PUBLIC LIFE

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From Public Service

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PREFACE

All eras have their moments and, now looking back to watershed changes in New Zealand, the last quarter of the 20th Century (from 1975 – 2000) was no exception.

At the commencement of the period, there was something of a battleground between two war-like schools of economic thought.[1] In response to declining prosperity (due largely to external factors), there were those who thought that Government control of the economy by regulation would preserve standards of living and that fostering 'Think Big' governmental projects was the panacea for a recovery. Others felt that private endeavour was the answer, along with de-regulation, the abolition of subsidies and the lowering of frontier barriers. When it was their turn, with the opening up of New Zealand, the country became less cosseted, more outward looking, more in touch with reality and more part of the world. Gradually, from extreme economic policies, a more pragmatic approach to economic organisation emerged.

It was also a time of significant constitutional change which arose in response to a deep feeling of distrust of politicians. National's interventions in the economy (led by Prime Minister Robert Muldoon) and Labour's de-regulation (by Minister of Finance Roger Douglas) meant that the Parties were wearing each other's clothes. Then, in the Nineties, broken election promises, seemingly

cynical and self-serving, added to the dissatisfaction. It became widely felt that a vote counted for nothing and that there was effectively dis-enfranchisement. There were calls for referenda but the Citizens Initiated Referenda Act 1993 in response was non-binding and difficult to initiate – it was seen as token only and continuing frustration led to a binding Referendum on the voting system. In the result, notwithstanding strong opposition by most politicians, the people changed the voting system from First Past the Post (FPP) to Mixed Member Proportional (MMP) – thereby providing a curb on political power by encouraging wider representation for minority interests.

There was also agitation for and the eventual acceptance of the Treaty of Waitangi as the founding document of New Zealand. It was followed by a commitment to reparations for Maori historic grievances, thereby helping pave the way for the development of race relations based upon increasing recognition and inclusion. Further, due to prior immigration policies (where many new and ethnically different newcomers had been admitted for skills other than rural) there was a start to a leavening of the Anglo-Celtic majority and of rural predominance as the presence of the newcomers began to be felt. A different country, with increasingly diverse business and cultural influences, was beginning to emerge from the homogeneity.

Driven by the perception that change was necessary and desirable, much of this innovation came from individuals, singly and collectively, sometimes in direct response to political decisions or from a hiatus of leadership. The resulting legacy and impact of the changes may still be too early to judge, but I believe that they promoted and enriched New Zealand as a country. Somehow, circumstances and collective (but not universal) wisdom, gradually, narrowly and uneasily, took the country in significant new directions.[2]

These reminiscences of the times endeavour sympathetically to provide a selection of personal insights and are remembered from the perspective of a participant in and observer of public service[3]

who had the good fortune to be involved in a wide variety of ways.[4] They are not recited for justification, nor to be contrarian, nor to 'spill the beans' – that might have been mildly satisfying but would add little to advancement of the public weal. It has been suggested often enough that I should record the experiences before they are lost or perhaps my friends, being polite, thought that during lockdown I should use my time usefully, or even that it was while I was still able to remember. But if I do not, as they have said, 'no one will ever know'.

In writing this, I was reminded that my roles and experiences in public life have given me great pleasure for which I am hugely grateful. It was also a delight to recall many things I had almost forgotten.[5] Vicissitudes aside, it is gratifying that service to the community could be so enjoyable.[6]

John Collinge
December 2021

I

ANTECEDENTS

From both my parents I learned that all my forebears had come early to New Zealand and that I was a fifth generation New Zealander on all sides. With that somewhat unusual background, I could hardly be anything other than intensely loyal to the country to which they had come and helped contribute at the outset. It immediately provided a reason and an incentive to continue that contribution.

Forebears

My forebears were English, Scots, Welsh and Irish but, by 1840, nearly all had ended up in England. They then came on to New Zealand – from Cornwall (Plymouth) to New Plymouth (in 1840), Dorset to Taranaki (1841), London to Wellington and then Wanganui (1842), Lancashire to Auckland (1847), Yorkshire to Fendalton (1850), North Wales to Banks Peninsula (1859), London to Christchurch (1862) and from Bristol to South Canterbury (1878) – all gradually in the next generations finding their way to Hawke's Bay.[1] It was widely said that if you wanted to find a 'British' person, from the four home countries, you had to come to the colonies.[2]

As might be expected for the times, their occupations were practical and diverse – farmers, wool scourers, blacksmiths, tailors, engineers and merchants. Not surprisingly too, it included soldiers

for security (Maori initially outnumbered Europeans and were well armed and experienced fighters) and also missionaries (one of the objectives of systematic settlement being to 'Christianise the natives').[3] Along with many others of similar background, the immigrants were the initial European builders, largely from scratch, of the fledgling country.

Four of the families were working class – propelled to New Zealand by what was known as the 'condition of England' – the severe economic hardship experienced in rural areas and from the steady decline of the cloth, metal and timber industries since Waterloo in 1815. With the Industrial Revolution, the exodus from country to the towns was still occurring but these settlers chose more distant climes and ground-floor opportunity. Most came on passages paid for by others (such as by the Lord of the Manor – to save mouths he would otherwise have to feed; by the Plymouth and New Zealand Companies – to encourage the skills necessary to create a Britannia of the South Seas; and by the Army – to save it from dismissing soldiers who by then were no longer needed). They were selected for passages because of their service, for skills useful in a rural and remote context and because their religious affiliations and behaviour might have reflected that they were 'worthy'. It seems that the push factors were very much stronger than those of the pull.

The other four families were gentry – some minor and some not so minor. In each case, the reason for their emigration was a significant trauma or need in the family – why otherwise would they leave privilege and a civilised England for hardship in a new land? One family had lost a fortune due to a business endeavour gone wrong (the flooding of the Severn tunnel); one sent a prodigal son (a drunkard and a spendthrift) to the colonies to save him from embarrassing his upwardly mobile and significant family; one was disowned from a Quaker family for 'marrying out', thereby losing his inheritance and having to fend for himself; and another had the misfortune of having nine daughters who needed marriage partners,

then scarce in England but plentiful in New Zealand.

In England, it would have been virtually unheard of that the two groups might intermarry and this was so in New Zealand, until my father (from the working-class side) and my mother (of the gentry-side) married – but by then it was a marriage of equals, of Head Boy and Head Girl at Hastings High School.

Growing Up

Upon leaving school at the time of the Great Depression, my parents were fortunate to obtain safe jobs. My father became a Clerk in the Justice Department at Napier and subsequently narrowly avoided a call up for the Second World War on account of his age. They had a family of five children of whom I was the eldest, born in 1939 possibly in haste, and most of the others during the War. This family obligation made it hard to change occupation and my father remained a civil servant, first in Wanganui and then in Paeroa, changing towns in pursuit of promotion. It was a safe but not affluent way of life.

Growing up in a small country town in New Zealand in the late 1940's and early 1950's had its privileges. It was an era of growing prosperity (due to the wool clip, dairying and meat). Security was assumed – doors of houses were not locked and there had not been a murder in the area for 50 years. Some were better off than others but there did not seem to be huge differentiation – I did not feel disadvantaged by growing up and living in a State House. Maori, who made up some 20% of the population seemed to be part of the community – in a town of 2,000 people, it was difficult not to have cognizance of and social contact with all. Communities in small towns were rather better (than say cities) in accommodating and assisting those who did not quite fit or who had some special need or dependency. Above all, it was important not to stand out too much, nor to allow any suggestion that you were better or different in some way from the rest, otherwise you would be quickly shot

down and brought back to earth – there was a levelling rather like that of a steam roller.

It was best not to display academic prowess but, in a farming community, practical skills and sport were acceptable and valued. Sport seemed to rule – my classmate Mirth Te Moananui eventually played netball for New Zealand and she was held up, very properly in all respects, as the role model for the School. Due to the shortage of women in the farming community, most of the girls (except a few who escaped to Auckland) were snapped up and married very young. In social matters, in small towns everyone knows your business and what they did not know made up. With not much of note happening, gossip was a principal currency.

What I took from the town were the pre-occupation with the practical rather than theory; the straight-forwardness rather than subterfuge; the levelling and conforming mindset rather than differentiation and standing out; the recognition of the contribution of everyone whatever the vocation and, importantly, the respect accorded to all that that entails. Experienced in formative years, these tend to stay with you.

University

When I was 15 my mother sadly died, my father was valiantly continuing to bring up my four younger brothers and sisters,[4] and I left to work and support myself in Auckland. None of my forebears in New Zealand had had a University education but, tentatively, I enrolled for two subjects to study part-time. Among full-timers and those from prestigious schools like Auckland Grammar and Kings College, I felt in awe of their self-assurance and education and overawed by the surroundings. More disturbingly, I often found that I could not understand a word of what the Lecturers were saying. But the only options were to sink or to swim and I was encouraged by passing the two papers without distinction and became a junior member of a cricket team.[5] This made me realise that application

was required and, in sport and study, I did what I could in the evenings after work. Being quiet and reticent, and almost invisible for some five years, my contemporaries and peers gradually started to recognise my existence when, to the surprise of everyone, including myself, I graduated as Senior Scholar in Law and for two years was Captain of the New Zealand Universities Cricket XI.

The two in tandem enabled me to win a scholarship to Oxford University.[6] Having to choose a College, I found that Balliol, University and Wadham were particularly well performed in law. Upon further research, legal names I knew from my law studies – Hart, Goodhart and Goodman – were associated with University College (often known as 'Univ') which claimed to be the oldest. I tried my luck there, duly wrote off by air mail and a week later was accepted by return. Unknown to me, it turned out to be a relatively small but prestigious College. Stephen Hawking had just left the previous year with a first and when I left, Bill Clinton arrived. It had two recent Prime Ministers in Atlee and Wilson, and shortly Bob Hawke. It was a privilege to be accepted.

Oxford

At the time, Post War in 1963, the privilege and hedonism of previous eras[7] had been replaced by a greater sense of purpose, assisted by the expanded opportunity due to the increasing social mobility of the sixties. Places were largely based on merit rather than status – this change being then still in process. Public and Grammar school students from all over Britain were roughly equal in numbers. Overseas students from around the world had been selected from a large pool of contestants and the maturity of British students fresh from school was daunting. Once again, I felt in awe of my fellow students and tutors, but acceptability was not an issue – helpfully due to my New Zealand origins. This may have had a little to do with novelty but, due to the gratitude for New Zealand's wartime contribution, I had no doubt of the respect and warmth in which

the country was held. There was also the advantage that I was not pigeonholed in any class or category for which the British were well known – it meant that I could be accepted by and mix freely with all.

Anti-trust was then a rising topic as western countries endeavoured to stop monopolies and cartels controlling the economy and tried to grapple with in tandem commercial behaviour – freedom of contract had resulted in freedom to restrict trade in a way which impacted adversely upon consumers and society. Professor Guest, the College Dean and an internationally recognised expert on contract law, perceptively suggested that I might try the law relating to restrictive trade practices.[8] Conscious that I had to provide for my future after leaving University, there was a need to be practical and I attempted a thesis on the New Zealand law on the subject – which I then found to be minimal. By this time, I had come to recognise competition as the best form of economic organisation, encouraging incentive for individuals and advancement for countries.

I trialled for the University team at cricket and was selected as 12th man for the first game – at least I was in – Oxford University was then in the County competition. Now having the time, I also played rugby for the College and, on occasions, for the Oxford second team (the Greyhounds). For me sport was marvellous enough just to play and the bonus was that it enabled travel to new places. When first selected for a County game, at the Parks there was a printed card and score sheet with the names of all those participating. I was listed as 'Mr J G Collinge of Auckland University and University College'. Professionals who were playing were recorded as 'Smith, A' and 'Jones, B'. It was the first time I realised I might be a 'gentleman' (in this case, of course, as distinct from a 'player') something which had never remotely occurred to me before. I became a member of Vincents (a limited membership club by invitation and vote) for those who had represented the University in sport. Although I did not know it then, it was to be of great help subsequently.

Over-drinking was acceptable in those days as part of bravado – Bob Hawke had made the College and himself known, by drinking there a yard of ale in a world record breaking 11 seconds. Drugs did not appear to be available or widely used, but this came shortly afterwards. The Head Porter named Douglas was a gruff but respected man of his class who would take down those who might greet him as 'my Man' or similar.[9] He formed a close relationship with Bill Clinton, which continued over the years and he was warmly recognised by the President including at his Inauguration. Besieged by requests from American tourists to 'see the room in which Bill did not inhale', Douglas saw them off in a robust manner.

In Oxford there is a wide range of activity of all kinds in the context of students and people from all countries and a wide variety of backgrounds – visiting contributors of the highest rank were seemingly endless. As one example only, I was able to hear and to talk to my hero when a law student, Lord Denning, the 'People's Judge' who was known for applying the law so as to achieve equity at the cost of strict precedent – I remember him repeating in his soft Dorset accent after his many instances: 'Is it justice?'[10] I was also able to visit many countries in Europe, the Middle East and even Russia behind the Iron Curtain. I had been advised by my scholarship benefactors, with forethought and almost certainly advisedly, to take all that Oxford could provide, become an all-rounder (a 'round man' as was then said) and to learn sufficient social skills to get by – it was great experience and great advice.[11]

Co-incidence

In my second year, 1964, I was walking in Oxford with two College friends near Carfax to see a film and it was the evening of the Balliol Ball. The Ball was the talk of the town – everyone knew of it as the Rolling Stones were playing. On the way we saw a group of couples going towards Balliol, the men in dinner jackets and the girls in party dress. Demonstrating the radiance of youth, they were

larking a little on the way. One of the girls in particular caught our eye. She was stunning, even in comparison with the great beauties of the day. We gawked and, eventually embarrassed, turned away. My friend who was English turned to me and had said 'She is not for boys from Council houses' to which I had replied 'State house actually, but I get your drift'.

But by a quirk of fate, coincidence without explanation, not knowing it was her, we met in England some thirty years later at an official function. I was immediately taken with her in a way never before or since. She had been a top fashion model and a regular feature on UK and German bill boards and television. We both later remembered that we were in the same place on the same day at the same time and the couples going to the Balliol Ball. Beyond my wildest dreams, we later married.[12]

Work

Upon ending my student days, in 1965 I first took a job as a Lecturer in Law at Leeds University at the princely sum of 1,400 pounds per annum. I had been offered a trial for one of the Counties, Northamptonshire, but in those days a County cricketer might be expected to earn only half that sum. One week too, I had sat in the pavilion playing cards, the games against two County sides being washed out. There was no real decision to make and, by then, it was necessary to make my way. Lecturing also had the benefit that I could complete my travels around Europe and the Middle East – seeing the world, appreciating the variety and experiencing the unexpected.

Then, after a year, a Senior Lecturer position in Commercial Law at the University of Melbourne came up (encouraged by Gough Whitlam's support of education and the expansion of Universities in Australia at the time). The salary was some four times that of a Lecturer in England and there was a free passage and relocation to boot.[13] Upon appointment, while still in my twenties, having now

married,[14] we arrived in Australia with other passengers who were mostly assisted 'ten-pound settlers'. The doors opened and before we were allowed to disembark, all passengers were sprayed by two burly sunburnt Officers with a liquid aerosol which could at best be described as pungent, but more accurately as very unpleasant. This was a great shock to the eager and expectant immigrants and I remember the passengers on the plane, initially in startled and nervous laughter, collapsing into uproarious hilarity – a sanitary cleansing for a new life in the New World.[15]

Australia

When at Melbourne University, I used my time between lectures, to have my Oxford thesis published[16] and my lecture material to write a book called *Tutorials in Contact*, reflecting what was rather trendy at the time – the Socratic method of teaching. But eventually realising that law was very much a practical subject reliant for its application upon real life situations, I began to feel that teaching was not for me. I was offered an Associate position with a leading law firm, Arthur Robinson & Co in Collins Street, the attraction for us both being that the Australian Trade Practices Act (a pro competition law) had just been enacted. I gladly accepted and it also enabled me to engage in a wide variety of commercial law at the top level, travelling throughout the various States of Australia.

Based on this, I became aware that consumer law varied confusingly from State to State and grappled with it. Finding a dearth on the subject, the differences were outlined and canvassed in *The Law of Marketing in Australia and New Zealand* (1970).[17] New Zealand was included as it seemed to me that there was, quite naturally, a common market between the two countries. So it turned out formally some ten years later – with the signing of the ANZCERTA Treaty and Closer Economic Relations.

I found Australia an exciting, robust and vibrant country with a wonderful history of bush-ranging and backdrop of ballads, which

seemed very Irish rather than the Scottish of rural New Zealand. I quickly realised, from legal practice, that bush-ranging was not confined to the outback or to previous times and that probity – including in government and local government – was not the same as that in New Zealand. But it was a pleasure to be involved with Australians who paid you the compliment of being straight forward and direct, rather unlike the nuanced phraseology of the English where the meaning had often to be deciphered.

The robustness extended to sport. Upon arrival, I was selected to play in the senior Melbourne competition, sight unseen, for North Melbourne (the 'Roos) against a neighbouring suburb. I arrived at the ground and the team in whites gathered in the dressing room huddled in a joined circle. There was an extended harangue which, briefly summarised, was of the 'Let's kill the bastards' kind. More used to deck-chair cricket and pleasantries, I walked onto the field in a daze and it took me much of the match to wonder where I was. In the next game, in the Fitzroy ground, a makeshift stand had been erected and by 4pm the local supporters now tanked were baying for blood as their Australian fast bowler, 'Froggy' Thompson, gangly and unpredictable who appeared to bowl off the wrong foot, steamed in. More disconcertingly, he did not appear to know what he was doing – he knocked out our Captain, the opening batsman, who retired hurt – but this did not quell the enthusiasm of the onlookers. Apart from Gary Bartlett of New Zealand who was on a par, Thompson was the fastest bowler I ever faced, making the English fast bowlers of the time (Tyson, Trueman and Chris Old) feel quite leisurely in comparison.[18] For me, the parochial, combative and intense attitude on show helped somewhat later to explain the climate creating the notorious underarm incident, the cheating and the sledging by its international sides – which most Australians do not deserve.

Comparisons

It was difficult not to compare Australia and New Zealand, New Zealanders being sometimes described as 'genteel Australians'. Both from a colonial pot, Australians have similar characteristics in many respects yet most recognize the difference. The Australian image is more direct, even though the manners of both tend to be without subterfuge. Australians appear to be more intent upon establishing a separate identity or difference – of asserting individuality, independence, and self-confidence – calling upon others to recognize Australia's emerging affluence, power and influence. There is less self-assertiveness in New Zealand and the distinguishable accent is more muted, the manner more understated and less direct. In shorthand, New Zealand is 'more British'.

Australia was first settled by the British in 1780 to 1840 in circumstances where, along with settlement by free emigrants and the gentry, transportation of convicts (which peaked between 1825 and 1840) was the perceived solution to the political and social problems of Britain. Those who protested to secure better conditions or who broke the rigid game laws because they were destitute were, along with hardened criminals, transported to the penal settlements. There was also a large Irish component in both settlement and transportation because of need or the insurgencies in Ireland. Thus, Australia was first settled as a penal colony in the context of dissatisfaction with the order of things and of Irish antipathy and agitation.

New Zealand, on the other hand, was founded in the 1840 to 1870 period – not in circumstances of persecution, prosecution or insurgency, but largely to solve what was seen to be the surplus of people. It was often founded in furtherance of systematic settlement, transporting Britain's well organized social hierarchy, its deserving people and its customs, values and religions. The Irish came also, but in lesser numbers and with some gratitude after the Great Famine of 1845 to 1847 – so that the friction which occurred between the

English and Irish in Australia did not surface to the same degree.

In short, Australia was originally settled with a large measure of antipathy to Britain and New Zealand was consciously settled with a large measure of sympathy with it. Likewise, British settlement of Australia was based on discovery whereas for New Zealand it was thought to be better accomplished by Treaty. In view of later influences and complexity, it is not possible to say that these differences exactly or singly describe either country then or today, but they do add to the explanation of the way in which the two countries are differently perceived and how the people of each see themselves and their relationship with Britain and the world.

Overseas experience

Formative years can influence attitudes and behaviour later on, and experiences and influences impact upon subsequent life and perspective. An individual's past seems to lead to the future and colours and impacts upon what may then eventuate. Although I did not know it then, it was hugely helpful to me in ways I would never have foreseen. My thesis became for a time the legal text in New Zealand on competition law and led to my appointment as Chairman of the Commerce Commission. The *Law of Marketing* was the perfect precursor when I became the first administrator of the ground breaking Fair Trading Act 1986. Submersion in the ways and issues of England and Australia provided a basis for comparison upon which to assess and appreciate New Zealand, later helpful in governance and politics, both local and national. The experiences in the United Kingdom and the contacts made there were of prime importance later internationally and as New Zealand High Commissioner in London.[19] Overseas experience is difficult to value in monetary terms, but is priceless.

My experiences put me between two schools – on the one hand, with an egalitarian background, recognition of the value of all and the need for a safety net for the genuinely disadvantaged

but, on the other, respect for self-reliance, personal responsibility and that incentive and opportunity for individuals in a competitive environment tended to produce the most positive outcomes. Further, country practicality combined with respect for knowledge and diligent research together made it seem to me that dogma or theory was unhelpful in dealing with controversial issues – instead, ascertaining and analysing facts and information and then judgment as to what might be best and most practical in the circumstances. Thus, I found politics and public service difficult, but endeavours to find solutions challenging and satisfying.

I now knew that New Zealand was a unique country (even in comparison with its close cousins such as England and Australia) and one where it was fortunate to have been born and raised. It seemed to me too that as global contact increases, it is essential for New Zealand to become even more outward looking towards the future. After ten years or so, I returned home from Australia in 1973 – as somehow I always expected I might. I was now a New Zealander by choice as well as by birth and heritage.

II

LAW

Within a set of laws which can be ill-defined at the margins, a lawyer is there to make them work according to their tenor and, at the same time, afford individuals opportunity, justice and fairness within them. But, in addition to advancing policies and the interests of clients within these parameters, a commercial lawyer can also, in a creative way, straddle both law and commerce in pursuit of economic and social goals for the country. Such an occupation can be very satisfying.[1] However, it is not always easy or straight-forward.

Legal Opinions

Upon returning to New Zealand, when still a young lawyer, I was asked to act for Sir Albert Henry (as he then was) and his Cook Islands Party. The Party wanted to charter planes from Auckland to take his New Zealand resident supporters back to the Cook Islands to vote in the upcoming election there, the Cook Island residents in New Zealand having retained close ties with their home country.

Under electoral law it was legal for political parties to transport their voters or likely voters to the polling place since this supported and fostered democracy. However, in this case such transportation was controversial in that it was more costly than that openly practised by the National and Labour Parties and it involved air travel for that purpose. Hence, it did not fall within existing guidelines or precedent. I asked Peter Goodfellow (an even younger solicitor employee who was also later to be President of the National Party) to research and write the cautionary opinion outlining the risk, which I duly endorsed, signed and delivered.

Sir Albert accepted the risk and in due course the planes flew. Upon his success at the election, the Opposition Party laid a complaint and in the course of investigations, the Cook Islands Police raided the premises of the Cook Islands Philatelic Company, a private enterprise owned by an American citizen. It appears the Company may have been taken by surprise – the Police broke in and, as reported in the media, found the Manager stuffing the opinion down the toilet. To this day, I hope that it was not the source of the then widely spread comment that this is what should often happen to legal opinions, but fear that it was.

Trust in One's Client?

Sir Albert had turned up in Auckland with a suitcase full of money in notes to pay to charter the planes. His photo was the feature on the front page of the *New Zealand Herald* showing him theatrically displaying the opened suitcase and the money protruding. There was some speculation as to the source of the funds – it was suggested that they may have come from residents of the Islands such as Dr Milan Brych (who had fled from Auckland to continue to practice there). Without being asked to do so, I was eventually able to test this with Sir Albert in the company of officials of the Bank in which the funds had been deposited and from which they were to be paid. He (being a Knight of the Realm and a Premier of a country) assured us all

that they were Cook Islands Party (CIP) funds for that purpose.

In result, upon his instructions, the charter flights were booked for the CIP, the money paid and the Cook Island supporters travelled. After the election, it turned out that, unknown to us all at the time, the funds had instead come from the American owned Philatelic Company which would not allow them to be paid to the CIP or to be used for such purpose – since this would be in contravention of American law as an interference in the affairs of a foreign State. Upon challenge in an Electoral Petition, it was ruled that the votes of those transported back to the Cook Islands were invalid and Sir Albert and the CIP lost the election as a result.[2] A practising lawyer (who is not the ultimate judge of truth or right and wrong) has sometimes to rely on the assurance and the word of an ostensibly credible client. But I have never had the same regard for knighthoods ever since.

The Economic Zone

As a commercial lawyer, I became involved in a number of companies. One was the New Zealand Pelagic Fishing Company Limited (of which I was also Chairman and in which Philip Vela of Vela Fishing was a significant driver). This company was formed to develop and exploit tuna species in the new 200 mile Exclusive Fishing Zone, to build in New Zealand sophisticated purse-seine vessels (such as the 'Western Pacific' and the 'Pacific Ranger') and to operate them under the New Zealand flag. As part of creating a new industry here, the company was entitled to enter into joint ventures with overseas companies and it also contracted purse seiners to fish in New Zealand waters – these being mostly based in and around San Diego fishing for the American tuna giant Star Kist Foods to service the canneries at Pago Pago, American Samoa.

Tuna respond to water temperature changes and during the summer months tend to migrate to waters around New Zealand. The crew on the vessels were, in effect, hunter gatherers because they

operated on a 'no catch no pay' basis. The vessels were often manned by itinerants having no affiliation to New Zealand and, for many, no affiliation or loyalty at all. Tuna fish shoal and the powerful purse seine nets can catch great numbers in a swoop. Thus, it can be feast (which is the incentive for these adventurers) or famine (which is the cause of a wild west mentality).

Many such vessels came to New Zealand especially during the summer months. I spent most of my Christmas holidays over more than ten years dealing with the problems they created. One of the vessels ran aground on Whangarei Heads – the evidence at the Court of Inquiry led me to suspect that perhaps the navigator that night had a problem with alcohol. In another, in a race for a shoal of tuna, vessels resorted to firearms to dissuade rivals from doing the same. Then there was the death of a young woman as crew after a night of carousing onshore, returned from the Duke of Marlborough to the vessel. And, of course, others. Then too, this was when fisheries regulation and protection was in its infancy – I remember a *Country Calendar* programme on the new industry in which the crew of a vessel seemed rather too keen to show that, by 'throwing bombs', they were warding off the dolphins and seabirds also hunting the tuna. In the minds of the visitors, in spite of exhortations and reminders, the well-being of the environment and the New Zealand writ sometimes seemed of distant concern.

A Mysterious Event

The purse seine vessels were state of the art and new technology was emerging. Having surrounded the fish and having herded them, huge winches closed the net to haul in the fish. The vessels might become damaged by Pacific seas or perhaps the technology antiquated. One of them sank en-route from California to Christchurch in calm weather. It seemed that a hatch had been left open and the sea did the rest. Fortunately, or by design, there was another boat travelling in tandem with it and the crew were quickly saved with little trauma.

I was rung early that morning in New Zealand and, as any lawyer I suspect would, said that the crew should say nothing on arrival at Christchurch so as not to affect any insurance claim or counter-claim which might follow and to do nothing which might put the reputation of the fledgling New Zealand industry at risk. Clients do not always follow advice so rigidly, but the following day there was a picture in the *Christchurch Press* of the crew disembarking, all with lips tightly sealed. The news media could not find out anything as to what had happened. No one would talk and silence was the only story available – which, to my disconcert, in itself suggested that there may have been mischief afoot.

Escaping the Jurisdiction

There was a major accident off Norfolk Island when, during operations, the winch of a purse seiner broke under great pressure and sadly a crew member of the vessel was killed. I was asked to travel to the Island and then to the vessel to assess the situation and to brief evidence for the purposes of a possible civil case. The Australian Police had a strong interest in the matter, probably because the vessel had no permission to fish in its waters.

Upon my arrival at the ship, it was in a serious list and appeared to me to be unsafe. Having finished my task, a helicopter from the vessel took me back to the Island. The next morning it was found that the vessel had departed for repair, limping back to New Zealand, and was no longer to be seen or available for the Australian authorities to pound. I was certainly surprised at the vessel's exit. I had not known of any plans by the skipper to leave the Island and nothing had been discussed along those lines. But it was not a good look. I was embarrassed and the next day had to 'please explain' on a visit from the Norfolk Island Officer in Charge. I was very relieved when he took me at my uncorroborated word and allowed me to leave the Island to return to New Zealand.

'Banzai'

I was often asked to travel to Pacific countries in order to negotiate fishing rights, joint ventures and charters. I quickly learned that different countries have different ways of negotiating. Thus, in Taiwan, after having made known our requests and having tendered documents for that purpose, there was a daily round of meetings for a week on the subject, all of which were inconclusive. In the evenings, we were entertained by our hosts who seemed to enjoy the relaxation and ability to dine and drink on their employer. The intent was, I learned, to test whether we were suitable to do business with, but also to test our weaknesses for the purpose of assessing any deal they might make.

After some five days, our hosts organised something more robust. It was in a largish room and they had about twenty people and we about half a dozen. The evening descended into a drinking challenge. They would drink a round and challenge us to do likewise. However, this continued rather longer than it should and the participants became progressively drunker and their challenge progressively stronger until chants of 'Banzai Banzai' appeared. Of course, the Taiwanese of that era, having been taken over by the Japanese, had to speak the language in schools but we were taken aback by the venom and enthusiasm for the shout. Thinking that was the end of the negotiations and that it had been a wasted week, I did not click that this was an indication that we had been accepted. The next day, the first serious negotiations took place, they were over in a flash, documents signed and we went on our way.

'Geisha'

The Japanese are known for their partiality to fish dishes and their efforts to obtain fish in the Pacific – the ability to obtain fish from New Zealand waters being much prized. They had every reason to try to encourage us to do business with them, although they were very inscrutable in the process. They too liked to entertain us

at their employers expense and we spent some time in the Ginza area of Tokyo. One evening our Japanese hosts took us to a Geisha House which was Sixteenth Century and I had the feeling it was very expensive. The Geishas entertained us by sake, edibles, dancing, singing and reciting poems we could not understand, and we then squatted down to a Japanese meal of many small courses. During the meal some young women appeared at the front door, also dressed in Geisha costumes and sat down with us at dinner. They were greeted warmly by our Geisha hosts – who seemed to know them as regular visitors. The newcomers joined us at the meal and after a suitable time lapse and discussions in rudimentary English, one by one they led each of us off to separate areas where there were hot pools and entertained us there. In this way, subtly and without warning in advance, we had been suborned and the Geisha reputation of purity preserved.

Chasen's

On a visit to Los Angeles to an American client, a senior executive and his wife invited me to a restaurant in Hollywood called Chasen's – which I was told was all the rage at the time (and later learned was the 'legendary dining place of the Stars'). It had a drive-in circle and, once the valet had taken the car, we entered the front door and immediately saw that there were four or five tables conspicuously in the entrance. They were set out in a half-moon configuration with full leather backed seats. Sitting right in the front and impossible to miss was Farah Fawcett-Majors – this was the time when 'Charlie's Angels' was primary television. She was with three or four companions who all looked 'shiny' and like budding actors (later I suspected she was paid to sit there and eat). We were then escorted to the adjoining table, which I took as a great compliment.

My hosts had put me up at the Beverly Wilshire and that evening had arranged to collect me from the foyer. It was large and elegant, and there were many sitting around waiting or possibly waiting to

be seen. While there, I noticed a very attractive young woman in her twenties. I could not help but see her as she was walking around the foyer apparently looking for someone. She was smartly dressed in a white blouse and tailored dark suit with a diamond broach and diamond accessories – it looked for all the world as if this was her natural habitat. I did not think that she saw me glancing at her and she continued on. Shortly afterwards, to my surprise she came up to me, a steward arrived almost simultaneously and, exchanging pleasantries, I bought drinks for us both. In the course of a perfectly normal exchange she somehow, seamlessly and expertly, mentioned the sum of $500 US dollars and slowly and gradually I realised that I had been propositioned. I was married – that was one dilemma. The other was that for me US$500 was a lot of money in the nineteen-seventies. I was still grappling with my conscience when my hosts arrived and saved me from myself. I bid farewell and never saw her again. However, the problem was that during the evening at Chasen's I was somewhat distracted – very much aware that she made Farah Fawcett-Majors look rather plain (which, of course, she was not) and was left wondering at what might have been. Perils face young men on their own, in a foreign country, in the course of pursuing their legitimate occupations to feed their families.

Entertainment

I often acted for participants in the entertainment industry in New Zealand. In particular, for Phil Warren (of Cabaret) who was an impresario of great talent, and Richard Holden (of New Zealand Breweries and Fosters) who was adept at promotional functions of pizzaz. Both made huge contributions to Auckland and New Zealand making it a much more interesting and vibrant place. I am not sure why the relationships worked, but think it was a partnership of sorts. In both cases I tended to be their opposite – conservative in contrast to their enjoyment of colour, excitement and risk. The general objective was then new – to promote entertainment in

licensed premises – including music in hotels so as to make them convivial and interesting venues. A wide variety of entertainers were contracted for this purpose (often popular and folk singers, and country and western musicians). In the course of this, most of the well-known entertainers of the day were contracted to work in pubs (yes, even Howard Morrison and Gray Bartlett – such was the lack of opportunity for professional entertainers of the highest calibre). It added colour and interest to the venues.

However, it was not uncommon for contracted bands in particular to attract objection from residents nearby for noise levels (many such objections being entirely warranted). Accordingly, legal oversight and intervention was required – rules and regulations in mitigation needed to be imposed and licensing and planning requirements complied with to protect the endeavour. Notwithstanding, the bands persisted and seemingly enjoyed the contest – such as using governors, not in limiting way but as a benchmark, to achieve consistent and maximum possible levels. It sometimes seemed to me, plagiarising the ballad, that 'the bands fought the law and the bands won'.

