order to serve even temporarily under McDonogh an insult. He discharged his men as ordered, authorised wealthy runholder George Rhodes to 'act as constable' (although not to hoist the British colours, the flag having disintegrated), and requested permission to remain in his Akaroa position until he left the colony. But he warned of bloodshed at Banks Peninsula if the removal of regular police were permanent: local Maoris who had been waiting for years for payment for their land were beginning to agitate as reports of Heke's incipient rebellion arrived. Further trouble loomed as the Nanto-Bordelaise Company agent on the spot took advantage of the government decision to withdraw its coercive force from Akaroa by 'purchasing' (in face of Robinson's protests) the northern half of Banks Peninsula.⁷⁶

On 3 March 1845 Robinson received word that the government decision to close its Akaroa and Wanganui establishments had been rescinded, consequent upon fears that Maori rebellion would spread through the colony as a result of events at the Bay of Islands and in particular that its intermixture with the French and the whalers at Akaroa might prove an explosive combination. Robinson was reprieved and his police force of NCO, two privates and two boatmen reinstated. However in mid July he gave notice of resignation: 'Neither the state of my health nor of my purse permit me to remain in New Zealand'. Although Akaroa pioneers later asserted that Robinson had held 'almost a sinecure', undoubtedly his isolated position had imposed strains which were in one sense relieved but in another sense intensified by the French complication. Certainly the foreign warship provided welcome coercive backing to the local agent of state, but problems had ensued when Shortland proved less willing than Hobson to pay the price, such as tolerating French whaling within the three-mile limit. Moreover in early 1843 Lavaud had been replaced as French government repre-

sentative at Akaroa by Post-Captain A Bérard, who was less amenable to the 'status quo' agreement. After Bérard threatened to use coercion to ensure that French whalers could fish inshore, a crisis was averted only because most of them headed in 1843 for the North American coast.⁷⁷

Opposition by whaling masters to state-required norms of behaviour had also made Robinson's job difficult, as illustrated by a mid 1843 incident involving the infamous William ('Paddy') Woods of Oahau. The whaling master had seized an American whaler fishing inside the three-mile limit, and had assaulted a constable sent by Robinson to instruct him that he could not take the law into his own hands. The Police Magistrate, to provide an example, arrested and sent Woods for trial in Wellington. As a result however of a technical deficiency in the arrest warrant due to out-of-date forms being used Woods, 'lawless brutal and violent in the extreme . . . the constant object of terror or disquietude to both Natives and White men', was set free to further disrupt the order and regularity of Banks Peninsula—and to harass Robinson by suing him for £1000 for false gaoling.⁷⁸

FitzRoy regretted the pending loss of Robinson, an 'Officer so discreet and thoroughly efficient'. Although in late September 1845 he finally promoted Auckland Assistant Police Magistrate John Watson to the Akaroa position, he delayed the changeover date to 1 January 1846 to ensure Robinson time to effect a smooth transition. Despite his salary having been increased by more than 50 percent, Watson submitted his resignation on his first day of official duty in Akaroa, claiming that he would not be able to live in his accustomed gentlemanly style given the cost of living in the isolated township. But he allowed himself to be persuaded to stay, apparently because he became at once the acknowledged social as well as political head of the community, and as such 'universally esteemed both by English and French'. Brother of Victorian hunting personality George Watson, he quickly established himself as the local 'squire'. There was a great deal of spare time for gentlemanly riding and other pursuits, for Robinson had left a community that was stabilised, and free of Maori 'troubles' since a purchase arrangement had been worked out; there was little growth, and Watson's 'exceedingly clever' wife carried out a number of his official duties. Even the French problem faded almost away when in April 1846 Bérard departed; a visit by a French warship was now to be a rare occasion, and this removed any lingering illusions amongst the French settlers that they inhabited a quasi-autonomous colony inside New Zealand. Watson, one more of the handful of Police Magistrates remaining by the final date for

transition to the Resident Magistracy system on 30 April 1847, succeeded to the new position and remained the dominant figure in the town for more than two decades before returning to Ireland.⁷⁹

None of the Police Magistrates had ever felt that they were provided with sufficient resources, in manpower or materials, to carry out their mandate properly, particularly those Magistrates who were isolated in the south. In a pioneering environment the accretion or otherwise of formal powers did not greatly matter in practical terms: the 1842 Ordinance extending their judicial powers, for example, made no significant difference to their operations. They had no financial discretion to assess needs on the spot and act accordingly, as Thompson found out when ordered to bear the cost himself of purchasing unauthorised items and advertising space. His men suffered far more when, having been unaware of rules authorising only a shilling per day for each prisoner's rations, they were personally charged for all expenses previously incurred above this limit. Not only were the Magistrates unable to use discretion in responding to perceived local needs, and liable to be out of pocket if they did; they were also vulnerable to legal action by members of the public, and there was no guarantee of state backing for them in such circumstances. Even when Auckland's acting Police Magistrate Francis Fisher arrested, with the Governor's consent, a man on suspicion of murder, and the man sued Fisher after his subsequent release, the government was reluctant to assist with defence expenses. Robinson, alone in such circumstances but then only after a struggle, was rewarded for being 'an excellent public officer' by a *full* state commitment to bear his defence expenses in the William Woods case.⁸⁰

But even Robinson had received little on-job help. At the very beginning of his tenure he had requested that a Police Magistrate be appointed for stationing at Otago where 'bad characters' threatened to create problems with the Maori that would have repercussions further north. By 1842, when up to 200 whalers and farm labourers lived in pockets of settlement between Moeraki and Rakiura (Stewart Island), including specialists in smuggling and 'violent men' who oppressed sectors of the thousand or so local Maoris, the government had failed to appoint even an unpaid JP in the region. Only when South Island paramount chief Hone Tuhawaiki of Ruapuke requested state protection against 'almost nightly' depredations by 'drunken rioters' did the government respond, and even then not in the desired manner of appointing a permanent coercive force in Otago. Instead, it was announced that the government brig *Victoria* would occasionally take the Akaroa Police Magistrate and his men on visits to the whaling stations of

Banks Peninsula and points south, which in actuality meant that Otago remained the 'refuge of those who dare not show themselves elsewhere'.⁸¹

Although unique to Akaroa in their specifics, Robinson's early problems with the French sprang essentially from his lack of coercive and material resources. On his visit in September 1841 the Governor considered the French marines to produce the 'most beneficial effect to the peace and harmony of the community' and sanctioned continuance of the 'status quo' agreement until the French became 'blended with the general mass of the colonial populations'. This really meant that the French settlers came outside 'the practical control of the Government' of New Zealand: because Robinson needed French coercive support he normally acquiesced in Lavaud's wishes. The Commodore in return placed an armed guard on every ship in Akaroa harbour to prevent the smuggling of spirits ashore, helped with patrolling the town and guarding prisoners, and was available in emergencies. The 'status quo' had never envisaged that British law did not apply to the French, merely that in some circumstances it would not be applied. But Lavaud, particularly as the end of his stationing neared and his record was therefore about to be examined in France, attempted to turn *de facto* French jurisdiction over his own people into *de jure* jurisdiction. Often Robinson gave way in order to retain his cooperation: he allowed Lavaud to expel from New Zealand a French whaling master for smuggling whisky to Woods despite his own wish (and duty) to charge him in court. On the other hand, to Lavaud's chagrin the Police Magistrate occasionally enforced minor laws upon the French in order to reassert his right to do so. When, moreover, Lavaud threatened to return French workers forcibly to France if they persisted in chafing under his strict discipline, Robinson geared himself to intervene with whatever meagre police he could muster, although if the Commodore had been determined to deploy force to get his own way any resistance would have been no more than a gesture.⁸²

Bérard brought matters to a head by an inflexible insistence that he alone held civil and criminal jurisdiction over the French settlers. In response to Robinson's request for firmer instructions as to the bare minimum of legal action required to indicate the irrevocability of British sovereignty over Akaroa, Shortland in what amounted to a showdown declared the town a port of entry. Faced with the imminent hoisting of the British flag, the ending of the 'status quo' agreement, Bérard initially took the attitude that he would rather be sunk than allow the flag to fly. However, Robinson managed to persuade him to confine his reaction to a verbal

and written protest, and on 8 February 1843 the British colours were hoisted. Although Bérard's instructions had allowed him to recognise British sovereignty if absolutely necessary, the French settlers were furious: until that time they had considered themselves to be under French law, despite Robinson's occasional forays. Some rioted and did battle with Robinson's small police force, and crewmen from Bérard's ship rescued a French prisoner from the police. At this point the French commander stepped in to restore order, instructing all Frenchmen to obey local laws unless and until word was received otherwise from Paris.⁸³

Although the French government had given up any pretension by then of colonising part of New Zealand, there were constant reminders of the slenderness of the coercive backing of the southernmost Police Magistracy. Robinson was aware that Bérard would forcibly prevent him from seizing or fining any French whaling masters breaching customs laws, and Shortland advised him that in the event of violent resistance by the French warship, due to his 'extremely limited force' he should do no more than protest and report to Auckland. Further south the situation was more serious still: 'Mine is only moral force, such people need something stronger', lamented the Reverend James Watkin of Waikouaiti ('one of the few respectable residents to the Southward' of Akaroa) referring to the resident pakehas at the whaling and agricultural settlement founded by the South Island's leading capitalist, John Jones. A Police Magistracy was needed not only to prevent provocation of Maoris, but also to stop 'Masters and agents from practising oppression towards their servants' and 'servants breaking their engagements at pleasure'. But years were to pass before there was a police force in Otago, and meanwhile Akaroa's force became even more miniscule. The state's resources in the colony were from the beginning so precarious that Hobson had declared that 'all we can hope to do in the first instance' was to make a virtue of necessity: the 'nature of the case' dictated that for most settled areas in New Zealand the 'Peace and order of the community must greatly depend upon the wisdom and discretion of the Police Magistrate'. In Akaroa, the state had been fortunate in its choice of a person able to rise to meet such criteria.⁸⁴

In most instances the successive early Governors had been hampered in choosing their high officials by the severe constraints of class eligibility. Most capable men in the narrow socio-economic sector from which such officials could be chosen lived in the Wakefieldian planned settlements well southwards of the capital

and were, at least initially, hostile to the colonial state. Of the rest, the best administrators in the Australian colonies had been engaged by New South Wales, which offered higher salaries, fewer discomforts and greater prospects of advancement. Police Magistrates, the official representatives of government, were obliged to investigate 'any subject of which it may be necessary to inform his Excellency whether of a Political Judicial or Statistical nature', and to maintain local quiescence, with the support of few other officials and a mere handful of constables. They were thus subjected to considerable strains of responsibility with which they were often unable to cope adequately.⁸⁵

In 'the southern settlements' focused on the geographical centre of the colony the personal weaknesses of Police Magistrates had been worked upon by the oppositionists. Thompson's instability and vanity had made him a stooge of the New Zealand Company, and eventually a martyr of the settler elite which strove assiduously to ruin the careers of officials who stuck rigidly to state policy.⁸⁶ Certainly the personal behaviour of some Police Magistrates made easier the process of blackening officials' names, but the situations they faced with minimal resources were complex and bewildering, and most of them had inadequate backgrounds for tackling the problems inherent in coercing and cajoling a turbulent mixed-race population into acceptable modes of behaviour.

Even where race issues were subdued, scarcity of resources could well stymie police aspirations. Whilst Nelsonians' post-Wairau fears of attack were soon seen to be chimerical, new problems of order had meanwhile arisen for the local authorities. The three hundred labourers originally imported by the Company had been able to get very little work on the land, few employers with capital having arrived, and had therefore as per contract been taken on the Company payroll for roading and drainage work. In mid 1843 Frederick Tuckett, who had taken over as local Company agent after Captain Wakefield's death at the Wairau, attempted to tighten the scheme, placing the men under stricter superintendence and implementing measures which indicated the Company's desire to gradually phase out the costly commitment. The workers had brought to the antipodes the values and methods of sectors of what had been in their homeland the dominant working class movement for several years, Chartism, which had reached its most insurrectionary peak (at least, outside London) in 1838-9. When the Company increasingly dishonoured promises and worsened the conditions of service, workers imbued with the spirit of 'physical force' Chartism combined to protest. A series of resistant actions in August and September included the forcible ejection by the Waimea East road

gang from their work site of new supervisor Philip Vallé. The Company, though forced to back down on a number of points, fought back by continuing to demand a military presence in Nelson, ostensibly to meet the Maori threat but in reality to crush what was widely billed as the 'revolt of the working men'.⁸⁷

Chartism was a heterogeneous movement, uniting timid men with bold, combining middle-class radicalism with working-class militancy, throwing together 'physical force' activists with 'moral force' theorists. Nelson's new Police Magistrate George White was detested by the settler elite for his middle-class radicalism, but his was a world-view far removed from that of working men combining to fight for their livelihoods—it was a doctrine of an intellectual excited by 'democratic' ideas, in the contemporary meaning of the word democratic. It had no point of reference to working-class struggles, even if the wide-ranging nature of the Chartist alliance ensured that White understood these better than did most members of the middle and upper classes. Indeed, because of his awareness of the implications of class struggle, White was all the more determined to crush the Nelson workers. The town, he told his superiors, was in a 'state little short of Anarchy and Civil War'.⁸⁸

Realising that the combined power of the labourers could easily overcome his tiny police force, White jointly with the Company chartered a boat to send an urgent request to Superintendent Richmond for military backing. Wellington officialdom was prepared to allow 20 troops to depart, but Captain Sir Everard Home of HMS *North Star*, sent across the Tasman by Gipps in response to direct Company settler approaches after Wairau, declined to oblige. Shortland endorsed this decision, commenting that 'if the local magistrates had manifested the same zeal in this matter that they have in reference to the Wairau affair the workmen would not have dared to attempt a breach of the Peace'. Special constables, he said, should be used if the police force needed strengthening for any emergency; neither the state representatives in Wellington, nor officials at the capital, were under any illusions as to the real purpose of the request for troops. These were intended not to guard against Maori attack but to break the back of local working-class Chartism. For Shortland it was up to the Company, and its local magisterial and other allies, to suppress the problem it had itself created by not carrying out its own blueprints for a balance between land, capital and labour.⁸⁹

Meanwhile White operated the town's armed voluntary defence associations, only to find the normal pattern quickly emerge: after the first flush of panic even the most enthusiastic volunteers were reluctant to devote valuable time to drilling and patrolling. The

Police Magistrate therefore enlisted seven new constables, greatly swelling his force, and laid down an ultimatum to Richmond: he wished to be recalled if the extra constables were denied him, as this would make it 'Worse than useless for me to continue here, or the government to expect the smallest sympathy or reliance upon its promises of protection'. The increased force having given White some hitherto lacking confidence in his coercive capacity, he was persuaded by fellow magistrates to attend the pay office to arrest, with the help of constables hidden nearby, 'ringleaders' identified by the resentful Vallé, who had been mortified by being thrown into a drainage ditch by the men. But the first worker to be captured was rescued amidst 'wildest disorder' by several dozen of his workmates. The Chief Constable subsequently arrested five of the alleged rescuers at their homes but White, in his magisterial capacity, while warning them that their offences merited transportation, dismissed the charges—ostensibly on grounds of inadequate identification but more probably because of the hostile crowd besieging the courthouse. He had shown himself to be a shrewd assessor of the might of working-class combination, a perspective not shared by the settler elite who accused him of cowardice and pandering to two 'privileged classes' in the community, 'Maoris and roadmakers'.⁹⁰

White's suppression of publication of news of the class struggle in Nelson did not prevent the circulation of completely unfounded rumours that Te Rauparaha was intending to take advantage of the 'revolt' to invade Nelson. When the rumours intensified in late September both White, stung by accusations of ineptitude from influential local persons, and the Company took what were billed as precautionary measures. Once again however the procedures adopted indicated that—despite genuine fear of Maori attack among the ordinary townsfolk—the real target for suppression was the working class: the Police Magistrate 'established a line of Watchmen', whilst forming the most vocal anti-worker elements of the community into 'a Body of Special Constables'. A 'Committee of Public Safety' was formed and under its auspices 50 volunteers, paid by the Company, would drill; while watches were kept, a fort was built. The fact that the enlisted armed citizenry had to be induced by pay was the surest indication that workers, not Maoris, were the enemy. However heinous their activities might be regarded, the Chartists were not seen as threatening to attack and slaughter: it was property that was at stake, actually and symbolically, and in this circumstance Company and state—the latter represented by White—had no difficulty in presenting a local united front.

Officials at a higher level of state had a different perspective. Captain Home and Richmond left Wellington in early October to investigate the state of affairs in Nelson, travelling in *North Star* via Kapiti where there were clearly no war preparations in progress. At Nelson Home refused to disembark troops because the local elite 'want force, not to resist the natives but to control themselves, 300 ill-disposed labourers'; he also took the Nelsonians to task for ill-treating local Maoris in revenge for the Wairau affray. Unwise local attitudes to workers and to Maoris, which ignored the limitations of available coercive power held by the state and its allies, had threatened the peace unnecessarily. Home disbanded the remnants of the paid vigilante watches, and White was condemned by his masters for sanctioning the building of the fort, a step 'calculated to widen the breach, which has been already caused, by the unhappy proceedings of the late Police Magistrate and others'. Despite White's promise to the Company, the government would not contribute towards the expenses of building it, nor towards paying the volunteers. Governor FitzRoy, in later commenting on White's reports of the revolt of the labourers, regarded the Police Magistrate as having been in league with the Company and settlement elite, castigating them collectively since the problems had been 'brought on by yourselves'.⁹¹

The *North Star* and its soldiers left Nelson in mid October, and troops which arrived direct from Van Diemen's Land left the very same day since it was clear there was no 'native emergency'. By the end of the year the Company officials had abandoned all pretence that the problem was a Maori one. William Wakefield lamented that the 'want of a sufficient police force and military control (to suppress combinations among the workmen) makes any attempt to reduce expenditure on public works and maintenance of the labouring classes unavailing.' The workers had successfully resisted progressive cuts in their pay rates, but the Company had begun to break their solidarity with a scheme providing, for those who wished, small plots to cultivate in conjunction with a reduced-hours work scheme. In early 1844 Company Agent William Fox, who had replaced Tuckett the previous September, extracted from FitzRoy a promise that in the event of further trouble troops would be sent to arrest the 'ringleaders'. This enabled Fox gradually to scale down labouring pay rates with threats that if opposed he would be 'down on them with the military'.⁹²

In October 1844 all remaining labourers were struck off pay; the Company's war of attrition against them—and more so now with their struggle for sheer survival upon wilderness land during a period of 'great distress'—destroying any chances of combined

resistance. The police force, having been expanded by a sergeant and six privates, was easily able to cope with individual protesters and two workers who slaughtered a bullock for food were sentenced to 10 years' transportation by way of punitive example to the others to respect property rights. Well-off Nelsonians were sworn in as specials but were not required for service: for many months the Nelson labourers struggled to keep themselves and their families alive as best as they could until elementary crops grew and work later became available. Years later the working people of the outlying villages were still agitating for compensation for their sufferings and losses, three such meetings being held in early 1850 alone at Richmond, Spring Grove and Whakapuaka. With the open 'revolt' of the working class over, however, the Nelson elite had wasted little time in turning its attention once more to getting land from the Maori.⁹³

'The Quiet Possession of the Land': Policing the Maori-Pakeha Interface

Maori signatories to the 'Treaty' of Waitangi had been led to believe that chiefs would be allowed to continue to rule their tribes as before, but the British government vetoed even a plan recognising the continuance of Maori customary law and its control mechanisms in districts not significantly penetrated by the pakeha. The choice was made instead to extend regular British judicial and administrative control as quickly as possible over such areas in order to precipitate both land alienation and racial subjugation in general. The seeds of conflict were sown, and warfare was delayed only because the forces of the state were too feeble to act swiftly on its 'civilising' and expropriating mission. Although Britain recognised the need for more than the hundred troops which were on permanent station, reinforcements were denied on grounds of expense. As in pre-1840 days, Maoris presented relatively few problems of order in the towns and their hinterlands, but the spectre that haunted the government, and particularly its Police Magistrates in the 'southern settlements', was that pakeha impatience for land would force the Maori into generalised insurrection.⁹⁴

Key Maori chiefs however policed their own people in such a way as to prevent interracial war from breaking out. This was demonstrated in 1841 after Maori crewmen from the wrecked ship *Jewess* responded to the death of one of their chiefs by helping themselves

to items of cargo under the custom of *utu*. The ship's owner had no trouble in gathering an armed force of 30 pakehas to march up the Kapiti coast, and if the Maoris had resisted the handful of available constables might well have been unable to prevent an armed show-down in which the expedition would have been routed—an event to which the Wellington settlers would have responded with collective armed retaliation. Chief Wharepouri, however, insisted that his men return the goods in order to avoid escalation of conflict.⁹⁵

At the same time Chief Police Magistrate Murphy declined to take action against Rangihaeata for (mild) resistance to Company surveying of unsold tribal land at Porirua—a circumstance repeated the following year when a few settlers erected buildings that were dismantled by the Maoris—and urged Hobson that 'some decisive steps in favour of the Natives should be at once taken' in view of their chiefs' determination to avoid interracial war despite settler provocation. New Zealand's prosperity depended as much upon attention to at least some Maori wishes as upon the continued inflow of Europeans. This was a theme Murphy returned to time and again: when a *tapu* was placed on the coast between Otaki and Rangitikei, he prevented Wellingtonian settlers from forcing open the route. He explained that the effect of the *tapu*, the prevention of overland pakeha communication with Wanganui and New Plymouth, bore no organic relationship to the motive for its imposition, 'an immemorial and recognised usage amongst the natives' over a period consequent upon a chief's death.⁹⁶

Murphy's skills as race conciliator were frequently needed. A typical instance occurred in August 1841 when Maoris attempted to prevent an inquest into the death of one of their number whom they suspected to have been murdered by a pakeha. A public meeting of Europeans resolved to form its own armed organisation if the government declined to present a show of strength against manifestations of Maori discontent with official procedures; to avoid this and its dangers the Chief Police Magistrate swore in special constables for a fortnight, established armed watches and formulated plans for the defence of Wellington, while all the time issuing realistic appraisals of Maori motivations, which were not those of aggressive attack. In the event bloodshed occurred only when one of the ill-disciplined specials posted at the courthouse suffered an accidental shot in the leg. Murphy sympathised with the aspirations of the settlers, as did his counterpart Dawson in Wanganui. The latter, to Hobson's chagrin, even went so far as to approve of the Company's delineation of the percentage of purchased land which had to be reserved for the Maori even though the selection ignored the specification that such area exclude existing pa. But in

their capacity as chiefs of police in the southern areas the two Police Magistrates had of necessity to deny the Company complete fulfilment of its plans; their mandate was to preserve peace, that of the Company and its settlers to acquire land, even by means that would have precipitated immediate interracial war at a time when the state was ill-prepared to cope with such an eventuality. Hence the thwarted Company's response of drumming the two government officials out of offices that they had performed dutifully in general accord with the requirements of the state.⁹⁷

Remarkable Maori forbearance in face of attitudes of race superiority facilitated the tasks of Police Magistrates and other government officials. Chiefs acquiesced in the right of the state to intervene in cases affecting order which involved members of both races, and despite pakeha forebodings accepted as fair the first post-annexation execution in New Zealand, that of 16 year old rangatira Maketu. The lad had been employed on the farm of Mrs Elizabeth Robertson—widow of a whaling captain who had been renowned for maltreatment of Maoris—of Motuarohia Island in the Bay of Islands. When bullied by a white worker, on 20 November 1841 he killed his tormentor and, when remonstrated with, also his employer and her family and a grandchild of a rival Ngapuhi hapu, that of Kororareka chief Rewa. Despite the presence of state coercive forces in the Bay, Kororarekans feared that the murders would trigger off general Maori tribal war or insurrection and urged pre-emptive interventionary measures. Beckham for his part refused to interest himself or his policemen even in apprehending the murderer for fear of antagonising Maketu's people.

'When the settlers found that the Police Magistrate Mr. Beckham, had neither courage to act decisively himself, or to avail himself of the assistance offered by the settlers', wrote a contemporary, 'it can only be a matter of infinite surprise that they hesitated to take the law into their own hands, and to protect their own property by all the means within their reach.' The attitudes of both the Police Magistrate and his townspeople were based on the same premises and both misjudged the situation. Intertribal, intratribal and interracial tension in the Bay area had been increasing because of the economic recession which followed the removal of the capital to Auckland, but the murders were not connected with this. Both Maketu's and Rewa's people were prepared to accept pakeha norms of legality in interracial matters, and in this case the former's willingness to hand over the offender was reinforced by fear of vengeance from the hapu of the latter. Beckham was unaware of

these factors. Isolated at Russell, he had (by now typically) neglected his key policing function of being the 'eyes and ears' of government, to Hobson's fury: 'I greatly disapprove of your withholding from me, for so long a time, the state of things in your district.' It was in fact more a lack of awareness than a withholding, an unawareness that, coupled with characteristic lack of nerve, was the basis of what the Governor was to condemn as 'supineness' in Beckham's neglect in investigating the murder and its ramifications or in taking arrest action once the offender's name was known.⁹⁸ It was Henry Williams and some ex-Kororareka Association merchants, the informal policemen of the past, who assessed the situation correctly and secured custody of Maketu from his people. Hobson told Beckham privately: 'It is really most undignified that the Colonists should have to act in their own persons, whilst there were a large naval force, and some military and Police at your command.'

Although not part of any grand Maori design, the murders had electrified the atmosphere in the far north, so Beckham sent Isaac Shaw hastily to Auckland with Maketu. When intraMaori feeling threatened to spill over into Kororareka, Beckham requested that the visiting French warship *L'Aube* remain in harbour for the time being. Upon sending HMS *Favorite* to the Bay Hobson advised Beckham to form the town's inhabitants into armed squads headed by ex-soldiers should they be needed to supplement the Russell soldiery. It was an inadequate coercive response from the state in the eyes of the Kororarekans, who demanded among other things more police protection, but the measures turned out to be no more than a dress rehearsal for the events leading to the abortive 'defence' of Kororareka three years later.⁹⁹

When the Supreme Court of Auckland opened its doors for the first time on 28 February 1842, Attorney-General William Swainson considered that thereby a 'power had been established' over both races 'to which, henceforward, all would be compelled to bow'. Many Maoris were reportedly impressed that although Maketu had confessed to the murders all the formalities of proof were complied with. All contemporary accounts concur with Swainson's conclusion that the trial 'created on the native mind a deep impression'. It reinforced the willingness of important tribes to cooperate with the pakeha in disputes and offences of interracial connotation, and there were no protests when the high-born Maketu was sentenced to death (although some opposition was voiced to the 'cruelty' of the hanging method of execution). In late 1843 the Executive

Council was told that no change had been reported in this general desire to cooperate with the pakeha.¹⁰⁰

Cooperation in interracial incidents of gravity by tribes in contact with the pakehas indeed continued throughout the Crown Colony period. In 1847 when Lieutenant Robert Snow, one of Hobson's staff who had become the first resident head of naval operations in the colony, and his wife and young daughter were brutally murdered on Auckland's North Shore, local chiefs detained a Maori suspect—the bodies having been mutilated to present the appearance of having been cannibalised—and would release him only after Beckham's investigations concluded that there was no evidence against him. Subsequently the pakeha Joseph Burns confessed to perpetrating the murders in the course of a burglary and was the first white to be hanged in New Zealand. Two years later in utu for pakeha insults, a Maori named Maroro killed a Wellington family who dwelt on the road to Porirua; key prosecution evidence was provided by Maori policeman K Mania, while local tribespeople cooperated with the authorities and accepted the guilt and execution of the accused.¹⁰¹

The common factor of all such cases was the cooperation of the Maori when the situation involved, or appeared to involve, members of both races—although a number of Maoris, particularly those in the Company settlements, noted bitterly that pakeha offenders against Maoris, including murderers, often got off scot-free. State intervention in intraMaori affairs was unacceptable even to 'Treaty' chiefs, and in the course of approving of Hobson's handling of the Maketu case the Colonial Office modified its initial stand and accepted this reality: legislation covering offences involving only Maoris 'must be framed in some manner to suit their prejudices' and incorporate customary tribal law. More informally than formally, this was the position taken by Hobson, Shortland and FitzRoy. In early 1842, for example, Beckham partly rehabilitated himself in Hobson's eyes by use of 'wise discretion' in releasing a Maori husband who had killed his wife's Maori lover in a fit of rage. Beckham admitted that his actions were 'perhaps not legally justified' but noted that Maori law allowed revenge killing in cases of adultery. In a similar event in Wellington the following year, when a coroner's inquest returned a 'wilful murder' verdict the police made only token efforts to follow it up. Even when that same year the Maori of the Moeraki area of Otago were willing to allow travelling Police Magistrate Edward Shortland to intervene in an intraMaori homicide, he declined as 'it would have been most

impolitic to attempt to carry into execution our laws to punish crimes not affecting Europeans, without being prepared to do so in every subsequent case.¹⁰²

The Colonial Office endorsed this temporary suspension of European norms of legality in cases involving Maoris only, although it was adamant that all Maoris within New Zealand, 'Treaty' or otherwise, were British citizens and hence in the final analysis liable to the full rigour of state-enforced sanctions. For the state it was a sensible strategy which would enable gradual supersession of Maori custom by European. Coercive intervention into tribal disputes would be activated normally only in circumstances which threatened grave consequences for Europeans and their property interests. When, for example, in 1842 intertribal warfare in the Tauranga area involved Christianised Maoris and therefore seemed to have potential to encroach upon the overall interests of the pakeha, Shortland garrisoned troops there for a period in order to enforce mediation procedures. Many observers felt it was an unnecessary intrusion upon a 'Native quarrel according to Native custom', an action which threatened to provoke rather than prevent a worsening of race relations, although in the event successful mediation nevertheless ensued.¹⁰³

Between the two extremes of coercive intervention and no intervention at all, police were expected to use 'wise discretion' in a strategy that encompassed the gradual acquisition by the Maori of English concepts of order and correct behaviour. This was to begin within settlement limits, where indeed Maoris soon adjusted a number of their behavioural patterns as a matter of survival. By 1842, when Felton Mathew in Auckland was beginning a campaign to ensure that Maoris did not walk the streets 'with their persons in a state of nudity', Charles Heaphy observed that Wellington's Maoris were 'fully aware of, and appreciate, the power of the law'. When they encountered difficulties in relationships with pakehas they referred them to Murphy 'and they at all times follow his opinion or advice, even in cases out of his legal jurisdiction'.¹⁰⁴

As settlement moved outwards from the towns the police 'civilising mission' amongst Maoris followed; a key tactic employed was to prevail upon chiefs to instil in their people the desire to cooperate with the state and adopt norms of European behaviour. This was fairly easily achieved in the South Island, where Maoris were few and land available for settlement was plentiful—except in the north, hence the aberration at Wairau. Police Magistrate Robinson of Akaroa had few resources with which to counteract 'bands of lawless men . . . that infest the Southern district who seem to think they have a kind of right to treat the natives as mere slaves'. It was

therefore at first difficult for him to persuade South Island chiefs of the value of cooperation with the state, but he quickly gained ground by seizing chances which came his way. For example when the important Otago chief Taiaroa complained to him about the detention of a Maori woman by a minor Banks Peninsula chief, the Police Magistrate sought to gain mana with him by sending two constables on a mission to retrieve the woman, a task rendered feasible by Robinson having already gained 'moral' influence over local chiefs. When the woman was returned to Taiaroa, the influence of the Police Magistracy heightened.

Chiefs were emboldened to take protective measures against the most disruptive of individual pakehas secure in the knowledge that in the final analysis state backing would be forthcoming, although some agitated for a more tangible state coercive presence. Paramount Ngaitahu chief Tuhawaiki, who had suffered at the hands of European swindlers—he had for instance paid £150 for a quarter share in a schooner which never materialised—offered free accommodation, food and his own services as constable to any Police Magistrate the government might care to appoint in the far south. As a result of the collaborative spirit of major chiefs, however, the government felt able to save itself the expense of a police presence south of Akaroa prior to the establishment of the Scottish settlement of Dunedin in 1848.¹⁰⁵

In the North Island the problems of gaining hegemony over Maoris who were in proximity to white settlement was enormously complicated by the far greater numbers involved on both sides, especially that of the Maori, and the relatively small amounts of land available to the pakeha. The state's strategy of 'wise discretion' towards the indigenous race, realistic in terms of the lack of readily available coercive resources should warfare occur, was not looked upon kindly by most Europeans with aspirations to move on to the land. The prevalent ethnocentric belief was that to hold back, to appear weak, would encourage a 'general insurrection' among the Maori, who would however buckle before a firm pakeha determination to take lands that, because they were not utilised in European fashion, were considered 'waste'. Even when greatly outnumbered, as in the Thames/Waikato area at the time of the building of the capital, pakehas behaved aggressively towards Maoris. If local or generalised warfare were to result from pakeha actions, settlers in those parts were convinced, in the resulting struggle between members of the 'highest civilisation in the world' and people they denigrated as 'niggers' the white man would by definition prevail whatever the

odds. Protector of Aborigines George Clarke felt that the region's Europeans should be told that they would receive no 'protection from Government' in the event of Maori retaliation, but it was nevertheless the job of the state, in particular of the police, to head off dangerous interracial situations before they escalated into endemic turbulence and ultimately warfare.¹⁰⁶

The government had attempted to defuse the race time bombs at Company settlements by appointing some of the leading settlers to the Commission of the Peace, thereby binding them to state policy. But where this did work with a few individual JPs (and normally only paid ones at that) in reality as opposed to form, the individuals concerned would be vilified with a vehemence reserved for those who 'change sides'. The strategy in fact was more often counter-productive, insofar as magistrates retained powers over constables. A typical incident occurred just before Christmas 1842: when New Plymouth Resident Agent Wicksteed JP headed a settler party that destroyed fences protecting Maori potato cultivations, the handful of local constables present were unable to do anything to stop the damage. Indeed they were forced to watch as a scuffle broke out—and to receive custody of a chief's son who had brandished a tomahawk over Wicksteed's head. Police Magistrate and acting Protector of Aborigines Henry King, responding to a governmental directive to dampen down the increasing confrontation between the races in his area, dismissed the case on grounds of the illegality of the party's actions upon disputed land, and Shortland approved; but attitudes by Police Magistrates, and pursuant actions carried out by their men, produced intense antipathy towards the police among great numbers of settlers.¹⁰⁷

Despite this, it remained true that heads of police held strong sympathies for the aspirations of the settlers. No one worked harder in Wanganui to facilitate European access to the land, to persuade Maoris to allow surveys to be continued and the land settled pending investigations, than Dawson, who combined pakeha *Weltanschauung* with personal interest—the Police Magistrate was a land purchaser himself—and with pursuance of his instructions to 'facilitate the quiet possession of the land by the Settlers.' It was not the aims of officials and settlers that differed, just their methods: the operative word was 'quiet'. In discouraging coercive occupation of disputed lands Dawson had, stated Governor Hobson, 'exactly met my views in the treatment of this matter', and it was for this that he was hounded from office. The tension between Police Magistrate and settlers was not therefore that of a remote police official placed amongst people with whose desires he could not empathise: Henry King, after all, had been the

settlers' own official leader in New Plymouth, Samuel King a leading Wanganui settler. It lay rather in the nature of the job, which required the ability to employ objective 'wise discretion', and failure to do so might demand a high price of the kind paid at Wairau in 1843. Unless they were deranged, like Henry Thompson, chiefs of police upon whose shoulders fell responsibility for the peace of their districts were to a greater or lesser extent forced of necessity to transcend Victorian era concepts of race: they realised that the pakeha as yet inhabited only pockets of New Zealand, and on Maori terms, and that coercing the Maori was not the easy activity most pakehas believed.

The most difficult Police Magistracy of all was in the main Company settlement of Wellington. 'There was never a more ignorant, extravagant, and dangerous exhibition of the folly of despising your enemy', Protector of Aborigines Clarke commented on the behaviour of the Wellingtonians.¹⁰⁸ Clarke regarded these settlers as the most ethnocentrically extremist of all, 'foolish, hot headed people enough who were bent upon forcing on a conflict between the races'. When a pakeha was murdered in Wellington, it was a strong stand indeed that Murphy and fellow officials had to take to resist European pressure to arrest a Maori against whom no proof existed. Murphy's vacillations highlighted the inherent difficulties in the position of Police Magistrates, and in the course of them he would be condemned, then lauded, then condemned again by the settler leaders. He began by urging a strong police to protect Maoris from pakehas, 'to prevent them being ill-used and trampled upon', but gradually—inexorably—succumbed to settler pressure as delay after delay ensued over the investigation of land claims. Although his cautious tactics over Te Rangihaeata's truculence towards pakehas intruding on to the non-purchased land at Porirua were approved by his government, he chafed at Hobson's general conciliatory strategy towards the chief.¹⁰⁹

Yet however much Murphy bent towards them, the settlers continued to regard him as a 'philo-Maori' and condemned him for not violating his instructions over the 'disputed' lands. One of the cases which was to lead to his deposition concerned the virulently racist Hutt JP William Swainson (not the Attorney-General of the same name), who was in a permanent state of dispute with Chief Taringa Kuri over the occupation of a large section of land; for a long period Murphy attempted to secure a moderation of Swainson's attitude and exaggerated claims, seeking to find a compromise solution, but the settler remained intractable. In one of his final acts as Chief Police Magistrate Murphy instructed Swainson to continue any

action in civil court rather than further waste the time of the executive wing of the state.¹¹⁰

It was under pressure from a 'Committee of Public Safety' that upon receiving word of Wairau, Murphy's successor McDonogh sanctioned the (unnecessary) formation of corps of volunteers sworn as special constables and the building of fortifications. But the settlers were still not placated for McDonogh insisted that all intelligence reports indicated no danger of Maori attack and that therefore any major defence preparations would clearly be seen by the Maori as offensive in nature. He failed to comply with their minimum demand for state defensive measures, although he did request and receive a small military force to help allay pakeha fears, and while he would not even begin to consider their preferred measure of punitive state coercion against Te Rauparaha's people, as well as authorising the specials he temporarily raised his police force to a total of 22 members. The settlers were all the more infuriated when on 26 June McDonogh, having conducted exhaustive investigations into the Wairau affray, concluded that the forces of Te Rauparaha and Te Rangihaeata had attempted by every means to avert a clash, had not been the first to fire, and had suffered the first casualties.¹¹¹

Nevertheless in the eyes of the government McDonogh had been too accommodating to the settlers. Shortland characterised his actions, particularly the sanctioning of some defensive measures, as 'extremely injudicious' and hastened the plans to appoint Mathew Richmond as Chief Police Magistrate in the south. When Richmond arrived at Wellington on 24 July, he was accompanied by more than half the colony's troops, sent by Shortland as much to control as to reassure the Wellingtonians. Volunteers commandant Major David Stark Durie was instructed by the new Chief Police Magistrate to disband his corps: the men could be called out as specials in any emergency. The 100-strong 'upper class' rifle corps, however, continued to assemble, desisting only when Richmond issued a state proclamation notifying that they would be charged with unlawful assembly if they persisted. The dilemma of the Police Magistracy was again revealed by Shortland's strong censoring of this proclamation as too extreme and therefore bound to alienate settler magistrates, in the haste of drafting Crown Prosecutor Hanson having inadvertently (and wrongly) condemned as illegal the very concept of the assembly at arms: the acting Governor still believed in the possibility of conciliation between state and settler leaders. Because this was in the circumstances impossible the Police Magistracy institution, whoever its incumbent heads, could fully please neither government nor Company.¹¹²

Richmond's major problem was to prevent the settlers from precipitating, by their ethnocentric attitudes and the behavioural patterns emanating from these, a Maori pre-emptive strike against the settlement. When Hutt JPs alleged soon after the Chief Police Magistrate's arrival that the Maori were on the offensive, McDonogh was sent to investigate and found that they were merely conducting normal migratory cultivation on land which they had not sold. Despite this, local magistrates attempted to persuade Richmond to allow volunteer drilling to recommence in order to meet the perceived 'native menace'. They refrained from organising it themselves only because of the Chief Police Magistrate's declared intention to disperse such activities by using his troops, but shooting practice went on in gardens, and arms and ammunition remained stockpiled. The immediate danger of rash action was averted by the outflanking of the settler leaders by ordinary colonists who, realising that the panic was over, wished to return to their jobs or their farms on a full-time basis; and by Richmond and his military counterpart refusing to respond to a call from the settler leaders' 'Committee of Public Safety' to arrest Te Rauparaha and Te Rangihaeata.¹¹³

The whole episode had exacerbated race tension, increasing the difficulties of the police. As early as 28 August a constable was injured at Wellington's Pipitea pa when Maoris rescued one of its occupants arrested on an allegation of theft; the pa was becoming a centre of resistance to the pakeha. Towards the end of the year Richmond twice called upon troops to help constables secure Chief Ewahu, who was facing what his Atiawa people believed to be a framed charge of stealing some clothing. Following his incarceration six extra constables were employed to guard him and furnish additional night patrols of the town. Although Wellington pakehas were angry that instead of transportation Ewahu received a 'light' sentence of two months' hard labour—and this was to be halved by FitzRoy—it was subsequently discovered that the Pipitea pa Maoris under Wi Tako (who had invited white settlement in the first place) had been ready to sack the town if their chief were too harshly treated. The state policy of cautious and orderly 'civilising' of the Maori whilst alienating their best land, once again seemed vindicated; the Police Magistracy was the key agency by which the pakeha were saved from the dire consequence of 'despising your enemy'.¹¹⁴

Elsewhere in the south, too, race relations deteriorated after the Wairau affray. Akaroa's Police Magistrate Robinson presided over

race interactions that were the least disharmonious of all, partly the result of his skills at alternately coaxing and coercing the local Maori into acceptance of pakeha norms. He had for example demonstrated the service role they were to play for pakeha enterprise by extracting a £3 refund from Port Levy Maoris who had allegedly overcharged a French whaler for supplies of water. Such a government-approved exercise was as always in the early years dependent upon the French naval forces which Robinson could threaten to deploy, yet despite this comforting coercive backing the Police Magistrate had been experiencing race problems even prior to the Wairau affray. By 1843, entrepreneurs had realised the potential for large-scale sheep runs on the vast Canterbury Plains and William and John Deans had leased huge areas—at £20 for 21 years—from sections of the Ngaitahu. Squatting possession of tracts of land in the South Island was sanctioned by Shortland as 'of great profit to the Colonists' whilst unlikely to create war. But it did have dangerous ramifications since Maori land was owned communally, and runholders were not particular from whom they leased. Tensions increased after news of the Wairau affray reached the area and numbers of local Maoris became more truculent. Some, aggrieved by a 'lease' to the Deans brothers which they had not authorised, burnt down the pakehas' stockyard. Pigeon Bay Maoris demanded rent from settlers on their land, challenging Robinson to send not his two constables 'but 400 men with muskets, if at all': Bérard's *Le Rhin* was not in port.¹¹⁵

To allay European apprehensions about the rumoured possibility of Maori attack, Robinson was forced to take defensive measures which in themselves upset his relations with local chiefs who had proven their desire to cooperate by replacing the stockyard fence on the Plains. More significantly, most of the interracial tensions were caused by squatters dealing directly with the Maori, transactions about which Robinson could do little given that he was under orders to encourage the depasturing of stock on 'unoccupied' land. Some of the squatters vied for notoriety with the whaling masters in their treatment of Maoris. The first white settlers in Lyttelton Harbour, the Greenwood family, showed such contempt for Maori rights that itinerant Police Magistrate Edward Shortland conducted an official investigation into their actions in 1844; but even the extraordinarily low price of the rental that he finally negotiated for the land proved anathema to the Greenwoods.¹¹⁶

In Nelson, with worker 'revolt' increasingly silenced during 1844, attention became once again focused on the Maori. Donald Sinclair, Police Magistrate from February 1844, was like his predecessor, George White, unable fully to resist the immense pressure of

the Company officials and settler elite. There were however limits to what he would do. When Maoris of Whakapuaka pa obstructed surveying on disputed land a few miles from town, Sinclair presided over a public meeting that endorsed a plan for him to lead a volunteer force to the area. Although the expedition was ostensibly merely to show Chief Paremata the Land Commissioner's plans, Sinclair quickly came to realise the implication that such an affair would be interpreted by the Maori as a warlike act, and vetoed the scheme. Despite this, Company Agent William Fox organised a hundred-strong unofficial expedition, armed from the Company store, to defend the surveyors against Paremata's men; ignoring a warning from the Chief Constable to desist, it set out on 19 January 1845 accompanied by a JP. Peace was ensured only because the Maoris declined to turn up for a confrontation, and the pakehas instead had a picnic. But, before they disbanded, at Fox's instigation they agreed to the formation of a permanent 'Volunteer Force' to meet the Maori 'menace'. The government was infuriated at the threat to peace posed by the Company's actions: Sinclair was instructed that should another such expedition be necessary—and then only in an emergency—it should be headed by himself and composed of 'specials'. The government feared, with reason, another Wairau affray; ethnocentric arrogance seemed to make pakehas incapable of adjusting to the lessons of the recent past.¹¹⁷

Pakeha ethnocentrism also complicated Henry King's job in Taranaki. Soon after the Wairau affray, of all times, magistrate William Halse kidnapped a Maori woman from her husband, an incident which led to the cutting of communications between New Plymouth and Mokau. 'If the settlers have recourse to acts of this nature they cannot be surprised that the Natives should resort to acts of violence', commented the government. In the Company settlements the state's traditional reliance upon JPs to preserve the peace was an anachronism. King, even more isolated than the officials of the Cook Strait settlements, tended to accommodate if at all possible to the views of fellow settlement leaders and on the Halse affair—and other interracial problems—he had to be pushed into action by the government. In August 1843, for example, he was ordered to help the Protector of Aborigines prevent Europeans from taking forcible possession of disputed lands.¹¹⁸

In the final analysis settlers were many, policemen few and unable to regulate the entire white-brown interface. Whalers' plundering of Maori property at Cloudy Bay in early 1843 had been a contributory factor to the tension that built up to Wairau, and after the affray, when in anticipation of pakeha vengeance the Cloudy Bay Maoris departed *en masse*, their settlements were once

more plundered. The weakness of the Police Magistracy, and its necessity to operate to a degree under pakeha public sanction, again meant that the plunderers escaped with nothing more than a warning. Local Maoris, missionary Samuel Ironside testified, considered that the 'white man keeps the justice all on his own side'. As Jerningham Wakefield was fond of noting—and he ought to have known for he helped along the process—race relations were souring fast after Wairau. Further and greater bloodshed was to occur, and this would lead to the eventual replacement of the Police Magistracy system by one closer akin to the Irish Constabulary model.¹¹⁹

The Policing Ramifications of Maori Resistance

When Thomas McDonnell told a Select Committee in London in 1844 that 'we do not at all fear the natives', that extra police and soldiers were required instead to control disorderly Europeans, his views were rapidly becoming outdated. Throughout the north Maoris were becoming more and more resistant to the pakeha as they realised that, contrary to their expectations at the time of Waitangi, the 'substance' of the land would go to the Europeans whilst they would be left with its 'shadow'. Even in the towns they had begun deliberately to resist the 'civilising mission'. When in Auckland in early 1844 Ngatiwhatua Chief Te Mania was convicted for a 'trifling offence' (stealing a cap) but given an exemplary sentence of three months' hard labour, armed followers headed by young rangatira rescued him from the courthouse and, pursued by troops, took him back to his pa. Chief Police Magistrate Mathew agreed with colonial commander of troops Major Thomas Bunbury that in the circumstances there was danger of an attack on Auckland, although if such danger existed it would most likely have arisen from Bunbury's incautious activities prior to Mathew's insistence that he desist. The inhabitants trembled, until after days of negotiation between 'friendly' Maoris and those holding out in the pa the prisoner gave himself up. Maoris were learning, Dr Martin noted in mid year, 'how much more gravely an offence committed by a native is deemed than that by a European', but the issue of war and peace went far beyond institutionalised racism. At root it lay with the land, its resources and their utilisation.¹²⁰

Recognition of those factors from afar had prompted Governor Robert FitzRoy, before he left England, to secure Colonial Office approval for the putting into practice of nothing more than a

gradual acclimatisation of Maoris to European modes of behaviour, an acknowledgement of the limited coercive resources held by the colonial state. On New Zealand soil he went even further and exceeded his official mandate. At the time of the Te Mania alarm, for example, he was instructing Richmond in Wellington in his duties as Superintendent of the Southern Division: even if occupying land certified as validly purchased by pakehas, Maoris were not to be forcibly removed unless it were in the public interest as well as in that of the individual owners.

In mid 1844 FitzRoy's Native Exemption Ordinance went well beyond Colonial Office endorsement of the principle of alleviating the harsh application of European law to Maoris, particularly in cases not involving Europeans. The Ordinance embodied a policy designed as an adjunct to that of the conciliatory easing of the bulk of good land from the Maori. Strongly influenced by the biblical fundamentalism which brought FitzRoy into sharp antagonism with Charles Darwin, it provided an alternative to gaoling for many offences if they were committed by Maoris: as per the laws of the Book of Exodus, for example, Maoris could be punished for theft by being obliged to pay a penalty four times the value of the stolen goods. Arrested Maoris, except in rape and murder cases, could remain at large pending trial and in cases involving only Maoris the informal policy applied up to that date by the Police Magistracy was formalised: the Police Magistrate would not intervene unless upon tribal request. Interception of a wanted Maori outside town limits could now be only by two chiefs of the tribe of the accused. To the fury of most Europeans, therefore, most Maoris were outside the effective jurisdiction of the Police Magistracy as a matter of formal policy rather than, as in the past, as a matter of informal expediency.¹²¹

But no policies, expedient or otherwise, could disperse the war clouds that were gathering. In the Hokianga, the settled area with the greatest ratio of Maori to pakeha, the state had tried to be careful not to offend the tribes. Hobson had frequently intervened in policing matters to ensure peace, for example ordering de Thierry to pay damages for Maori crops ruined by his bullocks. Following the first desecration of the flagstaff above Russell/Kororareka on 8 July 1844, St Aubyn had been freed from Beckham's tutelage precisely in order to cope with the unrest creeping across from the Bay of Islands. Pressed by the scattered 300-strong European population, St Aubyn added three men to his police to make up a full armed complement for his five-oared boat, and requested specific instructions. All that the Colonial Secretary could offer was the need to exhibit 'caution, prudence, and a mild

indulgent demeanour towards the natives, and never to employ force except in resistance to attack'. FitzRoy, probably thinking that this was only commonsense, sent no response at all. Even had St Aubyn not proved lacking in all three recommended characteristics, race confrontation was irrepressible.¹²²

In the crucial Bay of Islands area the Police Magistracy under Beckham was also lacking in 'wise discretion', more so than usual after being lulled into a false sense of security by the arrival of troops and warships at Russell in late August. When a warrant was issued for the arrest for larceny of Joseph Bryars, Chief Constable Woods chose to take an armed police party to his dwelling near Kawakawa at three o'clock in the morning. The house was forcibly entered, and in the *mêlée* that ensued Bryars' Maori wife, a woman of chiefly rank in Kawiti's hapu, was cut on the hand by a cutlass thrust from Woods as he stopped her leaving the house to secure help to remove her child. Until then the Maoris of Kawakawa pa had been 'friendly', and they were still prepared to be so if the pakeha provided redress for the insult to a high-born member of the tribe. Yet when the woman's brothers contacted Beckham, the Police Magistrate twice dismissed their application contemptuously: the wound he regarded as 'too trifling to be noticed', and he advised them it should be dressed with a rag and would soon heal.¹²³

In utu an armed Maori band seized eight horses from a pakeha who had exercised scant control over their tendency to stray on to tapu ground. Beckham and the population of Russell/Kororareka were now alarmed, and the Police Magistrate had to call in missionary and Protectorate help before the Maoris agreed to accept the compensation terms that the injured woman's relatives had originally suggested, the handing over of a horse. FitzRoy was displeased at the police behaviour which had precipitated the problem: 'I wish the Constables had gone unarmed—and *waited* at the man's house till daylight.' Henry Williams recorded that it was this circumstance which finally brought the two protagonists of the war in the north, Hone Heke and Kawiti, together in common cause: 'From this date all was excitement throughout the district.' FitzRoy rather more accurately evaluated the affair as symptomatic of deteriorating race relations, and referred to the 'unsettled and lawless, if not insurrectionary, disposition of many natives about the Bay of Islands'. By the end of 1844 pakehas both in the north and in the Company settlements—where even Richmond now wished for the armed removal of Maoris from the Hutt Valley to resolve continued disputes—felt that war was inevitable; at the beginning of 1845 Auckland organised for defence, with specials sworn in by

the Police Magistrate, and the easily alarmed Nelsonians formed their own volunteer company.

