

invited guests attended. When local authorities denied the *Rainbow Warrior* the right to moor at the town center, antinuclear protesters mounted barricades at entrances to the capital, blocking traffic access for three days.

Flosse's response to these developments has been that the best form of defense is attack. He charged antinuclear protesters with deliberately using the test issue to destabilize his government and to promote the pro-independence cause. In the face of virulent antinuclear protests from Australia and New Zealand, Flosse accused those two countries of inciting Pacific Island hostility to the French presence in the region.

Overall, developments over the past year have strengthened the position of Flosse and Tahoeraa. Their majority in the Territorial Assembly was reinforced by the Here Ai'a defectors and by Ai'a Api changing sides. Tahoeraa's fortunes received a further boost with the election of its favored candidate to the French presidency, followed by a strong performance in the municipal elections. In addition, the opposition was in disarray. With the virtual demise of Juventin and Here Ai'a, and Alexandre Léontieff languishing in prison, Tavini constitutes the only organized opposition. Yet Tavini's influence is constrained by holding just 4 seats in the 41-seat Territorial Assembly. The one factor detracting from Tahoeraa's grip on territorial politics is that the government, and Flosse personally, have become associated with the unpopular decision to resume testing. Nevertheless, a pronuclear position has not done Flosse much harm in the past, and the Tahoeraa

party appears well placed for the territorial elections due in 1996.

KARIN VON STROKIRCH

MAORI ISSUES

During 1994, the New Zealand government sorely tested Māori patience in respect of settling grievances arising from breaches of the Treaty of Waitangi. On Waitangi Day (the day on which the signing of the Treaty of Waitangi and the birth of the nation of New Zealand is commemorated), 6 February 1995, Maoridom's anger boiled over for all the world to see and the commemorations at Waitangi had to be truncated. In the months that followed more than twenty instances of different tribal groupings taking over and reoccupying lands that had been stolen from them were reported in the national media. Many more took place quietly, away from the glare of media attention.

For the first time in many a decade Māori were almost totally united on an issue. The country had watched the government's stance move from a swaggering confidence that it had finally found the solution to Māori grievances, to hurt and bewilderment as one by one each of the major tribal groupings totally rejected the government's proposals for settlement, to outbursts of indignation at increasingly vocal Māori demands for Māori sovereignty, and finally, to a very quiet admission that they had totally misread and underestimated Maoridom.

Seeds of Māori discontent with the present government had started to mature in 1992 over the settlement of

fisheries claims. The Māori negotiators were men chosen by the Crown and none of them held or sought a mandate on the final terms of the settlement. Negotiations were reportedly conducted with strong emotional overtones. Such simple commercial considerations as the size and value of the fishing resource, and a careful examination of the viability of either the international fishing industry or the fishing company purchased as part of the settlement deal, were accorded very little attention.

The settlement deal exchanged the exclusively Māori right to a multi-billion-dollar fishing resource for a NZ\$150 million half share in the fishing company, 10 percent of all fishing quotas, a Crown-appointed commission to allocate the quota among the tribes, and a reduction of customary fishing rights from full protection under the law, to regulations to be promulgated by the minister of fisheries. Despite a huge outcry from many tribes once Māori gained access to the Deed of Settlement, the government and the negotiators remained firm, and legislation was rapidly put in place preventing any further legal action by Māori against the Crown in respect of commercial fishing rights.

Then early in 1994, Māori had the option of enrolling on the Māori electoral roll. In the past large numbers of Māori have simply not taken part in general elections and were not registered voters. The advent of the new system of mixed member proportional representation was seen as an opportunity to improve Māori participation in the electoral process and increase the number of Māori seats in Parliament

from 4 (out of 96) to possibly 7 or 8 (if all eligible Māori adults were to register). However, the opportunity for Māori to register was very poorly advertised, and at the end of a very short period allowed for enrollment, the number of those enrolled had increased sufficiently to allow only one extra seat. Despite Māori protest and (unsuccessful) legal action, the government refused to reconduct the enrollments to ensure proper coverage of the Māori population. Māori discontent with the government's attitude was increasing.