Upgrading Licensed Premises

I also acted for interests in the liquor industry which was then, in the early seventies and eighties, undergoing a change from the booze barns of the fifties and sixties to neighbourhood outlets – to a more acceptable local and community friendly regime. The objective was to change the industry to one where people could enjoy a drink or two without stigma to aid lifestyle and sociability. As a result, I was much involved in endeavouring to manipulate and change a wide range of legislation across the industry and in obtaining licenses and planning permissions with a view to raising the acceptability and status of licensed premises.

One such initiative was to use existing licensed areas to provide dining – where people who might not wish to frequent an old-style

hotel or a public bar (which were often seedy and to which women did not go) could have a beer or wine with a meal with some elegance. The problem was to establish an area formerly part of a public bar to enable family dining at which children might also be present. I was asked for an opinion. After careful consideration, in my view, a line say of aspidistras or pot plants was a sufficient 'bar' or 'barrier' to constitute a limit or delineation for this purpose and, as a result, many licensed areas were thereby set aside where families could gather on licensed premises. This was an unintended interpretation of the limits of a 'public bar' and I was never sure whether it would be accepted, expecting the opinion to be challenged in the Courts. But it never was – the reason being that people wanted the new facilities and opportunity – it was an idea whose time had come and common sense prevailed.

Moderation and Mitigating Harm

I also acted for United Distillers (NZ) Limited known for leading brands of spirits such as Johnnie Walker Whisky, Gordons Gin, Smirnoff Vodka – of which Grainger Hannah was the Chief Executive. Grainger had emigrated from Scotland in the late fifties to set up the distillery and bottling plant in Orakei. I was a director for many years and eventually became Chairman of the company (later called Diageo NZ). Its parent group in the UK (being the largest global supplier of alcohol products) was particularly concerned to promote the responsible use of alcohol and to put in place many initiatives to this end. Corporate responsibility required attention to health and social trauma issues but crucially, in advance of other companies and the times, the Group was concerned that, if it did not take positive steps to reduce harm, it would later suffer from legislative intervention.[3] By 1991, efforts to that end unexpectedly led to my appointment as Chairman of the Alcohol Advisory Council of New Zealand (often called ALAC). Until that time, the function of ALAC was to treat alcohol as an 'evil' to be discouraged.

Maurice Williamson was by then the Minister and, wanting a new approach, had brought about a Report and repeal so that instead ALAC was now to minimise the harm from the misuse of alcohol and to promote moderation in its use.

This appointment involved many new initiatives. Under the new approach, harm arising from alcohol was addressed by targeted interventions to address the cause rather than blanket prohibitions. ALAC sought to recognise the social role of alcohol when used properly with a clear and perceptible change in emphasis by advertising – such as the 'no alcohol option', 'say when', 'what friends are for', 'food with drink', 'a little is enough' and 'host responsibility'. There were also during the period efforts at the 'coal face' to minimise harm at the outset – this included a hugely increased investment in the training of health professionals and primary care workers for early intervention. Also Alcohol and Drugs programmes were introduced in 85% of secondary schools. The changes improved the responsible use of alcohol and also, when properly consumed, its place in social use.[4]

Bloodstock

The bloodstock industry is important to New Zealand and the furtherance of its pastoral reputation. The auction house for sales at Karaka provides the central focus and forum for overseas buyers – in fact, it is New Zealand's show piece for the industry. Much effort is put into attracting overseas buyers to the auctions and in promoting the sale of bloodstock for export (Peter Vela, later Sir Peter, being a principal mover and pioneer). Annual turnover from the Sales continues to be in excess of $100 million per annum. Importantly, export earnings aside, it supports a significant number of agisters, trainers, vets and carriers throughout the country, and provides many part-time and full-time jobs in the rural sector.

The bloodstock and racing industry was properly assisted over the years by Winston Peters (by progressing helpful legislation) and,

reciprocating, entities who were the beneficiaries made donations to support New Zealand First. After some time, an enterprising journalist researched certain political donations through a series of companies and found my name at the top of the chain. In spite of endeavours to explain, delightedly and enthusiastically, she wrote a story that a former President of the National Party was donating to Winston and New Zealand First – shock horror. In fact, I was a trustee for the businesses only and, although I had oversight responsibilities in that role, I would not have known of or have expected to be involved in day to day management decisions. But had I been, due to Peters' contribution to the industry, I would have approved.

Councils and statutory boards

While very much preferring to use the law to achieve positive outcomes – to promote desirable impacts whether economic or social – sometimes lawyers find themselves acting to provide redress from the wrongs and actions of others. In my 50 years of practice, this was seldom caused by private sector companies – which tend to depend upon good and proper behaviour for their reputations. In my experience, harm tended to come from Councils or statutory boards or quasi-judicial bodies. I pondered why this might be so. While individuals employed by Councils and boards do not have a direct financial interest in the outcome, perhaps it is the feeling of power vested in operatives aided by the fact that oversight (by executives and politicians) may be somewhat lax. If the individuals involved do not always get it right and complaint is made to a higher echelon, one is likely met by inaction or defence of the institution or the team. When challenged legally, you can expect resistance by their lawyers (with a zeal equal to that of those acting for insurers). Clients do not always have the inclination or means to take such entities on, but when they do it is a pleasure to act.

Co-ercion

Lawyers may themselves be subject to co-ercion in relation to matters in which they are engaged on behalf of a client. Lawyers act for their client – they are agents, not principals. Not only does a lawyer require express authority to act, there should also be authority as to how he or she will go about those instructions – a lawyer cannot act off his or her own bat. Attacking the lawyer, apart from the client, is a rather desperate strategy and one which shows lack of understanding of a lawyer's role. I suspect that many lawyers may have experienced co-ercion in some form. It does happen.

In the course of acting for a client, a large stained glass patterned window at the rear of my house was smashed, apparently by a mallet. The perpetrators had a getaway car and, upon being alerted to my presence, quickly made their exit by jumping a fence and into a car. The Police, admirably, arrived 20 minutes later, they thoroughly investigated but were unable to find the perpetrators – who I suspect were paid to do that sort of thing.[5]

In this and in other cases of coercion and retaliation there was proximity to legal matters which I was handling on behalf of clients. While I may have had suspicions, the difficulty was that I did not have any proof – only co-incidence and a feeling. I considered further action, including complaint to the Police, but in the end decided not to do so given the difficulty. In all cases, my clients' issues and interests had been properly addressed and it did not seem quite right to add a claim for my personal interests against the persons who might be responsible. The responsibility is to discharge the duty to one's client and not to oneself.

Law is not a Science

Law is not a science but an art requiring judgment. I have been reluctant to criticise judicial decisions not wanting to be seen to call in question our justice system – but because of the human element, mis-judgement can happen. There is little such criticism from

lawyers generally (this not being exactly a career move) and there should probably be more scrutiny of judicial decisions – provided, of course, the criticism is respectful and constructive. Thinking that legal decisions were not questioned sufficiently often, I dipped my toe in the water occasionally. Two of these follow.

'Congratulations on your *Herald* Editorial about the perceptions among fair minded observers concerning a Judge on holiday with Counsel while both were involved in the same case. The perception by the public of confidence in the impartiality of the Judicial arm of Government (that justice must also be seen to be done) is fundamental to our Constitution. Without it, an essential basis upon which New Zealand is founded and operates is undermined. This principle seems, in importance, to far outweigh the opposing view that there was no resulting miscarriage of justice or that, because New Zealand is small, there needs to be flexibility and hence allowances made.'

'A *Herald* article reported that a High Court Judge reduced the sentence, by 9 months, of a woman for a further episode of breaching a protection order obtained by a man with whom she had had a brief relationship. The Judge is reported as having done so upon the grounds that the sentence should be consistent – the same as for a previous sentence for breaching the prohibition order. But it is important to remember and to take into account that, in stalking, a further breach of a protection order or event must be viewed in the context of all of the previous harassment. Stalking is cumulative. It is intended by the stalker to remind of the persistence and the previous events – and to build upon them. It is not an equivalent. The additional overtures are an indication of obsessiveness and can lead to serious consequences. Leniency can cause stalkers to feel empowered and the stalking enhanced.'

The Risks of Litigation

When lawyers advise their clients, they tell them of the risks of the litigation or outcomes. By that I include not only the chances of success in any particular case given the facts and circumstances, but the risks of litigation generally. At the end of the day, success or failure can depend on human error. We all bring to decisions an element of background and personal preference, often contributed by personal factors, and Judges may have to deal with matters beyond their experience. This is not to be critical of the judiciary or of the law, but just to reflect reality. There is thus a risk that a case may throw up a rogue decision – a matter of judgment or mistake or lack of research – law encompasses all of life and no one is an expert in all aspects. Also, misadventure can occur should Judges (who can have a bad day or be frustrated politicians) stray respectively into emotional or disguised political judgment.

My experience and opinion of our judiciary and legal system is very favourable and, as a country, I believe that we are very fortunate. Seeking to be as objective as possible, in the High Court, I put the risk of general legal misadventure at up to 5% – seldom will it happen but it can. At a District Court level, the risk becomes greater, say up to 10% – the Judges are faced with many more cases, have to dispense justice relatively quickly and often without the benefit of the effort and contribution which might have gone into High Court cases. At a Small Claims level, it becomes more of a lottery and I would put such risk perhaps at 20% or higher – lawyers cannot appear and it is usually dependent on the quality of the Assessor – there are both excellent decisions and those which are not so good. These perceptions are not to cause concern, nor to allay fears, but are simply judgments based upon the experience of one practitioner – others may put different numbers on these situations. Of course, a right of appeal may be available to minimise misadventure.

Conclusion

I found legal practice a challenging and high stress occupation – a lawyer inevitably feels a form of personal responsibility for the outcome of the affairs of a client. My practice was largely concerned with commercial law and, hence, somewhat narrow compared with some other practitioners. Nevertheless, there was great variety – one of the blessings of professional life is that cases or instances are never exactly the same. Further, one quickly learns not to rely upon broad assumptions but to thoroughly investigate the facts and circumstances – which often surprise. Personalities and human frailty (I suspect in common with all occupations) play a greater part than one might expect, even in commercial law – emotion, conflict and side eddies can be aided by keeping in mind the overview and end result. But, at the end of the day, law is not a science and legal issues distil down to conscientious judgment.

The Rule of Law is an essential part of our democracy[6]. Advancing the interests of clients can be gratifying. A combined legal/commercial occupation can also be very satisfying.[7] However, when legal/commercial activities combine and contribute as well to advancing the interests of the country, a public service role, the practice of law is a delight.[8]

III

ELECTRICITY

I was committed to my legal practice but, in 1977, with the income tax rate at 50c in the $, half of my endeavour was for the Government and I decided, instead, to contribute to the public by providing some time in kind rather than cash to its coffers – endeavouring now to straddle both the private and public sectors. I chose the Auckland Electric Power Board (AEPB) which, though a considerable undertaking, seemed the least likely to encroach on my practice.[1] In those days, the distribution of electricity was largely run by publicly elected Power Boards as a consumer service at cost and the role was to promote the interests of industrial, business, residential and personal users of electricity in the Board's area.

Citizens & Ratepayers

The Citizens & Ratepayers Association (C & R) fostered candidates in Auckland local body elections and has been described as 'the National Party in drag'. It existed due to the longstanding policy of National in not running candidates in local elections, fearing that adverse events there might detract from its electability at national

level.[2] Not sure how to show my interest, I eventually found the Secretary of the Association who told me that there were already 12 candidates for the Board out of 12 places, most of whom were sitting members. He was reticent about accepting an application, saying it would not be easy for a newcomer to be selected. However, I persisted and he eventually provided me with an application form.

Now that a selection meeting was required, a largish hall was filled to capacity, mainly with Auckland worthies involved in Auckland City Council affairs. Not having any background in the subject, I did some research and found that there had recently been operational deaths from electrical accidents. Citing information from the Board Reports, I did a 'one death is too many' speech and, during it, heard a loud chortling voice from the audience (from one, Jolyon Firth, I later found): 'Well here's someone who has done his homework'. I suspect this helped my selection and an Auckland representative on the National Executive of the National Party was dropped off. I was left with the distinct and slightly uncomfortable feeling that, unintentionally, I had upset someone else's best laid plans.

The Auckland Electric Power Board

In those days, being a candidate for C & R was a ticket to be elected and eleven of the twelve candidates, including myself, were duly successful. Judith Tizard was also elected – she had stood on the Labour ticket. Her pitch was novel – that she was 'an 18 year old barmaid'. While that was in itself true, she was also making fun of the Members of the AEPB whom she described, not entirely inaccurately, as 'octogenarian'. Of course, she did have two very well-known parents – at political and civic levels respectively – which shows that name recognition is a wonderful thing. She turned out to be a capable and contributing member.

Having served three years on the Board, there was an exodus by way of the unannounced retirement of members of more advanced age (including the Chairman) with six not wishing to continue

on. Six new people had somehow made application to be selected as C & R candidates, none of whom were known to me but were friends or acquaintances of one of the continuing members. Five were elected and it quickly became clear that they were there to support him as Chairman. All the other continuing members, who had seen us both in action over three years, wanted me to be the new Chairman instead. That meant I had five votes and, with Judith's support, it was 6 all. Then one of the newly elected members was unable to be present at the first meeting and, fortuitously, I was elected Chairman 6 to 5.

Still smarting three years later, my opponents got their opportunity again and, upon the same people being re-elected, the vote was 6 all. This then required a toss of the coin by the Secretary of Board. Somehow, it came up in my favour and I continued as Chairman for a further three years and afterwards, being unchallenged, for a further six (to make it twelve in all). Luck and chance play a significant part in everything.

Lighting Auckland

During my time on the AEPB, one of the projects I promoted was to light up the icons of Auckland. The Board lit Tamaki Drive (turning the power off at a given hour to allow the trees to sleep); St Mary's Church next door to the Anglican Cathedral; the Monolith at Bastion Point; One Tree Hill (when it had a tree); the Auckland War Memorial Museum; the Ngati Whatua Church in Okahu Bay; and the Joseph Savage Memorial; among others. The *Herald* commented on the 'warm orange glow' that the lighting provided and opined that 'Auckland is enhanced by its floodlit features'.[3] We were contemplating lighting the Harbour Bridge but, in 1992, the AEPB's successor (Mercury Energy) stopped further lighting projects as being non-commercial.

The excuse for the lighting was to recognise 100 years of electrification of New Zealand but the true basis was to show what

high-lighting could do – in the hope that it might encourage lighting generally. It would provide further attractiveness to the City by drawing attention to Auckland's key icons and features, and could also be justified on safety grounds (the protection of key places from vandalism). No one was more delighted than me when the Sky Tower and the Harbour Bridge received similar treatment much later.[4]

Undergrounding

Another of my favourite projects was to remove the unsightly and dated overhead reticulation in Auckland. In 1982, the AEPB moved to require the compulsory undergrounding of overhead power lines in new subdivisions. In relation to existing lines, we experimented – Parnell Road was the first to be undergrounded. Given the major transformation which resulted in removing the clutter and the eyesores there, in 1984, we embarked upon an ambitious plan to underground the whole of Auckland in 40 years. Main thoroughfares and the streets around the Harbour were given priority and they still benefit – in improved safety and an increase in value of the properties but, above all, from the resultant visual improvement. Undergrounding had community support and Councils even lobbied us to make sure they would not miss out. A *Herald* Editorial agreed, spoke of 'the aesthetic awareness that accompanies affluence' and said that 'the Board deserves the city's backing and its thanks'.[5]

Unfortunately, the proposal to underground the whole of Auckland – something which would have been nearly completed now – was also ended by Mercury Energy in 1992 under the pretext of applying business principles to electricity distribution. Cost was the issue – undergrounding cost approximately three times that of overhead lines, although there is increased safety in the removal of the posts and wires along with the aesthetic benefits. Upon its discontinuance, it was now for residents to pay. More recently, the

Auckland Energy Consumer Trust (now called Entrust) has done some small undergrounding as a token only but never with any intention or prospect of even remotely finishing the job. Today, many streets (but particularly in the older suburbs of Auckland) still have the hideous posts and wirescapes and the visual pollution thereby created. It is time, in 2021, for re-consideration.

Generation

By the 1980's, a network of dams and associated facilities generating electricity had been built up by the State over nearly 100 years for the benefit of all. But when the country faced a financial crisis, the Government would simply raise the wholesale price of electricity. In one case, in the early 1980's Bill Birch as Minister in the Muldoon Government visited a meeting of the AEPB to announce to the Board and public the news of a 72% increase in the wholesale price. Somewhat surprisingly, before cross subsidisation came to be unfashionable, there was relatively little fuss – I suspect because the Board and the country understood the fiscal difficulties which the Government was then facing. But the pricing of power was very much a political one in the hands of the Government.

However, later the public became less and less tolerant of what it saw then as the high price of electricity. In the four years from its creation, Electricorp (the State Owned Enterprise now having been formed to take over from politicians directly) made a profit of $1.2 billion – which greatly assisted the public purse at the cost of consumers. When, one year, Electricorp made a $400 million super-profit – an *Auckland Star* editorial accused 'the rake-off as monstrous for a monopoly providing a service which no one could do without' and that 'Power Board chief John Collinge is speaking or every Aucklander when he says that the country's second biggest electric power buyer is being unacceptably overcharged'.[6]

Accordingly, the AEPB sought to embark upon generation projects itself.1 In arguing for a 'climate of contestability', I said that

'the only true test of price will come from an efficient competitor'.[7] To this end, the AEPB commissioned landfill stations (Greenmount and Rosedale) using gas created by the rubbish to generate electricity – as it was said by Bernard Orsman of the *Herald* 'an important first commercial venture arising from the de-regulation of the electricity industry'.[8] This created lighting for 10,000 homes and was helpful but, though significant, was only some 2% of the total load and of limited life.

The Board then became rather bolder and sought to develop combined cycle gas and steam stations. On a visit to Houston, I had been impressed with the efficiency of this technology – the waste heat from gas, rather than being allowed to escape, is made to produce steam to drive another turbine. It also meant a new and alternative source of generation for New Zealand, that AEPB was not entirely at the mercy of the supplier and would have a modicum of bargaining power against Electricorp. Feasibility studies showed that such stations would be profitable based on Electricorp prices. Two such stations were commissioned by the AEPB – the first of their kind in New Zealand – in Auckland (160Mw)[9] and Taranaki (275 Mw)) ultimately completed by its successors. The Taranaki plant still contributes to peak load power to this day and hence to security of supply.[10]

Utilisation

When I joined the AEPB as a member, it ran a school of instruction on cooking close to my office and I sometimes dropped in and witnessed how well it was received, yes by the ladies who gathered there for tips and assistance. Copying this for business consumers (who took 55% of Auckland's load), an Electricity Utilisation Centre was opened to provide the latest technology and professional advice on the efficient use of electricity. The goal was partly to promote the use of electricity as an energy source (compared to gas) but also, a public one, to encourage efficiency in its use. As I said, there should

not only be efficiency of supply but also efficiency of consumption: 'If we waste energy, it will not be available to power the processing of our natural resources'.

On the back of this, I was elected President of the Electrical Development Association of New Zealand (EDANZ) by vote of some 60 electricity supply authorities throughout the country. Not long afterwards, the EDANZ established the Electricity Development Centre in Wellington. It was designed to promote research into the use of electricity and to provide advisory services, and included a library, demonstration and display centre. It was complementary with the Electricity Utilisation Centre established by the AEPB, but whereas the Auckland Board's Centre was aimed at providing practical and technical assistance to local electricity businesses, the EDANZ Centre was particularly aimed at research and technology generally – both promoting efficiency in electricity usage.

Then, as President of the National Party, I secured the inclusion in the 1990 National Party Manifesto of a pledge 'that the electricity industry and any changes to it are monitored by a new Energy Resources Monitoring and Conservation Authority' and, in 1991, in a keynote address to an industry conference, set out a comprehensive blueprint for a proposed Energy Monitoring Authority saying that 'Energy is too important for our economic and social wellbeing to be left to chance or to ad hoc development'. These initiatives ultimately led, in 1992, to the formation of the Energy Efficiency & Conservation Authority (EECA) which took over the electricity utilisation and technology roles on a national basis – to create strategies to improve energy efficiency generally.

Security of Supply

In 1992 in particular, there was great alarm at the possibility of electricity shortages due to low lake levels in hydro-catchment areas caused by unusually small inflows of water and an increase

in demand. The AEPB had always monitored this and became very concerned at the position – the lakes were at the lowest levels for more than 30 years. As a result, in early April, I wrote a letter to Electricorp (the Government owner of generation) expressing concern. However, Electricorp did not want to ration or impose cuts because that would have entailed a loss of profit and have encouraged a switch to other forms of energy, and 'fobbed off' the warning. But in early June the position had so deteriorated that there was an urgent call from Government asking for voluntary savings of 10% of demand. In response, EDANZ led the effort (utilising and co-ordinating the assistance of its Power Board and Council members) – it was the engine room which provided substantial material, advice and tips in relation to energy savings – to the media, power companies and to industry for use. Protecting the elderly and hospitals,[11] the initiative achieved a 17% savings in consumption. I was reported as saying at the conclusion that the measures had avoided 'a very near thing'.

An inquiry into these events was held – by the Electricity Shortage Review Committee (Chaired by former Chief Justice Sir Ronald Davison) – which excused Electricorp from blame for the crisis (it was an unusual weather pattern and turned out to be a one in a hundred year drought) but reported that: 'Given that one of Electricorp's largest customers (the Auckland Electric Power Board) had expressed concern about the security of supply early in the previous month and speculation in the media concerning lake levels, more open communication as to the deteriorating situation would have been desirable'. It urged Electricorp to develop an early warning system.[12]

Operations

In those days, the AEPB dealt with energy, with lines and with generation – whereas these are now split into three different business sectors.[13] The pre-occupation was providing services to consumers

(for example, the cooking lessons and the free testing of electric blankets for safety reasons); ensuring security and continuity of supply (to prevent power failures and to avoid outages, brownouts and blackouts); emphasising safety generally (particularly for linesmen and the public); and reducing costs to consumers (hence the interest in alternative generation). It was also easier in that environment to write off the electricity debts of those consumers who, after inquiry, genuinely could not pay – a form of social service.

To oversee the cost of capital we scrutinised expenditure by means of a separate committee (upon which our engineer and electrician members sat). Notwithstanding, there was at the time some comment that, in its operations, the Board was somewhat 'gold-plated'. Someone (I suspect an informed insider) produced an aerial photograph of Auckland marked with all of the AEPB vehicles which had been out on jobs. They were pictured circling around the base in Newmarket at 3.15pm waiting to dock at the knock-off time of 4pm. We were forced to look into operational efficiency as well.

Appointments

Key executive appointments were made by the Board.[14] At the AEPB, we inherited a complicated and comprehensive application form for such appointments which included very specific personal detail such as the Church attended by the applicant, their status and role within the Church, and details of their families and children, along with many other items. In the mid-1980s we were interviewing for one of the key executive positions. The first three applicants had impeccable records of attendance at and contributions to various Catholic parishes and there were Bernadettes and Xaviers among their children. The fourth was someone with Anglican Church credentials. One of our members, glancing at the form, said 'this one's a Protestant'. At the conclusion, we appointed another Catholic, not to keep up tradition, but on merit. We never saw that

application form again. The new knowledge then brought to light that this was replicated somewhat on the garage floor. It seemed that if you were not from Kaipara iwi, you were somewhat exceptional. Those were the days.

Civil Defence

Around 1991 I was approached by the Minister of Civil Defence, Graeme Lee, to Chair the Civil Defence Committee for Energy, the task of which was to prepare for the energy implications in the event of natural disasters and to act if necessary. I was very impressed with the base for the Committee at the bottom of the Beehive (with its spartan appearance and wonderful devices to ensure that it was able to move sufficiently in an earthquake). I reviewed the current energy plan and prepared a new one with small additions. Fortunately, no disaster occurred during the three years I was involved and I was somewhat under-engaged in the role.

For those of you who are tempted to think that the appointment was based on merit, in fact, I had no background whatsoever in civil defence. Graeme and I had each grown up in adjoining streets in Paeroa, his family being successful and admired. We had attended the same school, Paeroa District High School, he being two or so years my senior. I put aside my lack of qualification for the role to assist a former senior pupil, neighbour and friend. New Zealand is a small place.

Overview

My fond memories are of the improvements made during those years – in lighting the icons of Auckland; in undergrounding unsightly reticulation there; in the alternative generation of electricity other than by the State; in advancing efficiency in the use of electricity as distinct from its supply; and of efforts to ensure its continuing availability. The *Herald* expressed the view that the Board was 'one of the most go ahead in the country' and, in retrospect, these were

good years for electricity in New Zealand. The Power Boards and Councils distributed the electricity with regard to local needs. In co-operation, they helped reticulate distant farms and properties in remote areas of rural New Zealand. Capital projects providing infrastructure were unimpeded and any surplus income passed on to consumers.[15] Unlike today, there were open public meetings and media oversight ensuring that the Boards did not get carried away.[16] Consumer oriented, it was a service industry, the distribution of electricity was run for the benefit of consumers – industry, business, residential and personal – and not for shareholders.

Governments deserved credit for the building up of generation (largely with renewables) and might even have been forgiven, in some circumstances, for the use of wholesale electricity supply profits to balance their books had it not been so substantial. The Boards, as distributors, might also have been forgiven for conservatism – in relation to ensuring security of supply of an essential commodity which no one can do without. Yet notwithstanding the cross subsidisation and the conservative approach, New Zealand had the second cheapest price of electricity in the world after Canada. But clouds were on the way.[17]

IV

LOCAL GOVERNMENT

In 1983, Auckland had 26 local Councils, some big like Auckland and Manukau and others small like Mt Eden and Mt Albert. As a result, there were many different local rules applying throughout the region. This multitude was exacerbated by the various Mayors, all competing for noise and coverage for the benefit of their patch and themselves.

However, some activities of a regional nature had been given over to the Auckland Regional Authority (ARA) including Planning, Works, Drainage, Refuse, Water, Transport and Regional Parks. Many Mayors of the various Councils sought election to the Authority to ensure their bailiwick was represented for those interests. These were times of exceptionally savage inflation and Mayors, who had each to collect the ARA levy for their areas, were struggling along with their constituents to cope. Personalities clashed and conflict was apparent. It seemed that the ARA was a convenient forum for contest. There was also a schism between those

who sought to expand the role of the Authority and those who felt it was growing out of control. It was not only Mayor against Mayor for their constituencies, it was often Mayor against the Authority.[1]

New Deal

I was flattered when asked by a group to join a ticket to stand for membership of the ARA – I was given to understand that this was due to the efforts of the AEPB in 'promoting commercial efficiency'.[2] The ticket was rather pretentiously called the 'New Deal', the thrust of which was to curb what was considered to be the unnecessary expansion of the ARA beyond its statutory responsibilities ('cut the tentacles off the octopus' was the catch-cry). Also, a principal objective was, conscious of the cost, to reign in the regional levy set by the ARA. At the time, the cause celebre was the building by the ARA of the Mt Smart Stadium sports complex in South Auckland, intended to be a regional facility for multiple sports, the cost of the first stage had suddenly increased from $4 million to $20 million.

Still in my early forties, I was attracted by the challenge – in my case, it was partly to foster, for the roles of the Authority, regional co-ordination instead of territorial division,[3] and partly to bring some commercial rigour and cost discipline to the ARA. I agreed to stand on the ticket, probably in response to the flattery and probably unwisely. It turned out to be one of the most turbulent periods in the history of the Authority.

Auckland Regional Authority

Upon being elected, I was one of 20 New Deal candidates of 29 Members – a landslide of sorts and a very clear mandate. I was then narrowly elected by the Members (on the casting vote of the Chairman) to the Chairmanship of the Policy & Finance Committee, the all-important committee with directional and financial oversight over the activities of the ARA – I believe that this was likely assisted by being a newcomer, not having been involved

in the general fracas among the Councils. However, most of the Members were senior and long-established local body politicians and well-known Auckland names who I think saw me, at the very best, as an inexperienced, untried, newcomer usurping a role for which they had greater credentials. Upon taking up the position, try as I might to keep my head down and above or below the fray, I was not allowed.

Many, if not most, motions were contested and hard fought. Many times the Chairman of the Authority, Fred Thomas, Mayor of Takapuna, himself combative, had to take a laborious formal vote rather than relying on a show of hands. There turned out to be little loyalty among members of the New Deal ticket and it seemed that voting sometimes depended on issues other than those proposed. The eagerness of a large number of members to have their say whenever possible made the Authority seem more like a 'Tower of Babel'.

As Chairman of the Policy & Finance Committee, two principal issues pre-occupied my time. The first was to supervise and to reduce the regional levy as far as possible and, second, to assess the Mt Smart project for the present and future.

The Levy

In the previous term, controversy and concern, from both inside and outside the ARA, had centred around its management performance. Independent consultants engaged by the Authority had themselves recommended 'strengthening the role of the management service unit to increase efficiency', and had pointed out its lack of project control and engagement in projects of 'questionable value'.[4] There had also been allegations of high spending and unnecessary luxury, such as for example the use of the upmarket Huka Lodge for officers in preparing its corporate plan. In addition, the Authority was proposing to embark upon the purchase of high-priced art – which some saw as profligate when its real role was to provide basic and

essential services. All of this was compounded by the high inflation which exacerbated and escalated costs.

As Chairman of the Policy & Finance Committee, the primary responsibility for rectification of this state of affairs fell to me. I set about the task, endeavouring to cut costs but at the same time ensuring there was no loss of essential services. Fortunately, this process was eased and assisted greatly by the co-operation of the Executives. With clear knowledge of the change in political climate, they helpfully made many suggestions and, upon approval, executed them to that end – for which I was very grateful. After considerable effort, the budget was settled, new internal systems instituted and spending brought under control. Over the three year term, the levy was held to an increase of 12% during a period of 48% inflation – a 36% gain in real terms.

Much of the saving was made in the first year and I was happy, in the circumstances then prevailing, to have achieved a recommended rate decrease of 6% – the first ever reduction of levy I was told. I duly prepared a report for the approval of members. Nearly all spoke to the motion and a sufficient number felt that, given the inflation at the time, it achieved the basis for the election of the ticket – of bringing costs under control. Then Tim Shadbolt, also a new member and recently elected Mayor of Waitakere (having defeated Tony Covid who was also a member of the Authority), spoke. To this day I am not sure what his intervention was about, but it was said in a charming and disarming manner – it was rambling, incoherent and certainly off-subject. There were a huge number of reporters present, however, who lapped up every word and made stories from fragments. The financial performance for the year and the proposed decrease got a sentence or two buried in the middle of the paper.

Mt Smart Stadium

On the motion of the Authority, I also undertook (in relation to the Mt Smart Development Plan of 1980) an investigation into the then incomplete Mt Smart Stadium complex which had been commenced by the previous Authority – the trigger being huge over-runs in cost (a 'fivefold' increase for Stage One in particular). Other members of the Authority, including the Chairman, insisted that this be an investigation by an elected member of the Authority – as they would not trust the Executives to do so – so I was on my own. Coming fresh to the issue, I researched the project, visited the site often, spoke to a wide number of people involved, did my own investigations and wrote a report. This was completed after a laborious ten weeks along with my other responsibilities, all the while with some members of the Authority baying for my blood for lack of speed and action, others because they did not approve of the review and yet others who felt they had been passed over for roles on the Authority or on the Policy & Finance Committee.

There was, at the time, considerable controversy and debate as to the Stadium's continuation and future, and of the uses to be made of the complex. In the course of my examination, it seemed to me that controls on the project left something to be desired and I found the case for its projected usage flimsy, including the use of the pavilion as practice nights for activities I had barely heard of. I felt too that certain uses might be better done in other ways, for example, the proposed velodrome might be better achieved by upgrading existing facilities elsewhere say at Western Springs and that the swimming pools be placed in areas where they were most needed, such as in West Auckland.[5] But having regard to the progress and expenditure to date, and to the proximity to and needs of South Auckland, there seemed little alternative but to continue with the otherwise desirable project, the goal now being to narrow and simplify its main objectives and to enhance those that remained.

The report re-defined and altered the first Stage; it suggested

alternatives for some of the planned functions; it tried to clarify the goals for subsequent Stages; it imposed supervision of the project; it reduced the costs; and it provided suggestions for funding the very significant shortfall so as to ease the pressure on the levy. It was first accepted by the Policy & Finance Committee and then, after some debate, by a narrow majority of the Authority after a fiery meeting. The work then proceeded on the new plan.

Given the projected special requisition required of between 12.4% and 25% of the existing levy,[6] I was then tasked with presenting and promoting these conclusions and solutions to the Councils of the region and justifying the additional cost as amended – the Councils having to collect the funds required for completion as well as the normal levy. I visited a number (including the Auckland Council at a full meeting) and thankfully the report was reasonably well received – probably in relief that a way forward had been established after a year or so of argument, uncertainty and unrest. The report forms the basis of the Stadium today – it contributed to and eventually (with necessary subsequent additions) led to the facilities ultimately used for the Commonwealth Games six years later in 1990.

Today

Due to the high inflation of the period, it was little wonder that cost consciousness was very much on the minds of the Mayors of the Region – any bigger picture seemed lost. The objective to keep costs low in public bodies is admirable but it did mean that infrastructure was on the back-burner at the expense of necessary public facilities. Capital projects (which require upfront funding, long-term assessment and implementation) appeared to be off the table. Since the nineteen sixties Auckland had been growing apace yet the development of infrastructure and future needs – upgrading and expansion – had taken second place. Even in the nineteen eighties, the growth of Auckland was obvious for all to see – just as obvious as it is in recent times. Although the scale of the subsequent

expansion of population and need now would have been difficult to predict then, the present inadequacy of infrastructure today stems significantly from erstwhile regimes, more concerned with lowering levies and rates than with providing for the seemingly inevitable growth.