Beckham in the eye of the storm at first followed general government policy of regarding the formation of armed citizens' organisations as conducive more to disorder than order, and he threatened to put any such corps 'down by force'. But even the cautious Fitz-Roy in Auckland, while sending troop reinforcements to the far north saw that the area could not be defended with the existing meagre resources of state. Upon hearing of the January 1845 flag-staff violation he had ordered Beckham to 'no longer have any scruple about arming and organizing the inhabitants of Russell' and to swear in 50 special constables. The subsequent attack on and sacking of Kororareka helped to bring home to pakehas throughout the colony their real vulnerability should their local Maori populations rise up in anger. Nelsonians lamented that their 3000 people were protected by a state establishment comprising one Police Magistrate and three constables. There was an increasingly prevalent concomitant feeling that the state's policy of 'quiet possession of the land', supervised by the Police Magistracies, should be acknowledged to have failed throughout the colony, not just in the far north—that it was time for a show of force, if necessary a war of conquest.¹²⁴

During the 1845-6 warfare in the far north, in which 'friendly' Maoris—particularly the forces of Tamati Waka Nene—played a prominent part, a sizeable number of pakehas stayed on in the region. For example at Hokianga, where most chiefs remained 'friendly', more than twelve dozen Europeans (including many women and children) chose to ignore initial government warnings to evacuate. Although troop reinforcements for the north were many, no soldiers could be spared to supplement St Aubyn's small police force, although it cooperated with the military to enforce the martial law which was proclaimed within a radius of 60 miles from Russell on 26 April 1845. After the Hokianga station was disestablished in the middle of the year, the far north became an area policed to all intents and purposes by the military.¹²⁵

The surveillance and mediation role of high policeman in that general area—excepting Hokianga—was undertaken after the sacking of Kororareka first, but in unofficial capacity, by Protector George Clarke, who for example was sent to talk Heke out of a feared (but imaginary) march on Auckland: Heke would tolerate him 'so long as you do not turn soldier, or policeman, or collector of customs'. He was soon joined by James Clendon, who had been

named Police Magistrate for the Bay area on 11 April, and until his return to Auckland in October Clarke worked alongside the new Police Magistrate, specialising in liaising with the 'friendly' Maoris grouped under Waka Nene's banner. Particularly after St Aubyn's departure in mid year, Clendon held overriding civil power in the far north, providing the key government link with British troops and 'friendly' tribes and working to ensure that the 'severest punishment' befell the insurrectionaries.¹²⁶

Upon hearing of the sacking of Kororareka and receiving the evacuees, Aucklanders were so alarmed that they spontaneously combined in arms. On Police Magistrate Symonds' advice FitzRoy, who did not fear a march from the north, officially designated these units 'militia' in order to dispel alarm that the state had inadequate forces at its command; the long-resisted Ordinance legalising a militia was passed on 25 March, and a detachment of the new corps left with the troops to head northwards. Nelson went through its usual panic on receipt of the news of Heke's attack, and Sinclair allowed the volunteers to drill and mustered all men who possessed arms; a revived local Committee of Public Safety resolved to repair the fort, and the Police Magistrate requested troops as 'our means of defence are very small'. But after the townspeople quickly realised that no attack from the Maori was likely to eventuate, the target as always became the remnants of defiant workmen; workers were now forbidden, even in the event of Maori attack, to shelter in the fort that many had helped to build.¹²⁷

Wellington had at that time the gravest race relations problems outside the far north, and when news of the Bay of Islands events reached it Superintendent Richmond swore in special constables to guard against attack. On the day that troops arrived from Auckland—7 April—a number of officially sanctioned measures of self-policing went into operation, but these barely outlived the period of immediate panic. By the time in mid May that the warrant authorising a Wellington militia organisation arrived, sufficient men could not be gathered—at least not until pay rates were raised. If anything these defensive measures merely delayed showdown with the local Maoris, postponing, for example, Richmond's intended clearing of Rangihaeata's people from the Hutt. The situation was now to remain uncertain and disturbed, and so McDonogh's mid year intention to apply the Native Exemption Ordinance in the region's non-penetrated spaces was disallowed by FitzRoy, its architect, although the policing writ sometimes barely covered even 'settled' rural areas. Even inside the town race relations became hard to handle, and that November the situation was

so critical that the trial of a relative of leading 'friendly' chief Epuni for larceny threatened to lead to conflagration.¹²⁸

The war in the north thus had ramifications for both Maori and pakeha throughout the colony. Even in Akaroa Robinson put his Chief Constable on the alert to ensure that not the slightest provocation was offered to local Maoris. Indeed, had it not been for the presence of the French corvette, he felt, local Maoris in conjunction with 'low' pakehas would have plundered the town. Blockhouses, their construction begun after the 'Wairau Panic', were now completed by the French, and the whole situation was a good excuse for the Police Magistrate to request (but in vain) a dozen British troops with which to end, once and for all, the continued resistance of the French settlers to British authority. With Bérard's backing they had recently refused to pay rates for the reason that they did not as yet have title to their land, although Nelsonians and Wellingtonians in a similar position had to pay. Richmond had referred this problem to FitzRoy, instructing Robinson that meanwhile in his 'unprotected state' he should not attempt to enforce the penalties; in June, beset by problems of the war, FitzRoy decided for the time being to forgo enforcement in the face of French naval opposition. The French forces acted as a handy substitute for British warships and troops, covering most of the South Island in their area of potential operation and thereby releasing the government from having to send much-needed military resources well away from the current problem areas. The minute Akaroa police force could not have coped by itself in a crisis. In June, for example, with memories of the *Elizabeth* episode still strong, armed Maoris came to town to consult Robinson about (unfounded) fears of a Te Rauparaha raid; the local whites were anxious lest this might be a trick to infiltrate and then seize Akaroa, and would probably have precipitated problems by excited action had they not been reassured by the availability of French coercive force.¹²⁹

The northern insurrection had led to a large increase in the number of soldiers in the country, 800 by 1 June 1845, and after George Grey replaced FitzRoy in November he secured huge increases in military strength. Following the cessation of hostilities after the occupation of Kawiti's Ruapekapeka pa, Grey arrived in Wellington in February 1846 with more than 500 troops to crush resistance in the south; and in so doing he began a process of reorienting policing which was to lead to the phasing out of the existing police system. The institution of the Police Magistracy had been under hostile scrutiny from various quarters since its implementation.

The criticisms all amounted to a claim that those with, or with aspirations to, property were not getting value for the money expended, or which allegedly should have been expended, by the state. Some objected to the appointment of 'gentlemen amateurs'—amateurs at policing at least—to the high police positions: 'however much the community bewailed the loss of a talented Surveyor General', wrote an Aucklanders with disapproving reference to Felton Mathew, 'the fact of his being restored to them in the shape of so learned a Police Magistrate was a consolation universally felt.' Men striving to protect or to gain property were appalled at the leisurely rhythms of the typical Police Magistrate's day: Beckham was seldom on time at his office, Thompson frequently did not bother to turn up at his, Mathew 'surely does not imagine that his duty is confined to attending 10.00 (A.M.) to 12.00 (A.M.), or to 3.00 (P.M.) at a particular office. He is mistaken. We expect him to be continually officiating day and night . . . unless the settler can be afforded security for his person and personal property, he must inevitably abandon the country.' Most of all it was the pakeha-targeted orientation of the institution of the Police Magistracy which was resented. Why should the enormous powers of an office imported from a penal colony—'the very name is infamous'—be exercised over 'free Englishmen'? In the Company settlements particularly, and even more so after the Wairau affray, the cry had been for a police whose direction would be firmly towards enforcing the pakeha way upon the Maori and satisfying the pakeha thirst for land.¹³⁰

Some people advocated different policing techniques, even different police forces, for each of the races. Pakeha critics of the Police Magistracy frequently called for the function of social control amongst the whites to be handed to municipalised state machinery, on the grounds that the resident dominant class knew better the local requirements of property than did the centralised state machinery and its local representatives, the latter frequently acting under strict instructions from the capital. The Secretary of State who agreed in 1840 to separate New Zealand from New South Wales, Lord John Russell, encompassed municipalised policing in his letter notifying Hobson of the decision. It had been his Whig government which, in the course of reforming English borough administration, had decreed the introduction of 'new police' forces by municipalities. In 1841, following representations from the New Zealand Company, Russell authorised Hobson to introduce municipal government to Port Nicholson, and on the Governor's first visit to the major Company settlement that August he had succumbed to pressure and agreed, in view of the poor communications

throughout the colony, to introduce legislation enabling sizeable towns to have charters of municipality. The resultant Municipal Corporations Ordinance, based on a draft presented by a committee of important Wellingtonians, enabled a town corporation to run its own police force; the legislation was applied to Wellington's 2600 people in 1842 when 18 men, predominantly representing business interests, were declared Councillors by returning officer Murphy at the 'Police Office, Pipitea Point' in early October.¹³¹

The corporation, responsible for the 'good order, health, and convenience' of the townspeople, could now if it wished, either directly or via a 'watch committee', appoint 'constables for keeping the peace by day and by night'. But although to be sworn in by the Mayor, they were bound by the Ordinance to obey all lawful directions from, and sets of rules and regulations issued by, 'any Police Magistrate having jurisdiction within the Borough'. This meant, in essence, that if the Councillors did go to the expense of paying their own police, the latter could be utilised by the central state authorities whenever they wished: Wellingtonians would be subsidising the institution of the Police Magistracy. The Governor might even take the opportunity to cut central government costs by lowering Murphy's official police establishment, knowing that municipal constables could fill the breach: certainly, the Council or its watch committee was obliged to inform the Colonial Secretary of the 'number and situation of all station houses in such Borough, and of the number of constables, and of the description of arms, accoutrements, and clothing, and other necessities furnished to each.' The municipal corporation members therefore contented themselves by paying for part-time or temporary constables from time to time for specific tasks, such as 'conservator of the public reserves', and attempted to secure their major policing needs by putting collective pressure upon the government. In March 1843 they memorialised the government 'requesting that a Mounted Police force of six men be appointed for the protection of personal property in the Borough of Wellington, the experience of the last three years having proved that the existing pedestrian police is most ineffective.' The British government was to disallow the Municipal Corporations Ordinance since parts of it encroached on Crown prerogative, and thus a year after it was formed the Wellington Council disbanded, having neither established its own police force nor succeeded in pressuring the government into altering the Police Magistracy organisation.¹³²

The experiment had indicated that devolution of the crucial power of policing would in reality go no further, in a Crown Colony of the New Zealand type, than to the agent of central government.

Officialdom was relieved for settlers were considered, as yet, too untrustworthy to be handed such authority even if they had formed local state machinery. Agitation for decentralised policing did not cease with the disbanding of the Wellington municipal corporation, however. In June 1844, for example, Dr Martin of the Legislative Council proposed reducing police expenditure from an annual sum of £5102 to a mere £166: the colony, 'not being a penal settlement, did not require' the institution of the Police Magistracy, since the 'inhabitants generally would act as special Constables', overseen by the unpaid magistracy. There was a clear implication that the Maoris would be coerced by a separate specialist force. In successfully opposing the plan, Governor FitzRoy contended that in pursuing 'one uniform line of conduct' for both races the government, through the Police Magistracy, could best 'prevent misunderstandings and disputes between the two races'. A month later Heke's men were to chop down the flagstaff on Signal Hill for the first time, and the slide to war had begun in earnest.¹³³

The British and New Zealand states had considered that if gradualist methods of subordinating the Maori were used, costly military coercion on any large scale would not be necessary—at least pending availability of sufficient troops released from other imperial commitments. But by late 1845, after many months of indecisive warfare in the north, the historic moment had arrived for the policy favoured by most settlers, rapid subjugation, to come into effect. Since 1840 Grey had been urging upon the Colonial Office the policy of speedy, enforced assimilation of indigenous colonial populations; he was now given the means, including a financial grant triple that of FitzRoy's, to carry out his views in New Zealand.¹³⁴ The main thrust of the Maori policies of FitzRoy and his predecessors had been, of necessity given their lack of coercive resources, to utilise the existing socio-political structures of tribal life to pervade Maoridom, in ever widening concentric circles from each settlement, with pakeha notions of order, correct behaviour and regularity. Yet to have had ultimate success this would have required a backdrop of adequate coercive might to bring into line those sections of the Maori race who, as the implications of annexation became apparent, were to reject the process. The only questions were: when and how big would be the inevitable armed clashes? In the event the immediate conflict was relatively large in scale, although geographically confined, and to resolve it sizeable coercive resources were placed at Grey's disposal. This meant, concomitantly, supersession of 'moral suasion' policies for a period; at the first meeting of the Legislative Council to be attended by Grey, in December 1845, the new Governor told of the

priority he would give to enforcing rapid and total Maori obedience to British rule, and of how his coercive backing would enable him to rapidly force 'civilisation' upon the tribes. In setting about carrying out this dual task he introduced a new style of policing to New Zealand.

'The Control of both Races': The Armed Police Forces 1846-53

The Establishment of the 'Blue Jackets'

The phasing out of the Police Magistracy formula was the most tangible administrative evidence of the metamorphosis in socio-racial control induced by Governor Grey. The modified urban beat system which had initially been applied in the new colony was to be supplanted by a more overtly coercive constabulary whose roots lay in the policing modes which had been evolving in Ireland, a force specialising in paramilitary reconnaissance and order-imposition. The Irish system had in turn utilised a British military practice implemented from 1722. Because of the increasing use of the soldiery to handle mass disturbance with which the JP/Constable system was unable to cope, privates were increasingly housed in barracks and kept apart from the local communities which they might be ordered to crush by force of arms, and when the Peace Preservation Police were established in Ireland the barracks system was retained on the basis of the same principle. In 1822 the 'peelers' had been so successful in repressing 'disturbed' areas that the system was extended across the entire country as the Irish Constabulary, although organised in four separate provincial units. The militarised policemen were kept as distinct from the populace as possible: at first all were Protestants in a Catholic land, mostly with army training and unmarried. They were posted to areas where they had no family or friends, and were frequently transferred to new barracks in different areas to prevent fraternisation with the locals. Repression of a subject population could be conducted more efficiently if its people were aliens, strangers.¹

In 1836, the year that the Irish Constabulary was centralised by the appointment of an Inspector-General above the four hitherto autonomous Inspectors, George Grey left Ireland after six years' army service. Although not approving the overtly oppressive nature of many of the laws imposed upon the Irish, he had been impressed by the efficacy of a militarised police in imposing unpopular rule upon large, turbulent sectors of a subject population. Of the various

types of police he inherited upon becoming Governor of South Australia in 1841, it was the body of quasi-military armed troopers that most impressed him, and he came to regard them as his 'own' force. Established for the same purpose as that of the New South Wales Mounted Police, and trained under Commissioner of Police Major T S O'Halloran, whose 'police experience had been with the bayonet rather than the baton' in India and in disturbed times in Yorkshire, they were an antipodean version—i.e., for the suppression of blacks as well as whites—of the Irish Constabulary which had so impressed Grey. During a process of dismissing large numbers of South Australian policemen (the result of inheriting a collapsing economy) the new Governor reorientated the colony's policing to better fit his conception that 'in considering the Police Force it must be recollected that this is *really a Military body*'.²

Since acting as a Resident Magistrate in Albany, Western Australia, Grey had been working on plans to solve the 'native problem' in the antipodes. He had incorporated the idea of Irish Constabulary-style policing into his 'Report Upon the Best Means of Promoting the Civilization of the Aboriginal Inhabitants of Australia', presented to the Colonial Office in 1840. To avoid endemic interracial warfare, he argued, the indigenous population should be forced rapidly to assimilate to European modes of behaviour, even in areas where the penetration of British settlers was as yet insignificant. As the key tool for the enforcement of 'civilisation', 'each colony should possess an efficient mounted police; a portion of whom should be constantly in movement from district to district, whilst another portion, resident in a central situation, should be ready to act instantly in any direction where their presence was required.' While not needing to be a large corps, this envisaged militarised police should possess 'activity and efficiency' and develop a skill in 'peacekeeping' activities particularly in mixed-race regions. In frontier and border areas Protectors and Magistrates would on behalf of the government direct the swift Europeanisation of the Aborigines, with the police troopers their major means of coercion; the main supply of intelligence would be gleaned from patrol activities.³

As South Australia's Governor, Grey had an opportunity to engraft his theoretical concepts upon the militarised police tradition which predated his arrival. The experimentation worked sufficiently well for him to be able to boast to the Colonial Office in 1842 of the 'tranquility and good order which prevail in this province'. There was still however a great deal of fine-tuning needed, as O'Halloran's reports testified: 'civilised' Aborigine behaviour tended to cease during the winter, when they became 'most trouble-

some, for it is then that they are much pinched by hunger, and covet most the clothing and blankets of the settlers, to protect themselves from the inclemency of the weather.' Moreover, Grey found that he needed to use the military more than he had anticipated. But all in all from the point of view of the state his theoretical constructs withstood the test of practice. In an area of recent interracial warfare on the Murray River, for example, he placed explorer Edward Eyre as Resident Magistrate backed by a detachment of the blue-uniformed militarised police; Commissioner O'Halloran subsequently noted Eyre's 'great advance . . . in civilizing and taming the hostile spirits of the Murray Blacks'.⁴

In November 1845 Grey arrived in New Zealand to replace FitzRoy, who had become bogged down with the war in the north and growing Maori resistance in the lower portion of the North Island. The new Governor's initial task was to crush all resistance, for which he was provided with military resources substantially superior to those of his predecessors. Then, on the basis of the apparent success of his theories in South Australia, he intended to enforce rapid civilisation upon the Maori in order to preclude further outbreaks of resistance. Once the insurgents had been militarily defeated, Grey perceived, the ensuring of a rapid move away from the expensive instrumentalist extremity of the continuum of state coercive measures would require the existence of a colonial fighting input which could transform itself, in response to changing circumstances, into a policing corps. Both Hobson and FitzRoy had received instructions which acknowledged the possible need for colonial coercive measures to subdue the indigenous population. The founding Governor had rejected the Colonial Office suggestion for a militia on the grounds that it might easily become a settler tool for provoking unnecessary warfare, and perhaps even (via the New Zealand Company) for resisting the government. But Hobson had also disregarded the second suggestion, that of a 'small body of police' organised along Irish Constabulary lines, not only because it was beyond his limited financial resources but also because it was premature given the initially very limited areas of settlement. The New South Wales Mounted Police detachment became therefore little more than a bodyguard for Hobson rather than a prototype, and his abortive request for a New Zealand version of that corps was couched mainly in terms of seeking an imposing armed entourage.⁵

Both Shortland and FitzRoy had continued to refrain from embodying coercive institutions—'democratic' militia or elite police—which would place unrelenting pressure upon the Maori. But upon learning of the Wairau affray the Colonial Office turned

its strong suggestions of militia or armed police into a positive instruction. In the near bankrupt state of the colony FitzRoy had little choice but to opt for militia legislation, although postponing its introduction until the war in the north made it imperative as a colonial military backing for the imperial troops. Militia units served as auxiliaries in Heke's war, but in October 1845 the active-service detachments were recalled to Auckland when the state could not afford to continue paying the militiamen their 2s 6d per day. Although Grey revived their use that December, within a week of his arrival in the colony he had opted for giving primacy to the Colonial Office alternative of an armed police. Such a body, composed of men with some knowledge of the New Zealand countryside and its indigenous inhabitants, would not only be useful in defeating the rebels; it would then also, as in Ireland and Australia, serve as a militarised police force to conduct surveillance over, and act where necessary against, the defeated populace. Born in the easily traversed Irish countryside, nourished on the treeless plains of Australia, the idea of the armed 'rural' patrol police was adapted to New Zealand with the one major adjustment foreshadowed earlier by the experience of Smart's New South Wales Mounted Police detachment: mobility remained of the essence but the rugged and forested terrain, mostly roadless, even trackless, dictated that the corps embodied by Grey would be a non-mounted police force.⁶

Accompanying this adaptation of the original Grey plan was an element of indigenisation which had emerged as a result of the Governor's Australian experiments. The envisaged force, part of its function being to act as the state's major agency for socialising the Maori into behaviour more amenable to European norms of order, would incorporate selected Maori personnel. Grey had already converted the Colonial Office to the idea of utilising as policemen and soldiers young men from subject races, especially those of 'high' birth. They would prove valuable in fighting against and later, during the process of 'pacification', reporting on their own people, and such schemes would provide those 'advantages which would result from making the natives acquainted with our laws and customs, by inducing them to take an active part in the administration of these laws, and by leading them at the same time, to conform to a system of strict discipline, and of rewards and punishments.' Thus the Maori policemen would quickly learn to become brown-skinned Europeans, taking state-desired mores and behaviour back with them into their tribal communities when their periods of service ended. The armed police, the spearhead of expanding pakeha settlement, would therefore not only coax and coerce the Maori along the road to rapid 'civilisation', it would also

ensure that the 'virtues' of discipline, regularity and the profit motive percolated through the Maori race. Grey had already experimented with this concept in South Australia by instructing Eyre and other state agents to train Aborigines of chiefly caste as constables. O'Halloran had assessed that this would have 'in time a happy and most beneficial effect' as well as provide a 'moral influence over these children of the wilds'.⁷

Grey's motives for introducing the concept of an armed police force went, however, beyond his perceptions of the best way to suppress and 'civilise' a tribal society. On his arrival at Auckland he was concerned not just at the virtual ineffectiveness of the police mandate outside settlement boundaries, he was also disturbed at the endemic disorder on the streets of Auckland itself. Grey had a stricter conception of pakeha order and regularity than that hitherto expected by the state from a pioneering society. Autocratic in disposition the new Governor, moreover, realised that an Irish Constabulary-style police offered him greater potential and actual control over all elements of the population than did the generally unarmed, virtually immobile police operating in the various settlements. He wanted an 'efficient Police force, for the control of both races', although later explaining legislation to impose Armed Police Forces in place of Police Magistracies to the Colonial Office primarily in terms of protecting pakeha life and property within the settlements from the Maori. Such pronouncements were also for public consumption in the colony, for he had been conscious from the outset that an immediate attempt to militarise the colony's urban police would prompt vocal civil libertarian opposition among the pakeha—as the imposition of the New South Wales Mounted Police detachment had done six years earlier. The new forces would be phased in as the dominant colonial social control mechanism as and when opportunity arose, under cover at first of the severity of the Maori 'menace' to major settlement. Only when the white populace was accustomed to the presence of soldierly policemen would he finally supersede the Police Magistracies by the Armed Police Forces.⁸

To be sure the Armed Police would, quite apart from having a crucial pacification role, be useful as a fighting force during inter-racial warfare in the countryside. However Grey had other ideas as well for complementing imperial troops. He planned to emulate the 'native police' corps of the Australian colonies by establishing a 60-man all-Maori military unit officered by whites and organised on the lines of the 'Cape and Ceylon Rifle Corps'. With the men paid at a monthly rate of 10s plus rations this would provide a cheap means of obtaining expert military aid from those who knew 'the

enemy' and his methods intimately. That the corps never eventuated was probably due to European unwillingness to reside so much trust in the 'volatile and independent' Maori, and even Grey himself was soon for this very reason to reprimand Richmond for arming two hundred 'friendlies'. The Governor did keep his options open, actually passing a 'Native Force Ordinance' in 1847, but the closest the colony came to securing an all-Maori force operating on behalf of the state was an informal police/military corps grouped around 'friendly' chief Te Wherowhero Potatau, who settled at Mangere and made his men available for the southern defences of the capital.⁹

Paid volunteer levies raised on an ad hoc basis for specific campaigns were to be the major complement to the regimental troops. There was also the militia, which had proven militarily effective during the war in the north and was to do so again at the Hutt and Porirua, although such units were really just volunteer corps embodied under convenient legislation. Like his predecessors Grey knew that a mobilised militia—in its proper sense of the armed citizenry protecting its local interests—was a recipe for endemic confrontation between the races and should be utilised only in extreme emergencies. The unwillingness of militiamen to serve alongside Maoris, moreover, precluded Grey utilising militia as a vehicle for his assimilationist policies; nor would citizens cooperate with militia authorities unless their own lives and properties were in immediate danger.¹⁰

The Governor required, besides fighting bodies, a specialist police to complement his military forces, a corps raised on his authority alone. Only an armed police force of professional soldier-policemen could fulfil in the short and medium terms the several functions which he had in mind. The existing Police Magistracy system's inability to cope with these functions was revealed in February 1846 when Grey arrived in Wellington with 500 troops to present that show of force against the Maoris for which Superintendent Richmond had been pressing. The regional police, he found, consisted of seven constables to 'watch a tract of forest country without roads, more than a hundred miles in length, and to control about five thousand Europeans, and many thousand Savages', and at most British authority was enforceable only a 'few miles from the town'. The Governor was determined to change this situation.¹¹

A key factor in the projected change would be the role of the militarised police, who would differ from soldiers in a number of ways. Their capacity would extend well beyond the crudities of extreme coercive social control: they would surveil as well as fight,

and would be the crucial occupying force in the wake of the battles. Whereas the soldier was trained to 'implicit, unreasoning obedience' policemen, including those called upon to fight from time to time, would be able to exercise 'forbearance and discretion'. These latter qualities would be all the more necessary when they operated in small detachments or alone, as was normal in non-military situations. Furthermore the presence of Maoris in the armed police units would provide expert knowledge of the countryside and its indigenous people, quite apart from providing a bridgehead for 'civilising' tribal society. Having already rescinded FitzRoy's Native Exemption Ordinance, Grey was soon to abolish the institution supposed to safeguard indigenous rights, the Protectorate.¹²

On his arrival at the major Company settlement Grey, acting in conjunction with Police Magistrate Henry St Hill, at once attempted to put settlers in possession of sections on disputed land in the Hutt Valley. When the Maori resisted, martial law was declared (thereby justifying 'any exertion of physical force' by the state, 'extending to the destruction of life and property to any extent') and the southern war began. As Grey had predicted, victories won by the military extended the authority of the state little beyond the patches of land actually occupied by the troops. In repressing disorder throughout a generally hostile countryside, then, his projected Armed Police Force (APF) would be decisive. By stressing its anti-Maori functions when acclimatising settlers to the concept of the APF, the Governor diverted attention from its potentialities for suppressing pakehas as well. He sought to allay pakeha fears that APF-trained Maoris would go over to the rebels by giving great emphasis to the 'civilising mission' aspect of the policy: the best of his Maori police would be given 'every encouragement to break through their old customs, and to rest satisfied of the enduring and lasting support of the Government, if they identified with British institutions.'¹³

The new Governor searched carefully for the all-important leader of the prototypical Armed Police Force which he would establish in the Wellington region. He required a man not only of distinguished military career and reasonably high birth but also prepared implicitly and willingly to carry out all Grey's instructions and intentions, one who was moreover completely trusted by the settler elite of the south. Ex-Police Magistrate McDonogh, who had remained adjutant of the Wellington battalion of militia after its demobilisation on 30 September 1845, did not meet all the criteria and could not therefore be seriously considered. The choice fell upon 42 year

old David Stark Durie, a diplomat's son. After a military career during which he became a close friend of William Wakefield, Durie had been employed by the New Zealand Company and he had served in its illegal regime in Wellington in 1840. With each of the successive 'Maori scares' he had been the most prominent organiser of the resultant volunteer corps, and had been appointed captain of militia in 1845.

Grey attached such importance to the post of the colony's first Inspector of Armed Police that he first tested him by placing him in charge of a 50-man militia unit amidst hostilities at the Hutt. Having quickly proven himself, on 9 April 1846 Durie was appointed Inspector of Armed Police for the Southern District of New Ulster (the latter still the official name of the whole of the North Island) at a salary of £200 plus rations and forage. Within days, a young man of good 'breeding', the overarching criterion for selection of officials, was selected as Sub-Inspector of the founding armed police corps: Alfred Rowland Chetham Strode, scion of a landed Somerset family, son of a Rear-Admiral. 'Persons of such superior birth', a modern writer comments, 'rose like cream on the surface of early New Zealand society without much account being taken of their ability or training or lack of it.' Nevertheless their upbringing had taught them the rudiments of operating the state machinery of control, and Strode was to make a successful 'high policeman', remaining as second in command of Wellington's Armed Police Force until sent to take charge of policing at the new Otago settlement in 1848.¹⁴

Grey instructed Durie to sign men up for a year on terms of strictest discipline, with pay forfeiture and solitary confinement included in the punishments for breaches of regulations. Although unable to break their contracts, the men would be liable to dismissal with no notice or reason given. Because their immediate tasks were to be fighting and 'pacification', the force was organised less on police than on military lines. Suitable recruits were not wanting for a unit billed as a crack elite corps. Within two days the names of more than two dozen men passed as medically fit had been submitted to Grey for approval. They included five constables in the Police Magistrate's force, as well as 27 year old Richard Burgess Sayer, who until recently had been Chief Constable of Wellington and who was given the position of APF sergeant. More than half of the rest of this first batch were tradesmen and the remainder labourers, their average age falling just short of 30. On 14 April Durie submitted 13 more names, including two recruits from Kumutoto pa, the first Maori armed constables, with more Maoris expected to join later. Two days later the strength of the

Southern APF temporarily stabilised at 46. Grey was particularly pleased at having attracted a high proportion of tradesmen, who were considered to be suitable standard bearers of civilisation with whom their Maori comrades could fruitfully associate.¹⁵

The first of the blue-jacketed Armed Police Forces established, Grey now declared his strategy for initiating an 'unvarnished policy of conquest'. Over winter the focus would be to secure and enforce British authority throughout that 'considerable tract of country' south of a line drawn between Upper Hutt and a new military barracks established at Paremata on Porirua Harbour. A total of 65 armed police would operate from 'civil establishments' on the border and southwards from it, their task being 'to acquire information, to become acquainted with the Natives, their habits, cultivations, and roads, and more especially to watch over and provide for the safety of the Settlers in the neighbourhood of the Troops.' In short, aided by the declaration of martial law the Armed Police Force would conduct classical 'occupying police' operations, particularly by means of coercive surveillance-patrol. Although 'at this juncture' military engagements were if possible to be avoided the Force, composed mainly of ex-militiamen and drilled daily, was capable of conducting them. When in summer the troops were ready to move north up the coast towards Wanganui, the armed constables would follow and in conjunction with 'friendly' chiefs establish new police stations. Until then, Grey decreed, 25 police would complement the 220 troops at Paremata, 20 would operate from the Hutt alongside 200 soldiers, and 10 would be stationed at Ohariu. Additionally, another 10 would act with 80 troops as a reserve in Wellington itself (which was not covered by the martial law declaration), although Police Magistrate St Hill's civil constables would meanwhile continue to work the beat system aided by a special detachment of militia.¹⁶

The New Zealand Company and the settler elite thanked Grey 'sincerely' for the 'universal satisfaction' he had given in putting one of their own at the head of a force created 'to promote the welfare and advance the colonists at Port Nicholson'. They considered that 'this measure is about the only *bona fide* one we have received from the Government'. 'The presence of such a force, ready to move and act at a moment's notice, must have a great effect in overawing the aboriginal population.' But it did not prove easy to overawe those Maoris grouped loosely under Te Rangihaeata's aegis who were disposed towards armed resistance. In the hostilities which escalated after 16 May, when the military post at Boulcott's Farm was attacked, the APF worked in close conjunction with the other forces—militia, regulars, volunteers and

'friendlies'. An armed police detachment of a dozen was stationed at Taita stockade, the most advanced post in the Hutt, and an APF surveillance station was established at Karori after rumours of a planned Maori warlike incursion along that valley into the heart of Wellington itself.

In July, after a great deal of pressure from Wellington settlers, Grey decided to abandon his short-term strategy of 'defensive' coercion in favour of offensive operations. As an easy symbolic victory, his military and armed police forces seized Te Rauparaha at his Porirua pa, despite the lack of any evidence that the chief was 'forwarding rebellion and disturbances' as alleged. In this surprise raid Durie and his constables played a key role. A mixed force of militia, APF (Strode and 13 men) and Atiawa allies under Epuni then moved from the Hutt across rugged, trackless bush to attack Rangihaeata's headquarters pa at Pauatahanui, which the 'rebel' chief quickly abandoned. Joined by regulars from the Paremata barracks, the force followed the insurrectionaries up Horokiri Valley whilst Sub-Inspector Strode and his armed police helped troops to garrison the captured pa. Distrusting the 'friendlies', Grey also ordered Inspector Durie to establish an APF detachment at Waikanae to ensure that Wiremu Kingi's Atiawa did not allow Rangihaeata to descend from the hills to the coast. By mid September however it was learnt that Rangihaeata's forces had reached the safety of the swampland pa of Poroutawhao near the Manawatu River, and the Wellington fighting was over, with the armed police detachment remaining at Waikanae to keep a watching brief for any movements of hostile Maoris from the north.

By now much of the militia embodied in the first panic of Maori rebellion had been disbanded. Grey's policy was to gradually replace militia and military stations with armed police posts as the key institutions of control in a Wellington regional countryside undergoing 'pacification', sometimes done by redesignating the more active militia units as detachments of armed police. By the time martial law was lifted in March 1847, after captured 'enemy' had been hanged or transported by courts martial held under its auspices, Durie had placed an APF post as far north as Otaki—although the extent of pakeha occupation retreated back to Waikanae when news was received the following month of Maori insurrectionary propensity in Wanganui. In any case, Grey had never received from New South Wales the troop support upon which he had relied for a definitive conquest of the entire coast between Wellington and Wanganui. Abandonment of this general plan had meant that even areas south of Waikanae were at times 'unsafe' for the pakeha. After sporadic resistance to pakeha

encroachment on the part of Rangihaeata and his allies—a proclamation at Poroutawhao that no soldiers or armed police could use the coastal route to Wanganui, for example—a *modus vivendi* was finally reached in 1848 when Rangihaeata and Grey made peace of sorts at Otaki.¹⁷

The experiment of Maori membership of the APF was pursued cautiously at first, when their numbers were small: in August 1846 a mere nine 'native privates', from October seven more including Chief Wi Tako, were serving in a force whose established strength had reached 70. Moreover no Maori, however elevated in tribal status, was appointed to an APF position above that of private. At first the settlers had tended to give tentative welcome to their presence, viewing Maori policemen as the equivalent of Australian 'black trackers'—as experts in seeking out their own kind in their own territory. This of course was to ignore a key ('civilising') reason put forward by Grey for having indigenous militarised police in the first place. After the fighting finished, pakeha unease emerged when the number of Maori police, rather than falling off as expected, more than doubled. Critics of the policy of increased Maori enrolments generally ignored Durie's (as opposed to Grey's) main motivation, that Maori policemen could play a modified 'black tracker' role: they were crucial in conducting surveillance over and liaison with local Maoris, friendly, unfriendly and those of shades between. Instead, displeasure was focused on the 'civilising mission' doctrine which the critics had not at first taken seriously. Grey had seemingly held out the prospect of total conquest, and influential pakehas continued to urge this as a better, faster way of removing the Maori impediment to getting on to the land than relatively gradualist means such as, in particular, the educating of tribespeople to become brownskinne Europeans attuned to the pakeha implications of 'order and regularity'. All the same, doubts about the merits of Maori personnel were in the final analysis outweighed by the high praise accorded to the Armed Police Force overall.¹⁸

A week before Durie received his instructions for the APF's role in the strategy for subduing the whole area between Wellington and Wanganui, Grey had extended the Armed Police system to New Plymouth, the other Company settlement most 'disturbed' by Maori resistance (though not, here, 'rebellion') against the pakeha and by pakeha reaction thereto. The original, farcical land purchase in the area had been set aside by FitzRoy, to pakeha bitterness and a resulting atmosphere of race confrontation.

Although local Sub-Protector of Aborigines Donald McLean had evinced scant sympathy for any Maoris unwilling to hand over their land, the local settlers viewed the recent abolition of the Protectorate with 'unmixed satisfaction', a symbol of Grey's desire that the Maori be no longer 'molycoddled'. On 18 April the 'comfortable and lucrative appointment as Inspector of Police' for the area was offered by the Governor to McLean, marking the beginning of the latter's rise to great official and political prominence in New Zealand. The choice of an APF detachment for this settlement, where warfare was not imminent despite Maori dissatisfaction, and of McLean, indicated definitively that Grey's armed police scheme had no necessary organic connection with militarised suppression of rebellion, but was integral to a wider strategy for control of both pakeha and Maori society.¹⁹

Although only in his mid 20s, the Scottish McLean had become a skilled negotiator with the Maori for both land and 'order'. In providing him with coercive backing for, *inter alia*, land purchase activities along the entire western coastline, Grey expected to greatly increase the rate of land alienation with the least possible chance of interracial eruption. The appointment to the APF Inspectorate, significantly, was to date from the day on which McLean proceeded to Wanganui to continue land purchase negotiations delayed by hostilities in the southern region. With neither police nor military experience, McLean was in two minds about accepting a policing position of importance. He had moreover come to be protective of the interests of pro-landselling Maoris and an Inspectorship 'appeared to me at first sight as rather a change of duty that might not be appreciated by the natives'. On reflection however he found that it would 'add to my influence over them and enable me better to secure them their rights' subsequent to their decision to sell.²⁰

The New Plymouth APF was to consist of 10 constables and a sergeant, and the positions were keenly sought after because employment was scarce in a settlement which had stagnated because of its isolation and, particularly, of its small area of secured land. After his return from Wanganui, from a number of 'anxiously awaiting' candidates McLean chose an 'excellent set of men' and enrolled them on 18 June. The new Inspector's choice of Henry Halse as his sergeant was approved by Grey as being socially acceptable (Halse's former address: St James' Palace) despite the appointee's total lack of policing experience. In the selection of privates, an important criterion had been to ensure that the Force would 'not be inimical' to the Maori. This was especially important because they had particular instructions to prevent 'pilfering' by

Maoris emboldened by resistance in other parts of the colony and they would therefore need to be men of tact; a month after the formation of the New Plymouth APF its policemen were guarding the town against disturbances during the visit of several hundred Waikato Maoris. Pakeha gratitude was boundless, but there was a quid pro quo: since the Armed Police Forces were part of a strategy of social control encompassing both races, the New Plymouth men had been placed at once on town patrol, and the white citizenry could not—dared not, in case they lost the APF's anti-Maori services—protest. Even before they were sworn as constables the police were working two six-hour beats, complementing 'old gentleman' Henry King's tiny civil police. Thus apart from brief experiences at Kororareka and Wellington with dismounted troopers in 1840, the first urban patrols by Irish-style police in New Zealand took place in New Plymouth.²¹

While Halse put the 'clean and orderly' men through drill routine of sorts, McLean sought advice on training and controlling an armed police from Inspector Durie and from W B White, a militia officer who was soon to play a leadership role in the expedition from the Hutt to Pauatahanui. This advice received and put into effect, McLean came to refer to his police duties as 'military' and his constables as 'soldiers', in line with the Governor's alteration of non-officer police rank terminology in the colony to that of the military: armed policemen were privates, corporals, sergeants, Sergeant-Majors. McLean placed his force in barracks, and by mid September their drilling had become so efficient that they could anticipate parade ground commands. By the end of the year McLean had deployed some of his men outside the township to areas where chiefs' suspicions of the state and the police role in it had been partly allayed by both missionaries and police 'missionary' work; the local Maori, reported the Inspector, were becoming 'gradually reconciled and well disposed' to the APF.²²

By then it had emerged that Sergeant Halse would normally be the 'effective' head of police at headquarters in New Plymouth. McLean spent a great deal of time on roving assignments for the Governor, arranging land purchase deals and acting as the 'eyes and ears' of the government in sensitive areas. At these times Halse sent him 'most satisfactory' weekly official reports and private correspondence detailing the state of order in the town and its hinterland. The same age as the Inspector, Henry Halse had studied medicine before leaving London with his brother to take up farming in New Zealand. However, by 1846 the settlement was so stultified that he needed a regular income, and as a result the New Plymouth police gained an NCO of much higher social standing

than might have been expected, a factor of even more significance when from 1848 his brother William Halse JP was appointed Company Resident Agent for New Plymouth. Inspector McLean felt no compunction about becoming Henry Halse's lodger in 1850, nor at that point in breaking the barrier between officer and lower ranks by dining with him for the very first time. Halse was one of the very few early 'low policemen' later to rise to important positions in the police—including that of Inspector in charge of the police of New Plymouth Province—and public service, and he ended his life as a renowned Maori scholar and judge of the Native Land Court.²³

Because of the limited resources available for militarised police expenditure in an area of relatively small white population and devoid of actual interracial armed confrontation, Grey did not as yet envisage a 'civilising mission' function for the New Plymouth APF. The new Inspector was not therefore given instructions to enrol any Maoris. But McLean quickly came to see the necessity for a 'judicious selection' of Maori constables, if only in order to 'ensure the cooperation of their tribes' with the white authorities. The efficacy of Maori policemen had been proven during the visit of the Waikato: Police Magistrate King had used his usual system of offering rewards to chiefs in return for the good behaviour of their followers, but McLean's temporary, nominal, addition of some young chiefly Maoris to his armed police also 'had a good effect in preventing depredations'. The Inspector would occasionally employ well-connected local tribesmen as police privates, especially when disturbances were in the air; and in March 1847, after inspecting the force and listening to McLean's submissions, Grey sanctioned the enlargement of the APF so that it included a sizeable proportion of Maoris.²⁴

A key difference between Metropolitan and Irish policing was the focus of the former upon a relatively confined urban area whereas the latter was able to range freely over large tracts of countryside, but it was only recently that the four Irish Constabulary areas had become unified under central command: constabulary mobility and hierarchism did not preclude devolution of control. In the North Island of New Zealand, given the fragility and vulnerability of the overland routes linking the three major areas of pakeha settlement, it was logical for Grey to establish three separate armed constabularies. The mobility principle would operate inside each area, with priority given to securing adequate road access between the settlements. Armed police detachments guarding communications from intermediary stations would 'pacify' countryside within an ever

increasing radius of each station, able to call on the headquarters reserve (itself the centre of a widening concentric circle of 'civilisation') in emergencies. The peripatetic Governor would take personal control over any of the APFs whenever necessary, and all three would operate in strict accord with his policies.²⁵

On 2 May 1846, a fortnight after the offer of an Inspectorship to McLean, an Auckland newspaper reported a rumour that an armed police force for the north, centred at Auckland, was to be established. The reporter erred only in predicting that the force would be mounted in traditional Irish style and would number five dozen. On 4 May Grey appointed 37 year old Captain Thomas Ringrose Atkyns as Inspector in charge of the Auckland Armed Police, and Robert St Aubyn as his Sub-Inspector. The two new leaders immediately set about carrying out their orders to raise and train an armed police similar in size and nature to that of Wellington's current force. Amongst its eight NCOs and 40 privates were to be, if possible, a dozen Maoris. Grey's fears that 'suitable' Maori recruits would be as scarce in the north as matters had turned out in Wellington proved groundless. In a situation far removed from war between the races, the Governor was by mid May sufficiently optimistic at the prospects of race amalgamation in Auckland to plan to 'continue as rapidly as possible for formation of a local police force composed in a great measure of natives'. In furtherance of plans for a force whose proportionately large intertribal component would make it 'more advantageous than any European force', Grey recruited from as far afield as the Hokianga.²⁶

Many Auckland pakehas, like Wellingtonians, did not accept the viability of the 'civilising mission' which Grey had assigned to Maori privates. The force, Felton Mathew recorded, was 'drilled and disciplined as Regular Troops', and it is true that one school of thought held that military experience or its equivalent was a good way to 'civilise' the Maori with a minimum of 'inconvenience and disgust' for the pakeha. A number of critics said however that pakeha constables who were little more than soldiers were hardly the people 'to improve the moral character of the natives', who would as a result of such rude schooling spend their pay in public houses and 'other more disreputable places of resort'. Until now, too, the official policy of (gradual) assimilation had centred on teaching Maoris the 'arts of peace and culture': the civilising process should operate through employing Maoris to build roads, hospitals, schools and suchlike, and enabling them to share in the fruits of their labour, so that the 'friendly professions of the British Government are not so empty as they must now take them to be.' Grey wished to hasten all these developments, but with militarised

policing experience for chiefly Maoris as a key catalyst of change as well as a fall-back—and in some circumstances crucial—tool in either race war or ‘pacification’. There was considerable scepticism, and even many who genuinely believed in the need for assimilation and who felt that Grey’s plans to speed up the process were tenable were not prepared to concede that life for young rangatira at barracks as militarised policemen was the correct way to achieve such goals.²⁷

Voices representative of pakeha majority feeling—anti-amalgamationists, or more frequently those who just did not care how the ‘native problem’ was resolved so long as they could progress with furthering their own interests—also questioned the efficacy of Greyite methods. Whereas Wellingtonians had in general welcomed Maori constables as useful in a ‘black tracker’ role in conditions of warfare and pacification, another perspective—one which was particularly magnified in Auckland—believed this function to be dangerous: it could lead to those Maoris employed in the police, given the alleged ‘restlessness, and love of novelty and change’ of their race, passing on the arts of pakeha war to enemy Maori. They might even as individuals, ‘after acquiring our notions of discipline, turn their arms against us’. Grey had attempted to head off such criticism, partly by requiring that Maori recruits provide their own firearms—an approach he had intended for his projected Maori military corps—so that if they deserted to ‘rebel’ tribes at least they would not take government weaponry with them. But whether pakehas thought ‘black tracker’ constables likely to be efficient or counter-productive, articulate Aucklanders avowed that there was no need for even the dozen Maori constables initially announced for an area where relations between the races were said to be ‘diametrically opposite’ to those in the south. Indeed because of this supposed north-south contrast ‘we cannot perceive the object for which this force has been established’: Maoris in and near the city were ‘most friendly disposed’ and even should they evince ‘discontent or overt rebellion’ the need would be for ‘regular troops in numbers’ rather than a ‘few raw mounted police’.

People turning their minds to Grey’s motives for establishing a northern militarised police had their suspicions increased when it was realised that the APF were not even to be sent, in whole or in part, away from the racially relatively untroubled Auckland town to the still disturbed far north. Yet the force was enormously expensive: despite ungenerous pay of 25s per week for its privates, and the fact that its carbines and bayonets were provided from the stand of arms which Grey had brought from South Australia, the Auckland APF was estimated to cost nearly £4000 in its first year

of operation—and, as some had predicted, in the event it actually cost more. To confine an anti-Maori force which nominally covered half of the North Island to a small urban area where an 'efficient, well-regulated Town Police under a most active, intelligent Chief Magistrate' already patrolled, seemed to take the barracks principle too far.²⁸

As some Aucklanders suspected from the beginning, Grey intended his Armed Police Force to supersede the Police Magistracies. In attempting to allay such rumours, a supporter of the Governor maintained that it would be 'nothing less than a monstrous libel upon so small a community of British people to suppose that so large a police force would be necessary to protect them from the lawless portion of themselves'. Nevertheless even he had to concede that the local APF was too small on its own to crush another northern Maori insurrection, even had one been anticipated, and that it was hardly needed as a rural force for catching fugitives since Maori chiefs acted as police in handing over wanted men of both races. Essentially, the armed police were designed not just to repress the Maoris and/or the 'lawless portion' of the pakeha populace: they were potentially to superintend the entire population in town and country alike, ready and able to act as all-purpose agents of the state whenever, wherever and however required by Grey or by those of his subordinates trusted enough to be delegated to 'keep the peace'. They were created to superimpose the Irish Constabulary *modus operandi* upon the adapted Metropolitan system introduced at the beginning of the colony. They were to be more than solely agents of racial or of urban control. Armed police were intended as the crucial mechanism of social control, the inspectors of all society, and the coercers of all elements in that society considered by the state and the interests it represented to require coercing.²⁹

Grey's notification to the Colonial Office of the establishment of the three forces contained a franker analysis of his motives than he was as yet prepared to acknowledge within the colony. Some of his despatch was concerned with the *raison d'être* of the southern armed police as part of the Greyite state's continuing quest for a vast increase in imperial coercive force: given the combination of a large immediate influx of soldiers and the existence of his APFs, within several years the 'corrective' activities which would have been carried out by the former and the presence of the latter would enable the British to remove a 'considerable portion of the military force, which recent occurrences have rendered it necessary temporarily to station here.' But over and above this, Grey explained, his armed police units were essential for the 'assertion and preserva-

tion of British supremacy, for the control of the turbulent, the protection of life, property and commerce, and the security of the revenue which the country can at once yield.' They were to become the police of New Zealand, a vital component of a grand plan to impose Grey's conception of the desired degree of order upon his colony. If in the process state expenditure needed to double, so be it: the economic rewards consequent upon a stabilised countryside would be more than adequate recompense.³⁰

It had been no accident that the Governor chose a military man as leader of the Auckland APF. Thomas Atkÿns was, a subordinate later recalled, a 'nice, soldierly fellow' who had put his continental military experience to use as a captain in the Auckland battalion of militia from April 1845. When the militia operated in the far north (under the name of 'volunteers', the operation being outside the legal limit for militia activities) he had distinguished himself sufficiently to gain a command in the 'Pioneer Volunteer Corps' established by Grey upon arrival in the colony. His service was said to be characterised by 'coolness and gallantry' as well as by almost legendary 'energy'. Colonel Despard, commander of the imperial troops, had praised 'in very strong terms' his 'indefatigable exertions' in the war. Now that the hostilities had ended, Atkÿns was a logical choice to head a constabulary corps which, certainly initially, resembled a military more than a police force.³¹

Indeed the new Auckland recruits spent all their time drilling, performing military manoeuvres, carrying out guard duty and the like. A sergeant of the 58th Regiment, Michael Hartnell, was transferred from the militia in order to put the men through intensive drilling courses, and he was to remain with the APF until his recall in April 1847. In the face of opposition by pakehas in Auckland to being policed by a militarised constabulary, especially one composed partly of men regarded as 'savages', Grey avoided giving beat duties to Atkÿns' men, although in Wellington and New Plymouth the armed police complemented the town patrol duties of the Police Magistracy forces. When the Auckland recruits were sworn in as constables before Police Magistrate Thomas Beckham on 10 June 1846 the official story was that this step was necessary in case they were called upon to supplement the town police in an emergency. By late June the men had 'attained a certain proficiency at drill' in the grounds of the Mechanics Institute—their martial activities disrupting the day school run on the premises—and were ready to learn firing skills from Atkÿns. Sergeant-Major Edward Meurant, a government interpreter who had been in New Zealand for 24 years and had married into Te Wherowhero's family, kept privates of both races under firm control. Not only had he

accompanied the British forces in the field during 'Heke's war', but he had also a great deal of policing experience: in his capacity of official interpreter, since 1840 he had been in constant contact with the policing authorities as a 'troubleshooter' for problems of Maori or interracial nature. His diaries, indeed, reveal him to have been a *de facto* policeman long before 1846, so that his policing activities were no more than stepped up by his appointment to the APF.³²

All along, observers expressed concern at the implications of the Auckland APF's admixture of militarisation and bona fide (albeit non-patrol) policing duties. Some opponents seized on the personal failings of its members to discredit it. Its leadership was not excluded from such focus. While helping to establish the Auckland force, St Aubyn was forced to apologise publicly for circulating a rumour instigated by Thomas McDonnell, under whose auspices he had acted as informal policeman at the Hokianga following the disbanding of the the area's police force on 30 June 1845. The subject of the rumour, missionary leader Henry Williams' alleged homosexuality, was sufficiently sensational to ensure maximum humiliation when St Aubyn was exposed as the tale-bearer for his former benefactor. Atkÿns no doubt was relieved when his Sub-Inspector resigned on 5 October 1846 upon recall by the Admiralty to active service. The position was not immediately refilled: Atkÿns was at his most efficient working alone at the top, for this minimised, particularly in a force with a rigid hierarchy of command, his opportunities for quarrelling. In any case, it was the energetic Inspector who had done most of the work. Within a day of his appointment Atkÿns had arranged for conversion of the messenger's two rooms in the public works building to APF guard-room and police office, and 'sentries' soon patrolled outside by day and night. By 25 July, when an unfinished stone house in 'impassable and dangerous' Chancery Street was rented as a barracks, the force had been firmly established. The fact that there were no signs of the formation of country detachments however caused increasing questioning of the propriety of a force called into being by Grey's 'own fiat'. 'Why', asked a correspondent, 'is such an air of mystery thrown over the subject in which the whole colony is so deeply interested?'³³

Transitions

When the new session of the Legislative Council opened in October 1846, Grey had no constitutional choice other than to seek legal

sanction for a force that he had raised entirely on his own responsibility. But when introducing the necessary legislation he avoided mention of the force's primary purpose as the key method of *biracial* social control. Instead he emphasised that the APF would, because of its Maori members, be suitable for controlling and apprehending Maoris; and furthermore that it would act as a vehicle for the 'civilising mission' to the indigenous people—the government's aim for whom was to 'accustom them by degrees to take an active part in the administration of the laws of their country. Already some progress has been recently made in the attainment of this object, as the Natives when employed in the Police Force and paid, fed, and clothed in all respects in the same manner as Europeans, have not only proved active and valuable constables, but have so completely emancipated themselves from their former prejudices as not to hesitate to assist in the apprehension of offenders of their own race, whatever might be their rank and influence.' It was a gross exaggeration, part of a scenario of 'order and prosperity' which had more to do with what the Colonial Office desired to hear than with reality in New Zealand; and it deceived interested sectors of the British state. One official summed up feeling by minuting: 'Police force are very important and full of hope for the future.'³⁴

Wording in the Governor's report to the Colonial Office, albeit a report justifying the Armed Police in terms of Maori constables, provided however an indication of his desire for a brand new agency of coercive control. His conception of the APF was ego-centric and centripetal: its disciplinary and reward system 'should, in as far as possible, be administered under my own eye, so that I might be enabled to afford the most active and intelligent amongst them, every encouragement to break through their old customs.' The measure which Grey introduced to the Legislative Council removed from the policing arena the judicial function of state which, under the Police Magistracy system that he had inherited, impeded direct executive control over constables: APF commissioned officers would now be, in theory as well as in practice, responsible to the Governor alone. The draft Constabulary Force Ordinance, presented for second reading on 7 October, admixed elements of both the Irish and colonial patrol police with which Grey was familiar and British statutes, including the 1792 Act which had established the Police Magistracies in London. However the finished result gave the executive a potential direct control of the internal operations of the police exceeding that which existed in any other force, moreover a control which was not amenable to judicial review. Only a few people realised, even partially, that Grey

was giving himself unimpeded power to interpose in so detailed a fashion in affairs which in even the most paramilitarised of forces elsewhere were normally left to the officers and which were subject to a degree of judicial control.³⁵

In countering a mild demur from the new New Munster Colonial Secretary Alfred Domett, Grey referred for precedent to the Irish Constabulary. Yet even its constables, like those of the Police Magistracies, had been subject to somewhat more than residual degrees of control by the judicial arm of the state. The Governor's intention of ensuring that his armed police were responsible only to their superiors in the force, with himself at the commanding peak of the organisational pyramid, did not sit comfortably with the formal position of the ancient office of constable, whose responsibilities and obligations were intimately involved with adherence to the instructions of magistrates. Under pressure from legal-minded advisers, Grey conceded that when armed police could be spared from normal duties they would be placed by their officers at the service of magistrates for the purpose of serving warrants, but this was a minimal concession that was quite inadequate so far as the judicial branch of state was concerned. Since the Constabulary Force Ordinance conflicted with both common law and precedent, serious demarcation disputes were inevitably to arise in the future.³⁶

In the meantime a *modus vivendi* was reached between the judicial and executive arms of the state: the former would make application to APF officers should they require the services of armed constables, except when, in emergencies, the officers could not be reached. The settler elite, from whom the unpaid magistracy was selected, were prepared to accede to Grey's ever encroaching power—so long as there was a quid pro quo of decisive military or other measures against Maori resistance to land selling and to the imposition of European norms of behaviour and order. On the other side of the coin, APF officers were not averse to magisterial control of policemen who were stationed far from their superiors and, as yet, lacking application of 'wise discretion'. McLean even promulgated a local regulation to this effect: in an emergency his armed constables should obtain written instructions from either the Police Magistrate or the next most senior JP available.³⁷

Opposition in the Legislative Council to Grey's measure tended to be Auckland based, and even then was expressed apropos of Grey's explanation that the APF existed primarily as a vehicle for the Maori police experiment, oppositionists of radical and libertarian stamp not being represented in the appointive legislature. Probably the Constabulary Force Ordinance was scrutinised as

much as it was only because at the time other business was of a 'desultory' nature. Realising that his main backing came from southern members who supported the 'black tracker' viewpoint, Grey made Maori participation the thrust of his arguments for the legalisation of the armed police establishment. He and other proponents of the measure stressed that Maori constables were best able to keep open the lines of communication between police posts, knowing for example how to counter the tapu which from time to time closed the main routes to all traffic; they would be able to travel unobtrusively, alone, on intelligence trips into the interior; chiefs would be more likely to hand Maori offenders against out-settlers over to 'native constables' than to pakeha police. Emphasising the quasi-military role of the mixed-race APF's operations in the Wellington area, Grey concluded of his force that no 'greater boon could be conferred on New Zealand, in its present circumstances'.³⁸

Political opposition from Aucklanders, confined to the terms of reference set in debate by Grey himself, claimed that Wellington Maori constables had all been drawn from tribal sectors which were antagonistic to the rebels, and that it could not be proven that Maori constables would always properly police fellow tribespeople and tribal allies. But the opposition was so weak that it conceded defeat from the beginning: as the Governor 'seems to be unalterably fixed in his opinion of its utility and efficiency', the people were to be 'saddled with the burden' of maintaining a force which by its intrinsic nature had to be hugely expensive. Even the main opposing Legislative Councillor conceded that the Police Magistracy forces had been useful for only the first phase of colonisation: now that 'suburban' (satellite) towns were being formed and bush cleared by outsettlers far from urban areas, a relatively immobile police that was almost entirely beat-oriented was outmoded. His objection, and that of others, was to the cost of Grey's replacement police. The government was not dissembling in its claim that there was no opposition from politicians to the *principle* of a mobile patrol police: the fundamental implications had been obfuscated by the Governor.³⁹

In the course of the debate Grey had let slip that he had planned the first armed police for Auckland before he left for the southern district. The idea had not, clearly, arisen in response to Maori problems in the Wellington area but rather to his desire for a militarised police 'completely the creature' of the Governor. Grey himself under the terms of the bill would have control of all facets of the APF, as had been the case during the six months' extralegal existence of the force: he alone could determine its size, its distri-

bution and its duties, although the option of delegating his powers to 'commissioners' if necessary was left open. When queried about his provision for such officers, Grey's reply was deliberately enigmatic: they would be 'officers holding the chief power in the force before whom the men would be taken to receive sentence of punishment. They might be senior officers of the force, but who the commissioners would be the Governor could not yet inform the Council.'⁴⁰

For the time being Grey kept a firm personal control over his three Inspectors, even if operating through Richmond in Wellington in directing the southern APF; his grip on the social control mechanisms—and therefore on social control itself—tightened in December when the constables were resworn to be liable to act as constables 'in and throughout the Colony' rather than in just their own armed police district. Even Richmond was given little latitude: when he took on an extra seven Maori constables following disturbances up the western coast, Grey instructed him to return at once to his current authorised Wellington area strength of eight NCOs and 47 men. The Governor's intervention in the Auckland corps, in particular, was constant. The smallest details proposed by Atkyns had to be submitted for scrutiny, and the Inspector could be reprimanded, for example, for failing to differentiate between Maori and pakeha constables in a proposal for the distribution of his force.⁴¹

Following the passing of the Ordinance on 9 October 1846 people began to draw the logical conclusion as to the fate of the Police Magistracy forces: even were these not becoming anachronistic they (along with the militia service, which had been 'always looked upon by the people as a hardship') should clearly now be abolished as the country could hardly afford the upkeep of two police systems. To allay criticism of his growing power Grey held off the date of transition, but after the Council examined (and objected to) the APF estimates late that month his hand was forced, for he had underestimated the costs of the armed police (because, he alleged, of 'apparently defective' information provided to him). He had resisted criticism in the Legislative Council by assuring members that Britain would make up any shortfall in the amount of money that the colony could raise towards the police, and he now based such a case to the Colonial Office on Britain's potential savings on troop expenditure consequent upon New Zealand's possession of police that were 'partly a military body'. Armed Police Force costs, he admitted, were likely to reach the enormous sum of nearly £10,000 for 1847. Even those who believed Grey that a British subsidy was likely, despite clear Colonial Office policy that policing

was an internal colonial matter, did not imagine that subsidisation would offset such increased expenses.⁴²

Dual policing could last no longer: on 7 November, the day after Grey wrote to the Colonial Office, further legislation was passed which provided for the gradual replacement of the Police Magistracy with the new institution of the Resident Magistrate, the phasing-out of the old-style police forces to be completed by 1 May 1847. Resident Magistrates were to have no control over police. Their collective juridico-political authority was to cover the entire colony; those stationed in areas away from the major settlements would continue to act as the key agents of government, assigned specifically to implement rapid assimilation of the Maori to pakeha norms of behaviour. They were to extend the Maori officialdom experiment beyond policing to the judicial sphere, with the intention 'not only of acquainting the natives with our laws, but of inducing them if possible, to assist in the administration' thereof. Maori 'Assessors', for example, would form with the Resident Magistrate a court of arbitration for certain types of civil dispute, and Resident Magistrates would have powers of summary jurisdiction in all intraMaori and most interracial issues.⁴³

Looking towards the defeat of the insurrectionary Maori, Grey had been working out the best means of expanding his policies of rapid assimilation to the partially-settled and the non-penetrated frontier. He needed a device to 'meet the peculiar circumstances of a European race mingling with a population just emerging from barbarism'. His own Resident Magistracy experience had led to a decision to adapt this Australian frontier institution to New Zealand, where the effect upon the Maori of the now repealed Native Exemption Ordinance had been he felt—with blithe disregard for practicable alternatives—'virtually to remove them from beyond the operation of our laws'. Never, claimed Grey, had he been in a land where 'the administration of justice is so feeble': 'there are many portions of New Zealand in which crimes are committed with comparable impunity'. The Police Magistracy, he told the Colonial Office, had after its first year or two done 'away with all law throughout a great portion of the Colony' for European and Maori alike, given the expansion of settlement away from the nuclei: 'the law was, in many districts, rarely or never attempted to be enforced'.