Throughout 1994 rumors emanated from Wellington about Crown proposals being drawn up for the settlement of Treaty of Waitangi claims. However, Māori, whether tribal representatives or state servants were not permitted to take part in drawing up the proposals. Alarm grew as very oppressive and divisive parts of the proposals were leaked to the media. In October an excivil servant of the Ngāti Kahu tribe of the north, Mike Smith, successfully brought the matter to the nation's attention by attempting to cut down a very prominent tree on the Auckland skyline, the lone (nonindigenous) pine tree that stands on One Tree Hill. The incident caused outrage in Auckland in particular, but the media also gave very good coverage of the reasons for the protest.

Although some Māori condemned the action, most gave strong support to the political statement it made about the government's refusal to give proper consideration to the settlement of the more than five hundred claims currently before the Waitangi Tribunal. Only approximately 15 percent of

these claims have been investigated and reported on. The great majority of the reports from the tribunal have been a great embarrassment to the Crown, and they clearly wish to avoid any further information about breaches of the treaty being publicized through this forum.

In early December the government published its *Crown Proposals for the Settlement of Treaty of Waitangi Claims*. Maoridom's worst fears were confirmed. The proposals sought to restrict the investigation into and settlement of all treaty claims to a process of direct negotiation between Māori and the Crown. But the proposals stated that the Crown would completely control the negotiations and settlement process and that essentially once the Crown had decided what each tribe could have in compensation for breaches of the treaty in their particular territory, that would be the end of the matter. Māori would have to forgo any and all legal remedies once they started to talk to the Crown, but would have to accept that before the Crown started talking to them, it would have already decided what the settlement would be. Tribes, however, would not know what the proposed settlement was before they talked to the Crown. All tribal settlements would be full and final, and tribes could not return in later years once other breaches were uncovered. This condition was proposed even though most tribes have still to carry out research on the full extent of the breaches in their areas.

The Crown would then consult with different tribes regarding what they thought the extent of another tribe's

settlement should be, a clear attempt to set tribe against tribe. Furthermore, although the present law allows only Crown land to be used to settle claims, most of that would not be available to be used for settlement. The proposals simply decreed that lands held for "conservation purposes," which amounts to one-third of the country, would not be available for settlement. It is no coincidence that most tribal claims include large areas of "conservation" lands.

Likewise the Crown would not return natural resources such as water, river and lake beds, geothermal energy, foreshores and seabeds, sand, shingle, and minerals, even though the treaty guaranteed Māori full, exclusive, and undisturbed possession of everything they valued. Similarly lands that Māori had gifted in the past for certain purposes, but had been sold or used for other purposes by the Crown, would not be returned unless particular restrictive conditions were applied.

The final insult came when a fiscal limit of NZ\$1 billion dollars was put on the total value of all assets returned (including the 1992 fisheries settlement) plus the expenses associated with bringing the claims and reaching a settlement. By the time the *Proposals* were published, over one-third of that budget had already been expended. Within four months a tribal settlement of NZ\$170 million reduced the available settlement pool to just over half a billion dollars.

The government naively misread the initial silence over their proposals as indicating a measure of acceptance. Late in January 1995, Sir Hepi Te Heuheu, the paramount chief of the

Tuwaharetoa tribe of the central North Island convened a national *hui* (gathering) of all tribes to discuss the proposals. Tuwaharetoa has never lost its *mana ariki* because they were one of the very few tribes who managed to retain their land base. At the *hui* Maoridom indicated very clearly that they found the proposals most insulting and unanimously rejected them. They called for some basic changes to the country's constitution so that these matters could be properly dealt with.

The government responded by referring to the people who attended the *hui*, who included a great many of Maoridom's elder statesmen and women, as a bunch of radicals. Those leaders chose not to get into a personalities slanging match and simply did not respond to the insults. But the insults were not taken lightly, and Maoridom's anger boiled over for all to see at the Waitangi Day celebrations the following week. Protesters successfully disrupted the proceedings, replaced the New Zealand flag with a Māori independence flag, taunted and insulted the prime minister and other members of his cabinet in attendance until the minister of Internal Affairs finally canceled the rest of the proceedings.