This still contributes, in 2021, to the lack of infrastructure both present and for the future of Auckland (including its traffic, sewage, water, waste and cultural requirements) which needs to catch up and expand. Nobody wishes an increase in rates to service long term debt but this may be inevitable given the desirability to keep up and improve basic services for an expanded community. Candidates prepared to take a long-term view to build and upgrade our infrastructure for the future should, notwithstanding the pain inflicted, be supported.

Auckland Local Government

I was a member of the ARA for one term only from 1983 to 1986 and did not stand for the Authority at the next election because I had been asked to take on the role of Chairman of the Commerce Commission. However, that was not quite the end of my involvement with Auckland local body politics. I had originally stood for the Power Board on the Citizens & Ratepayers (C & R) ticket which, in the words of the city historian Graham Bush, 'enjoyed almost constant control of Auckland City in the second half of the 20th Century'. However, during the 1990's a new far right-wing organisation 'Auckland Now' (AN) emerged, split the right leaning vote and ended C & R control of the City. In this context, it was necessary to resolve the split in order to restore influence, but relations between C & R and AN continued to be fractious. In 1999, upon the then President of C & R resigning in disgust, I was asked to take over and became President for five years until 1994. With great difficulty and patience, given that the differences of viewpoints were strenuously held, the organisations eventually

merged. A combined ticket called 'Auckland C & R Now' (ACRN) was formed and it regained control of the Auckland City Council.[7]

During this time, now as President of ACRN, I had the opportunity for once only in my life, to play the self-righteous establishment figure in high dudgeon at the antics of Auckland City Councillors. It was reported that, after a Council meeting, the celebrating Members, carried away and wine glasses in hand, had taken down the portraits of the Queen and Duke of Edinburgh and placed them in the Mayor›s toilet. From the explanations offered, it was not altogether clear why. It did not appear to be a Republican moment. It was said that the portrait of the young Queen was out of date? Was it a harmless prank? It did not seem politically driven because the perpetrators reportedly included the Mayor Christine Fletcher (a former National MP), Deputy Mayor the Rev Dr Bruce Hucker and Richard Northey (Labour), and property developer Jon Olsen (who made the ACT Party seem rather leftish). As President, I found the explanations offered for the antics as stretching my credulity rather too far. Indeed, it seemed to have been fuelled, not by high spirits but by spirits of another kind, and I publicly scolded that the actions were 'reminiscent of a Yobbo's stag party'.[8]

Reflecting

Whereas the AEPB operated like a Public Utility along private sector lines, the ARA utilities were a hotbed of politics. During my term at the ARA, I endeavoured to fulfil what the New Deal had been elected to do but did not enjoy the constant sniping by all and sundry – seldom aimed constructively at the issue. I concentrated on the issues we had been elected for and did not respond to the barbs. Fortunately, the Chairman of the Authority and some of the members came to my aid and kindly said that I did not deserve the comments or allegations. And all was not lost, at least I had had a background in the wider politicised public sector – a journalist commented that it prepared me for future roles in being 'able to

draw on experience in both the public and private sectors, speaking as it were two dialects of a common language with fluency'.[9]

And not all of the Mayors disapproved. Northcote Mayor, Jean Sampson, a member of the Policy & Finance Committee and my successor as its Chairman, said publicly of my time there: 'Life is a lot easier for John because of his intellect. He's got this marvellous brain which has the ability to get through mounds of facts and come out with accurate assessments at the other end. He is very, very able. He has enormous intellectual ability, and he is a pleasure to work with. I'm a fan'.[10] My grateful thanks to you Jean – it helped make the effort worthwhile.

V

THE COMMERCE COMMISSION

Wellington officials of the Department of Trade & Industry had floated with me the suggestion that I might consider taking on the role of Chairman of the Commerce Commission – an authority charged with oversight of practices which restrict competition in trade. A reason perhaps was that I had, in 1982, updated my first book to a second edition and it was published by Butterworths with the Rt Hon Sir Alexander Turner (then having retired as President of the Court of Appeal) editing the work and providing it with rigorous legal oversight.[1] The rather long and cumbersome title *The Law Relating to Restrictive Trade Practices, Mergers, Takeovers and Monopolies in New Zealand* was sometimes shortened to 'Collinge on Competition' which, I am rather ashamed to say, I encouraged.

The Department was charged with referring various trade practices on its Register to the Commission for review but this had been side-tracked by the introduction of a myriad of Regulations aimed at keeping the prices of goods and services under control.[2] Thus, although the Commission had a role in dealing with restrictive trade practices, these were few and far between. Instead, price control

occupied much of the Commission's time.

Price Control

As a lawyer I had found the price control Regulations voluminous, skull-cracking and confusing. And, for those with the responsibility of imposing such control, creative accounting aside, trying to determine prices of products in complex markets was rather like playing God. The trouble too was that it was anti-competitive as businesses would tend simply to price up to the maximum allowed and it often acted as a significant disincentive for investment in controlled industries. The Commission was, in essence, as it was described, 'a latter-day prices authority' and an anti-competitive instrument to boot.

Price control had been introduced by Prime Minister Robert Muldoon to curb high inflation. A high-water mark of his policies was reached in 1983 when he imposed a price freeze on goods and wages.[3] Ever dominant by virtue of his intellect and demeanour, he ran the country (and seemingly its many businesses) almost as a personal fiefdom.[4] However, there was developing (on both sides of politics) concern that these policies were unsustainable. It was tentatively being suggested by some that what was needed was a climate which encouraged private sector commercial endeavour to spark a recovery.[5] Among National Members of Parliament though, this had to be done rather carefully.

The Minister

In this climate and, in the course of assessing whether to accept the role as Chairman of the Commission, I was introduced to the Minister of Trade and Industry, Hugh Templeton, who was highly regarded for his work on Closer Economic Relations with Australia. I was reluctant to accept the invitation. I had appeared before the Commission occasionally. One of the Members, an elderly gentleman, fell asleep during my presentation (I like to think not

as a result of it) and, waking up, to show he was attentive, asked the wrong question.

Not wishing to be misunderstood, on 15 September 1983 I wrote a letter to the Minister confirming what I thought the role of the Commerce Commission should be, but particularly that it was 'to endeavour, by espousing the advantages of competition, to create a climate to stimulate individual initiative and the economy generally'. I advocated that this should be the primary objective of the Act and that it should be administered with business acumen, in a business-friendly way and not be anti-business – only pro-competitive. Probably prudently, the Minister did not confirm or deny the contents of the letter (from discussions I was left with the impression that he may not have had the sign-off of Caucus, let alone Muldoon) [6] but I understood him to be not unsympathetic and he did not demur.

Rescuing the discussions, the Minister told me that, to co-incide with my proposed appointment, the Commission was to be given 'wider powers', including inquiry into mergers and takeovers.[7] This enabled me to re-consider but, due to the political uncertainty, accepting the position was still largely a leap of faith – was the future to be regulation or competition? Appreciating the dilemma, Sir Alexander Turner, writing to congratulate me on my appointment said 'It is a formidable task, which you will face with your well-known courage and composure; you will certainly do so with full understanding of the problems which await you'.

Commencement

At my first meeting with the Members of the Commission, largely in hope, I took a substantial liberty and told them – notwithstanding that the promotion of competition was only one of eight aspects listed in the Act to be considered when dealing with restrictive trade practices, mergers and take-overs – that we were now to be a competition authority, the primary purpose of which was to

promote and encourage competition. I was encouraged that Colleen Dewe (a member of the Commission, a former National Member of Parliament and no Muldoonist) looked forward to the change.

Given the new role, the work of the Commission now mainly centred around adjudicating upon the competition implications of mergers and acquisitions which, at the time, were proliferating and conglomerates forming. Co-incidentally, Trade & Industry began to refer restrictive trade practices to the Commission for scrutiny in order to clear its rather long standing Register. Further, to foster public consciousness, the Amendment Act now included a requirement that the Commission promote competition. Price control issues somehow gradually dwindled and, from a latter-day prices authority, the Commission became heavily engaged in and a focus for surveillance of business activity – almost by stealth. None of this was trumpeted. It was not until much later that the Business Round Table, realising what was happening, started to react.

Given that the Government was then directly involved in many businesses itself, the Commission would have surveillance and oversight over these as well as those of the private sector. To emphasise independence from Government, I felt that there should be a distinctive logo for the Commission (rather than the Coat of Arms). However, restrictive trade practices are creatures of agreements and understandings and not at all pictorial, nor are mergers and take-overs, and we were at a loss to think of something suitable. The Department of Trade & Industry came up with a 'CC', along with a colour scheme and typescript. For want of another, we adopted it. But in a new jurisdiction and the need for time to bed in the changes, we did not foresee that 'CC' might come to be short for 'Constipated Cow'.

It was necessary for the Commission to develop new procedures to hear and to ensure natural justice for those affected. Many new systems and techniques were created, such as 'draft determinations' (for submission and reply by participants), informal conferences

(rather than adversarial to ensure as little formality as possible), 'confidentiality orders' (to obtain necessary information and to protect commercial interests) and 'letters of comfort' (to provide some assurance upon which businesses might make decisions). In the new jurisdiction, there were legal interpretations to contend with, often hard fought. Thankfully, all this effort was not wasted since the principles and procedures developed were introduced in substance into the Commerce Act of 1986 which followed.[8]

The Commerce Act 1986

From April 1984 (the date of my appointment) the Commission quickly came across a wide range of issues. It soon appeared that many New Zealand industries, if not most, were run as a cosy gentleman's club. Nearly every industry had a trade association at which members met with their competitors to regulate the industry (as to prices, supply, standards, etc) and they sometimes operated as a closed shop to any new competitors on the horizon. Effectively, many New Zealand industries were run as a cartel by the incumbents. Few, including myself, would have been aware of its extent, then across most fields of commerce – to the detriment of both consumers and budding entrepreneurs. Realisation of the magnitude of this concentration and inertia was a catalyst for a significant internal review of the Act by the Commission.

In tandem, was the need by Government, upon de-regulation, for an effective substitute for price control. Later in 1984, Muldoon and National were replaced by a Labour Government under PM David Lange and Finance Minister Roger Douglas who, to solve the country's economic problems, embarked upon a de-regulatory programme (including devaluation, dismantling price control and regulation, abolishing subsidies and removing frontier barriers). In the light of this watershed reversal of approach, some protection was needed for consumers and businesses should they be adversely affected.

The resulting Commerce Act 1986 directly expounded the principle of primacy of competition – the preamble states that it is singularly 'an Act to promote competition in markets in New Zealand'.[9] It introduced a modified antitrust model with broad principles – now prohibiting practices which 'substantially lessened competition' and activities which caused or utilised 'dominance' in a market, and now with very serious pecuniary penalties for breach. In so doing, it retained the process whereby these could be authorised if 'public benefit' outweighed the detriment from the restriction.[10] These principles were at large and for the Commission to interpret in any given case.

Operation

With such broad criteria, all a matter of degree and judgment, the problem was to determine in each case where the line might be drawn. Nearly all 'Captains of Industry' of the time asked me that question.[11] I could only reply that it was a judgment which had to be made on the basis of the facts and circumstances in each case – something they thought, not entirely unreasonably, to be impossibly vague. It did not make planning easy – it forced them to address whether, in their activities, they themselves had adversely affected competition. Market shares were at best a 'wet finger' indicator only, important were barriers to or ease of entry to the relevant market in the light of the restriction or amalgamation. Due to the broad parameters, the Act could have been interpreted in a draconian and non-business friendly way but, given my business and commercial law background, that would have been anathema to me.[11]

To reduce the uncertainty and to give confidence to business, the Commission published guidelines and offered 'advance clearances'. It tended to refrain from immediate prosecution in this formative period while the changes bedded down. On substantive issues, as a result of the lowering of tariffs, the encouragement of imports and de-regulation, it began to appear that many markets now had

sufficiently low barriers of entry to allow competition and potential competition, especially from overseas. Accordingly, increasingly mergers and take-overs often no longer raised competition concerns. As a result, intervention occurred when strong and demonstrable reasons for so doing were apparent – it came to be called 'light handed regulatory oversight'.

To business, the new Act was controversial and its application likewise. The civil service was keenly interested in oversight of its administration and operation. The formal proceedings of the Commission were open to the public and the media considered it newsworthy – due not only to novelty but to the interest created by the share-market frenzy of the mid-1980's. Politicians, now realising the considerable impact of the Act, were beginning to become aware and be interested as well. Closer Economic Relations and the objective of the Single Economic Market necessitated that the Act and practice be in harmony with the law and practice of Australia. There came to be widespread public interest in competition issues, with the Commission its focus.

Business

Understandably, there was a substantial lobby against the Act from business as the provisions began to have bite. Opposition was strident from those most affected and interventions by the Commission were usually strongly contested. Take-over activity was great theatre and, should the outcome not be satisfactory to the applicants, the Commission was not far away. The legislation came under fire too. For example, Sir Ron Trotter (then the doyen of business) said that the 1986 Act was 'a massive barrier to industry rationalisation' and that 'it was fine to have a monopoly if it produced efficiency'. The problem with that was the Act was there to ensure competition, and competition was the best way of ensuring that the efficiencies thereby secured lasted and continued.

It was said by opponents that, left alone, restrictive practices and

monopolies break down of their own accord and that 'mainstream' economic theory (which was code for Chicago School thinking) did not require control. But they often take a long time to dissipate and consumers are adversely affected meanwhile. It was also strongly argued that monopolies and co-operative activity were necessary to enable New Zealand companies as small players to compete with larger overseas companies – it was better, they said, to be a foreigner than a New Zealand company. But the Act promoted domestic competition and there was never any serious evidence put to the Commission that a monopoly or concentration at home assisted local concerns to compete – I suspect that this was because, had they run the argument, there may have been allegations of price gouging locally to subsidise overseas markets.

Not unsurprisingly, there were various tactics used in opposition, such as delays in providing information to the Commission and there was suspicion that some information might have been withheld. There was some evidence of non-compliance such as 'warehousing' (where assets were held in the name of a friendly third party thereby avoiding scrutiny). There was also the use of public relations consultants to create public opinion or a climate in favour of applications – this not being 'in contempt' since the Commission was not a Court. And so on. Given the widespread reaction and opposition by business interests such as the Round Table and others, I was grateful that business friendly Fran O'Sullivan, in a leading article in the *Dominion*, headlined that I was 'Keeping Cool in the Hothouse'.

Trade & Industry

The Department of Trade & Industry which had oversight of the Act was often insistent upon the course of action the Commission should follow. For example, it considered that merger and takeover applications should be refused permission absolutely if that would create a dominant position and it would not countenance a

condition that assets could be divested in order to make it comply. The Commission took the view, for example, that where one section only of the transaction was suspect, why strike down the whole? The Department, displeased, moved to prevent this by an amendment to the 1986 Act. However, the Court of Appeal allowed approval of transactions subject to divestment conditions by taking what it said was 'a broad view of the scheme of the Act'. In short, the Department's stance contrasted with Commission's pro-business approach. For those who think that civil servants are merely emissaries, think again.

The Courts

It would be cumbersome to canvass the important and interesting cases which came before the Commission, but I should mention one that we lost. Fisher & Paykel (then the dominant brand for whiteware products) had for many years built up a chain of retail distributors for its products and the company had some 80% of the market for whiteware in New Zealand. As a condition of supply, it restricted its distributors from dealing in competitive products. An Australian competitor had been able to obtain a 10% market share but considered its entry could not be progressed further since most retailers were denied it. Three members of the Commission, including myself, ruled that competition was substantially lessened with another dissenting. On appeal to the High Court, Justice Ian Barker, with the assistance of a lay assessor found that it had not. There was some basis for that decision in that the Australian company had been able to contest to the point where it had 10% of the market. That made it a significant competitor but the real question, the business one not sufficiently grappled with by the Court, was whether it could realistically have obtained its own retail outlets to combat the restrictions imposed on the existing and long-standing retail outlets of the dominant supplier. The longer-term impact of the decision was that vertical restraints (ie manufacturer

to retailer) as compared with horizontal restrictions (competitor with competitor) were in New Zealand, inconsistently with other western countries, difficult to attach. For example, in America, film studios were required to divest their ownership of cinemas, thereby allowing access by competitors in film production.[12]

Opinions on this issue were therefore 3-3 and, as the Court itself conceded, the judgment was finely balanced.[12] The case raised squarely the question as to who was most appropriate to make the final judgment. Judges may not always have a multi-disciplinary background (that was especially so in those days) and more often little direct business experience. An economist assisting Judges might be of the school that restrictions will right themselves without statutory intervention and this might pre-determine or highly influence the judgment. Of course, the Courts must always decide matters of law, but the wide discretionary judgment as to competition matters ('substantial lessening of competition', 'dominance in markets', 'monopolisation' and 'public interest') might be better left to a panel consisting of those with independent practical business experience and skills – which, of course, should be a pre-requisite for members of the Commission.[13]

Politics

I was Chairman of the Commission during the 1984–1990 Labour Government. Although appointed by National, Labour kept me on and I was therefore in a position to watch the impact of its de-regulatory reforms. While not against privatisation in appropriate circumstances or in principle, it seemed to me that the privatisation of Government businesses was carried out in a rush and without ensuring a competitive environment in the industry before privatisation occurred.[14] Thus, a public monopoly might simply be replaced by a more avaricious private one. I felt obliged to say so publicly. To combat the problem, well after my retirement, the Commission was subsequently charged with oversight of price

and performance of such monopolies. Thus, for some industries, it seemed as though this was back to the not so distant past – to what was in essence a form of price control. To some extent the wheel had turned again. My gratitude to the Labour Government in not re-appointing me when my term ended remains to this day.

In tandem with the rush to de-regulate, the role of the Commission was not always fully understood by politicians. In one case, there was a proposed sale and takeover of Government-owned Air New Zealand – a contest which was strongly fought between Qantas and British Airways. Both had applied to the Commission for clearance for their respective bids. During consideration of the applications, unexpectedly, I received a request by letter from Richard Prebble (Minister for SOE's) in favour of and supporting one of the applicants and then from David Caygill (Minster of Commerce) supporting the other. Nonplussed, we evaluated the applications and approved them both as neither appeared to raise competition concerns – there were plenty of other carriers in the market for air services. Of course, selection of the preferred bidder was for Air New Zealand and not the Commission. We did not respond to either letter and attached them to the decisions for transparency.[15]

Harmonisation

Fortuitously, Bob McComas, a friend from my legal days in Australia, became Chairman of the Australian Commission[16] and we worked closely together to ensure harmonisation of practice so as to avoid conflict where transactions and activities impacted both countries. After putting protocols and procedures in place between the two Commissions, we found that, although the laws and practices of the two countries were not identical, they were sufficiently compatible so as not to hinder trade between the two. In recognition, the Memorandum of Understanding between the Governments of Australia and New Zealand on the Harmonisation of Business Law of 1988 recorded that 'New Zealand and Australia

have already achieved a significant degree of harmonisation and co-operation in...laws administered by the Commerce Commission in NZ and the Trade Practices Commission in Australia'. This 'first experience' helped show the way in relation to harmonisation of commercial law generally.[17]

Misleading Conduct

There were many speaking engagements promoting competition and understanding of the Commerce Act, and a similar approach was taken upon the introduction of the Fair Trading Act 1986 which prohibited 'misleading conduct in business', placed considerable responsibility upon suppliers and provided effective remedies for buyers. Its purpose was to encourage integrity in business dealings – 'Tell the Truth the Commission Chairman warns' was one headline. I had pointed out the previous difficulties in obtaining redress for false or misleading statements in *The Law of Marketing* and, when the Fair Trading Act 1986 appeared, being very supportive, I endeavoured to ensure that traders were aware that many previous business practices and promotions now infringed the Act. Initially, among many others which followed, these included false country of origin claims, misleading finance statements, pyramid selling schemes, hidden disclaimers of liability and many other practices amounting to plain old misleading conduct in business. There was no shortage of support from the media for this endeavour.

This new Act produced a work-load roughly equivalent to that under the Commerce Act 1986. In the first year, nearly 10,000 queries relating to the Fair Trading Act were referred to the Commission. Some 70% of these related to how consumers might remedy deals in which they felt deceived or disadvantaged and approximately one quarter of these disclosed possible breaches of the Act.[18] In order to prioritise, the Commission concentrated on redressing those matters where the detriment to each consumer was small and did not warrant action by the individual. Complaints of misleading

conduct between businesses tended to be deferred, particularly as the Act also provided a private remedy. Even by the end of the first year, there was no doubt that business conduct in the promotion and sale of products had changed markedly.[19]

Enforcement

One of my regrets was that, during my remaining tenure, the Commission was not able to pursue remedies in the Courts as it would like – enforcement was to be the next push after the priorities of public awareness, administration and adjudications. In any event, at that time, the budget for enforcement was miniscule and internal expertise for this purpose was in the process of being established. But some who deserved prosecution were so recalcitrant that we had no option. One such person delighted in baiting the Commission as well. After failing in efforts to serve him on a number of occasions, we learned somehow that he chose to breakfast at a Christchurch hotel, co-incidentally at which I was also staying. Diligent officials, hopefully trying to impress, arranged to serve him there early in the morning. When they arrived, the culprit realised what was happening and dived under the table. I can confirm he was served under the table and not at it.

The Commission operates in an area where there are significant vested commercial interests of high worth and often in relation to transactions of high value, the participants well able to influence and colour public attitudes and to challenge decisions. In this respect, the support and resources committed to the Commission were inadequate. In 1986 it had a budget for $4 million in total and $70,000 for enforcement. Now, with the added role of supervising absolute monopolies, it has a total budget of the order of $50 million and a litigation budget of some $8 –12 million This still appears sparing and the Commission must of necessity pick its cases wisely for maximum impact. Obviously, the Commission's ability to fulfil its role is largely due to the resources it can muster and the issue

is whether it is adequately funded. The Commission performs a valuable and essential role in preserving and promoting competition and might be given more support, recognition, status and resources.

In Conclusion

The new legislative framework to promote competition/fair trading meant a significant adjustment for business from the rather cosy environment which had pre-existed. The focus of the Commission was now one of promoting competition, replacing price control. There was effective control of mergers, take-overs and restrictive trade practices. Misleading conduct in business was unlawful and consumerism with bite had come to New Zealand. New systems and procedures for carrying out the policy of the Acts had been put in place. Attitudes had changed perceptibly. The former 'clubbish' business environment was now fraught with sanctions. Integrity in business conduct and practice changed markedly for the better. Competition, a fundamental tenet of free enterprise and democracy, a formerly neglected part of our society, had been greatly enhanced and elevated to its proper place.

Public acceptance of the value of competition was hugely assisted by the advent of competition in domestic aviation for example. Suddenly, boarding platforms appeared, routes multiplied and food, service and comfort for travellers markedly improved as airlines competed for custom. This was not due to the Commission but to the advent of a competitor – I had the good fortune of being able to use this as a visible and practical example. It greatly assisted a role of the Commission which was to publicise the benefits of competition and commentators joined in.

Some commentators were kind enough to say that I was 'the prime mover behind (the Act)' and that 'many of the changes which I was seeking to implement from 1984 onwards have since become enshrined in the 1986 legislation'.[20] Then too, the Act was an essential component of de-regulation particularly for the protection of

the consumer. Reviewing its application, Richard Braddell, Business Editor of the *Dominion*, concluded that I 'oversaw de-regulation'. At the end of my term of five years in 1989, although there was still work to be done, in my final statement I felt able to say that I believed 'I had shot the tiger I had come to shoot'.

VI

THE NATIONAL PARTY

Shortly before ending my five-year term at the Commerce Commission, I was approached by Murray McCully[1] on behalf of a number of other younger Members of Parliament. They wanted me to stand for the Presidency of the National Party against the incumbent. In 1989, National had then been in opposition for some five years and the Members were rather desperate to be in government. They knew of my campaign efforts on behalf of C & R in the Auckland local body scene and wanted a more pro-active approach to match the considerable campaign ability of the Labour Party of the time. They referred me to two of the regional branches (Wellington and Waikato)[2] and I found that there was an appetite for change. Now that my role at the Commission was ending and, again being somewhat susceptible to a challenge, I re-joined the Party[3] and allowed my name to go forward.

The Presidential Campaign

In this, I was particularly aided by the considerable public relations

and organisational skills of Party stalwarts Michelle Boag and Jenny Langley and, under their guidance, endeavoured to meet as many delegates as possible and travelled throughout the country to this end. Very soon though, it became clear that an avalanche of stories, variously embroidered, were being spread – the principal theme of which was that I was being investigated by the Law Society and the Police, and was about to be struck off, charged, convicted and imprisoned. When these were reported back to me, though appalled at the unfounded attack on my livelihood,[4] I could not respond for fear of creating a public issue to my cost. Fortunately, notwithstanding the widespread smear campaign, I was elected President at a National Conference of some 400 delegates – it seemed that such slurs were not entirely unusual in Presidential contests. The delegates may have wished for some new blood and ideas and it may have assisted that I was neither a Muldoonist nor an advocate of the far right, so that members of both factions might be able to support me along with those from the centre-right.[5]

But immediately upon being elected, a campaign began, at the Conference itself, to have me step down. Somehow, a group of senior Party officials and Members of Parliament, which included Leader Jim Bolger, Past President Sir George Chapman and John Banks MP[6] was formed and I was interviewed at length on two occasions. It was clear that its purpose was serious and likely to have stemmed from the slurs – but none would tell me of my alleged misdemeanours or provide advice as to the complainants. In the course of this, I was told that Sir Ron Brierley (then heading the largest conglomerate in the country) strongly objected to me as President and that donations would be withdrawn from the Party. Again, Brierley's reason was not stipulated or explained (the Commerce Commission had declined two but had allowed most of the many Brierley group applications for mergers and take-overs). Accordingly, I felt that I was battling against shadows without any means of defence. In bewilderment and hurt, I could only say to the

Committee, rather weakly, that there were no issues which would disqualify me from the Presidency.

From what I gathered, many had not expected me to win – no one (not even Sir George Chapman whom I greatly admired) had succeeded in unseating a sitting President before. When I did, it caused a very visible panic even though by now my background and history was well enough known and had been dissected by delegates and the media.[7] Invited by the Committee to consider my position, I certainly thought seriously given the strength of the concern but, having now been elected, standing down would have seemed an admission of wrongdoing – and there was little option for me but to continue on.

Party Organisation

It was first necessary to re-create the Party organisation. What those who asked me to stand for the Presidency did not tell me (and perhaps they did not know) was that the Party was insolvent.[8] Fortunately, because an election was brewing, an extensive round of visits enabled the problem to be solved. However, the Party had been out of power for some five years and it was necessary to start from a low base – this was done particularly by instituting substantial polling and market research capability (to aid decision making); by introducing low level computer technology for the first time (for better targeting);[9] by developing group think tanks (for policy decisions); and by setting up multi-media presentations (again for the first time). Jane Clifton in the *Dominion* conceded that I 'enjoyed quiet kudos for ramming through computer-based polling and data collection' saying, but not admiringly, that 'some delegates go pink with excitement as they now explain how they can now target every swinging voter'.

We polled regularly on positioning and trends and also collected daily media reports across the country for the assistance of politicians – providing information upon which decisions might be informed.

Perhaps surprisingly, the biggest factor by far in increased support for National and a decrease for Labour, was the National Caucus decision to change from a nuclear tolerant to a non-nuclear stance. This instantly impacted the polling by as much as 5%, meaning that an 8–10% gap opened up between the two Parties. It seemed that this had been holding back a switch of support and the new stance enabled many voters to consider voting for National instead.

The General Election

National was now in front but there was still the election to be won.[10] In relation to the campaign, three things turned out to be important. First, a show of unity. Second, a campaign that reflected the whole package – of Leader, team and policies together. Thirdly, the contribution of the grass roots.[10]

The division within Labour ranks was well known. Not so well known was that National (both in the wider Party and in Caucus) was also beset by division. There was conflict between the Muldoonists and the far right in economic organisation and, on social issues, a rift between conservatives and liberals. In fact, the Party had at least four fractious factions with the feel of a religious schism. Later, these groups divided into four separate Parties: National (centre right), NZ First (populist), United New Zealand (liberal) and ACT (far-right). Thus, the task for the election (then still First Past the Post) was to keep these groups together as a 'broad church' so that National could be seen to be electable as a united, credible government. Opinions were strongly held, pursued and voiced, but stability was the key. I probably annoyed some by too often calling for unity and most certainly bored the others to tears.

I was keen that the campaign should present a package rather than the more usual 'presidential' campaign. In a business context and commercial success, it is usually the team that counts. Translating that to politics, political parties and journalists appear often to overstate the role of the Leader in comparison with the team and

the policies. The Leader is the figurehead, primary spokesman and first among equals, but an important part of the campaigning process is also to emphasise all three (Leader, team and policies). Voters (who, in my experience, have a collective wisdom not always accorded them) are usually more persuaded by the overall package.

I also wanted the campaign to have impact at grass roots level as I had personally witnessed the efforts and impact of those who door knock and deliver pamphlets. In New Zealand, the one thing that works is personal contact made by candidates and members with voters, making the issue locally a live one – to show presence and that you want to win the election. Campaigns depend strongly upon political messages from the centre (ie from politicians), but the two need to work in tandem. In 1990 they did.[11]

Polling reflected what happened. Labour initially had a small lead but this shifted to National due to the decision to be non-nuclear. Towards Election Day commentators panned the campaign as boring (National prudently being careful not to do anything which might dent its lead) and the polls narrowed. At that point, I became concerned and, in the final week, much unplanned money and effort was committed, including newspaper advertising of the not very original 'time for a change' variety. The gap opened up again and the overall pattern of polling resembled a fish with a small tail whose mouth had opened wide.[12] It was the biggest landslide until then. To my relief, the elation in the Party and country was very apparent.

Candidates

Before the campaign, candidate selection took up the most time. In those days, selection was largely in the hands of the members of each electorate. As a result, farmers, teachers and lawyers in roughly equal numbers dominated Parliament. There was a shortage of experience in economics, business, engineering and health among other skills, and there were three National women Members of Parliament only. In a press statement in October 1989, which media headed

'Collinge lists those most wanted in 1990', I asked for candidates with these wider skills and also for more women members, saying that 'we would not be making full use of our human resources unless this imbalance is addressed'. I added that more Maori, Asian and Pacific Members 'would contribute to National's chances of long-term success'.[13] Gradually, the composition improved. It is now much easier to encourage balance and spread under the List system.

I was gratified that politicians with these wider skills came into Parliament in 1990 with the landslide – at the risk of offending others not mentioned, this included Bill English, Roger Sowry, Nick Smith and Tony Ryall. In addition to bringing these skills, there was also a strong sense that they were there to contribute to the country and not for themselves – something to be looked for and sought after. They all became senior and influential Ministers (one a Prime Minister and one a Deputy) but, conversely, some candidates who may not have been entirely suited to the task were also elected. In those days (under the First Past the Post voting system) the primary effort and funds focussed on the marginal seats – other seats thought to be unwinnable were relatively neglected and, as a result of the landslide, some candidates perhaps not entirely suited to the role unexpectedly entered Parliament.

Dissention

The 1980's were marked by leadership contests on both sides of the political spectrum.[14] For National, in 1981 there was an attempted coup (known as the 'Colonel's Coup') where Derek Quigley, Jim McLay and Jim Bolger moved behind Muldoon's when he was overseas to substitute Muldoon's moderate deputy, Brian Talboys. Upon his return, Muldoon (with his direct appeal to voters) put an end to it but the opposition continued, particularly by Derek Quigley who publicly criticised Muldoon's interventionist stance and, being dismissed from Cabinet, resigned to co-found the ACT Party. Muldoon lost the election in 1984, in part because, unwisely, he went

to the public early after a convivial evening and McLay was elected Leader. Muldoon, in retaliation, lost no time undermining him, saying among other things that his polling was within the margin of error. With Quigley and McLay gone, much gravamen was lost. Bolger was elected by Caucus in 1986 – his appointment was I thought a good choice because the public were becoming somewhat weary of 'King' politicians. However, there was still Winston Peters who also aspired to the leadership – he had significant support from the public and Party members, he outpolled Bolger and was seen by many as Muldoon's successor.

Peters

It seemed that the divisions were continuing within Caucus. The President (not being an elected politician) was not a member of Caucus but, taking the opportunity upon an invitation, I was able to say to the Members that politics was 'a team game' and reminded them of the public division in the Labour Party which had brought about the landslide to National. But this changed nothing. Sooner or later, it seems that the Members became sick of the contest – they voted to remove Peters from Caucus and asked the National Executive to expel him from membership of the Party. I did not receive the latter request with any enthusiasm – a role of the President was to keep the Party together if possible. Nevertheless, there seemed no alternative but to address the issue given that the impasse was irreconcilable (neither Peters nor Bolger could speak of the other with a level voice) and expulsion had support of the majority of Caucus.

Knowing Peters would not go quietly and of his litigious nature, a legal challenge was likely. Hence, it was necessary strictly to observe the principles of natural justice – that is to say, to advise Peters of the case against him, to give him the full opportunity to respond and then to have a process whereby the differing viewpoints could be aired and a decision made. I duly set out time limits for

submissions and for rights of reply, and then set a date for hearing by the National Executive. Jane Clifton, herself no lawyer, for a week leading up to the hearing, possibly at the behest of proponents, daily criticised me in the *Dominion* for 'dithering' on the issue.

The Hearing, Decision and Challenge

The National Executive consisted of 20 members. It included representatives from the five regions of the Party, key office holders and, under the Constitution, three members from Caucus who were Bolger, Don McKinnon and Doug Graham at the time. The submissions, counter submissions and rights of reply took several weeks during which the members of the Executive were subject to heavy lobbying from all and sundry. At the hearing Peters gave a good account of himself while continuing a truculent and combative tone. It was a charged issue – there were in the Executive members who were part of the Muldoon era. The vote, which up to now only I knew, was 13 to 7 in favour of expulsion, which was close considering that the vote of the three Caucus members was a given. For the record, I voted in favour of expulsion – during the run up to the hearing Peters had appeared to me to be disloyal to the Party itself. I duly announced the result without disclosing the numbers.