Before the year was out the Secretary of State for the Colonies, Earl Grey, had sent the New Zealand Governor new Royal Instructions which cut across the grain of the rapid assimilation mechanisms by envisaging the creation of 'native districts' in which Maori customary law would be enforced by chiefs acting as state-

sanctioned policemen. But Governor Grey's rival Resident Magistracy scheme was to win out after he argued to the Colonial Office that it was pivotal to his Maori policy, a contention true enough insofar as it referred to those Resident Magistrates controlling areas not closely settled by the pakehas. Urban Resident Magistrates were however quite different, little more than Police Magistrates denuded of their policing function. That they operated under the same Ordinance as their rural counterparts was due to the historical accident whereby the legislation to establish the latter happened to be on the agenda at the time Grey wanted to ensure that all police forces were *directly* responsible to the executive without saying so too loudly.⁴⁴

The package of measures of October–November 1846 involved an enormous tightening of the power of the state over its subjects of either race, but despite—indeed because of—Grey's policy of rapid assimilation it was a power applied differentially. Only town Maoris, for example, were subject to the 'discretion of any magistrate'. This was a rebuff to rural settler JPs who might use possession of legal power over tribespeople to precipitate conflict in the delicate circumstances of the frontier, though one cushioned by the restoration to them of full English powers of committal over European offenders of all types. Moreover with the rural Resident Magistrates bereft of routine police surveillance reports, particularly until the APFs began to move into the countryside, JPs were given a prominent position in the system as important adjuncts to the Resident Magistrates' role as 'eyes and ears' of the state in remote areas. In their penetration and taming of the racial frontier, the police and judicial institutions concentrated in particular on influencing chiefs to spread the virtues of pakeha-style order and behaviour among their followers.⁴⁵

In the urban areas, the separation between these two control institutions was more rigid, although in Wellington and New Plymouth the groundwork for a reasonably smooth transition had already been laid by policing cooperation between Police Magistrates and the Armed Police leadership. In Auckland there had been no pressing 'native problem' under whose pretence Grey could gradually acclimatise the pakehas to the concept of armed police being the direct agents of social control, as opposed to constituting reserve coercive agents of racial control. At most, 'native police' in the APF were tolerated as bona fide policemen so long as their targets were confined to people of their own race, and that was initially the case. 'This morning at 5.A.M.', reported Sergeant-Major Meurant, 'I and 3 of the Native Police—Taratoa, Te Rangi, and Hirihi, went to Orakei in search of the robbers but without

success. We got information of a native named Hone who had been robbing and stealing for some time since. This afternoon the Native Police caught him in Town' and two days later he had been sentenced to a year's hard labour 'for stealing one pair blue cloth trousers from a tailor'. By the end of that month, July 1846, the dozen Maori constables were so acceptable—within their limited role—to Aucklanders that Atkÿns authorised Meurant to purchase blue uniforms for them, soon bringing them to parity of appearance with their pakeha comrades. But all this was a far cry from pakeha acceptance of control by militarised police—even white armed police, let alone brown. The enormity of the transition from Police Magistracy constables to paramilitary police could in no way be disguised or mitigated.⁴⁶

As the most difficult transfer of coercive social control from Police Magistracy to paramilitary force was clearly to be that of Auckland, Grey decided to quickly tackle it under his personal supervision. Police Magistrate Thomas Beckham had proven himself decreasingly competent to handle the policing of the capital; earlier in the year Grey had reprimanded him for 'very unsatisfactory' behaviour in creating an 'unnecessary alarm' after hearing a false rumour about impending Maori attack on Auckland. In an illegal action itself bringing the danger of interracial war, constables had on his orders seized Chief Patuone in the street and taken him to the Police Office to make a deposition on the rumour which had panicked the Police Magistrate. On 17 November Grey applied the Resident Magistrates Ordinance to Auckland and altered Beckham's title from that of 'Police' to 'Resident' Magistrate, and for the rest of the month there existed the anomalous position of a Resident Magistrate controlling a Police Magistracy force. Beckham was then ordered to dismiss three of his constables and transfer the three others—Charles Brown, J Bowtell and E Leary—to the Armed Police, which on 1 December 1846 began patrolling the streets of the capital. Amid cries of Greyite tyranny against the white populace Atkÿns thereby became head of police for the north, his men totalling 40 privates and nine NCOs, a huge increase over the Police Magistrate's force. When however the Inspector attempted to deploy his strength further afield than central Auckland the Governor considered this precipitate and refused permission, with the exception of the despatch of a corporal and five privates to Onehunga to cover the satellite pensioner-soldier settlements. The legal formalities of transfer were completed—except for the anomaly of the temporary retention of Chief Constable Woods' tiny force at the Bay of Islands—by a notice in the official government *Gazette* and on 14 January 1847 Beckham's

formal connection with policing was severed when he handed control of the lockup and other property to Atkÿns.⁴⁷

Beckham did not relinquish his powerful policing function quietly. His discontent was not alleviated by receipt of the permanent services at court of his Chief Constable, James Smith, who was declared only nominally to be a sergeant in the Armed Police Force because Grey wanted no reflection in the new policing regime of prominent elements of the old. Instead the new Resident Magistrate highlighted the debate as to which officials had the power to control constables by continuing to interfere, in his capacity of JP, in police affairs. A private was for example granted leave by Beckham, 'to whom, in his former capacity as Police Magistrate, he had been in the habit of applying on similar occasions', and was thereupon fined £1 by Atkÿns for being absent without permission. Although Grey later rescinded the punishment on the grounds that the offence was 'committed through ignorance', the lesson to the APF members had been rubbed home: armed constables were responsible to their own officers only. The irascible heads of the Auckland police and judiciary became bitter enemies, locked in a permanent feud in which police morale suffered as a result of Beckham's constant and public criticisms of APF behaviour compared with the operations of the now defunct Police Magistracy.⁴⁸

The feud was a manifestation of friction between the styles of adapted-Metropolitan and Irish policing, albeit exacerbated by personalities. Despite some continuity of personnel the displacement of one type of state coercion by another indeed created tension in all the settlements. In December 1846 Police Magistrate Henry King of New Plymouth was ordered to disband his police, retaining one constable as gaoler and transferring the three others to the local APF from the beginning of the new year. The greater degree of coercion to be exercised by the new force was epitomised in the attitudes of Inspector McLean, who was wont if necessary to carry out 'frontier justice' in order to avoid the appearance in court of Maoris from 'sensitive' tribes, supported by large numbers of their followers. When a member of the Puketapu hapu was captured in the process of a robbery the Inspector used his police discretionary powers to give him a 'good horsewhipping', correctly predicting that King, now Resident Magistrate, 'will suppose I have acted too rashly in this affair'. McLean's propensity to use overtly coercive methods of social and racial control had been amply indicated long before he standardised his police training techniques after instruction from an armed police NCO at Wanganui in January 1847.⁴⁹

The first superseding of a Police Magistrate by a newly appointed Resident Magistrate had occurred at the Bay of Islands.

Once Russell had been 'cleaned up' after Woods' return, the town-orientated Police Magistrate's force, having little contact with the only semi-pacified countryside, was the most anachronistic of all such forces. Since the permanent military detachment could handle any major coercive requirements Grey had therefore allowed the institution to run down. His refusal to sanction adequate rent allowances had necessitated the shifting of police headquarters three times in nine months in 1846, at the end of which time Clendon was again under notice to pay more rent or be evicted. Russell was not to regain its former size and importance; that June, when Colonial Surgeon John Johnson acted as Police Magistrate in Clendon's absence, only one charge was pressed before him—and that was dismissed. In mid December Police Magistrate Clendon's office was abolished and the commander of troops in the area, Major James Patience, based at Te Wahapu, was appointed Resident Magistrate for all of New Zealand north of 36°S latitude.⁵⁰

As in Auckland a hiatus now ensued, with the former Police Magistracy constables continuing to function under the Resident Magistrate's control whilst Grey pondered the problems likely to arise from the location of armed police detachments far from their commissioned officers. NCOs in charge of detachments were—at least as yet—ill accustomed to exercise discretion in carrying out activities which could have grave implications for government policy. That same December the first APF detachment to be stationed far from headquarters had arrived at Wanganui, 10 privates headed by 28 year old Sergeant R Barry. The relatively large size of the unit was consequent upon the decision to make the vulnerable town a military post: talk of abandoning the settlement following Upper Wanganui chief Te Mamaku's attack on Boulcott's Farm and subsequent hostilities in the Wellington area was in the past, and following the change of plan 185 soldiers were landed from the *Calliope* on the 13th of the month. Until the disbandment of Samuel King's police establishment—viz, part-time constable John Garner, once the town's Chief Constable but by then at a mere 1s 6d per day constituting the full civil police establishment—and the subsequent loss of his Police Magistracy, the APF detachment remained seconded to the control of the local military commander, Captain Laye. He imposed rigid barracks supervision over the force, and with the transfer to APF control the town gained a huge increase in patrol-police activity. This was a situation that needed to be handled delicately, and Barry's responsibility to the military commander, the local 'eyes and ears' of the state, was at this point reconfirmed by the government: the APF would act as both 'military' and civil policemen in the streets. This arrangement did not

interfere with the formal APF chain of command, for it was made clear that in theory the police commissioned officers delegated day-to-day supervisory responsibility in Wanganui to the military while retaining ultimate control of the APF detachment.⁵¹

It was logical that the principle of delegation should be in like manner expanded to those remote areas where there was a general government agent. The latter's immediate supervision of the APF detachment need be no more than minimal, but in situations of uncertainty or crisis he could be turned to as the embodiment of the political stance of government; in turn the local agent of state could utilise—under delegation by distant APF commissioned officers—the armed police whenever necessary. Thus in February 1847 Grey decided to formalise the status quo in the Bay of Islands: Resident Magistrate Patience would continue to direct policing in general terms, and would take full control in emergencies. The only alteration would be in the type of policing conducted: at the same time Grey ordered the formal enrolment of Chief Constable Benjamin Woods, whose methods had always tended towards that Irish Constabulary policing which he had learnt at first hand, in Auckland's APF as a Sergeant-Major. Atkÿns, his new controlling officer, sent up four armed constables to form Woods' northern detachment.

In March Grey tackled the difficulties arising in Wanganui from Samuel King's reluctance to relinquish his 'high police' functions, the Police Magistrate having most notably attempted to have martial law in his area lifted before Laye had finished stockading the town. The Governor now made Captain Laye a Resident Magistrate, the civil as well as military local representative of state and more securely than ever the Wanganui supervisor of police. The system of delegating APF authority to non-APF officials soon became an established one, particularly through delegation to Resident Magistrates, although normally—especially as time went by—the NCO in local charge possessed a large degree of operational freedom. There was never any doubt, for example, that Woods, who remained Sergeant-Major in the far north until his mid 1853 appointment as Bailiff in Auckland, was the effective head of police in that region.⁵²

The delegation system created a number of difficulties, particularly in the early days of new supervisors of police. In October 1847, for example, new Bay of Islands Resident Magistrate Cyprian Bridge accepted the resignation of a private who informed him that his term of service had expired. The Governor, in the midst of handling similar problems generated by Beckham in Auckland,

took Bridge to task: armed police 'cannot like constables be discharged by the Resident Magistrate as it is only their own commanding officer who has this power over them.' On the other hand, some transitions from the old policing to the new caused few problems: in Wellington the APF and the Police Magistracy police cooperated in their dual patrolling functions, the former concentrating on work in the countryside, the latter on the city streets (and gaining some further relief through help from military authorities in policing the 655 soldiers of the Wellington garrison). Complementary operations continued until 30 April 1847, when all remaining Police Magistracies were abolished. Meanwhile, a process of acclimatisation had been at work. Indeed, the most vocal sectors of the Wellington population had for some time been agitating for a more coercive orientation in local policing, particularly *vis-à-vis* the 'native problem'. It had even been hoped that when the APF became the sole policing agency in the area, it could have a mounted section able to travel through the countryside along the new roads currently under construction.⁵³

When Nelsonians were told in March 1847 that their police would soon be incorporated into Wellington's APF and trained accordingly, there was little apprehension since Police Magistrate Donald Sinclair was in the interim to superintend the new detachment. To be sure Sinclair was still viewed as a lackey of central government, and indeed he was soon in trouble again locally for declining to spread panic by notifying all and sundry of a rumour—which he correctly suspected to be false—that Rangihaeata was en route from the Wanganui area to seize ammunition stored at Nelson. But it was a question of 'better the devil one knows. . . .' In any case, the reality of the new formal structure of policing at Nelson was no more than that from 1 April three Maori constables joined the four pakeha police already there, and Chief Constable Francis Saunders' title was changed to Sergeant-Major. When the head of detachment resigned within two months, moreover, a local man—'respectable and fit' John Cawte, who had been a policeman before arriving in Nelson as one of the founding immigrants—was promoted to Sergeant-Major. Following the precedent established at Russell Sinclair, on becoming Resident Magistrate on 1 May 1847, retained on-the-spot supervision of the force. The Nelson police, commented a newspaper, was the 'same bird with new plumage'; it was in fact little more than a local urban police which ventured into the countryside only when necessary, and the only adverse reaction came from sectors of the population which had regarded the Police Magistracy system itself as tainted with New South

Wales convictism and needing replacement by JP-controlled police.⁵⁴

Alone in New Zealand Akaroa retained a *de jure* civil police establishment after 1 May 1847, when John Watson's designation altered from Police to Resident Magistrate. Watson's force, which had no lines of command to APF headquarters, consisted of a Chief Constable and a constable both earning, at £60 and £54 15s per annum respectively, less than the pay of APF privates. Its special status resulted from a combination of the need to avoid antagonising its French settlers and the fact that south of Nelson the South Island pakeha population was tiny, the Maori tribes small and quiescent. There was no need for an expensive paramilitary police in this vast area because the only endemic problem was far to the south of the southernmost official settlement. In Otago, a contemporary report noted, men 'do not die a natural death' but succumbed to the ravages of liquor and 'gross acts of violence are committed with impunity' by the pakeha population. But it was an area not yet economically important to the state and its interests, and the tribes had shown themselves determined not to be provoked into armed confrontation. The only 'solution' provided for its problems of order, therefore—apart from chiefly policing—lay in an instruction to Watson to visit the area periodically.⁵⁵

After Bérard's departure, however, Watson's tiny force could barely cope even with emergencies in Akaroa itself. A Spaniard who had in late 1845 endangered race relations in the Wellington area by stealing more than £80 from Te Rauparaha's son at Otaki, was arrested the following year when he turned up at Akaroa aboard a French whaler—but Watson's police resources proved inadequate even to secure the detention of this one man, who soon escaped. In crises of larger scale Watson could swear in specials, and moreover call for the sending of an APF or military detachment, but the isolation of his post made these options unrealistic as responses to short-run crises of order. He tended instead when overstretched to utilise the services of local Maoris as informal policemen. When in mid 1846 three ticket-of-leave men from Hobart (the 'Blue Cap Gang') carried out Banks Peninsula's first armed robbery in holding up the Greenwood brothers' homestead at Purau, they were tracked to Otago by Maoris attracted by the £50 reward that Watson offered; when they were secured and sent to Wellington they were each sentenced to 15 years' transportation. It was the presence as Akaroa's Chief Constable of the tough Isaac Shaw, the ex-Kororareka policeman who had specialised in hunting down escaped convicts on behalf of the Australian authorities,

which alone gave that settlement's police an aura even approximating that of a paramilitary force.⁵⁶

In the Wellington region the insurgent Maori had been ousted well before the end of 1846, and all approaches to Wellington city were guarded, including by a strong APF post at Waikanae. The government intention remained to open up to the pakeha the Manawatu-Rangitikei stretch of coast and to link Wanganui with Wellington by a string of settlements. In early 1847 Inspector Durie was about to re-establish a police patrol-cum-mail service (with the intention that eventually its men would be mounted) between the two centres, despite proclamations by Rangihaeata from his pa at Poroutawhao that armed police or soldiers could not pass. He was also responsible for establishing the police post at Otaki, intending that the protection of a 21-man APF detachment would ensure that the town became the major white settlement between Waikanae and Wanganui. Grey entrusted his 'invaluable' armed police with the duty to 'keep open the land communication' at all times along the coast, although they withdrew to Waikanae when news arrived of the 18 April 1847 attack upon outsettler J Gilfillan's farm on the Putiki side of the Wanganui River.

The Maori act of resistance in burning down the Gilfillan homestead and killing four of its inhabitants had been precipitated by the continued presence of soldiers in Wanganui. It had been the arrival of troops at Wanganui in late 1846 which, given the propensity of garrisons to create chaos in streets and public houses, had also been the immediate cause of the sending of an APF detachment to the town. William Dorset reported contemporaneously in a comment which could have applied as easily to Wanganui as it did to Wellington that the 'blue jackets are a set of good well-behaved men, much liked here' for their control of 'drunken, quarrelsome and thieving' soldiers. The Wanganui inhabitants noted keenly that the party which set off to investigate the Gilfillan killings and rescue the survivors consisted of armed police, settlers and 'friendlyes'—not the military, whom Laye was 'unwilling to risk in an ambush'.⁵⁷

Settlers and authorities alike feared that the events at the Gilfillan farm heralded a new, planned wave of armed resistance to the pakeha, and the few remaining outsettlers moved into the stockaded town. The 'friendly' Putiki Maoris apprehended five of the six alleged murderers, and Laye secured by rapid court martial the execution of four of them. Martial law was extended in time (to 27 July) and in space (to cover all territory between the Patea and

Otaki rivers) and with a hundred extra soldiers from Wellington Laye considered the town defensible. Armed police, Putiki Maoris armed by King, and military details patrolled the streets. After the forces of Te Mamaku went on to the offensive against the town from 19 May certain of the inhabitants of the area once again applied for resettlement elsewhere, but Grey now required a strong pakeha presence at Wanganui as the key post in 'opening up' the western coastline. On 23 July, after Grey had brought in troop reinforcements which increased the military presence in Wanganui to more than 750, Te Mamaku notified the British commander that having failed to take the town he was withdrawing up-river. The southern hostilities of 1846-7—in which the APF had played a significant role, including at Wanganui—were over, although formal peace in the Wanganui area was not reached until the following year. The long-awaited Wanganui purchase was settled in May 1848, but the military garrison stayed on in the town, keeping a watching brief, the APF detachment in turn keeping close watch on the behaviour of soldiers as well as of Maori and pakeha civilians.⁵⁸

Meanwhile, before the Wanganui hostilities the Waikanae Armed Police Force station, at the northern fringe of the pacified Wellington region, became the headquarters for the region's constabulary with the permanent posting there of Inspector Durie. He held the secondary title of Resident Magistrate, a dual appointment which epitomised the twin approach of the state to that most pressing and pervasive counter to state norms of order and regularity, the 'native problem'. Grey's overarching aim in implementing the dual Resident Magistrate/Armed Police system was to ensure that individualised pakeha ownership supplanted Maori collective ownership of the colony's resources as quickly and as quietly as possible. At the time of its introduction the Resident Magistrate scheme, he was fully aware, contravened current instructions to retain Maori customary law in Maori areas, and so in his successful bid to obtain Colonial Office sanction for his plans of rapid 'amalgamation' of the races his despatches grossly exaggerated the pace of progress towards 'civilisation' and order. In the event the Resident Magistracy system, where it worked best in semi-penetrated areas, did forge a 'regular organic relation between Maori authority and European authority'. Nevertheless progress was slow: a dozen years after the passing of the Resident Magistracy legislation there were only eight Resident Magistrates posted outside main settlement areas in the North Island. Few of these, let alone their Maori Assessors, had specialised knowledge of the law, and proselytisation to pakeha modes of institutionalised belief-activity was lim-

ited: in 1851 seven of 11 incumbents of the Resident Magistracy were military or naval officers with little civilian-bureaucratic background, none was a lawyer. They were, essentially, regulators of interracial and intraracial control.⁵⁹

Grey's concept of rapid amalgamation of the races theoretically encompassed providing the Maori with an important, albeit subordinate, role in the exercise of state power; in actuality this role was mostly confined to the informal 'Maori magistrates', the Assessors, and particularly to the Maori police. Yet the Governor's 1849 boast *vis-à-vis* the assimilationist drive that 'probably no measure has been so totally successful in its results' as the APF legislation had validity only in terms of the *policing* effectiveness of Maori constables—rather than any relationship to progress towards racial integration. Generally only Maori police could identify a Maori facing arrest for, say, public drunkenness in an Auckland street as being a chief or not: chiefs were exempted, in the interests of avoiding mass disturbances, from all non-warrant arrests short of situations calling for the 'prevention of actual outrage'. Contemporaries who praised the Maori police experiment did so almost always in the terms of the modified 'black tracker' role; in 1846, for example, one opined that within a few years a 'strong mixed force of natives and Europeans might be brought to such perfection as to keep in subjection any ill-disposed or disaffected tribes'. Amalgamation of the races was to be on European terms, a reality emphasised from the time of the defeat of the rebels at Wanganui: from that point on Maoris were treated as definitely 'second class citizens', a defeated people whose share in state power was to be very limited indeed. Maori police privates were faced with racism and suspicion: Felton Mathew characterised them as doing little other than 'chatter with their abandoned countrywomen...lying about the streets', and expressed suspicion of Grey's reliance on Maori police in keeping open non-urban lines of communication.⁶⁰

Yet the Governor took a serious interest in the APF in part precisely because it was here that the official policy of integration and power-sharing was particularly focused. In mid 1847, when Atkyns proposed boosting his 13 Maori constables to 18 (as compared to 22 pakehas), Grey personally vetted the recruits to ensure that they were suitable conduits of civilisation to tribes which he wished to influence. He might even—although unusually—transfer Maori police between Auckland and Wellington to obtain the correct mix. Nevertheless, even within the APF there was far from full equality: not only did Maoris find it impossible to rise to NCO level, but also they were still obliged to supply their own firearms.

The fact remained too that Maoris sought after for the police were those of chiefly caste, whereas the pakehas with whom they mixed intimately in the force were generally 'low-born' and frequently addicted to alcohol. Consumption of intoxicating liquor, particularly among the working and lower middle classes, was viewed by state officials as one of the biggest barriers to order and productivity, but from a Eurocentric viewpoint it was seen to be even more objectionable in Maoris: alcohol-induced 'noisy and unruly demeanour is most indecorous' complained Atkÿns, particularly of Maori participation in Sunday scenes 'revolting to delicacy, especially by females'. Much of the drinking habit (and some associated prostitution) had been picked up by Auckland Maoris through their close connection with pakeha labourers working alongside them on government road projects. Felton Mathew, again, noted in mid 1847 that 'fondness for intoxicating liquors' had 'increased most extensively among the natives within the last 18 months'. Grey's 'solution' for that situation had been to legislate to prevent spirits being sold or given to Maoris, to ban government-employed Maoris from 'keeping' women, and, after a 'sacked' Maori constable joined a road gang, to issue a ban on dismissed Maoris securing other state employment without the Governor's consent. Concomitantly, within the police force the Maori ranks were also treated differentially from the pakehas, with higher 'standards of behaviour' being demanded from them than from their pakeha comrades.⁶¹

Most Maoris employed in the APF, however, adapted quickly to meet European expectations. From the beginning, it was reported with reference to Wellington's APF in 1846, Maori youths 'expressed their determination to keep clear faces', since facial tattoos were forbidden, 'and learn the musket exercise, in hopes of being received into this corps'. The worst that McLean could find to say about new Maori armed policemen in Wanganui was that they were 'rather fresh and awkward' at drilling. His friend W B White many decades later recalled of the two dozen or so Maori police whom he had briefly controlled in Auckland what 'very fine soldiers they made'. Midshipman H McKillop, who led the raid to capture Te Rauparaha, noted of the Wellington Maori police that 'it is astonishing how well these men did their mixed duty of soldier and constable'. He was surprised that they were not 'naturally fond of dirt'—an observation which had shattered his ethnocentric *Weltanschauung*—and recorded that they 'look as soldier-like and respectable as any of their comrades, their accoutrements always being well cleaned and kept'. High ranking Maoris were frequently attracted to policing, the first Maori to join McLean's APF being a

young chief who had asked to be admitted. When Rawiri Waiaua, son of a potential landselling chief of the Puketapu, expressed interest in joining the New Plymouth armed police, Henry King advised McLean that 'it would be politic under existing circumstances to take him on immediately and I have no doubt it will meet the Governor's approval'. Rawiri, employed from late April 1847, proved an invaluable negotiator in interracial disputes and made weekly—sometimes even daily—intelligence assessments of the state of tribal feeling. By October he was 'becoming punctual and attentive and has rendered essential services from the influence he possesses amongst a portion of his tribe during the recent quarrels between the Puketapu and Taranaki natives.'⁶²

When it came to a choice between police efficiency and 'civilising mission', the former took precedence. Thus Police Magistrate King and Inspector McLean recruited a member of the Hua hapu to report upon his 'more irritable and disaffected' fellow tribespeople and to urge upon them the wisdom of cooperating with, especially selling land to, the pakeha; he was too old and 'Maorified' to be able to act fully as a constable but was retained as a 'great acquisition to our Force in the present disturbed state of the tribe of which he is an influential member'. As time went by special dispensations were given for such members of APFs to remain in their own villages rather than at headquarters barracks, often seconded to the supervision of local Assessors or magistrates. Thus the Resident Magistrate/Armed Police Force system evolved to meet changing, sometimes localised, circumstances. This particular adaptation amounted to formalising the informal policing which had traditionally been carried out, often in return for fees or rewards, by chiefs and other influential Maoris—now for some in return for regular salary.⁶³

Irregular policing by chiefs continued to be an important element in controlling interracial relations. When, for example, settlers complained of *murū*—retributive plundering as compensation for offences against customary law—police officials would frequently turn to the chiefs, who would generally in turn offer adequate restitution of property. Informal policing often required no official prompting, as when the Maori suspected wrongly of the murders of the Snow family was apprehended by his own people. In the same year, 1847, Orakei Maoris notified the authorities of three suspicious characters in their area: as a result Sergeant-Major Meurant, with military help, captured some soldiers who had robbed a Remuera house. Little had changed since the days of Mathew's Police Magistracy, when 'no difficulty was ever encountered in inducing natives to apprehend evil doers among their own country-

men, as well as among ours, provided the inducement of a moderate pecuniary reward was held out'.⁶⁴

Such factors allowed some minimisation of policing costs, but nothing could cloak the enormous rise in those costs after the advent of the APF. Actual expenditure in 1847 exceeded the enormous sum of £10,000 which had been estimated. After the middle of that year, with insurrectionary challenges crushed and therefore under heavy economising pressure, Grey had no choice but to find ways of decreasing expenditure on the police; people were querying, say, the necessity for 40 well paid police in Auckland to do the work 'which used to be done by half a dozen Constables'. There could in this situation be no expansion of the force, quite the contrary. Indeed contraction was on the agenda even for the isolated 16-man New Plymouth APF which, Grey had only that March notified McLean, was to be expanded in size because of the area's importance for race relations; by September he was pressing McLean to take every opportunity to reduce it to its original size. Because the insurrections had been regarded as decisively crushed, however, thereby allowing reduction in state spending, the Governor's dealings with the New Plymouth force were confined at first to exhortations—if later instructions—to reduce expenditure. Its freedom to evolve to meet the changing requirements of the state's local representatives, largely unimpeded by direct intervention from the centre, was constrained only by these limitations on its size and resources.⁶⁵

The remote New Plymouth APF had in any case been semi-autonomous from its beginning. It adopted its own police rules, and although in March 1847 Grey told its men that transfers to other parts of New Zealand would occur in order that the 'best behaved' could be promoted, no transfer system eventuated. The force however remained relatively intact, with its men not leaving it as readily as did their fellows in the other areas because of the scarcity of jobs in the struggling town—a permanence factor which coupled with the class composition of the unit gave it an undoubted reputation for 'high standard', for men 'most respectable in their conduct and connections'. In addition to Sergeant Halse, its effective head of police (certainly during McLean's many absences), the New Plymouth APF gained another NCO on 11 March 1847 with Grey's promotion to corporal of one of King's former constables, John Johnson; this freed Halse for greater concentration on out-of-town policing. When a policing official of military experience called in at New Plymouth in April that year he found the local armed police corps 'one to be proud of, composed principally of young gentlemen of the district'.⁶⁶

The Auckland APF remained under the close scrutiny of Grey, partly because he normally resided in the capital, partly because of its leadership problems—in particular the feud between the Inspector and the Resident Magistrate. Towards the end of 1846 the strain upon Atkÿns had begun to tell and in order to relieve his workload Grey looked for a replacement to fill the vacated position of Sub-Inspector. He chose a man who had proven himself in action in the southern war, William Bertram White, who had been given—to McDonogh's chagrin—command over the volunteers sent from the Hutt to attack the insurgents at Porirua Harbour. White had then settled on a property neighbouring his friend Durie's, and after the fighting ceased in the Wellington area became the sole remunerated commissioned officer in the local militia. At the beginning of December 1846 he accepted an offer from Grey to become Sub-Inspector at Auckland from 1 April 1847.⁶⁷

The leisurely pace of the appointment procedure was the result of government constraints on spending, and so until the following financial year Atkÿns would have to cope. But late in 1846 the Auckland Inspector breached the unwritten code of conduct for officers: in the vicinity of Government House in full daylight passing citizens saw him drunk, an offence which caused the striking of his name from the list of JPs and almost cost him his police position. Grey however decided to give him a last chance because of his efficiency, particularly his shaping up of the Maori privates into a disciplined corps, but now kept him under closer scrutiny than ever. In February 1847, for example, the Governor reinstated a private whom Atkÿns had sacked for violent conduct, commenting on the man's 'particularly good character' when he had been a Police Magistracy constable; in March Grey ordered the APF to suppress the dogs which roamed Auckland's streets, killing and maiming livestock; in April he demanded that Atkÿns remedy the capital being in a 'most disgraceful state from offal, etc., being thrown from the Butchers Shops.'⁶⁸

Late that month White arrived in Auckland accompanied by two young *Atiawa* chiefs whom he enrolled in the APF. By then the strain upon Atkÿns had been somewhat relieved by Grey's personal superintendence of the corps, an involvement which had largely reduced Beckham's interference. The new Sub-Inspector was now considered to be at least to a degree superfluous because of this, and because of another reason as well: unlike the two southern APFs, Auckland's was concentrated mainly on the headquarters town itself. All three forces had early on been 'well drilled in the use of the gun and sword', but Auckland's remained more militarised than

Durie's dispersed force or McLean's much smaller corps because Grey considered it as his major paramilitary reserve force. With most of its men concentrated as an emergency backup in the capital city it was relatively easy to control. Moreover it was not required to expand its area of operations to any great degree, since a number of northern areas were covered by chiefly policing and Woods' constables while the vulnerable southern defences of the settlement were to be taken care of by hundreds of British military 'pensioners' whose arrival was to begin in August 1847. White, a surveyor by profession, was therefore soon seconded to urgent drafting work in the Surveyor-General's office.⁶⁹

Alone among the APFs the Auckland force continued to employ a regular drill instructor, and it remained more of a military body than its counterparts elsewhere in the colony. Its militarised orientation was reinforced by intimate links forged with the Royal New Zealand Fencibles, the official name of the corps of military pensioners grouped in satellite villages south of the capital. Fencible headquarters were at Panmure, nine miles from Auckland, with three other villages (Onehunga, Otahuhu and Howick) situated within five miles of the centre of the pensioner complex which straddled the roads and waterways connecting the isthmus with southern parts. The Fencibles, controlled by Grey via their commanding officer, were given dwellings and land in return for a seven-year liability to undertake military duties. Their own officers controlled military discipline in the settlements, an arrangement which prevented ill-feeling from arising between the police and the part-time soldiers despite the reputation for heavy drinking and associated disorder which was soon enjoyed by the pensioner settlements. Instead the two corps cooperated in surveilling the region through to Maori-controlled Waikato to the south, with the Fencibles on the alert 'to handle the sword to put down the refractory natives if it should be required.' Te Wherowhero's Mangere settlement was conducted as a Maori loyalist reserve force under loose Fencible auspices: in return for free occupation of government land the collaborationist Maoris were committed to turn out as an armed body under the command of a Fencible officer whenever required for drill or active duty. By the end of 1852, when the last of the former soldiers arrived at the pensioner settlements, Fencible numbers totalled nearly 700, a figure rising to nearly 2600 with dependants added. Even a protagonist for the New Zealand Company settlements later agreed that the 'success of these military settlements was undoubted, both in a defensive and in a colonising point of view.' They constituted an ad hoc measure of coercive racial control and as such—together with the internal

policing mechanisms of the settlements—were fully attuned to the functions and operations of the northern APF, even if the latter experienced some difficulty in controlling in Auckland those pensioners who commuted there in search of public works and other types of employment.⁷⁰

In the circumstances of mid 1840s New Zealand the transition from Metropolitan to Irish-style policing had been inevitable: Grey's contribution was to dictate the form which the militarised police and other agencies of biracial control would take. His arrival as Governor had made explicit what had been implicit all along, that the pakeha intended to displace the Maori, preferably with the least degree of disturbance but in the final analysis with utmost determination to use the fullest amount of coercion necessary. The modified 'black tracker' use of Maori police was part of this process, as was Grey's 'amalgamation' scheme which envisaged turning the Maori rapidly into a brownskin pakeha, quiescent and subordinate. The 'civilising mission' role of Maori constables here became of very great significance for state policy. Grey was not alone in his belief that 'notwithstanding the unfortunate prejudice which all Englishmen have to a dark skin', integration could at the very least occur inside the police (although even he did not go so far as McKillop and foresee Maori officers who 'would soon obtain the respect and confidence of the Europeans') and emanate outwards from that institution. Most articulate and influential Europeans, even in Auckland, were prepared to put up with beats being pounded by policemen who very much resembled soldiers. Even if they were disbelieving as to the viability of the 'civilising mission', the police corps offered them security while they set about the related processes of profit-making and of alienating the country from the Maori. Complete with Maori personnel who 'knew' the enemy, the Armed Police Force was capable of surveilling the state of Maoridom and taking any appropriate action necessary, up to and including that of a military nature, as well as of controlling the urban streets.⁷¹

'Over-awing the Aboriginal Population': The Armed Police Force of New Ulster, 1848–53

In 1846 Britain had legislated to divide New Zealand politically into two provinces, each with devolved governmental powers. Grey however, largely in order to retain as much control for himself as possible, had procured delay in the implementation of much of the

new measure. As a result, when formal division into the new New Ulster and the new New Munster (north and south respectively of a dividing line running eastwards from the Patea River mouth) occurred on 1 January 1848 it did not possess a great deal of significance. This was particularly so in New Ulster, where from Auckland Grey, as both Governor-in-Chief of New Zealand and Governor of the province, continued to rule much as if he did not now have supporting ruling mechanisms. It was Grey rather than even Lieutenant-Governor Major-General G Dean Pitt who normally supervised policing arrangements in the northern province, which inherited the Armed Police Forces of Auckland and New Plymouth.

Within days of the formal establishment of the new province of New Ulster, Grey was preparing plans to spruce up the image and performance of its major police force: patterns for a uniform for Atkÿns' men were ordered from Sydney, and a new police station/lockup complex complete with a cell attached to barracks for confining policemen who breached regulations was under consideration. Nevertheless the Governor would not yield to Atkÿns' continued efforts to turn Auckland's APF into a still more highly militarised body, rejecting a request to extend the enrolment contract period beyond a year and vetoing as unnecessary 'at present' Atkÿns' comprehensive draft 'Regulations for promoting the discipline and efficiency of the Armed Police Force of New Ulster'. While the Inspector's proposed rules specified 15 internal offences that were punishable, such as 'Carelessness or want of zeal in the performance of duty' or conduct hindering 'Discipline and Subordination', Grey considered that 'ordinary feelings of duty' inside a force operating under the 1846 Ordinance made such rules redundant—perhaps even counter-productive by frightening off potential recruits.⁷²

Grey wished to stress that the APF, though militarised, was a police corps nevertheless, an adjunct to the military rather than a military body *per se*, particularly now that further insurrection anywhere in the colony seemed unlikely in the foreseeable future. Rather therefore than attempting to supersede the functions of any military body it should seek closest cooperation with the military, so that the two could work together harmoniously in emergencies: 'no single object is more essential to the welfare and well being of the Colony, than that a good understanding should exist between the Military stationed in these Islands and the Police Force.' The Governor issued rules to this effect: for example, except in any 'peculiar emergency' policemen should not arrest soldiers without first contacting their superiors, and even then only pakeha police

could conduct the arrests. When Atkÿns refused to accept custody of dogs which the military had removed from Barracks Square, Grey angrily instructed him that the fullest cooperation was always to be given the imperial, militia and Fencible soldiery, collectively the last line of defence of the state.⁷³

Grey's increasing irritation with Atkÿns, who persisted in believing that he knew better than the Governor how to run a militarised police corps, enabled Beckham to revive his slumbering feud with the Inspector over their respective perceptions of styles of policing. All along the Resident Magistrate had withheld any meaningful cooperation, refusing for example to allow the seconded Sergeant Smith to liaise with his nominal head of department on matters of police duty. By April 1848 Beckham had again become positively obstructive, impeding for example Atkÿns' allotted duty to investigate applicants for liquor licences. The only reprimand meted out by Grey was to the Inspector, for corresponding directly with Beckham instead of following regular channels of communication via the Colonial Secretary (and therefore the Governor). Beckham was now emboldened to go too far in his antipathy to the APF and its leader. After Atkÿns fined an errant constable the Resident Magistrate, by means of civil action for damage to government property, ensured the man received double punishment. Grey had little choice but to acquiesce in his Inspector's contention that police misbehaviour, even if illegal, was a breach of discipline hence punishable by Atkÿns alone unless the offence were of major significance: state action for civil damages against constables would now require the Governor's agreement. At the same time Beckham received another rebuff when at Atkÿns' instigation Grey prevented a practice at court which had an unsavoury aura of corruption about it. Sergeant Smith had been in the habit of charging people fees for drawing up applications for publicans' licences, an act which 'must wholly destroy his independence of action' as a court official. Grey, in an implicit rebuke to the Resident Magistrate, characterised it as a 'very grave offence'.⁷⁴

Atkÿns, temporarily ascendant, now went on to the offensive in attempting to win a symbolic victory over Beckham by regaining control over Smith. The struggle for control climaxed when on Beckham's orders Smith released five men from the police lockup, unauthorised by either Sergeant-Major Meurant or Atkÿns, and the Inspector of course lodged a formal complaint. It was by now clear to the Governor that the feud had to be halted, for it was affecting the efficiency of the capital's police and judiciary alike. He would need to opt decisively for one official or the other. Given his own propensity for autocracy, the enormous power that accrued to

the head of a police force and which encroached upon his own power when it was wielded by a man such as Atkÿns, and the urgings of his (pro-Beckham) Colonial Secretary Dr Andrew Sinclair, it is not surprising that Grey came down on the Resident Magistrate's side. Atkÿns was reprimanded for his protest, even though in those precise circumstances he was clearly the aggrieved party. A typically shrewd Greyite manoeuvre followed: in early 1847, after Atkÿns had first blotted his copybook, Grey had threatened to place in 'chief command of the Police force' someone superior to the Inspector in rank. Now the Governor extracted from the 1846 Ordinance the position of Commissioner, which had been lying dormant in section 2, and appointed to it, from 1 August, none other than Thomas Beckham himself.⁷⁵

The 'great enmity which exists between the Govt. Officers' in Auckland was well known, but the feud between Beckham and Atkÿns was in a class of its own, attracting from the supporters of both men fierce loyalties which quickly became public knowledge. A flavour of this can be seen in the reply to an Atkÿns supporter by Sir Godfrey Thomas, a former private secretary to Grey who had become Auditor-General for New Munster: 'I have after due consideration, refrained from giving your letter to the Governor. The statements contained therein in reference to Atkÿns' services, the truth of which every one must admit, as also the attempts made by Mr. Beckham to injure him in his public character, would I imagine be of no avail if now brought under the Governor's notice . . . I perfectly recollect hearing in Auckland that Mr. B. had induced Atkÿns to drink to excess, to lower his character as a public officer, as also your telling me that he had distinctly declared himself Atkÿns' "implacable enemy" . . . Whether any real necessity existed for the appointment of a Commissioner I know not . . .' In Thomas' opinion, Atkÿns had brought his force to a greater peak of efficiency than Durie had New Munster's.⁷⁶

It had, in the circumstances, been a masterly coup: Beckham's busy schedule as the capital's Resident Magistrate provided him with little time to intervene directly in policing, so that Atkÿns' efficient policing regime would continue much as before—but with the Inspector's ambitions curbed. Moreover there was a face-saving device for the enraged Atkÿns, for the appointment was reported as having been made to rectify the 'want of some proper authority for the purpose of superintending the streets, and provisions for the general health of the Town of Auckland'. Beckham's main area of duty, it was said, would be 'to make suggestions to the Government upon these subjects'. Of course Atkÿns, Meurant and the city patrolmen already performed such functions—and the job descrip-

tion for Beckham hardly fitted the officially gazetted notice of his appointment to the 'general control of the Police Force' of New Ulster rather than of the Auckland urban area.⁷⁷

As matters turned out Beckham's area of superintendence did not extend very far south of the Auckland urban area, because problems of terrain, flora, finance, and resistance by the Waikato federation of tribes had prevented significant expansion of settlement immediately to the southwards. Plans to send Atkyns to establish a forward police post in the Tuakau area, to act as spear-head of pakeha penetration of the rich lands between Auckland and New Plymouth to its south-west, did not eventuate. Nor did Grey's boast at the time of the passing of the 1846 Ordinance that within three years the APF would have opened up, and kept open by patrolling, a good road between all main settlements, the 'grand object of the Police Force'. New Plymouth's major and natural lines of communication continued to be southwards with New Munster, including the police-conducted overland mail services to Wellington via Wanganui. So autonomously did McLean's force operate that Beckham did not include it in his normal returns, and *de facto* devolution of control extended beyond that of Commissioner to Inspector. Because of his increasing absences from New Plymouth, the Inspector had at the beginning of the New Ulster period delegated in those circumstances the superintendence of control of the force to Resident Magistrate Henry King, including the right to 'hire and fire'. King in turn intervened as minimally as possible, normally doing no more than to 'check disorderly conduct' and to ensure 'good drilling to keep them in order'. Effective day-to-day control of the New Plymouth district's police remained, then, in the hands of Sergeant Halse.⁷⁸

Because of the centralisation of the New Plymouth armed police organisation and the stagnation of the settlement, duties were normally onerous only when men were sent into the countryside on specific missions or on mail delivery/patrol work. Corporal John Johnson's diary reveals that he had plenty of spare time in which to supplement his meagre income by growing vegetables and helping out at harvests and the like. But the delicate and tangled intertribal connections of Taranaki's Maoris meant that at all times the force had to be prepared to respond to emergencies which threatened major racial conflagration. In July 1848, for example, businessman Richard Brown—condemned by even McLean for his brutality towards Maoris—almost killed Witana Rangiora, a Puketapu Maori of chiefly rank, by a blow to the head with his

brass-knobbed riding crop during a dispute. Fortunately for New Plymouth pakehas the injured man not only survived but, in conjunction with Private Rawiri Waiaua, prevented his hapu from burning houses in utu. However war with what the local authorities worriedly perceived to be such a 'very fine race of men' remained a distinct and serious possibility, and when Brown appeared in court to face consequent charges a hundred armed warriors performed a war dance—a 'display of barbarism' in McLean's eyes—outside the building. The Maori, realised the authorities, would not be quiescent if Brown were insufficiently punished. Behind the scenes the police heads, the magistracy and Maori constables had been working out a deal with the Puketapu that would defuse the situation: Brown, reluctantly, pleaded guilty and Witana agreed to take proceedings no further. A drawn-out trial and all its resulting tensions were thereby avoided and Brown, after submitting an apology which humiliated him, was fined £5 and bound over to keep the peace for a year. As part of the deal Witana received not only £2 10s of the fine but also the horse which Brown had been riding when he struck the near-fatal blow.⁷⁹

Largely because of the forbearance of the Puketapu hapu (especially Witana) in conjunction with the work of Maori constables as intermediaries, serious trouble was thus averted. Despite their previous rejection of greater offers, the Puketapu agreement to accept compensation in the form of the horse had been hammered out in the context of enrolling some of their young rangatira as constables. It had been a delicate situation, for the ethnocentrism of local pakehas, many of whom believed Brown's actions to have been legitimate, meant that there would have been considerable opposition by whites to harsh punishment of the accused; at the time £5 was a typical penalty levied by King upon drunkards. Time and again the efficacy of chiefly Maori constables was shown by their work of 'assessing damages and adjusting various petty cases of disputes between natives and Europeans which are of frequent occurrence.' This, perhaps more than any other single factor, held the thin line between war and peace in the area and thus in 1850 Inspector McLean proposed that half his police force should be Maori. Such a suggestion was however to ignore the pervading influence of Eurocentrism, and Henry King gently rationalised settler opposition by commenting that 'it would be very bad policy to place Native Policemen to preserve order in the Town unaccompanied by a European as they would be subjected to the riotous and violent conduct of drunkards without their being able to explain or make themselves understood which might lead to an affray or possibly a more serious result.' European privates rather than

'uncivilized men', the Resident Magistrate concluded, were needed to patrol New Plymouth 'to afford even moderate protection and preserve order'. McLean abandoned the plan, although never wavering in his ideas on the usefulness of Maori constables: 'what an admirable police the natives are', he wrote in 1851.⁸⁰

The other district in New Ulster where the handful of Maori constables played a crucial role in dampening down race hostility was the far north. The Bay of Islands never returned to its former prominence, and the focus of pakeha commercial activity in the region moved further north to the increasingly important whaling port at Mangonui (or Mongonui). In April 1848 Grey decided that when Sub-Inspector White's survey work was completed he should with the aid of a sergeant and seven privates form a far northern police district covering the Bay of Islands but based at Mangonui. One of Beckham's very first tasks as Commissioner that August was to supervise the establishment of the post, so that New Ulster then contained three police districts: New Plymouth, Auckland, and the North. The Sub-Inspector of the newest district also acted as general government agent, and in this capacity was frequently communicated with directly by government rather than through the police hierarchy—which for the sake of the state was just as well, since Beckham had as many differences with White (admittedly not all of them the fault of the Commissioner) as he did with most officials.⁸¹

The northern district's few pakeha inhabitants were vastly outnumbered by its Maori population, and the chief function of its armed police was to conduct surveillance over the tribes. Auckland's defences were orientated towards the south; White's men were to ensure that no major insurrectionary movement again arose in the far north. To be sure there was an entrenched presence of influential 'friendlies', but the 'rebels' of 1845-6 had never been definitively crushed. Moreover adjustment cults with millenarian underpinnings such as Papahurihia's were continuing to attract adherents. Indeed, when first planning the Mangonui APF detachment the Governor had toyed with the idea of a Fencible settlement at the Bay of Islands in order to place the far north 'beyond all chance of future disturbance'. So important was the task of coercive surveillance considered that the Sub-Inspector was given a bigger establishment than first envisaged, a dozen men besides the NCO. Soon a local merchant was advertising that whaling masters could with profit provision their ships at Mangonui because it was the police headquarters for the north: 'a detachment is always on

the spot to prevent desertion of crews or other irregularities' such as slygrog selling. White had quickly established order amongst the local pakehas but had equally quickly found that to gain adequate control over the Maori population he required full judicial powers: that November Grey appointed him Resident Magistrate, unpaid, in addition to his other official posts as Sub-Collector of Customs and head of the police district. Working with the two foremost Rarawa chiefs, Puhipi and Nopera, White helped to prevent intraMaori feuding from breaking out into widespread tribal warfare.⁸²