The media went into a frenzy, with wildly varying reports of what had happened. The prime minister vowed to abolish Waitangi Day and attacked Maoridom for not keeping its radicals under control. Threats of prosecutions against protesters resulted in only one arrest. A conviction for spitting at the governor-general was later achieved by the Crown, and the protester was eventually jailed for six months. Māori

commentators noted that it appeared that this one person had had to bear the brunt of Pākehā anger for what had happened at Waitangi and that, in deciding the sentence, scant regard had been paid to the far worse indignities and atrocities that Māori had experienced at the hands of the Crown over the past one hundred fifty years.

In the months following Waitangi Day a series of occupations took place where different tribes in different parts of the North Island publicly reoccupied lands that had been stolen from them. The media again went into a frenzy, with demands that occupiers be removed. Initially some authorities signaled that they might use heavy-handed tactics. All that achieved was huge influxes of supporters, both Māori and Pākehā, from all parts of the country, to assist the occupiers. At one site in Auckland, however, occupiers were forcibly removed in full view of the media. The result was that private purchasers to whom the government had offered the land refused to complete the sale.

In March, despite the obvious outrage of Maoridom at its proposals, the government embarked on a series of consultative *hui* around the country to get a "true" gauge of Māori opinion. Only at this stage did the government call on its Māori state servants to assist with the consultation process. Staff of the Ministry of Māori Development were sent ahead of ministers in an attempt to smooth the path for them. These staff came under severe attack wherever they went, and reports appeared in the media about them suffering from "battle fatigue." Within six weeks of the end of the consultative

round, the chief executive of the ministry announced his resignation.

At every one of the thirteen *hui* called, the proposals were once again rejected. Slowly, the minister of treaty negotiations started to concede that maybe the government had misread the situation. He acknowledged that Māori did not accept that conservation lands could not be used for settlement, or that gifted lands should only be returned under certain conditions. He also accepted that the Crown alone could not determine and control the negotiation and settlement process. He went as far as saying that Māori self-determination and a Māori parliament were not pipe dreams and deserved serious consideration and open debate by all New Zealanders. But the prime minister was quick to squash any notions of Māori sovereignty, stoutly declaring that there could only ever be one Parliament and one law for all.

By late May and June the government was sending out feelers to see if it could perhaps settle some of the bigger claims before next year's general election. Again it chose to seek the advice of the fisheries negotiators it had chosen in 1992, but this time the tribes moved to stop those individuals selling them out again. At present the media is reporting major disruptions among some tribes as they try to rein in leaders who no longer hold the tribal mandates they may have had five or ten years ago.

MARGARET MUTU

NIUE

The year 1994-95 was one in which political partisanship took new forms in Niue's politics. In December 1994 the 20-member Niue Assembly became deadlocked when the opposition failed to pass a motion of no confidence. The 10-10 vote came in what was the third motion of no confidence brought against the administration of Premier Frank Lui in 1994.

The first, oddly enough, resulted in the government retaining office with an increased majority (Levine 1995, 157-158). A second motion, introduced in the Assembly in November 1994, embraced somewhat convoluted logistical, constitutional, and political calculations. As has occurred previously, the motion was submitted while Cabinet ministers were overseas. Because Niue's constitution (section 6 [2]) provides that the motion must come before the Assembly within ten days, the two ministers, Terry Coe and Sani Lakatani (half the Cabinet), were able to return to Niue, and so save the government from defeat, only by catching the one flight per week to the island. Matters became more complicated when Lakatani, who had lost his finance portfolio during a Cabinet reshuffle in October (he retained responsibilities for economic development), resigned from the Cabinet on 8 November, two days before the scheduled debate on the no-confidence motion. That debate never took place, however, as Niue's chief justice upheld a challenge to the vote that had been filed in the High Court by Premier Lui. Justice Dillon ruled that the motion of no confidence was unconstitutional