As expected, Peters called in his lawyer and issued proceedings against me and the National Executive for wrongful dismissal. It took a little time to work through the High Court and the case is cited in the law reports as '*Peters v Collinge*'.[15] Peters was not able to show that natural justice had been denied him and the decision turned on the rights of private organisations to make and apply their own rules without oversight by the Judiciary. The case is still legal authority to say that the rules of private organisations and their application are private matters and cannot be reviewed, no doubt strongly influenced by the thought that the Courts were not the right place to resolve issues thought to be political.[16]

Out-done

Possibly in retaliation for the expulsion of his heir apparent, Sir Robert Muldoon, no longer Prime Minister and sniping from the Back Benches, took us by surprise and announced his resignation from the true-blue Tamaki Electorate – a seat National was certain to win. David Kirk had just returned to New Zealand. He was, of course, an All Black Captain who had led a World Cup winning team, a Rhodes Scholar with an Oxford University degree and he had worked in the finance sector in the City of London – an ideal candidate if there ever was one. We thought he was a 'shoe-in' for candidature and, in a phone call to Prime Minister Bolger, the Chairman of the Auckland Region John Slater and I broke the news of his availability, thinking that a warm accolade was due. It was not long before we heard that there was quite a stir in the Caucus dove-cote, especially among senior politicians at the time. The vibrations which emanated were those of apprehension – we had not taken into account that positions and ambitions may have been threatened.

But Muldoon, wishing to anoint his successor from his own 'Rob's Mob', had timed his resignation (I suspect with advance notice and collaboration) so as to allow the group to put in place loyalists on the selection panel. In response, the Party undertook serious lobbying for Kirk and significant effort to create member-ship so as to enable further delegates to be appointed. At the final selection meeting there was a large crowd and many aged and infirm were wheeled in. When the vote was taken, there was still a majority for Clem Simich, a long-standing Party member who had stood in candidate contests before. There was nothing more that we could have done – we had been out-manouvered.

As a result, in adverse public reaction, polling during the bi-election campaign indicated that the National and Alliance candidates were neck and neck. Thus, Tamaki was now a marginal seat and it was possible we could lose it. As was reported at the time, the 'National Party machine moved into high gear' with door to door

canvassing and Ministers flooding the electorate. We nearly lost the unloseable.[17]

The Treaty and Reparations

Turning now to substantive issues, there was at the time considerable disruption over Maori rights and land confiscations – protests, burning the flag, and so on. With this in mind I convened a meeting of the Party's Maori members from five regional districts across the whole of the country. It might have been expected that Maori might have universally welcomed the proposition that the Treaty of Waitangi was the founding document of New Zealand since it provided indigenous rights and protections. However, support proved to be harder than might be thought – there was disagreement. Some Maori members were, cannily, nervous that this was too bold a step at the time and might promote a backlash. On cautiously inquiring as to the lack of consensus, it seemed too that various groups could not agree with each other – there being some tribal memory from the Musket Wars. Eventually, wiser heads prevailed, largely due to the sagacious leader Rea Wikaira, and an uneasy consensus emerged in support of the proposition.

When the issue finally came before the wider Dominion Conference of the National Party based on a remit, the debate was hard fought and not a little emotional. There were many speakers and it ran over time. When the motion (that the Treaty is the founding document of New Zealand) was finally put, it was necessary to call for show of hands. The result was not clear cut and required a recall to see where the balance lay. On a quick headcount I ruled that it was carried and this was accepted by acclamation. Thus, no formal vote was necessary – to the best of my recollection, the remit passed at around 60% to 40%, or perhaps it was two-thirds to one third.

This meant the Government (now a National Government with an outright majority) had a mandate of sorts and it followed suit. Importantly, it embarked upon a process of recognition and

reparations for wrongdoing. Then Ruth Richardson (as Minister of Finance) announced, without consultation with the Party, that $1 billion was earmarked for this purpose. This was one of the first times in my experience that the 'b' word had been used in a cost context for political purposes and it had considerable impact. The trouble was that, even then and as it turned out, it seemed that this was already inadequate in the context of many claimants, the death toll, the disruption, the huge tracts of land confiscated and the suffering and loss of mana involved, let alone economic loss over 150 years,

MMP vs FPP

There was also an important constitutional issue at the time. Muldoon's interventionism and the Douglas de-regulation meant that the Parties had been 'wearing each other's clothes', with the resultant widespread feeling of political impotence among voters. Then there were the broken promises of the National Party at the 1990 election – for example, super-annuitants had been promised that they would no longer have a surcharge on their income over a stipulated amount – seen as a double and discriminatory tax. There was huge distrust of politicians (of all shades) and much clamour for direct democracy, ie to have more issues decided by referenda. This caused the National Government to pass a Citizens Referenda Act 1993 – but this was non-binding and so tied up with qualifying criteria that it was seen as a token only, and the dissatisfaction continued.

Pressure instead turned to an alternative system of voting. At a meeting of the National Party Policy Committee which consisted of three members of Parliament (Bolger, McKinnon and Graham again) and three Party members (including myself), an issue was whether to support a binding Referendum on a new proportional voting system Mixed Member Proportional (MMP) to replace the existing First Past the Post method (FPP). The former allowed

a greater say for small parties and hence a more representative Parliament. At the time and as President, I was initially doubtful because it seemed against the Party's interests (the Party had been in power much of the previous 50 years under FPP). However, the three Parliamentarians were in favour of holding a Referendum. As Graham said: 'The public will never go for this'.

Indeed, the National Party polling the week before showed a clear preference for FPP 54% to MMP 46%. Then (this being a conscience vote) Leaders Bolger and Helen Clark each came out publicly in favour of FPP. Immediately the internal polling turned on its head – MMP 54% and FPP 46%, which was the final result. At the Referendum, contrary to the wishes of most politicians, the people voted for a new proportional voting system, thereby providing through wider representation some curb and counterbalance to the dominance of the two main parties.

The Douglas Reforms

The battle between the Douglas reforms and opponents continued to rage. In the 1990 campaign, National had given the impression that the reforms were too radical, were without thought for social consequences and that, if elected, there would be a more measured, moderate and balanced approach. In fact, the reforms continued, seemingly little changed. They resulted in much disruption to business and the rural sector in particular, further exacerbated by the appointment of Ruth Richardson as Finance Minister – she was hard-liner of whom even Douglas would have been proud – she out-rogered Roger. The effect was apparent as soon as May of 1991 when, based on internal polling results, I warned a National Party Conference that this was 'turning the electorate against National' and with a clear message that to remain in Government 'it must stick to the election promises'.[18] However, the stridency continued and National came close to losing the election in 1993 having a one seat majority only.

Post the 1993 election, the economic reforms continued under the guidance of Treasury though now somewhat assisted by the politically attuned Bill Birch (who after the election had replaced Ruth Richardson as Minister of Finance). However, in 1996, largely due to the continuance of the reforms and the resultant persisting hardship, National lost its majority and needed Winston Peters and NZ First to form a coalition. In spite of the claim that 'past history had been set aside', this was naturally enough widely seen as hypocritical and self-serving (given the expulsion of Peters from Caucus and Party, and the former deep and personal animosity between Bolger and Peters). Peters was offered the Deputy Prime Ministership and the new position of Treasurer, and NZ First five Cabinet appointments, others outside Cabinet as well and many policy concessions. This was a difficult alliance (many in both NZ First and National were very unhappy with its workings and decisions).[19] It ended when Jenny Shipley came to power and, taking a no-nonsense approach, dismissed Peters. Later Governments dealt with economic matters in a more pragmatic manner (less driven by dogma or economic theory, though in accordance with their respective leanings).

Much of the agitation against and unpopularity arising from the reforms was due to the lack of advance notice (first by Labour and then National) and the consequential inability of the commercial and rural sectors to plan and transition. Though causing considerable hardship at the time, ultimately the reforms opened up New Zealand to competition from and to influence from the world. They also influenced the direction and perspective of a small country towards more niche, specialised and higher end products, to which it was more naturally suited.

Random Alcohol Testing

Ten minutes before a Caucus meeting I was telephoned by the Prime Minister as to whether the Party would approve of random

testing for alcohol on road users to make a further stand against drink driving. Previously there needed to be some reasonable cause for Police to be able to test, but this was now to be without cause, ie at random. Not being able to consult, but thinking it an admirable initiative, I agreed.

I had always been scrupulous in relation to alcohol when driving – it would not look good for a Chairman of the Alcohol Advisory Council to be over the limit. Whenever stopped, I was able to recite the number of drinks, the time taken and whether food or a meal and water had been consumed with them. Upon hearing this, officers usually waived me on – it wasn't worth a test they adjudged, even though they may have thought I was a smart alec (which everyone hates). But upon the introduction of random testing, I was stopped late at night by an Officer. I was driving carefully, within the speed limit, in good conditions, with no other vehicle in sight and no danger or annoyance to anyone. I had had a glass of wine with a meal some two hours before and, upon being breathalysed, passed the test. I asked the Officer why he had stopped me but he would not answer – of course, he did not need to. Rather galled and affronted at this unwarranted intrusion, it was some considerable time afterwards that, gradually and more calmly, I was able to reflect that I had done the right thing in agreeing to the policy.

Political Donations

Contests by Parties to represent the people are hard fought and campaigns can be costly. Though part funded by the Government, most comes from donations from Party supporters – large and small – from say corporates to jam makers, raised at high-priced dinners or at local cottage events. The current rule is that donations above a certain amount have to be disclosed. However, there is still a suspicion that the source and nature of funds may be hidden by various means (say by the use of multiple donors, trusts or by loans).[20] To avoid this, political donations (to both Party and

politicians) need by law to be totally transparent in order to ease suspicions of abuse, to avoid suggestion that policies or preferences might be purchased or influenced, or that major donors might have quicker and better access to politicians, or more attention to their views, or that conditions are attached to donations (for example, to advance a policy).[21] To this end, there should be a legal requirement to disclose the real beneficial identity of all political donors (say above a determined amount and, of course, adding together related donors and sequenced donations). It is up to the politicians to pass laws which leave no doubt that full and comprehensive disclosure is required – I have no doubt the Judiciary would be diligent in applying them. Full disclosure and transparency should help ward off suspicions.[22]

Political Mandates and Promises

Policies and platforms are necessary to inform and persuade voters to support a Party or a candidate and, upon election, can appear as a mandate or promise to be observed. Complaints about breaches of Manifestos are not infrequent and there is an entrenched cynicism of political promises – sometimes seeming lightly made to charm. The public appears, somewhat resignedly, to accept them for what they are – as being the nature of politics and not to be taken too seriously.

Once a Government is elected, it has a mandate to govern. It has the responsibility and the right to do so, but not the obligation to do anything specific. Election is more in the nature of an authorization or general power – an indication of broad support but not necessarily authorization for any specific programme or action. Legally, promises made in the course of an election are not enforceable. What is certain is that elected candidates who can form a majority have a mandate to govern at their own discretion and judgment. How they govern and how that is perceived by the people is a matter for approval or disapproval at a subsequent election. However, general

elections are few and far between and confused by multiple issues.

Encouragingly though, there is, now increasingly, a sensitivity among politicians concerning broken promises and this has created an environment where they should be exceptional – that they are to be broken rarely and, especially, with an explanation of non-observance and the reasons therefor. It is not enough simply to have a stable democracy, there should be a desire for a democracy which, at least broadly, reflects the expectations created. Political promises should not be given or taken lightly.

Media Influence

Often complaints are made that the media unduly influences political support to its own way of thinking. To avoid this perception, media do take steps to enable them to say that they provide a forum for widely differing views – such as by engaging former politicians or shock jocks who promote differing and often extreme positions. Claims of media bias are notoriously difficult to prove and, given free speech, it may be said that the media are as entitled to their bias as much as everyone else. However, the media have influence well beyond the norm and need to exercise it responsibly and as objectively as possible.

In the 1993 General Election, at the beginning of the week before election day, internal polling indicated that National had a 7 –10% lead and I felt that the Party had put in a solid organisational effort. One can never take anything for granted in politics and I certainly did not. However, on the Thursday morning before the election on Saturday, the *New Zealand Herald*, having the largest circulation in New Zealand, announcing its own survey as its head story on the top of its front page, headlined in bold letters: 'NATIONAL 10 POINTS CLEAR IN POLL'. It further said that 'Mr Bolger ranked last in the most admired (at 11%), 3rd as preferred Prime Minister (at 17%) and 3rd for his campaign (at 12%)'. I remember going pale with a cold sweat when I read the headline and article.

Crucially timed for maximum effect, it could lead to complacency as National voters thought the result a forgone conclusion and it outlined why some supporters might not come out to vote. Granted its survey, the *Herald* could not be criticised for publication but it did upset the applecart. Two days later, on the day of the election, the Parties were instead neck and neck and the victory miniscule. Bolger's oft-quoted statement 'Bugger the pollsters' might have also been applied to journalists.

Dirty Tricks and Vilification

I have long pondered why, in politics, the normal everyday decencies and ethics we tend to show each other in everyday life do not apply to political behaviour. This is not something confined to recent events, it has been endemic in NZ politics and it exists in all western democracies, seemingly institutionalised. Candidate selection and political outcomes may have significant and important impact and hence robustness is required, but does that warrant 'fake news' or other 'dirty tricks'? Yet that is likely to continue unless questioned and we (the public) denigrate and punish those who resort to or condone such measures.

Then there is personal abuse at the expense of the issue. When I became President of the National Party a political commentator immediately said that I 'reminded him of a village parson rolling up his trousers and putting on his bicycle clips' – I think he was expecting someone delivering colourful and forceful messages, not someone who was 'quiet and reserved'.[18] While, this provided myself and others with amusement, the more serious abuse, particularly that which our Prime Ministers and Leaders quite often receive, sometimes cause me to crunch on my cornflakes. In recent years, some of the nonsense which say John Key and Jacinda Ardern have had to put up with made me more than usually annoyed. Who would be a politician? Instead, we should more often thank and acknowledge politicians (and especially those that are there for the

public) who give up family time, spend their life away from home and suffer personal attacks while performing what is an essential public service.

Party Structure

After I retired, around 2002 the internal constitution of the National Party was reviewed and the National Executive dispensed with, to be replaced by a corporate style Board with members to retire by rotation, some only each year being up for re-election. Nowadays too, the President is selected, not by delegates at a national conference but by the Board, thereby removing election and direct scrutiny from the members. To add to this, the sitting Board must approve applicants for positions on the Board – a self-perpetuating entrenchment of sorts. A top-down structure has replaced that of the pyramid driven by members and this has, in practice, favoured the status quo. It seems proper to ask whether an institution with public membership, going to the heart of our democracy, should be structured in this way? The danger is that, without close and renewable scrutiny by members, a Party can become moribund, idiosyncratic and unrepresentative, contributing to the situation which arose in 2020 – this time a landslide against National.

In that Election too, manipulation seemed rife. Party officials in some electorates consciously gerrymandered, by substituted delegates adding to those provided by members, the outcome of candidate selection in some electorates – seemingly to foster their personal preference rather than the wishes of members. Selections were called in question with the untimely resignation of no less than five National MP's for misdemeanours. Further, it seemed that the system now encouraged a career path for the young (eg a degree in politics and secondment to a politician's office) – instead, the Party should foster candidates who are proven in public affairs or in the private sector. Politics is a community service, it is not a career path in itself – it is for public service by the proven.

In Retrospect

In my years as President (from 1989 to 1994) significant issues abounded, including the battle for the economy, the constitutional change to MMP, the recognition of the Treaty of Waitangi and reparations for Maori grievances. There were many influencers for the changes which I believe enriched New Zealand as a country. The issues were hard fought but collective wisdom somehow, gradually, but narrowly, took the country in the right direction and created a base for the future.

The role of President is, in essence, to represent the grass roots membership and the multitude of ideas and interests that emanate therefrom – to be a conduit between Party and politicians. For example, the call for more balanced representation (of gender, ethnicity and skills), though novel and not universally welcomed at the time was a start and precursor for the future. The role is also to assist the Party's Leader and politicians – of prime importance is that the Party be elected to Government and hence for its Caucus to be in a position of power. I am grateful to have had the opportunity to contribute to the Party machine (in particular, its funding, information gathering, technology, organisation, candidature, strategy and campaigning) – and delighted to assist its success in two General Elections. And, of course, being President was an opportunity to advance the interests of the Party and the cause.

The real purpose of politics is to improve the structures of Government and the well-being and expectations of the community at large, ie to advance public welfare. Much less, is it about the people concerned – it should not be about identity but policies. It is even less about the self-regard, antics, petty politicking, the in-fighting and the dirty tricks. Being President can seem like being in charge of a bunch of 'unruly horses' (both political and Party), some with public welfare in mind, others to advance their own self-interest (whether policy or personal) and some a mixture of both. Caucus too can be a hotbed of personal ambition having a tendency to

spill over to the media and hence affect the wider Party.[23] In this uncertain context, individual contributions by members can seem like a pennyworth which may or may not bear fruit. Members of the Party (who are nearly all volunteers giving up their own time) may often feel that their effort is wasted or produces a low return only. But it is the sum of all efforts which count. People who give time to political parties are to be thanked – each contributes in a small way to oil the wheels of democracy.

VII

THE HIGH COMMISSION

After nearly five years of Presidency of the National Party, a Party colleague, upon the imminent retirement of the current High Commissioner to the United Kingdom, inquired whether I would be interested in the position. I had not previously given this thought but, being Anglophile, became receptive of the idea. As requested, I indicated my interest to the Minister of Foreign Affairs and provided a CV and resume for the purpose. The first I knew of my appointment was when it was leaked, published in the *Dominion* newspaper.

A 'Warm' Welcome

The *Dominion* reported that the Foreign Services Association of New Zealand, a Union consisting of career diplomats, claimed that I did not have any qualifications for the position and that my appointment was one of 'jobs for the boys'.[1] There was no opportunity given to me to respond at the time and, in any event, I

had not been advised of the decision, nor had I any communication in relation to it. When it was announced later, Opposition politician, Winston Peters, published a long list of 'crony' appointments with mine as number one. It did not seem appropriate for me to respond to this either – given that it was clearly a political attack and possibly in retaliation for his expulsion from the National Party. I was not sure whether to be flattered or insulted.

Of course, the long-standing opposition of professional diplomats to political appointees is well enough known and, at the time, was advanced by the Union. Political appointments are usually (but not universally) limited to the key English-speaking posts and the Union made no secret of its preference for top postings, and particularly London, to be filled by career diplomats. It was therefore not surprising that my appointment aroused its ire.

The Union may not have known that, co-incidentally, the Head of the Ministry of Foreign Affairs & Trade, Richard Nottage, and I had been students at Oxford together and, even more co-incidentally, that he was Best Man at my wedding there, and I at his. So, fortunately, not all were antagonistic and I very much enjoyed my induction and was grateful for the helpful efforts of the Ministry and the excellent assistance from the staff at the High Commission in London during my term there. Nevertheless, I sensed a coolness from some senior members of the diplomatic service.

The Role

I was still in my mid-fifties and, for me, this was not a retirement job or sinecure, and I grappled with the role and what was to be achieved. It is also a question I am often asked – usually in conjunction with mention of the grand functions, the lavish hospitality and glamorous occasions – 'What does the High Commissioner do?' The role and its objectives are wider than might at first be thought.

Diplomacy promotes New Zealand's interests in Britain and, in particular, fosters the NZ/UK relationship. It includes the

maintenance of current relationships and the building of new ones to forge links – to have contacts to get things done when needed and to promote New Zealand's position on issues which might affect its interests and reputation. It can involve policy, legislative and administrative matters in Britain which might be influential upon New Zealand's thinking at home. That is why, in Britain especially, a non-career diplomat is often appointed – to foster political exchange and influence there.[2]

The High Commissioner is also the focal point of the overall New Zealand effort – of which foreign affairs, defence, debt management, trade, immigration, customs and tourism are the most visible – this in order to ensure coordination of these various endeavours, to assist them working together as part of an overall New Zealand team. There is also participation, for New Zealand, on the Boards of many non-governmental organizations based in Britain to which New Zealand contributes, such as the Commonwealth War Graves Commission, the Imperial War Museum, the Royal Life Saving Society and others (mostly to do with fostering aid to and support of Commonwealth countries). More indirectly, the High Commissioner is Patron of local organisations, in my case eleven in all, such as the NZ Wine Guild, the Royal Overseas League, the Shakespeare Globe Trust and the Commonwealth Institute. Representation could hardly be wider across an extensive range of endeavour.

The role also extends to assisting the private sector. There are many businesses in Britain promoting New Zealand products and services; a myriad of New Zealand organizations associated with sport and culture (jewellery, textiles, poetry, novels, music, art and so on); and, naturally, Maori interests (such as cultural events and the repatriation from British museums of human remains). In addition, a large number of New Zealanders live and work in Britain and there is a constant flow of New Zealand visitors. There is a view that diplomacy, significant enough in itself, should be the sole role

of the High Commissioner, but I believe that all aspects of New Zealand activity in Britain should be the focus, public and private, since all contribute to its image and interests. The links between Britain and New Zealand are seemingly endless – governmental, administrative, business, sport, cultural – in fact, in every field of endeavour, again pointing to the need for a wide background for the High Commissioner in London.

Current Issues

In foreign affairs, it was a busy time. There were many issues mutually affecting both New Zealand and Britain. These included those where the interests of the two countries did not necessarily co-incide – such as nuclear testing (where Britain needed a nuclear deterrent for defensive purposes and New Zealand was non-nuclear); New Zealand's pre-occupation with APEC and the wider Pacific (seen in Britain as a decline in trade ties); and New Zealand's prospective abolition of the Privy Council and British titles (in Britain there was concern that a Republic was not very far behind).

Conversely, there was considerable interest in Britain seeking information on positions adopted by New Zealand – such as the de-regulatory economic reforms and the lowering of frontier barriers (Britain being known as the 'free trader of Europe' and interested for that reason); and reform of the voting system to one of proportional representation (due to the disadvantage of the Liberal Democrats who had polled 17% in the General Election and yet were under-represented in Parliament).

There were also international matters of mutual interest and import – such as the genocide in Bosnia (where New Zealand soldiers supported the British effort); for security (the Troubles in Northern Ireland where New Zealand supported the moves for an accord); in trade (objection to the imposition of EU restrictions, particularly secondary trade barriers on New Zealand products); in agriculture (the outbreak of mad cow disease epidemic in Britain

and the implications for and assistance from New Zealand); and of course many others.

The European Union

When I arrived in London I was immediately made aware of interest in New Zealand's trade reforms – in doing away with frontier barriers such as tariffs and subsidies. At first I thought that this was in recognition of the boldness of the New Zealand initiative but soon learned that the interest may have been rather more self-centred. Even then, in the mid 1990's there was serious division (especially within the ruling Conservative Party) as to whether Britain should go deeper into Europe or whether it should move away into the world. Even then, the debate was hard fought with entrenched views on either side – those in favour of leaving the EU were very much world traders and felt that Britain was being held back by its obligations to the Union. They saw New Zealand as an innovator and a country from which to draw comparison and inspiration.

Senior British politicians were concerned that New Zealand had been badly treated by Britain in 1972 when it joined the Common Market. In response, I said that, in fact, this had done New Zealand a favour in that, whereas formerly we had one major market (Britain) we now had six – this was not only more sensible commercially, it helped to open up New Zealand to the world. I said that Britain must look to its own interests in any decisions it might make and New Zealand, as a friend, could not object. This seemingly satisfied both Leavers (later called Brexiteers) and Remainers. What I can say with certainty though is that, in opening up its borders to the world, New Zealand was universally acknowledged and respected by both camps.

The Troubles

The 'Troubles' were still in progress in Northern Ireland and hostilities were continuing. As part of an extensive briefing, I travelled per courtesy of the British Army around Belfast (including the Falls and Shanklin Roads) in an armoured vehicle with a military escort.[3] However, I was also Ambassador for New Zealand to the Republic of Ireland and the Taioseach's Press Officer was a man named Brian Collinge (the same name as my brother). In the minds of my hosts, this appeared to raise questions as to my attitude to the problems of Northern Ireland. At a Dinner given for me at Stormont by the British Military and Civil Officers responsible for Northern Ireland, I remember the visible collective relief when, after cautious, careful and delicate questioning, it became clear to them that my personal position (like that of the country) was neutral between the warring factions.

To the credit of those involved in the Troubles, I was granted interviews with all sides[4] and attended a City Council lunch in Londonderry/Derry in New Zealand's honour at which Council members both Republicans and Unionists were present. I was told that this lunch was the first time that Councillors (Union and Republican) had attended an official function together – a tribute to New Zealand. It is little known (but no secret) that New Zealand contributed both financially and sympathetically to the peace process which led in due course to the signing of the Good Friday Agreement. As a gesture of appreciation of this PM John Major, who was the instigator of the peace process, chartered a Concord and took many of those involved including myself over the Atlantic for a run.

There have been later suggestions from New Zealand that Brexit border issues might be solved by the re-unification of Ireland and Northern Ireland. However, I believe that such a solution would risk strife possibly followed by a renewal of the bombing, assassinations, riots, bloodshed and suffering previously. Such issues are better

resolved by patience over as much time as it takes – by working together, co-operation and sharing rather than by para-militaries, zenophobia, historic rancour and bigotry. It would also waste the money, time and effort spent by New Zealand, happily sharing both cultures,[5] which assisted in leading to the Good Friday Agreement and hopefully future mutual accord. Any degree of separation of Northern Ireland from the United Kingdom for Unionists (given their feeling of alliance with Britain) and also any type of hard border for Republicans (given their sentiment that the North belongs to Ireland) need careful consideration and the utmost caution. To date, the hard border to the South and West has been thankfully avoided and it is to be hoped that Irish Sea border controls will be administered in a way which does not detract from the sovereignty of Northern Ireland. The Good Friday Agreement, hugely important for the peace it provided, should not be collateral damage from Brexit.

The Commonwealth

Although not a career diplomat, I was asked by the Secretariat of the Commonwealth to be the independent Chairman of the Intergovernmental Committee of the Criteria for Commonwealth Membership upon which New Zealand was separately represented, and was duly appointed Chairman by a group comprising the leading countries of the Commonwealth. The Committee met and, in due course, I issued a report of its deliberations and findings which the Minister of Foreign Affairs, Don McKinnon (later himself to become Secretary-General), described as 'admirably sensible, concise and clear'.[6]

There had been concern for some time of the effectiveness of the Commonwealth as a protector of good governance (ie democracy, human rights and the rule of law) and as a non-confrontational forum to resolve disputes. The task was to assist the vexed question of whether the Commonwealth was unwieldy and was losing its

focus, and particularly whether membership should be expanded, contracted or held. Upon due deliberation, the Committee recommended that the Commonwealth retain its identity, cohesion and effectiveness by limiting membership in future to those countries which had significant constitutional links with Britain or (so as to include the controversial acceptance of Mozambique to membership) links to other Commonwealth countries.

Around this time too, much effort of the Commonwealth had been spent upon the internal activities of Member countries which did not adhere to or align with its fundamental tenets. In particular, there had been much concern about the conduct of Nigeria, but there were other countries as well. The Committee also recommended strengthening the good governance role of the Commonwealth by requiring applicants to comply with the rule of law, democracy and human rights *prior* to being accepted as members and, of course, subsequently in order to maintain those standards.[7]

Trade

There was in Britain a major scare from BSE (commonly known as Mad Cow disease) and deaths occurred from eating diseased animal products. The outbreak was taken most seriously and over a million animals were slaughtered. British export of beef suffered. A practical consequence was that at many of the formal dinners in London, before a meal was served, the chefs would be paraded and, for the comfort of guests, would swear on the Bible that the meat was of the highest quality and that what we were about to eat was safe. More substantively, there were, of course, implications for New Zealand particularly in support of British farmers, thereby preserving the mutual accord which fostered New Zealand's export trade there.

By co-incidence the world expert on the disease was John Collinge, Professor of Neurology at London University. I had never before come across anyone with same name (and unusual surname) as myself and we made contact. My great great grandfather, John

Collinge, had emigrated to New Zealand in 1847 from the small hamlet of Crompton, Lancashire. Robert was also, along with John, a regular and common name among my ancestors. The Professor showed me a picture of his grandfather named Robert Collinge taken around 1890 in front of his butcher's shop in Shaw. Crompton and Shaw adjoined and by then had grown together to become a conurbation, now known by the joint name Crompton Shaw or sometimes simply as Shaw. His grandfather and my father were spitting images of each other – yet they must have been at least six or seven generations removed. The Professor was particularly noted for his advice that Mad Cow disease was strongly associated with neural conductors, sinews, muscle and gristle – I have never eaten anything but prime cuts since.

Remembrance

Shortly after my arrival in England and each year, there were ceremonies around Anzac Day on 25 April including wreath laying at the Cenotaph in Whitehall and the Service at Westminster Abbey. British people at multiple venues (such as Cannock Chase, Brockenhurst, Walton on Thames) remember New Zealanders who died in Britain in both World Wars. Many had, after the First War, been transferred to England to await repatriation home due to the shortage of available vessels. They had been assigned to camps in England and many had, along with those of other nations, died of influenza during the epidemics of 1919 or of war wounds. Local people, in numbers eighty years later, still formally remembered that they had given their lives in the course of the defence of Britain. It was an especial tribute.

Throughout my term, I was a member of the Commonwealth War Graves Commission representing New Zealand. Anyone who has visited their graves will, I am sure, attest to how well they are arranged and kept. I would often visit War Graves in local areas without advising the Executives and, in all cases, they were just

as well cared for as those on official visits – we can be assured of their continuing care and respect, and that they are being excellently maintained. There is a pathos about them. Perhaps my most enduring memory was the visit on Anzac Day to a small gravesite in Gloucestershire where some 19 Australian and New Zealand pilots from the First World War were buried. All very young, they had died in training learning to fly – they never made it on to the field of battle.

New Zealand House

Based on the comments of visiting New Zealanders and local people alike, New Zealand House was non-promotional, unwelcoming, lacked information and created a poor impression generally. While it was not possible to return to the days where it was a haven for visiting New Zealanders, a change in culture was necessary – to create an environment of which New Zealand could be proud and its image promoted. Building on refurbishment by the Ministry in 1992, an Information Point was added; the foyer was upgraded to provide display cases for the promotion of New Zealand produce and events; and the Mezzanine Floor was set aside for artistic displays – the first being the wall hangings (with the theme Venus and Adonis) sewn by many New Zealand women for the new Globe Theatre. These created a professional and interesting appearance to New Zealand House and a welcoming one.[8]

This also had a significant fiscal impact. A long-standing problem for the New Zealand Government as owners was that the property was only 54% let. Commercial tenants had been discouraged by the untidiness of the foyer and the backpackers who congregated there. The new presentation, new facilities and new controls encouraged tenants to the point where by the end of the term New Zealand House was fully let. This was gratefully received by the Ministry who wrote to me: 'congratulations to you and all High Commission staff involved on the successful completion of the NZ House letting

campaign. It is a real achievement in a difficult and very competitive market'. New Zealand House then made a profit – but to my mind the presentation and image counted for more.

Ngati Ranana

The Ngati Ranana (tribe of London) – a group of ex-pats – is a wonderful asset for New Zealand in Britain. It provides a forum for visiting Maori, regularly performs and entertains at functions, engages in welcoming parties and does a haka at the drop of a hat. Not only do they seem always available but their presence adds a very New Zealand element and touch to any proceedings, and British people are always appreciative. Maori are especially recognised at the High Commission – the Pouhi by Inia Te Wiata which stands in the Foyer is the best memory of New Zealand House.

There were in Britain a surprising number of occasions with a Maori element, not the least of which was the Exhibition at the British Museum where many of the artefacts brought to England by Captain Cook and Governor Grey were on show. British Museums can't wait to return Maori remains but there is one icon which everyone, including Maori, think should stay. I mention it particularly because it is not widely enough known. It is a carved meeting house which stands in the grounds of Lord Onslow's home Clendon Park. It was built in 1881 at Te Wairoa and survivors of the Tarawera eruption sheltered in the house. It is known as 'Hinemihi' and was purchased by the Onslows, shipped to England and rebuilt. Clendon Park is now in National Trust ownership. It is said that Maori who come to England and are homesick, or in times of loneliness, can come and stand before the meeting house to tell of their woes.

The Commonwealth Heads of Government Meeting

The Commonwealth attracts a number of detractors – that it seemingly achieves very little, is no more than a talk-fest and involves a disparate group with little cohesion even though loosely

based on a shared colonial heritage. For my part, I am a supporter of the Commonwealth. It provides a forum under which the key principles of good governance, democracy and the rule of law of member countries can be kept under surveillance and for aid to be distributed to needy members. It also provides a forum for issues of the day where countries may be more effective together. Every so often there is a Commonwealth Heads of Government Meeting (CHOGM) and in 1995 it was held in Auckland. At the time, topical for New Zealand was the French nuclear testing in Mururoa, French Polynesia.

The Financial Times described CHOGM in terms of a cricket match: 'It is the diplomatic equivalent of cricket. It baffles foreigners, lasts as long as five-day match, and the English team usually gets a drubbing from West Indians and other nations who have adopted the game'. In relation to the nuclear issue in 1995, the English team, opening the batting, got off to a bad start for its refusal to criticise French nuclear testing in the Pacific. But England staged a recovery by successfully obtaining France to stop its testing at least until after CHOGM and also, with the French and Americans, agreed to sign the South Pacific Nuclear Ban Treaty. Hence it finished with an acceptable score. The other side were aided at the start given that the English said that their nuclear capability was a necessary deterrent. The English needed to contain the run flow and this it did by John Major saying it was merely a disagreement among friends. Then there was a gradual accumulation of runs – by reminders of the radiation damage done; the reparations for sinking the Rainbow Warrior; and, finally, the escape of French agents responsible to the luxuries of Paris. Thus, as predicted by the Financial Times, the English lost and received a drubbing, although it has to be said that the other side had the home ground advantage.