His judicial appointment put White on an equal footing with Bay of Islands Resident Magistrate Cyprian Bridge who, like Patience before him, had continued to exercise daily supervision over Sergeant-Major Benjamin Woods and his three-man Russell detachment. Bridge had resented White's exercise of control—as Sub-Inspector in charge of the Northern district of the New Ulster APF—over the Russell police detachment, particularly an order that it convey mails to Mangonui. He complained to Commissioner Beckham that his detachment was already 'quite insufficient', given that two of the men were often absent from town, without it being ordered to conduct substantial extra duties. But Beckham refused to countermand the order: the government's most northerly representative could hardly have as his main form of communication with the rest of the colony a system which entrusted the mail to any Maoris—few pakehas made the journey—who happened to be travelling overland between the two northern settlements. He also pointed out that when he himself had headed the Bay of Islands police a similarly sized force had been 'found ample to perform any duty required' amidst a pakeha population three times the present size. Bridge, he noted, had examined only nine judicial cases during that August, seven of them so anodyne that they had been dismissed. To placate the Resident Magistrate, however, Beckham agreed to fill a police vacancy at Russell that had already been authorised. That Bridge's fears were not entirely without validity was illustrated by an incident the following year: when Thomas McDonnell complained that a Sydney trader was felling spars on his property the Resident Magistrate, because he had only one constable to hand, used the forces of 'friendly' chief Taonui to guard the property—a decision which almost led to bloodshed when the mobilisation of rival Maori forces eventuated.⁸³

The Commissioner's statements about the size of the Bay of Islands detachment had despite his far northern Police Magistracy

experience revealed no great understanding of the functions of policing a district populated by many and scattered indigenous people, a sizeable proportion of whom had been in arms against the state. The number of cases handled by the Resident Magistrate reflected little more than a low incidence of disorder in a small pakeha town and its environs. Yet Beckham was determined to take his new position seriously, *inter alia* making it clear that White was not an autonomous 'high policeman', that for example the Commissioner alone could punish policemen for misconduct in the Northern district. Beckham's key struggle for supremacy however lay with Atkÿns' sullen resistance to the new head of the New Ulster police, an attitude which turned to open defiance in late October 1848 when for the first time he was ordered by the Commissioner to undertake a significant action that had policy ramifications: the Inspector was to take a police party to the Thames/Coromandel area to investigate another timber-cutting complaint, this time by a Koputanake chief that Europeans were expropriating his tribe's trees. Atkÿns reminded Grey that when he had been appointed he had been assured that he was directly responsible to the head of state alone. He would therefore not obey orders from Beckham, even if they had originated with the person who had given such assurance, the Governor himself.⁸⁴

On 30 October, two days after Atkÿns should have embarked in pursuit of the Commissioner's instructions, Grey instructed him to board the vessel by four o'clock or be guilty of 'direct disobedience of orders'. The deadline expired with the Inspector requesting the Governor to relieve him of his 'very painful position' by removing him from the Commissioner's purview: his actions, he acknowledged, were insubordinate but his motivations were not. This was an equivocation that Atkÿns would never have permitted one of his own subordinates in a paramilitary force, and Grey's suspension from duty of the Inspector on 3 November was the mildest possible course that could have been taken. The matter came before the Executive Council within a week, and Grey was obliged in the context of discussion to provide a reason for having created Beckham Commissioner. As his original justification was clearly spurious, since it was only with Atkÿns' suspension that Beckham actually became personally involved in policing the capital itself, the Governor provided a new, and equally thin, explanation: because of the anomaly of there having been (at Auckland and New Plymouth) two New Ulster heads of police of equal rank, a coordinating Commissionership had been necessary and Beckham chosen because he was already salaried. To be sure, the theoretical pyramid of command had been restored, but to place Beckham at its

peak ignored the fact that there were other salaried officials available, or that Atkÿns himself could have been designated Commissioner and placed in a supervisory position over Inspector McLean. However the Executive Council was mandated to adjudicate on the act of insubordination only, and could make no comment on the appropriateness of an appointment to a position that was the Governor's prerogative to fill.⁸⁵

The Governor, still valuing and requiring Atkÿns' services, procured from the Executive a remarkably mild official response to the Inspector's gross violation of duty. 'Chief command' of New Ulster's APF was 'for the time being' in Beckham's hands, Atkÿns was told, and 'it is hoped that upon consideration you will see the necessity of yielding prompt obedience to all orders'; if these conditions were not acceptable to the Inspector he would be deemed to have resigned. All through Grey had been his usual devious self, but he had certainly treated Atkÿns in the 'most indulgent light possible'. He was therefore all the more enraged when the Inspector rewarded his 'kindness' by a reluctant acceptance of the conditions 'without the slightest expression upon his part of regret'. Grey now forced Atkÿns to kowtow even further by instructing him to rescind a number of charges which he had formally laid against Beckham, and on 28 November the Inspector returned to duty.⁸⁶

Yet these same accusations prolonged the feud, for when Beckham discovered their existence he demanded that they be either substantiated or positively disavowed by his subordinate officer. Grey's veto of this course of action caused Beckham to continue to harry Atkÿns, despite the Governor's assurance that notwithstanding the allegations he regarded his Commissioner as an 'excellent public officer'. Within days of his return to office the Inspector's health broke down and he took leave, but in response to Beckham's complaints about having to take over his job he returned to partial duties on 12 December. Now the officer, who had always been characterised as 'active and zealous', faced a deliberate attempt to destroy his health. Beckham, with the connivance of Sinclair, again ordered him to Coromandel with the potentially strenuous task of preventing sawyers from felling trees on Maori property. Grey at once revoked the order, and as a result of representations from an official friendly to Atkÿns he subsequently found a way of easing his Inspector gently back into public life well away from Beckham whilst at the same time undertaking the valuable project of investigating troubled race relations. The task would be of 'high police' rather than enforcement nature. Atkÿns was relieved of his Inspector's duties and therefore of control by Beckham, given the temporary title of Resident Magistrate, and sent in charge of a

small expedition (two seconded privates and an interpreter) to the Coromandel area. Grey planned that on his return to the capital Beckham would have already left on a scheduled trip overseas, allowing a further cooling-off period.⁸⁷

In the event the problems of order at the Coromandel had largely solved themselves and therefore Atkÿns arrived back in Auckland before the departure of the capital's Resident Magistrate. A final undignified scuffle ensued, prompted by a last minute intervention by Beckham in administrative matters hitherto firmly within the Inspector's unimpeded sphere of operation. The issue was obfuscated by Beckham's use of Percival Berrey, his *locum tenens* as Resident Magistrate, to conduct the intervention and Grey was as a result able to placate Atkÿns by ruling that Berrey's jurisdiction did not cover the position of Commissioner of Police. However on the substantive point the Governor rejected Atkÿns' protestations that he was 'senior efficient Officer at Head Quarters'. Beckham, it was now ruled definitively, had in his capacity as Commissioner the right to intervene in the running of the police force in any way he wished. Areas of authority which were normally left to Atkÿns, therefore, were merely delegations of authority to the Inspector. Since Grey had refrained from rubbing salt in the wound and appointing Berrey acting Commissioner, when Beckham left the colony in late February 1849 Atkÿns became once more directly responsible to the Governor alone; but his health had been damaged irrevocably and in April he died at the age of 39. Atkÿns' obituarist summed up informed contemporary opinion by attributing much of the 'state of efficiency and high discipline' of the Auckland police to his skills.⁸⁸

All the same, Atkÿns' attempt to cling to Grey's original conception of a force almost military in nature had been perceived as increasingly anachronistic at a period when about the most dangerous collective resistance to authority seemed to be 'drunken ruffians' holding extempore races at a race meeting. A month before the Inspector's death the enormous cost of the APF had been publicly queried: 'It may be said that such force is requisite on account of the large native population, but it has never been required for any such purpose; nor is it ever likely to be, or to be found of any real service if such a necessity arose, insofar as the numerical strength of this force, great though it be, would be quite inadequate in the event of any native disturbance.' At the same time Resident Magistrate A H W Smith of Howick had opposed Atkÿns' decision to transfer Corporal Edward Penney after a year in charge of the APF detachment at the pensioner settlement. The clash of opinions was familiar: Smith explained that the 'exemplary' corporal had come

to know all the local inhabitants and was *by dint of that* 'of great assistance in keeping order and regularity in this village'. Atkÿns riposted with the APF transfer principle, whereby movements at intervals of less than a year were both a 'means of preventing undue intimacy between the Police and those persons whose conduct they are deputed to keep in check' and a method of acquainting the men with the entire area policed by their force.⁸⁹

Grey had little choice but to approve his Inspector's literal interpretation of the rules, but in the face of mounting criticism he was not averse to attempts to adapt the armed police concept to evolving local circumstances. Under Inspector McLean's influence, the Governor was coming to the view that once resistance to state authority had been crushed and settlement was proceeding, frequent transfers were 'most injudicious' for the practice resulted in police usefulness in a locality 'commencing only when it is time to leave'. The important assessment was as to whether the Maoris were decisively crushed. Grey increasingly came to McLean's view—based upon what the Inspector experienced on his travels—that they were, and that therefore occupation-orientated facets of policing could be phased out, particularly the rigidities of the transfer principle. After Atkÿns' death the opportunity presented itself for allowing a fair degree of demilitarisation of the Auckland APF. Instead of appointing another Inspector—although a suitable candidate applied—the Governor decided that Commissioner Beckham could be placed directly in charge of policing the district. Former Auckland Police Magistrate Percival Berrey was therefore now deemed to be acting as head of police as well as Resident Magistrate until Beckham's return, which occurred on 25 May 1849.⁹⁰

Even before the death of the founding Inspector of the Auckland APF Grey had acknowledged that expensive paramilitary policing could no longer be justified at the same level as before. On 22 March 1849, after newspaper criticism of the size of the police force, he had ordered Atkÿns to discharge seven men and McLean to reduce his detachment to total a sergeant and 10 men. This economising was all the more necessary because of the costs involved when in later 1848 expensive equipment for mounting 10 police in each of the New Munster and New Ulster forces had arrived in the colony. When considering Beckham's appointment as Commissioner Grey had assessed that the increase of roads and tracks outside the urban areas enabled the efficient mounting of portions of each force. From the time that Smart's 'troopers' had been obliged by problems of communications to become a dismounted corps in practice, policemen had hired horses as required

(except for those horses permanently assigned to commissioned officers); where roads existed through the bush, mounted police were undoubtedly far more efficient than foot constables at policing, albeit far costlier.⁹¹

The mounted police experiment was stillborn in New Munster, for its Legislative Council refused to vote money for the purchase of police horses. However Grey's economy cuts, designed partly to offset the costs of mounting a proportion of the force, ensured a smooth passage for the New Ulster Appropriation Bill in June 1849. The presence of mounted police at headquarters, operating under command of a sergeant, was thereby endorsed. Only a solitary critic complained of police costs now locally in excess of £4000: the privates' 3s 6d per day was exorbitant, he claimed, while urging a general scaling-down of policing which would include ensuring that the military pensioner settlements should police themselves without any aid from the APF. This was for Grey too abrupt a move from the concept of a mobile, militarised force. The Maoris, he noted, still held the balance of power in the North Island: although few in number, the outposts away from the Auckland urban area, including the pensioner settlement stations, were essential for the state's intelligence network and in an emergency could hold out until the military arrived.⁹²

In addition to Grey's points there were countervailing pressures for a strong police profile. These resulted from the pacification of the countryside in the vicinity of Auckland and—to a lesser extent—New Plymouth: as pakeha population increased outside the main centres influential local figures, especially JPs, pressed for a police presence in their areas as a 'moral influence in the prevention of crimes'. These pressures tended to act as a brake upon any rapid reduction of policing expenditure, but they could not be accommodated in any significant way: McLean could station a man at Omata, a few miles from New Plymouth, only because he stalled on instructions to reduce. In August 1849 New Ulster's APF, excluding the New Plymouth district, consisted of—besides Commissioner Beckham and Sub-Inspector White—a Sergeant-Major at Russell, four sergeants (three in Auckland, one at Mangonui), four corporals (at Onehunga, Howick and two in Auckland) and 33 privates. Of the latter, 17 were stationed in Auckland, three each in Russell and Onehunga, two each in Howick and Panmure and six in Mangonui. As fears of Maori insurrection lessened, this number of police was perceived to be too great a burden for the state to bear. There were queries about wasted utilisation of scarce resources, and one Legislative Councillor—a supporter of the late Inspector Atkyns—urged that Beckham's pay be justified by giving

him the burdensome position of Commissioner of Crown Lands as well as of police. Grey vetoed this plan and ignored representations to reduce police pay rates, stating that, if anything, the moneys expended on coercive social control, and the number of police, were too small. But in November, after further pressures to reduce, he acquiesced in a Legislative Council decree that greater cuts were necessary and that McLean was as much bound by the decision as was Beckham.⁹³

Most drastically of all, Commissioner Beckham was ordered to quickly reduce his total of privates by 10 to 23, and not to fill vacancies for NCO positions until the proper proportions within the reduced force were restored. As a result Auckland, Panmure and Mangonui lost two men each, meaning the abolition of the Panmure station, Onehunga and Russell lost a private apiece and the recently established two-man position at Otahuhu was also disbanded. By the end of the first decade of New Zealand's official settlement, policing in the area with the largest Maori population was gradually moving back in basic concept from Irish to Metropolitan, the result of a confident assessment that Maoridom had been almost completely subdued. There had been a corresponding lessening in the size and importance of the Maori police component, which had, notwithstanding the 'civilising mission' theory, been used largely as a device to gain Maori expertise to use against 'the enemy'; by the end of 1849 few Maori constables remained in the Auckland and Mangonui police. Grey's recent boast to his masters in Britain of the enormous accomplishment of the 'civilising mission' of Maori police was, despite some successes, little more than falsehood.⁹⁴

In actuality even Grey's adherence to rapid Europeanisation of the Maori via disciplined biracial working contact had quickly faded. When in 1848 Atkyns had attempted to impose a 'certain degree of discipline' upon the 350 Maoris working on roads out of Auckland, arguing that 'firm restraint' would acclimatise them to the ways of the pakeha, Grey had rejected the idea: the extent to which they clung to their Maori modes of behaviour, he replied with no sign of interest in the 'civilising mission', did not warrant their reorganisation along the suggested lines of a civilianised Armed Police Force. The work gangs went on strike precisely because they wanted to be treated like European workers, including receipt of a full wage packet instead of smaller pay plus rations; they were, they argued, subjects of the Queen and not slaves. It had by then become clear to Grey and other politicians that the resources available to the struggling New Zealand state were insuf-

ficient to sustain a prolonged and significant 'civilising mission' scheme among the bulk of key young Maoris in the colony. Although the Governor was soon to be contemplating using the road gangs as a coercive police force, this had no connection with the 'civilising mission', which had ceased to play a prominent role in state policy. The rationale for Maori police had in practice increasingly been that of utilising the services of men with specialised knowledge, and political attitudes were adjusted accordingly.⁹⁵

In the early fighting days of the Wellington APF this utilisation had been in line with the semi-military nature of the corps. In the period of post-hostilities 'pacification' in the south however, and from the beginnings of the APF elsewhere, the specialist knowledge of the Maori police was seen as best employed in their own areas, amongst their own people—and this cut across the transfer principle. When in 1849 two Maori police were sent to Russell from Auckland, powerful 'friendly' chief Tamati Waka Nene resented their presence and got rid of them by pressing charges of drunkenness and womanising against the pair. Normally resistance was less extreme, if sufficient to cut down the usefulness of the practice a great deal. Sometimes, however, Maori policing Maori across tribal or even hapu boundaries, particularly if the policed Maori were of the higher rank, had alarming ramifications. In April 1851 Ngatipaoa chief Te Hoera was involved in a street scuffle in Auckland during which he was clubbed on the head by a Maori constable of another tribe and then briefly gaoled. Seeking *utu* he returned to the capital with 250 armed warriors in war canoes to demand the handing over of the offending constable. The implications of a refusal to do so were clear, particularly since warrior reinforcements were on their way from other areas. Bloodshed was averted only by a massive display of armed force coordinated by Commissioner Beckham and including promises of support from Te Wherowhero and other local 'friendlies'. For the first and only time the Fencibles were used in a major coercive operation, with a detachment of 164 men marching in from Onehunga and other divisions being deployed on vital communications routes near the pensioner settlements. The war party conceded defeat when given an ultimatum to leave or be attacked—*inter alia* by a warship which had been called in—and Maoris around the countryside noted the quick increment in coercive power available to the government which had thus been demonstrated.⁹⁶

Although the Ngatipaoa 'invasion' had been alarming enough, the relative lack of support received by the war party from other

tribes indicated to Grey that general assessments of Maori reconciliation to the permanent presence of the pakeha were on target. He was thus able to divest himself of direct control of the Fencibles, which he handed to their commanding officer Major William Kenny, and of the APF. Shortly after Grey had based himself at Wellington for an extended period New Ulster's Lieutenant-Governor Pitt had died (on 8 January 1851), to be succeeded as commander of the military forces in New Zealand by Lieutenant-Colonel Robert Wynyard. From the time of the Ngati-paoa affair Wynyard also succeeded to Pitt's political role as Grey's deputy in the northern province, and it was to him that executive control of New Ulster's armed police was now entrusted. The new Lieutenant-Governor appreciated the importance of police, a knowledge reinforced by his having served for many years in Ireland. He placed the Commissioner and his police under such close scrutiny—even if sometimes from distant Wellington—as to insist that Beckham provide him with reasons for dismissing men.⁹⁷

The police force of which Wynyard took effective control—New Ulster's, minus New Plymouth—had been gradually reduced to its authorised post-reduction strength of 31 NCOs and men. Being primarily a soldier and also with the Irish Constabulary in mind the Lieutenant-Governor reaffirmed the policy of retaining the bulk of the force at headquarters, available for rapid deployment elsewhere. This left police numbers outside the capital skeletal: 10 NCOs and men distributed between Russell (Sergeant-Major Woods and a constable), Onehunga and Howick (two men each), and Sub-Inspector White's sergeant and three privates at Mangonui. Beckham, under pressure from JPs and others, pleaded repeatedly for more men for the detachments; William Kenny, in his capacity as Onehunga's Resident Magistrate, complained about almost daily alcohol-induced irregularities at Otahuhu after the withdrawal of its short-lived police station. The Commissioner too found it hard to keep up a normal beat system in the capital itself, because the quasi-military nature of the force required diverting privates to duties such as those of orderlies, and the sparseness of countryside police coverage demanded considerable travel by headquarters staff. This led to allegations of the 'utter worthlessness of the Police as a force of any public utility . . . Children have their brains beaten out by horses illegally at large. We behold carts left without carters, to run away, and run over the lieges with impunity. We encounter ruffians, riding in the most reckless manner, and to the endangerment of human life, upon what should be the footpaths, and no policeman is there to bring the aggressor to a reckoning.' The 'deficiency of requisite subordinate officers' was a contin-

uing problem: in late May Beckham was able to muster for parade only his Sergeant-Major and two privates.⁹⁸

There was to be no concession made for Beckham but McLean, protected by his force's isolation and his special political relationship with Grey, managed to depart from a fundamental APF principle to in part solve his problems of manpower. Late in 1850 Resident Magistrate King had talked him out of plans for a half Maori force, suggesting instead that more police coverage, including that by Maoris, could be attained by splitting up existing salaries between constables hired for part-time work—anathema of course in a militarised police force. The idea had been pioneered in post-Wairau Nelson and recently revived there again, a departure accommodated because the Nelson APF detachment had been paramilitary in little more than name in the first place. Yet McLean succeeded in implementing the idea for New Plymouth. By September 1851 his force consisted of a full-time division—the recently promoted Sergeant-Major Halse, four European and two Maori privates (Corporal Johnson having been dispensed with at the end of 1850)—and a part-time division, whereby a Maori at barracks and a European at Omata shared a private's pay between them, as did three Maori constables residing in their own settlements.⁹⁹

Under McLean a major and direct orientation of the New Plymouth APF's operations outside headquarters was towards extracting land from Maoris with a minimum of fuss—a slow, delicate operation that increasingly took more and more of the Inspector's time. He was, in effect, Grey's second-in-command on land purchase matters, and was therefore given added positions in 1850: as a Commissioner for the purchase of Maori lands in April and from September as Resident Magistrate for the purpose of operating anywhere in New Munster as well as in New Ulster. Already his land alienation duties had taken him from Taranaki in a southerly direction down the New Munster coast, where he had considerable success in negotiating for the Wanganui and Rangitikei blocks in 1848–9. Now, armed with new powers, he moved across the North Island to the vast pastoral areas of north-east New Munster and south-east New Ulster, and by April 1851 had negotiated the purchase of the crucial Ahuriri and Waipukurau blocks. From then onwards, with his policing duties relegated to second place, he sought full-time employment in the position of Land Purchase Commissioner so that his most important duties would become his only duties, a wish granted in 1852.¹⁰⁰

It might have been supposed that effective head of police Sergeant-Major Halse, in charge during McLean's frequent long absences and an intelligent man not without influence, would have now succeeded as Inspector of New Plymouth's armed police. But the unwritten rules of military-style constabulary corps precluded the possibility of promotion from NCO to officer; even a near 'gentleman' who had been serving in the ranks, it now transpired, was insufficiently gentlemanly to act as direct state representative in command of a police force. From 27 April 1852 a new Inspector, 27 year old George Sisson Cooper, took office. Son of the colony's first Collector of Customs (George Cooper senior, unpunished grand embezzler of state funds), Cooper had been inherited by Grey from FitzRoy as private secretary. But he and Lady Grey had been reportedly paying too much attention to each other, and the Governor-in-Chief wanted him securely exiled from Government House. His new duties did not differ markedly from McLean's before him, although they were less free-ranging. Leaving Halse in charge in town under King's loose supervision, he would ride the countryside with other policemen (and often with McLean, who in 1853 was appointed Chief Land Purchase Commissioner to set up and run the new colonial Native Land Purchase Department), investigating its state of order and inducing tribes to sell land. By late 1852 it had been arranged that he receive monetary advances so that he could purchase in his own right on the state's behalf.¹⁰¹

Cooper's land purchase duties meant that, for Halse, little had changed. As during McLean's last two years in the Inspectorate, the Sergeant-Major ran the force largely on his own. Yet there were already clear signs of worsening race relations in Taranaki, a firming-up of determination amongst Maoris opposed to further pakeha encroachment upon their lands and way of life. Henry Halse, bereft of both significant resources and negotiating power, had for some time urged McLean to stay and tackle the problems of New Plymouth and its hinterland. Grey, acutely aware of the area's potential for race conflict, had toyed with the idea of a Fencible settlement there, and latterly some of the Maori police had even been advocating the stationing of troops in this south-west corner of New Ulster in order to overawe the anti-landsellers. Inspector Cooper, much less at ease with Maoris than was McLean, tended to dismiss the fears of these specialist advisers and of his Sergeant-Major. Lacking in police experience, he paid little heed to the warnings conveyed to him through his intelligence network. The situation, therefore, gradually drifted towards intra-Maori—and ultimately interracial—conflict which was signalised by the killing

in 1854 of Maori policeman Rawiri Waiaua by tribespeople opposed to his landselling activities.¹⁰²

The fostering of differences between tribes and hapu in Taranaki by the heads of police had proven a dangerous method of alienating land—a departure, in the hands of two initially inexperienced Inspectors of Police, from classical policing methods, much of it the result of the state succumbing to the land-hunger of the settlers. In the far north, where such pressures were few, Sub-Inspector White could apply himself to the traditional police role of preventing ignition of flames of conflict as a better alternative than conducting ‘fire-brigade’ policing. This in itself was a major responsibility, for internal Maori differences here were such that, should they escalate, the already slow reoccupation of the north by the pakeha and his economy would be gravely hampered. Moreover any outburst of intra-Maori warfare had the potential to spill southwards towards Auckland, sweeping up the pakeha in its path. White’s resources were few other than his small garrison of armed police, and even Assessor Nopera Panakareao turned against his authority in pursuit of regaining ‘the substance of the land’. In periods of crisis from late 1850 when it appeared that his meagre force might be overwhelmed, the Sub-Inspector’s requests for a visit by a warship were declined. The far north was to be handled by mediatory policing skills alone.¹⁰³

The general lack of state resources available for policing also meant that the coercive arm of the state seldom reached areas of increasing interracial contact which were far from police detachments. In large tracts of the central North Island the only police presence had come with the occasional visit of McLean as he ranged far and wide across the border in pursuit of purchasable land. In late 1851 he was again in Hawke’s Bay, where he arrested some absconders from whaling stations; the area, it was reported, ‘seems to be the Alsatia of the colony, where all the disorderly and desperate characters resort to be out of the reach of the law’. Certainly the large runholders beginning to establish themselves in greater Hawke’s Bay were bringing their own modes of discipline with them, but in coastal pockets centred on trading and whaling establishments problems of endemic disorder were lubricated by copious quantities of slygrog. Whereas in pre-1840 whaling days liquor had been used as a control agent by whaling masters to attract and retain scarce labour, its prevalent consumption now threatened profits. Without the liquor factor, a Hawke’s Bay whaling master estimated, his sperm oil intake would have risen by half again: two of his men had died from ‘excessive dissipation’ and his Maori employees were often too drunk to work. An 1852 applica-

tion by Beckham to spend £30 on an expedition to the area was however rejected on ground of cost.¹⁰⁴

When news of the rich Victorian goldfields, the first major gold rushes in Australasia, arrived in Auckland Commissioner Beckham enthusiastically advocated placing police resources at the disposal of gold seekers in New Zealand, particularly those who prospected on Waiheke Island from March 1852; but Grey was not prepared to risk wasting scarce state funds on speculative spending. Only when gold was actually discovered later in the year in the Coromandel area did the state commit police resources. As much to handle the unease of local Maoris as to control diggers Wynyard sent an eight-man detachment which was placed completely under the control of the colony's first Gold Commissioner, Charles Heaphy. In miniature, the situation was a foretaste of the policing problems that were to be created by the big rushes in New Zealand a decade later—and not only difficulties related to policing the actual sites of the rushes. Because of the outflow of eligible men from Auckland to the goldfields, Beckham could find no replacements for the constables deployed to the Coromandel from the city. There were also problems of jurisdiction, given that upon arrival on the fields the men constituted a force autonomous of the Police Commissioner's control. Beckham was not good at handling such problems, but fortunately for him this first Coromandel rush was of short duration. As usual, however, the New Ulster Police Commissioner continued to lurch from crisis to crisis, earning en route numerous reprimands for 'an error of judgement' here and an act of inefficiency there. After submissions he had been allowed in April 1850 to reinstate the abolished position of Sergeant-Major in charge of the Auckland urban area, and to this he promoted in July a Fencible and former troop sergeant, J Russell. The firm grip of this new effective head of police in the capital on the bulk of the force was to enable Beckham to survive as Commissioner to the end of the New Ulster period, and beyond.¹⁰⁵

In 1852 the British implemented a Constitution Act which established for New Zealand a General Assembly responsible for the 'peace, order and good government' of the colony. In recognition of the separate socio-economic developments of the pakeha settlements however it also created six provinces, each with its own governing body holding wide, delegated powers. There was to be a period of transition to the new arrangements over several months in 1853, with New Ulster and New Munster ceasing formally to exist from March, executive functions, including policing, continu-

ing as before during that time. Because however of communications difficulties between the major nuclei of settlement, normal policing functions were among the powers fully delegated to the new provinces. As a result, from 1 October 1853 the theoretically unified APF of what had been New Ulster split formally into two Armed Police Forces, one for Auckland Province and one for New Plymouth Province. Elected Superintendent of Auckland with the solid support of his Fencible 'police' on the southern flanks of the capital city, Wynyard remained the political head of the newly designated Auckland Provincial APF; he retained Beckham as Commissioner, having become used to working with him. Because like all government functions those of policing were merely delegated by the Governor to the political heads of the six provinces (and to those of later provinces when breakaways occurred) in the early days of Auckland Province Grey continued to give—with Wynyard's acquiescence—direct orders to Beckham. For most of what is generally referred to as the 'Provincial Period' (1853-76), however, the General Government and Governor were content to leave the 'peace and order' mandate to those at the apexes of the provincial administrations.¹⁰⁶

In New Plymouth Province, unlike Auckland, the policing transfer did not proceed totally without event. The new government of New Plymouth Province soon realised that Inspector Cooper's position related more to the General Government function of land acquisition than to policing. He was therefore dismissed from provincial service, deprived even of salary for the few weeks he had remained in office beyond the changeover date. In the event the decision had little but administrative significance since Cooper, in Grey's eyes a 'most discerning and estimable officer' now that he was away from the colonial capital, was designated a General Government land purchase officer and continued much as before. Policing within the boundaries of the new province continued much the same too, except that from 7 November 1853 Sergeant-Major Halse became nominal as well as effective head of the provincial police. This was symbolically a significant development, the first time since the establishment of the Armed Police that an NCO (albeit the most senior NCO rank, and one often equated in status with that of commissioned officer) had headed an autonomous police force.¹⁰⁷

The 1853 bisection of the New Ulster (despite the formal dismantling of the New Ulster and New Munster provinces, the names continued to be used for convenience) Armed Police meant little more than formal acknowledgement of a *fait accompli* for in practice McLean's detachment had operated as an independent

force ever since 1848. Both sections had considerably shrunk in size from their original strength in 1846. McLean and Cooper in particular had experienced the frustration of frequently having to turn away 'respectable' applicants such as a local farmer who had seen all his crops destroyed by cattle.¹⁰⁸ Because of the small number of New Ulster police stations, transfers had been ever fewer despite attempts to retain the mobility principle of the quasi-military corps. In Auckland when they did occur they were normally between the town and the nearby pensioner settlements. By 1853 there were still Maori constables, but acting as 'specialists' in aspects of policing rather than as conduits for white civilisation.

If Felton Mathew is to be believed (allowing for his resentment at losing the headship of the local police) as early as mid 1847 the Auckland 'native constables' were being left mostly to their own devices during their unassigned hours, subjected to 'contamination' from mixing with constables who were the 'very worst class of Europeans'. 'Not one of these men but has 2 or 3 native women living with him in a state of grossest prostitution; they are all addicted to rum-drinking' and party to the 'most disgusting debaucheries'. The former Auckland Chief Police Magistrate—quite contrary to the 'official' view—opined that 'all who really desire to promote the civilisation of the Maori' would urge the government to 'break up and abandon this native Police Force, which as far as the natives themselves are concerned, is a measure of unmixed, unmitigated evil It is true that they are supposed to inhabit a sort of Barrack, and to be under some control when there; but it is notorious that the Police Barrack is the most disorderly place in the Town, and that no discipline whatever is observed among them. Indeed so infamous a notoriety has this Police Force acquired that notwithstanding the temptation presented by so high a rate of pay, no well-educated native will enter it. Of this I have known many instances' Such was not an isolated view, but Mathew certainly erred when he extended his case to dismiss the 'specialist' role of Maori police as 'absurd'. In claiming that pakeha constables could just as easily police the interracial streets of Auckland, and that informal Maori policing in return for rewards was a viable way of policing the countryside, he was at odds with the policing experts.¹⁰⁹

Specialist Maori policing however did not demand a preponderance of Maoris in any force. How, then, to explain the fact that the proportion of Maoris in the two major North Island forces was later to increase to a remarkable degree? Within four years of the 1853 transfer to provincial control the capitals of Wellington and Auckland provinces each had 20-man detachments 'composed

chiefly of young natives, who make excellent constables'. Was this the triumph of the idea of the 'civilising mission' at last? On the contrary, the reason for the phenomenon was that Maoris were far more willing than pakehas to accept the very low wages offered by the straitened provincial states. It reflected the under-class position of the indigenous race in the colonial economy and in this sense alone it related to Grey's 'civilising mission'—except insofar as the employment of Maori police from 1846, when rapid assimilation had seemed viable, had helped acclimatise the pakeha, at least to a degree, to the concept of social control of white by brown.¹¹⁰

Expansion and Contraction: New Munster Police, 1848–9

The transition of 1853 in the north had been a smooth affair, an unexceptional step in the evolution of policing. By contrast the creation of four provincial police forces out of New Munster's Armed Police climaxed and spotlighted several years of different and important developments in the south. The Colonial Office had itself initiated the appointment of one of the two Lieutenant-Governors prescribed in the (partially implemented) constitution of 1846, and its choice was to lead to troublesome ramifications. The man selected was 37 year old English gentleman/Australian squatter/explorer Edward Eyre, later as Governor of Jamaica to become infamous for gratuitously bloody reprisals against alleged rioters, hundreds of whom were executed, many of them illegally. In his previous capacity as Resident Magistrate at the Murray River he had won praise from Grey, then Governor of South Australia, and his choice for New Zealand seemed logical in view of his record to date of mediation at the interface of 'civilised' and 'savage' races.

Grey had hoped however that by stalling on the implementation of the constitution he would obviate any such subordinate appointments. Thus he had not welcomed his former protégé, and upon arrival in the colony Eyre had at once been despatched to the Southern Division to act as its Superintendent pending the establishment of the New Ulster and New Munster provinces decreed by the Colonial Office. In Wellington, displacing Richmond as chief state representative, Eyre was responsible for general supervision of the police, a task which he took seriously in view of the power that it gave him. Within days of his arrival on 7 August 1847 problems had arisen as a consequence of Eyre's determination to

impose tighter control over Durie than had Grey and Superintendent Richmond, and—more seriously still—of a power struggle which quickly developed between the new appointee and the Governor-in-Chief.

The Lieutenant-Governor-designate had quickly realised that Grey intended to delegate to him only minimal authority, and as prerequisite for his struggle to control meaningful areas of government in the south he required total subordination by the Armed Police Force. Grey, via the tightly-reined Richmond, had come implicitly to entrust Inspector Durie with wide discretionary powers. Eyre now moved swiftly to ensure that Durie's accountability was directly to himself. As a result of the Governor-in-Chief's plans temporarily to halt northward expansion of settlement at Waikanae, Durie had begun to construct there his permanent police headquarters and barracks; but he had done so on Grey's verbal authority, without documented approval, and the new Lieutenant-Governor at once stopped the proceedings. After making it clear that it was to himself that Durie now reported, and reprimanding the Inspector for his failure to procure proper authorisation for the new headquarters or to submit plans and estimates, Eyre considered that he had made his point and allowed construction to proceed again with the use of police labour. From this point on however he kept a tight grip over the force—vetting, for example, all appointees to it.¹¹¹

It did not matter too much that this initial joust had led to a great deal of personal acrimony between the two men, as Durie was now at Waikanae, some distance from both Wellington and the bulk of his force of eight NCOs and 47 privates. Eyre set about consolidating Wellington's policing operations, intending to be effective head in the semi-permanent absence of Inspector Durie. Late in the year he rented from Chief Wi Tako a much needed central police office and barracks in the Kumutoto area near Thorndon. On 28 January 1848 Eyre was formally sworn in as Lieutenant-Governor of New Munster, which provided him with a stronger power base from which to act as effective head of the bulk of the police of the newly designated province covering all of New Zealand south of the line extending eastwards from the Patea River mouth. In a not untypical day he directed that a registration Ordinance be enforced, that stricter application of the law forbidding the sale of spirits to Maoris was necessary, that the police were to compile a weekly return of births and deaths.¹¹²

Soon the path was cleared for tighter control in the southern expanses of the South Island. The Nelson Police, officially part of the New Munster APF, controlled order in the northern part of

that Island and the tiny civil force at Akaroa had effective jurisdiction on Banks Peninsula. Elsewhere however, and especially in the Otago area, the small pakeha settlements had police coverage of any sort in theory only. Several years before, Police Magistrate J J Symonds had played an important role in laying the groundwork for the establishment of a Wakefieldian Scottish settlement in Otago, and now on 23 March 1848 the Otago Association's first immigrant ship arrived at the site of the scheme's major town, Dunedin. The settlers from this and a second ship which arrived the following month, numbering nearly 350 people, were deemed to be 'eminently respectable'. Chosen carefully from the 'poorer classes of the community', they posed few problems of order — particularly after the most vociferous of the labourers, who resented an 'organization which had landed them, without even elementary preparations, in a tree-girt wilderness at the onset of winter', were shipped out to Wellington. The staunchly religious settlement leaders, while apprehensive about potential problems from even the 'respectable' bulk of the labourers who remained, were mostly dismayed at the prevalence of drunkenness and licence among the pakehas resident in Otago before the arrival of the immigrant ships, and the possibility that others similarly inclined would soon drift in; they requested state enforcement of order and regularity as a prerequisite for the immigrants themselves acting *en masse*, as intended, as a 'vigilant moral police'. Eyre needed no prompting, and not only because of the disorderly pakehas in the area about whom Akaroa Police and Resident Magistrates had made submissions for years. The Lieutenant-Governor was more concerned with asserting from the beginning state power against the pretensions to temporal power of the settlement's Free Church of Scotland leaders. There was ample precedent in the New Zealand Company settlements' early years to indicate that influential leaders of Wakefieldian settlements were inclined to establish what amounted to rival systems of power.¹¹³

For this reason Eyre chose as leader of the police party for Otago the second highest ranking officer in the New Munster APF, Sub-Inspector A C Strode, who had been in charge of the Wellington detachment and whom he had come to trust as a reliable instrument of state policy. In early April 1848 Strode was sent south 'principally for the purpose of swearing into office the newly appointed Justices and to establish the Police Force' in the small community. The exercise was designed to enhance not only state power but also Eyre's share of it. Strode could have been ordered to recruit police locally in Otago, but was instead instructed to take six policemen with him. There were two reasons for this. First,

suitable local recruits would be too close to the Free Church and its leadership. Second, this was Eyre's chance to reduce with plausible cause Durie's dozen-strong detachment at Waikanae, a station whose present strength had become an anachronism for it was clear that Rangihaeata and other recalcitrant Maoris to the north were beginning to accept the logical consequences of pakeha ability to apply superior military force and would be satisfied with preserving their own *de facto* autonomy for as long as possible. Although it was no longer necessary to use Waikanae as the spearhead of the military drive northwards as originally planned by Grey, however, the strong detachment in the town (and Durie's headship of it) had still been seen as part of the Governor-in-Chief's grand strategy and to remove it without apparent specific cause would have had symbolic implications. Now Eyre had adequate reason to instruct a reluctant Durie to release his sergeant, Richard Barry, another NCO and three privates. When 25 year old Sub-Inspector Strode arrived at Dunedin on 20 April he was accompanied by Barry and a small party of policemen which included Waikanae Maori Constable Epa and veterans of the fighting of 1846.¹¹⁴

The arrival of the detachment was greeted warmly by new immigrants unnerved not by the Maori but by their own pakeha predecessors in Otago. Captain William Cargill, principal architect of the Otago Association and Resident Agent of its parent New Zealand Company, reported after a fortnight that without Strode's police 'it would have been hardly possible for us to have properly carried the Laws of the Colony into Effect, with respect to unlicensed squatting and sale of spirituous liquor'. Disenchantment with the colonial state had nevertheless already arisen. Apart from the police only one other official had been sent to the settlement, briefed to concentrate upon revenue-gathering and for customs purposes stationed at the Otago Heads, 13 miles from Dunedin. In July this officer was joined by two policemen ordered to reside in the area's main Maori settlement, near the Heads, to suppress the 'reckless or disorderly characters at that place', its pakeha hangers-on; two more police privates were stationed at the Otago Harbour anchorage of Port Chalmers from where, with the aid of a whaleboat, they were to act as water police with special reference to guarding customs revenues. Only a single extra constable was sent from Wellington to meet requests for provision of a minimal police and other 'useful' official coverage for Otago.¹¹⁵

The initial show of force in Dunedin itself, in and around which most of the settlers dwelt, was thus dissipated. The populace felt isolated and neglected by a state which seemed preoccupied with filling its own coffers rather than with protecting the safety of its

people. A suggestion by Eyre, who was circumscribed by scarce resources from sending more police where there was no overriding need for them, that in the event of emergencies the settlers be sworn in as 'specials' was greeted with the rejection usual of people anxious to devote their lives to carving out a living in a pioneer environment. This was the fate too of the original plans for a system of informal settler self-policing. Meanwhile immigrants felt unsafe even after some of the Otago 'ruffians' were apprehended by Strode and his men, since for the first seven months of the settlement's life the 'gaol' was a tent—to be then replaced by a flimsy weatherboard hut from which its first prisoner easily escaped by kicking out a wall. One constable, John Barr, was in charge of the gaol and, in view of his other police duties, had little choice but to come to an understanding with non-dangerous prisoners that they could wander at large so long as they returned each day by eight o'clock in the evening.¹¹⁶

The settlement remained small and, despite the immense class gulfs that were deliberately imported from Britain in the Wakefieldian schemes, relatively homogeneous in that its core consisted mainly of working-class people bound by the moral rigidities of the Free Church. Although outsiders trickled in, a sizeable proportion of the population continued to take its guidance from the settlement's spiritual-cum-temporal leaders so that hegemonised self-policing occurred without need to designate specific colonists, even informally, as policemen. As a result, after many of the 'rough' elements from the pre-1848 era had drifted to more congenial areas the leadership stratum came to realise that in such a self-regulating community an armed police force was an expensive superfluity. Three-quarters of the tax taken from Otago was expended upon Strode's detachment, which had decreasing work to do in the orderly community. Resentment was even greater in that none of the remainder went towards developing the settlement until in mid 1850 some was spent on a Supreme Court establishment, itself deemed superfluous in a quiet settled area of still fewer than 2000 people. Initially, a greater number of 'useful' officials, including police, had been sought; now the quest was for a decreased official presence, including that of police.¹¹⁷

Some considerable time had by then elapsed since Eyre had made Sub-Inspector Strode's position in Otago permanent. This move had resulted from the increasing disgruntlement felt by Dunedin leaders about New Munster's apparent neglect of their settlement, a situation seen by the state to necessitate close surveillance by a high policing official of all activities in Otago. Eyre was also motivated by the opportunity which Strode's permanent absence

from Wellington presented for even more direct intervention in local police affairs than before. Strode himself was not pleased at the prospect of long-term location at New Zealand's remotest official settlement, and had to be reminded by Eyre that an 'Officer of Police is always liable to be called upon at a moments notice to proceed to any point where his services may be required by the Government'. The Sub-Inspector's unhappiness with his lot exacerbated his problems with an Otago leadership already perturbed at his 'self-opinionated and over-sensitive' character; soon he was reportedly 'detested' by most residents and, as had been the case with Police Magistrates of the earliest New Zealand Company settlements, his personal failings made him an easier target.¹¹⁸

The overarching motivation for such targeting was familiar, although the details had altered to fit the circumstances of Otago: Strode was the state representative, and thereby head of the 'Little Enemy', that tiny minority of upper-class English Anglicans who dominated both local officialdom and the vitally important bench of JPs over which he presided. Sub-Inspector Strode, acting *inter alia* in the capacity of Resident Magistrate and general government agent, had little time or inclination to supervise his police. Divisions between the staid Scots majority and the pro-government minority heightened as a result of the behaviour of the unsupervised NCOs and privates who, bored with the lack of work once the labourers had become preoccupied with sheer survival and 'desperate characters' had retired to areas outside the state's reach, tended themselves to create disorder by drinking, gambling and quarrelling. Again, personal failing in state agents gave ammunition to oppositionists. The real problem for the police, whose constables differed little from those elsewhere, was that it was regarded as a 'body offensive from its appearance of military rule', that it symbolised a state run by a regime regarded unsympathetically by the great majority of the Otago settlers.¹¹⁹

It was because of the soldierly imagery of its constables, among other things, that Felton Mathew had criticised the APF of New Ulster. By 1850 such indictments were increasing throughout the colony. 'We could readily dispence with so trashy a *Gend'armerie*, for a sound, sensible, well organized English police', declared a major newspaper which published a number of stories to illustrate that Auckland's APF was 'both *obstructive* and *oppressive*'. The New Ulster school of criticism was trenchant: 'There is no *civil* Police Act—there is only an Armed Police Act (wherefore armed?) to empower them *to play at soldiers!*' Instead of keeping public

order by means such as supervising traffic and livestock in the streets, 'their time is occupied in the *Manual* and *Platoon*' or else in doing nothing much at all, there being a 'total want of system' appropriate for a civil police. Such sentiments were to become increasingly prevalent also in Wellington, and in Dunedin, where soldierly police looked even more incongruous in the clear absence of any threat of Maori insurrection.¹²⁰

At the time that Strode was settling in at Otago, new New Munster Colonial Secretary Alfred Domett was surveying the state of his province's police as part of a cost-cutting exercise with which he was to begin his tenure of office. Recently Durie had reported that the New Munster police were 'vigilant and attentive to their duties' because of their sound origins as 'Mechanics and the more respectable and intelligent class of laborers'. His only reservation had been that because of their scattered postings they were 'not as yet under that strict uniformity of drill and discipline as I would wish'. Yet Domett claimed to find a large number of worthless men in the force, and believed that these could readily be dismissed without replacement. As spokesman for the Nelson settlers after the Wairau affray, Domett could hardly be accused of being 'soft' on the 'Maori question', but his assessment was that insurrectionary tendencies had been decisively defeated. Since Wellington's population had fallen below 1800, the force of 30 police stationed in the urban area was of necessity a reserve force and in his mind it could now be safely scaled down to half its size.¹²¹

Once Domett's central premise about the security of the lower quarter of the North Island was accepted, there was logic in his analysis of police dispositions: a mere half dozen police controlled Nelson's scattered population of 3000 whereas in the provincial capital five times as many policed a more concentrated and smaller population. The size of the armed police, particularly of its reserve portion at headquarters, was 'excessive, superfluous, and a most unwarrantable drain on the revenue of the country'; at very least, the Colonial Secretary recommended, Wellington vacancies should not be filled when they arose. Eyre refused to accept his advice. He too had assessed that there was no immediate threat from insurrection—hence his scaling down of the Waikanae station—but as the person in charge of New Munster's security he believed it to be too soon after the crushing of the rebels to be sure that resistance would not again develop; in any case, however remote that possibility, his own power of social control depended to a substantial degree upon control over a formidable armed police corps.¹²²

Thus at a time when there was increasing stability in New Munster's towns and countryside and when in the north Grey was

adapting the armed police to evolving circumstances, Eyre reiterated the purist Greyite line of 1846: only a sizeable, mobile, highly disciplined force could, if 'disturbed times' re-occurred, prevent or at least assess the likelihood of, and therefore allow precautions to be taken against, further outbreaks of armed rebellion. Such a force, capable of rapid concentration, would act as the nucleus of scratch militia, volunteer and 'special constable' units in order to hold off insurrectionary Maoris until military reinforcements arrived; it would thereafter play a valuable adjunct role in both war and the transition to peace. The plan encompassed, despite mounting ethnocentric prejudice against 'native constables', utilising Maoris—including an anglicised Maori who had been to England—for their proven specialist fighting and police skills: Eyre was quite firm that a Maori core of policing was there to stay.¹²³

Paradoxically, then, Domett's attempted exercise in police demilitarisation had produced a reaffirmation of militarised policing and a refocus by Eyre on policing. During the process the Lieutenant-Governor had noted that the Nelson detachment of the APF operated *de facto* as a 'Local Corps', with Durie's acquiescence, the New Munster equivalent of the New Plymouth police command. It should instead, he ordered, submit the normal weekly returns and reports to the Inspector, who would in turn from then on fill vacancies in the detachment from headquarters. The Nelson police were to be reminded that they too were subject to transfer elsewhere. This was all correct enough in theory but in practice Durie had not considered any South Island police other than the recently formed Otago detachment as being under his effective jurisdiction. A police disposition report to his superior, that of 24 April 1848, typically listed only the stations of Wellington (with four NCOs and 26 privates), Waikanae (a corporal and eight privates), Wanganui (a corporal and seven privates), Otago (two NCOs and four privates) and Porirua (two privates).¹²⁴

The Nelson force reported both to the town's Resident Magistrate and to the Superintendent of the Southern Division rather than to Durie, Superintendent Richmond having been sent by Grey to reside as government agent in Nelson on Eyre's arrival in Wellington, allowed to retain his rank but with jurisdiction over only the northern section of the South Island. Domett, conscious of the sensibilities of Nelsonians towards the colonial state, persuaded the Lieutenant-Governor to desist from executing his orders about the Nelson APF detachment until Richmond had advised on the exact current status of that settlement's police; although 'nothing of their arrangements or discipline' was known to Wellington's officialdom, the Colonial Secretary persuaded Eyre that sometime in the past

they could well have been classified as 'local constables'. Instead of immediately placing the Nelson men directly under Durie, with all the ramifications such a step would entail, the Lieutenant-Governor therefore merely enquired of Richmond whether the settlement's policemen had been 'ever considered as forming part of the armed Police Force of the Country'.

Domett went so far as to implicitly tell Richmond what his reply to Eyre should be: that although the Nelson police were armed and accounted as were those at other APF stations 'they were virtually, and were always considered to be only Local Constables', in which case they reported to the Resident Magistrate and ultimately to the Superintendent rather than to Durie. Certainly this was the situation in practice, but Domett knew full well that since in theory the Nelson policemen constituted a detachment of New Munster's Armed Police Force they were 'liable to be sent from one settlement to another' and to adhere to all the norms of paramilitary hierarchism, including, according to the rules, being 'under the immediate orders' of the commissioned officers of the provincial APF. Richmond's report was more accurate: the Nelson Police Magistrate's force had in 1847 technically come under the command of Durie, who had reported to Richmond himself as head of state of the Southern Division, but the injection of APF modes of operation had advanced little beyond Grey's original transfer from Wellington of three Maori privates, two of whom (Himiona Te Wehi and Maka Te Ngorengore) had remained with the Nelson force, and the acquiring of further arms. Because of Nelson's placidity therefore, a formal APF detachment had evolved into a 'Local Police'. In view of the absence there of any Maori threat (the major stated reason for militarised police), the lack of any compelling political reason for a fully fledged armed police force, and the resentment of powerful Nelsonians at hints that they might be policed by quasi-soldiers, Eyre had little choice but to sanction the handful of Nelson policemen as constituting a civil police force.¹²⁵

Hence from 2 August 1848 Nelson joined Akaroa as the second New Zealand settlement to have a police force that was officially localised in command and operation, even if Nelson's policing regime—unlike Akaroa's—had emerged within the APF framework. The fact that four of its six privates, including the three pakeha constables, were married (one of them with eight children), and that their police service was of relatively long duration (up to four and a half years), marked them off from APF philosophy: the typical armed police detachment employed, usually ephemerally, unattached, mobile young men not averse to undertaking harsh actions against members of the local community in which they

were temporarily stationed. Of course the police of the civil forces, although not amenable to orders from commissioned officers in the APF, were equally as responsible and responsive to the colony's executive as were the armed police. Grey or Eyre could issue directions to Nelson's effective head of police, Sergeant-Major (also known as Chief Constable) John Cawte, although they would normally channel any such instructions through Superintendent Richmond. This latter was the procedure followed when in 1852 the first printed APF rules were circularised to civil police as well as to armed police forces, the Akaroa distribution being directed through Resident Magistrate Watson.¹²⁶

While Eyre's reassessment of policing in New Munster had in 1848 allowed for an exception for Nelson, Irish-style principles, in particular those of mobility and rapid transfer, were at that time in the process of being tightened in the APF proper. His investigations had revealed that in violation of Grey's original rules one of Durie's men at Waikanae was running a store: 'It would be as well in order to prevent temptation to irregularities of this kind', Eyre told the Inspector, 'to change the Policemen at the respective Stations as frequently as possible'. When Durie protested that he normally transferred at three-monthly intervals, Eyre analysed the records and found significant exceptions: two Wellington policemen in 1847, for example, had been induced to move with their families to Waikanae by a promise that their new positioning would be permanent. On this and future occasions Eyre firmly repeated the mobility rule: regular and rapid transference of the men would occur in order to 'prevent their forming local connections or being subject to local influences in an undue degree—and in order also that the different men in the force may each in their turn be made as much acquainted as possible with the various districts to which they are at any time liable to be called on service'. Whereas Grey had not insisted rigidly on three-monthly transfers Eyre was to do so. Durie's tables of APF disposition as at 1 December 1848 revealed that only three of the eight NCOs and five of the 40 privates had been transferred within the previous three months and that the longest stationing dated back more than two and a half years. A week later the New Munster government ruled that the three-month transfer had to be maintained, with any exceptions to be explained in Durie's monthly report.¹²⁷

In assessing the reported exceptions, however, the Lieutenant-Governor was less rigid than he could have been: most of all he allowed an implicit exemption for Maori constables. His analysis had revealed that at Wanganui, as in McLean's New Plymouth force, Maori police were employed as permanent 'local' constables.

The reason was clear: their services were required at least in part for their specialist knowledge of the local countryside and its indigenous population. As Wanganui's Resident Magistrate reported in 1851, Maori constable Epiha's immense usefulness was directly attributable to his tribal connections along the Wanganui River. Durie told the New Munster government that he could not contemplate transferring the Maori police from Wanganui: 'I believe that their own Countrymen view them while in the Service with considerable fear and respect'. They were 'peculiarly efficient in any rough travelling, or carefully conveying Mails and Dispatches over Rivers, that would not only be difficult but dangerous at some seasons of the year for Europeans to encounter'.¹²⁸

Paralleling New Ulster developments, the 'civilising mission' in New Munster too had ceased to be anything more significant than a side issue. In his first quarterly report on the New Munster police, Durie enthused that the 'effect the Police Service has on the habits and conditions of the Natives is not only apparent, as far as their amelioration is concerned, but is evident in their cleanliness, smartness, intelligence and general bearing, after their period of service expires'; they were as 'zealous and active' as his European policemen and some rejoined at the expiration of their contracts. But their primary role was now as specialists in policing and conducting intelligence operations amongst their own people and concomitantly, although there were always Maori applicants for vacancies, Maori police were being reduced in numbers as immediate fears of insurrection fell away. By mid 1848 Maoris numbered 11 out of New Munster's total APF strength of 57, and they were ceasing to be an integrated element of the force. That October Eyre stabilised their number at a dozen.¹²⁹

That the Maori police were specialists attached to rather than integrated into the force did not concern the Lieutenant-Governor, who had never been enamoured of his superior's 'civilising mission'; for Eyre, the mission of overriding importance was that of imposing order and stability between Waikanae and Wanganui, the area of New Munster where resistance of sorts continued even if insurrection was not now viewed as a serious possibility, and here the Maori police were decidedly useful as 'experts'. In August 1848, when Rangihaeata had stopped the northern road in the Manawatu, Eyre reminded Durie that it was the 'main object of the Establishment of the force to prevent the occurrence of such disturbances': at any time the commissioned officer wished he could temporarily boost Waikanae's number of men for a period sufficient to apprehend any such disrupters, taking the extra men from the Wellington barracks. Eyre planned to recall Strode shortly

from Dunedin and place him in charge of a new station in the Manawatu along the road to Wanganui, but the necessity for this scheme lapsed in 1849 as a result of government progress in land purchase—the major Rangitikei block being acquired by McLean that May—and of Rangihaeata's abandonment of his earlier threats to pull out the 'cork of war' if the pakehas encroached. Although McLean was not yet able to purchase the Manawatu, the former rebels at Poroutawhao now actually helped to build roads in the area, liaising with the government via Maori constables. Ex-Waikanae armed policeman Tom Scott, operating from a trading post/ferry at the mouth of the Rangitikei, was able to carry government mails up and down the coast unimpeded.¹³⁰

Meanwhile Eyre found the task of acting as effective head of police in Wellington increasingly impossible to handle, and by mid October 1848 he had acknowledged the need for a commissioned officer there for the purpose of the 'better preservation of order and decorum' within the police force. This was all the more important in the wake of a decision to economise by not filling vacancies in the pakeha portion of the force, with resultant extra duties to be apportioned amongst the remaining men. By then ex-Police Magistrate McDonogh had swallowed his pride over losing the founding Inspectorship of the southern APF to Durie, and was petitioning the Governor-in-Chief for an armed police position. Grey had expressed sympathy for the man who had got together the 50 volunteers at whose head Durie had risen to prominence, who had commanded at Taita and led his men into the seizure of Pauatahanui pa in 1846, yet who was now in a 'subordinate' position not much 'above a Common Laborer' on the roads and whose own former subaltern, White, was himself now a police officer. But he had not been sympathetic enough to create an expensive position for McDonogh in New Ulster, or to enquire of the New Munster government as to its ability to accommodate him.¹³¹

Eyre, however, searching for a commissioned officer to control the APF detachment in Wellington city, was told of McDonogh's quest for a position and secured for him an appointment as Sub-Inspector from 1 November 1848. McDonogh was below Strobe in seniority and salary, but now became for four years the commissioned officer in charge of the New Munster capital. He had been appointed on the basis of recommendations by friends in high places, and his ability to wield influence ensured that plans for him to swap places with Strobe in the unloved post at Otago came to naught. More than any other, his appointment revealed the class basis on which the commissioned officer rank rested in the early New Zealand police forces. As Domett later said with enormous

understatement, he was appointed 'although it was known that he was not entirely trustworthy in pecuniary matters'. From the beginning of his APF position the government adopted 'several expedients to secure the regular payment of the force under him without allowing the money to pass through his hands', but these were circumvented by the Sub-Inspector 'borrowing' from his men, a device which his subordinates could scarcely resist in a hierarchical paramilitary force. His finale was to be fraught with symbolism: after gambling away the total pay for his men he had no further resources to plunder, and on 26 October 1852 he committed suicide by gunshot.¹³²

Yet McDonogh had from the beginning given Eyre what he needed, and for this reason the Lieutenant-Governor had acquiesced in the anomaly of leaving the strong-willed Strode in untroubled Otago. The new Sub-Inspector was far more pliable than his Otago comrade, indeed was little more than a tool in the hands of the man to whom he owed his appointment. Leaving the details of beat policing and discipline to McDonogh, who for all his faults was still experienced in handling the discipline and control of paramilitary units of men, Eyre was able now to concentrate on overall police strategy. This had an adverse effect upon Durie's authority, something that the Inspector had not foreseen when helping to ensure that Strode stayed in Dunedin: he was now even more than before ignored in decision making. The official head of New Munster's APF found out by accident that Eyre had recalled Sergeant Barry from Dunedin and made him Wellington Gaoler; after tentatively filling a Maori vacancy at Waikanae, Durie discovered that Eyre had asked Superintendent Richmond for a Nelson Maori to fill it. The intense degree of direct executive control of the New Munster police was symbolised by the 1 May 1849 downgrading of Durie's Inspectorship to an unsalaried post; his Resident Magistracy at Waikanae became his substantive position.¹³³

Eyre made this alteration in the context of 'great reductions' designed to cut the costs of the police to the New Munster state: the Waikanae/Wellington area, which had contained as many as 57 police in 1847, was now reduced to 27—two officers, two sergeants, three corporals, 12 European and eight Maori privates. This reduced arrangement was seen as possible partly because of a plan to legislate for increased police powers and partly because of Grey's directive to establish a mounted section of the force. New Munster had inherited from the military troubles of mid decade a good system of roads leading from its capital, enabling a small mounted portion of the force to replace a larger number of foot patrols in the hinterland. Eyre told his Legislative Council within days of the

May reductions that he envisaged the ultimate emergence of an urban foot police and a country mounted police; both models, Irish and Metropolitan, would coexist within the same framework. But a month later the state's financial problems were so severe that the planned mounted corps of seven men was abandoned amidst a further series of cuts amounting to more than £400.¹³⁴

It was financial reasons, therefore, that by mid 1849 had set the seal on Lieutenant-Governor Eyre's acceptance of the logic of the probability that Maori insurrection in the countryside was definitively crushed, that police supervision was now best orientated towards the urban areas. But he was reluctant to abandon all precautions *vis-à-vis* mass unrest—Maori or pakeha—and so clung rigidly to the idea that Wellington's police should operate as both a mobile reserve force and a beat police. There were logistical difficulties in this approach, given the reductions. It was a problem that had been more easily solved in New South Wales. There the Mounted Police, which acted as the crucial police reserve force, had been a body separate from the urban police, and as the threat of frontier resistance faded so too did its strength. When its remnants were disbanded at the end of 1850 that colony's resources ensured that there remained a sizeable urban police which doubled as a reserve force.¹³⁵

In contrast, in New Munster there were by August 1849 only 31 police in all, the same number that a year before had been considered inadequate for Wellington alone. In the capital McDonogh controlled the province's senior NCO, plus two corporals and 10 privates, and in the period of adjustment to retrenched policing there were difficulties in keeping order and regularity: even the Sub-Inspector's house was burgled. The fact that this small reserve was the largest detachment in the province created problems for, *inter alia*, the transfer principle. Wanganui's corporal controlled the only all-Maori detachment of privates in the colony, and they were not available for transfer; Durie at Waikanae controlled just three privates, and it was only to his station that Wellington men could be transferred, with the minor exceptions of Otago (to where transfers were costly) and one-man stations at the Hutt and Porirua.¹³⁶

Problems at one of the latter stations in October 1849 provided a chance for review of the entire transfer principle. Eyre ordered McDonogh to transfer Hutt constable Samuel Styles, who had been stationed at Aglionby for five months. Two landowning JPs, William Swainson and Captain E Daniell, under whose general local supervision the private had been acting 'to our most unqualified satisfaction', protested at the 'sudden and peremptory orders' for

Styles to transfer just when he had gained the knowledge to be useful. Only recently had he got to know all the troublesome elements in the Hutt and the 'obscure footpaths through the forest' which linked the scattered pockets of farming population. Durie's promise to them that Styles would be transferred only in 'peculiar and unavoidable circumstances' had been violated; also they had believed that the constable had been seconded to their sole control by Durie (now focusing on being Resident Magistrate rather than chief of police) and hence was not subject to McDonogh's orders.

This belief pinpointed the internal evolution of the New Munster police away from tight central control. Already the process had gone so far in Nelson and Akaroa as to exclude those police from the APF umbrella. In areas outside Wellington, Waikanae and Dunedin, away from commissioned officers and where magistrates were given daily control of APF members, stations amounted to little other than *de facto* local, non-militarised forces; this was particularly the case with one-man detachments, and even extended as far as temporary secondments. Durie had attempted to regularise this situation for the Hutt by his promise that there would be a stable, if minute, police presence there. The view that the drift from mobile paramilitary policing to local policing should in certain areas be given the official stamp of approval was now implicitly supported by New Munster's Colonial Secretary. Domett, a lawyer by training (although poet, of sorts, by inclination), could not of course claim that certain APF men fell entirely under JP control. Nevertheless he declared that New Zealand constables were as obliged as their British counterparts to obey magisterial instructions, although the only colonial evidence he could produce was the fifth section of the 1846 Ordinance.¹³⁷

His was too extreme a declaration, an opinion based upon the traditional English rural police system, itself increasingly outdated as 'new police' forces spread throughout the mother country. The advice and the situation, though, induced Eyre to make a concession in the direction of devolution that went further than he had been prepared to go previously: in remote areas magistrates, stipendiary or otherwise, could command the services of any constables at hand who were not involved in a more important service (particularly, that is, by implication a service directed by the state executive or its APF officers) provided that the duties demanded were legal. He also allowed that in the 'peculiar circumstances' of the Hutt Styles could remain there for the time being. All armed police were nonetheless to remain firmly in the APF, and the provincial state executive and its commissioned officers alone could deal with stationing, drill, discipline and suchlike. In particular Eyre reiter-

ated many times his 'general instructions' to Durie about 'frequent and regular removal . . . to prevent any members of the force forming too close local intimacies, or prejudices, or acquiring too great a personal interest in any pursuits or occupations likely to prevent them from discharging their duties faithfully and without favour.' When by December 1849 it had become clear that the problems that this presented, particularly in terms of three-monthly transfers, were defeating Durie, Eyre insisted on a mechanical system: all transferable NCOs and men (and none were to be non-transferable without Eyre's own consent) were to be listed in order of the length of their stationing, and as the three-month limit approached for the man at the top of the list he would be ordered to transfer; all men would therefore do a tour of the province before ending up at their original station for another brief stint. The logistical problem of turning the clock back to 1846 in terms of rigid transfers was to be partly solved by the need to establish another major station in the South Island, at Canterbury, the last of the Wakefieldian settlements.¹³⁸

By the end of the decade, therefore, Eyre's policing regime in New Munster was a mixture of 'new police' and Irish country patrol policing; but however much the Lieutenant-Governor clung to the principles of the latter, the 'force of circumstances' moved the focus of policing to the urban areas, particularly to Wellington itself. Here the classical Metropolitan system of the 1830s was operated. Logistically modified by the local situation, as in all colonial towns, the London principles applied: the beat constable traversing his entire area of responsibility at regular short intervals, getting to know intimately all its people and its characteristics. There were many complaints about the way that this type of policing was conducted, partly because of the nature of the men employed to work the city beats. When McDonogh took over the Wellington police in late 1848 there had for a paramilitary force been a remarkable degree of continuity of personnel: all four of his sergeants had been founding members of the APF, all four corporals had been in the force for more than a year, a quarter of the 40 privates had been in the provincial force since its inception. Now, with re-emphasis placed upon transfers, 'steady' family men tended to leave at the end of their year's contract, a trend reinforced because police pay had not kept pace with cost of living and wage rises outside the force. Younger, rootless men, those without ability to obtain tradesmen's positions, those who would need time to learn—if ever they could—the wise exercise of discretion, were joining and complaints against the police rose accordingly. Sometimes police were nowhere to be found on the streets, a reflection

not only of 1849's reductions but also of a cavalier attitude to duties which was evidenced by some of the recruits.¹³⁹

More significantly, these circumstances were frequently combined with an 'oppressive' attitude by police when they did make contact with the public. This was partly the result of the state's reorientation of policing towards tightening up on discipline within the expanding boundaries of the capital. Soon after the big police reductions of May 1849, Wellington men of influence fought the intention of the New Munster state to introduce the colony's first urban 'police offences' legislation. The clauses of the draft 'Ordinance to Increase the Efficiency of the Constabulary Force' were borrowed mainly from New South Wales legislation, some allegedly 'more adapted to the requirements of a penal settlement than those of a colony which we trust will never be degraded to so low a level.' Whereas working-class people opposed the legislation's increases in the 'pains and penalties' of the law, many merchants and traders were opposed to its strict controls on their business activities. All sectors of opposition utilised arguments put forward by civil libertarians about the dangers of extending the powers of agents of the state. Policemen were, for example, to be given by the 'Efficiency Ordinance' power to enter non-licensed premises to suppress liquor-related disorderly conduct, to intervene in business practices which impeded overall regularity, to detain vehicles and vessels on mere suspicion that they contained stolen goods.¹⁴⁰

In response to opposition, the only concession by the state was to transfer some of the powers exercised by the Governor-in-Chief under the 1846 Constabulary Ordinance to the Lieutenant-Governor, a process which had already occurred in practice and which in any case did not affect Grey's powers of ultimate control over any facet of the Armed Police Force. The (non-elective) New Munster Legislative Council now went ahead and passed into law a virtually unchanged draft of the 'police offences' bill; it took effect from 23 August 1849, and was quickly applied to Wellington. Wherever the majority of urban magistrates opted to apply the Ordinance, so tightened police control spread, beginning with Dunedin, Port Chalmers, Nelson and (in part) Wanganui in 1850. The rest of the Ordinance was applied to Wanganui the following year, when it was also fully activated to control the two new urban populations in Canterbury. At all these areas of settlement the impetus of policing by 1850 was centripetal, looking inwards to the streets of the towns themselves rather than outwards towards the (reasonably pacific) countryside. This trend was most pronounced in the South Island, where there were few Maoris. In mid 1849, when Strode lost a private from his Dunedin establishment he was

left with a total detachment of seven, and of this his corporal and four privates policed Dunedin; one of these privates kept the gaol, one guarded the hard-labour prisoners undertaking public works during the daytime, one served summonses and was sent on occasional forays afield, and one patrolled the town with the corporal. Even the remaining two privates under his command were concentrated at the second urban area in Otago: as 'frequent disturbances' had occurred at Port Chalmers—inhabited, said a visitor in 1850, by a 'very drunken set'—the man who 'protected the revenue' at the Heads had been sent to join his comrade at the settlement's port.¹⁴¹

Eyre's ability to insist upon adherence to the transfer principle in late 1849 was partly consequent upon the fact that construction had in the middle of the year begun on the Canterbury Association settlement which was based initially at anchorage facilities in Banks Peninsula's Lyttelton Harbour (previously called Port Cooper). Already young single men had drifted to the site in search of work from site surveyor Captain Joseph Thomas. Boozing and brawling were endemic, impossible to control from the tiny two-man civil police post at Akaroa, a difficult journey away by land and/or sea. At that oldest police post in the South Island Resident Magistrate John Watson had in March dismissed Chief Constable Isaac Shaw for 'violent conduct', and at his request Resident Magistrate St Hill of Wellington had persuaded Private Joseph Zillwood to resign from the APF and accept the Akaroa position. Lieutenant-Governor Eyre's attention was drawn to the status of the Akaroa police when Watson applied for salary to be paid to Zillwood from 15 May, the date of his embarkation at Wellington.¹⁴²

Eyre, in view of the impending establishment of a planned settlement that was clearly to eclipse the languishing Otago, now investigated the need for 'some new arrangements' for the Akaroa police. In an explicit move to bring Watson's force back under direct executive control, he ruled that Watson should not be making police appointments without prior permission from 'head quarters', although to meet emergencies provisional appointments could be made. Understandably, Watson protested at being reprimanded for employing Zillwood, for he—and Robinson before him—had 'always appointed both Chief and Ordinary Constables for this District'. The rebuke was implicitly withdrawn by a rescinding of an initial decision to disallow Zillwood's remuneration. Nevertheless the Akaroa police, though not formally absorbed by the APF, was now under much closer executive scrutiny and direction.¹⁴³

On 24 July 1849 the first state official arrived at the future town of Lyttelton, the nucleus of the 'Port Victoria' (shortly renamed Canterbury) settlement which was soon to spill over the Port Hills and establish itself firmly on the plains at a site just north of Banks Peninsula which would be called Christchurch. Former Indian civil servant Henry Gouland, customs officer, sub-treasurer and deputy-postmaster, was the only JP at Port Victoria's initial site, where by the end of the year 200 labourers (half of them Maoris) were constructing roads and buildings. He quickly reported that without coercive force he could exercise no meaningful control over the pakeha labourers (many of them reportedly ex-Australian convicts) when they were carousing—which was often. Gouland was prepared to act gratis as Resident Magistrate for the time being (in expectation of later salary) so long as he were given policemen. But Eyre was not yet prepared to commit state finances before evidence was received of large-scale disruption of peace and tranquillity in the area, or until it was 'regularly settled'. It was natural, as in Hawke's Bay, that remote areas with incipient European populations should be more disorderly than those elsewhere; if there were patches of serious disorder however, Gouland could, with his existing magisterial powers, swear in special constables.¹⁴⁴

Gouland was not satisfied, for at the best of times it could be difficult to obtain even paid specials in the colony except in circumstances of perceived Maori insurrection. In the case of Port Victoria, where the white population was almost entirely lower working class or even lower on the socio-economic scale, and the Maori labourers—who were not averse to striking—were considered untrustworthy, it was impossible to swear in men willing to repress their comrades. Only when a very serious assault occurred, almost leading to the death of a labourer, were the men prepared to offer their services to the magistrate. The incident highlighted a rapidly growing disorder which by Christmas 1849 had fallen within Eyre's criterion of large-scale disruption of the peace. Resident Magistrate Watson of Akaroa was therefore ordered to detach one of his two civil constables for posting to Port Victoria, replacing his services at Akaroa with those of a special constable whenever necessary. Furthermore Inspector Durie was to send an APF corporal to the new settlement, to operate under Watson's control. Watson was instructed to visit the Lyttelton Harbour site fortnightly to supervise the operations of this two-man force, which would be seconded (or in the case of the corporal, re-seconded) in his absence to Gouland. On the last day of New Zealand's founding decade the first Armed Police Force member for the final major planned settlement in the colony, Corporal Peter Cameron, left Wellington.¹⁴⁵

In spite of Eyre's reassertion of the principles of a mobile paramilitary force New Munster's APF had by this time evolved firmly in the direction of the Metropolitan model. So little was Maori insurrection now feared in the colony that the Governor-in-Chief was prepared to allow the number of soldiers to fall to 540. The southern province's police totalled 33, nearly half of them in Wellington. Apart from the three officers there were now two sergeants (in Wellington), four corporals (in Wellington, Wanganui, Otago and en route for Canterbury) and 24 privates, including nine Maoris. The magisterial arm of the state conducted daily superintendence over paramilitary police in Wanganui, Porirua and the Hutt, and controlled Akaroa's police in its own right. In conjunction with Superintendent Richmond it also controlled the seven local policemen still nominally classified as Armed Police Force personnel at Nelson.¹⁴⁶

It was the nature of the two 'local' South Island forces which pointed towards the typical mode of policing in the forthcoming decade, rather than the centralised, paramilitary model to be imposed upon the new Canterbury settlement as an inevitable response to the initial disorder characteristic of the incipient establishment of all colonial communities. The unattached young policemen about to be sent there were not typical of the direction in which policing was evolving. More representative of the 1850s was Nelson constable John Gibson, a family man; a distiller by trade, Gibson had obtained work such as that of boatman upon arriving at Nelson in 1842, and although not committed to policing as a 'career' it suited him to stay on for the time being. Having spent seven years in the army, including active service in the Iberian Peninsula, he knew how to exercise overt coercion; however in the post-pioneering state of Nelson the application of this attribute extended little beyond disciplining drunks at closing time.¹⁴⁷

The New Munster Police in Evolution, 1850-3

It was fitting that as the new decade opened the current evolutionary movement in the colony from emphasis upon centralised APF to that upon devolved civil policing paused briefly with the creation of the only hybrid APF-civil force, for all New Zealand policing units melded differing amounts of the two major policing modes. It was fitting too that this small policing amalgam should have its headquarters at Akaroa, the first station to have gained dispensation from APF control. By the time that Resident Magistrate Wat-

son received the order to send Constable J François to Lyttelton the latter had been dismissed for the usual reason, 'drunkenness and disorderly conduct'. In January 1850, therefore, Eyre ordered a second Wellington policeman to be sent to join the corporal whom he had recently despatched to Lyttelton, both armed policemen being seconded to Watson for general supervision. From Akaroa the Resident Magistrate thus controlled both the only remaining *de jure* civil policeman in the colony, Chief Constable Joseph Zillwood (the Nelson constables still falling nominally under the APF's aegis, albeit with formalised operational autonomy from Wellington), and the small APF detachment at Port Victoria, which also responded to the commands of Gouland and the handful of other JPs in the region. At Akaroa Zillwood's services were complemented when necessary by J Sheed, a local man who acted as a special constable on ordinary civil police hourly rates of pay.¹⁴⁸

Prior to organised settlement at Port Victoria, both seconded members of the Wellington APF lodged first at a Lyttelton public house and then moved to two rooms in the Canterbury Association immigration barracks which had been lent to Watson as police station and court pending the arrival of the immigrants. Watson visited regularly, though only once a month in winter because of the hazards of a journey on which, on one occasion, the special constable with him fell over a precipice. In April 1850 Watson's policing burdens increased when the first sizeable influx of English settlers to Akaroa occurred as part of a private venture (originally destined for the Auckland region) sponsored by ex-Police Magistrate Robinson. Although the new settlers numbered only several dozen, there were initial problems of national relations with which to deal. In the previous year the Nanto-Bordelaise Company's interests had been finally sold to the New Zealand Company and the French had known definitively at that point that their separate identity would become submerged; but the tensions which arose as they came to grips with that knowledge were exacerbated by the return of Robinson with his settlers.¹⁴⁹

On 16 December 1850 the first two of the four Canterbury Association founding expedition ships arrived at Lyttelton, followed shortly by the others, bringing 800 immigrants to join the 300 people living there already. There was, however, seen to be no immediate need for great augmentation of the police. As in all immigrant ships, passengers designated 'constables' by the owners or charterers had kept order and instilled discipline en route. Ashore, the Canterbury Association's discipline over the newcomers continued under a private regime headed by its Resident Chief Agent, John Robert Godley, who had during a stay of several

months in Wellington developed a close understanding with the New Munster government. Because of this understanding the imposition of an 'outside' police chief upon the settlement as at Dunedin was not deemed necessary. From 1 January 1851 James Edward FitzGerald, the flamboyant upper-class Anglo-Irishman who had made sure of being the first immigrant to step ashore, was at 32 years of age appointed by the Governor-in-Chief (who was at the settlement to greet the ships) as temporary Sub-Inspector of Armed Police in addition to his Association function of Immigration Agent. To Watson's relief, for he 'hates anything that interferes with a quiet life', his command thereby reverted to that of Akaroa alone. The FitzGerald appointment was an unprecedented step, designed to 'buy off' the colonising agency at the very beginning of settlement: the lessons of early Wellington had been learnt. In November 1850 Grey had moved to the capital of New Munster to combat continued anti-government feeling in the southern province; he was determined to keep the tightest possible rein over New Munster, and the device worked out for Canterbury was a way of doing so in that newly settled area with the slenderest of expenditure of scarce state funds and the maximum possible cooperation between state and Association.¹⁵⁰

With this move, however, the Governor-in-Chief had handed some of his Armed Police to an Association official whose knowledge of policing did not extend beyond that which any Anglo-Irishman from a landowning family would obtain from observation of Irish Constabulary methods. Described by a contemporary as a 'man of brilliant talent', FitzGerald was an ex-British Museum official with a Cambridge degree and a tempestuous personality. A striking character of 'personal amiability and generosity of temperament' and editor of the new *Lyttelton Times*, he was the unlikely person to be in control of a detachment of paramilitary police. But he in turn would be controlled by a follower of Peel, for in another unprecedented departure from usual practice Godley (also of Anglo-Irish landowning stock) was appointed not just Resident Magistrate—and therefore chief state agent in the settlement—but also FitzGerald's policing superior in that capacity, while being himself directly responsible to the political executive. As a former judicial officer in Ireland, Godley was experienced in patrol-surveillance and suppression of a 'population hostile to law'. The policing detachment at Canterbury would remain an integral part of the New Munster APF, but an autonomous section within it which did not report to Inspector Durie at Waikanae—in contrast to the Otago detachment where in mid year Sub-Inspector Strode had been confirmed as Resident Magistrate but had continued to con-

trol the police in his capacity as an APF officer subordinate to police headquarters. Force of circumstances had created in Canterbury a further evolution away from centralised hierarchy in the Armed Police Force.¹⁵¹

Grey's scheme envisaged the police role as being grafted on to the Association's controls over its regular inflow of immigrants, with only a small state input of resources. But this was to ignore the fact that in Lyttelton alone there lived some 500 people said to be of a 'troublesome and riotous character', many of them quite outside any Association purview. Although Sub-Inspector FitzGerald had taken over a detachment which had been increased to five privates besides the corporal, he was soon complaining of the inadequacy of that number. With 24-hour surveillance required in Lyttelton, including two men on duty during the 8-12 pm slot, the four privates at the port were obliged to walk the beat for nine hours per day each, after which they carried out general police duties such as guarding the gaol or serving summonses and warrants. FitzGerald was, moreover, precluded by lack of numbers from providing help to the sole private stationed at Christchurch, the site on the plains which had been chosen as the 'capital' of the settlement, where immigrants had begun to settle from February 1851 onwards. William Deans JP, the Riccarton (on the outskirts of the site) runholder who had daily supervision over the Christchurch constable, complained that his miniature police force was inadequate to deal with the 'nightly depredations' committed by the 'worst characters' living in the surrounding bush. With a scattered population approaching 2000, half of it in the Christchurch area, the Sub-Inspector demanded from the state a 50 percent increase in Canterbury police numbers.¹⁵²

Grey was displeased with a demand which cut across his policy that the Port Victoria police should exist merely to complement the Association's mechanisms of control: in allowing the Sub-Inspector two of the three requested reinforcements, he warned that no further such concessions would be forthcoming, and drew a comparison (that he knew to be spurious) with Nelson's small force. Furthermore he attempted to induce the Association to undertake direct subsidisation of policing costs. It had become obvious to Godley and to the state that the Canterbury settlement's future lay with a pastoral economy serviced from one urban area (or at most only a few such foci) rather than with, as had been envisaged in Britain by Wakefield and the Association, large-scale agricultural estates presided over by gentlemen-proprietors controlling concentrated production from mini-settlements of agricultural labourers. Already men of capital were stocking extensive sheep

runs on the far-flung plains. Policemen, Grey suggested, could be used to collect licensing revenue and other Association fees and assessments from runholders—and for this service the Association should pay. Godley noted in reply that by statute the Canterbury Association was debarred from undertaking the 'expenses of ordinary government', although he would pass the idea on to London—where, not surprisingly, it languished.¹⁵³

By November, incidences of resignation and illness in the force, plus the drowning of a policeman on duty in the harbour, had left the Canterbury police hard-pressed indeed. Godley, under public criticism, reiterated to Grey that the 'dangerous characters, drunkards etc.' of Lyttelton, where 'so many intoxicated seamen frequent the streets', required a higher police profile; in Christchurch, where public houses had by now appeared, robberies occurred even while the sole constable was reporting to his Lyttelton headquarters let alone when he travelled in the vast area over which he had nominal control between the Hurunui and Waitaki rivers. Grey now relented, to a degree. He sent three Wellington privates to Godley, bringing the number in Canterbury to nine and thereby making the detachment the second biggest in New Munster. The Governor-in-Chief, however, having already elbowed Eyre away from any real power, was now concocting ways of reducing Godley's escalating influence. Certainly the Resident Magistrate had been able to keep good order, but not content with mere devolution of aspects of state power to key Canterbury leaders he had led agitation for institution of 'self-government' by the settlement's property-owning elite. Unhappy with resultant government pressures (as well as with the Association, to which he had already submitted his resignation) Godley now divested himself of his state functions. At this point ex-regimental officer Captain Charles Simeon who had just arrived at Canterbury travelled to Wellington to seek, successfully, the Resident Magistracy appointment from Grey. Thus in December 1851 a new government agent/Resident Magistrate/chief of police was appointed for Port Victoria, which was still the official name for Lyttelton and Christchurch. Simeon had appeared to the Governor-in-Chief to be exactly right for the positions: he had been a JP, could 'handle men', had been an official of the Association and moved in its leading circles, but he now had no official attachment to it and would be subservient to Grey because of his desire for a government salary.¹⁵⁴

The Governor was applying the same device as before: the appointment of a person with an important presence in Canterbury Association circles, but this time one who would be more pliable than Godley had proved to be. The appointment was also made in a

new context, for in April Grey had increased his own personal power by moving Inspector Durie away from the Wellington region to the Resident Magistrate's position in Wanganui, his Inspectorship thereby lapsing. From then on Grey himself, given the displacement of Eyre from the apex of the pyramid of real authority inside New Munster's APF, exercised direct control of that force in theory as well as in practice without the pretence of having to work formally through an Inspector. The irregular position previously held by Godley as Resident Magistrate and *de jure* head of Canterbury's armed police had been at that stage, therefore, partly regularised: as New Munster's Governor, Grey was the head of the province's APF, operating through Sub-Inspectors in Wellington and Dunedin and through the Resident Magistrate at Lyttelton. But the fact remained that no other Resident Magistrate headed an APF detachment as of right: such authority was in other cases delegated, say to Durie at Wanganui, by an APF commissioned officer and as an expediency only. So Grey now moved to fully regularise the situation: modifying the Beckham precedent, he designated Simeon the second Commissioner of Police in the colony, but with his area of jurisdiction limited to Canterbury rather than covering the entire province.¹⁵⁵

The New Zealand Governor-in-Chief's accretion of policing power in New Munster in his capacity as provincial Governor operated, although directly enough, mainly in a policy-making and general supervisory sense. In its day-to-day workings the police system was becoming ever more devolved, adapting to the reality of New Zealand's inward-looking, nucleated settlements and the absence of any immediate prospect of Maori insurrection. The crucial, continuing, local decisions were made at a decentralised level of authority. In Canterbury it proved to be not Simeon, son of a baronet and unused to sustained work—his best friend's diary throughout 1853 not once mentions Simeon's policing functions—but FitzGerald, and even more so his corporal, who were the effective heads of police. Much was left to the NCO because the Sub-Inspector had numerous other interests: in particular, just prior to her husband's resignation from state office Charlotte Godley had recorded that the couple were 'very angry' with FitzGerald for deciding to 'go off in the wildest possible way' to try his hand at runholding, which became his major preoccupation over the ensuing year. The NCO's workload was also increased as a result of what Edward Gibbon Wakefield called FitzGerald's 'perfect incapacity for doing business'.¹⁵⁶

With devolution of the operation of coercive social control the concept of a mobile, centralised, provincial APF began to fade. Even as early as 1850, when the Wanganui Resident Magistrate protested at the three-month transfer rule and requested a one-year rule instead, Eyre had allowed himself to be persuaded by Domett (who in actuality also wanted a one-year rule) to make the concession of giving dispensation for a six-monthly system of transfer in Wanganui. The Lieutenant-Governor knew that this would stymie the purpose behind the request: namely, that only local Maori policemen be deployed in Wanganui. With the combination of a one-year contract system which applied to all APF membership and a yearly transfer rule, Durie would be able to discharge all Maori police at the end of their period of service and replace them with other local Maoris: one-year transfers would in effect mean no transfers. Eyre would not concede that local knowledge 'at all compensates for the evils which may arise' from lengthy stays at stations. But a breach in the system had been formally effected, and in any case for the Wanganui situation his views were quietly ignored except for appointments of corporal in charge of the detachment, a position changed with some degree of frequency.¹⁵⁷

In early 1851 Samuel Styles, now a corporal, took over the Wanganui police. The isolation and leadership of the force had allowed it to degenerate into a *de facto* civil police whose personnel slept away from the 'so-called station', Maori members staying at the local pa—'manifestly to the subversion of all order and discipline'. To the gratitude of the Resident Magistrate since August 1850, ex-soldier William John Warburton Hamilton, Styles whipped the Wanganui police into paramilitary shape. Hamilton's successor from 10 April 1851, former Inspector Durie, enthusiastically sponsored Styles' request to remain at Wanganui in defiance of the transfer rule. It was a request to which Eyre would not have agreed but Grey, now fully in command, conceded it without hesitation. Indeed in September, when Grey received a request from McDonogh to accede to the desire of Hutt magistrates to alter the shorter transfer rule to a twelve-monthly one, he was surprised to find the rapid transfer principle still in general operation in New Munster. At once a 12-month period was substituted throughout the province.¹⁵⁸

The concession made relations with the judiciary happier, but it had no bearing on the long-standing tensions over who had the right to direct constables. The issue had flared into prominence again in late 1850 when Wellington's Resident Magistrate St Hill ordered a sergeant to act as inspector of slaughterhouses, a task which would clearly interfere with duties assigned him by Sub-

Inspector McDonogh. Upon the latter's complaint, Colonial Secretary Domett reiterated to St Hill the 'Eyre compromise' of a year before on police-magistracy relations, which precluded such orders being given by magistrates. New Munster Attorney-General Daniel Wakefield, asked for an opinion, was confused, and in his third and final attempt decided that it was not known whether or not APF constables were obliged to obey magisterial directions; he recommended clarifying legislation. Of course the legislation already existed with the APF Ordinance but Eyre, still clinging to power, accepted Domett's view that the 'compromise' should be embodied in police regulations which were being drafted under the Lieutenant-Governor's aegis. APF constables would therefore obey JPs' orders only if they did not involve a 'lengthened deviation from the ordinary duties' of members of the force or if they resulted from emergencies.¹⁵⁹

The final compromise version, in December, departed considerably from the original conception of the APF as a direct and unimpeded tool of the government, yet left executive control of the police in New Zealand still much tighter than in other colonies. At this time, for example, Britain vetoed New South Wales legislation enabling the executive to take direct control of rural police who worked under magistrates. Within a decade even the Irish Constabulary was under sustained criticism from influential persons for being allegedly over-militarised and remote from magisterial control. Inside the New Munster Force, from mid 1850 its nominal head Inspector Durie himself had launched a series of challenges to executive control. To ensure the securing of replacements at a time of generalised state spending cuts, for example, he ignored Eyre's oft-repeated ban on filling vacancies without executive permission. The New Munster government had at this point begun to scrutinise the Inspector's movements carefully, with a view to catching him out over major obstruction or incompetence. Domett watched him most carefully of all.¹⁶⁰

Durie's immobile isolation at Waikanae from the dynamics of policing throughout New Munster provided the executive with potential ammunition. It was, for example, New Plymouth's Inspector McLean who on a roving visit to Wanganui saw the urgent need there for a new police barracks; Durie escaped censure for having failed to appreciate the need, or to communicate it to Wellington earlier, by pretending that notification had only just come to him via what did not exist, a regular channel of correspondence with the town's Resident Magistrate, rather than from a passing policeman from New Ulster whose policing jurisdiction stopped well to the north of Wanganui. Yet even if proven, such

deficiencies on Durie's part were insufficient grounds for removing him from office in view of the continual personnel problems of far graver nature that existed within the Crown Colony's officialdom. As a random example, for a number of months in 1851-2 the Lyttelton sheriff and clerk of the bench, Edward Wright, was to launch savage onslaughts on Sub-Inspector FitzGerald over alleged lack of police vigilance in guarding Lyttelton Gaol, yet would be rebuked for his intemperance by nothing more than a mere reprimand from Grey.¹⁶¹

In September 1850 Domett thought that he had found a means of totally discrediting Durie, after hearing rumours that a Maori constable had been sacked from the Waikanae detachment for protesting at racially-based persecution by the Inspector. Eyre summonsed ex-Private Selwyn to Wellington, where the Maori accused the Inspector of using him as slave labour in the capacity of personal servant. It had been common for APF officers of military background to select and use certain constables as orderlies, but as the demilitarisation process had proceeded they had been ordered to desist from the practice. Durie in particular had been instructed upon this point and his excuses for continuing were feeble: since the main duty of his Waikanae men was now to carry the coastal mails three times a week, he claimed, he had requested them to voluntarily undertake light work around and inside his residence between runs in order that they should not 'degenerate into idleness'. Of course there was in an APF little difference between a suggestion and an order from a commissioned officer, and New Munster's Executive Council condemned Durie for misusing police labour. But in the context of an Armed Police Force the evidence did not indicate gross abuse of his position; on the contrary, it emerged that both Domett and Eyre had themselves abused their positions in the way in which they had worked up the case. To smooth things over, the final reprimand from Eyre to Durie was mild and no more than implicit.¹⁶²

By April 1851 the struggle for power within the New Munster state had for some time been joined by Grey, who was now conscious of the need from his own point of view to remove the wilful Durie still further away from the provincial capital. It was at this time that the Governor-in-Chief, needing no excuse to take advantage of an available opportunity, had decreed that Durie was to replace W J W Hamilton as Wanganui's Resident Magistrate and customs official, and that the New Munster Inspectorship was thereby to lapse. The corporal in charge of Wanganui's APF was from now on to report directly to Sub-Inspector McDonogh and the sole European constable remaining at Waikanae moved into

Durie's residence and took over control of the station's two Maori constables. Ironically Durie, in charge of the daily police operations in Wanganui as Resident Magistrate—by delegation from Sub-Inspector McDonogh—now had more policing functions than he had exercised when nominal head of the APF in his last couple of years in Waikanae.¹⁶³

The process of devolution of state power over police had, by the end of 1850, progressed even further in Nelson. The civil nature of that force had enabled the local state authorities to adjust their modes of policing to suit the peaceful township (the presence of whose gaol was described as 'almost useless, from the few inmates to be found there') and its scattered pockets of rural population. Whereas in 1849 Sergeant-Major Cawte still controlled six privates—three of each race, all at headquarters—in 1850 this number was halved, the necessity for cuts in state spending having prompted the revival of a more appropriate pattern of policing the settlement. While in town 'privates' Thomas Fagan, John Gibson and Hoani Parana walked the beats and acted as an emergency reserve for the region, three part-time 'district constables' now handled routine police matters in the countryside: W Stanton at Waimea, J Robinson at Motueka and C F Watts (replaced by W Atkinson in 1851) at distant Wairau. The district constables operated under the local direction of JPs, and could be phased out in favour of regular policemen if their areas grew in size or importance. In late 1852, when the agrarian output of the Wairau was the main component of Nelson's economy, a full-time constable responsible to the Sergeant-Major was sent to replace the region's 'district constable', his duties to include twice-weekly mail deliveries to Nelson over both the Pelorus track and the 'old road' along the Upper Wairau.¹⁶⁴

Devolution of control to Nelson officialdom also led to alterations inside the local APF. Sergeant-Major Cawte had begun to receive a great deal of criticism, particularly after the fatal consequences of a decision made in November 1851: he had ordered Private Fagan to take some deserting seamen back to the barque *Lady Nugent* using the same unsafe ship's boat which had previously capsized and drowned the Lyttelton constable. There was a safer boat available, but Cawte had ignored Fagan's increasingly abusive protests and insisted that he use the unstable boat. On its return journey to shore it again overturned, with the loss of two of its crew. There was much comment that 'it is clear that Cawte is not a proper person to be entrusted with the authority he holds'. In a force which had lost its protection—the paramilitary chain of

command—against the impact of public opinion, the views of significant people could have an impact upon police careers; although absolved by Superintendent Richmond of all blame over the boating mishap, Cawte was not able to withstand the steadily mounting public pressure. Thus, by the end of the New Munster period in 1853 it was Thomas Fagan who held the position of Sergeant-Major in charge of the police in Nelson. Serious crime had by then become so scarce that during 1852 there was only a single Nelson committal to the Supreme Court, and even that case did not result in a conviction. The force had lost many of its military trappings. A book published in London in 1852 observed that in the streets of Nelson 'may be seen the policeman, in his blue dress and hard-crowned hat, more frequently engaged in talking over the news of the day than in flattening the noses of riotous subjects, which is very rarely required in this peaceful settlement.' Although at times 'he has long journeys to perform into the country, to look after distant rogues', upon return the private 'may be seen entertaining idle people with all the varied incidents of his journey, and laying down the law, as if he were one of great judges of the district.'¹⁶⁵

For reasons of state the centrifugal evolution of provincial policing control was in theory least developed in Otago. When Durie vacated the New Munster Inspectorate, Strode became in his police capacity responsible to McDonogh, the senior Sub-Inspector at Wellington. Strode's dual position as policeman and Resident Magistrate did not prevent Dunedin from becoming the scene of the most notable rift in the Crown Colony period between rival conceptions of control of constables, notwithstanding the apparent resolution of the problem with the New Munster executive's firm decision of December 1850. The arrogantly influential Jerningham Wakefield had returned to New Zealand as aide-de-camp to Godley. On a visit to Dunedin in early 1851 he was upset that the town's police did not show him the deference due to a JP and a gentleman by tipping their hats; moreover as a JP he assessed that they showed 'general remissness and negligence' by allowing drunkenness and rowdiness to occur. There was some justification for his analysis, but personal motivations were also involved. Sub-Inspector Strode and Wakefield junior had been friends until falling out over a flirtatious young woman—'rather pretty, though neither aristocratic nor very bright', said Charlotte Godley—who could not make up her mind which one to marry. At the time of Wakefield's visit she was beginning for the second time to favour Strode. Tensions were added by sensational lawsuits engaged in by Wakefield in an attempt to discredit the Sub-Inspector. Strode had given him legal ammunition by, in the course of retaliating to a smear cam-

paign from the Otago elite, publicly reviving stories about the sexual and carceral past of Edward Gibbon Wakefield.¹⁶⁶

On 8 April an incident occurred which provided Wakefield with further weaponry in his onslaught against Strode. Private Angus Cameron, in instructing Private James Topham to shoot an unregistered dog belonging to a fellow magistrate and friend of Wakefield's, thereby disobeyed the visiting JP's order to desist from the execution. In short the more senior constable had given preference to Strode's orders to kill any unregistered dogs found in the streets rather than to the orders of a magistrate, and in obeying his immediate superior in the force the constable with the rifle had chosen to do likewise. This, claimed Wakefield, epitomised the truth of a Dunedin saying that the police behaved as if they had 'but one master', and he complained to the bench of magistrates. Strode refused to attend a magisterial enquiry on the grounds that any objections to police behaviour should be addressed to him not in his capacity as Resident Magistrate, as had happened, but as APF Sub-Inspector. The bench, dominated by the 'Little Enemy', had small difficulty in then rejecting Wakefield's submissions. Nevertheless, the complainant had highlighted a factor ignored by the government ever since 1846: its local agents of state in the Commission of the Peace were *obliged* in their terms of appointment to investigate negligence, misbehaviour and misconduct by constables. Thus although in effect the 1850 compromise of the New Munster government with respect to magisterial directions had been endorsed, the controversy now shifted to who, police or magistracy, should investigate whether policemen had adhered to the terms of that very same compromise.¹⁶⁷

In an acrimonious exchange of letters between the protagonists, Strode attempted to blur the issue by refusing to differentiate between his police and judicial roles, a position which hardly squared with his initial stand of declining to attend the magisterial hearing. He continued to adhere to this amalgamationist position even when he himself began formally investigating the dog-shooting incident. Because Strode's dual positions were 'necessarily conflicting in their nature in this issue', it was now Wakefield who boycotted the proceedings. Since Strode had authorised the street shootings it came as no surprise to find him ruling that they had been lawful, although he conceded that it would be better to issue summonses in cases where the owners of the dogs were known. He was gentle on the privates who had sparked off the controversy, although could not escape giving a reluctant reprimand to Topham for blatant disregard of a magistrate's orders in a circumstance that allowed, at very least, a check to be made with his superiors as to

the correct course of action. Strode also dismissed other charges laid by Wakefield against Otago's police, such as Sub-Inspectorial use of a constable as a personal servant (which had indeed happened). He continued, by means of gaining endorsement for his decisions by the bench of magistrates, to cloud the issue as to which arm of the state was doing the current judging. The JPs did no more than register a 'slight want of respect shown to some of the Magistrates by the Constables' in the past.

Wakefield pursued the case before the New Munster government. It fell into two parts. Firstly there was the question of a magistrate's rights in investigating and disciplining police independently of APF officers. Here Grey, in his capacity as Governor of New Munster, accepted that by mandate given by dint of membership of the Commission of the Peace JPs could so interfere, but the implications were not as profound as they appeared. He did not specify that a non-policeman JP could override a policeman JP, and all commissioned officers of the APF were JPs. Moreover, on the substantive issue which had arisen Strode, although privately reprimanded for presiding over a complaint involving himself, was exonerated because as Resident Magistrate he held superior magistracy powers to those of Wakefield. When the APF regulations finally appeared in 1852, soon after the final rulings on the dog shooting case, Grey's decision had produced only one departure from the ideas of 1846: in remote areas where no commissioned officer was available, magistrates could discipline police—up to and including dismissal—in cases of severe misconduct (although, excepting in emergencies when police were under magisterial directions, this power would be clearly by delegation by police chiefs).

Secondly, on the original issue of the right of a JP to intervene in police activities Domett—who from November 1851 held the position of Civil Secretary for the colony as well as Colonial Secretary in the southern province—persuaded Grey to accept the view of wealthy Dunedin magistrate W H Valpy. The right of interference was thereby conceded, but magistrates were expected to exercise discretion wisely, something that Wakefield had not done. In practice this meant adhering to the terms of the December 1850 compromise, so that although the 1852 position had moved a long way from that of 1846 this movement was mostly in theory only. Certainly the evolution of policing was towards divarication of control, but there was a point beyond which delegation as of right, rather than of expedience, would not go. Strode won not only the hand of Miss Emily Borton but also, in his capacity as Sub-Inspector of APF, the argument between two branches of the state over meaningful control of constables.¹⁶⁸

Meanwhile the affair had stiffened the resolve of the Otago Free Church elite to press for control of local state power. The Otago Settlers' Association was formed on 7 July 1851 with the focus of its campaign being to challenge Strode's unnecessarily large state apparatus, itself financed by locally-collected state revenues. A settlers' petition presented to the foundation meeting demanded *inter alia* to see 'the Police Establishment reduced to one Sergeant'. The fact that the half dozen police had few duties compared with those of policemen elsewhere in the colony emphasised the symbolic nature of the state representative's coercive establishment. The Association formulated as policy a demand that Grey withdraw his Resident Magistrate/Sub-Inspector and abolish the APF post at Otago, replacing the costly police station with a substitute that would require, at £235 12s per annum, less than two-fifths of the current Otago police budget; at Dunedin a sergeant-cum-gaoler would control one constable, a constable at Port Chalmers would report to the customs officer, and both tiny establishments were to be 'amenable' to JPs. The scheme was the most radical yet to be seriously suggested in the colony for police devolution in a sizeable community; it was foredoomed to failure, for it went too fast and too far.¹⁶⁹

When presented to the government for its formal consideration the plan evoked a response which exacerbated tensions. It was referred to the Anglican-dominated bench of JPs in Dunedin. At a sitting to which the two Settlers' Association magistrates were not invited, the pro-government bench endorsed Strode's counter-contention that his police force was actually insufficient in size, and on this basis Grey rejected the scheme. Public outrage followed, but already there had been a new local development of significance. Strode's policing regime was now being subjected to systematic criticism from within the official establishment, by new Gaoler Henry Monson, who was forced to utilise police help because he had not been provided with any assistants. The only 'police duty' rigorously enforced, Monson noted, was that of acting as servant to the Sub-Inspector. As Gaoler he found difficulty in locating policemen to assist him or even to carry out fundamental policing duties with which he became involved by default, such as breaking up a 'proper riot' by 20 men using sticks and fists to make political points. In December 1851 he complained when Strode removed all but one of the Otago police for a few days in order to go 'a-pleasuring in a boat, with his family'.¹⁷⁰

Sub-Inspector Strode had allowed the 'occupation force' detachment to deteriorate into such a slovenly unit because the 'occupation' was essentially no more than symbolic: in the absence of

any hint of sustained physical resistance—even the ‘labourers are a singularly well-behaved orderly set of people’, Mrs Godley reported, the ‘rebels’ amongst them having departed in despair—paramilitarism was redundant. Otago in fact was so quiet that Monson’s figures reveal only five drunkards, two debtors, a thief and a deserter as having been incarcerated in the last third of 1851. To while away their time the three Dunedin beat constables drank and gambled openly, and violated APF norms in many other ways too—such as by staying in bed all day, or by having sexual intercourse with a female prisoner. The two Port Chalmers men had less time to fill, partly because typically for a port town the locals were frequently over fond of alcohol; but resident townspeople were few in number and much of the police work was centred upon customs duties. The police were in general a subject of ridicule, one ‘Old Identity’ recalling 30 years later of the opening of the first Supreme Court session (the one with no cases) that the door of the court was guarded by ‘the four policemen in what was considered smart attire—a blue shirt and a belt—with long wand in hand . . .’ The imagery of a ‘do-nothing’ force prevailed. Of course the small amount of actual police work done, as reflected by low incarceration figures which were both a cause and an effect of police slovenliness, was the Sub-Inspector’s responsibility; but Strode had acquiesced in this situation partly because he was hamstrung by circumstances which induced severe problems of morale.¹⁷¹

Otago police were paid standard colonial police wages even though their costs of living were higher than those in most other places. The privates boasted openly that, as the transfer system fell increasingly victim to economy cuts, they could do as they pleased because the proffered wages would not attract local labour to replace them. Their working and living conditions were worse than even those of the Wellington police, whose office had been described as being in ‘so dilapidated a condition as to render it scarcely habitable’ and whose police barracks had been characterised as ‘decayed’, ‘ruined’, ‘unsafe and unhealthy’. Ever since the first police station of manuka bark and toi-toi tied together with flax had been built Dunedin policing conditions had been miserable. By August 1852 Strode was forced to undertake extensive repairs to the police barracks, sending the men to live in the customarily vacant Gaol. Later in the year when word arrived that a more decentralised and autonomous system of provincial government was to supersede the existing constitutional arrangements, marking the end of the Crown Colony period of government, the future of the Otago detachment of the APF was seen to be in grave doubt. From this time onwards the Sub-Inspector, preoccupied

with the numerous official duties which had been heaped upon him, lost his last vestiges of control over his men. He had previously relied upon Corporal Isaac Kain, effective head of the detachment after Sergeant Barry's appointment as Wellington's Gaoler, to maintain a modicum of regularity; now, as a result of tensions from having to live at the Gaol, Kain emulated the behaviour of the men and had to be dismissed after a drunken brawl with Topham.¹⁷²

At this point Strode defused Monson's criticisms with a shrewd tactic: using the excuse of the temporary location of the police barracks at the Gaol, he handed over superintendence of his 'troublesome' police to the Gaoler on delegated authority. In the event this suited Monson, who held rank equivalent to that of corporal and who could now order rather than merely request the police to assist him with his charges. The temporary arrangement worked so well that Strode continued it even after his 4 December 1852 promotion of Private Alexander Findlater to the rank of corporal. The Gaoler paid conscientious attention to his policing duties. He would track down constables frequenting bars during duty hours and, after brawling occurred within the force on New Year's Eve, he secured the dismissal of both Topham and Corporal Findlater, who despite police and legal experience in Glasgow was not able to control the Dunedin force. Because of both economic downturn and improved morale under the new policing regime, Monson was now able on behalf of Strode to attract replacements for the dismissed men. And morale improved further after the February 1853 appointment of the capable policeman (and former surgeon) Henry France as corporal. But the Otago APF image had been irrevocably damaged, and it was little wonder that the incoming provincial government would phase out the detachment and replace it with a policing organisation of entirely different nature, a part-time force under ex-farmer John Shepherd.¹⁷³

In Canterbury, where the need was for more beat policemen rather than for the symbolic 'occupying' presence required by the state in Otago, both Commissioner Simeon and Sub-Inspector FitzGerald submitted in August 1852 that there was insufficient police work to justify their positions. FitzGerald, who along with Simeon had an eye to higher office, contended that the eight-man force did not provide 'anything like employment to a Sub-Inspector', and Domett supported his submission: Simeon should remain nominal head of police with a 'good chief constable or Sergeant-Major (as at Nelson)' acting as the detachment's effective head. But Grey stalled, fearing, with Godley about to depart, the emergence of another influential rival to his own power in the important South Island centre. By January 1853 FitzGerald had realised that

his chances of advancement under Grey were slim, and he resigned from the 'altogether trifling' duties of his Sub-Inspectorship in order to pursue other career options. The office was deliberately allowed to lapse, a further step in the evolution from paramilitarism. Commissioner Simeon now dealt directly with the NCO in charge, as Domett had advocated.¹⁷⁴

Despite Simeon's initial eagerness to faithfully follow the wishes of government, the Canterbury police was yet another detachment that had already in its normal operations gained *de facto* autonomy from Wellington. A move away from military image had accompanied the trend. In 1852 a reluctant Grey had even acceded to FitzGerald's request to abolish uniforms for the Canterbury men, for on sub-labouring wages they just could not afford to purchase them. Their habitation of a raupo whare barracks and then of its replacement, a leaky cob cottage, likewise did nothing for a military image. All the same the government never lost sight of the original 'reserve army' function of the force, and it was the Governor himself—although far more flexible than Eyre—who reiterated that year that the various units collectively constituting the New Zealand APF 'in the event of any renewed rebellion breaking out would form a most important and valuable force for the Colony', able to be augmented 'to any strength' by the addition of 'friendly' Maoris. Even South Island police were to keep their firearms and accoutrements in good condition and were as liable to obey the paramilitary rules of 1852 as was the most militarised detachment in the colony, Wellington's 'well-drilled body, in a blue and red uniform'. The 1846 Ordinance, indeed, would not be repealed until the legislation which, 40 years on from the formation of the Armed Police, founded the modern New Zealand Police.¹⁷⁵

However even the New Munster headquarters force was by the end of the Crown Colony period in a state of evolution, dictated partly by financial cuts. McDonogh's Wellington station was undermanned all the time, yet in October 1851 Grey refused to replace a corporal and private sent to Lyttelton some time before even though at times only two men were available in Wellington for beat duty. Certainly the capital had more than a third of the 37 armed police in New Munster (excluding Nelson) but its men were often out in the field: when the Canterbury arrived in 1850 they were impressed that three men wanted for murder had been tracked 300 miles and arrested. Moreover the city, even compared with pioneering Lyttelton, was 'really a vortex of dissipation'. By the beginning of the 1850s, 'respectable' pakehas found police work there to be generally unattractive, certainly in comparison with wages offered elsewhere in town. Because of problems of quality

and numbers there were reiterated calls for better policing, 'particularly in the surveillance of suspicious characters'. When in early 1852 Simeon requested an experienced NCO to teach his Canterbury men policing, Domett sighed that had there been such a man in Wellington he would be 'only too anxious to keep him'. In these circumstances, worsened for men on fixed incomes by a rising cost of living as well as by McDonogh's personal failings, morale was rapidly fading. The discontent culminated in a crisis during October 1852: the Sub-Inspector suffered the humiliation of being confronted by the first strike by sworn policemen in the colony's history, resulting in his gambling more furiously—and more dishonestly—than ever and consequently in his suicide.¹⁷⁶

Grey now sought to bring APF headquarters out of the disrepute that McDonogh had incurred for it by harking back to the St Hill and Canterbury precedents; he would secure the top policing post for one of the leading settlers who were agitating for self-government. At once he appointed as Sub-Inspector a significant figure in Dr I Featherston's Constitutional Association, leading businessman Major Richard Baker, the man who had been 'magistrate' in the rebel Wellington regime of 1840 and who had since organised elite cavalry corps after each of the various war scares. Baker's first task was to unravel McDonogh's financial legacy. Prior to helping himself to the entire police pay packet the late Sub-Inspector had stolen other portions of pay owing to his men, pretending to Sergeant Samuel Styles—transferred by then to Wellington—that the government had again entrusted him with wage distribution. It was not until February 1853 that all these problems had been untangled and the government finally agreed to hand to its police their missing wages.¹⁷⁷

This conclusion in itself boosted morale a little, for it had been by no means certain that the government would pay up, but police manpower resources remained so overstretched that businessmen were employing nightwatchmen to protect their properties. On 1 December 1852 a Grand Jury had accused the Wellington police of inefficiency, an accusation based on cases that had occurred prior to McDonogh's suicide. Baker acknowledged that there were 'strong grounds' for the conclusion but, equally strongly, stated that fundamental improvement depended on more than a new Sub-Inspector: the 22 New Munster police in the North Island on current demands needed to be expanded to 30, while settlement pioneered by runholders in the Wairarapa, Rangitikei and Hawke's Bay would eventually require a police presence as well. In particular, the effectiveness of Wellington's sergeant and his 13 men was reduced by the need to provide from amongst them the 'necessary

subsidiary duties' of a headquarters force, for example that of barracks cook. There were only eight men available for beat duty, with the working average only half a dozen, so there could never be more than four policemen, including the sergeant, on duty at any given time. McDonogh had therefore concentrated on patrolling 'the beach', leaving the Thorndon and Te Aro flats barely policed at all. Baker's report was 'very clear and sensible', Domett wrote, but 'so large an increase of the Police Force will hardly be made at a time when the management of it' was to pass to the new Wellington provincial government later in 1853. The submissions were filed away.¹⁷⁸

In the months that elapsed before the transition of police control to the Wellington provincial government, Baker's problems were eased by the faithful Sergeant Styles. Now aged 35, he had defused the brief October 1852 strike by talking the men into returning to work and had been regarded most favourably by the state ever since. He received, for example, compensation for problems arising from his transfers to Wanganui and back within the previous 18 months, a stratagem for rewarding him for his services without creating a precedent. Under a strong officer Styles had been able to begin tightening the discipline which had slackened during McDonogh's final manic months. Baker, when reporting cases of drunken policemen to his superiors, noted that his predecessor had made no such reports not because there had been no such cases but because of the laxity of the regime. Such behaviour by policemen would not now be so meekly tolerated.¹⁷⁹

When ex-Inspector Durie took over the Wanganui Resident Magistracy he had found the resources of this other major North Island detachment of the New Munster APF equally overstretched. The pakeha corporal and his three constables (Benjamin, Poutahi and Kemp, all Maoris) were responsible for carrying the coastal mails as well as for policing. When Durie attempted to give priority to policing duties *per se*, by hiring other mail deliverers when his men were occupied on police matters, he was reprimanded on grounds of cost. The entire provincial force 'is to a certain extent inadequate to the exigencies of so extensive a country', he was told, therefore 'however appropriate or even obligatory' some police duties might be they would have to be postponed when clashing with government mail requirements. Durie could hire special messengers only in extreme emergencies, and of course if he required extra coercive force in a hurry he could swear in citizens as specials; his request for an additional constable was declined.¹⁸⁰

The Wanganui detachment was the only one left with a sizeable proportion of Maoris by the end of the Crown Colony period. In

1847 a Wellington settler had enthused about the imminence of an efficient militarised police with strong Maori membership. He was however not motivated by the Greyite 'civilising mission', for the *raison d'être* of his envisaged force was that it would show the 'rebel' Maoris the futility of resistance. In the event the rapid *de facto* and even *de jure* decentralisation of the APF reflected Maori acceptance, at least for the time being, of the non-viability of armed resistance—with or without the existence of Maori police. Concomitantly Maoris were less and less required for their 'specialist' police role; even by mid 1850 there were only eight of them out of a total of 25 privates in New Munster. As the Maori military threat receded many pakehas tended to become more openly hostile to the Maoris and things Maori; in Wellington pakeha prisoners had been known to refuse to work in road gangs supervised by Maori constables. In later years the missionary Richard Taylor related how the Maori was 'constantly being called a nigger and black fellow to his face, and viewed as an inferior being'. In any case the 'civilising mission' had never envisaged full equality between white and brown constables, although the APF approached the concept far more closely than occurred in other colonies. It gave equal pay to privates of both races, in contrast to the New South Wales Native Police constables who received only a token 3d per day (as compared with their white commandant's salary which totalled twice that of a New Zealand Inspector). All the same, no Maori private rose to NCO rank, and the evidence of Private Selwyn and others indicated a degree of entrenched racism which held out the possibility, in Domett's words, that the 'natives in the Police force would acquire a distaste for the service'.¹⁸¹

Instead the service acquired, if not a distaste for Maoris, a recognition that in changing times the logic of the specialisation of function of the Maori constable demanded no more than a handful of Maori police. As Sewell noted of the indigenous people of New Zealand: 'Nothing has been done really towards civilising or amalgamating them'. Once Grey had apparently crushed resistance, the state's 'civilising mission' declined in fervour and there was little talk about it by 1853. Even though Resident Magistrate Durie considered that state institutions could viably penetrate the interior this was barely attempted in his area or in any other. By the latter part of the Crown Colony period it was increasingly the state view that pakeha security did not in fact depend upon the 'civilising mission'. If the Maori were to become 'civilised' it would be by the evolution of circumstances, by the racial equivalent of Social Darwinist market forces under which they might successfully adapt to the white man's world, or they might instead become extinct.