Bernard Levin

The High Commissioner is there to promote and put a good face on the country he or she represents. Bernard Levin was a very fine columnist for the *Times* – known as the 'most famous journalist of his day'. He had a wide following in Britain due to the deftness of his pen and his incisive comments. It so happened that, by invitation, he had visited the town of Levin in New Zealand. He had been hugely impressed with reception he received and the warmth of the welcome at no personal gain to those in the town. As a result, he wrote a major article along those lines praising the town and New Zealand for its warmth, beauty and the generosity and unaffectedness of the people. It was wonderful stuff for me as High Commissioner – he promoted New Zealand in a way I could never hope to emulate. Then someone wrote a letter to the Editor saying that New Zealand did not quite deserve the accolade. Next day, Levin wrote a further article on New Zealand in even more glowing terms and ridiculing the writer of the letter as an ass. I contemplated how I might goad Levin into writing a third piece – but eventually thought better of it.

Instead, by way of appreciation and thanks, I invited him to a formal lunch at the High Commission. David Attenborough also attended, he had also splendidly promoted New Zealand, its flora and fauna – by being the originator of the wonderfully evocative portrayal and description of the country as 'Moa's Ark'.

Maggie Thatcher

At a function in the Guildhall, from a distance of some ten or so yards, I could see that Maggie Thatcher appeared to be having a blazing row with Ted Heath and that her minders had intervened to separate them, escorting her away towards me. Maggie was not in a forgiving state of mind, was very purposeful and not to be rebuffed. I was introduced to her as the New Zealand High Commissioner and, without any of the usual niceties or greetings, she said to me

fiercely: 'New Zealand, you are the only country which has adopted my policies in full'. I was in a quandary as to how to respond. Some of her policies were the subject of much debate and I had associated them, not so much with Thatcher, but with Milton Friedman. I remembered too that, on a prior visit to New Zealand, she had on prime-time television roundly criticised the 'Tory grandees' who had dismissed her as Prime Minister and that, in response, she was going to form a company called 'Rent a Spine'. In the circumstances, I thought it prudent to agree with her and we parted in an amicable manner – but with my spine now like jelly.

Caleb Ralph

The Princess Royal, herself with a distinguished equestrian sporting career, was well known for her support of rugby and Scottish rugby in particular – she was its Patron and often seen at Murrayfield. Her daughter Zara was reported in England as having for a time a romantic association with long standing All Black and Maori All Black, Caleb Ralph, also the top try scorer for the Crusaders. His torso was dissected diagonally by a white quarter on one and Maori tattoo on the other and this had been the subject of admiration and photography in the British media. Two weeks later, my partner Maggie and I happened to visit Trinity Hill, Hawke's Bay, New Zealand for a family wedding at which my sister asked me if I remembered our cousins, the Ralphs, whom we had known from childhood. I had not made the connection, but upon further discussion with her and inquiry it soon became clear that our father and Caleb's grandmother were brother and sister. Princess Anne and Zara quite grew in my estimation after that.

Live Sheep exports

The Compassion in World Farming Group organised a protest outside New Zealand House. It had chosen a bitterly cold day with sub-zero temperatures and ice and snow outside. The protest was

specifically against the export of veal calves to Europe and also the live hal al exports of animals to the Middle East. Feeling some sympathy for their discomfort in the weather, myself and Deputy Mike Chilton wheeled out a tea trolley with hot drinks for the protesters and for the Police cordon. Unsurprisingly, they were all very happy to see us. The protesters explained that the Australian Embassy had not bothered to talk to them and were delighted to be able to express their concerns in the hope that 'a country with civilised traditions like New Zealand would think again and pull out of this cruel trade and thereby avoid boycott of its products'. They alleged that the trade had a mortality rate of 2% and that 15,000 sheep died annually during the long sea journeys through the tropics. We promised to report their concerns back to Wellington – namely, that they wanted the trade to be in carcasses and that they preferred their meat, like themselves, to be chilled or frozen.

Australia and the World

Australia was starting to realise and exercise its wealth and vibrancy in the international sphere, letting other countries know it was there and to be reckoned with. A group of four Australian Ministers arrived in Britain to seek an accord or indulgence from the UK Government on a subject which now escapes me. The evening before they were to meet with Prime Minister John Major, they appeared on UK Television as a panel and announced very purposely what they were there for and why, and what they expected to achieve from the Prime Minister. The next day, John Major found that, sadly, he had a conflicting appointment and apologised profusely and politely, regretting his inability to be there. This demonstrates something about the manner and approach of each country.

The sense of humour, though wonderful in both countries, is not the same either. During my time there, there was an America's Cup race in which the Australian boat broke in two and sank. Lion Breweries, however, took out a large advertisement in Australian

papers which said 'Steinlager – the only thing that goes down faster than an Aussie yacht' which the British found highly amusing coming from a New Zealand source. One might have expected that Australians, well known for jokes about New Zealand, would have taken that on the chin, but instead the advertisement was the subject of much condemnation in the Parliament at Canberra and was judiciously withdrawn. This may help explain why the British are usually so profusely apologetic when they mistake a New Zealander for an Australian.

Ooops

There are always occasions which, upon reflection, one wishes things could have gone better or the response improved. At dinners which I regularly gave at the Residence each week, it was my custom to welcome and acknowledge everyone after the main course, particularly to outline and explain the reason that they had been invited. I would usually tap my glass to announce this and hear the pleasant ring of crystal. On one occasion, instead of a 'ting' there was a 'clunk'. It seemed that glass had replaced the crystal. When it happened, I was surprised and startled in front of illustrious guests. Flustered, I hurriedly fumbled out that the New Zealand Government, ever cost conscious, was on an economy drive.

On another occasion, I was giving an interview for the BBC at White City on New Zealand's non-nuclear stance and my opponent was a Frenchman from Paris. He was quite stridently indignant at the Greenpeace invasion of Mururoa and New Zealand's stance, saying that Mururoa was as safe as the suburbs of Paris. To which I instinctively interjected: 'Why not test there then?'. As I was saying it, my brain told me that this was neither feasible nor the right thing to do and was immediately apprehensive. Fortunately, the panel of BBC presenters fell about laughing. For those of you who think that the Napoleonic Wars ended in 1815, the tension continues between the French and the English on both sides. The presenters were so

enamoured with my response that they invited me back to speak on three or four occasions.

On presenting my credentials to the Queen, it happened to be at the time of the dismembering of Russia. The Queen, who as might be expected is very well briefed on security matters, in conversation inquired whether I thought that China would be the next to fall. I had been on a State visit to China and had read a little Chinese history and, not thinking its fall likely, responded that over the years the Chinese had great success with the longevity of their dynasties, much longer than ours. Immediately, I realised this might be interpreted as being in comparison with the Windsor dynasty – which was not intended. She seemingly did not take it that way and politely moved on to the next question. But to this day, I wish I could have said it better.

Ceremony

The British are well known for the grandeur of functions and events. They are known for their ceremony, largely conducted with expertise, precision and pride by retired military officers. It is an asset which the British use in their interests, from selling products to smoothing relationships. None of this happens by accident and the events are invariably well rehearsed and timed to the second. High Commissioners, no exception, are often required for rehearsals for events where they participate. To facilitate events too, the organisers invariably delegate a minder whose job it is to meet and greet diplomats and arrange introductions and guidance. Usually this goes seamlessly, but on one or two occasions, the person assigned missed me. At a Cutlery Guild Dinner in Sheffield, in the north of England, I was wearing a Dinner Jacket but my minder was looking for someone grandly dressed and medalled with a plumed hat. When he finally found me and explained, I was able to say that many New Zealanders had emigrated from the north of England and that we had adopted their informality and style.

The Queen's Back

On being invited to dinner at Windsor Castle, at cocktails before, at the feet of the many guests in Dinner Jackets there were a large number of corgis (or they may have been crossed with dachshunds). There were about 14 in all at a quick look, freely mingling at the feet of the group. Then I saw several ushers in full dark green livery with silver pooper-scoopers (they looked rather like those antique silver sugar dispensers which one rarely sees nowadays) diligently attending to the guests and cleaning up any mess at the same time. At first, rather taken aback, I then reflected that, the niceties having been attended to, if you were Monarch why should you not have the freedom to do so.

Many of the guests there were personal friends of the Windsors, and there were a smattering of others. After Dinner, when the ladies had departed to the 'other room', the feeling that I had been singled out for an invitation was confirmed when the Duke asked me to sit next to him alone. It turned out that he had been concerned with the recent burning of the flag at Waitangi and mooning by Maori protesters, but particularly that there would be no disruption to the prospective Royal Tour of New Zealand. Far from using the elegant English prose of which was quite capable, his message was delivered in terms any military officer would have been proud. Thus, I was able to discern his meaning in a way which could not be misunderstood by a colonial. Naturally, being very cognisant of the need to convey this and its tenor back to New Zealand, I thought that the communication should reflect the delivery, be as specific as was seemly and in a manner intended to convey great concern. I did so, asking for the communication to be confidential. To this day, I am not sure of the impact it had, but the Tour turned out to be a marked success. And I can wholeheartedly affirm what is often said of the Duke of Edinburgh, that he protected the Queen's back.

The Queen as Head of State

The Queen is Head of State of New Zealand at the will of New Zealand and not just because she is also the Queen of Great Britain – in her famous phrase, should New Zealand so decide, 'We will go quietly'.[9] I hope it can properly be said and feel it incumbent upon me to say that, based on my conversations, experience and observations, she very much relishes her role as Head of State of New Zealand, she has great regard for the country and she and her team are prepared to go out of their way to foster that. And, it may be said, she is extra-ordinarily well informed, from her own sources, of both black letter and soft news, about personalities and what is going on in New Zealand.

When the Queen tours New Zealand it is customary for her to visit the High Commissioner in London before or after leaving – in this case for Dinner after returning. Given the limited seating at the Residence there were ten invited guests selected from the current leaders of voluntary organisations in London involved in promoting relations between Britain and New Zealand, along with two equerries escorting the Queen and Duke. Naturally, I had some trepidation for the success of the evening – for one thing I had little or no knowledge of equestrian matters and had never once ridden a horse. Accordingly, I also invited Mark Todd and his wife Caroline, both with an abundance of such expertise, to make up for my lack. My plan was to sit Mark next to the Queen to avoid any embarrassing pauses. However, he was held up in the traffic and did not arrive on time – in some desperation, trying to find out what was amiss, I missed the arrival of the Royal couple, only to be saved by Maggie, my partner, who received them with a full curtsey and with grace and ease. Mark arrived during the initial reception, having been smuggled up through the kitchen and the back stairs. It was very well done but the Queen (who of course knew him well) clicked and said to him with a twinkle 'So nice to see that you were able to make it Mark'. Many New Zealanders have been the

beneficiaries of British tolerance – in making exceptions from the conventions for us.

At dinner, the printed menu was on the table and the Duke quickly looked at it. As you might expect, it had New Zealand wines for each course,[10] a Waitaki salmon entre, Canterbury lamb rack as the main and 'Kiwi mousse' as the desert. The last had the Duke looking askance – and Maggie who was sitting next to him quickly said 'The fruit Sir not the bird', at which the Duke fell about guffawing loudly. The meal had got off well to a non-nervous start and to my relief was a great success. The Queen, known as not a big eater, had two helpings of the lamb.

Surrendering Credentials

For two years Maggie was not only my partner but my hostess, something she was very good at, and she took part with me in most activities including at Buckingham Palace and on Tour. At the conclusion of my term as High Commissioner in March 1997, it was necessary for me to go to the Palace to surrender my credentials, and the question was whether she should be invited also – it was then protocol that non-married couples were not accepted at the Palace. It is now not easy to understand why there was such a strong convention, but I suspect it emanated from the Queen's role as Head of the Church of England and the then thorny attitude of the Church to divorcees.

The protocol exercised the minds of the Palace officials and, at an unrelated gathering, I was approached by a Palace Secretary quietly, informally and in passing, and the dilemma raised. Incidentally, I should say that this is how matters are usually communicated from the Palace – not by diplomatic note as in the case of the Foreign Office but by gentle aside in a low-key way – nevertheless the meaning is always clear. I immediately responded that we would both abide the decision of the Palace and that, whatever it was, neither of us would make a fuss. The invitation duly arrived for us

both to attend an audience before the Queen – the protocol had been overlooked.

New Zealand's Image

New Zealand had long been recognised in Britain as having quality of life, a clean green image, wonderful recreational facilities, sporting prowess and the relaxed and friendly manner of its people. There were also strong historical ties and contributions in both war and peace. Thus, at the beginning of my term, New Zealand's standing in the United Kingdom was in excellent shape and one of 'considerable warmth'.

My predecessor, George Gair, had succinctly drawn attention to a dichotomy in his final report a month or two before my arrival. As he said: 'There are two views of New Zealand prevalent in Britain. The first which, I am glad to say is beginning to fade, is of a country just as Britain was forty years ago… Our reforms in agriculture, in finance, in the economy as a whole, and in the public sector are increasingly being held up as models to which Britain could usefully look'. Thus, there was still in some quarters a persisting image of New Zealand as behind the times. I set about endeavouring to win that contest of perceptions, making it a theme of many speeches – to remove the old and substitute the new.

This was cemented in place due to a number of factors. Important was the widespread interest in Britain of New Zealand's ground breaking economic and public-sector reforms – of its free trade initiatives and an outward looking self-reliant attitude, seen to be at the cutting edge of progress. Also important was the increasing sophistication and perception of quality which was emerging in its products, for example chilled meat replacing frozen meat; new varieties of apples such as Braeburn replacing the old; and the recognition of the premium quality attaching to NZ wines. New Zealand had long been associated in Britain with the Sunday joint, the block of cheese and the slab of butter, but the new developments

were better able to emphasise quality and to exploit profitable market segments. Then too, the attention created by the debate concerning the abolition of titles and the Privy Council resulted, I believe, in respect for New Zealand's independence.

Factors such as these raised perceptions of New Zealand and, in my Valedictory at the conclusion of the term, I was able to report that 'this watershed change in the perception of New Zealand in Britain meant that the relationship was now, not only one of 'considerable warmth' but also one of 'undoubted respect". Sir William Purves (Group Chairman of HSBC) confirmed this, writing that 'New Zealand was now being seriously listened to' and that its standing was 'on a higher plane than it was a few years ago', kindly describing my contribution as 'of the greatest importance'.

The improved perception resulted in significant gains for New Zealand in this period. For example, in 1995–96, NZ exports to Britain increased by 17.5%. In 1996, applications for work permits by Britons to New Zealand increased by 60%. British investment in New Zealand Government bonds took on a new lease of life – from NZ $1.2b in 1994 to $2.9b in 1997. There was an increase in tourists from Britain to New Zealand from 116,000 to 136,000 over the two-years. Trends of previous years were reversed. New Zealand was seen as a good place in which to visit, work, live and invest.[11]

The NZ/UK Relationship

At a political and policy level, Britain batted for New Zealand in the European Union and the world and provided diplomatic representation for New Zealanders where New Zealand was unable to do so. For its part, New Zealand assisted Britain in world affairs in a complementary way – a small country thinking similarly but itself without colonial baggage, assisting where appropriate and where it could. For example, the gratitude of the British Government for the provision of New Zealand troops under British command to assist those of Britain in Bosnia, could hardly have been greater.

The NZ/UK relationship was undergoing re-assessment and re-alignment. It still had historical ties, kinship, sentimental factors, shared values, similar political, administrative, legal systems and so on, but the underpinning of the good relationship was now more dependent on the myriad of current governmental, administrative, business and personal links of all kinds in all fields at all levels. To foster this, I endeavoured to match visiting New Zealanders with their British counterparts. The Chairman of the Commonwealth Trust, Judith Hanratty, wrote of this: 'the extent of the networks that support the relationship between the two countries is quite amazing. You have undoubtedly contributed substantially to ensuring that those networks at all levels are in good working order and working well to everyone's benefit. Congratulations on a job well done'.

Conclusion

I was overwhelmed how favourably New Zealand High Commissioners are welcomed in Britain and taken aback at how widespread the welcome was. I had no doubt whatsoever that it was more than mere politeness – it was due to a variety of factors such as the shared heritage, New Zealand's wartime contribution, the myriad of personal relationships between the two countries, the familiarity of New Zealand food products, and so on. In Britain, such is the goodwill, that the promotion of New Zealand's interests there seems almost welcomed – it makes the New Zealand High Commissioner's role in Britain an easy one.[12]

An objective, for a High Commissioner, should be that there is mutual advantage in the relationship to both New Zealand and the host country – in this case, the recognition of and interest by Britain in New Zealand affairs was gratifying and we were able to contribute to Britain in a number of important ways during the period as well. But it was the preservation and continuance of the excellent long-standing relationship between the two countries and, I believe, the enhancement of the New Zealand image in Britain at that time

which were, of many good memories, the best part of being New Zealand's High Commissioner to the United Kingdom.[13]

VIII

MAGGIE

Bude is a small sea-side resort town on the northern Cornish Coast. It has two beaches with broad sands and, facing west to the Atlantic, its rollers can make for good surfing. Indeed, the Bude Surf Life Saving Club was the founder of British surf lifesaving and,

on 28 April 1995, the Royal Surf Life Saving Association held its major meeting of the year there. The Guest of Honour, HRH the Duke of Edinburgh, attended as Patron as did the New Zealand lifesaving team and myself as the New Zealand representative on the Association.

At the Review, a beach parade, I had a God-given opportunity to meet a lady. She was suggesting to another guest that NZ1 must be the New Zealand car and, being nearby and able to confirm that it was, introduced myself to Margaret Postlethwaite (Maggie) in the process. I was immediately taken with her beauty, her superbly smart and elegant appearance, and her friendly and approachable manner. It seemed that we had an 'instant rapport' and, after lunch,[1] I sought an opportunity to talk to her again. Her looks and manner were backed by sparkling conversation and depth of knowledge. She was particularly vivacious and interacted well with other guests. Somehow, I fumbled out a request for a contact saying that I hoped we would meet in London and was gratified to be given phone numbers, not only for London but also her country home in Wiltshire (about a two-hour drive from the city). Unbeknown to her, I watched her depart until she could no longer be seen.

Maggie

Having plucked up sufficient courage the next week, I rang Maggie and we arranged to meet for lunch at a Chelsea restaurant when she was next in London. Over the following weeks, at my request, I took her to the Chelsea Flower Show to which I had been officially invited with a partner. At her request, we visited the Queen Elizabeth Hospital for Children (of which she was a Trustee) touring the Wards talking to the children and staff. As we got to know each other, I developed a very real respect and affection for her. Complementing her beauty and bearing, she was very much at ease and was wonderful company.

I learned that she had, from St Martins (now the University

of London for the Arts) engaged in modelling and commercials, her face and figure being commonplace on British billboards and television. She had been in couture shows for Christian Dior and Pierre Cardin and in costume design for various productions, in play and film making. She had played the Baroness in 'Mary Ward' a German British co-production by Hermes Films and had done voice overs for documentaries. Cultured, she retained her varied interest in the arts – painting, writing and poetry.

She produced and organised various charity concerts, shows for children and pantomimes. For many years, she had done voluntary work for two of the leading hospitals for children (Great Ormond Street and Queen Elizabeth), teaching and encouraging drawing and painting to severely ill and disabled children.

I learned too that she and her former husband were known as a glamourous couple of great sociability – their two children had been educated at prestigious boarding schools, allowing an active social life in London and elsewhere. Although I had not thought myself particularly disadvantaged in the role of High Commissioner, of not having a wife or partner, I could not help but reflect what an asset she would be in that role. But that played no part whatsoever in my decision to court her as well as I could. In short, I flipped for her and could not imagine any one more perfect as a wife. In due course, we became inseparable and lived together from then on. For the remainder of my term, Maggie became not only my partner but my hostess, and she took part with me in many High Commission activities. She visited New Zealand for the Commonwealth Heads of Government Meeting (CHOGM), walked the Milford Track and we toured the country, for which she became an admirable ambassadress.

Intervention

However, some four or five weeks after our first meeting, Maggie received a telephone call at her London address. The caller used the name Catherine and said she had a five-year relationship with me, that we were going through a bad patch but we were very much a couple. Taken aback, Maggie managed to say politely that her private life was her own business.

When Maggie told me I was devastated and upset, and said to her that she was the last person I would have wanted to receive such a call. Immediately, without thinking, I told her that 'Catherine' was someone with whom, well after my formal separation, I had had a previous relationship in New Zealand for about a year. It was not a live-in one – we lived in different cities and met sometimes when schedules enabled. In mid-1993, when this ended (because she was wanting more in a relationship than I felt able to share), she had taken it badly and had sought its continuance. Some six months later she had again sought renewal when I was appointed High Commissioner and, a year after the breakup, not having seen each other during that time, she had followed me to London entirely of her own accord. When there, she had again sought renewal, but had acknowledged that there was no relationship.

At that time I did not dare say that, when in London and prior to my meeting Maggie, 'Catherine' had sought to destroy a possible relationship with someone else whom she thought might be a threat. She had sent a note to the lady, in a pastiche of cut-out type, enclosing two condoms saying that I was a homosexual and advising her to use them. 'Catherine' denied that it was her, but sometime later asked for a meeting in my office at which she admitted so doing, expressed sorrow and sought reconciliation. She had then written: 'I know you don't want to see or hear from me again…You know it is not in my nature to do something so awful'. 'There is a dark cloud hanging over me and it will not go away until I have made peace with you'. Much shocked and not believing until then that

'Catherine' was capable of such a lie and conduct, I had endeavoured to avoid her as much as practicable,[2] but that was not always possible as she attended ex-pat functions at the High Commission.

The 'Campaign'

After the call to Maggie, I phoned 'Catherine' and told her that the interference must stop. But, instead, she started what she called a 'campaign' against us both. It is not possible adequately to describe in short compass (without tabulating the very many instances in which 'Catherine' sought contact) the extent and persistence of the activities over a period of nearly two years.[3] It included in 'Catherine's' own words 'hundreds of letters' (I had never once written a letter to her); gifts, books and cards; constant surveillance of the Residence and our movements; following our vehicles in London and elsewhere; telephone calls to disrupt our lives; vandalising our cars; leaving fliers and graffiti at the Residence and elsewhere; distributing critical posters – activities which were continuous, aimed against our private lives – all repeated on multiple occasions and accompanied by abuse and threats in the numerous letters she wrote to us both.

So intrusive were her attempts to dissuade Maggie from the relationship that it even included rifling rubbish bins, seeking to know the detail and minutiae of our lives. As Maggie wrote: 'A note I had written to John and left on his pillow when he had the flu and which I threw away was stolen. ('Catherine') must have untied the polystyrene bags deep in our dustbin to get it and discovered the paperwork'. 'Catherine' had then sent the note to Maggie at her country home with the message: 'See how much he loves you, he threw away your notes'.

Pursuit and Privacy

As part of the campaign, 'Catherine' regularly kept the Residence under surveillance without being detected, using Chelsea Square Gardens as cover.[4] As she wrote: 'I know your every movement and

can report your behaviour to anyone who might be able to use it'. She would regularly deliver letters and other material on her way to and from work and, echoing Princess Diana, had written: 'There will always be three in this relationship'.

She would also often follow NZ1. One weekend, she followed me while I was driving the car from London to Wiltshire – a two hour drive. I tried to shake her off but she refused to be shaken. I took a route rather different from normal. I left exits until the last minute but still she followed. I speeded up where it was prudent to do so, but she speeded up also. I tried to lose her round the tortuous and un-patterned backroads in Wiltshire but she stuck to me there too. However, at Chilmark, she flashed her lights and drove her car in front of me at a junction, saying that she was nearly out of petrol and could I help. She then went into a phone booth nearby, presumably for the purpose of obtaining fuel. Relieved, I moved on to Maggie's home in Ansty.

However, my relief at not being followed the full distance was short lived. When 'Catherine' did find Maggie's home, she would appear in the dead of night, often in the small hours of the morning when it was pitch black. She would drive her car up and down the Coombe where any vehicle is a rarity, blink her lights at the house, throw gravel at the windows, lurk about the grounds, shout abuse and leave notes on our cars when they were parked on the property. Maggie was often alone at the remote residence and, being attuned to the sound of the woods around (with the foxes, rabbits, owls, pheasants, field mice, honeysuckle leaves) and the gurgle from the pipes and the gutters, was very aware of intrusions. On hearing an alien noise she wrote: 'So it was with a feeling of dread that I tiptoed to my bedroom window in the dark. There she ('Catherine') was like a black beetle scurrying round our cars and then back past the dustbins to the lane, and shortly after the sound of a car engine'.

'Catherine's' discovery of the remote house meant that our haven which we both valued was no more. It was as if there were no lengths

to which she would not go – to pursue and continue to harass us both. When added to her activities, surveillance and following in London, our sense of invasion of privacy was very strong indeed.

Arrest and Seizure

'Catherine' had also made threats that she had 'material to create a scandal for me'. As she wrote: 'I don't want to hurt you but I do have ability to cause you great embarrassment and career damage'. I was not sure of the basis for the threats until she pinned some of my medical information to the front door of the Residence for Maggie to see. Realising that this could only have come from my private study which only I used, I searched my records and found that, among other items, she had taken papers relating to my time as President of the National Party – in particular, an unsolicited letter with attachments, personally addressed to me by a fundraiser contracted by the Party.[5] It was in the form of a report to me of fundraising efforts for the 1993 General Election outlining a summary of contacts made and by whom, who had funded the Party, the amount of the donations and comment as to the motivation of the donors. So as not to put politicians in a difficult position, I had not disclosed it to anyone else. But, should it be made public, the sensitivity of the communication was obvious.

Similar threats regularly recurred: 'I won't be responsible for the ensuing events and actions if you won't face up to talking to me and helping me'. 'I don't want to do this but you are giving me no choice'. Her activities were tenacious, unrelenting and showed no signs of abating and left me in no doubt that she might carry out her repeated threats. Knowing I had to protect the National Party and the donors (donations at this time being accepted on the basis of confidentiality),[6] eventually, in July 1996, being increasingly concerned as the next General Election season in New Zealand grew imminent, I hesitatingly and reluctantly consulted the British Police, providing them with an extensive list of 'Catherine's' activities and

the multitude of letters, cards, graffiti which she had inundated us both with. The Police took the matter seriously and, after a number of meetings, suggested I lay a complaint of theft of the papers which enabled them to use their power of entry and seizure to recover the documents. As a result, I laid the complaint and shortly afterwards the Police raided her lodgings.

I was told that this was carried out around 2am in the morning and that they did not warn her in advance for fear of alerting her – otherwise she might have copied the papers or placed them elsewhere. The principal ingredient of the success of the raid was surprise and hence it was in the early hours. Four members of the Force, including a woman Police Officer, went to where she was staying. Upon entry, they found a room they described to me as a 'shrine' – the Police told me that on the walls were notes, photos, articles, newspaper clippings related to me. They found my medical records, some personal papers and, above all, those relating to the National Party funding.

Shortly afterwards at the Police Station, I identified the papers and took them back into my possession. I checked to see that they were all present and correct and there was nothing to suggest that they had been copied. I was told that 'Catherine' was taken to the Police Station a day or so afterwards for a formal warning in respect of the harassment and theft, and that serious consequences might follow if her conduct did not stop. She was warned to discontinue her activities and not to contact either myself or Maggie. In response, 'Catherine' wrote to me: 'I don't care if I go to Court and to prison, I will drag you with me while ever that woman is around so will I be'. But, at least, to my great relief, a potential disaster had been averted.

Escalation and Retaliation

The Police asked whether I wished to prosecute but, had legal action been taken against her, it might have impacted adversely on my public role. Further, the possibility of a Court case and resultant

publicity in England was troubling Maggie. We decided not to continue the complaint, or to prosecute the other activities, and the Police understood the reasons why.[7]

Any hope that the arrest and seizure would rectify the problem was soon dashed and, from then on, the Police were regularly briefed of her activities. The Police warning was in the nature of a marker – there was no power to enforce it. The activities increased, seemingly in retaliation. The surveillance continued, the nuisance calls became increasingly obscene and the letters kept coming. Prostitute's cards appeared regularly at the Residence. Fliers 'The Whorehouse, Chelsea Square, Madam Maggie Postlethwaite' were left there and also at Maggie's Club, the Hurlingham. Flimsy pieces of paper of about 2 by 3 inches saying the same were scattered in the wind like confetti in the streets surrounding. 'Whore' was sprayed in white paint on the road outside the Residence and then in red paint. Letters to Maggie were barbed: 'Don't wear your best clothes (to a function in the Penthouse) just in case some red wine gets accidentally upset next to you' and spiteful: 'John had a good time without you, he just can't work out how to get rid of you'. Maggie did not respond. 'Catherine' also wrote to me: 'As usual, your escort girl looked like a tart'.

Towards the end of my term, 'Catherine's' activities seemed even more desperate. Up to that time her activities had seldom been visible to hosts or guests (the graffiti was regularly removed), but they were now aimed at my public role. They included pouring oil on the steps of the Residence; emptying a pot of white paint there; upending rubbish bins; and disrupting functions in various different times and ways – by repeatedly ringing the phone; by ringing the door bell and then vanishing; by banging on the windows; and by uprooting plants.[8] Regular Police surveillance of the Residence and instant call-outs were arranged but, though willing and diligent, the Police were unable to prevent the activities.

Maggie was variously shoved, punched and kicked while walking

outside the Residence and elsewhere at functions – she described these attacks as being surreptitious, by 'Catherine' 'sneaking up unnoticed'. As Maggie recorded: 'On one occasion, she saw me crossing the road, she tried to run me over, speeding up and swerving at me, if I had not jumped onto the pavement, she would have hit me with her car'.

In the last month of my term, 'Catherine', ever resourceful, managed somehow to obtain a copy of my Itinerary. As a result, copies of Notices calling me a 'Dishonourable Man' were sent to some of the people listed, who then informed me. As 'Catherine' wrote to Maggie: 'I know John's entire programme and diary until the day he leaves, so I will be seeing you around over the next few weeks…I will be enjoying the next few weeks.' 'You have ruined my time in London and I know I have spoiled John's time'.[9] 'I love John very much and no matter how much he hurts me, I will still love him'.

Alerted to 'Catherine's' continuing activities and the escalation, on 18 March 1997 the Police told me that they were calling her in with her solicitor. At this time, I was pre-occupied with completion and departure and, on 30 March 1997, duly returned to New Zealand at the end of my term. Maggie remained in England completing renovations to her new country home – a Grade 2 yeoman farmer's cottage, known as Frog Pond Farm, built from the remains of Wardour Castle which had been destroyed in the Reformation. At the time, we had no plans for the future – Maggie needed time to reflect. Given her quintessential Englishness, I knew it would be a big upheaval for her to join me in New Zealand, but I fervently hoped she would.

However, due to the escalation and the failure of Police warnings to have any effect, I was increasingly concerned for Maggie and so were the Police, no more so when on 21 April 1997 'Catherine' sent a letter to Maggie to her home three weeks after I had left the country. Sometime, on a date unknown, the Police decided to take action for breach of peace against 'Catherine' for a Court order that

the conduct desist – by this time they had a significant file of their own encounters with 'Catherine'. They did not advise me of the proceeding – it was, of course, for the safety of Maggie and I was no longer in England. Maggie attended the hearing at short notice on 16 June 1997 and I learned of it in New Zealand the day before.

The Court Case

The Police charged 'Catherine' with four offences. They were: posting prostitutes cards at the High Commission Residence; sending malicious communications; pouring oil on the steps of the Residence; and assault on Maggie.[10] Introducing the charges at the hearing, the Police Prosecutor said that we were 'bombarded' with phone calls, letters, graffiti, abusive notices, and explained that the charges were specimen only. He produced prostitutes visiting cards and also fliers saying 'The Whorehouse of Chelsea Square, Madam Margaret Postlethwaite' distributed at the Residence and at Maggie's prestigious Club, the Hurlingham.

To demonstrate malicious communication with intent to cause distress, the Prosecutor read in Court parts of an eight-page letter neither of us had read – written by 'Catherine' to Maggie and sent to her Wiltshire home on 23 January 1997: 'You had better start looking for a replacement for John among the new diplomats…Just a few more official functions and off he'll go back to New Zealand... Those of us who are not pariahs, whores, prostitutes or parasites in order to live, usually have gainful employment and win self-respect and the respect of other people through hard work...The best times were when JC wined and dined me and then made love on the dining room table, you can remember that next time you sit down and eat from it. In fact, we made love in most rooms in Chelsea Square...Maybe you'll just go back to stalking the corridors of the Hurlingham Club looking for the next opportunity to be a whore'.

'Catherine's' Counsel, responding on her behalf, admitted to posting the prostitutes cards and to malicious communication and

denied the rest – this meant that the Police were able to obtain an Order that she not breach the peace and that it was not necessary to press and prove the other charges. Her Counsel said that 'Catherine' was of 'impeccable character and a cultured and educated woman' and that she became my 'partner, attending functions such as Royal Ascot and functions at the High Commission'. He said that 'she feels that she was very much used during that period' and that 'she was left with the impression that there was something to be hoped for'. 'What she did was very unpleasant for the people involved. She accepts what she did was inappropriate but she felt she had been used and felt extremely let down by the man she did love'. 'As she told me outside the Court she did love this man and she still does'.

The Magistrate, Mrs Rosamond Keating SM ordered that 'Catherine' not breach the peace for one year and she was conditionally discharged. She told her: 'Ever since time immemorial, jealousy and rejection and the effects of rejection have caused a person who is rejected to become obsessed. You have misbehaved yourself and caused a certain amount of distress and harassment to the new lover'. 'I accept what your solicitor has said that you have already suffered enough. One can only hope that you will forget him and look elsewhere'.

Thus, the Court Order that 'Catherine' not breach the peace achieved what we had wished for – that the activities stop and that there were now sanctions if they did not. For her part though, in 'Catherine's' view, she had got off scot-free and simply had to keep out of trouble for a year. She seemed triumphal – after the hearing, she said to the media: 'I still love John but the relationship is over. I am just delighted and relieved the Court case is over and I shall be celebrating tonight'.

Maggie sought refuge in the Court building. A reporter sent messages that he would not leave until he had an interview and photograph. From the lobby (where photography was not permitted) she pleaded for him to desist, but the reporter said 'he would

stay as long as it took'. Maggie described what followed: 'The Police, understanding and kind, tried to smuggle me out of the back door, but like a ludicrous game of hide and seek, he dashed to the back door. We returned to make a run for it out of the front door, but he scuttled round the building, body bent forward camera thrusting, focused and determined'. About two hours later, having to drive back to the country, Maggie left the building and, confronted by the reporter, said: 'This woman has unremittingly subjected both of us to a terror campaign of real danger. It has been an absolute nightmare for the last two and a half years. This was never a love triangle, that's absolute rubbish…It is very distressing to be hounded in this way. It was a nightmare campaign of physical, verbal and written abuse'.

Analysis

In fact, the full nature and extent of the activities and the distress and harassment caused was not before the Court. Maggie was not required as a witness. Neither of us were parties to the hearing, nor were we represented – it was a Police action. There was no opportunity to rebut any of the submissions or allegations, nor were they tested.

The 'eight page' letter from 'Catherine' to Maggie, read in Court by the Police saying that 'Catherine' and I had sex on the Residence dining table and other rooms became a focus for the media, endlessly repeated as true. However, to the contrary and in fact, the words (that we 'made love on the dining room table') were expressly and on their face an attempt to place 'Catherine's' 'scent' at the Residence – to discourage Maggie from dining and being there. As it expressly said to Maggie: 'you can remember that next time you sit down and eat from it'. The letter was introduced by the Police to prove its case – as an example of malicious communication – not that it was true. Neither was it alleged or affirmed in Court that the allegation was true, nor was it by 'Catherine' at any time before or since. The letter was a derogatory rant written as part of and

in the context of a two-year campaign of stalking, which made statements in it unreliable. And the allegation of prostitution against Maggie (scurrilous and untrue) should have cast doubt on any other statement made in conjunction with it – to conclude that sex on the dining table was true when the other was not is to be illogically selective. In fact, sex on the dining table would not have been easy to accomplish – a Housekeeper and Houseman lived full time at the Residence and had unrestricted access to the Dining Room. We had not had sex on the dining table nor, indeed, in 'most rooms'.

By the limited guilty plea, 'Catherine' was able to pass the matter off as one where a respectable woman took revenge by posting prostitute cards and posting abusive letters for wrongs which she had been hurt and had suffered enough already. And, in explanation of her conduct, her Counsel made a number of statements on her behalf in Court suggesting that 'Catherine' was the victim[11.] He claimed that 'Catherine' had a five-year relationship with me (instead, she had previously written admitting she had merely 'known me for five years'). He said that I had contacted her in London (instead, 'Catherine' had admitted in writing both that 'he didn't ask me to' come to London and that it was she herself had requested contact). He said that I had used her for my convenience, led her on and created an expectation of a relationship (instead, it was her initiation and expectation: 'I gave up my job, my career, to be in London with you. I did it because I wanted to be with you because I loved you so much'). He said that I had used her as my 'official consort' and at functions at Ascot and the High Commission (instead, she had often written complainingly: 'you totally cut me off from sharing any of those things with you'. and, very deliberately, she was never my 'official escort'). He said that I had wronged her in a love triangle (instead, on 23.1.1995, and at other times, before my meeting Maggie, 'Catherine' had written knowing there was no relationship but that 'I hope we can continue to see each other occasionally'). He said that I had continued meeting 'Catherine'

after my relationship with Maggie had begun (yes, but once only at my request in desperation to see if the stalking would stop). He said that I had been callous (instead 'Catherine' had written: 'I know that you were trying hard to tell me things that I did not accept and also to do it in the kindest possible way'). The hurt and suffering alleged by her was, instead, in the failure to achieve her objectives (as 'Catherine' wrote to me after my meeting Maggie: 'No one will ever replace you. I still think of you every day'. 'I have been lonely and miserable because I have to do everything alone'. 'I can't help being angry with you as I see you are not having the pain and loneliness that is all I have').[12]

These contradictions were not before the Court (nor were the voluminous correspondence, activities, notices and graffiti) so no counter or rebuttal was provided. In any event, notwithstanding 'Catherine's' attempts at exculpation and explanation, a relationship depends upon mutuality – a man should have a right to decline a relationship and to say no, just as a woman does. And Maggie had the right to accept a relationship without being harassed, threatened and intimidated.[13]

In Retrospect

Upon 'Catherine's' arrival of her own accord in London in July 1994 (three and a half months after my term commenced), I had been in a quandary what to do. I felt it would be wrong not to acknowledge her as a friend (which she continued to be) otherwise she could rightly complain, and felt kindly towards her and sorry that she had taken the break-up badly. I assisted her on arrival by introductions (such as to the London New Zealand Society) as I had done for others. I invited her to three dinners at the Residence (when mutual friends from New Zealand were visiting) but sat her far away from me so that this could not be mis-interpreted.[14] But she was never 'Mrs High Commissioner', nor could anything I did be so construed. Perhaps it would have been better to ignore her but

it was not possible to exclude her from the normal activities around the High Commission and she repeatedly sought assistance and opportunity for contact. I have often wondered what I could have done differently and do not ameliorate any inadequacies in dealing with the persistence and the creativity of the tenacious pursuit, but believe the overtures and expectation would have continued whatever I did or said, or for that matter did not say or do.[15]

In mid-1993 in New Zealand, 'Catherine' knew I did not want a relationship, but in the Court case in mid-1997 in England she said that she was still in love with me, four years later. During this time, the overtures had come entirely from her and not once from me. She went to extraordinary lengths of pursuit to get her way and would not give up in the face of Police actions and warnings. She harassed and intimidated women whom she thought might be an obstacle to her goals – to dash my hopes for a relationship with anyone else. And, failing in her objectives, she endeavoured to disrupt my role as High Commissioner. Her motivation for the campaign (for renewal of the relationship and participation in my role) was clear enough. As she wrote: 'I used to dream one day you would invite me to share some of the public social occasions with you, going to a Commonwealth Day Service at Westminster Abbey or watching you lay a wreath at the Horse Guards and Whitehall on Anzac Day. I would have been so proud of you'.[16]

Being friends was interpreted by 'Catherine' as my 'having led her on'. When being friends had clearly not worked, I had resolved to avoid her and have as little to do with her as possible in the hope that the contact and pursuit might dissipate. 'Catherine's' public statements then that I ignored her and that she only wanted to be friends and to 'talk' to me do not fit easily with her continued statements of love and attempts to renew the relationship throughout. Contact and friendship with me seemed to be interpreted by her as a relationship or in the way that she wished. And close contact with her would have provided further opportunity to spoil my

relationship with Maggie – that was too great a price to pay.

Media Frenzy

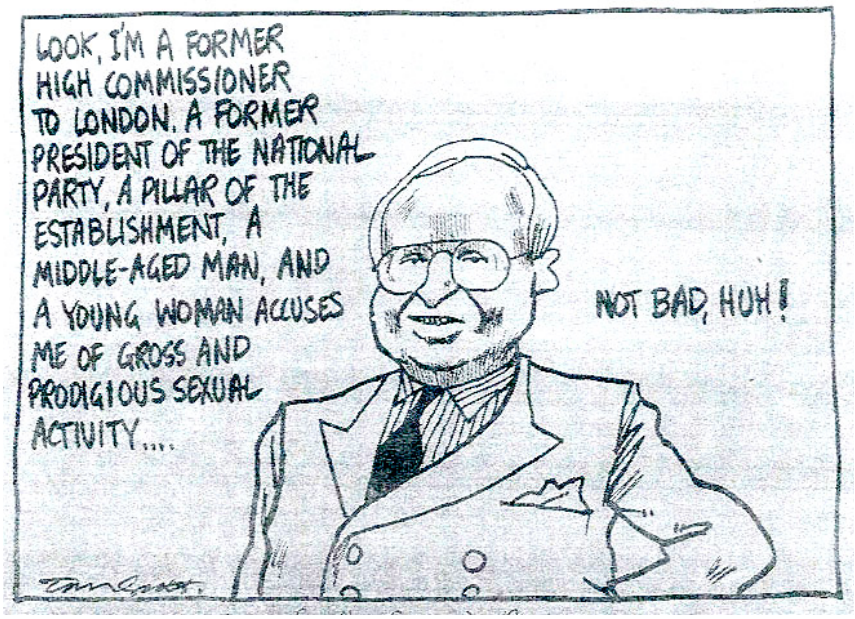
Following the Court case, reports of the hearing were widely circulated and taken up by all media in New Zealand (including mainstream media). The *Daily Mail* report began: 'A spurned lover took a very public revenge when the New Zealand High Commissioner dumped her for another woman, a Court heard yesterday'. Another reported 'a bitter wrangle in a 'fatal attraction' scenario involving former New Zealand High Commissioner John Collinge, his beautiful new lover and his 'jealous' ex-girlfriend… when the nurse who loved him and lost him was accused of stalking the former top politician'. The reports canvassed the Court hearing – particularly the reference to making love on the dining table at the Residence and 'Catherine's' justifications for her activities. *TV One*, via Mark Sainsbury its representative in London, described the events as 'a sex scandal' repeated on air many times. All of the numerous media reported this as prime news. It is little wonder that the statements seemed universally believed – everyone Maggie and I spoke to thought the stories promulgated were true. The overwhelming impression was in the headlines: 'Diplomat Sex Scandal', 'Campaign of Hate after Diplomat Jilted Lover' and 'Revenge of Diplomat's Spurned Lover'. It created an 'urban myth'.

This story, comprehensively reported, pushed the 1997 Budget off the front page of the *Herald* and a cartoon showed the Treasurer (now the Rt Hon Winston Peters), having surveyed the press headlines, looking disconsolate and bemoaning his luck – having announced his First Coalition Budget, he had been removed from the centre of the Nation's newspapers.

A media frenzy developed – where the whole of the media (television, newspapers, magazines, radio) treated the subject in a way which was all-pervading, excessive and belittling,[17] it being impossible to counter the flood of false and offending material.

The matter was in the spotlight over weeks and continued to be referred to long after. Overall, if the media were to be believed, I had spent my time in London fornicating at the Residence. 'Our man kept busy at his London pad' said the *Herald*. Tom Scott, not unkindly, cartooned a drawing of me saying 'Look, I'm a former High Commissioner to London, a former President of the National Party, a Pillar of the Establishment, a Middle-Aged Man – and a young woman accuses me of Gross and Prodigious Sexual activity… Not Bad Huh.'[18] But even this re-inforced the impression.

Of course, working under pressure, media can make unwitting mistakes, but here over a considerable period of time, this media did not check the truth of the statements or question them even though they were prima facie suspect; though they were based on long standing jealousy; though they were in exculpation of 'Catherine's' conduct; though she had pleaded guilty in Court to malicious communication; and though she had been bound over to desist from her conduct. I wrote more than twenty letters of denial but it was the last thing the media wanted to hear – that would otherwise



have spoiled the fun and the opportunity for political attack or to be salacious.[19] The *Listener,* yes Jane Clifton again, suggested that my conduct was part of 'status bonking' said to be quite commonplace in Parliamentary circles.

To this media the message, perversely, was revenge for wrong-doing not victimisation through stalking. It was not even that Maggie was being intimidated and harassed for the purpose of discouraging her from the relationship. Afterwards, in a letter to her sister in England, Maggie wished that the media would 'state what actually happened': 'What is so heart breaking is the way that the lies for which she ('Catherine') was arrested and pleaded guilty have been published here as the truth. I find that very hard to bear, she is clearly not telling the truth or anything like the truth'. The right to publish is not in question – but it was carelessly false and, unconscionably, allowed the stalking to continue and, indeed, to be aided, abetted and fostered by constant repetition.

Legislation

In bringing the proceedings, the Police acted on the law as it then stood. Yet nine days before the hearing of the Court case, the United Kingdom Parliament enacted for the first time a law against stalking.[20] Specific acts of stalking (such as posting prostitute's cards and derogatory letters) can seem trivial on their own and in isolation but, when viewed overall, a course of conduct can be much more sinister and intrude upon the safety and well-being of those affected. It was this which the new law sought to address.

It became a criminal offence if a person engages in a pattern of behaviour directed against another which causes that person reasonably to fear for his or her safety. When the conduct causes distress only, a restraining order is available. Some five months later, on 1st December 1997, New Zealand too passed a similar law against stalking – the Harassment Act 1997. Acts of stalking in the New Zealand Act include watching, loitering, following, stopping, accosting or making contact by any means. It specifically, and pointedly, includes 'giving or leaving offensive material' (such as prostitutes' cards or fliers) that 'will be found or brought to the attention' of the target. In this, it echoed one of the specific charges against 'Catherine' in England, namely, 'the display of any writing, sign or other visible representation which was abusive or insulting within the sight of a person harassed, alarmed or distressed'.

During 'Catherine's' activities, investigation and study into stalking leading up to the new Act had been conducted by senior civil servants in the Home Office and the Lord Chancellor's Department. The Police officers involved in the case had monitored progress of the investigation for the purpose of seeking advice, had regularly communicated details of the case to the relevant officials and had liaised with them. It was not unusual for New Zealand to follow British precedent to take advantage of experience there. However, the media frenzy surrounding us in mid-1997 made it impossible to ignore and is likely to have been a contributing factor

in New Zealand's enactment of the Harassment Act as well.

Revival and Respite

Subsequent to the Court case, in early 1998 in New Zealand, still within the twelve-month breach of peace period, there were a number of further attempts by 'Catherine' to make contact with me in Auckland: 'It would benefit you to contact me on (an Auckland phone number)', then 'Dear John, I wouldn't put your head too far above the parapet as you might get shot down again' and she made offers to media to provide 'dirt' on me. When this occurred, they were immediately reported to the Auckland Threat Squad of the New Zealand Police. After consulting their British counterparts, but relying solely upon the conduct in New Zealand and the new Harassment Act, they duly confronted 'Catherine' with the events and warned her to desist. She asked the Detective whether this had come from Maggie but was told it had come from me. Upon being assured that activities outside Britain were not subject to English law, she left for England shortly afterwards. We did not publicise the renewed contact in New Zealand due to concern that the media frenzy might re-ignite and the offending and false material repeated.

Following, there were further communications from 'Catherine' to Maggie in 1998 and to me in early 1999, possibly reminding us of her presence.[21] The longevity of stalking was now known to us and we continued to take precautions – we invariably used chaperones when I was not available to allow Maggie to attend functions at which 'Catherine' might conceivably be present. But, from 7 January 1999, some ten years after my first meeting 'Catherine', neither I nor Maggie received any communication that we could attribute to her.

The Aftermath

After the media furore, Maggie and I did our best to put the frenzy aside but it continued to be remembered by all and sundry. We had a strong feeling of being jointly wronged – for the slurs on Maggie, the intimidation, pursuit and harassment, invasion and disturbance to us both and that the events had been publicly miscast. All this was greatly enhanced due to our feeling of responsibility for New Zealand and the success of my tenure as High Commissioner. As was said by a commentator, I was 'condemned to live in the shadow of having sex on the dining table at the Residence'.

Maggie had not known 'Catherine' before (and for that matter during or since) she was totally blameless in every respect – all she had done was to accept invitations from me. She bore the harassment with patience and the intimidation stoically, though deeply felt – as she did the oft-repeated outrageously false allegations against her which she could not dignify with a response. She had very real reason to feel threatened by the bombardment of verbal, written and physical abuse and was often reticent in going about her normal routines. Contrary to those who said that the harassment was trivial or ludicrous, Maggie experienced great distress over a long period (which she described in writing as 'a great sorrow for me'). The impact extended far beyond the posting of prostitute allegations and the sending of a malicious letter – no one reading the extensive letters, cards and graffiti or listening to the tapes of the telephone recordings over four or so years or cognisant of her activities would entertain the slightest doubt of the objective, and the venom and personal hatred towards Maggie. Then there was as well an extensive Police file involving their many independent dealings with 'Catherine' – the Police recognized the risk and danger, were concerned for Maggie's safety and took action.

I have the greatest admiration for Maggie's dignity and her fortitude and demeanour throughout the whole of the events, merely outlined here. Few would have done so, yet she stayed loyal to

me. Maggie and I, being engaged, later married – quietly to ensure secrecy of the occasion and the reception – and we lived together between England and New Zealand for twenty years until her death in 2017. My tribute to her cannot be adequately expressed in words.[22]

Diplomatic Ladies

The Court case and media furore also gave career diplomats the ability to continue their campaign against political appointments. Thus, upon the projected appointment of Attorney-General Paul East to be High Commissioner three years later, it was trumpeted in the *New Zealand Herald* that this was not likely to occur because 'of the embarrassment caused by former High Commissioner John Collinge who returned to New Zealand amid a luridly detailed sex scandal involving a former lover who he claimed had stalked him after he ended their relationship'.[23]

The highwater mark of these attacks came years later in 2012 when Joanna Woods published a book called *Diplomatic Ladies*. She was the wife of an experienced senior career diplomat with service spanning from 1966 to 1999 – he had been Ambassador for New Zealand to France, Russia, Greece and Iran. Mrs Woods was thus a career diplomat insider and was, in her own right, a published author. The book was published by the Otago University Press – known for serious works. It had a Foreword by the 'Rt Hon Sir Don McKinnon, ONZ, GCVD' who for nine years had been Minister of Foreign Affairs and who had spoken at the launch of the book. With such pedigrees, it had an authoritative aura.

The Chapter in question was titled 'Conduct Unbecoming'.[24] It had a photograph of me holding the *Daily Mail* article headed 'Public Revenge of a Diplomat's Spurned Lover'. The tone was set when it opened: 'Even diplomats – and their partners – sometimes behave badly and New Zealand's envoys are no exception'. It described 'the damage done to New Zealand's reputation' by 'the

antics of a later envoy (John Collinge), whose indiscretions were broadcast in every major broadsheet in Britain, as well as all leading papers in New Zealand. The story has never been forgotten and fifteen years later it still elicits smirks and sniggers at the expense of the country's oldest and most historic diplomatic mission in London'.

The Chapter canvassed the opposition to my appointment as High Commissioner; that 'Catherine' had been my hostess accompanying me to official functions and playing 'Mrs High Commissioner'; that 'Catherine' and I had sex on the dining table; that she had been dumped; that I had managed to field both women at once; and that I 'had treated her rottenly'. It was an attack by a person unknown to me – that I had misbehaved and had let the professional diplomatic service and New Zealand down.[25] Three reviewers of the book also repeated certain of the allegations. The *New Zealand Herald* referred to my 'escapades' and the 'now notorious dining table incident'; the *Listener* to my 'unedifying behaviour'; and the *Journal of the Institute of International Affairs* said that my activities were 'not to the credit of New Zealand'.

Legal Action

I was taken aback at the falsehoods and insinuations, by the belittling and derogatory tone of the Chapter and the endorsement by reviewers. In *Diplomatic Ladies*, they were assembled together in a narrative and, in exasperation, I had had enough and at last took legal action against the author. I claimed defamation, alleging that the various statements were false, that wrongly they were calculated to damage my reputation by accusing me of anti-social behaviour, of being unfit for the position of High Commissioner and that I had brought the diplomatic service and country into disrepute. Overall, the comments could be justified if Mrs Woods could show the statements in the Chapter were true or were honest opinion or fair comment. In actuality, there was no basis for saying that they

were true other than by reference to media reporting which was wrong, misleading and itself 'tabloid' (ie lurid fake gossip). And the written communications from 'Catherine' which Maggie and I had retained (some of which have been quoted here) comprehensively contradicted the account.

Once the claim of defamation was made, Mrs Woods was represented by Queen's Counsel. After a flurry of exchanges between lawyers, claim and counter-claim, she capitulated. She sincerely and unreservedly apologized to me in writing for the Chapter and its contents. In the result, it was agreed that unsold copies would be withdrawn from sale and the offending Chapter removed in its entirety from any future editions. I was given the right to rebut the allegations Mrs Woods had made in the Chapter. The terms of this, how this was to be achieved and the financial aspects of the settlement were to remain confidential.

The *New Zealand Herald* apologised and immediately published a denial from me followed by an article headlined 'Table Sex Claims Put to Bed': 'Former High Commissioner to London John Collinge hopes that a legal victory which has seen the recall and destruction of copies of a book claiming he enjoyed a table-top romp at his official residence will put the 'urban myth' to bed once and for all'. The *Listener* published an article 'Turning the Tables' in which it said: 'The *Listener* has accepted that comments made in its review, based on the book's content, were in error and has apologised'. The *Journal of the New Zealand Institute of International Affairs* published an 'Apology and Retraction': 'The review contained comments about John Collinge and his wife that were both inaccurate and without foundation. We retract the statements made in that paragraph without reservation and offer our sincere apologies to Mr and Mrs Collinge for any distress it has caused'

The Urban Myth

Non-career diplomat appointments may be subject to opposition from career diplomats. But while it is one thing to promote a cause or a position, the attacks in this case took on the look of unjustified and personal disparagement against a political appointee to that end and did not reflect well on New Zealand. Mrs Woods (an author) and the reviewers of the book (who were experienced journalists) were repeating and perpetuating an urban myth which had been created by a media frenzy – even though the nature of the claims made by 'Catherine', the motive for them and her guilty plea of malicious communication invited scepticism and inquiry.

The successful legal action; the apology received from Mrs Woods; the deletion of the Chapter in its entirety in future editions; the pulping of the unsold remainder; the removal and withdrawal from shops of the unsold books; the recall of the book from libraries and lending institutions[26]; and the retractions and apologies from reviewers all reflected that the Chapter and its tenor, outlining claims made by 'Catherine', were false. But, above all, long after the Court case and the media frenzy, although a residue of adverse remembrance remains, the legal action substantially contradicted the urban myth.[27]

IX

BLACKOUT

After the Court case in England (of June 1997) and the resulting media furore in New Zealand, I became involved in another event which also led to media saturation. Once again, it was not by any design or wish on my part. On 19 February 1998, there was a catastrophic failure of the sub-transmission cables which fed electricity to the Auckland Central Business District with a resulting blackout lasting for some six weeks.

Everyone was united in condemnation of the worst power failure in New Zealand's history. It was estimated to cost as much as $60 million per week. It caused havoc among businesses and in the daily routines of those who worked or studied in or visited the City. Shortly after the blackout, I was appointed Deputy Chairman of Mercury Energy Limited (Mercury Energy) the owner of the cables and electricity lines and, as a result, was heavily involved in rectification – to assist in getting the lights back on. The power failure resulted in considerable controversy and public interest and I was busily involved in the very public aftermath.

Corporatisation

By way of background, from 1980 I had been Chairman of the Auckland Electric Power Board (AEPB). Around 1989, the Labour Government had wanted to restructure the Board into Mercury Energy Limited so that it would be corporatized and run as a business rather than an arm of local Government. For this purpose, it dismissed the elected members and appointed a Board of five directors, of which I was also Chair.[1]

The Government then asked the appointed directors to recommend a new constitution for Mercury Energy for public consideration. My four fellow directors proposed that the Board's lawyers (Russell McVeagh) would hold 25% of the shares but with 60% of the voting rights and the right to appoint a majority of directors, while a Trust on behalf of consumers, the Auckland Energy Consumer Trust (AECT), would own 75% of the shares but would have only 40% of the voting rights and the appointment of a minority of directors. The intention and effect was to remove control of the entity from the public while appearing to retain it. It was not clearly stated what the ultimate objective might be[2] – but it was generally assumed to be in line with the wish of the Labour Government to encourage privatisation (the disposition of public assets to the private sector).

The justification repeatedly put forward by the four directors (two of whom were members of the Business Round Table)[3] was that the proposal was necessary to raise capital for Mercury Energy so as to enable it to be properly funded for future expansion. They said that this was 'based on thorough research by top financial advisers, principally from the share-broking firm of Ord Minett'. Upon request by media, the directors declined to release the report saying it was commercially sensitive. Finally, they gave the reason – it did not exist – and were reduced to saying that the advice had been given 'informally'.[4] In this, they seemed unmindful of the fact that the AEPB was, as I had said, 'cash rich, under-valued, under-geared

and with a supply monopoly'. This prompted David Lange (then no longer Prime Minister) to say that his cat, Mephistopheles, could have raised the necessary funds.

Opposing the proposal, I warned that Mercury Energy was being 'hijacked' from the public (who owned 100% of the entity) to the personal control of the directors and that there would be insufficient accountability to the public for the safe and reliable supply of electricity. Nevertheless, this was ignored in spite of a very considerable public outcry developing against the proposal.

Reaction

Meetings of the AEPB were open to the public but seldom attended. However, such was the opposition to the proposal, the next meeting was the exception. There was seating for 50 members of the public with a flow over room for 100. However, more than 200 turned up to make their feelings known, the crowd forcing its way into the meeting room, standing or sitting on the floor. The four directors speaking in favour of the Plan, not used to being questioned, were jeered by those present. I called for a public referendum on the subject and, unusually for me, was greeted with loud and extended applause.[5]

For my opposition I was sacked as Chairman by the four directors.[6] The *Evening Post*,[7] in an Editorial headed 'Collinge Pays the Price of Principle', put it this way: It said that I was 'an unlikely sort of hero, yet that is exactly what I had become in the eyes of Aucklanders as a result of a principled stand over the board's privatisation plans' which it described as 'extraordinary', 'bizarre and patently inequitable'. It said that I enjoyed 'virtually unanimous backing from the consumers who own the Board – and even from the Auckland Chamber of Commerce'. It explained that I was not opposed to privatisation per se, but had 'never envisaged a deal whereby the public would be denied the right to exercise control'.

The Plan

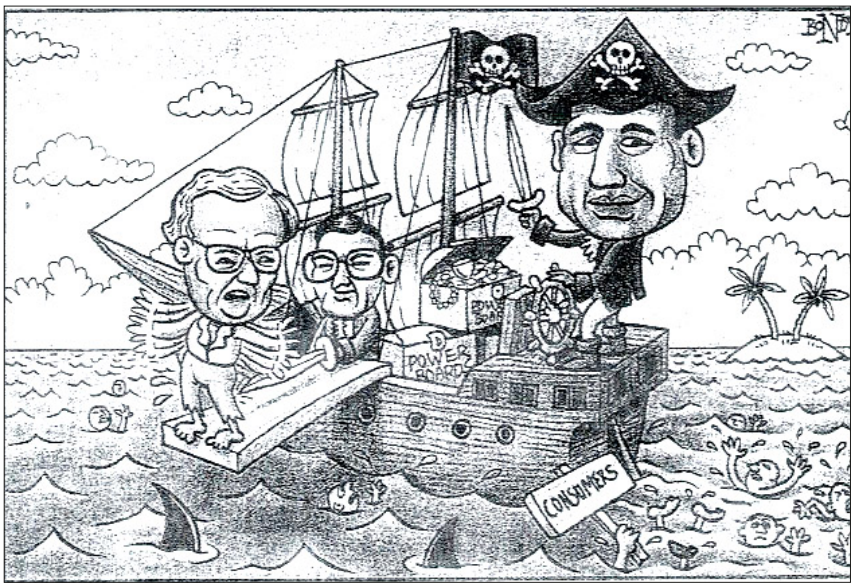
Notwithstanding the huge public opposition to the scheme, from the City Council and most of Auckland, in due course, in 1992, the proposal became a Draft Establishment Plan under the Energy Companies Act and was published by the majority directors for review. It said that: 'The Board did not expect that the new company would have any need to raise prices, except in the event that Electricorp would raise the wholesale price of electricity, or if inflation dictated any rise'. It seems that, by playing down price concerns and the profit motive, the majority directors sought to allay widespread public fears of price gouging, especially should the lines and distribution monopoly be sold to the private sector.

Having published the Plan, the four directors then proceeded to hold a public inquiry and to hear submissions, of which there were many. In response, the Auckland electricity district was polled and it appeared that privatisation was opposed by 98% of its customers.[8] Further, Greg Ninness (an experienced energy reporter familiar with the local scene) could only find a dozen or so in support of the Plan compared with 68,000 against in two surveys alone. I absented myself from the panel so that I could make a submission in opposition – in which again, in my written and oral submission, I warned that: 'The Board should not put the safe reliable supply of electricity to the local community at cheapest possible prices at risk'.

Upon completion of the inquiry, the four directors (being Judges in their own cause) recommended to the Minister of Energy (now John Luxton for National who had replaced Labour's Richard Prebble) that he adopt the Plan. Auckland was the only one of the 46 electricity supply authorities in New Zealand not to opt for public control of decision making. Jim Macaulay (as spokesman for the four directors, invoking a supposed silent majority without evidence and, in fact, in the face of overwhelming evidence to the contrary) said that 'the silent majority supports the Plan' and 'only a small uninformed minority is against'.[9] Echoing this, Luxton said that

'the vocal opposition to the reforms (in Auckland) do not represent a majority in the community'[10] and he debunked the fear of price rises given the competition proposed to be created.[11] Accordingly, Luxton zealously sanctioned the Plan and the ownership structure.

Of course, had the Plan been rejected and the consumers or ratepayers allowed to make the decision as to the future of the assets, privatisation would have been unlikely. Effectively, the Government (first Labour and then National) took away the rights of the Auckland public to decide the future of their assets and gave control exclusively to a small group and its Minister of Energy. Comparing this to piracy, using the skull and crossbones, the cartoon below shows Luxton and Macaulay smugly pocketing the AEPB assets, leaving me to walk the plank and electricity consumers to flounder in shark infested waters.[12]



Luxton did have some support however. The former elected members of the AEPB who had lost their seats as a result of Prebble's dismissal held a meeting. On the one hand, they were conflicted between their own interest in possible appointment as minority directors of Mercury Energy (thereby restoring the position from which they had been removed) and, on the other, the interests of the public in the asset. They met under the Chairmanship of Peter O'Brien, voted 5:4 in favour of the Plan and it was then approved and signed off.[13] O'Brien became the initial Deputy Chair of Mercury Energy appointed by the AECT.

Continuance

An experienced energy reporter, David Mc Loughlin in *North & South,* in a commentary, reviewed the background, the detail of the proposal and what happened next:[14]

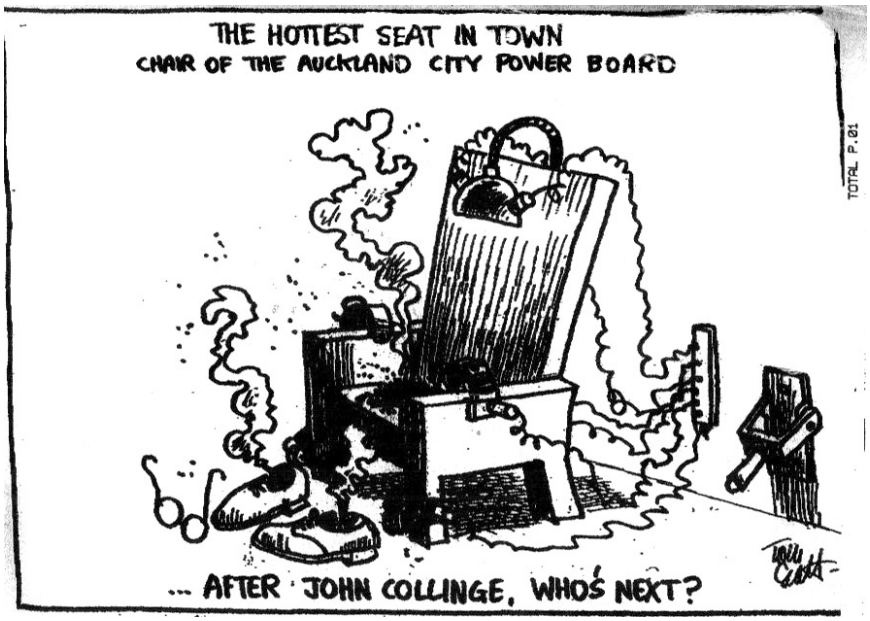
'For decades the AEPB kept Auckland's lights burning, its air conditioners chilling, its office lifts moving and its stoves cooking. The main opposition (to the proposal) emerged in the seeming unlikely form of the mild-mannered quietly spoken John Collinge. It turned out that Collinge was a minority of one on that board and when he became aware of the restructuring plans he went public. News reports of the day hailed him as a 'white knight'. Grey Power supporters cheered him and stomped their feet in applause when he spoke at public meetings. He became the toast of talk back radio.'

'Collinge appears to have been the only person to have realised the implication of the new company's constitution. In a public statement in December 1992, he noted that the five board members who would control the board were self-appointed and answerable to nobody but themselves. If there was no share float they could keep appointing themselves indefinitely. Jim Macaulay (the new Chairman) labelled his comments as 'scurrilous'. In fact, they were almost psychic.'

'Macaulay says that the five directors are not chosen by Russell McVeagh (the Board's lawyers), they are chosen by the directors

themselves. Russell McVeagh's role is limited to rubber stamping the names put forward by the five board members. But hang on a moment, this is exactly what John Collinge predicted would happen in 1992 – a self-appointed, self-perpetuating board of directors, outnumbering the trust appointees five to four but answerable only to themselves.'