The Men and the Job, 1841-53

When Commissioner Simeon requested instructions on handling local Canterbury Maoris the official response was: 'Oh, you can do whatever you like.' This was an extreme manifestation of a widespread confidence that the 'Maori problem' would wither away; the Eurocentric paradigm blinded the pakeha to any appreciation that various Maori meetings—increasingly cross-tribal—were signalling gropings towards a new form of Maori resistance. In 1853, the year of transition from Crown Colony to representative central and provincial government, from what had once been the advanced police post at Otaki two young chiefs began to preach the need for a Maori King to unite the indigenous response to the pakeha invasion. Kingism, Kotahitanga, had begun, and it was eventually to lead to large-scale warfare between the races.¹⁸²

The Men and the Job in the Crown Colony Period, 1841–53

Conditions of Service in the Police Magistracy Forces

In the first dozen years of the existence of the separate colony of New Zealand—its Crown Colony period—the policing of scattered pockets of white population of varying composition at an ever turbulent racial interface presented problems of considerable magnitude. Three months after New Zealand separated from New South Wales in May 1841, William Hobson set out his policing specifications: establishment sizes were to range upwards from Akaroa's sergeant, two privates and four boatmen through to the largest comprising Chief Constable, three sergeants, eight constables and four boatmen. Seldom did the early police establishments actually attain these prescribed strengths. That very month, for example, word was received from the Bay of Islands that there was but a single constable left on the northern police staff, and he was on the point of resigning if his long overdue pay did not arrive from Auckland. Sometimes, particularly at Akaroa, there would be no constables at all for periods, with Robinson forced to use crewmen from *L'Aube* as temporary agents of police until seasonally unemployed whalers became available. Even where there were near-full establishments, the entire force might well be new and 'totally unacquainted with Police duty'.¹

Policing establishments, then, were in a state of constant flux. The primary reason lay in the low remuneration paid to the rank and file, a situation which arose in part from the belief, dating back to the beginning of modern policing in eighteenth century Britain, that low wages ensured employment of controllers who know intimately the controlled and their environment. It was also rooted in the problems of the colonial state which, having scant resources to spare, of necessity required budgetary certainty in the form of fixed wages for its servants: with the colonial labour market volatile 'good men' would only police when constables' wages exceeded those obtainable elsewhere. At the time of the founding of New Zealand Sydney police constables received 2s 9d per day, less than

the lowest paid day labourer of the period—a situation often to be the case in New Zealand also. The Sydney rate of basic remuneration was actually transferred across the Tasman in 1840 without adjustment for the much higher cost of living in a new colony, although first-class constables did receive a higher rate of 3s 3d.²

To retain some continuity of personnel in such conditions the new state insisted that police sign 12-month contracts of service. It was this which had prompted the first recorded strike in the history of post-annexation New Zealand when in 1840 the boat crew employed by the Russell Police Magistracy refused to serve any longer under 'starvation wages' similar to those of sworn policemen. For their breach of contract each was sentenced to a month's solitary confinement, and in the course of the punishment for exemplary reasons the 'ringleaders' were made to suffer most of all. By November 1840 it was difficult for the state to locate suitable men willing to contract themselves to policing for a year, thus McDonogh's suggestion was taken up as a form of inducement: in place of the requirement that all men provide their own uniforms, which was more than frequently honoured in the breach, those who were actually able and prepared to buy their own uniforms now had their wages increased by 3d per day, thereby taking constables' wages to 3s and 3s 6d and sergeants' to 4s 3d. Dispensations waiving the compulsory contract had been frequent until that point, but the new conditions included a mandatory requirement to serve for a year. Most men accepted this provision to gain the extra pay, probably mainly because of the impression inadvertently given by the administration that the 3d per day extra was in addition to the new quoted rates.³

The official uniforms for police in Auckland were to be modelled on those of Sydney, themselves adapted from the London Metropolitan Police uniforms. Other Police Magistracy forces followed different patterns but blue was the universally adopted colour, in contrast to the constables of the illegal regime in 1840 Wellington who had quickly switched to farm labourer-style 'white linen frock faced with dark cloth' and with the word 'police' emblazoned on the right arm. Uniforms were not seen as frequently in the Police Magistracy period as the regulations might suggest, for even inclusive of the uniform allowance wages were still so low that many men could not afford to buy them. When Dawson took over the capital's police on 7 April 1841 he noted that the constables had as yet no markings to distinguish them from any other citizens—not even staves, supplies of which had yet to arrive. Before long Police Magistrates found it necessary, particularly if they were to induce men to buy uniforms, to designate all constables as first class, so

that 3s 6d per day became standard pay. Even so, remuneration was often at subsistence, even starvation, level. In smaller centres some men were able to take on extra employment to make ends meet; after the Dawson establishment arrived at Wanganui, Jerningham Wakefield employed one of the constables in the curing of his hams and bacon.⁴

In Auckland at the beginning of 1842 Chief Police Magistrate Mathew testified that 3s 6d per day for constables was 'not merely below that of the most idle and worthless labourer about the Town, but is actually from the high price of all the necessities of life insufficient for their support'. He expressed a preference for reducing his number of constables and utilising some of the money thereby saved in wages by paying the smaller force at 4s per day, rather than having to rely upon 'good men' whose potential was lowered by their being incessantly worried about keeping their families alive or upon 'worthless' men unwilling or unable to undertake labouring jobs. His request was declined because of its implications: other heads of police would treat such a concession to Mathew as a precedent, but state departures from standardisation of pay and terms of employment were not encompassed by the governmental and bureaucratic techniques imported by the administration. All the same in mid 1842 Thompson was so insistent that a rare early (if minor) exception to standardisation was made for the Nelson force. On the grounds that the town was the fastest growing in the colony, its Police Magistrate was allowed to designate for a period all his positions to rank as sergeant if men could be attracted to serve only by NCO wages.⁵

In late 1842 New Plymouth carpenters and smiths earned 7s 6d per day, labourers 4s 3d, the same as the police sergeant; in early 1843 the lowest paid agricultural labourer earned 4s per day, the average at 5s, with tradesmen's wages peaking at 14s per day for the best sawyers. From his 24s 6d per week, the constable paid around 6s in rent if a family man, while shoes cost him £1 a pair, trousers 8s 6d. There were of course short-term, localised benefits accruing to policemen from the payment of static and universal police wages. In a generalised wages downswing in post-Wairau Nelson, policing became an attractive employment—and temporarily an elite job when in October 1844 the public works rate for Nelson was set at a mere 10s per week and working people began literally to starve. But generally police wages tended to militate against making policing an attractive proposition for working people except as a desperate measure of ephemeral employment. Moreover in the general state economy cuts of mid 1844 the ordinary constable's pay rate was slashed to 3s per day, a sergeant's to

4s, and even a Police Magistrate's was put down by a fifth to £200—a circumstance which sent McDonogh further along the path of tampering with his men's pay packets. For most of the Police Magistracy period, in most areas, the proffered wages led to great difficulty in recruiting and retaining suitable policemen.⁶

Men forced by adverse circumstances to undertake policing work also suffered from state financial centralisation, while devolution of financial administration to Wellington actually complicated and delayed payments to outlying southern servants of the state rather than aided them. Even grossly inadequate pay was better than no remuneration coming through at all, yet payments were made quarterly and were invariably late, sometimes many months late at the remotest settlements. Upon the founding of the station at Akaroa, Police Magistrate Robinson's men were 'almost actually starving from want of means', and they were inclined to resign after only days in office—being able at that point to claim wages owed without having to wait to set in motion the claims procedure at the end of each quarter. Robinson, with the strong support of Chief Police Magistrate Murphy, pleaded in vain both for monthly payments and the provision of free rations for his staff. After most of the replacement constables whom Murphy had sent him from Wellington had resigned he received a reply which, although it only partly relieved the problems of his men, opened the door to greater decentralisation of state finances: the Akaroa Police Magistrate would be allowed to maintain a fund from which he could pay the men on time, though still quarterly.⁷

When the capital moved south to Auckland, late payment of wages became a critical problem for the Bay of Islands and Hokianga police. By September 1841 when Hokianga's men were owed six months' arrears of pay, McDonogh reported that without reforms 'it will be impossible to ensure good order among the men, or a strict performance of the duties incumbent on them'. Faced with ever mounting pressure from other stations as well, Hobson had to abandon his adherence to bureaucratic norms and authorise monthly payments at all stations. Continuing delays in payments at remoter stations were alleviated southwards of the capital by mid 1842's concession allowing the Wanganui, Nelson and New Plymouth Police Magistrates to draw wages from the Sub-Treasurer at Wellington a month in advance, with Akaroa, remotest of all, given a two-month advance system. Then in 1843 Police Magistrate Robinson was also appointed Sub-Treasurer and authorised to retain all local incoming revenues, and from those he could draw his financial requirements. Despite such improvements, problems over pay never entirely disappeared in the Police Magis-

tracy period. In 1845 Wellington policemen were complaining that they could not pay an increased property rate tax as their wages were months in arrears, and FitzRoy waived the tax increase for them.⁸

The government, although hidebound by notions of centralised bureaucratic control which bore little relationship to the nucleated settlement pattern of New Zealand, was gradually if tardily adapting to circumstances. It was in a supreme effort to divert the hostility of the main Company settlers away from the Auckland regime that it had in 1842 conceded a degree of devolved state administrative power to the property owners of Wellington. The resultant borough corporation had of course the right to control policing inside its boundaries. But although this was viewed as desirable in principle and often discussed by the Councillors, and paid specials were taken on from time to time, no decision to create a municipal force was ever taken, for such responsibility carried with it the expense of paying the policemen—and that would mean increased rates. There was an awareness of a further ramification of policing being such an expensive item: that doubts and delays over the payment of wages to (in Murphy's words) 'men in their situations' of poverty would lead to the corporation being unable to find suitable people prepared to patrol the streets. In the event the local representatives, in paying attention to efficiency and obedience to the rate-paying voters, also avoided the wastage which would be involved in establishing a dual police system in the Wellington area—for the Police Magistrate would still have required his own policemen if only to operate mainly outside the borough limits. Although debate about the merits and demerits of municipalised control of policing in Wellington ceased when in 1843 word was received of the imperial government's disallowance of the experiment in devolution of state power, men of affairs in the south had by and large come to appreciate the free provision by the central organs of state of local agents of coercive social control.⁹

The concerns about finance of Wellington's local politicians were shared—and surpassed—at central level. Even before Hobson died in 1842 the state had discovered that its resources were too slender to sustain the policing apparatus that it considered necessary, and economic cutbacks had begun to whittle away at the authorised strengths of the police establishments. In the middle of 1841 for example Auckland's police consisted of a Chief Constable, three sergeants, eight privates and '4 Boats crew (to act as Police)'; within a year it had lost half of its privates and would soon lose two of its three NCOs, all this despite the Chief Police Magistrate's pleas that the cuts would mean 'very seriously impairing, if not

altogether destroying, the utility of the Police Force'. Indeed, Mathew was told that if the capital's population did not quickly rise above its present level of nearly 3000, its police would undergo further cuts.¹⁰

In 1842 the colony's third largest police force, at the Bay of Islands, had four positions removed and two the following year. Only two stations in the colony, each consisting of Chief Constable, sergeant and two constables, survived the 1842 cuts intact—Wanganui and New Plymouth. They did so mainly because of their strategic locations, isolated amidst large Maori concentrations. Of all the Police Magistrates H A Thompson fought the cuts most resolutely. When reprimanded for unilaterally raising the strength of the Nelson police to keep pace with the area's population growth, he notified the government that because Nelsonians were alarmed at thefts and similar offences against order he reserved the right to increase the size of his force on the spot. It was hardly a formula calculated to help his chances of success for a tactic designed to gain two more permanent staff, a request for a police boat for journeys out of Nelson (which application was still under consideration when Thompson's unbalanced mind led him and others to their deaths at Wairau).¹¹

By 1843 the big influxes of pakehas into New Zealand had fallen off, with the largest town, Wellington, having reached a pakeha population that did not exceed 4000 and the smallest official settlement, Akaroa, yet to reach 200. Only in two of the settlements presided over by the Police Magistracy did the Maori population in the immediate vicinity exceed 600: at the Hokianga (4000) and the Bay of Islands (8000). More cuts were inevitable, and even for men who wished to remain in the police for some sort of 'career' there was little job security. Indeed, at the end of 1842 the first of the effective heads of police was made redundant: the position of Chief Constable at Akaroa was (temporarily) abolished, and control of the station's two constables and four boatmen (who were policemen-cum-customs officers as well) was handed to the sergeant. At the beginning of 1843 the future impact of the cuts was signalled by the almost complete disbandment of the Hokianga police station, the second to be established away from the Bay of Islands. The Police Magistrate was withdrawn, and in staff cuts far more severe than suggested by McDonogh in his attempt to save his own position were implemented: the sergeant and four boatmen were discharged, and Chief Constable Tuite was left—although only temporarily—with a staff of one illiterate constable.

Other methods of cost-cutting besides that of lowering of establishments added to the misery of the working conditions of police-

men, especially since by the beginning of the first severe economising measures there had been insufficient time to develop even the basis of suitable office accommodation. At the new settlements, or at settlements where rented accommodation remained scarce, the state provided either tents or raupo huts. This might be the case even in areas where there was suitable accommodation for hire, for the state refused to pay rent for dwellings on disputed land titles. Although Police Magistrates could sometimes circumvent this regulation by negotiating 'compensation' rather than rent, the agreed sum was invariably low and the police would be evicted as soon as a higher bidder came along. Policemen who became ill, often by a combination of poor living and working conditions, and having to spend long hours exposed to harsh weather in inadequate clothing, were discharged without a hint of compensation.¹²

The dilapidated barn-like structure which served as Wellington's police station, post office, courthouse and church was so unsuitable that, anticipating the fire which burnt it down in mid 1842, Murphy had been keeping all official records at home; after the fire, police and judicial business moved to a small immigration house made available by the Company. Gaols and lockups—frequently not differentiated in the early years—were equally primitive: for years Wellington's Gaol on Thorndon Quay remained a toi-toi and slab structure, and stories of prisoners escaping from custody from the various centres in the colony are numerous. At Nelson Thompson was first forced to operate government business from a tent and then from his house, as all available money needed to be spent on replacing the raupo whare serving as a lockup and gaol in which a constable had to dwell to prevent prisoners climbing out of the hole which constituted its 'window'. Such problems were inevitable in a raw colonial society, and in any case accommodation in the contemporary London Metropolitan Police itself left a great deal to be desired. But the problem was perpetuated by the fact that little had been done to rent or build adequate structures, beyond the construction of some more secure gaols and lockups, by the time of the cuts in spending.¹³

During 1843 heads of police institutions were forced to adopt various expedients in order to cope with policing numbers which were universally deemed inadequate by men of wealth and power in the pioneering society. Richmond, for example, presiding over the colony's largest settlement, endorsed suggestions that a local water police was essential. His resultant instructions from Acting Governor Shortland however were that he declare four of his present policemen also to be water police, and use the harbourmaster's whaleboat as required. When he was forced again to send a con-

stable to Cloudy Bay for the whaling season, the man had to be taken from the Wellington strength without replacement. In such ways the Government kept police spending down to £4500 that year, although this still represented more than a quarter of total civil expenditure by the state. Police felt the effects of spending cuts in other sectors of government too: because gaol facilities in Auckland were inadequate a police sergeant was obliged to use his own house to imprison a man for 10 weeks, for which he received rather less than generous remuneration.¹⁴

Police Magistrate White at Nelson, having to cope with 'the revolt of the working men', felt particularly vulnerable, being as a former 'moral force' Chartist in a better position than most to understand the revolutionary implications—whatever the motivations—of people following the tenets of 'physical force' Chartism. In making the best of his resources to hand, however, he was responsible for a significant policing innovation in New Zealand. When he arrived in town following the Wairau affray he discovered that the local JPs had appointed replacements for the regular policemen who had not returned from their leader's expedition, and he kept the new men on in his force. Subsequently Constable Bernard Gapper, who had escaped the Ngatitoa forces at cost of the use of his right hand, made his way back to Nelson. The Police Magistrate dismissed neither Gapper nor his replacement, a German who doubled as interpreter when dealings were held with the area's newly arrived German immigrant community. The new constable was regarded as essential by White, while local public opinion precluded the casting aside of a man who had become disabled in the service of the expansion of the pakeha frontier; indeed the state, in a rare burst of generosity, actually agreed to pay Mary Maling and Jane Gardiner, widows of the policemen killed in the affray, a shilling per day pension in compensation for their loss.¹⁵

Unlike his predecessor, Police Magistrate White knew that it was expedient to adhere strictly to state-imposed establishment figures in a period of economising. It was an attempt to ensure in this context the retention of Gapper and the availability of as many constables as possible to hand in case of emergency that he chanced upon an idea which, although not taken up at once, was to have major ramifications in the New Zealand police, that of the part-time policeman. Gapper, he suggested, could be employed at 14s per week instead of the standard 24s 6d, and would perform light duties such as serving summonses. Developing the idea, he proposed that two other 'local constables' be stationed at Waimea and Motueka on the same basis and pay. The money would be found by taking advantage of the depressed economy of Nelson and

the low market price for labour: the two sergeants would be reduced to constables, and then all four full-time police would receive 3s per day instead of the 3s 6d previously paid to constables. The part-time men would cover the quiet country areas, whilst the four-man regular force would remain in Nelson, prepared for any eventualities with the working men. Under his scheme, then, the government would spend no more money on policing than before, and White would gain a better police coverage, even if it were one which he considered to be still grossly inadequate. The institution of the part-time constable, normally called the 'district constable', was later to operate for a century and a third in New Zealand, but White's scheme to tamper with colonial pay scales had no more success than had that of Felton Mathew the previous year. Gapper was kept on the staff as a supernumerary, but when Richmond visited the settlement at the end of the year he terminated the arrangement, denying the maimed ex-constable even the last six weeks of pay which was owed to him.¹⁶

It was not until the advent of FitzRoy and his new Police Magistrate Donald Sinclair that the Nelson police was boosted to the level considered essential by local authorities: six constables and a sergeant swelled the tiny force, newcomers who were typical police material of the time, skilled and unskilled working men aged 30 to 45. The increase was a result of the special circumstances of Nelson, a fear of insurrection, white as well as brown, which was impeding local economic confidence. Nevertheless Nelson came to be seen as a precedent and at first FitzRoy allowed himself to be prevailed upon by other Police Magistrates as well. Auckland, for example, was allowed two more constables, although it was stagnating in population. But with the 'distressed state of the Finances of the Colony' quickly impressing itself upon the new Governor, reductions were again set in motion. Nelson itself was soon down to a total of nine policemen and Robinson, now allowed only two boatmen, had to make up the Akaroa boat's crew by using his two constables. Although FitzRoy quashed an attempt in the Legislative Council to reduce New Zealand's police expenditure by two-thirds, the reductions actually made were regarded with dismay by police officers. In Wellington McDonogh complained that the scheduled retrenchment of his force to a strength of nine would leave it 'barely sufficient to efficiently perform the duties of the Town and district'. The reduction would mean, for example, handing to the Post Office the mail run to Wanganui which the Police Magistrate had implemented on arrival a year before, even though a 'trustworthy person continually travelling, and ascertaining correctly the state of the Country' along the western coast was in

McDonogh's eyes an essential element of policing the Southern District.¹⁷

Rank and file policemen suffered badly in the pay cut of 1844, and more 'good men' left. The residue comprised, either partly or wholly depending on area, men considered 'riff-raff' in even only relatively polite society. None of this was new: from the beginning of the colony publicly articulated comment had lambasted the 'quality' of policemen, as had gentlemanly Police Magistrates in private. Unsophisticated, even violent, state policing methods had given the Company settlement leaders ammunition in their fight against the government. Repeated accusations against Murphy's constables of 'ruffianly dragging to the lock-up, on unfounded charges' culminated in a Wellington public meeting at Barretts Hotel on 23 March 1841. It was this gathering which was organised ostensibly to protest at such 'hardship and petty tyranny', but it was really intended as a salvo in the campaign for a municipal police force manipulable by the settler leaders—in the days before they appreciated the great costs of policing. For them the office of Police Magistrate represented 'irresponsible and undefined authority, which dispensed in capricious quantities a law unintelligible to free Englishmen'. The meeting decided that two Company men who were New South Wales-appointed JPs should take their place on the magisterial bench alongside Murphy in order to ensure that police irregularities were not judged solely by the judicial functionary who doubled as head of police. In view of the political and personal implications of the decision, the Chief Police Magistrate refused to share the bench with the first 'Company JP' to claim his place, Dr G S Evans, who was later removed from New Zealand's magistracy for his pro-Company partisanship in the affair.¹⁸

Police irregularities, from which the lower classes in society suffered most in any case, enabled a smokescreen to be drawn across the real point at issue for the Wellington elite—politics and power. It was widely claimed, with plenty of evidence, that police threatened people at random with firearms issued from store, were liable to lock up anyone out after dark, 'were in the habit of committing the most unprovoked and unnecessary aggressions' upon Wellington citizens of the working class, and were—worst crime of all—beginning to practise 'illegal and annoying conduct' against even the socio-economic elite of the settlement. The incident that provided the occasion for the public meeting, which roundly condemned the police as well as Murphy's protection of them, was the all-night incarceration of a 'gentleman' who had gone to the police

station merely to bail out a friend. Until this affair and its aftermath in court Company officials and prominent settlers had distinguished between Murphy the man and Murphy the official, having praised him—after their uncongenial experience with the personalities of Shortland and the Mounted Police—for giving ‘universal satisfaction to all classes of the settlers’. It was from about the time of the meeting that they began to conclude that differentiation between man and office was impossible in the circumstances.¹⁹

Murphy’s public defence of his force was not paralleled in private communications. Reporting the escape of two prisoners into the bush from a wood-cutting party, he confided to the Governor: ‘I am unwilling to trust arms into the hands of men such as the police force is composed of lest greater injury might be done by the injudicious use of them.’ Other heads of police had similar qualms about arming their men, yet all colonial patrol police forces were essentially armed forces. The London new police had been the exception to the patrol police mode of coercion rather than the rule; in any case the extent of the ‘unprotected’ nature of the London ‘bobby’ has been exaggerated. Metropolitan Inspectors carried pistols, arms were stored and issued whenever necessary for dangerous assignments or in hazardous circumstances, cutlasses and later pistols were carried when constables patrolled outlying areas of the metropolis, and selected men carried arms at all times during generalised disturbances such as those of Chartism. The real point of difference between the various types of preventive police, therefore, was the overtness or otherwise of the instruments of coercion, a manifestation naturally influenced chiefly by the composition of the population to be controlled.

Sydney Police Magistracy constables each carried—as a heritage of the convict origins of their colony—musket and bayonet, but in New Zealand the Police Magistrates requisitioned for firearms that suited local circumstances. On the day in mid 1840, for example, when Beckham requisitioned muskets, pistols and cutlasses for Hokianga, Shortland ordered carbines and cutlasses for Port Nicholson. Pending arrival of such weaponry—the latter order had not arrived from Sydney by March 1841—the Police Magistrates made do. Murphy had been given some firearms at the Bay of Islands but had left these at Akaroa to bolster Robinson’s potential power, and he now sought muskets from within the colony whilst picking up what firearms he could in Wellington, such as a pair of pistols for use in guarding the gaol. Thus part of the reason for Wellingtonians welcoming the constables who replaced the Mounted Police on the streets, the relative absence of coercive trappings, was accidental: carbines, favoured by the Irish Constabulary for

repressing the populace, were on order. Even so the offensively overt display of weapons which was the hallmark of the Mounted Police would not in ordinary circumstances be replicated in a Police Magistracy force.²⁰

It was customary from the beginning for the beat constables to walk the streets armed only with the visible beat weaponry of the Metropolitan police: wooden batons, truncheons or staves, or at most cutlasses. Lack of available firearms in early colonial New Zealand set the seal upon a trend which had been developing in Australian and Irish urban areas, where police stations were normally close to the beats, the stocking of firearms and their distribution only when necessary. It was an evolution based upon increasing urban stability. By the time that supplies of firearms began arriving at the New Zealand Police Magistracy forces the questionable quality of the policemen available precluded police heads from arming beat constables as a matter of course, even had they wished to. In mid 1842 this situation was formalised by Hobson: 'Firearms must not be placed in the hands of Constables except on pressing occasions'.²¹

There were other matters too with which policemen were seen as unfit to entrusted. Robinson of Akaroa, attempting in vain to secure his clerk's continuance on the payroll during the 1843 cuts, stressed that 'I should hesitate before I entrusted any of the constables, in such a place as this, with the collection of the Fines and Fees etc'. That year an Aucklander who had recently been dismissed as a policeman for drunkenness was declined permission by Chief Police Magistrate Mathew to hold public theatrical performances, on the grounds that he could not be trusted to uphold state-desired norms of morality and might have incited his audience to drunkenness and debauchery. The generally low regard in which constables were held made them vulnerable to accusations of dishonesty. In 1846 John and William Patterson of the Auckland police were charged with persuading and assisting a soldier to desert and thereafter concealing him. Because of the flimsiness of the evidence the case was dismissed, but Police Magistrate Beckham, ever sensitive to public criticism of his men, acknowledged that it appeared that 'they were both accessory to the man's desertion' and therefore dismissed them from the force. Three years earlier in the capital a prisoner who offered no defence to assaulting a sergeant countered in court with an accusation that the duty policemen had robbed him of two half-crowns. Although the allegation had no actual bearing on the case, and Mathew declared from the bench that 'I do not believe a word the prisoner says', the Chief Police Magistrate nevertheless felt obliged to remand the accused

until the following day so that witnesses could be called to assure the public of the integrity of his constables. After clearing the two policemen Mathew said 'he would take the present opportunity of telling the lock-up keeper to let all persons be searched in as public a manner as possible, for instance he might call the sentry, so that no doubt could be in that way as to people losing their money whilst in his charge.'²²

Attempting to project a favourable image of policemen was, however, an uphill struggle. In the final analysis, whatever the Police Magistrates propounded from their benches the public adjudged the police by what they saw. The witnessing of policemen drunk on duty was far from uncommon, and periodic scandals about police behaviour accompanied it. In December 1845 evidence was given before an inquest that an injured American had been incarcerated by constables in a cell with the men who had beaten him up in the first place; he was set upon again in the lockup, his cries for help were ignored, and he later died of the injuries received. The coroner's jury found 'that the Lock-up keeper grossly neglected his duty in not properly interfering for the safety of his prisoners in the Lock-up, when he heard repeated cries of Murder issuing therefrom. The Jury avail themselves to this opportunity of drawing the attention of the Authorities, to the harsh and brutal manner, in which the Constabulary, invariably, treat persons taken to the lock-up for drunkenness. It cannot be unknown, to the Police Magistrate that the Constables are in the habit of beating persons with their staves, and of affixing small cords upon their wrists, and in that manner, dragging them through the streets,—a species of torture, as unnecessary as it is disgraceful to the Authorities who countenance it'²³

Police Magistrates were of course aware of such practices, and this knowledge reinforced the harshness of the disciplinary regime common to all preventive patrol forces; particularly in times of expenditure cuts and local labour scarcity, the ultimate punishment of dismissal could be used at will. Robinson once dismissed three of his four men for a 'slovenly' job in erecting a fence around Akaroa's blockhouse-cum-prison. Even Chief Constables were not exempt from punishment: Richard Burgess Sayer, who had become Chief Constable at Wellington in the early days of Murphy's period of office, was in 1843 fined three days' pay by Chief Police Magistrate Richmond for misconduct. His 'offence' was to have violated the chain of command by omitting to report a fire to his superior before rushing off to personally superintend fire-fighting operations. In February 1846 Sayer was 'sacked' on the spot for alleged misconduct without notice or chance to defend his behaviour.²⁴

When reductions were required, and there were no offending, ill or malcontent police from whom to choose for redundancy, even 'good men' were discharged without compensation. Despite their acknowledged excellence at maintaining 'the peace and quietude' under 'circumstances of greater difficulty than could be found in any other part of New Zealand', Sergeant William Barry and Constable John Sweeney of Akaroa were dismissed in 1845; their subsequent reinstatement was due entirely to possible ramifications of Hone Heke's Bay of Islands activities rather than through reward for service to the state. The highly regarded sergeant at Kororareka/Russell, Bartholomew Hore, whom W C Symonds had wished to utilise for founding the Auckland police, was sent by Beckham to Sydney early in 1841 with 'desperate characters' to hand to the New South Wales authorities. There he turned down job offers which might have taken him to high rank, but on return he found that Beckham's attempt to retain his services had backfired: the move of the capital had made Hore, a widower with three children, redundant.²⁵

As the decade progressed and the state's coffers grew ever emptier, such occurrences became more frequent. In mid 1844 Wanganui, stagnating because of Maori opposition to the expansion of European landholding in the area, became the second settlement in the colony to lose the position of Chief Constable. This rationalised the status of what had become a tiny force: John Garner, now reduced to sergeant in charge, had control of only two constables. At the beginning of 1845 it was intended to abolish completely the town's police force—along with that of Akaroa, except for the designation there of a local settler as 'constable' to fly the colours and remind the French inhabitants of their true circumstances—but the instructions were withdrawn as soon as it became clear that Heke's actions were far from mere posturings. Because of fears that the northern rebellion would spread Richmond resisted planned cuts in policing in Wellington, but the respite was only temporary. For Nelson, defensible at short notice from Wellington in the unlikely event of local Maori uprising, there was no such postponement and police numbers fell from nine to six. When after the fall of Kororareka it was realised that the northern insurrection—albeit remaining regional—would be an expensive proposition to fight, the Legislative Council implemented great economies in, amongst other matters, colonial policing. Estimates providing a mere £3575 for police in the forthcoming year were reduced even further to £3000, and the four biggest settlements, none of them with pakeha populations fewer than 1100, lost their police sergeants as a result. The salaries of Police Magistrates were cut to

£200; the Hokianga and Wanganui settlements, each with around 200 whites, were to have their police stations disbanded; and Akaroa with a similar population was to lose its two official boatmen and a constable.²⁶

This left Robinson with merely his Chief Constable (a position reinstated subsequent to the late 1842 cuts), whose salary was lowered from the standard £91 5s (5s per day) to £60, and a constable on a reduced salary of £55. In the event the Wanganui establishment survived, though only in the form of a part-time constable earning a mere 2s 6d per day, Samuel King having insisted as a condition of remaining Police Magistrate and government agent upon retaining in some form the services of the settlement's founding Chief Constable, John Garner. The cuts had forced the state of necessity once more to depart from bureaucratic uniformity: general standardisation of police pay now encompassed departures that were permanent rather than ad hoc, that were responses to local circumstances.²⁷

But the adaptations were controlled by the centre. Unsanctioned local departures from the norm could not be tolerated. Centrifugal tendencies at policy-making level remained virtually non-existent, except insofar as the Superintendent of the Southern Division could undertake in his executive capacity policing decisions of some importance. These too however were subject to being overridden by the Governor, as with the endorsement of Gapper's employment, whilst Richmond was bound in any case to obey general governmental policies. All the same his autonomy in short-term decision making was real. As part of the general cutbacks Wellington's Chief Constable Sayer had been given the added duties of city bailiff, while his force of six constables had been reduced to four, one of whom was seconded to the growing pakeha population—around 700—of Petone and its environs. As a result of urgent representations by new Police Magistrate Henry St Hill, Richmond restored the status quo in what was still at the time the colony's largest settlement by removing the burden of bailiff's duties from Sayer and appointing two extra constables.²⁸

In Auckland the Chief Police Magistrate, because of the proximity of his establishment to the Governor, generally managed to mitigate the effects of the cuts. Few other police chiefs were prepared, for example, to boast of an 'at least tolerably efficient Police force' lest such claims spoil their repeated representations for more, or at least not fewer, police. Even so, allowing for vacancies and illnesses, there might be in that settlement only a Chief Constable, sergeant and constable available at any given time for office or reserve duties, whilst between them three constables would provide

24-hour beat coverage of the urban area. From 19 March 1845 the capital's police strength was swollen by the arrival of 10 policemen from the Bay of Islands. The government realised that among these refugees from the fall of Kororareka were some of the most experienced police in the colony, including Chief Constable Woods. The personnel of the two forces were therefore combined and the police administration of the capital city—including control of all able-bodied men, who were sworn as specials into a 'civic guard'—was divided into inner and outer city districts. From the new combined total of 14 beat constables, the nine best were selected for retention, with the remainder to be phased out as quickly as the fall-off in public excitement over the northern events would allow. The exercise emphasised not only Auckland's status as the city with an 'acceptable' concentration of police but also the state's preparedness by now, at least in special circumstances, to pay out money to retain men it had identified as efficient, diligent police. This decision was based on the emergence of a core of men of steady and able enough character to get jobs at higher pay elsewhere but who regarded policing despite all its drawbacks as their natural occupation, most of them having experienced military and/or policing service in Britain or the Australian colonies.²⁹

The choice by a handful of 'good men' to remain policemen is partly explicable by their opportunities for supplementing their basic pay; if nothing else this made the job tolerable. When absent from their stations constables could claim travel expenses which sometimes gave them a small profit. Expenses incurred while pursuing escaped prisoners, for example, were in May 1843 at St Hill's suggestion standardised at 1s 6d per day for constables travelling beyond seven miles and absent for more than 12 hours. But travelling could create problems for the policemen too: sometimes the actual costs of travel exceeded the payable expenses, which were in any case notoriously difficult to extract from the government. The perquisite increased in value with the arrival of large contingents of imperial troops in 1846, numbers of whom deserted and had to be retrieved. However the government's ruling in the middle of that year that expenses in such instances were to be claimed from the military authorities introduced further bureaucratic complications.³⁰

Secondly, and of far greater importance, New Zealand constables were entitled to the centuries-old incentive of British constables, the receipt of monetary rewards from private and official sources. The wages paid to the original London Police Magistracy con-

stables had been intended as no more than retaining fees, and their institutions had therefore retrogressed to being little more than the 'police markets' which had preceded them. Police basic wages doubled with the founding of the Metropolitan Police in 1829, but only to £65 annually, with a policeman of great 'energy' able to earn up to £100 from rewards and fees in addition to his basic wage. A select committee of 1817 had condemned the practice as inviting corruption, and the following year statutory fees for policing work had been abolished. But discretionary rewards by courts and private persons remained, a necessary concomitant for even the Metropolitan police, whose wages only became adequate to sustain any reasonable standard of life in the year that Hobson left for New Zealand.³¹

The reward system, then, had been incorporated into the concept of the new police. Prior to the creation of the Metropolitan Police, indeed, Peel had extended the network of rewards available to policemen, and increasingly rewards came to be offered not only for extraordinary exertions but also for 'good conduct', shrewd detection, and 'efficiency' of various types—all attributes which did not necessarily involve work beyond the call of duty but merely recognised duty done well. The 'encouragement' side of the incentive coin complemented the 'punishment' side, and Commissioners Rowan and Mayne kept tight control over the system, making clear that rewards were, in the final analysis, allowed only at their discretion—an idea which was imported to the New Zealand police scenario. Certainly as the 1830s progressed, the Metropolitan Commissioners had moved away from the idea of fees and rewards as a major supplement to salary towards that of better basic wages, so that the less motivated policemen, bereft of rewards, would thereby be less impelled to accept bribes or indulge in similar corrupt practices. But meanwhile the Sydney police, the model for the New Zealand Police Magistracy forces, had been founded with rewards incorporated as an integral element of its remuneration structure.

There was a curious ramification of the trans-Tasman migration of the police reward practice. New South Wales law included rewards payable upon securing convictions for drunkenness with unruly conduct. As a result the first New Zealand constables, struggling to survive on inadequate wages, sought to supplement them by representing in court that drunkards they had arrested had been behaving in a disorderly fashion at the time. For this reason Wellington police spent much of their early days on the beach where the 'pubs' were located. Reports quickly emerged that in 'brutal' and 'cowardly' fashion the police would provoke drunks in order to make them retaliate, and that in court the constables were not

'over scrupulous about truth in maintaining a charge'. Wellington policemen were lectured from the bench that a drunk who was not disturbing the peace should be escorted home, rather than attacked. In Auckland, noted a Queen Street resident, the police would in order to get drunks to the lockup engage a 'set of savages' (i.e., Maoris) who in return for fees were practised in 'exercising not in the most humane manner, the brief authority given by the constables'.³²

The newly created colony also continued to emulate New South Wales in passing laws incorporating the payment of rewards to 'informants', which usually meant in practice to policemen. In forces with high personnel turnover the state could by such means direct the activities of the men along desired channels more effectively than through the discipline system. Under legislation against cattle trespass, considered at the time to be a serious breach of order and regularity, the prospect of receiving half of the fine levied upon citizens owning straying beasts would encourage policemen to enforce the law rather than turn a blind eye to its infraction, particularly if the Police Magistrate, in his judicial capacity, imposed stiff fines for such offences. The rewards for the difficult task of coping with wayward cattle could well outweigh the problems involved.³³

Similarly the regulation of liquor selling was of prime importance to the state, and rewards from fines levied upon slygroggers were at first paid automatically to informants—who, again, were frequently policemen. Such a system was however expensive for a state whose sources of revenue were inadequate, and from 1 March 1842 such payments became discretionary rather than automatic: the Police Magistrates, despite their protests that the new mechanism's uncertainty and ponderousness would dull the ardour of their men (and it did), would now have to secure the head of state's permission before portions of fines could be remitted to informants. The government paid little heed to protests that this would have the effect of replacing 'really respectable men' by the 'idle and dissolute', but when it found the channels to be unwieldy this cumbersome device was itself superseded in mid 1843 by the system which came to be standard for policing in the colony: heads of police would submit to the government names of constables who were 'particularly active and who they can recommend for a gratuity for good conduct', a parallel development to what had been occurring in London around the time of the creation of the Peelite new police.³⁴

In addition to that opportunity for earning rewards which lay embedded in the structure of their remuneration, individual police-

men were also *pour encourager les autres* from time to time rewarded by the executive for specific services to the state with grants which could be generous indeed: £5, for example, to a constable who displayed 'great activity and diligence' in capturing an escaped convict. There was also the opportunity, though decreasingly after the founding years once the turbulence accompanying any new colonising venture had begun to subside, to claim rewards offered by businessmen for the recovery of stolen property. The only stipulation was that the Police Magistrate's permission to accept was required, a cautionary device to safeguard against corrupt practices.³⁵

Rewards remained an important supplement to pay as the founding decade progressed. Even though their value and their frequency of receipt gradually fell there were sufficient inducements to cause a core of men, particularly those who had reached or aspired to reach NCO rank, to remain as at least semi-permanent policemen. Except in times of reductions, policing offered as tangible a chance of employment as any other job for working people and artisans, and as a result of compulsory Sunday work an extra day's wages were gained. Moreover long before welfarism was regarded as a responsibility of state there were elements of it in the police. Although well over half a century would elapse before the Metropolitan police superannuation scheme was emulated, New Zealand policemen who contracted injury or illness in the course of duty received free medical care—unless they were clearly useless for further policing, in which case they were discharged with some chance of discretionary compensation. Moreover life in the Police Magistracy forces was not always 'nasty' or 'brutish'; on frequent occasions Chief Constable Saunders entered in the Nelson police records 'All Quiet'. Quite apart from the Police Magistrates, some constables did very well indeed from the police: Isaac Shaw received, besides wages from both New South Wales and New Zealand, £2 for every runaway convict from the mother colony whom he recaptured. This being said, all available evidence indicates clearly that life as one of the earliest New Zealand policemen was, in return for minimal remuneration, fraught with discomfort and uncertainty—and that the gradual emergence of the colony from depression from late 1844 made very little difference to this syndrome.³⁶

The Duties of the Police Magistracy Constables

By the eighteenth century the British constable had evolved into little other than an agent of the locality's state representative in

political and administrative as well as in judicial affairs, the local JP. In its general task of keeping order and regularity the magistracy had seldom required to be directly controlled by the central organs of the state. It was as a result of this that there gradually emerged amongst scholars and officials the theory that constables were responsible to the JPs alone and by extension, since magistrates' judicial duties received highest profile and remained with them whilst their politico-administrative duties were whittled away, also therefore to 'the law'. It was this notion of constabulary obeisance to the judicial as opposed to the executive arm of the state which was taken up with such enthusiasm by Rowan and Mayne. The groundlessness of the theory, which dies hard even today, had already been illustrated in the eighteenth century; at Bow Street, and especially at the Police Magistrates' offices from 1792, constables were responsible to men who themselves were subject to close *political* direction. The Metropolitan Police Magistrates and the Chief Magistrate of Bow Street reported daily to the Home Secretary and received from him direct instructions on the maintenance of order and regularity in the capital; in return they provided regular intelligence reports on the state of their districts. The Bow Street Horse Patrol established early in the following century had a leadership structure that was unrelated to the judiciary; its control, by the Home Secretary, was overtly political. Colquhoun had urged this very separation of police from judiciary in order to tighten the executive's grip upon society, and his disciple Sir Robert Peel insisted that the leaders of the Metropolitan Police be honorific JPs only, unable to act in a judicial capacity.³⁷

When the Metropolitan police first stepped out on to London's streets they were greeted with widespread hostility. For a short period even sectors of the upper and middle classes whose property the police protected shared this feeling, fearing that their hard won individual and parliamentary rights were in danger of being seized from them by a tyrannical government utilising the paramilitary strength of the new police. It was to convince them that police were no danger to their own interests, and ultimately to win over the mass of the working class, that Commissioners Rowan and Mayne set out very consciously to propagate the myth that the office of constable involved responsibility to only the judicial and not the executive arm of the state; by the end of the century this was the accepted doctrine of policing on all British territory.³⁸

This specific, propagandised formulation of the doctrine of police responsibility to 'original' legal power alone was however less than a decade old when New Zealand was annexed, and in London it had

as yet gained little credibility among the great majority of people in view of the clear evidence to the contrary. People's observations of the daily routines and implications of policing were reinforced by such matters as the findings of a House of Commons committee of enquiry, which reported that Rowan and Mayne had been obeying the Home Secretary's orders in the sequence of events which led—via the discovery of police spy Popay in a working man's organisation—to the death of a policeman (justifiable homicide, declared a coroner's jury) in a riot at Coldbath Fields. When the Sydney Police Magistracy system was created in 1833, moreover, the doctrine was still in the process of being formulated by the London Commissioners. Conditions in a convict colony strengthened that governmental control of policing which had been central to the 1792 model; by 1840, indeed, there were strong Sydney-led moves in New South Wales to heighten government control by unifying the colony's several forms of policing. In short, at the time of the founding of the New Zealand police by means of the importation of the Sydney system there was no official pretence that policemen were responsible to 'the law' rather than to the executive wing of the state, even though they were controlled by men who were judicial as well as political agents.³⁹

The matter was complicated in the new colony only by the rearguard battles fought by JPs to retain rights which were increasingly residual in Britain: the ancient rights of giving orders to constables and investigating inefficiency or misconduct on the part of policemen, and a more recent power to suspend and dismiss constables. Their case had been strengthened by a successful struggle by New South Wales country magistrates to retain their own local police forces, particularly as some early New Zealand magistrates had been appointed in the mother colony and brought New South Wales rural norms with them across the Tasman. All the same the fact remained that the New South Wales magistracy held its control over constables by delegation of the government, and the New Zealand executive had instead decided to delegate this to the 'representative of the Governor' in each district, the Police Magistrate, whose 'general political duties' included control of the police. By the end of the Crown Colony period it was clear that the powers of non-stipendiary JPs over constables were, by decision of the government whose local agents they were, very limited: devolution of police power stopped at the level of the paid magistracy, except in emergencies.⁴⁰

Even this system of decentralisation of policing control was partial in degree. Whereas in theory the Police Magistracies were

'based upon the principles of localizing the machinery of Government of each separate settlement, and of rendering them as independent as possible of the capital', in practice despite the problems of communications successive Governors constantly intervened. They insisted on approving appointments, suspensions and dismissals of clerks and Chief Constables, and often required executive approval for appointments at NCO and constable level as well. Although Governors normally left dismissals of rank and file policemen to their Police Magistrates, they would intervene at will to dismiss men. The case of Johnson Brothers, constable and turn-key at Russell in 1844, unjustly sacked by FitzRoy for allegedly inventing a story to 'cover' the escape of a prisoner, was unusual only insofar as the Governor admitted his mistake and reinstated him.⁴¹

Hobson had set the tone by disapproving of his officials 'exercising unauthorised power'. Their dilemma was where exactly to operate between the extremes of 'discretion' as practised by Thompson, and timidity, in a colony where a reply from the capital might take weeks or even months to arrive. In particular it was tempting to call upon the military for help: as late as 1844 a dozen troops accompanied a small police party led by McDonogh to Cloudy Bay in order to arrest crewmen of the cutter *Pickwick* who had violently resisted the civil power. But the military, as the final line of defence of the state, was supposed to be used only in great emergencies when all else had failed; already the government had expressed its disapproval of the propensity of its agents to use troops as policemen. When in late 1843 Richmond twice called in the troops to help capture the chief who had taken sanctuary in Pipitea pa, he was compelled by previous directions to justify his actions in great detail and had therefore taken care to first obtain the sanction of the other magistrates—all this despite the success of the operation, in which the chief, an alleged thief, had surrendered because of the deployment of troops.⁴²

The dilemma revolving around the calling out of troops was resolved in part for the police by the personnel in charge of military detachments, who were fully cognisant of the designated role of the army and navy in the state. Just as Best had refused to deploy soldiers against Wanganui Maoris in 1840, so when White asked Sir Everard Home to bring HMS *North Star* to Nelson to put down the 'revolt of the working men' Home's response was that 'such a request I considered required no answer' and this Shortland endorsed. In February 1844, in the absence of the Governor from Auckland, Major Thomas Bunbury, commander of the troops in New Zealand, decided that only 'the Civil Power' should intervene

after soldiers had failed in an initial attempt to foil the rescue of the Ngatiwhatua chief from the criminal justice system. As part of the 'new police', New Zealand policemen were considered capable of acting as disciplined corps in circumstances of riot and major disruption to regularity: only when this had failed or would be clearly inadequate should the military be called upon as a last resort.⁴³

Despite this reactive response capacity, as with the Metropolitan police the major routine thrust of policing under the New Zealand Police Magistracy system was to *prevent* disorder and irregularity, particularly by means of regular patrolling which kept continuous surveillance over persons and property. Emphasis upon old modes of deterrence, especially harshly vindictive physical punishment, was giving way in favour of new modes. Most importantly, the underlying basis of the philosophy of preventive deterrence was the tenet that the key to order and stability lay in *near certainty* of detection rather than in the techniques of punishment (although these too were being studied and gradually altered). On the beat the constable would learn about the local characters most likely to commit specific types of breaches of the law. A pool of suspects would therefore exist for any crime committed, even if it consisted only of 'strangers' spotted within recent days or hours. Reports of all interesting happenings within the beats and divisions were passed upwards through the hierarchy, and analysed en route. Circumstances of incipient collective or mass disorder would quickly be detected by patrol constables, who would if necessary call upon reserve forces from their headquarters station, at which point their training in aggregate action became of particular importance.⁴⁴

The essence of traditional policing by the JP had always been that of gathering intelligence: accurate information about potential or actual individual or mass disruption to regularity was of critical importance if he were to exercise to best effect the means of coercion in preserving the peace locally. The new techniques of policing which had developed in the eighteenth and nineteenth centuries were responses to changes in the context within which policing operated, changes wrought by urbanisation and industrialism, not alterations in the quintessential function and purpose of policing. Bow Street Magistrates H and J Fielding were the first persons of significance in Britain to appreciate that changed conditions demanded altered modes of intelligence-gathering, that the most reliable means of increasing the prospects of certainty of detection was to observe areas and the people in them by means of regular patrols. Hence their implementation of foot and horse patrol systems in London and along its approach highways.⁴⁵

The Police Magistracies introduced in 1792 did not implement the patrol-surveillance technique, their constables, continuing another tradition founded by the Fieldings in the form of the Bow Street 'runner', specialising in detection-surveillance. Each Police Office, including the dockland Police Office from 1798, had a team of constables who supplemented their (deliberately-imposed) low wages by the receipt of fees and of rewards from making 'catches'. Police Magistracy constables were, then, detective entrepreneurs with a retainer from the state, men working for their own profit although sometimes cooperating with the other members of their Police Office since pooled information resources often meant better results and therefore greater remuneration. Originally the Metropolitan police was to have had as its basis the concept of the small cooperating unit of policemen, but the decision-makers soon realised that this approach was too low-profiled to have a major social control impact; furthermore it quickly became clear that it was not viable as a means of extracting either instant reliable surveillance information or the capacity by thousands of raw young recruits to respond individually and collectively to disorder.⁴⁶

It was the patrol-surveillance technique, with all its paramilitary implications, which was adopted: the Benthamite thinkers had prevailed in their advocacy of a massive extension of the amount of official surveillance and potential coercion over the population, particularly over the surging urban masses. The control of civil society was now to be conceptualised on the principle of the Panopticon, the prison combining coercion of prisoners' minds with unremitting surveillance of their every action; such an institution was perceived to be a microcosm of the well-behaved—because well-policed—society. Benthamite Police Magistrate Dr Patrick Colquhoun, in first systematising the theory of the preventive police in the 1790s, set out what would become the aspirations of the colonial beat system in New Zealand: by the very overtness of the surveillance and the very acquisition of beat knowledge by the policeman, most would-be disturbers of the established state of order were to be dissuaded from committing breaches of regularity. The highest proof of police efficiency, then, was the *absence* of disorder and crime in an area.

The extraordinarily strict discipline in preventive/patrol police forces had both specific and general purposes. Specifically, it enabled the men to face hostile crowds, and to disperse them, in a disciplined collective fashion. Generally, it ensured that both the men and the population were constantly alert to the significance of in-depth social surveillance. In the early Metropolitan force groups of nine constables each were kept closely under supervision by their

sergeant, with each division containing 16 sergeants and 144 men; in theory the slightest infringement of discipline, the tiniest amount of, say, resting on the beat, would lead to dismissal. Discipline inside the police reflected the officially desired stratification of discipline in society. New South Wales, as a convict settlement in origin, was geared to tight surveillance over its population and it had therefore been an easy step to introduce the beat method of surveillance to Sydney and other antipodean urban areas in the 1830s.⁴⁷

When the system was brought across the Tasman the viability of the theory of the deterrent of 'almost inevitable' detection was on the surface enhanced by the fact that most offences were liquor-related. Drinking was endemic among the British lower classes because it provided temporary escape from intolerable lives; miserable pioneering conditions and lack of pastimes in colonial New Zealand reinforced the tendency so that alcohol consumption was enormous. Drunken offenders meant high rates of detection and conviction. An intoxicated soldier might well execute a smash-and-grab in front of a policeman; all three of Dawson's prisoners in the new capital of Auckland had offended as a result of drunkenness, including an 'assault with sword and gun on the Police Magistrate and constables'. It is problematic, however, whether these high rates of apprehension had much deterrent effect in the circumstances of a raw colonial society. People were impelled to offend as a result of both background and circumstances. Arrest rates rose in proportion to the number of soldiers and sailors in town, particularly for 'public order' infringements. Offences against property increased in proportion to the amount of poverty, particularly amongst rootless people not associated with the as yet embryonic social bonding mechanisms—ideological and practical—of the new towns. Felonies in Wellington, for example, rose in the 1842 trade depression, and in October of that year there were a hundred 'idle and reckless' whalers in town suffering the effects of a disastrous whaling season. The elite wailed that 'men of desperate character and irreclaimably criminal habits' were swamping their own 'picked' immigrants; in a mass gaol break, all escapees were newcomers to Wellington.⁴⁸

In August 1841 it was reported that in Auckland 'robberies of all descriptions are nightly committed. Building materials, poultry and pigs alike disappear', the very resources needed to 'establish oneself' in a hostile new Social Darwinist environment. Lumpen-proletarian modes of existence were highlighted that month by the killing of a one year old child in the tent-dwelling of her mother's *de facto* husband. Culminating many incidents of drunken brutal-

ity, John Hopwood had set fire to the bed containing the woman (the wife of a convict on Norfolk Island) and child, and had then with a stick beaten the woman unconscious and the child to death. This led to the Supreme Court of New Zealand's very first case the following February, the verdict returned being that of manslaughter. As depression deepened in the capital city, marginalised elements of society turned increasingly to booze and to theft. 'Gaunt misery and hunger stalk in each part of the country, and unfortunately, as though for a matter of course, crime is following fast after', wrote an Auckland observer in the middle of 1843.

Crimes of magnitude required deployment of scarce police resources: Auckland's Chief Police Magistrate was soon to lead a combined police/military expedition to apprehend pirates who had forcibly seized a schooner at the Chatham Islands. In Auckland the arrival in October 1842 of 92 'Parkhurst Boys', youthful offenders from Britain, had created (in Mathew's words) 'very serious evils' for the police to contend with. Many of the juveniles were assigned to supervised employment, but a number of these absconded from virtual slave labour conditions to live with local Maoris or in the booze-soaked back streets of town. Just over a year later 27 had appeared before the Court, some of them several times, and more had arrived aboard another ship. It was not safe, opined the Chief Police Magistrate, to leave moveable property unguarded because of the activities of the Parkhurst Boys, who were said to be teaching Maoris how to pilfer. The pleas of the head of police for a ban on further importation of British offenders was strengthened by later reports that his small force could not cope with the 'ingenious and well devised modes of plunder which are practised by these experienced offenders', and the November 1843 shipment of Parkhurst Boys turned out to be the last organised importation of 'convicts' to New Zealand.⁴⁹

It was excessive consumption of alcohol, however, which was the common denominator of general disorder and inefficiency at the workplace and in the armed forces. In 1842 a future Superintendent of Auckland Province arrived at the capital city to find a 'grog shop for every three of all the other trades put together'—yet drunkenness per head was not to peak in the city for another five years, when annual conviction figures totalled more than 10 per cent of the population. A mere quarter of Auckland's adult pakeha population in the 1840s escaped classification as 'non respectable', and some other settlements rivalled this ratio. It was of prime concern for the state and its agents to regulate drinking practices as tightly as conditions would permit. One of Robinson's first tasks upon his arrival at the Bay of Islands in 1840 had been to certifi-

cate 'respectable' grog retailers as a precondition for closing down the 'numerous parties at present infesting Kororarika, Russell and other places adjacent as illicit retailers of spirits'. Despite such tight control on grog dens, there was realisation that in a new colony there would naturally be enormous consumption. Licensed sellers were therefore allowed liberal conditions of sale, except in certain circumstances—when Aucklanders began drinking heavily to drown their fears of an attack by Heke, Governor FitzRoy, on the advice of his local head of police, restricted drinking hours in the capital to between seven o'clock in the morning and seven o'clock in the evening—with the main focus of the policing of liquor sales remaining that of preventing and detecting slygrog outlets. In Nelson, after the local Chartist turmoil had been suppressed and the town had become noticeably placid, there was still potential trouble from two dozen 'illicit grog shops' where the working class drank because prices were cheaper but which the authorities regarded as 'nurseries of profligacy and crime'. Certainly the flourishing prostitution business of each settlement—a prime target for the imposers of the 'new morality'—centred upon the liquor establishments.⁵⁰

The police were, nevertheless, often reluctant to crack down too hard on slygrog dens, which were preferred by many workers for supplies of take-away liquor as well. To do so would be to risk incurring a heightened degree of endemic hostility to themselves in the streets. This reluctance was reinforced by the social origins of most policemen, who were themselves frequently former—even current—*habitués* of slygrog outlets, and by the removal of the system of rewards of fixed proportions of fines to informants. The complexities of New South Wales, British and New Zealand licensing legislation provided another block to the police regulation of liquor consumption after the fashion desired by the state. Although police who had acted on warrant were protected against successful civil actions, this protection was effective only if their actions had been 'lawful', an uncertain concept for ill-educated constables who occupied office for temporary periods and without prior training. Even Wellington's Chief Constable Sayer had proceedings initiated against him after the failure of one of his prosecutions for a liquor offence; before Superintendent Richmond rescued him he had been dragged from sickbed to gaol, had his house seized for a week by a bailiff, and seen his household goods advertised for sale. As the Police Magistracy period drew to a close, drinking remained the major problem of disorder and irregularity in the larger urban areas, particularly as urbanised Maoris began for the first time to succumb to it in large numbers.⁵¹

Policing had become, as a result of the concentrating of pakeha population as well as of reductions of policemen, focused upon the largest towns, an inevitable development given the emergent pattern of settlement by as early as 1842. That August, Wanganui's Police Magistrate had handled only three cases in court, and by the end of September his Hokianga equivalent had handled fewer than three dozen cases all year, whereas in Wellington Murphy had handled over twice that figure in July alone. Yet even with the southern Chief Police Magistrate's relatively favourable number of police, Murphy's only possible response to an attack by Cloudy Bay pakehas upon a French whaling vessel which had called in for supplies was that such 'very violent and lawless conduct' was a 'lamentable evil beyond my power of control'. In mid 1844 when the government ordered Auckland's head of police to place a constable in supervision over the gaol's hard-labour prisoners when they were working in public, Felton Mathew pointed out that his force was so reduced as to currently number only three constables: one was needed for day shift, one for night, and the remaining member handled all other duties such as periodic visits to Epsom and other satellite towns. With resources stretched to this extent from time to time, even in the cities, expedients had from the beginning been evolved to ensure at least a modicum of policing in the country areas adjacent to the pakeha bridgeheads, and these makeshift measures become more important as state economising increased.⁵²

In order to recapture renegade pakehas who had fled into the bush, the state continued pre-annexation policies of utilising Maoris as 'informal policemen' in return for rewards. Hobson gave £1 to two Maoris of Pomare's pa who had brought in a pakeha accused of violent assault, £5 each was awarded two Wairarapa Maoris for making a long trip into Wellington with two recaptured prisoners, a Kaipara chief received money, clothes and blankets for bringing in an escaped New South Wales convict. When in 1843 six violent prisoners eluded capture by St Hill and two boatloads of constables, Maoris returned them to Wellington after reward notices were posted. Shortly afterwards, standardised fees for the recapture of escaped prisoners were fixed at £1 per prisoner, whilst discretionary rewards for other types of informal policing continued.⁵³

More generally, tribes who had acted in a friendly fashion towards the pakeha were rewarded, although sometimes in little more than symbolic fashion. When Wanganui 'friendlies' in 1846 garrisoned an armed tribesperson in each house in the town to

avert pakeha fears of pilfering by visiting young warriors, the state hosted feasts in gratitude. More often the reward was of greater, though still relatively inexpensive, value: presents to a Hokianga chief who had prevented the plunder of a stranded schooner, for example. When Police Magistrate Clendon heard that some tribes who had been 'friendly' during the northern war were running short of food he arranged with Waka Nene to purchase, supply and distribute adequate food to keep their warriors in fighting condition. Sometimes financial inducements to tribes were accompanied by threats of the consequences if the state's wishes were not complied with. In the period of growing disorder prior to the sacking of Kororareka the government, under strong pressure from the white population in the capital, attempted to have handed over to it three chiefs of the Matakana area who had allegedly damaged pakeha property. £50 would be paid to the tribe for each chief, with refusal to comply leading to 'punishment' of the errant tribes and their neighbours. A heavy financial cost for such a policing operation seemed preferable to succumbing to demands that the military be sent to round up the 'miscreants', thereby provoking a war which the state still hoped could be avoided.⁵⁴

There were some attempts to incorporate Maoris of 'reliable' ilk into the state structure, albeit peripherally, by officially giving them police functions. Just as Kendall had been assigned chiefs to help with his peacekeeping role in 1814, so too at the founding of the colony police heads were instructed to swear in chiefs as constables or 'Conservators of the Peace' should members of their tribes need to be apprehended. The possibilities of racial conflict would be minimised by having arrests occur only through the chiefs. FitzRoy's Native Exemption Ordinance gave this practice legislative sanction for non-urban areas in requiring that apprehension of a Maori could be effected only by two rangatira of the offender's tribe, the chiefs receiving £5 each in payment. Some 'friendly' rangatira were sworn in annually for general policing purposes, to be rewarded by 'presents' of cash (such as a £5 quarterly payment to Hokianga chief Taonui) or kind—a 'Serjeants dress and Cap' sufficed to pay a Petone chief. Maoris living near South Island whaling stations were sworn in to recapture ships' deserters, receiving a standard £1 from the commissioning captain for each deserter returned—or relieving the deserter of the equivalent amount of possessions, including clothing, if the captain had meanwhile located a replacement for his crew and refused to honour the contract.⁵⁵

The possibility of formally enrolling Maoris into the police forces of the state was quite another matter: not only would pakehas,

most of them new to the country, resent being watched over and disciplined by 'savages' but also the permanence of the friendship of 'friendly' tribespeople was questioned. Thus the formation of white-officered corps of indigenous policemen, as in other colonies, was never seriously considered in the first five years after annexation despite suggestions from time to time. Bunbury proposed the institution of travelling Maori police detachments for 'civilising mission' as well as for policing and fighting purposes, but the closest the state got to the idea in the early 1840s was the attachment of Maori 'guides' to William Symonds' mounted policing/exploring parties, for which services 'rewards' were received, £2 to Waka Nene for example.⁵⁶

From time to time individual Maoris were actually taken on to the strength of Police Magistracy forces, particularly as boat crew sworn to 'act as special Constables with the natives on Occasion' or when the Magistrate was desperate for men and could locate no Europeans sober or honest enough to work for low police pay of uncertain arrival date. Maoris could survive on much less money than pakehas because of their tribal support structures. McDonogh at Hokianga appointed Maoris to his boat crew at £1 per week, Wanganui's Police Magistrate Dawson at a mere £2 a month, having received permission to have a boat built because of the 'cheap rate of wages' prevailing amongst potential crew. Maoris, then, were taken on out of desperation, or at most for expedient or tactical reasons: Murphy had won the right in November 1840 to employ temporarily one or two in his Wellington force as part of his efforts to placate local Maoris in the face of settler hostility. The most extensive trial with formal Maori police in the Police Magistracy period was undertaken by Clendon, who in March 1846 faced a 'general disorganised state of society' in Russell as pakehas returned in numbers and, in the absence of constables, liquor flowed with no regard to regulating legislation. From mid month, after seven drunken seamen refused to allow the Police Magistrate to lock them up, Clendon employed five Maori constables at a shilling per day and they proved 'very willing and attentive, as a guard over the temporary jail', and in 'preserving the peace'. But he lived 'hourly in dread of a disturbance between them and the low Europeans', and had to accompany his Maori police even when on routine warrant-serving duty 'to see they did not do more than was necessary' and thereby provoke interracial conflict. When Chief Constable Benjamin Woods arrived at the beginning of April to build a pakeha force, two of the Maori police were kept on in the period of transition, but only for another month.⁵⁷

It was not until Grey landed in the colony the previous Nov-

ember that large-scale utilisation of the Maori for purposes of pacification and policing of the countryside was seriously considered at high official level. Even before he arrived he had formulated a plan to appropriate chiefly power for state purposes in 'friendly' tribal areas. Chiefs would be designated 'native magistrates' and in return for a £20 salary would provide monthly intelligence reports, police their area with their own agents of order, and hand over to the state tribespeople who had interfered with pakehas or with their property. With Grey now postulating the need for 'native' police/military corps of the type envisaged earlier by Bunbury, for the first time state-sanctioned Maori police forces were under consideration by a Governor of New Zealand. In a short time he would actually put into practice his ideas of mixed-race police forces, the logical culmination in a period of Maori insurrection of earlier gropings towards formal incorporation into the machinery of state of 'friendly' Maoris willing (for their own reasons, often those of tribal competitiveness) to serve that state.

Meanwhile however the state was far more inclined towards enrolling pakeha civilians when it perceived the need for supplementary policemen, either as temporary constables or more often as 'special constables' sworn in for limited durations to cope with seemingly emergency situations. The office of 'special' dated from a British statute of 1662 which authorised the compulsory enrolment of citizens by the state to aid the constables in actual or threatened disorder of insufficient seriousness for the calling out of the state's final line of defence, the military, or in an extreme emergency when the forces of disorder were such as to over-tax the available military resources. It was quickly discovered that citizens tended to resist conscription as 'specials' and that unwilling policemen made inadequate, useless, or even counter-productive policemen. Increasingly, therefore, the state came to rely upon volunteer specials, a device legislated for 11 years after the foundation statute for special constables. Volunteers could then be either enrolled as specials for up to a year at a time, on standby to aid constables when called upon, or enrolled *en masse* in emergencies. By the nineteenth century, with the parish nightwatch system anachronistic the JPs were relying more and more upon volunteer specials to carry out ordinary policing functions whenever required, a system regularised and expanded in scope in 1810 by provision of a payment of 5s per day for standby specials whenever they were drafted into actual police business.⁵⁸

The use of specials for the control of potential or actual emergencies had fallen into desuetude because the endemicity of disorder stemming from urbanisation and industrialisation had made it now

commonplace for agents of the state to call in the military to quell civil disturbance. This practice itself further alienated the participants in disorder, a lesson made crystal clear to the authorities by the outrage that followed the Peterloo massacre of unarmed demonstrators at Manchester in 1819. Thus an 1820 statute attempted to revive the conscription of civilians as specials in emergencies, and five years later any two JPs acting together were authorised to swear in temporary constables paid for by the private subscription of well-off civilians prepared in effect to remunerate substitutes to carry out their own legal obligations to the state. The continuance of great resistance to compulsion by the later 1820s, when civil tumult in London increased on a scale alarming to the authorities, was a key factor in Peel's victory in gaining a 'new police' for the metropolis in 1829, one of its major functions being a paramilitary response to riot and tumult.⁵⁹

By then the British state had become alarmed too at the spread of disorder outside London, in both urban and country areas, and at the beginning of the 1830s it became particularly terrified lest such movement evolve into the mass revolutionism of contemporary Europe. In particular the implications of the new Belgian nation having in 1831 won its independence from the Netherlands after the application of mass force were alarming to a number of wielders of political and economic power. At once the Metropolitan and other police forces enrolled large numbers of special policemen, men with a stake in the existing order, and on 15 October a new statute was passed to clarify and codify the law on specials. This law, which was to operate in early New Zealand, still allowed any two JPs fearing 'tumult, riot or felony' with which regular police could not cope to swear in specials for an appropriate duration, but now provided that all specials, not as before merely the standby specials, would receive remuneration while on active service for the state.⁶⁰

Although there was provision to fine persons who resisted compulsory swearing in, JPs naturally preferred willing specials, and the furnishing of remuneration ensured a much better response during crises of order than in the past. In the 1830s, therefore, use of specials increased greatly, and they were of particular importance in the authorities' campaigns against manifestations of Chartism and other 'dangerous' tendencies in the streets. In mid decade state agents were given the right freely to deploy specials as required, and in 1839 the creation by JPs of annual reserve forces of specials, a revamping of the standby system, was sanctioned as a weapon in the repelling of working-class and radical pressure upon the existing social fabric. The founding of New Zealand occurred,

therefore, at the very time when the use of specials by the British state had been brought to its highest point; specials were an integral part of the state's response to disorder.⁶¹

Sufficient British legislation existed for colonial authorities, often in need of temporarily supplementing regular police, to be able to swear in special constables at will (although finding the funds to pay them was another matter). Even before their arrival in New Zealand assisted immigrants from the old country were subjected to ship-board discipline wielded by those passengers made constables for the duration of the trip. In the period of New South Wales dependency, prisoners sent from New Zealand to Sydney (and in later years, prisoners sentenced in New Zealand to transportation to Van Diemen's Land) were en route placed in the charge of reliable masters, mates or passengers, these temporary constables being normally rewarded by a fee of about £5. When the first New Zealand capital at Russell was being constructed and the workers agitated for better pay and conditions, the state's response was to pay two of the workforce 6d per day extra to enrol as specials and act as 'foremen-inspectors' over their fellow workers, reporting any dissidence to the Lieutenant-Governor.⁶²

In the absence of JPs to swear in specials in a locality, regular constables would frequently induce civilians to help them out during difficult periods on promise of remuneration by the state. In particular this practice related to the apprehension of offenders in outdistricts and their escort under armed guard to the nearest police station lockup. The state normally honoured the promise made on its behalf to remunerate, although it often paid less than promised, sometimes merely reimbursing any expenses incurred. The best chances of adequate payment for services rendered occurred when the Police Magistrate himself had been the employing authority and had sworn the civilian helpers in as specials so that statutory obligation could be invoked. However the government frequently reprimanded both Police Magistrates and their men for incurring unnecessary expenses in the employment of sworn and informal specials. In 1843, with Wellington Gaol overcrowded and a number of constables absent from town, McDonogh took on several temporary constables to guard the prison and to assist his and the sheriff's pursuit of six escapees. He received a stern warning that in future such unauthorised circumstances he might well have to shoulder the financial burden himself, unless he had arranged with the local authorities (this being the time of the municipal corporation) for reimbursement should the central government decline it. The alternative of conscript specials was realised to be of little value, the government's view being that there

were sufficient men of substance available with the time to help the police without remuneration. In remote areas particularly, such men would perceive that their best interests, both as individuals and collectively, lay in the imposition of order and regularity and would therefore willingly act as unpaid agents of the state whenever necessary.⁶³

This was indeed often the case. In 1842 Governor Hobson had referred to the Chatham Islands, New Zealand possessions six hundred miles to the east, as being in an 'anarchial state'. As policing had spread to the major areas of population on the South Island mainland, including the whaling settlements, many men who preferred to be beyond the ready reach of state authority had gone to the Islands, making them the 'resort of the most abandoned characters in this part of the world . . . the scene of every revolting atrocity and violence, that has ever disgraced human nature.' But soon 'respectable' pakehas were moving in to exploit the resources of the Chathams, and some were mandated by the colonial authorities to undertake specific policing missions. In 1845, for example, two Islands settlers were sworn before JPs in Wellington as specials to execute a warrant on three alleged felons in the Chathams. Throughout New Zealand, too, missionaries as well as lay persons of wealth and substance continued to act as non-salaried policemen. The missionaries were considered particularly valuable as Maoris were said to respect them 'as highly as any other class of Europeans'; some, appreciating their value to the state, were not averse to charging for services performed which were in their eyes 'strictly of a political nature'. One great benefit of 'respectable' honorary policemen was that their use tended to obviate the embarrassment frequently caused to the state by the propensity for its constables to over-indulge in alcohol, a circumstance as prevalent among paid specials as among regular police. In January 1842 Felton Mathew banned a Mechanics Bay nightwatchman who had been convicted of rioting and drunkenness in a public house from serving as a special constable.⁶⁴

The use of specials was of greatest significance for the state when anticipated or actual large-scale disorder threatened 'the peace', but in colonial circumstances they did not always constitute an easy tool to employ. When the 'revolt' of the Nelson working men occurred, the very partial transplant of the English class system to that settlement meant a dearth of recruits to the ranks of special constables: the normal arena of supply for specials, the middle class, existed in little more than embryonic form in the town. Even shopkeepers dared not join up as specials for fear of losing a significant portion of their patronage. When White in desperation called

upon the landowning elite to be sworn in, his request went beyond acceptable bounds of class responsibility, and most of them dragged their feet or refused outright. Whilst willing to act as honorary state agents in certain circumstances they would not except in the direst of emergencies act as the frontline defence of the state and its interests, a similar stance to that adopted by the English gentry in the rural 'Swing' disturbances of the recent past. The government could do nothing other than characterise their attitude as 'Quite Correct': in 'disputes about Wages between the Company and their Labourers' it was the duty of state and employer between them to intervene if public disturbance resulted.

White managed to gather a motley band of specials, paid for by the Company (which hoped in vain for reimbursement by the state), pending arrival of requested aid from Wellington in the form of more special constables ('none of them to be the Labouring Classes') and troops. In the event, the government declined the stationing of troops or quasi-military specials in Nelson on the grounds that their presence would if anything exacerbate disorder, since the workers would see clearly that their presence was not to combat any real Maori threat. If the workers' activities did in actuality threaten to endanger order and regularity White was authorised to locally enrol *paid* specials. Even so there were difficulties. When in August 1844 the troubles flared again, those labourers who had accepted grants of land in lieu of wages could not refuse conscription as special constables as they had not the wherewithal to pay the penalties of refusal; but, as the Company itself acknowledged, it would not have been easy to force unwilling specials to apprehend fellow workers for offences resulting from destitution. Instead, *inter alia*, the 'services of Natives' were utilised in return for a small payment.⁶⁵

The swearing in of special constables occurred most commonly in the context of widespread pakeha fears of Maori attack. When impending insurrection was feared, especially in the more isolated settlements, the Police Magistracy had little trouble in getting the services of pakehas gratis as specials. Henry King had no shortage of volunteers to defend New Plymouth—alongside local Maoris—against rumoured Waikato attack in 1843. As war drew near at Kororareka, Beckham obtained the free services of more than a quarter of the town's population. Unpaid voluntary service, the government warned St Aubyn when at the beginning of the Heke troubles he swore in three paid specials at the Hokianga, was preferred policy: 'If there may be occasionally reasons to apprehend danger in such cases, special constables might be sworn in, who

might assist to protect themselves and their neighbours without causing expense.¹⁶⁶

The Police Magistracy's problem in larger settlements, particularly those of the Company, was however more that of quelling settlers' anxiety to organise themselves whenever local 'scares' arose or news of race troubles arrived from elsewhere. Settlers considered government caution to be a betrayal of their aspirations for rapid alienation of the land, and when stirred up they were liable to take pre-emptive offensive action against local Maoris. With the spectre of race war looming in such circumstances, the Police Magistrates' solution was normally to attempt both to placate the citizenry's fears and to channel their aggressiveness into controlled non-combat outlets by putting the armed settlers under official control as corps of special constables.

This tactic was itself fraught with danger. Maoris innocent of insurrectionary intent would regard the formation of corps of specials as provocative, while individually or collectively the settlers who enrolled as special constables were apt to exacerbate tensions by excitable behaviour. A typical instance was Murphy's 1841 attempt to defuse a mood of vigilantism following a feared Maori attack—in retaliation for the killing of a Maori by a pakeha—by swearing in specials for a fortnight and organising them into night watches. A weekend's indulgence in firing guns at imaginary enemies ceased only when on Monday one of the specials himself was wounded in the process, a good excuse for Murphy to remove them from active service. He allayed further fears by appointing four prominent settlers (including two future police Inspectors, Majors Durie and Baker) as specials in charge of specified sectors of the town; the armed settlers were to assemble at the houses of the 'high police' specials on the firing of a signal of three shots.⁶⁷

The tactic of creating temporary special constabularies had other problems, for of necessity recruitment of specials needed—with the partial exception of the settler elite forming cavalry corps during Maori scares—to come from the trades and labouring sectors of society, men who could ill afford to lose whole days or weeks of pay. Police Magistrates could therefore gain the extended services of free specials only in the direst of emergencies. Richmond in late 1843 had to pay half a dozen men to supplement his police during Maori disturbances after the arrest of Chief Ewahu, and even during the post-Wairau panic McDonogh had been forced to incur, to the government's displeasure, expenditure of £70 on wages and expenses for the specials. When Nelsonians heard of the fall of Kororareka, the scare was sufficient only to induce a few more than two dozen men, all well-heeled, to volunteer their free services

pending the arrival of expected state defensive resources. Only in Auckland at that time, where actual immediate attack seemed a real possibility—a number of women took their children off to Sydney—were large groups of specials sworn in and drilled: at Tamaki, for example, William Spain JP armed 50 of them from the government store. But now that warfare between the races had broken out armed settlers were more usually organised in militia corps, whose better training and stricter discipline ensured a greater defusing of individual and small group vigilantism than could be expected from temporary special constabularies—although disciplined armed settler confrontation with the Maori still posed its own escalatory dangers.⁶⁸

In the main the mass swearing in of specials was now eclipsed by the professionalisation of armed settler response to Maori challenge. In Britain a similar eclipse occurred with the national spread of 'new police' forces, although for the state the ability to swear in masses of specials, albeit undisciplined, remained a comforting emergency power: 170,000 were appointed in London to combat the gigantic Chartist rally of 1848. In New Zealand the agents of the state continued to swear in paid specials as required. Within a month of the founding of the Auckland militia, for example, 'specially employed' constables kept civilians and troops apart for four days during a series of street disturbances. Increasingly, too, the swearing in of specials was employed for specific rather than general policing duties: 'an individual competent to the care of deranged persons' was sworn in as a constable and placed in charge of an insane man held in custody at the hospital, for example. In short, the ability of the state to appoint anyone it wished to the common law office of constable, paid or unpaid, temporary or permanent, for purposes wide or narrow of whatever nature desired by the state, was of enormous significance.⁶⁹

The Armed Police Forces and their Duties

When Grey arrived as head of government in late 1845 it had become the norm that civilian coercive auxiliaries of the state would be organised into military rather than policing corps. These were essentially ad hoc, town-orientated defensive organisations to cope with specific emergencies. His first mission however was that of pacifying the turbulent countryside and this required, among other things, a departure in control methodology. His instructions to Donald McLean, appointed as Inspector of Police in New Ply-

mouth as a result of success as Sub-Protector of Aborigines in gaining Maori compliance with state wishes, noted that in McLean's position as police commissioned officer it 'will still be more than formerly his duty to watch over the peace of the country, and to make every effort to adjust disputes between the Europeans and Natives'. It was to achieve this, and to help out the troops—imperial, militia and volunteers—in actual fighting situations when ordinary policing methods of subjection had failed, that the new Governor phased out the variegated Police Magistracy system in favour of the three autonomous Armed Police Forces. These paramilitary corps stressed military training and routines as complementary to patrol-surveillance policing.⁷⁰

Although Auckland's APF did not in the event see military action it was prepared for it, with solid instruction by Sergeant Hartnell and later by Sub-Inspector White, who for a brief period upon arrival in 1847 spent most of his time drilling the four dozen men and supervising the 'night guards'. In the eight months between the formation of Atkÿns' corps and the finality of the transition to APF control of policing in Auckland—a process completed formally on 14 January 1847 with the Inspector signing for the lockup and various other policing appurtenances which Beckham had handed to his control—the armed police indeed had done little but undergo military-style training. A request by Police Magistrate Beckham in July 1846 that Atkÿns provide temporary day and night patrol coverage of the town was notable because it was unusual, occasioned as it was by the absence of Chief Constable James Smith and all his town constables on an expedition to detect deserters who had secreted themselves in the mines on Kawau Island. The military pretensions of the armed police corps aroused ridicule in some quarters, particularly the constant presence of a sentry outside the building which housed the customhouse and post office as well as the first (temporary) police orderly room. If the object was 'to occupy the time of the privates when off drill', an observer wrote, 'much more beneficial employment' would be to repair a contiguous portion of Chancery Street 'which I cannot but presume is allowed to remain in its present impassable and dangerous state as a defence and prevention of sudden surprise and approach from the rear'. Within a short period Grey had heeded this advice, and the corps thereby received some favourable publicity.⁷¹

Such kudos was rare in these early days of the Auckland APF. Continuing opposition to the corps focused particularly upon its incorporation of Maori armed policemen: instead of having a 'tendency to raise their character, and improve their habits', it was

widely argued, membership of the corps by Maoris was on the contrary a demoralising experience. 'Idleness is the nurse of dissipation; and although the Policemen, when mounted and fully equipped, may probably be more constantly employed than military men usually are, yet there will necessarily be a large portion of their time unoccupied', commented the *New Zealander* in July. 'We cannot, even now, shut our eyes to the fact, that many of our Native Policemen are becoming familiar visitants of the public-houses and other more disreputable places of resort in the purlieus of the Town; and are beginning to display in their bearing and deportment, the swaggering accomplishments of *first rate bloods*.' Having been imbued with all the 'wrong' characteristics in 'respectable' pakeha eyes, former Maori policemen would allegedly be found 'wending their way home to instruct their uninitiated brethren in the interior—others will appear to supply their vacant places, and thus the demoralising effects of the system will circulate through every district, and gradually vitiate the character of the Natives throughout the country'.⁷²

From the very beginning of his 'civilising mission', then, Grey was being accused that his incorporation of Maoris into the police would actually have the inverse effect of inculcating the indigenous race with all the values which the state wished to see removed from the pakeha working class. Commentators were scathing about the quality of white police at the best of times. A writer lamented that of the few assisted immigrants imported into Auckland many had been enrolled in the 'useless' Armed Police and were 'consequently a burden rather than an advantage to the Colony'. Worst of all from the point of view of the government, the Maori police had been influenced by working class propensities to combine for the protection of their interests, something the Maoris were amenable to in the first place as a result of their traditional collective lifestyle. This development was to be repressed. When Maori police complained of stoppages from their pay for clothing and other 'necessaries' Inspector Atkÿns, to Grey's approval, dismissed their 'mischievous' leader and claimed that without such measures 'they would now be in a state of nudity or (which is most doubtful) had they purchased any clothing, it would be of a description quite unsuited to the duties of the Force and procured at prices ruinous to them (credit in many quarters having been offered) and consequently destructive of the efficiency of the Force'.⁷³

To counteract 'bad' influences upon Maori constables from their fellow armed police, Atkÿns and his Sub-Inspectors concentrated upon instilling approved standards of behaviour within the force. When some men attempted to avoid for the briefest of periods the

unremitting surveillance of their superiors, by opting to fulfil their compulsory church attendance requirement at non-Church of England places of worship, they were firmly suppressed and one of them was dismissed. This harsh step occurred partly because of another factor—it had turned out that he was an epileptic and considered unfit for further duty—but the incident led to the capping of reaction to the development of combination amongst a number of the pakeha armed police. One of the two 'ringleaders', Corporal George Newman, had been reduced to the ranks and his comrade, Private Charles Kemp, fined, but the two men now took the protest further, complaining direct to the Governor and arranging also that dismissed private Thomas Jackson use the same method in a plea for reinstatement. The complaints dealt, as well as with the issue of the consequences of their choice of church, with the grievance over large deductions from pay to cover the cost to the government of the uniforms. Grey, deciding to make an example out of the 'police unionists', directed that Newman and Kemp too be removed from the force.⁷⁴

The militarised discipline imposed to the best of their ability upon the force by the officers was reflected in policing methods of harsher nature than those hitherto seen. Within a week of Grey ordering Beckham to hand over the civil policing of Auckland to the APF, complaints from the public had begun to appear. One pakeha complained that when he objected to being ordered off the beach by a sergeant, who was breaking up an argument between the complainant and some Maoris, he was 'dragged through the streets like a felon' by two Maori constables—the ultimate humiliation in his eyes—and incarcerated until bailed out. Although firearms were not visible in such situations they were much in evidence during training sessions, reinforcing public hostility to control by 'soldiers'. Whereas most Police Magistracy forces had built up stocks of muskets the APFs sought to be equipped with carbines, which were particularly suitable for pursuit through hilly, forested country as well as being easily handled under restricting conditions such as in the streets of towns and from horseback. In the northern Armed Police Forces there was a period of transition during which any arms available were used: McLean's men in New Plymouth began work using muskets and bayonets borrowed from Henry King's government store, practising four hours daily 'Light infantry movements and platoon exercise' with firearms which were unfit for combat use. But from the perspective of public image the mere fact of armed drilling was quite sufficient to indicate the state's desire to stiffen its degree of control over the populace.⁷⁵

This was made all the more evident by the fact that by the time

that the Constabulary Force Ordinance was passed in October 1846, the current major fighting was over. Inspector Durie's armed police had played a key role in the Wellington area, operating under overall military command and engaging in actions against 'the enemy', including the capture of Te Rauparaha, although no constables had been killed in action. More importantly the southern APF had provided valuable intelligence services to the military and had undertaken a broad range of specific tasks, such as the execution of rangatira Martin Luther for the 'treason' of having led insurrectionary forces. Although it could with reason have been said that the southern APF's continued existence was required for the purposes of 'pacification', it was not possible to disguise for too much longer the consequences of Grey being 'unalterably fixed' in his opinion that policing efficiency throughout the colony required paramilitary detachments capable of operating in both town and country against pakeha and Maori alike. Already the detachments had undertaken at least temporary patrol and guard duties in the towns, and a period of transition during which they could definitively supplant the Police Magistracy forces was about to ensue.⁷⁶

There was some opposition in the Legislative Council to entrusting constabulary powers to men who were little more than soldiers. The necessity of arresting undesirable elements at night time, it was said, might lead inexperienced armed policemen to interfere unwisely with Maoris 'who frequently may be found lying in the streets', thereby stirring up racial discord. Grey's response was to proclaim his faith in the armed police by extending such powers to 24-hour coverage: 'It shall be lawful for any such Constable to apprehend all loose, drunken, idle, disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs.' The critics were prescient, for despite the presence of some Maori policemen the APF's quasi-military ferocity produced some dangerous interracial situations. The following March when Auckland Maoris resisted police arrest of a 'drunken maori girl, who had been turned out of one of those sinks of iniquity that disgrace our settlement—a public house', a policeman attacked a Maori with his truncheon, thinking in his ignorance of the Maori language that the man had been inciting riot. The private's colleagues then dragged the victim by his hair to the lockup. It turned out that the detained man was Chief Whakapo, an important rangatira from the sensitive upper Waipa region, and that he had been urging his followers to desist from their rescue of the young woman. Maoris from the various 'encampments' around town flocked to the courthouse, while a 'messenger was also despatched to Waikato, to acquaint his friends

with the circumstances, and all the natives on the Government works left their employment and came into town'. It was largely due to Whakapo's own efforts that widespread disorder was avoided. The magistrates considered that there had been 'great indiscretion' on the part of the police, and public disapprobation was widespread: the affair 'should teach the police to be more discreet in the performance of their duty, and not to use their truncheons so freely. To break a Chief's head, or drag him away by the hair, is the greatest insult that could be offered him, especially when he is innocent of any crime and it might be followed by very serious consequences.'⁷⁷

There were other criticisms of the Ordinance, mostly from Aucklanders. Quite apart from reiterations that the 'civilising mission' would become a decivilising mission through Maori police contact with working class mores, it was held that Maori police would not be 'efficient'. 'We feel persuaded that His Excellency will be miserably disappointed if he relies upon the general efficiency of the Native Police, simply because it has worked well at Port Nicholson. There, the Natives who have been embodied belong to the various tribes who are the natural enemies of the insurgents under Rangihaeata, and consequently would enter upon a crusade against him and his followers with much satisfaction.' Let Maori police 'be required to act against their friends, and then, if they do so willingly, and with effect, we shall become converts to the opinion of His Excellency.' The writer made it quite clear that he believed this was an impossible 'visionary scheme', and ridiculed Grey's Legislative Council argument that 'the Aboriginal Police could counteract the superstitious practices of their countrymen' by reopening communications where they had been cut by tapu. 'A pretty mess indeed, His Excellency would make, if (supposing the Native Policemen understood, and expressed their readiness to engage in such service) he attempted to send a handful of these recruits into the Interior to . . . break a tapu. He could not hit upon a more likely plan of throwing the whole country into commotion, especially if the experiment should happen to be tried in one of the districts inhabited by those who have made less progress in the knowledge and habits of civilised life than the Tribes round Auckland, Wellington, or the other settlements.'⁷⁸

The Governor's public explanations at the time of the legislation for the 'costly experiment' were all in terms of controlling the Maori, and his critics responded accordingly. This was a splendid governmental smokescreen to minimise dissent against the Ordinance by hiding the fact that APFs were soon to be the colony's major regular form of policing. The issue was further cloaked by the

fact that traditional English 'preserving the peace' formulae were used in the Ordinance, whereas in reality Europeans as well as Maoris were to be subjected to firmer methods of control than hitherto. Within the space of a year after arrival in the colony Grey had moved its policing system away from the urban-orientated Scotland Yard police model, itself a tighter control mechanism than previous systems, towards the even more openly coercive and militarised style, designed for countryside as well as town, of the Irish Constabulary. The 1846 legislation synthesised the new dual approach. On city beats police would not only surveil but also suppress 'public nuisances' which endangered order, regularity and public health, and would act in unison to suppress 'all tumults, riots, affrays, or breaches of the Peace'. Country patrols would provide intelligence of matters pakeha and, especially, Maori. Detachments could be despatched whenever and wherever required: Sergeant Robert Schultz of the Auckland APF corps reported that in its first eight months as the sole policing agency in the northern portion of the North Island armed police bodies were sent to disturbances at a number of locations between Kaipara and Tauranga.⁷⁹

The overtly coercive nature of armed constables patrolling the streets of Wellington and New Plymouth was, to the Company settlers, a small price to pay for security against Maori rebels. But Grey had known that in Auckland, where there were no similar fears of imminent insurrection, citizens would resent being policed by 'soldiers' as much as had Wellingtonians in 1840. Thus it was that he had for some time avoided supplementing Police Magistracy patrolling with APF patrolling, but on 1 December 1846 the populace had to adjust to the realisation that Auckland's style of policing was to alter in drastic fashion. All the same, when the armed police went out on to their beats the reaction was so fierce that within 10 days Inspector Atkyns was forced to concede that armed street patrols were not viable, and he requisitioned instead 40 policemen's staves for his men to carry on ordinary beat patrols.⁸⁰

Grey's perception that closer surveillance over pakeha townspeople was essential reflected a paradoxical situation. While urban life in general was stabilising by the middle of the decade, this meant for the majority of townsfolk the stabilisation of working-class culture, many aspects of which were regarded by the state as endemic threats to the desired state of order. There was no possible rapid way of altering the fact that three-quarters of the adult civil population of Auckland practised what were regarded as 'non-respectable' life-styles, a classification which included there and

elsewhere those sectors of humanity most appropriately designated lumpenproletarian—under which label increasing numbers of urban Maoris of both sexes who had succumbed to the ravages of alcoholism could be categorised. Each town had its areas of alcohol-soaked despair, of slygrog shanties and prostitutes, of people too mentally or physically crippled or ill to find regular employment, of people who considered theft—often as a result of necessity—as a means of occasional or full-time remuneration. Closer surveillance and more abrasive methods of control were seen as the best means of deterring most of the denizens of the ‘low life’ areas of towns from participating in activities of ‘criminal’ hue. Over and above that, working-class pursuits which threatened order and regularity, particularly those associated with drinking, were to be strictly monitored and controlled. The Armed Police Force system included a tightening of the ‘certain detection as prevention’ philosophy that underlay the ‘new police’ idea, the keynote of most policing in nineteenth century New Zealand.⁸¹

To deal with the intractable minority who would subscribe neither to the tenets of hegemony nor to the concept of coercive control and who offended in covert fashion, there was a tendency for one or two policemen in each major force to develop ad hoc specialist skills in detection. The methods of Isaac Shaw, the first ‘detective’ in the country, had been crude, but by the time of the brutal murders of the Snows at least one constable had become more refined in detecting: Charles Brown (‘Black Charlie’), mixed-race Indian and the first to suspect the actual perpetrator of the North Shore murders. He was, Sub-Inspector White recalled, ‘a thorough scoundrel but a splendid detective amongst the crowd with which he was principally engaged, a terrible lot of drunken criminals.’ But detective specialisation was still in its infancy throughout the preventive ‘new police’ institutions. The Metropolitan police had established its first detective division (of a mere dozen men) only in 1842, and even then it operated as little more than a collection of uniformed men who were encouraged to investigate rather than to patrol but who were not expected to immerse themselves secretly amongst the ‘dangerous classes’.⁸²

The first specialised detective agency had been that established by the Fielding brothers at Bow Street with its handful of ‘thief-takers’ or ‘runners’, Britain’s ‘first experts in the science of investigation’ and in the ‘running down’ of criminals and stolen property. But they were private contractors, earning most of their living from fees from the wealthy and, because they operated alone and hence in the final analysis cooperated with other policemen on

their own behalf, the Fieldings' ideas on providing a systematised network of intelligence information went little beyond an impromptu collection of random inputs and the haphazard circulation of gazettes containing information for police and public about crime and criminals. It was Colquhoun who incorporated the science of detection into the Benthamite strategy of surveillance policing. Not only did he circulate his own gazettes throughout the country, but he also advocated a central intelligence-gathering agency that would collate incoming material for purposes of investigation and circulation, setting up in the process registers of criminals and other 'undesirable' elements. Detection, a specialist technique of prevention, was integral to the proper working of a preventive system; as the latter became more sophisticated, so too would detection methodology.⁸³

The Metropolitan Police Commissioners had to proceed with caution on the question of detective specialisation in view of their campaign to gain 'acceptance' of their uniformed men. Large sectors of the public regarded with suspicion the prospects of state agents mingling amongst them as spies, as indicated by the Coldbath Fields riot which followed police agent Popay's infiltration of radical opponents of the government. Thus when some constables were detailed for plain-clothes duty in each division, it was only to catch pickpockets and beggars; otherwise detecting services continued to be provided by the semi-private entrepreneurs at Bow Street, and by the Police Magistrates' constables, until both sets of institutions were abolished in 1839. Ad hoc methods growing within the Metropolitan police then sufficed for a short period, for a 'sort of detective system without detectives' was emerging whereby crime details were circularised internally and through the gazettes. But witnesses had urged to an 1838 Select Committee the need for a detective branch, and this had created the momentum which led to the 1842 decision to establish a detective division at Scotland Yard. All the same, because of public antipathy to 'spying' it was a branch only very primitively Colquhounite. Indeed, to defuse public hostility its very establishment had to be linked to the investigation of a brutal murder, and its men remained essentially uniformed officers with a mandate to coordinate ad hoc detection activities.⁸⁴

Throughout the Empire and beyond it was an era of groping towards detective specialisation. The Australian colonies had already experimented with the 'runner' variety of detection prior to the introduction of the 'new police' to Sydney: ex-convict Israel Chapman had in 1822 been appointed the first detective policeman in New South Wales. His sole function was 'to Detect all Robbery',

and in a convict colony his methods of disguise and trickery were all the more reviled. There was no place under the 'new police' in Sydney for the 'Police Runner', and thus the abominated 'Izzy the Hebrew Dreamer' was seconded to other duties; after leaving the police in 1840, he became in succession bailiff, criminal and insane. The infamy of the man and his methods had no doubt contributed to the avoidance by early New Zealand police chiefs of use of the term 'detective', even to describe the handful of men such as Brown who specialised in detecting. When the *Otago Witness* wished to castigate Resident Magistrate Strode in 1852, it accused him of wishing to degrade his local officials 'to a detective police, or board of spies'.⁸⁵

It was in Melbourne that the first systematic antipodean pioneering in detecting as a prevention technique was carried out. When Chief Constable W Sugden took over the city police in 1844 he placed a tenth of it in a detective division, most of the detectives being emancipists who knew from personal experience all about crime, criminals, and informants. Meanwhile New Zealand police officers, untroubled by the presence of large numbers of men steeped in convictism congregating in the cities, could cope by placing uniformed men on enquiries from time to time, together with the occasional foray à la Charles Brown. Despite a sizeable 'low life' population, the hard-core 'criminal' underworld of the new colony remained tiny. Fully-fledged specialist detectives were not introduced until the widespread immigration, particularly that inspired by gold discoveries, of the 1860s. As Wellington's judge noted in 1848 the town was, for all its disorder, marked by the 'absence of serious crime'; and what there was seemed 'much on the decrease', a contention backed up by Supreme Court conviction figures which had virtually halved over the previous four years.⁸⁶

There was not even an incipient underworld in the small settlements, and therefore no specialisation in detective work. In New Plymouth policemen were instructed to take the names and details of all strangers entering town, and to conduct close surveillance over persons loitering after 'pub' closing hours. This was part and parcel of their ordinary duties, which also included four hours of daily drill, parading on Sunday mornings, and felling timber as a means of toughening themselves. They journeyed far and wide through Taranaki as required, sometimes accompanying McLean or conducting a courier service between the Inspector, wherever he was, and Halse at headquarters. They were ordered to become acquainted with all roads and fortified pa in the area, and to

become skilled at defusing interracial quarrels. In particular they were to assess damages to be paid by Europeans who had allowed livestock to stray on to Maori cultivations and to rectify the 'extravagant ideas the natives are so apt to form of the value of their damaged crops'. The Nelson Police 'Registry of Criminal Matters', which frequently recorded nothing more serious than a straying goat in any case, peaked at seven dozen entries during 1845, but soon fell to an average of half that number. Frequently 'all quiet' was recorded by Cawte and his men for days on end.⁸⁷

The amount of policing work in the smaller towns fluctuated according to the season, to the state of the general economy and the ability of the head of the police to ward off resultant police expenditure cuts, to the strength of the local economy, to the recalcitrance or otherwise of local Maoris, to the number of ships in harbour and to various other factors. By 1848 it was clear that towns such as Wanganui and New Plymouth would continue to have at best stunted growth. The ability of the latter's Corporal John Johnson to find time to contract privately for work or dig in his own garden earned him sufficient revenue to buy his own house. But as his force was decreased the surveillance activities of each individual policeman of necessity increased, and from April 1848 Johnson slept at the barracks in order to provide reserve manpower. Tight surveillance, harsh punishment by Resident Magistrate Henry King and lack of expansion of the settlement meant that containment of disorder was possible with sparse coercive resources: fewer than a dozen arrests were made in the ensuing year. Of course this situation may have reflected overstretched police manpower, and certainly the required degree of surveillance increasingly put strain upon the men. A Johnson diary entry for a typical day in August 1850 records the Corporal as being on town duty from three to seven o'clock in the morning, followed by a search for stray cattle in town and countryside until noon and, after a four hour break, a seven hour duty until 11 pm.⁸⁸

Essentially, by the end of the decade the state in its pursuit of economy cuts had been ruthless upon police establishments in the smaller settlements. Prisoners sentenced to hard labour in Wanganui were often kept in confinement in the absence of an available constable to supervise them, and both Resident Magistrate Durie and the Colonial Surgeon agreed in March 1852 that police duties in the town were so arduous that in the coming winter the men would succumb to illness. Moreover the run-down in establishment numbers coincided with an expansion of the pioneering frontier. Since Durie had replaced Hamilton he had opened regular court sessions at the Rangitikei and Pipiriki. Each morning Corporal

Styles reported to him the previous day's duties of the three Maori constables of the station, and the situation on 9 March 1852 was unexceptional: Kemp and Poutahi were absent on special duty, Benjamin was looking after the gaol in the daytime and, with the corporal, covering the nightwatch until after the 'pubs' closed. Later in the month, all three privates were absent from town (taking a prisoner to Waikanae and mail to a rendezvous with the Taranaki police at Patea, and escorting Durie), again a not infrequent occurrence, and Styles supervised the state of order on his own from 7 am to 11 pm.⁸⁹

Whatever the state might require the police to do was by definition 'policing': the promotion, at least in the long term, of order and regularity. Policemen supervised hard-labour prisoners working on roads and other public works; they delivered pay to civilian roading parties, getting blamed for the invariable delays in pay-out; they sometimes themselves comprised the roading parties. Police pitched in to ensure that settlers' property was protected from any adversity. In New Plymouth in 1848 they helped to construct a bridge and to unload cattle and other goods on to the beach, and they arbitrated in worker-employer relations. This latter task became of vital significance when there were interracial ramifications, especially when Maori workers were remunerated inadequately or not at all for work performed. The problem had become so pressing in New Plymouth by mid 1850 that it was decreed that all work contracts needed to be approved in advance by Sergeant Halse.⁹⁰

Armed Police Force duties, in short, were multifarious. Analysis of a random day in Auckland—31 May 1852—reveals one corporal on street duty, another collecting names for the burgess roll, a third conducting the duties of orderly. Four privates patrolled the streets, four more rested after night duty. A 'Mounted Orderly on Despatch Duty' undertook patrol and courier duty to the Fencible settlements, and privates acted in the capacities of orderly room clerk, orderlies for the Native Secretary and the Commissioner, lockup keeper and court orderly. Auckland police would be instructed to carry out any business required by Grey: for example, to locate Te Wherowhero's sometimes mobile forces which formed part of the capital's southern defences. Outside the capital a handful of Auckland APF men watched over the vast territory of New Ulster, excluding Taranaki: two privates each at Howick and Onehunga, Sergeant-Major Woods and a private at the Bay of Islands, Sub-Inspector White's sergeant and three privates at Mangonui. In Wellington police might well find themselves monitoring traffic flow on the Hutt and Porirua roads. Even the Irish Constabulary,

considered the most effective paramilitary force in the world, allotted a comparable variety of duties to its men, to their disdain and that of their chroniclers. Many of their despised duties, such as collecting statistics or inspecting weights and measures, were also performed by the New Zealand police.⁹¹

At all times, when patrolling or otherwise, the policeman's overarching task was to observe and report on the state of those parts of society within his purview. It was no accident that the government used police for mail deliveries, both on regular short routes (between the pensioner settlements and Auckland, for example) and particularly in relays on the overland route between Wellington and Auckland, with a northward extension to the Bay of Islands that from April 1852 also went through to Mangonui. It was a means of gaining intelligence whilst saving the expense of employing mail carriers; wayside settlers, especially missionaries, provided food, accommodation and information in return for a feeling of security and free delivery of mail. At important ferry crossings, local chiefs would be paid at handsome rates (by contemporary standards) for their services in order to retain them for government purposes, including assisting travelling policemen.⁹²