The Plan having been adopted by Luxton,[15] the four majority directors re-appointed themselves to the Board of Mercury Energy. As evidenced by the Tom Scott cartoon and the electric chair below, they dismissed me from the Board altogether and appointed a fifth in my stead. The 'Business Bigwigs Did It' headlined the *Herald*. The majority directors (who caucused before meetings) retained control of Mercury Energy and continued on. As McLoughlin further noted, the Board 'head-hunted Wayne Gilbert, an Australian corporate boss, to change the company from a traditional public sector utility to a lean mean profitable corporate ready for the share float'. He said that, once the Plan was in place, from 1993 to 1997 staff nearly halved and profits increased fourfold.[16]



Blackout

In 1998, some six years after approval of the Plan and some eight or so years after their appointment, the majority directors were still in control of the company but had not yet decided its future. There were no specific plans for a share float or a sale – Mercury Energy remained their personal fiefdom.[17] Then, on 19 February 1998, four underground cables which fed the Auckland CBD from the National Grid failed one by one leading to a massive blackout. The risk to the reliable supply of electricity had come to pass – Mercury had flown too close to the sun and, like Icarus, got badly burned.[18]

The conclusion might be drawn that the directors, pre-occupied with increasing profit, cost cutting and the possibility of maximizing a share float, took their eyes off the provision of a reliable supply of electricity. Certainly, a Government appointed Ministerial Inquiry into the blackout was critical of Mercury Energy's risk management and contingency planning. As for the governance structure, the Inquiry concluded that this 'did not cause the power supply to fail but that, through its effect on governance, an opportunity to prevent it was lost' – saying that, in a network with monopoly characteristics, it is essential that the Board be directly accountable to its shareholders.[19]

Upon the blackout occurring, reflecting the public disturbance and dismay, Michael Barnett, the Chief Executive of the Auckland Chamber of Commerce, quickly castigated Mercury Energy for the damage caused to Auckland industrial and commercial electricity consumers. However, he was himself also the Deputy Chairman of Mercury Energy (having been a minority director appointed by the AECT to look after the public's interest and shareholding). Indeed, he had been Deputy for most of the time since the restructuring. Upon this being pointed out, unsurprisingly he resigned from the Board and I was appointed by the AECT as Deputy Chairman in his place (the Chairmanship still being held by the majority directors). It was now necessary to ensure re-instatement of supply,

to compensate consumers who had suffered and to rebuild for the future. After six busy weeks and public controversy, this was achieved with the building of emergency lines and, eventually, by an underground tunnel to house the cables.

Reorganisation

In the aftermath of the blackout, the structure of the electricity industry changed again. The ill-advised scheme was no more and the majority directors no longer involved. Mercury was split into an energy company (also called Mercury Energy) and a lines company (Vector). Mercury, now in Government ownership, distributed energy and Vector, now wholly owned by the AECT, owned the lines. The Government, floated 49% of Mercury Energy so that it now operates as a public private partnership with the Government as majority owner[20] and the AECT floated 24.9% of its shares in Vector to the public. Both Mercury (through acquisitions) and Vector (in purchasing further electricity and gas lines) have expanded their operations and but retain the core business. Thus, the energy distribution business (via Mercury) and the cables and electricity lines (via Vector) both originally owned by the AEPB remain in public control. Things often work out in ways one can never foresee.

Ownership of Auckland's power lines

However, the ownership by the AECT of the majority shares in Vector (and hence of the cables and lines) remains controversial to this day. Under the Trust Deed of the AECT (which has now changed its name to Entrust),[21] the electricity consumers of the old AEPB area are the income beneficiaries of the lines asset (and receive a dividend from the revenue each year) with the Auckland Council the residuary beneficiary when the Trust expires in 2073). Who should own the interest in the lines – should it be for or on behalf of the electricity consumers of the district (via the AECT) or on behalf of the ratepayers (via the Council)? It is an issue which

has some import. If the Council (ie for ratepayers) owns the interest, then it would be able use the asset (now worth some $2 billion) to raise funds to enable it to undertake infrastructure which it badly requires for its present and future needs.

In 1922, the electricity operations of many Auckland Councils were merged together to form the AEPB and, in the re-organisation after the blackout, the Council's role as originator and creator of the lines was recognised as the underlying and ultimate owner. Further, the alternative concept of ownership by consumers is flawed. The lines are public assets for the benefit of the community as a whole (not just for the people there at any given time) and it is the community generally (residents and businesses) which relies upon and benefits from the safe and reliable supply of electricity. Many of the current and future consumers have or will have newly purchased properties in the area – for them the dividend is a windfall and their entitlement to an ownership interest in the lines even more remote. With the same flick of the pen used by Luxton to transfer control, full ownership of the interest could easily revert to Council by the early termination of the Trust and the Council might prudently borrow against the asset to assist the finances and infrastructure that Auckland now needs.[22]

Electricity Reform

Ever since the introduction of electricity in New Zealand some one hundred years before, distribution had been administered by local Councils and Power Boards. They owned the lines and sold the energy at retail. They broke even and generally sold electricity at the cheapest possible price to the consumers. Their fate was sealed in the 1980's and early1990's when the Governments (both Labour and National) looked to the industry to obtain revenue and funds. The Governments alleged that electricity distribution by Power Boards and Councils was inefficient, that consumers lacked choice and that, in the case of Council owned distributors, there were cross subsidies

to assist Council funds. Of course, the Governments wanted any savings and cross subsidies for themselves.

In essence, the reforms split generation and distribution, and then split generators and distributors to compete with each other.[23] In promoting the reforms, Max Bradford (National) when Minister of Energy said that the industry would be more efficient and that lower prices would result. The goal was said to be 'economic growth through efficiencies'. Instead, costs and executive salaries skyrocketed, middlemen flourished and it facilitated a huge tax take, allowed dividends for the Government and enabled them to raise funds by floating shares.

No longer does New Zealand have (after Canada) the second cheapest electricity prices in the world or anything like it. In fact, it now has the 21st most expensive electricity in the world of 147 countries listed.[24] To both Labour and National Governments of the time electricity was a cash cow. Taxpayers may have benefitted indirectly from the reforms but the ultimate effect was for consumers to pay the cost. Not only do consumers bear the brunt but, importantly, the competitive advantage which New Zealand businesses had in the price of energy was removed. In relation to a commodity which none can do without, service and reliability of supply should always outweigh profit. I score the electricity reforms: Government 10, Consumers nil.

Conclusion

Advancing public welfare is not always straight forward. Self-interest by individuals (whether for influence, status or reward) can conspire against the public interest. Self-interest by Governments can do also – in this case, advancing the public purse at the expense of consumers of electricity. Whether or not this was a result of political ideology or governmental need – or was just self-indulgent wrong thinking – it demonstrates that Governments are not always benign. The public needs to be ever watchful.

X

NEW ZEALAND'S DEMOCRACY

Khrushchev once said of the eastern European block that 'Communism is like sausages, each country has its own kind'. The same is true of democracies, of which there are many forms. New Zealand is an advanced democracy, that is to say, where governance is for, of and by the populace, in which legal equality, political freedom and the rule of law are fundamental, and where checks and balances exist to ensure that power is not absolute. At its best a democracy (ie rule by the people) provides opportunity and security for individuals within it, and good order, stability and advancement for the country itself. A democracy tends to work towards equal opportunity and treatment for all of its citizens but, perfection being elusive, these may be ideals rather than the reality. Democracies can retreat as well as advance and, in any democracy, there will always be room for improvement.

New Zealand derives its democratic system from Britain – it involves an unwritten constitution (essentially one where outcomes are less rigidly determined in advance); a constitutional Monarch (where the Head of State is largely a figurehead); a party political system (where there is a contest of information and ideas); and the Westminster Parliamentary system (based on the sovereignty of Parliament, Executive action, Judicial independence and Media oversight). New Zealand's democracy and how it operates is

described by its foundation and structure, and how the component elements interact.

A Peoples' Charter

The rights of people today owe much to the Chartists who came into prominence in Britain the early 1800's as agitators for political reform. They were middle class reformers with strong support from tradesmen and workers in distressed areas. They blamed the then 'condition of England' (economic hardship for many and too many mouths to feed) upon control by a few (particularly land-holders who controlled the vote). They saw the remedy in a more universal and fairer franchise and sought a six-point Charter:

(i) Universal male suffrage;
(ii) Voting by secret ballot;
(iii) Abolition of property qualifications required to vote;
(iv) Payment for Members of Parliament (to allow anyone to stand);
(v) Equal electoral districts (to avoid unrepresentative seats); and
(vi) Annual Parliaments (to ensure that Parliament should sit).

In 1840, at the founding of New Zealand, at least 500 Chartist leaders were in jail in England and, in 1848, in response to a Chartist rally in London, the Government brought in the Army, cannon and 10,000 special constables to put down the protest. Continuing dissatisfaction with the lack of representation helped persuade many of those who were disadvantaged to emigrate and they took with them Chartist thinking.[1] The Chartist reforms are now part of our constitution, extended to votes for women and hence a universal franchise. Today, we are the inheritors of these reforms and bear responsibility for their maintenance and development. Our constitution is very much 'a People Charter'.

The Right to Vote

The universal right to vote (for citizens and residents) so hard won, seems almost sacrosanct. However, in New Zealand prisoners lost that right as part of paying a price for disregard of society – politicians thereby showing that they were strong on law and order. However, this is discrimination, that is to say, where some citizens and residents (ie prisoners) are treated less favourably than others. Nevertheless, under our constitution, Parliament (being sovereign) has the power to discriminate, so the question is whether, in the interests of the country overall, it should deny prisoners the right to vote.

In this respect, I doubt if any imprisonable act was ever prevented by the thought that the right to vote would be lost upon conviction. Conversely, it is doubtful that the loss of the right to vote for a time would significantly aggravate further any feeling of alienation likely to be already there – and hence to interfere with a prisoner's rehabilitation and re-integration. Thus, the primary focus of the rule that prisoners cannot vote seems simply punitive to little or no cause or effect – by providing a penalty in addition to the sentence already provided. There seems no significant gain to be achieved in such discrimination[2] and, happily, the current Labour Government has reversed the prohibition and now has allowed prisoners the right to vote. The universal franchise (subject to age and residential requirements) has been restored.

Party Representation

Practicality requires a representative system – where the people legitimize Parliamentary actions through their representatives. Votes cast need to be translated into support for candidates and the Parties which reflect their leanings. In New Zealand this is through the Mixed Member Proportional (MMP) system which has been approved by Referendum – it is a proportional system where the number of seats in Parliament depends upon the proportion of

votes cast for the Party in question. But, as currently structured, for a Party to be recognised it must achieve 5% of the total vote or have a Member returned in an Electorate. Thus, if a Member is returned even though the Party vote is below 5%, the Party is entitled to seats in proportion to its vote. However, these rules can mean that a Party with an Electorate Member receiving 4% of the vote returns say five Members, whereas a Party receiving 4% of the vote without an Electorate Member returns none.

This is simply not proportional. A strict proportional system (seats according to the proportion of votes received) is more representative. There are ways in which this could be achieved, for example, by reducing the threshold required for a Party to be represented – possibly even to one proportional Electoral seat. This might be objected to upon the grounds that it allows or encourages the election of 'troublesome' minorities and single-issue Parties which thereby might 'wag the tail' of government. But it would result in a truer and more proportional result, be more principled and provide a more representative democracy.[3]

A Written Constitution

One of the more contentious issues in New Zealand is whether the constitution should continue to be unwritten. New Zealand's unwritten constitution is more accurately to be found in a variety of British and New Zealand statutes and in convention and practice, including Treaties, conventions and Parliamentary manuals. It is not simply found in a tidy selection of documents and this, in itself, is an argument for the better accessibility, precision and clarity which might be provided by a comprehensive written document.

For proponents of a written constitution, that of the United States is usually the flag bearer – recognizing its rhetorical power. In a written constitution, barriers are usually placed in the way of amendment, thereby attempting to provide entrenchment and hence stability of sorts. In a written constitution, should an issue of

contention arise, the initial arbiter tends to be the Courts – it shifts constitutional power somewhat further from Parliament (and its elected representatives) towards the Judiciary (who are not elected).[4] To date attempts to persuade New Zealand to adopt a written constitution – a supreme law enshrining fundamental and primary principles with which Parliament, legislation and other activities must be consistent – have not succeeded.

The case made for an unwritten constitution is that it is impossible to foretell future developments, circumstances and priorities, and hence difficult to be all-wise in advance. Proponents say that decisions and solutions are better made in relation to actual problems and issues as they arise, with the benefit of the facts and current debate. To them the constitution is a living thing, changing with the circumstances – there is a distrust of those who, in their view, seek to play God and to know or predict the issues and outcomes in the future. Conventions have developed from previous issues and events and are regarded, at least for the time being, as current wisdom.

New Zealand's unwritten constitution has, in practice, worked sufficiently well to date so there seems little compelling reason for change. Any movement to skew our democracy away from Parliament (which is accountable to the people) towards the Judiciary needs to be treated with circumspection. Instead, should important and fundamental issues arise, referenda are a valuable tool and means of assessing public opinion and acceptability, and it is to be hoped that such a requirement (of a binding referendum for all key changes to the constitution) might, in due course, harden into a convention to be duly followed.

The Governor-General and the Monarch

It is unusual for a Head of State not to live in the country of which he or she is Head and in New Zealand this necessitates a Governor-General to take the Monarch's place for local happenings and events. The function of the Head of State and of Governors-General is

mostly figurehead and ceremonial, but the substantive power is to prorogue Parliament and to call a new election if it is considered that the nation is ungovernable. The duality raises the question of the respective parts played by the Queen and the Governor-General in such an event.

In this, the significance of the recent disclosures in Australia (that in 1975 the Queen had no part in the Australian Governor-General dismissing Whitlam as Prime Minister) may have been overlooked here. Until now, it was often assumed that the Governor-General, being the Queen's representative, would only act to dismiss Parliament with the Monarch's knowledge and consent. Instead, the recent release of the record shows that the Australian Governor-General was congratulated by the Queen's Private Secretary for his skill and wisdom in not warning the Monarch in advance of his decision. Thus, our Governor-General has the sole responsibility to exercise the last resort power without advising the Monarch or obtaining consent. This clarifies and underscores the total independence of New Zealand. It also means that, in addition to civic-mindedness, care must be taken for political objectivity in the appointment of Governors-General.[5]

Monarchy or Republic?

Some arguments for a Republic have been simply zenophobic and belittling of the Monarchy. Similarly, there are many poor reasons put forward for a Monarchy – it should not simply be based upon history or tradition, nor that it stems from the home of many of our forebears, nor even in respect for the splendid service of the Queen. Neither should it be personality driven (say whether Prince William would be a better Head of State than Prince Charles). The issue is an institutional one as to what is best and most appropriate for New Zealand.

Of more weight is the argument that a local Head of State would reflect a new identity for New Zealand separate from that of

Britain, recognizing the unique location, indigenous influences and the changes which have appeared over time. A change is a means of expressing a new identity for the former Colony and Dominion and might better reflect how New Zealand sees itself and how it wishes to be seen by others. In this respect, the country is currently undergoing change and a new make-up, but it is as yet difficult to express what the new identity is and the extent and way in which we are different from Britain. Few countries are so close – our law, language and liberal democracy are still very much British based, not to mention history, traditions, institutions, systems and values. The question is whether there is sufficient reason of moment to change or advantage to secure? In due course, a Republic might well reflect a sufficiently different identity for the country.[6]

New Zealand's Foundation

In contemplating the settlement of New Zealand around 1840, the British Government wisely decided not to rely entirely upon discovery as it did in Australia, but that it should be by the Treaty of Waitangi. Since that time, the Treaty has become accepted as the founding document of New Zealand and as a basis for co-operation between the Crown and Maori tribes. There are those who say it underpins and is the basis for the foundation of New Zealand's Parliament and its legitimacy, and that Parliament is bound by it. Others say it is for Parliament to apply the Treaty (as it does for other Treaties) as it thinks fit.

While acknowledging its importance, the bi-cultural and ambiguous Treaty may not be a blueprint for all time – for all of the diverse peoples who are now New Zealanders and for the multi-cultural nature of the country. New Zealand is no longer a country of two peoples but many, all of whom have emigrated here. Accordingly, the basis for the legitimacy of the country is not the bi-lateral Treaty itself, but the general acceptance by the people of New Zealand of its Parliament and that it should govern for the good of the country

as a whole. Thus, the Treaty is not enforceable in itself, unless incorporated into law by Parliament.

The Treaty of Waitangi

However, eliciting the role of the Treaty has become one of the most vexed questions – especially concerning the assertion that the Treaty is a 'partnership' between two equal parties in relation to the sovereignty or governance of New Zealand and that this therefore involves a right of veto for Maori in decision making. The most authoritative statement of how to view the Treaty comes from the President of the Court of Appeal (Cooke P) in a landmark case. He said that it is of 'a fiduciary nature akin to a partnership'.[7] However, somewhat carefully, the President sitting with four other Judges, does not appear to say that this is a partnership as such, nor that it creates a right of veto for all time, only that the Treaty is merely similar (ie akin) in nature and type. He does however say that it is of a fiduciary nature (ie in the nature of a trust). Thus, in any assessment of the place of the Treaty, it may be best categorized, not as a partnership, but as a trust to be administered with consultation, reciprocity and empathy, to ensure that Maori, with their differences intact, have equal opportunity and treatment, genuine and practical equality with the rest of the community.

In so saying, the Treaty should not be a document to be disregarded, nor its importance under-estimated, nor treated as a nullity. Neither is it to fail to recognise Maori as prior settlers, nor the importance of the Maori contribution to the country and its culture, nor to stifle moves to ensure that Maori disadvantage is redressed, nor to ignore grievances (historic or otherwise). There can be little doubt that, whatever its interpretation, the Treaty is a document intended to guide the relationship between Maori and the Crown, and that it is an enduring and serious document which requires good faith (genuine and fair, reasonable and honest dealing) on both sides. But a veto for one minority seems inconsistent with

the overall goal of governing for all New Zealanders. The focus of the Treaty was of the times and there is a need to cater for the increasing diversity to fit the shape of the country today – it is no longer essentially bi-cultural, it is multi-cultural, and there is a need to accommodate all people and all minorities.

Co Governance

A practical implication of the debate concerning the Treaty is the extent which Maori should govern their own affairs in specific and identified areas or be assisted to do so. There are many types of co-operation which assist Maori such as guaranteed seats in Parliament; non-elected members of Maori wards having voting rights in local Government; Maori advisers to ensure input on issues such as resource management; and even joint management (such as the Waikato River).[8] In these initiatives there is a judgment to be made, having regard to all of the circumstances, that this would help promote and achieve genuine and practical equality and recognition of Maori rights. However, much more controversial would be the creation of a Maori Parliament or a separate Court system for Maori – where Maori might receive or appear to receive favourable and preferential treatment beyond the goal of genuine and practical equality for all peoples.

This issue currently comes into focus most starkly in relation to co-governance.[9] The proposal to make a Maori Health Authority an equal partner with the Ministry of Health in the national plan and operational framework for health is an example. Effectively, this could give the Authority a veto in relation to such matters. Should the proposed co-governance be managed responsibly and wisely maintaining health outcomes for all the population, all may be well. But in such an arrangement, transparency as to how the decisions are made, money is spent and the outcomes judged is crucial and this, of course, includes oversight and action in relation to those outcomes.[10] Co-governance places a very significant and

special responsibility for maintenance of the wider objective of equalising health outcomes for all – the health of the nation as a whole is of fundamental importance and should not be allowed to be adversely affected.

Unfinished Business

It is impossible to escape the conclusion that, whatever the detail, the overall context of the New Zealand Wars was the desire of settlers (themselves deprived of land in Britain) to obtain lands owned and controlled by Maori for themselves and that Maori, not to be blamed for their predicament, resisted. Issues of land and sovereignty were interlinked. This resulted in many Maori (friendly or otherwise) killed and wounded, in economic loss and disruption, in dispossession and confiscations of land, in suffering and loss of mana. Likewise, it is difficult not to conclude that there is a connection between this wrongdoing (the clearest of breaches of the Treaty of Waitangi) and Maori disadvantage today, and that the discrepancy is not deeply resented. While in recent times, reparations for these genuine grievances, efforts to provide opportunity for Maori and the provision of social welfare assistance have helped, there is a continuing need to redress Maori inequality or disadvantage in many of the statistics. That will not be short or easy and will occupy the country for many years to come.

Parliament

Turning to key institutions, by way of confirmation of its sovereignty New Zealand's Constitution Act of 1986 enacts that Parliament has 'full power to make laws and to enforce them…for the peace order and good government of New Zealand'.[11] In this process, Parliament represents the people, raises money, debates and legislates according to its procedures. In spite of the conduct of some of our representatives in Parliament, which can at times appear as attention seeking, infantile and manipulative,[12] there are redeeming

features. In particular, Select Committees provide for scrutiny of government activity, and specifically shape legislation, examine the detail, report on Bills, consider financial matters and estimates, and so on. They can initiate their own inquiries and have a significant degree of independence. The membership of the Committees is, in general, proportional to representation in the House but their debates and reports do not always reflect partisanship. Often too there is significant rewriting and amendment of Bills as a result of their deliberations, and minority opinions can be stated for further debate. In this, the Committees are usually assisted by written and oral evidence from persons interested and involved in the subject in question. As a result, Committees are the work horses of Parliament, with significant impact upon outcomes. They are often said to the best and most useful part of Parliament.

The Executive

The Executive is responsible for delivering Government policy. It consists of Ministers of the Crown, officials, Crown organizations and State owned Enterprises carrying out the functions of the State. Once the decision of Parliament is made, the Minister and officials, in practice, often become closely interlinked. Even though officials may theoretically be apolitical, they are then likely, working in tandem with the Minister, to act in a way which strongly and positively supportive of decisions taken (which of course may also have been at their recommendation). Orders in Council (ie Regulations) often allow wide discretions and the increasing complexity of Government tends to place a great deal of power in the hands of the officials – who have, in some cases, been described as professionals supporting amateurs. This raises the possibility, say by the use of Regulation or executive action, that abuses of power may occur. It is said, sometimes with some force, that the Executive runs the country.

The Judiciary

While Parliament makes laws and the Executive implements them, the Judiciary interprets and applies them to individual cases. It functions to interpret and apply the Rule of Law – a safeguard against arbitrary power and governance indispensable to a civilized society – and New Zealand ranks high among countries for compliance.[13] Although there may be disagreement around the margins as to its application, briefly summarised the principles are:

- The legislature, which is representative, exists to make laws of general acceptability, with powers exercised by parliamentarians and officials based on legal authority and exercised and authorized according to law;
- There is an independent, impartial and objective Court system, itself bound by the law, which is administered with integrity, objectivity and fairness;
- There are minimum standards of justice to which the law must conform, eg laws should be reasonably certain, transparent and clear in order to assist in compliance and to safeguard against the abuse of wide discretionary powers;
- All persons should have access to and be equal before the law, to Courts and Tribunals, and all should have a fair hearing and freedom from unfair discrimination.

Thus, all people are entitled, for their rights and obligations, to equality before the law and no one is above the law. In the application of laws, principles can conflict and individual cases can be complex, hence there is room for some judicial creativity (and some limited policy making) within legislation to apply the tenor where the words do not suffice. But in New Zealand (where it is not usual for Judges overtly to be appointed based upon political preferences) Judges tend to be wary of venturing into policy areas (which are the domain of Parliament) or the appearance of so doing.

The Fourth Estate

The media is also a cornerstone of our Constitution, often known as the Fourth Estate, along with Parliament, the Executive and the Judiciary (the other three). Apart from providing information to inform the community, its role is to hold the others to account and to champion the powerless. Its freedom of speech is not an absolute and unqualified right in law – its power is limited in that it cannot defame. However, redress for defamation is difficult for those adversely affected due to the, delay, cost and the time taken in Court[14] and these difficulties give the media significant, though not absolute, power.

In order to ensure such power is exercised responsibly, the ethics of the media are of great importance, especially given the harm abuse it can do to citizens and entities largely powerless to respond or counter. To assist in avoiding abuse, mainstream media have Codes of Conduct which are long standing and have strong foundation based upon a universal belief in the principles of accuracy, error correction and right of reply, fairness and balance, respect for privacy and protection of confidential information. In practice, the mainstream New Zealand media seem not to be tainted by the seemingly widespread culture of unethical practice and abuses (say in underhand means of obtaining information or in the absence of truth and fairness in reporting) too often seen in the tabloid press in Britain.

Nevertheless, there are now entities (such as bloggers) purporting to disseminate current affairs, news and views to the public and others who are not subject to control. In order to contain abuse, assist responsible journalism and create confidence among the public of balance and accuracy of the information reported, some further oversight seems desirable, of universal application applying across all sections of the media (corporate and individuals, established and new, reputable and otherwise).[15] The freedom of the media (and those who purport to be media) is essential to the proper

functioning of democracy but along with this comes responsibility and good conduct – the Fourth Estate is too important to countenance any but the highest of standards.[16] And the media would rise in our estimation if it were to acknowledge and dismiss any unethical practice it finds in its midst and hence provide greater confidence in its content.

The Separation of Powers

These four pillars of the Constitution operate through a system of checks and balances. Though Parliament is sovereign, it is not without sanction. It faces election by voters, but this is a very broad-brush, time-lapsed remedy. Opposition parties can have their say, some leavening is provided by the advice of officials and media scrutiny has significant influence. Also, the Courts have a limited role in relation to Parliament – there is now some legal weight behind the idea that Parliament, in legislation, must abide its own procedures and that the Courts might declare a statute to be invalid where it challenges democracy or democratic principles. The Courts may also declare that human rights are adversely affected by legislation or executive action, but Parliament can ignore this judicial warning. The Judiciary may also have a useful impact in delaying a decision and creating the climate for debate, though at the end of the day, should Parliament make its meaning clear, it is sovereign.

While Parliament is relatively immune from judicial scrutiny, the Executive is not. Should the Executive step beyond the powers given it by Parliament or fail to observe stipulated procedures, the Courts intervene. But they are properly cautious not to be seen to make or be involved in decisions on matters of policy. Not only are the Courts deferential towards Parliament on policy issues, Parliament also can often appear, out of respect for the Judiciary, to be deferential to the Courts. This seems to carry over somewhat to the media, anxious to report Court decisions but less so to engage in constructive criticism.

This broad overview and analysis of the interplay between the four powers leads some to believe and say, instead, that the various branches of Government should be in a greater state of competition and tension to make the interplay between them stronger and more effective and, hence to strengthen the Separation of Powers. But, in practice, the muted tensions which currently exist seem more or less to work. The view most often taken in New Zealand is that, in carrying out their functions, the four branches largely act in a collaborative and not confrontational way. That probably best describes New Zealand's governance and its psyche, and explains the absence of comment and concern. As a matter of prudence though, it seems that a keener sense of this fundamental constitutional principle of the Separation of Powers should emerge – but that is not to say that the New Zealand approach is wrong.

In practice, threats to New Zealand's democracy are rare. The political cost of constitutional misdemeanour and the rhetorical force of the rule of law are usually sufficient to dissuade inappropriate action. There is thus significant constitutional stability in New Zealand – Governments tend to follow established procedures. Fears that either Parliament, the Executive, the Courts or the Media would act in a radical and improper manner are small, but nevertheless cannot be discounted. Lord Cobham, when Governor-General, described his role in cricketing terms as a 'constitutional longstop'. However, the reserve power is seldom required to be used and the real constitutional 'longstop' is that the New Zealand public are watchful and politically aware (as evidenced by a high voter turnout at national level without the compulsion to do so). Blemishes notwithstanding, the system works well enough. The scrutiny of Parliament, the Executive and the Courts by those interested, by the media and by the public, is the real constitutional protection.

Parliamentary Privilege

One of the special powers of Parliament is for its Members to have the right of uninhibited speech in Parliamentary matters. It is to ensure free debate without fear of legal recrimination – that Members may speak in Parliament without fear of proceedings brought against them elsewhere, particularly in the Courts. To take away a Member's freedom of speech and a Member's right to be frank might prejudice the workings of Parliament and would be a significant inroad into its sovereignty. On the other hand, there have been cases where individuals have been or have claimed to have been unjustly attacked in Parliament, falsely or carelessly, often to their considerable cost and trauma. For their part, the Courts have adjudicated upon and punished wrongful statements when made outside the House but not when made within it.

Thus, the current situation looks somewhat like a territorial stand-off – Parliament resisting any inroads into its position and the Courts, while providing a remedy for wrongful statements outside the House, observe the principle of Parliamentary privilege within. A possible solution is to retain Parliamentary privilege but to remove it when the statement or action is proven to be in bad faith, wilful or malicious or made carelessly without regard to its truth – a high standard to be reached and proven. Likewise, such statements could enjoy the privilege even when repeated outside the House but again subject to the same reservation. This might better protect individuals without reducing the ability for proper free and frank discussion or impact on the workings of the House and it might make politicians a little more careful and circumspect in what they may say. But how that is to be achieved is at present elusive – it is not easy to see Parliament surrendering the absolute and unqualified privilege of its Members.

Competition

Competition is a centre piece of our society – a major tenet of western market economies. The consequent rivalry brings about new and inventive advances which progress the quality of life and provides reward for individuals and prosperity for countries. It is the greatest engine of human progress. Where it is said to contribute to an undesirable inequality of wealth or where wealth is accumulated by doubtful means or evasion of taxes that is a matter for intervention by governance. Capitalism is not inconsistent with governmental intervention as judged appropriate, but the balance between the two will keep politicians occupied for centuries yet.

Should there be limits to the freedom of market competition? What is to be done when it goes too far or where anything goes? Though long overlooked by both the law and politicians (said to have been a disguised defence of laisser-faire) the last Quarter saw significant advances. The Commerce Act 1986 was for the first time a credible law limiting adverse competitive effects caused by the participants themselves and by the use of acquired or existing market power. The Fair Trading Act 1986 provided an effective law to foster integrity in business dealings by prohibiting and providing significant penalties for misleading conduct in business. The Last Quarter was an era where the extent of such freedom was better defined to enhance protection against misuse.[17]

Participation

This overview of New Zealand's Constitution and democracy may leave you feeling that there is a sense of uncertainty and fragility about it. Its operation depends upon the interaction of those involved in public positions (including politicians, executives, administrators and Courts). All of these are human agencies and subject to human frailty[18] – democracy may not always work well as it might. Policies may be ill-advised or lack the priority accorded them. Political parties may not telegraph a real agenda, especially when controversial. The

implementation of policies may be imperfect. The civil service may exceed its brief and usurp the role of politicians. Public bodies and entities set up for a purpose may not always be right and may feel inaccessible. Legal remedies there sometimes are, but may be limited, time consuming, expensive and not practicably available to all. The media's scrutiny may be patchy. Elections are few and far between and confused by multiple issues. For those adversely affected, there may be the need to exercise avenues of redress and protection.

Democracy is hence dependent upon participation, oversight and action by those in public life and by people generally – to assist in good governance and to hold government in all its aspects to account. In order for people to participate in democracy, interest in what is going on is a pre-requisite.[19] Along with the necessities of life and matters of fundamental importance, a small proportion of time set aside for oversight of governance might be a sensible investment for all – for self-interest, for public service and as a contribution to democracy. Democracies depend, for their integrity and performance, upon watchfulness and can only work to the best extent through interventions by the people. In addition to its being a right, it should also be a responsibility.

POSTSCRIPT

At the outset, I said that in writing this I was reminded that my public roles and experiences have given me great pleasure for which I am hugely grateful. It was also a delight to recall many things I had almost forgotten. Vicissitudes aside, it is gratifying that service to the community can be so enjoyable.

If you want a career in public life, do not expect thanks, riches and rewards. Thanks there are but few and far between – I am not altogether sure why. People may think that public roles are positions of power and that that is reward enough. They may think that public roles are already well acknowledged and publicised, and the participants well remunerated. However, public service is often pro bono and, in any event, the remuneration a fraction of what might be expected in the private sector. And, if there are rewards, they are quite likely to be a request for some further public service.

But thanks and rewards are not really why one ventures into the public arena – nor should it be. Nor should it be for individual glory or personal ambition. The incentive is to be involved in matters which may have some impact on the quality of our system and our lives – something of use, big or small, for the community. Most public roles are demanding, require close attention and conscientious involvement – itself fulfilling. Such application and endeavour is the reward in itself.

It is also clear that public service has pitfalls. While the competition of ideas and solutions is to be looked for and welcomed, public roles also seem to invite personal opposition against the operatives. Some may consider that they or their interests are adversely affected by the decisions made. Others may aspire to the role and feel they can do a better job, and some may be jealous of what is seen as a position of power or influence. Yet others may wish to benefit from or take advantage of your position. It is something I had not anticipated, but in retrospect should have done so. Such invasions and attacks have the capacity to distract and detract from the real purpose of furthering the community.

There is also the dilemma of deciding how to deal with unwelcome truth. [1] Without a basis of fact and reasonable inference, decisions can be unreliable and unproductive – public welfare is not advanced by self-interested spin or, conversely, by burying one's head in the sand. On the other hand, raising and acting upon truths which are unwelcome, especially to Government, can upset agendas and are not usually career enhancing. [2] Governance is enhanced by endeavouring to express or act upon facts or inferences conscientiously felt to be self-evident or true.

Those in public life will often bring something new or different to a role. Whether this is due to social mobility or not, that is the way our society, piece by piece, seems incrementally to grow and enlarge. There is nevertheless the elusive balance to be struck between the twin virtues of change and stability.

In essence, public service contributes to democracy by helping to make the country work – such as by providing essential services, overseeing public expenditure, making systems function properly, contributing to efficiency of operation, protecting the integrity of the country's structures and thereby promoting New Zealand interests. [3] Public service should not be autocratic, it should reflect the will of and needs of the country as a whole. It works by virtue of the efforts and close attention of those involved and by the

watchfulness of the public. [4]

If there is to be a dedication of this work it is to those whose efforts (including, it should be said, by politicians) contribute to public well-being, often without appropriate recognition and at significant personal cost.

John Collinge
December 2021

ENDNOTES

PREFACE

1 That economic theory was so strongly contested is now hard to imagine given the more pragmatic and less doctrinaire approach, by both main political Parties, which followed. At the time though, the country was facing serious economic adversity which many thought needed strong measures to redress.

2 Twenty years later, I hope that more objectivity and oversight may have emerged, not always so apparent in the cut and thrust of the moment.

3 It is customary and proper for authors to acknowledge indebtedness in preparation of a text. I have not sought any assistance in writing this book and have done so basically from memory and records. However, I am aware that books tend to reflect the totality of an author's experience and that therefore a large number of persons may be said to have contributed to this work, say from a passing remark or reflection or from reading. My grateful thanks to all.