As the end of the Crown Colony period neared, it had become clear to the political executives of New Munster and New Ulster that, at least for the foreseeable future, the accessible countryside had *ceteris paribus* been pacified; concomitantly, in a period of intermittent economising measures the major concentrations of police were in the urban areas where most newcomers to the colony congregated. In Nelson, and more especially in Dunedin, the police were not overburdened. In general, their role in these areas was that of symbolising the potential might of the state, actualising this mainly only when crews from ships in port were over-indulging in town. Otago settlers were constantly reminded that they were the subjects of a distant government, amenable to centrally-imposed rules which sometimes seemed ludicrous in the circumstances. A juror, for example, rode 40 miles in appalling weather to attend the opening of the new Dunedin Supreme Court in 1851, arriving late to find the session finished because there had been no cases to hear; he therefore returned home, but was pursued by a private with a summons to explain his non-attendance and was forced to return to Dunedin and pay a £10 fine (although in the event it was remitted).⁹³

But at other settlements, especially Auckland, Wellington and Canterbury, the police were far more than mere symbolic agents of the state. As instrumental state agents in urban areas of size and, especially in Canterbury's case, pioneering turmoil, they main-

tained despite their lines being often overstretched constant intervention in the lives of the citizenry. Protests at the 'heartless fangs' of the police were endemic, as indicated by some cases taken at random from the Auckland experience. In August 1849 a doctor fined for assaulting a constable alleged that he had been victimised by the force since he had complained of their impounding and killing his dog. In May 1850 shopkeeper James McLeod publicised the case of one of his workmen whom he had discovered in the 'cold and wretched' police lockup at 6 am, 'very unwell, and bleeding from the effects of severe contusions on the head . . . with nothing upon him but a shirt and a piece of rag, which the Keeper had thrown to him as to a dog'. The police refused bail until McLeod procured the intervention of a doctor. The complainant paid his employee's fine for the charge of drunkenness laid by the police, although averring that the man was a 'steady' person who had fallen upon 'mental derangement'—a condition now exacerbated into a 'state of delirious insensibility' by the 'gross impropriety and inhumanity' of the police. Commissioner Beckham acted quickly and withdrew from the lockup keeper the discretionary power to accept or refuse bail, but criticisms, directed mostly at the prevalent mode of policing *per se*, continued unabated.⁹⁴

The police took the view that they could not win. At the time of the McLeod incident the *Southern Cross*, a newspaper which had defended the force in the past, suggested that the police should concentrate upon dangerous behaviour by carters and their horses in the streets of the capital. When three months later the constables were doing just that, they were accused of 'vexatious interference . . . with the peaceful and legitimate avocations of the public'; they had gone 'to the opposite extreme' and were indulging in 'frivolous and wanton annoyances', it was said. The policeman 'should bear in mind that he is fed, clothed, and maintained by the hard-earned savings of the working-man—of those *par excellence*, the working classes,—those very carters in fact, thus so unceremoniously pounced upon.' Constable John MacNamara hit back, pointing out that 'we are only servants' and that only by 'implicit attention above to orders of our superiors and the duties of the Police Service, we can hope for promotion and improvement in our circumstances.' The nature of policing, in other words, flowed from the type of police system which prevailed—a truism upon which the newspaper itself had in the past commented.⁹⁵

There was less protest in Canterbury, where repressive coercive actions were seen to have more justification. In Lyttelton, FitzGerald's headquarters men kept 24-hour surveillance over a rough town wherein scenes from the earlier period of colonisation further

north were re-enacted. In Wellington in 1842, for example, an American brigantine's master and crew had repelled Chief Constable Sayer's attempt to board and had escaped with a wanted embezzler. A decade later in Lyttelton a police private, attempting to serve a summons upon the master and mate of the *Will o' the Wisp* after they had assaulted police and resisted arrest ashore, was driven off at pistol point. FitzGerald, his corporal and three privates then set out in a small boat, and the Sub-Inspector fired across the bows of the ship as it began to leave its anchorage. When the drunken crew began loading muskets and handing up cutlasses among the milling passengers on deck, and the captain threatened to cut down the first policeman aboard—and swiped at FitzGerald to prove it—the police desisted and the *Will o' the Wisp* sailed away.⁹⁶

Even so, such incidents had become rare by the time of the Sub-Inspector's resignation. In the last quarter of 1852 there were only four dozen arrests in the Canterbury settlement, more than half of them on warrant. Commissioner Simeon's preoccupations were increasingly a reflection of those of Commissioner Beckham: both had time, for example, to worry at great length about whether it was illegal to advertise lotteries and raffles. Soon after taking up his Commissionership, Beckham had produced a 32-page manuscript of suggestions for further regularity in the stabilising urban area over which he presided: stricter enforcement of the sanctity of Sundays and of the prohibition upon bathing in public view, for example, and large numbers of proposals to regulate sewage disposal, driving behaviour, commercial practices and suchlike. Many of these 'nuisances' suggestions were incorporated into the colony's first police offences legislation, that of New Munster in 1849, an indication of the parallel evolution of the two main urban areas.⁹⁷

Examination of a typical policing day in Wellington in 1851 reveals that 10 of the 16-strong local police were rostered on street duty, including Sub-Inspector McDonogh, the sergeant, and the sole constable at the Hutt; of the others one private was ill, and the remaining five were carrying out 'necessary subsidiary duties'. Of the seven privates on duty in Wellington streets, three covered the 'daytime' beats from 8 am–1 pm and 6–8 pm and were back on duty for the midnight to 4 am night watch. The other four took the 1–6 pm daily watch, and two of them (with the sergeant) went out for the 8–12 pm beats while one took the solitary 4–8 am night watch. McDonogh made two supervisory visits, at 1 pm and 10.30 pm. In all detachments the 'Constables being always liable to be called on to preserve the peace of the Town, are in one sense

never off duty unless they have express leave of absence from the force for a given time.⁹⁸

By the time that Baker took over the 22-strong New Munster Armed Police Force, the average number of men and NCOs available for beat duty in Wellington on any given day was seven, meaning that four was the maximum number available for duty at one time. It was for this reason that McDonogh had concentrated his patrols upon the beach area, leaving Thorndon and Te Aro flats 'out of the pale of the perambulations of the police'. To properly police 'this straggling town', Baker requested an additional eight men including a corporal, a lockup at the corner of Manners and Willis Streets, and a pound to contain 'one of the greatest nuisances in this Town', straying cattle. When his request was shelved important areas of the town, particularly the Mount Cook area of Te Aro, had to remain outside the purview of the regular patrol system.⁹⁹

But within the constraints of available resources the new Sub-Inspector tightened the surveillance of Wellington. In particular, for the first time in New Zealand an urban police was drawn close to the precise mode of beat policing practised in London: instead of having a general beat area within which to patrol, privates were instructed to walk a specific route within a specific time. 'The men will move leasurably on their respective beats and will avoid the bad habit of Gossiping with the Inhabitants.' The NCO in charge of the watch was under strict instruction remain at the station, leaving only to make spot checks to see if his privates were at the correct position on their beats; the watches lasted for four hours in the day, eight at night, and no constable could, except in emergency, leave his beat unless relieved.¹⁰⁰

By the end of the Crown Colony period, then, the state's mechanism for 'preserving the peace' in New Zealand was well into the process of reorientating from Irish towards Metropolitan-style policing. The system for urban Wellington which was handed to the Wellington Provincial Council later in 1853 was akin to the most modern mode of urban surveillance patrol in the world, even though the full implementation of the 'new police' model had occurred in the antipodes, in Sydney, a mere half dozen years before. Soon other urban areas in New Zealand were gradually to adopt it, and it was to be the model for urban policing in the colony until well into the twentieth century. In 13 years the dominant mode of policing in New Zealand had moved from partial adoption of the Metropolitan style to full adoption of the principles of the more overtly coercive Irish model, and back again towards (this

time, more comprehensive) implementation of the preventive beat system of London.¹⁰¹

Pay and Conditions in the Armed Police Forces

On 30 May 1846 Auckland members of the Armed Police Force were the first to sign an agreement of service in the new corps, contracting themselves to remain a year in the force on penalty of a massive 19-guinea fine upon default. Grey made the Armed Police personnel entirely his own creatures by adding to the Attorney-General's draft contract a clause allowing him to dismiss members at will and without the necessity of providing reasons. Upon Atkÿns' representation the envisaged rules were tightened to give Inspectors greater disciplinary powers, including the right to fine men up to £10 for offences as vague as disrespect or 'neglect of duty on minor points'. Over and above these general APF rules Inspectors were allowed to frame local in-force regulations, as Durie had already done, and these were normally based upon the Draconian regulations of the Irish Constabulary. Those of Atkÿns, issued on 7 December 1846, gave him the power to fine men for even vaguer offences such as 'carelessness', and a catch-all regulation referred to 'Being guilty of any offence not herein mentioned which may hinder, or otherwise prevent the due maintenance of Discipline and Subordination in the Armed Police Force.' By then police barracks had been provided at all three headquarters towns, a factor which gave officers the means of enforcing the overriding rule that 'The Constable must consider the whole of his time and abilities as due to the Public Service.'¹⁰²

In 1848 Atkÿns attempted to increase the severity of Auckland police discipline by requisitioning a cell (to be attached to barracks) in which to incarcerate errant privates, and by drafting new regulations. These replaced offences such as 'carelessness' by even more amorphous terms of the ilk of 'want of zeal', and added new clauses forbidding 'Noisy or riotous conduct in quarters', the contracting of debts and so on. But already such directions were anachronistic, for the force was beginning to evolve away from the extremes of militarist organisation, and Grey vetoed the proposals. His placing of Commissioner Beckham above the Inspector was facilitated by the fact that in the Governor's eyes Atkÿns had been proven by his attitude to discipline and other matters unable to apply wisely the use of discretion in changing circumstances. Durie, more capable of adjusting, also revised his regulations in

1848; while retaining basic Irish Constabulary conceptions, his alterations were more judicious than those of Atkÿns and were attuned to a force no longer overwhelmingly orientated towards the suppression of hostile members of another race.¹⁰³

Even the rigid insistence upon uniforms, emphasising the military nature of APF organisation, underwent some little degree of mellowing. Uniforms had been compulsory from the very first day of APF service, although initially they were necessarily makeshift: on the second day of duty of the New Plymouth force McLean reported that his men were 'clean and orderly. The glazed caps and blue shirts look tolerably well and have an appearance of uniformity till better can be had.' The commissioned officers of each force ordered uniforms of their own choice, the common links being a military stamp and the Metropolitan police colour of blue. Atkÿns, for example, tendered in 1846 for five dozen blue serge shirts, forage caps and blue cloth trousers. The men had to pay for the uniforms themselves, except for the additional item—decreed by Grey and provided by the state—of a grey military-style winter greatcoat. Even when the professional uniforms were tailored they proved to be uneven in quality and appearance, and Sydney was turned to as a source of supply. Auckland had to wait until 1848 for its first shipment of uniforms from across the Tasman but they too proved to be 'inconvenient, expensive and unserviceable'. Not until 1851 did the capital's police receive a 'proper uniform': blue jackets with white facings and pipings, blue trousers with white stripes, and forage caps. By then the New Ulster government had little choice, at a time when police wages were being left behind by prices, but to agree to pay half the cost of the £3 12s uniforms. Government spending cuts in New Munster the following year led to a major departure from paramilitary practice. Canterbury men, unable to pay for uniforms because of the cost of necessities in the still-pioneering community, could not be subsidised as this would create a precedent; the stipulation of uniforms was therefore abolished in favour of the sewing of red facings on to the collars and cuffs of blue shirts.¹⁰⁴

Yet it was the uniform that symbolised the difference between 'old' and 'new' police, and the hiatus between theory and reality in the Armed Police Forces was here at its most visible. This gap was also apparent in other areas of policing, some of them of far more serious consequence: the firearms, supplied free except to Maori privates, were often highly inadequate, and initially only Durie's men, operating in actual combat conditions, were well supplied. Even New Plymouth's Armed Police Force, in an area of not inconsiderable interracial tension and uneasiness, was at first given no

serviceable firearms: it was known that, in an emergency, the local white population would willingly lend their own weapons. On 1 April 1848 the policing forces under Inspector Durie's command had charge of a total of 118 carbines, but more than half of these were deemed 'unfit for use'. When FitzGerald in Canterbury received as founding weaponry a few old firearms and a tiny amount of ammunition he complained that 'it is a farce to maintain this parade of armed force, unless I am enabled to do so efficiently'.¹⁰⁵

The most pressing continuing problem was lack of adequate office and living accommodation. The state's aspiration of police who were paragons of desired modes of behaviour, exemplars for Maoris and 'low' Europeans alike, did not fit in well with its inability to house its agents in any but squalid conditions. At first, when the men were housed in tents, it was hard to maintain military discipline. This was such a problem with Maori privates in Auckland that an NCO was 'especially attached' to them, living in his own tent alongside the two Maori tent-barracks. 'His constant presence will tend to prevent ill consequences possible to result from their association when off duty, with badly disposed Europeans and Natives who hang about their quarters'.¹⁰⁶

Even when barracks of more permanent materials were rented or built at the various stations, they were barely adequate. The New Plymouth men were by the end of 1846 due to move into quarters whose low rent of £25 per annum reflected their spartan nature: the men were forced to work and live in a building 50 feet long but only 16 feet wide. It was in 1847 that Mathew noted that inability to regulate access to the Auckland living quarters of the APF made it 'notorious that the Police Barrack is the most disorderly place in the Town' with the consequence that Maori police had been socialised into the 'most disgusting debaucheries'. In Wellington the first semi-permanent barracks/'Metropolitan Police Station' was the house owned by Chief Wi Tako on Kumutoto reserve, leased for three years from November 1847. The primitive structure—its public office open at all times of day and night—lacked both lavatory and lockup, and despite government agreement to keep it in good repair it began rapidly to decay. Two years after the men had moved in, an official reported that it was uninhabitable in winter and not worth repairing. Three years later it still housed the Wellington Armed Police Force, and Wi Tako was still attempting to hold the New Munster government to its agreement to effect maintenance on the building. Doors and windows were often broken, and to attempt to keep the barracks warm the privates would use the surrounding fence as firewood.¹⁰⁷

Conditions were normally even worse in the smaller stations. In 1850 Inspector Durie noted of the Wanganui police station ('if I may call it such') that it was 'scarcely tenable', nothing more than a 'most disreputable hole that attracts the notice of every passer-by'. Its floor, Resident Magistrate Hamilton noted, was constantly damp and the interior unventilated: it was a 'shed' that was 'so delapidated as to be unfit for any but Maories', due to fall or blow down within months. Plans did exist for a new station and barracks, but the architect admitted that the resources allowed him had forced design of a building too small to house the four-man detachment; the cells, when unoccupied by prisoners, 'might be used as sleeping rooms by two of the Police', and at other times the unfortunate pair could sleep in the tiny unlined loft between ceiling and roof. Even this rehousing, however, was deferred on grounds of finance, and a clay and thatch 'temporary' dwelling erected.¹⁰⁸

The New Ulster state was no less frugal. When Privates J McIntosh and Teranga arrived at Panmure in 1848 to establish a police station they had to commission with their own funds the building of their accommodation. This matched, in size and comfort, the meagre sum of £4 10s which they were able to afford, the state thereby getting a 'bargain' through reimbursing rather than commissioning. Later that year, acting upon a complaint by Corporal William Smith of Onehunga, Commissioner Beckham found the station and barracks there in a 'dangerous' state, propped up after having parted company with its chimney by two feet at roof level. By Christmas no replacement had been provided, although there were vacant cottages in town, and the men were ordered to move into a tent. This measured 10 by 12 feet and leaked, and the detachment lived and worked between it and the adjacent derelict, leaning house. By February 1849 the house had sodden beds and inches of water covering the floor; only when it had leaned another two feet overnight, requiring more props, did Grey place the men in a cottage provided by Fencible leader Major Kenny. When this was required for pensioner occupation a year later, a raupo hut costing £10 was commissioned, and in this the Onehunga police still lived and worked as the end of the New Ulster government approached, by which time it too was almost uninhabitable in wet weather and permanently propped up.¹⁰⁹

Lack of adequate living and working conditions, of course, affected police efficiency. Resident Magistrate Hamilton reported of the sergeant in charge of the Wanganui detachment in 1850 that he lived in a tiny room whose 'extreme uncomfortableness drove the last corporal of Police to the Public Houses—which led to his disgracing himself and the force.' Once the station's 'temporary'

dwelling was erected it became decidedly non-temporary, even though it was so primitive that the three non-pakeha constables at the station—in Hamilton's ethnocentric viewpoint—'consequently retain all their dirty Maori habits'. In 1851, when the Thorndon Flat lockup had become so 'ruinous' as to necessitate its abandonment, all Wellington police prisoners had to be housed and guarded at Kumutoto barracks. At the best of times it was difficult to secure proper rest at police barracks, given the coming and going of men on broken shifts, particularly if the barracks were attached to the police station and thereby subjected to the nightly sounds of drunks being processed; but now that in Wellington the drunks were housed in the same sleeping accommodation as policemen, continuity of uproar frequently impeded meaningful rest. Not until August 1852, after long delays caused by haggling over rent, did the New Munster state take possession of the old Colonial Hospital premises and establish in them a court, police station and lockup.¹¹⁰

However inadequate and riotous barracks accommodation proved to be it was, for ill-paid men throughout the colony, better than no free accommodation at all. Married men could not live at barracks, at least not with their wives and families. There were some informal exceptions at times, especially in the stations outside the main urban areas, but such departures were rigorously disallowed under the 1852 regulations. Because of their extra hardships in having to both feed more mouths and rent houses, married men were sometimes spared the high costs of transferring; but when single men arrived at newly established settlements they were frequently subjected to hardship not only by the higher costs of living but by the initial lack of government-provided accommodation. In Canterbury, for example, the pioneer police were not provided with even tent accommodation, and rents were high. Those who might have been able to build their own houses refrained from so doing—the while fighting a doomed struggle to gain a lodging allowance—because they had 'no guarantee for permanent location at any given place'. When a barracks was built at Lyttelton just prior to the establishment of Canterbury Province, Edward Seager (then a corporal) later recalled, it was 'built of cob, with clay floors. In wet weather the rain invariably found an inlet through the rat-holes in the wall, and in heavy weather the door was opened to allow of the escape of a rivulet which coursed along the floor.'¹¹¹

The rule that the constable 'must serve and reside wheresoever he is directed' had quickly come to mean in practice that transfers would be within each the three Armed Police Forces rather than between them, especially after the formation of the New Ulster and New Munster governments. Exceptions occurred only in extraordi-

nary circumstances. Private Karena, an Auckland in the Wellington APF, was gaoled for a period by 'Native Assessors' for indulging in 'crim. con.' ('criminal conversation', or 'illicit' sex) with the wife of powerful local 'friendly' chief Wi Tako; considered too valuable a policeman to lose, on release he was taken on to strength again but transferred straight away to Auckland. It was the *de facto* decision to transfer normally within rather than between forces, a product of financial precariousness and elementary communications, which had presented the officers in charge with so difficult a problem in applying the rapid transfer principle. Particularly as retrenchments were imposed, the membership of forces remained largely confined to those located at a central barracks/station and a handful of tiny satellite police stations, some of which, such as Mangonui's in winter time, were virtually inaccessible to overland traffic.¹¹²

Lengthening periods between transfer made it more difficult for heads of police to prevent their men from 'forming too great an intimacy with persons resorting public houses or such other places as might lead them away from their duties.' Alcohol problems inside the police detachments were increasing towards the end of the Crown Colony system. Over a six-month period in 1852-3 Sub-Inspector Baker dismissed no fewer than seven, and reprimanded a usually sober eighth, of his men for drunkenness. The reason for the trend towards undisciplined behaviour lay far deeper, however, than matters of transfer and accommodation, although these were factors. As illustrated by the light punishment meted out by Baker to a ninth offender, Thomas Bolton, guilty on two charges of drunkenness yet merely fined and reprimanded, the fundamental reason was that there were no replacements forthcoming from the local work forces.¹¹³

From the beginning of the Armed Police Forces, pay had been standardised at 25s per week for privates, 27s for corporals and 30s for sergeants, and in 1849 this was fractionally lowered to a daily rate of 3s 6d, 3s 10d and 4s 3d. The handful of Sergeant-Majors received 5s per day throughout, although the head of the local civil force at Akaroa, their equivalent in status, received 3d per day less than even APF privates; it was not until May 1853 that continued agitation by Chief Constable Joseph Zillwood brought his pay up to 3s 6d per day. The APF pay in 1846 had happened to be reasonably good in comparison with prevailing rates and at that time, and in other periods in specific localities, artisans and skilled labourers tended to sign up; but when wages outside the service rose such

men would leave as soon as their yearly contracts expired. Inspector Durie reported in 1849 that he had lost a fifth of his men in the last three months because of high wage rates and self-employment possibilities in New Munster for 'Mechanics and tradesmen of which class the Force is chiefly composed'. It became standard, with time, that recruitment occurred mostly amongst unskilled day-labourers or (in times of desperation) members of the underclass.¹¹⁴

Even so at times, and over the years increasingly as a general upwards inflationary trend superimposed itself upon the temporary and localised booms and depressions, the APF Inspectorate could find no suitable replacements for those of the men who left. Thus in early 1849 Durie's force had dwindled in strength from the authorised establishment of 55 to an actual figure of 44. With only inadequate men offering as replacements, officers often preferred to keep on unsuitable policemen who at least knew the job. Thus Strode's Dunedin men were able to defy any attempt at discipline with impunity, for in the isolated community free-market wages had chased cost of living increases and left police pay behind. Discipline in other towns at certain times was similarly lax. In New Plymouth the corporal would frequently for a period find his privates fighting or drunk or asleep, in 'pub' or barracks, rather than being out on the beat. When he told a private that the sergeant had ordered him to rise at 7 am, the retort was 'we have only your bare word for that'; when he reprimanded the same man for not properly cleaning a lamp, he was told 'You hadn't be so Particler about it.' Yet the private was kept on until the termination of his service agreement.¹¹⁵

Increasingly as the detachments became composed predominantly of unskilled labourers, with a leavening not only of lumpen elements but also of artisans unable to take advantage of economic opportunities outside the force (often because of drinking problems), the 'occupational culture' of policing became pervaded by the culture of the antipodean working class. Colonial policing practice had fallen in line with that of the British 'new police', whereby like policed like, and since New Zealand working class mores were directly derivative from those of the British working class there were problems. Unskilled labourers had brought to the antipodes—among other things—a major pastime of their counterparts back home, copious consumption of alcohol, which was for many more of an opiate than was religion, and amounts consumed increased as a result of the lack of leisure pursuits for workers in colonial towns. Within the police force the misery of living and working conditions gave added impetus to the desire to get drunk.

Increasingly, policing became an occupation avoided by even the 'respectable' working class let alone tradesmen, embraced as a temporary act of desperation. The basic factor of low pay was of greatest significance in this process, but also important was 'image'; a vicious circle operated, since the constables who were instrumental in providing the APFs with such unsavoury public personae were retained only as a consequence of the meagre remuneration offered, which was too low to permanently attract 'good men'. These factors led to a gradual change in public perception of the armed police.¹¹⁶

At first, as elite soldiers actually or potentially defending white against brown, 'civilisation' against 'savagery', armed police were accorded in many quarters a high status. As it seemingly became clear that brown had been conquered, APF service lost its lustre and, with an influx to its ranks of day labourers and especially of drunkards and occasionally members of the underclass, police were more frequently perceived as men who brawled in streets with drunks. Elements of their militarised structure of discipline came to seem demeaning in peacetime conditions, particularly the propensity for the former army or navy personnel who constituted the officer stratum to use privates as personal servants. This was sometimes blatant, as at isolated Mangonui where Sub-Inspector White kept a private and his wife in his house 'as servants'. McLean was attended by privates on his travels, Durie and Strode used men designated 'grooms' as batmen. It was only in the later 1840s that the state gradually came to the conclusion that such arrangements were unsuitable for police forces and imposed rules to prevent their practice.¹¹⁷

Anxious not to offend the commissioned officers upon whom it relied for 'state of the colony' reports, however, the government's 'rules' allowed latitude. Lieutenant-Governor Eyre initially ruled that Inspector Durie had misunderstood Grey's earlier permission for a policeman to be deployed as an orderly/servant: what had been intended was that the Inspector should utilise a private's services as 'groom' outside that man's normal hours of duty. But this was vague enough since 'normal' duties and hours were entirely as defined by the Inspector in any case, and a rider that constables were bound by the responsibilities of office at all times had similar lack of meaning within a paramilitarist organisational structure. Moreover the account of the ruling which reached Durie was a watered-down version of a New Munster Executive Council decision—which itself had modified Eyre's views by declaring that it was only 'extremely desirable' that privates not be employed in the 'private service of their Officers'. During the repercussions of the

Dunedin dog-shooting affair, Grey and Domett made no comment upon Strode's admission that he used a policeman as a personal servant at times. Naturally, then, the Sub-Inspector continued the practice, so much so that incidents similar to his three-day boating holiday occurred: in March 1852, for example, the Dunedin corporal and privates were sent to Port Chalmers to fetch friends of the Strode family whilst hard-labour prisoners languished in their cells for want of police guard.¹¹⁸

The Otago detachment was of course a special case. More typical was a compromise decision upon an application by McDonogh in 1851 to draw an allowance in order to pay a policeman to groom his horse outside normal beat duty hours: the allowance was declined but the Sub-Inspector was authorised, at least implicitly, to so employ the policeman out of his own salary. Such duties, then, were by the final few years of the Crown Colony period not considered part of the official duties of policemen; but there were exceptions and partial exceptions which allowed the stigma of servitude to survive. Paralleling this, and related to it, was the only very conditional decline in the wide-ranging powers of discipline wielded over their men by the Inspectors.¹¹⁹

At the outset of the Armed Police Forces the three Inspectors had in practice almost total control over their men, although this was based upon no law, the men being told only that they would be required to 'conform to the provisions of any Police Act to be hereafter passed'. Grey, when regularising his force, was alert to the danger posed to executive control by giving police officers too great an amount of power, hence the reserve weapon of the provision of the office of Commissioner of Police which was embodied in the Ordinance, along with the lowering of the levels of punishment which the Inspectors had awarded themselves the right to dispense. Despite this, discipline remained formally Draconian: Commissioners, commissioned officers and JPs could fine men up to £20 or gaol them for six months, could dismiss them for negligence or unfitness—and the Governor could get rid of them for any or no reason at all. It was true that the imposing of harsh discipline was often tempered by dearth of suitable replacements, but the stigma of being subjected—always in theory, sometimes in practice—to military discipline in non-warfare conditions continued to lower the attractiveness of the job in the eyes of potential recruits even when its wages were relatively high compared to those outside.¹²⁰

There was however a positive counterbalance which was partly successful in attracting suitable men despite all the drawbacks of life in the Armed Police Forces. In the course of the Legislative Council debate Grey had revived and strengthened—at least in

theory—the concept of rewards as a complement to wages. This had been omitted in the conception of the militarised police in April 1846, but by October the Governor was already looking ahead to the need for employing men able to make wise use of the discretionary potential given to all policemen. ‘Policemen are soldiers who act alone, soldiers are policemen who act in unison’, as Herbert Spencer later wrote with perception. When the APF’s activities had been orientated towards acting in unison there was no place for a reward system; now that the wielding of discretionary power should be a *sine qua non* of membership of the APF, particularly in the urban areas, the possibility of earning rewards was seen as a good way of attracting men able and willing to use their initiative as a means of supplementing meagre income.¹²¹

There were two components of the Armed Police Force reward system. The first was coupled to a discretionary payment in lieu of any pension: the government could under clause 13 of the Ordinance award men money ‘as a compensation for wounds or severe injuries received in the performance of their duty, or as an allowance to such of them as shall be disabled by bodily injury received, or shall be worn out by length of service’. This was of scant importance to men who were fully aware of the state’s frugality towards those who had served it faithfully at its lower levels, but the same clause also enabled payments to be made to constables ‘as a reward for extraordinary diligence or exertion’. The Governor had always possessed such discretionary power, but its incorporation into the legislation provided hope that it would be used less sparingly than in the past.¹²²

In the event however it was clause 11 of the Ordinance which became the principal means of rewarding the diligent, with the classical paramilitarist provision for the establishment of a ‘Good Conduct Fund’ (GCF). Whenever constables were by law entitled to the whole or a portion of a forfeiture, seizure or penalty, the amount would be paid into the GCF of each Force, as would all fines levied upon errant policemen. At the end of each year, upon the recommendation of the Inspectors, the Governor would distribute the money in the GCF to the ‘most meritorious’ members of the Force. The scheme was attractive to the soldier-policemen who had been enrolled, although it fell harshly upon the still operating Police Magistracy constables since reasonably prompt handouts of individualised reward moneys had remained important supplements to their wages. The reward system, then, was institutionalised as a result of the phased-in handover of ordinary policing from the Police Magistracy forces to the more militarised structure of the Armed Police Forces; individual devotion to the state which

went enormously beyond the bounds of duty could be rewarded under alternative clause 13.¹²³

Although Auckland's Inspector Atkyns was in many ways militarily rigid, he was soon made aware that the men whom he had inherited from the Police Magistracy force, those upon whom he relied to pass on the rudiments of beat policing to his soldier/constables, had depended upon the occasional receipt of reward money to supplement their incomes. He thus attempted to retain their services by reactivating the November 1842 instructions of the Colonial Secretary which allowed police a moiety of fines imposed under the Cattle Trespass Ordinance, straying cattle being one of the commonest breaches of regularity. This proved to be in vain, for Swainson ruled both that the original APF members were ineligible for such an award from the date of their enrolment and that the same applied to all other constables from the time of the passing of the Constabulary Force Ordinance. The Auckland Inspector tried a more successful approach in August 1847 by reinterpreting clause 13's 'extraordinary diligence or exertion' to include actions hitherto regarded as falling short of the necessary standard of merit. He obtained a £1 reward for each of three policemen who had captured deserters, and he entered the reward in the Order Book in both English and Maori in order to encourage the others. Both Domett and Grey recognised the benefits of such discretionary awards to individuals, and the practice was allowed to spread. But it remained untypical, for the government was loath to spend its resources except when absolutely necessary. When it did exercise its discretion in rewarding policemen it would sometimes raid the GCFs to obtain the money; alternatively it might allow money awarded individual policemen by courts to be retained by them rather than be paid into the GCFs.¹²⁴

Most of the men had only the GCF to look to as their source of revenue additional to wages. In September 1847, when the Auckland GCF was analysed, it was seen that individual policemen had compulsorily surrendered to it a total of £11 13s 6d from fines levied under the Dog Nuisance Ordinance, and £39 19s from the rewards accruing from the apprehension of 29 deserters and stragglers from the British armed forces, to take two categories alone. It was particularly galling for policemen to observe large rewards going routinely to individual officers in other branches of the state, while the fact that rewards to constables went into a general fund discouraged the judiciary from making awards to policemen. In the Bay of Islands in 1847 both Chief Constable Woods and the local customs officer headed boats chasing a barque which was then

stopped by a vessel entering the Bay; the customs officer alone was awarded half of the substantial fine levied upon the barque's captain for selling a musket to a Maori. Later in the year Woods worked up a case against a smuggler, but the sub-collector of customs received the award of £24 9s as the case fell technically within his jurisdiction. In both cases Woods' claims would have been reinforced had there been the possibility of the award being received by himself rather than by the GCF held in Auckland. Only in 1849 did the Commissioner of Customs agree, after long dispute, that where seizures were effected through police work two-thirds of the reward money should be paid to the police. Even so the fundamental grievance remained: the money went to the GCF.¹²⁵

In the southern Armed Police Force there was passive resistance by officials to the introduction of the Good Conduct Fund. Superintendent Richmond, aware as a former Chief Police Magistrate of the significance of the individual reward system, delayed the introduction of the GCF for as long as he could. When it was introduced, bureaucratic ineptitude ensued. Durie, splendid in his isolation up the coast, forgot to distribute the fund in 1847 and when in October 1848 he finally recommended an appropriate distribution, the New Munster government revealed itself to be ignorant of the very existence of the GCF. Indeed, Eyre and the Executive Council believed Durie's approach to be that of an application to establish such a fund, and this they unanimously rejected in favour of what they thought to be the status quo, the system of individual rewards. This latter system was 'more likely to stimulate the exertions of zeal of the men than leaving the recompense of unusual activity or good conduct to the delay and uncertainty which must attend the distribution of a general fund in the way provided for in the 11th Clause of the Constabulary Act.'¹²⁶

When Durie pointed out their error, Eyre and Domett were forced to concede that Grey's original instructions could not be overridden, although they took over physical control of the fund from the Inspector. But in considering Durie's recommendations, they discovered that he had violated the terms of reference of the Fund by including items that were compensations (for lost property resulting from a fire, for example) or even reimbursements—for men who had from their own pockets hired a canoe or bought utensils for barracks. It emerged that even Durie himself did not know that his privates were as individuals disallowed from claiming rewards proffered them by the courts, and it was for this reason that he had treated the GCF somewhat cavalierly. Well into 1849

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no reward distribution had been made, and the interchange of correspondence motivated Eyre to make a partial return to the individual reward system: from mid year the Lieutenant-Governor of New Munster could approve the award of a fifth of a fine resulting from a licensing offence to the policeman who was the informant. Within three weeks a private had earned £5 in this way, and a corporal £10.¹²⁷

Armed policemen, in short, both welcomed the existence of a reward system (especially those who had joined before the passing of the Ordinance) and resented the Good Conduct Fund as an inequitable mode of dealing out rewards. Even had the GCF been distributed annually as intended, the high turnover in the Armed Police Forces would have ensured that some deserving men missed out: it was distributed neither to men who had resigned, nor to those who had given notice of resignation. Distribution practices were uneven as between commissioned officers. White at Mangonui, without assigning reasons, was allowed by Grey in September 1849 to divide his sum amongst all eight of his policemen, whilst distributions elsewhere were limited to only some of the men. The right of executive interference, sometimes exercised vigorously, was a further point of grievance; when Baker in April 1853 recommended eight men for reward in Wellington, the Executive Council on Domett's intervention stripped James Hannah's award from him because despite being 'Generally steady and sober' he had one lapse into drunkenness recorded on his defaulter's sheet.¹²⁸

The sums available for distribution varied greatly between forces and detachments. Durie's oversight had meant that awards to police informants in liquor cases in his region had been paid direct into the Treasury rather than into the GCF; the total 1849 and 1850 distributions for New Munster therefore averaged only £14, the highest reward being a mere £1 10s per person. Although their Fund remuneration had more than doubled by 1853, the men still received less than did some of their colleagues elsewhere. This made all the more cogent the Wellington privates' resentment that NCOs always received more money from the GCF than they, regardless of who had contributed most to the Fund through court information. White's sergeant received £2 10s in 1849, his constables between £1 and £1 11s 6d; frequently the margin between the highest reward given to privates and the lowest given to NCOs was much greater still. In the hierarchy of distribution Maori privates, even if as in New Plymouth they had earned particular praise, always received less than European privates. The first New Plymouth distribution, in late 1849, was not atypical: £5 to Sergeant

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Halse, £3 to his corporal, £2 each to the four pakeha privates and 18s 3d each to the two Maori privates.¹²⁹

For ordinary policemen the GCF, although an effective recruiting drawcard, was poor return for an ill-paid job that was frequently accompanied by hardship and danger. Within days of the establishment of the first Armed Police Force a member had been killed in a shooting accident in the field; APF members were entitled to apply when, a quarter of a century later, the New Zealand Medal was instituted for those who had taken an active part in the various wars against the Maori. Even after cessation of hostilities great danger remained, particularly for police travelling in the bush, and by no means were all the dangers from hostile Maoris. Until 1849 there were no ferries on two large rivers on the main route between Wanganui and New Plymouth, and at other places on the coastal route north from Wellington ferry operators were frequently absent when police mail-carriers and messengers reached them: drowning presented the chief danger to pakehas there and elsewhere in the colony. Injury, illness or death of members of the police highlighted for their comrades the precariousness of the occupation. When a Lyttelton founding private Thomas FitzGerald drowned on 23 September 1851 on his way to apprehend some sailors, he left a pregnant widow who was 'both deaf and dumb and in perfectly destitute circumstances'. The New Munster Executive Council, all men of substance, graciously permitted her to collect her husband's pay arrears but declined the Canterbury Sub-Inspector's request for an allowance to be granted her. Instead, Resident Magistrate Godley was authorised to pay her up to £20 'if she is a person of such good character as to deserve this indulgence and is likely to make a good use of it.' In the event she was also granted passage money and temporary rations in order to join her mother and nine brothers and sisters in Wellington, but Grey declined to allow her free state medical attention during her confinement.¹³⁰

Even for serving armed policemen their original military benefit of free hospital care was removed in both provinces in mid 1849: 1s 6d in New Ulster, and 1s in New Munster, was now to be deducted daily from pay during hospitalisation, a serious erosion of police perquisites. Even then such subsidised medical care was only available at government discretion, and not until after a test case in New Plymouth in 1853 was the position regularised: subsidised care would continue but if a policeman remained in hospital for more than a fortnight he would receive only half pay, and the other half would be paid to the substitute whom he was obliged to find to

do his job. If he were hospitalised for too long, however, he was made redundant, a discretionary unwritten rule which had applied from the beginning. Police sufferers from venereal disease had their entire pay stopped during their hospital stay, a punishment for their wickedness.¹³¹

As the years went by economising measures added new layers of discontent to existing grievances. Pay continued to arrive late, especially in remoter areas—that of the Russell police was three months in arrears before the Resident Magistrate was decreed Sub-Treasurer, a development which itself only partly expedited matters. Late pay meant difficulties in meeting necessary work expenses and reimbursement might be months, even years, away. In some areas, and increasingly, men could not bear the burden of such expenses even if they were paid on time; Simeon reported in 1853 that this was the case with his Canterbury men who, with pay only half that of the asking price for labour, were 'barely able to maintain themselves at Head Quarters'. Rank and file armed policemen ordered to transfer suffered: long-distance transfer costs, such as from Wellington to Otago, were reimbursed in part, but not those for short-distance transfers, even for men with families. When Sergeant Styles was 'rewarded' for quelling police discontent in Wellington in 1852, the money did not fully cover the transfer expenses he had recently incurred.¹³²

Many New Munster men were doubly penalised as a result of McDonogh's acquisitiveness. John Dunleavy joined the police in 1852, applying a fortnight later to resign in order to leave for the Australian goldfields; his qualities were too much appreciated for his release to be contemplated and in September, as a corporal, he arrived in Wanganui to take charge of the town's detachment. There he was given by Durie a McDonogh cheque for £16 5s 6d, pay for the Maori policemen, and he cashed it with a storekeeper and distributed the money to his men. The cheque was not honoured; in civil litigation the storekeeper extracted a refund of the money from the corporal, and when the New Munster policing regime went out of existence Dunleavy was still attempting to obtain reimbursement. His loss was exceptional only in its size.¹³³

A minority police reaction to inadequate pay and conditions was to resort to theft. A Wanganui corporal in 1850, for example, kept for himself a £6 payment to Chief Poaha, who acted as unofficial 'friendly' policeman at a key point on the coastal road north, the money being nominally payment for his tribe's ferrying of police mail-carriers. More significant and widespread was an increasing propensity for armed policemen to 'combine' and agitate for better wages and conditions. This was strictly forbidden under paramili-

tary discipline, and early manifestations of it in 1846 in Auckland had of course been dealt with by Grey in a harshly exemplary fashion. But by the final quarter of 1852 there was considerable agitation among the police in Wellington, the result of the rising spiral of prices consequent upon news of the Australian gold discoveries. Whereas labouring wages rose accordingly, the policemen were entrapped by their conditions of service to continue at 3s 6d per day, a sum they said was insufficient to purchase the necessities of life.

On 2 October Sub-Inspector McDonogh notified his superiors that 11 of the 13 privates in the town force, including the two Maori constables, had declared themselves on strike until their pay was raised to a daily rate of 5s. They considered that the 'severe punishment' to which they had exposed themselves under the regulations was preferable to becoming hopelessly indebted to local businessmen. Moreover they knew that the state would not be able to find suitable replacements at the low remuneration offered under existing rates of pay. A foretaste of the difficulties which their 'insubordination' could present to the authorities came that very day, when two prisoners escaped from the hard-labour gang and there were no constables in the vicinity to prevent them getting clear of town. Negotiations with the strikers therefore quickly opened, and a delegation of the men waited upon Governor Grey himself. Upon the urging of Styles, who acted as intermediary, the men agreed to return at once to work upon receiving the Governor's assurance that he would give due consideration to a petition outlining their grievances. A committee of seven set about encapsulating their claims and arguments in the form of a memorial.¹³⁴

The Canterbury police had also protested that year, particularly about compulsory purchase of their very expensive uniforms, and because of Sub-Inspector FitzGerald's backing they had been given a dispensation. But they too were increasingly affected by the rise in the prices of necessities. At Christmas Corporal Seager of Lyttelton and his six privates, encouraged by their own precedent of successful agitation and by the impunity with which the Wellington men had combined, forwarded their own petition for a pay rise and FitzGerald endorsed its sentiments. Their evidence was well marshalled: a pound of butter cost more than half a day's police wages, boots more than a week's pay, trousers six days' wages. The policemen of necessity incurred expenses not shared by labourers who earned at least 4s per day, for they were required to be 'tidy and respectable' in appearance and were subjected to travel and other duty expenses. In early 1853, while Grey was still supposedly

considering both petitions, a short-term fall in general prices occurred which provided the Governor with sufficient reason to induce the Executive Council to reject the demands.¹³⁵

By the middle of that year policemen's wages were again being left behind by both outside wages and prices. In Canterbury the outflow of labourers to the Australian goldfields meant that Henry Sewell had to pay 6s per day to obtain a gardener, that Akaroa sawyers could earn up to 10s per day, that if the time and place were right harvest workers could earn £1 per day. 'Oh for a flood of English poor!' lamented Sewell, officer in charge of the Canterbury Association's affairs at the settlement. The regularity of privates' 3s 6d per day did not compensate for the difference between it and the 5s which could now be earned by the 'lowest' labourer: eggs could cost up to 3s per dozen, a pound of inferior meat 8d. There were similar problems in Wellington, where no dispensation from uniform purchase existed and where Sub-Inspector Baker hampered the efforts of desperate men to get themselves 'sacked' by levying stiff fines of up to three guineas to accompany dismissal. On 6 June 1853 some Wellington privates began to circulate in the North Island portion of New Munster a petition drawn up by Private John Adlum which requested that the government 'put us on any thing near the wages of a labouring man' as well as provide warm clothing for winter duty.¹³⁶

Whereas with the previous Wellington-based petition Grey had been able to play for time, on this occasion the situation was crucial for within a short period from 1 July most of the police would have served their yearly contract and could claim their discharge. Baker, with no replacements forthcoming, had already kept unsatisfactory men in the force, a course of action in which the government had reluctantly acquiesced. In response to the 'strong statement used by Major Baker' as to the need to placate the men, Grey had no choice but to succumb to the informal police 'union' which had been established: until prices fell, the police of northern New Munster would receive an extra 6d per day. It was an historic gain but, to emphasise that it was a grudging state concession to pressure in exceptional circumstances, Grey acted vindictively towards the leaders of the petition movement, declining to renew their contracts. To make it harder for Adlum to gain state employment again, he was dismissed rather than merely discharged.¹³⁷

Nevertheless, the majority of New Munster's North Island and Canterbury men had on two occasions apiece defied the anti-combination regulations of their Armed Police Force and survived. It was a completely different situation from that which had prevailed in the early years of the force, when policemen were dismissed at

will for much lesser 'offences' than that of combining. Private William Martin had in 1848 suffered greatly from an act of kindness on his part in allowing a hard-labour prisoner working on the Karori Road from Wellington to go into a ravine to quench his thirst from a stream. Because the man then escaped Martin, despite a good record during the entire existence of the Armed Police to date, was dismissed. To gain readmittance the ex-private tracked the escapee to Ahuriri, captured him, and returned him to Wellington two months after the dismissal, whereupon Eyre 'rewarded' him by allowing him to rejoin the force—when a vacancy arose. Some punishments were seen as more severe than that of dismissal: later that year two New Plymouth privates who had allowed a deserter to escape were ordered to pay £28 recapture expenses.¹³⁸

Circumstances had begun to change when from 1849 the overall inflationary trend gradually made suitable recruits harder to find. At first the problem was gravest in Akaroa, but by late 1851 it had long been a widespread lament that only 'inferior men' could be found—'and even upon them we have not a very good hold'. In 1852 the corporal in charge of the Lyttelton detachment, elderly Peter Cameron, was declared 'wholly unfit' by Sub-Inspector Fitzgerald; neither 'active nor efficient', the man was dismissed for the 'gross breach of discipline' of failing to report a private for being drunk and disorderly. But so desperate were the authorities that Cameron was at once reinstated as a private. By the end of that year, at the time when the Lyttelton men were petitioning the New Munster government, Commissioner Beckham in Auckland was unable, since the current asking price for labour was 6s per day, to find replacements for men whom he had dismissed or discharged. He was able to keep the bulk of the force together only because most contracts had been recently renewed, but by the beginning of September 1853 he was alarmed: one man had been released upon expiration of his contract, and nine more would be able to claim discharge within weeks, at a time when the minimum free market wage was still 1s 6d per day above that of the police. It was with relief that the former New Ulster authorities passed on the problem to the government of the newly functioning Auckland Province on 1 October.¹³⁹

When the various components of the New Munster and New Ulster Armed Police Forces were reshaped into the autonomous forces of six provinces in 1853, there was handed on not only continuity of personnel but also continuity of operational framework. At the

time of the passing of New Munster's 'Efficiency Ordinance' in 1849, it had been realised that punishments upon policemen levied under the 1846 Ordinance had technically been illegal, since the regulations had never been promulgated by the Governor as required by clause 3. This had spurred the southern government into ordering Durie to revise the existing rules, bringing them into line with the decreasing emphasis upon military discipline and the increasing emphasis upon beat policing in urban areas. Durie had produced a draft by early 1850 but, because Grey decided that any such rules should be universally applicable to all New Zealand police—there being in statutory theory one constabulary body headed by the Governor-in-Chief—opinions on the draft were solicited far and wide. It was not until July 1852 that the theoretical and organisational foundations of the Crown Colony's armed police forces—and those of their successors—were published in the resultant first colony-wide policing manual, *Rules and Regulations of the Constabulary Force of New Zealand*. Even if they were not used *in toto* by the forthcoming provincial forces, they set the tone; Sub-Inspector Baker, for example, was to condense them into a regional set of rules for Wellington Province.¹⁴⁰

The 117 clauses of the 1852 manual fused a variety of policing concepts ranging from principles borrowed from the Metropolitan and Irish models through to minutiae reflecting recent rulings by Grey. The men were reminded of their primary role in patrolling the countryside—the passing on to their superiors of 'immediate intelligence of whatever affects the peace of the district', and its corollary requirement of being constantly on the watch for 'all outrages, or other matters connected with the tranquillity' of the area patrolled. Through the rank and file their commissioned officer—and ultimately the government—would 'acquire a perfect knowledge of his District and its inhabitants generally'. In the urban areas the private duplicated this function on a smaller scale, making himself 'thoroughly acquainted with all parts of his section, or beat; of which, and its inhabitants generally, he may in time, by diligence and activity, acquire a perfect knowledge.'¹⁴¹

The military origins of the Armed Police Forces had not been forsaken. The requirement of strictest obedience to orders pervaded the *Rules and Regulations* and even if orders seemed 'unlawful, or improper' the correct course was to obey them and complain later. Not that complaint against superiors was anything other than risky in the extreme, for the principle was that of the 'benefit of every possible doubt given to the accused party', and every 'frivolous or groundless complaint' against a higher member of the hierarchy was interpreted as a 'grave offence against good order

and discipline'. Policemen were forbidden to: voice religious or political opinions 'which may in the slightest degree be calculated to give offence', 'meddle' in 'political or religious discussions' or vote, write to newspapers without permission, leave their barracks or station without notification, go further than quarter of a mile from the station without permission of a commissioned officer. The ultimate value of programmed subservience, of instinctive soldierly response to command, was incorporated: 'it being essential that, in the event of the Constabulary being called upon to act in a body, they should be in a condition to do so with some degree of regularity and steadiness.'¹⁴²

Yet the *Rules and Regulations* were also essentially reflective of the evolution of New Zealand policing away from the coercive end of the continuum of official control: in the final analysis there was more of the Metropolitan than of the Irish model in them. Policing of town and countryside was equally important, but the emphasis was upon the enormous discretionary powers held by constables, a phenomenon which had first emerged as characteristic of urban 'new police'. Increasingly, privates in the police were 'soldiers acting alone' and therefore needed to be trained in instant decision-making: whether a citizen intended to commit a crime, whether there was a possibility of a breach of peace occurring, how to avoid the 'evil consequences which probably might follow any irritation caused to Chiefs, or powerful natives'. The crucial role of the NCO in such training and in the monitoring of policing performances, a fact instinctively realised by McLean even when totally new to police work, was acknowledged. For the next hundred years it was to be a truism in New Zealand policing circles to refer to the NCOs as the 'backbone' of the police service. Quite apart from handling the great bulk of police work in court, they collated the intelligence provided by the privates and passed it to higher levels of the state; they conducted daily surveillance over privates and had the duty to train them into being model citizens, paragons of 'utmost cleanliness and regularity'. In turn, privates were exhorted to 'submit cheerfully to discipline', and to study hard so that they too might become NCOs: 'Every Police Constable in the Force may hope to rise by activity, intelligence, and good conduct, to superior stations.' The very vagueness of this clause, moreover, pointed to the most dramatic departure from the past: it did not preclude—indeed, was designed to facilitate—a development which was soon to begin to occur, men of 'low birth' working their way up from private to commissioned officer. This phenomenon was to mark the definitive transition in New Zealand from quasi-army to bona fide police.¹⁴³

The theoretical developments in New Zealand policing which were reflected in the 1852 *Rules and Regulations* were of profound significance in reflecting the reality of overall trends. Even so the continued, if varying, chasms between theory and practice, between the manual and the street, cannot be overlooked. The regulations, for example, stressed that the most important attribute of a constable was 'perfect sobriety', and to prevent 'so degrading a vice' as drunkenness even off-duty men were forbidden to 'frequent public houses, or tap-rooms'. 'Nothing degrades a Police Constable so much as drunkenness; nothing reflects so much discredit upon the Force, nor is any other fault so soon observed by the public: upon no occasion, therefore, nor under any circumstances whatever, will the Inspector pardon the crime of drunkenness.' Had the rule been strictly enforced, there would have been very few policemen in the colony! The miserable conditions of policing, some of them endemic to the occupation, some to life in a new colony, but many of them resulting from government frugality, exacerbated the drinking habits of the working-class (and the smaller numbers of lower middle-class and lumpenproletarian) men who joined—habits themselves largely the products of the despair of poverty.¹⁴⁴

The aggregate picture of the living and working conditions of mid century New Zealand policemen which has been presented remains broadly valid for the police forces of the 'Provincial Period' of government: where significant developments or divergences occur, these will be explored. Because of the localised nature of early colonial policing, and its specificity—in a period of rapid local, regional and colony-wide changes—to time as well as to place, it is not possible to paint a word portrait of a 'typical' policeman of the era beyond the composite image already presented implicitly as well as explicitly. Instead, the career of a policeman 'typical' by dint of the very atypical circumstance of his post—at the head of the only civil force which survived, *de jure*, the introduction of the Armed Police Forces—will be sketched: it is an authentic saga of its times.

The early career of Englishman Joseph Zillwood, born in 1808, had been that of itinerant jack-of-all-trades from asylum attendant to coffeehouse keeper, although his main occupation was that of agricultural labouring. He arrived with the pioneer New Zealand Company immigrants in Port Nicholson in April 1840, later joining the police. When Wellington Resident Magistrate St Hill was requested to provide a Chief Constable for Akaroa in 1849, both the knowledge of the French language which Zillwood had acquired when working in France and his good record of conduct in the Wellington force helped to ensure that he was offered the position.

By then he was a widower with three young children, and on the strength of his apparent promotion the private put his daughter and younger son in care and his 10 year old son out to work, and sailed from Wellington for Akaroa with the intention that his children should soon join him. Upon arrival, after a voyage lasting weeks and fraught with hardship and danger, he discovered that his 'promotion' actually provided a lesser salary than that which he had earned in Wellington—and yet the cost of living was higher. He had to abandon early prospects of sending for his children, particularly when required to vacate the rent-free premises which Resident Magistrate Watson had initially provided for him; he could not afford to pay the impoverished Hutt small-farmer with whom he had left his two younger children the amount necessary for their upkeep, and remarriage did not help his financial problems. When the Hutt farmer petitioned the New Munster government for relief, the Chief Constable was reprimanded for his 'improper' behaviour. Only after the government made compulsory deductions from his pay packets was sufficient money saved to pay for the passage of his youngest son to Akaroa and in 1853, after the son had died, of his daughter.

Meanwhile the vicious circle common to the lives of many policemen had begun for Zillwood: financial problems had led to depression, depression to drink, drink to financial problems of greater magnitude, and his wife then left him. After the establishment of provincial government Zillwood was made redundant, without compensation, by the Canterbury politicians and he attempted to make a scanty living from farming at the head of Akaroa harbour, doubling as proprietor of a rude dwelling he called an 'inn' and falling even more deeply into debt. In October 1854, with the only other 'occupant' of his primitive accommodation house his 10 year old daughter, he shot himself in the head with his police pistol. Whilst lingering on in great pain for several days he told Watson, who had always regarded him as an excellent policeman, that the circumstances of his life had made him 'broken-hearted'. The coroner's jury, all men of substance the protection of whose property had been Zillwood's major task, decided that his final act of despair had 'feloniously' violated the 'peace of our said Lady the Queen her crown and dignity'.¹⁴⁵

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