4 See page xxx for the principal roles.

5 I have used the names of others involved and their contributions sparingly to show context, recognition or respect – I hope I will be forgiven for such inclusions and for any omissions.

6 In line with outlining events as they happened, subsequent titles for individuals have not normally been used. In order to show context I have tried to use those existing at the time of the events. I have not included the honorific Hon as it was seldom used.

CHAPTER I: ANTECEDENTS

1 The stories of these settlers are set out in a book written by the author called *'An Identity for New Zealand?'*, Thesaurus Press, 2010.

2 For that reason, devolution movements in the United Kingdom seem strange to me. Being descended from forebears from all the home countries, it is difficult to split loyalties four ways.

3 As well as their temporal needs, the emigrants looked after their souls as well. Although easy to forget today, it was a religious age (as evidenced by the number of Churches throughout New Zealand) and the settlers came with various religious convictions and affiliation – in my case Anglican, Catholic, Presbyterian, Wesleyan, Unitarian and even Quaker. When they inter-married, this could cause some tension. For example, the first John Collinge and his wife to arrive were Catholic and when their grandson wished to marry the daughter of a Wesleyan lay preacher, the Priest insisted that they bring up their children Catholic. They did not and the bell of disgrace was rung against my great grandfather (also named John Collinge). The family has been firmly Protestant ever since, adopting first Presbyterian and then in the next generation Anglican. It should not be forgotten that religion was very much part of the founding of New Zealand.

4 The four children were Jeremy, Hilary (Doull), Janet (Brown) and Brian. I have the greatest admiration for my parents. My mother (nee Hilary Fendall) for encouraging education and manners in an environment which did not greatly value such virtues, my father (Norman Collinge) for his sporting interest and antecedents. Although I did not know then of my younger distant cousins: Ross Collinge became an Olympic gold and silver medallist in rowing; Richard Collinge, the New Zealand fast bowler, was the first to take 100 test wickets; and Caleb Ralph, whose grandmother was my father's sister, was a long standing All Black and record try scorer; each making my 'international' cricketing career (against Scotland twice and Denmark once) very pedestrian.

5 Eastern Districts, in the Auckland competition, had many players who were New Zealand representatives of great standing. As a very junior member of the team, I was impressed by Merv Wallace, Geoff Rabone, John Hayes and Bill Playle, not only for their cricket ability but also for their demeanour. Needless to say, the team tended to win the Auckland competition. After three years, no longer content to be a junior, I joined the University club which had John Sparling as Captain and greatly enjoyed playing there, along with my brother Jeremy. In due course, due to collective effort, University won the Auckland competition.

6 The Shell Scholarship by the NZ Universities Grants Committee.

7 Such as that intoxicatingly demonstrated in *Brideshead Revisited*. But on one occasion, at the end of Cuppers Week, the sound of celebration and broken glass could be heard throughout the night. The next day Scouts, rubbing their hands with glee, said that it was just like the old days. Every student, whether a participant or not, was levied on battels with a significant surcharge to pay for the damage.

But being a student at Oxford was a culture shock of a very pleasant kind – including the ability to be a full-time student for the first time; the consequent freedom to explore wider interests; the close proximity with people from disciplines very different from law; and occasions which were not only fun but informative. All this was aided by having a suite of rooms; the availability of a Scout to attend to making beds, cleaning rooms etc; elegant and formal dining in Hall; and drinking from solid silver tankards from the 16th Century donated by erstwhile members. For me, it was another world, to which it was easy to become accustomed.

8 A G Guest was the author of *Guest on Contract*. My tutor Jeremy Lever of All Souls College (later Sir Jeremy), formerly of Univ, was the author of an English text on the subject. A fellow student, Dyson Heydon, later Judge of the High Court of Australia, was to write the excellent Australian text on Trade Practices Law.

9 In build and age (but not of manner) he reminded me of my father and in the course of my arrival I called the Head Porter 'Sir' (as was not entirely unusual in New Zealand in those days). As a result, in the class conscious England of the time, he never quite worked me out – as to whether I was being respectful (which I was) or disrespectful (which I was not).

10 When NZ High Commissioner to the UK, I was also invited to Oxford to give an Anzac Day speech to the Australian and New Zealand Students Society and speeches on New Zealand and Diplomacy to my College.

11 When at College, in 1964, the link between smoking and lung cancer was first authoritatively announced in England. Until then, cigarettes could on occasions be relaxing after a meal – but the announcement caused me to stop immediately, it was not worth it. By way of substitute and youthful experimentation, I tried taking snuff. Then, at a University Review, of the seven dwarfs I was 'Sneezy' – which quickly ended that affectation. I had already tried cigars – after one of the best meals I have ever eaten my hosts proceeded to offer cigars with the port, but it was all too rich and the very fine meal ended up in a convenience. It was the custom to be able to challenge by Sconce at Dinner in Hall, which ultimately meant you had to down two and a half pints in one go if you could not say the lengthy and complicated College Grace in Latin. Those who were challenged

could not keep the contents down and the practice (similar to bingeing) petered out for need of some semblance of elegance and wisdom. Not content, while young, I tried a pipe, thinking that it might give me some gravamen. However, I failed at that also – try as a I might I could not keep it alight for any length of time. Fortuitously, I was saved by circumstance, from my own follies.

12 See Chapter VIII.

13 It was brought home to me the difficulties facing New Zealand in competing for people. At the same time, out of the blue, I was offered a Junior Lectureship at Auckland University by Professor Jack Northey. The difference in salary to that of a Senior Lecturer in Australia was huge. Not bearing any ill-will to Auckland, I remember being somewhat sad and embarrassed in declining.

14 To Ngaire Main of Auckland. We had two daughters Miriam and Hilary.

15 Upon arrival I was thoroughly searched and my bags closely examined – that seemed to be routine – I had not been singled out. Among my luggage was a fashion magazine called 'Queen'. The Customs Officer, a burly Aussie of the 'Ocker' variety, looked at the cover and at me quite strangely and accusingly. Not immediately sure why, I eventually indicated that I was carrying it for my wife. Not accepting that, he looked fully inside, reading it closely at some length and for some time, and eventually confirmed that it was a fashion magazine. You can't be too careful about what and who you let into the country.

16 Professor Valentine Korah, an enthusiast for the subject, wrote very kindly in the *Modern Law Review* that it was 'an important work'.

17 *'The Law of Marketing in Australia and New Zealand'*, 1970, Thesaurus Press. It was described by the *Australian Financial Review* as the basis for consumerism and the emergence of a local Ralph Nader.

18 Although I faced the others, I never actually faced Trueman (in his own words 't' fastest bloody bowler that ever drew breath') but, as 12th man for Oxford University against Yorkshire, I saw him bowl at close quarters against some of those to whom he did not take kindly. At Fitzroy, I scored 21 runs but for the first time in my life was rather glad to be out.

19 At this time, I had little or no understanding of social mobility, the driver of which tends to be education and application, and that it may be useful to a country or a community – by the turn-over of people from different backgrounds; the introduction of fresh ideas; and the assessment of issues from the perspective of all sectors of the community.

ENDNOTES

CHAPTER II: LAW

1 My practising experience included being an Associate in a prestigious Melbourne firm (Arthur Robinson & Co). From there I was offered a partnership in a Wellington firm (Chapman Tripp). After two years I was poached again to Auckland (Nicholson Gribben). Some two years on, I left large firms for practice on my own – to concentrate on my personal clients who I felt deserved my undivided attention. It was a boutique commercial law practice in Queen Street, the first of many others which followed. Then, a sole practitioner, I was later joined in partnership by Denese Henare (later Judge) and Peter Goodfellow at various times. Wayne Mapp, later to become Minister of Defence, married to Denese, was an employee.

The reason for firm jumping was not an absence of loyalty – it was in the nature of the way legal firms were structured. In Australia, I was on the letterhead as an Associate which meant that I was a salaried employee but below the level of a partner. In the next firm, I was a partner but on salary and not one who shared in the profits. Then I was offered a partnership with a share of the profits as well as a share of the liability. Changes of firms were really a way of advancing earnings and status. I did not search for new opportunity, they came from offers from outside – others knew how the game was played.

2 It was not clear that this funding, though a breach of American law, was also a breach of Cook Islands law. But because the origin of the funds was later found to be from an American company and may possibly have been for the purpose of influence in the affairs of a foreign country, the result of the case was proper. Whatever the means of arriving at the decision, it was right in my view – the democracy of any country requires that there should not be overseas influence in elections, particularly where there is self-interest involved.

3 In recognition of services, legal and otherwise, to the liquor industry generally, I was made 'Keeper of the Quaich' by the Scotch Whisky Association, invited to Geneagles and invested at Blairgowrie Castle. The other three New Zealanders then invested were Sir Kenneth Meyers, Sir Douglas Meyers and Grainger Hannah. Gleneagles, in 850 acres, among other things is noted for its three golf courses, clay shooting, falconry and equestrian activities.

4 This was verified by independent market research. Also, consumption per capita declined significantly during this period – part of a continuing decline in alcohol consumption. Thus, in 1978 New Zealanders drank 12.1 litres per adult per year. In 1993, it was 9.6 litres per adult per year – *Dominion*, 6.4.1994.

5 This is an example only. In another case, the motive seemed simply retaliation for my being involved – the antagonists spread false allegations designed to have

me dismissed from an office which I held. Coercion can take many forms such as harassment and abuse by nuisance calls, threats of violence, threats of action for negligence and threats of complaint to the Law Society.

6 See Ch X.

7 My legal practice was also helpful in subsidising my public service.

8 The legal cases and issues referred to here are a matter of public record.

CHAPTER III: ELECTRICITY

1 The AEPB in the 1980's had some 230,000 consumers, 1,200 staff, a turnover of $360 million and an asset value of approximately $1 billion.

2 Citizens & Ratepayers (C & R) was founded in 1937.

3 *Herald* Editorial, 2.8.1989, and also *Herald* 8.11.1988 and 3.7.1989.

4 See *Herald on Sunday*, 20.8.2021, where it is said that bright city light is harming local ecosystems and night creatures. Try as I might to reproach myself for contributing to 'night-light pollution' and thereby allegedly harming local nocturnal ecosystems, alas I cannot.

5 *Herald* Editorial 9.11.1988. See similarly *Herald* 6-7.3.1999.

6 *Auckland Star* Editorial of 16.5.1991.

7 Quoted by the *Herald* in an article announcing that the AEPB had commissioned the Auckland combined cycle plant at Southdown.

8 The projects to use landfill waste to generate electricity arose out of de-regulation of the electricity industry and was 'an important first commercial venture for the Board' – Bernard Orsman, *Herald* 9.4.1991.

9 The Auckland combined cycle station was the first of its kind in New Zealand – *Herald,* 19.9.1991.

10 The combined cycle plants were originally planned by the AEPB in the late 1980's and came into operation in the 1990's. National Power of the UK, the builder of the Taranaki Combined Cycle station, wrote to me in England on 26.6.1995 saying that it was grateful for my help on the project.

The Auckland plant was decommissioned in 2015 over concerns with carbon emissions. While generation by renewables is to be applauded, there can be a limited role meanwhile for fossil fuels such as gas to cover occasions where power demand peaks unexpectedly.

11 *Dominion,* 20.6.1992.

12 *Herald*, January 13, 1993 – by Andrew Stone, reporting on the Review.

13 It was a pleasure to work with Graham Worthington, Executive Director of EDANZ and, likewise, General Managers of the AEPB – Colin Blow, Peter Cebalo and Frank Foster. All had great capability and empathy for staff and consumers alike.

14 The AEPB dealt with energy, lines and distribution. The remuneration of officers (and of Board members for that matter) for all three functions was a small fraction of that now paid singly for each sector today.

15 I cannot speak for the Councils which owned electricity lines but there were claims that, Government-like, the Councils were using electricity prices to subsidise ratepayers.

16 Reporters such as David McLoughlin, Mathew Dearnaley and Bernard Orsman then regularly attended and reported on Board meetings.

17 See Chapter IX.

CHAPTER IV: LOCAL GOVERNMENT

1 If I remember correctly, there were 12 current Mayors on the Authority but also there were many Deputy Mayors and past Mayors and long established Auckland local politicians (for example, Colin Kay, Lindo Fergusson and Keith Hay).

2 From an *Auckland Star* article by Ham Skellern headed 'Right man in the right spot when change is in the air'.

3 Eventually, many years later, the Councils were amalgamated and the functions of the Authority were subsumed, for better or for worse, into one Auckland Council (the Super City) with an Auckland Unitary Plan.

4 *Auckland Star*, 26.8.1983.

5 *Herald,* 1.3.1984

6 See footnote 5 and *Herald* 13.3.1984.

7 Much later, well after my retirement, the new Auckland Citizens & Ratepayers Now (ACRN) ticket (combining C & R and Auckland Now) also eventually failed. Continuing on, C & R resumed as an entity but in 2010, won only five seats on the 20 seat Council. Later still (now called Communities & Residents instead of Citizens & Ratepayers) it has further declined and oversight of Council affairs by concerned citizens likewise.

8 *NZ Herald*, 17.4.2021. I had forgotten this until twenty years later a Herald reporter remembered it.

9 Leo Schulz and Margaret Meyer in *Southern Skies*, December 1987.

10 Jean Sampson quoted from *Southern Skies*, December 1987.

CHAPTER V: THE COMMERCE COMMISSION

1 Much thanks is due to Sir Alexander in that the book won the Legal Research Foundation Prize for the best legal book that year.

2 Elected Prime Minister in 1975, Muldoon inherited the first oil shock and New Zealand was vulnerable to overseas suppliers of oil; there was a decline in export prices for food, its main export; Britain, New Zealand's main market, had joined the EEC in 1972 and exports to Britain declined; and, in addition, costly subsidization of Government businesses such as the Railways put a strain on the country's resources. Faced with budget deficits, heavy overseas borrowing and sluggish economic performance, price control for the populace and 'Think Big' for the recovery was his solution.

Even then there was the worrying question of whether politicians (with little experience or background) and Government should drive business decisions. In hindsight there have been reservations as to the success of the 'Think Big' projects – it was a brave or foolish move (depending upon your viewpoint) in an attempt to revive the economic well-being of the country.

3 Prompting Don Brash to say that 'New Zealand was one of the most regulated countries in the world'.

4 Muldoon had the signed resignations of all his Ministers in his drawer for immediate use whenever he felt the need. This helped create a climate within Cabinet of absolute compliance with his wishes. It would not be altogether unfair to say that he felt his fellow National Members of Parliament not up to it.

5 There had been 'toe in the water' debate internally and behind the scenes and among political afficionados. The issue between control or competition was still very much a matter of sensitive debate and centred around the aspiring and young politicians of the day – the 'Ginger Group' and a think tank of the National Party being two to whom I spoke. But change was still, seemingly, a long way off. There was a nervousness not to upset National's business base. At the time, the lack of action by the Government to grapple with competition law was coupled by a reluctance of the Courts to intervene in such matters as well – sometimes seen as a disguised defence of laisser-faire. New Zealand was often enough described as 'cowboy country' in matters of oversight of commerce.

6 My appointment needed Muldoon's blessing. I first met him in 1975 when, having returned to New Zealand, I became Chairman of the Mt Albert Electorate of the National Party, an inveterate Labour seat. In the 1975 General Election, we ran the campaign with the slogan 'Mt Albert is Marginal' and came within 100 votes or so of winning. When it was suggested by Minister Templeton that I might Chair the Commerce Commission, Muldoon with his steel trap memory and prodigious oversight did not object. What he knew or was told of my objectives I can only speculate.

7 The reason for the Commerce Amendment Act 1983 supervising mergers and take-overs, however, was not so much the promotion of competition but to rid politicians of unproductive and difficult issues by delegating such matters to the Commission. This, I knew had also been the case in England, a primary reason for the creation of the Monopolies & Mergers Commission there.

8 A much fuller account is set out in '*The Coming of Age of Competition Law in New Zealand*, published by the Commerce Commission.

9 Price control was retained for a few industries only – steel, natural gas and milk.

10 By way of example, a collective agreement among member retailers of an Association that they would not purchase stock independently but would each stock the full range of nuts and bolts (of which there were large numbers and types) was held to be in the public interest – consumers might otherwise have to wait while the specific item they wanted was ordered in, and this was a benefit to a section of the public which outweighed any detriment arising from the restriction of competition. This example is taken from *In re Black Bolt and Nut Association of Great Britain*, [1960] 3 All ER 122, followed in New Zealand, eg in *Wellington Wholesale Hardware Merchants Association* in respect of woodscrews, decision 110. Conversely, when approval was sought by an Association of vegetable growers for a uniform price for vegetable containers, the Commission did not accept that the alleged benefit from uniformity of containers and alleged price savings outweighed the detriment from the restrictive pricing practice.

11 In New Zealand, a small country, conflicts of interest and knowledge of the parties involved happen quite often. By way of example, because numbers of the Tucker family of Clive had emigrated early and had large families, they often claimed to be among the largest in New Zealand. When the Tucker Wool Scouring Works in Clive were handsomely taken over in a 1980's boom acquisition by Elders, and many of the shareholder beneficiaries were the current generations of Tuckers. It turned out that both Berrie Tucker, the Deputy Chairman, and myself were co-incidentally both directly descended from the founders of the

business four generations before. Neither of us ever had any involvement in or interest in the business, nor any acquaintance with our distant vendor cousins and, in allowing the take-over, we simply declared the relationship, not thinking ourselves influenced in any way by those remote facts.

Opportunity to return favours is also not uncommon. Late night at my home in Auckland I had a call from an accountant from Paeroa whom I knew from my youth. He was acting for a local newspaper for which, due to family exigencies, the proprietor was anxious to sell to a national media organization and that approval be given. I had, as a 13 and 14 year old, worked for the newspaper after school cleaning the offices, raking up the lead filings from the Mergenthaler and incinerating the rubbish left over from the printing. The company had been kind to its lowliest employee and, being warmly disposed, I was rather pleased that I might return a favour, now being in a position to do so. After discussing the matter with Commissioners the next day, I rang him back to confirm that the merger could proceed – there was found to be sufficient potential competition from other major media to control any adverse behaviour by the applicant. I had wondered what to do about any bias I might have unconsciously applied and salved my conscience (probably inadequately) by telling the Commissioners that I had worked at the newspaper as the cleaning boy.

12 Although I have not done a full analysis of the current position, some twenty-four years later it seems that there are now many competing whiteware providers and brands, and that customers can readily purchase alternative products through various new channels such as the internet or through parallel importing. The Fisher & Paykel scheme might not cause as much concern today – the competitive climate has changed.

13 Australia did not delegate the role on appeal to the Courts, but instead being more savvy gave appeals to a specialist Tribunal.

14 As Chairman of the Commerce Commission, I felt obliged to say that privatisation should take into account the competitive environment for the newly privatised entities, and that more safeguards for businesses and consumers might be necessary – *Auckland Star* 20.11.1987.

15 The issue of overseas acquisition and ownership of New Zealand businesses was not within the jurisdiction of the Commission – that was for the Overseas Investment Commission.

16 Robert Mc Comas, the Chairman of the Australian Trade Practices Commission (now the ACCC), kindly wrote to me on my retirement thanking me for working with him on such matters of mutual concern.

17 Quite independently, from 1983, I was a member of the Business Law and Liaison Group concerned with harmonisation generally and, from a background of both Australian and New Zealand law, relished the opportunity to contribute.

18 By way of broad comparison, the 1986 Acts amalgamated the roles in the UK of the Monopolies Commission, the Restrictive Practices Court and the Office of Fair Trading.

19 In addition, I had no inkling when I accepted the role of the unprecedented advances which would be made and the work involved. It was not unusual for me to retire to bed at 2am in the morning (on a number of mornings I remember it was 3am). One evening at a cocktail function at the Commission, the Commissioners were still finalising a decision with a glass of wine in their hands – some said that was one of our best. It was an extra-ordinarily busy time. Less than half way through my term and, prior to the Commerce and Fair Trading Acts of 1986, the Business Reporter of the Dominion reported that I had 'already seen more action at the helm than most, if not all, Chairmen before me'. In 1986, that work-load increased exponentially.

20 *Southern Skies*, December 1987, an article by Margaret Meyer/Leo Schulz.

CHAPTER VI: THE NATIONAL PARTY

1 McCully, with a reputation as a Party strategist, was at the end of his career a very good and pro-active Minister of Foreign Affairs.

2 Specifically to Party stalwarts, Roger Sowry in Wellington and Lindsay Tisch in Waikato.

3 For the duration of my term at the Commerce Commission, I had resigned my membership of the Party. Under the Commerce legislation, notwithstanding that a trade practice, merger or take-over might unduly restrict competition, it could still be authorised if it was, in the view of the Commission, in the 'public interest' – a very significant role and discretion had been delegated to the Commission. To adjudicate in this role, so as to avoid any political partisanship, I had resigned my membership of the Party.

4 I never knew, then or now, the source of these allegations. There were, however, reports back to me from my supporters which indicated that this involved some of those associated with a loosely knit and ill-defined group known to their supporters as 'Rob's Mob' or to their detractors as the 'Tamaki Mafia'. As far as I knew, I had never offended them, but believe that they saw Muldoonism and their undoubted political influence drifting away.

5 To Muldoon politics was a war against the Opposition and anything goes in war. He would not hesitate to attack, using any means available, anyone questioning his control or strategy. In short, he was polarising. For others, far right economics was pursued with religious-like zeal and many who did so were intolerant of other views.

6 I was told by the group that the reason for John Banks's inclusion in the ad hoc committee was, yes, that he had experience of the jailing of his father.

7 The respected Sharon Crosbie (who was shortly to become Chief Executive of *Radio New Zealand*) had gone so far to say that I was 'over-qualified for the job'.

8 For this reason, during my term of five years, I declined the usual stipend paid to Presidents and was a volunteer like all members. Upon my retirement five years later, the Party had a war chest of $1 million to fight the 1996 election.

9 This was the time when targeted campaigning was in its infancy. Some Liberal electorates in Australia had made considerable advances. Having identified issues particular to any group or demographic, it was then the objective to deliver messages specifically to that group. It also involved targeting the swing voters and not wasting time on the committed. The real problem, of course, was the mammoth task of ascertaining the necessary information and then beginning to use computer technology to assist implementation. A start was made.

10 My first thought was to get the best people I could to help – Sir George Chapman as Campaign Chairman and John Priestley (later Justice Priestley) to head the important Rules Committee which regulated candidate selection, were two – whether they supported me for the Presidency or not. Among many others, I was also fortunate to be assisted by supporters such as Collen Singleton (Woman's Vice President), Bernard Duncan (Canterbury), Helen Rowe (Wellington), Lindsay Tisch (Waikato) and John Slater (Auckland) who were members of the National Executive.

11 It had always appeared to me that Oppositions do not necessarily win elections but that Governments can certainly lose them. Changes of Government tend to occur when two things are in alignment – the Government imploding on the one hand and the Opposition looking like a credible alternative on the other. This can be seen in the 2020 elections where it was the National Opposition which imploded and where the Labour Government looked credible evidenced by the handling of matters such as the Christchurch Massacre and the Covid pandemic. In 2020, I felt that the lessons of the past had to be re-learned by National.

In 1990, the election rather fell into our laps as the Labour Government had clearly fallen out – between those like Lange (who wanted time-out for a cup of

tea) and Douglas (who was hell-bent on continuing to implement his policies while he had the chance). Fisticuffs had occurred between the factions and Labour changed Leaders twice. As I said at the time: 'The wheels were falling off the Labour cart'. There is one thing that voters do not like – it is division within the ranks.

In relation to the second, the Leader, candidates, officials and the grass roots all worked tirelessly together to achieve the result. The issues which beset the Party in 1987 seemed to have been reversed. Bolger as Leader had now been in that role for three years and looked stable in comparison. The candidates stopped telling business what they were going to do for them and listened instead. Some of the business donations which had largely all gone to Labour in 1987 (fostering the Douglas agenda) returned to National. In policy, the campaign was run along the lines that National would be nothing like that of the current Government, there being a desire on the part of all to rectify the hardship which had been caused by deregulation, particularly to the rural community. Overall, National looked a credible alternative.

12 *Evening Post*, 7.10.1989.

13 This proactive initiative was not greeted at the time with any enthusiasm. In the article, Leader Bolger was quoted as 'showing less enthusiasm for specifying types of candidates he preferred'. In another article, of the call for more women Members of Parliament, a male National Member of Parliament was reported as saying that 'it went down like a cup of cold sick'.

14 On the Labour side, during the 1980's this involved Rowling, Lange, Palmer and Moore as Labour Leaders.

15 Cited as *Peters v Collinge*, [1993] NZLR 554.

16 I was naturally pleased that the National Party's decision was not upset in the Courts, but to this day feel that the Party is rather more than a private organisation. It is responsible for selecting candidates for election to Parliament and thereby fulfils a role to which great public interest and public consequences are attached. The systems for selection of political candidates, in view of the importance of the outcome, could on that basis have more rigorous oversight of the Courts on behalf of the public. However, for the moment the law is clear.

Oversight is thus in the hands of the Rules Committee within the Party – this is why it is so important in maintaining the integrity of selections. For many years, this has been admirably overseen and supervised by its Chairman Peter Kiely.

17 See eg *Evening Post*, 4.2.1992.

18 See *Evening Post* 11.5.1991.

19 This was described by commentators and others as the 'Bushmills Era' on the basis that both Bolger and Peters had this in common.

20 From an article by Ruth Laugeson in the *Dominion* dated 20 June (I am not certain which year) headed 'Political corruption rattles National's Chief'. In the article, Sir Robert Muldoon, is also quoted as saying that major donors now got far more preference than they were under his leadership.

21 In my time as President, although I was not aware of any corruption in politics, in a public poll it was reported that 81% of New Zealanders believed that there was – *Dominion*, 20.8.1986.

22 I had drawn up guidelines for canvassers which emphasised that there were to be no conditions or favours attached to donations.

23 To help deal with the 'unruly horses' and cohesion between Caucus (which operated independently) and Party, I endeavoured to emphasise the basic ideals of the Party (freedom and choice, personal responsibility, equal opportunity, competitive endeavour, and advancing the individual, family and community), these being the glue which keeps the whole together.

CHAPTER VII: THE HIGH COMMISSION

1 To the claim that I did not have any qualifications for the job, I am grateful to Bryce Harland, a previous career diplomat High Commissioner to London, who later pointed out to some of his colleagues that, in his view, I was one of the most qualified – having been educated at a prestigious Oxford College, represented the University in cricket, worked in the UK as University Lecturer and had close contacts in Britain due to my roles in NZ. I also had experience in many fields such as law, trade, commerce, energy, administration, local and national politics, had travelled on official and State business, had an international outlook and, though not a professional diplomat, was hardly a stranger to international affairs.

For me this background made contact in Britain cordial and seamless. By way of example, when I first officially met the Secretary for Commonwealth Affairs and Chief Whip (Alastair Goodlad, later Baron Goodlad), as a contemporary in 1964 at Cambridge and ardent cricket fan, he remembered me playing cricket for Oxford. On my visit to the Secretary of Cabinet (Robin Butler, later Lord Butler) he, a former President of the Club, was wearing a Vincents Club tie. The Deputy Secretary-General of the Commonwealth (Sir Humphrey Maud) was known to me from Univ days (he was the son of the Master) and Law Lords Hoffman and Mance were contemporaries of mine at College when I was a student there. These examples are by no means exclusive. There was usually no need for any lengthy gaining of confidence – I was invariably warmly received, given assistance way

above the norm, and instantly accepted as part of the furniture.

2 There are some 195 countries (including 54 from the Commonwealth) represented in London competing for time. In the interests of efficiency and order, the convention is that High Commissioners speak to politicians, First Secretaries to First Secretaries, Second Secretaries to Second Secretaries, and so on. Influence at official level is also important and that is primarily the role of the career diplomats in support. In London, the roles of political appointees and career diplomats work in tandem.

3 There had, as is well known, also been a number of instances of IRA bombs detonated in England. There had been, during my tenure, some four serious incidents very close to New Zealand House in London (a 'glasshouse'). Not taking any risks, with the help of Commodore John Peddie the Military Attache at the time, security measures were undertaken.

When in Scotland, at Glasgow airport on entirely unrelated business, on a New Zealand Government purchased ticket with a Diplomatic passport and my suitcases clearly marked as belonging to the New Zealand High Commissioner, nevertheless, they were opened and searched piece by piece – it took some time. Glasgow, I suspect, was a known point of entry for terrorism. It shows how seriously the British Police, quite rightly, were taking the matter.

4 This included the Rev Ian Paisley who I found, on a personal level, to be not at all a firebrand.

5 In New Zealand, the Irish conflict, though simmering, did not arise to the same degree. It was sometimes said that, in a country of limited population, many of the public houses in New Zealand were owned or run by Catholics and the Protestant settlers on farms needed to drink. As the proprietors needed the custom, they got along well and it was said that this contributed to the relative harmony which ensued.

6 These principles are intact to this day.

7 The workings of the Committee and the issues are set out in an article by me 'Criteria for Commonwealth Membership', *The Round Table* (1996) 339 (278–286).

8. When the premises first opened in the early sixties 'New Zealand House' had a marvellous range of facilities for visiting New Zealanders – a fine library, a restaurant, a newspaper reading room, a lounge area, and even facilities whereby visitors to London could pick up their mail – serviced by some 450 staff. In common with many other countries, various cutbacks resulted in staff retrenchment and the reduction of services generally – the thinking being that

the post existed primarily for Foreign Affairs representation. In 1994, the staff had diminished to a total complement of 70 and there were no services for visiting New Zealanders apart from newspapers, provided without seating, for reading.

Sadly, even the improvements to the foyer and mezzanine in my time have now gone. Overseas posts have a wonderful opportunity (eg by functions, shows, displays and events) to show the country in a good light, demonstrate a welcoming attitude and making it appear that it wants to engage with local people. The warm appreciation of New Zealand in Britain, built up over many years at great cost, is an invaluable public and private asset, and effort taken that it should not be allowed to diminish.

9 See the report of a speech in tribute of the Monarchy by me 'Long May She Reign Over Us' in the *Herald*, 12.6.2003.

10 I owe the wines to an expert, Terry Dunleavy (of Te Motu Wines), who had at the outset of my term put together a container of New Zealand wines of his selection. His son, Terry Junior was Houseman at the Residence for some time.

11 Assisted by John Waugh who was the New Zealand Trade Commissioner in London at the time.

12 In Britain, nearly everyone seems to like New Zealand and New Zealanders. In New Zealand itself, the circumstances are not quite the same. Although there are many Anglophiles in New Zealand, there are Anglophobes as well. One can hear in New Zealand that its relationship with Britain, once strong, is not what it was and some, for whatever purpose or reason, do not look as kindly upon Britain as people in Britain tend to look on New Zealand. The relationship between New Zealand and Britain is not a mirror image in both countries.

13 A High Commissioner is appointed by the Government of the day – in my case by a National Government at a time when the Conservatives under John Major were in power. However, a High Commissioner should represent New Zealand as a whole. In this respect, I treated Labour politicians visiting Britain in the same way as I would those from National and, likewise kept closely in touch with Opposition politicians in Britain – I was privileged to have access to the Senior members of the Labour Government including Tony Blair. There was some point in this too – it had been clear for some time that Labour was going to win the April 1997 election.

CHAPTER VIII: MAGGIE

1 At the luncheon which followed the Review, the Duke was on good form and showed his very considerable charisma. He seemed at his best when showing encouragement to practical outdoor pursuits of meaning to the community. It

was something he took to be worthwhile and it showed.

2 However, with the lady in question out of the way, this episode may have given 'Catherine' encouragement that she might achieve the same with Maggie. If so, it was the worst possible knowledge she could have.

3 The examples mentioned in this Chapter are indicative only and/or in outline, and are not a full account of 'Catherine's' pursuit or her activities. When asked by the Police to do so, I prepared for them three long lists of her activities over the period April 1995 to March 1997. The Police were regularly briefed and, by the time of the Court case, had a significant file of their own encounters with 'Catherine'.

4 It was easy to keep the Residence under surveillance without being detected – by obtaining access to Chelsea Square immediately opposite. Although a key is required to get into the Square, it was a simple matter for an agile person to obtain entry. Because the lights in the street illuminate the front of the Residence, the house was very visible from the Square. From there, it would be clear which room was being used and what, in general, the occupants might be doing. From the perspective of the Residence however, although the road was well lit, the Park behind, Chelsea Square Gardens, was surrounded by trees – a dark void. 'Catherine' could be there and watch the Residence without being detected.

Lining Chelsea Square on all sides were some very substantial houses in which many wealthy and well-known people lived. Some of the houses had been bought by Arabs who had staff and body guards. While out walking in the street Maggie happened to speak to one of them (who had seen what was going on). During the course of the conversation it appeared that the problem might be solved in return for payment of 1500 pounds. Upon recounting this to me, Maggie resolved to be more circumspect with whom she spoke in future.

5 'Catherine' had taken a key from the Residence and returned it upon request, writing that she had not stolen it but had been given it by the Housekeeper.

6 This was prior to Regulations which required public disclosure of political donations in excess of a stipulated amount – at the time donations were made and accepted on the basis of the confidentiality of the donors. Various Members of Parliament were also mentioned in the Report.

7 I did not want to prosecute a former friend and did not want publicity which might adversely impact upon my role as High Commissioner. It meant that 'Catherine' could act with impunity. As she wrote: 'The great irony is that I have all the freedom and you are as trapped as ever'.

8 A few of the events here alleged to have been by 'Catherine', such as vandalism

to our cars, pouring paint on the steps of the Residence and disrupting functions say by uprooting plants, were not witnessed by us or evidenced, but were in sequence with the other activities, were consistent with her often expressed motives for so doing and there was no one else it could possibly or realistically be.

9 As to whether 'Catherine' had disrupted my public role as High Commissioner during my tenure, her efforts had the capacity to consume my time, create a climate of gossip and an adverse public perception. She claimed that, in associating with Maggie, I was attracting the disapproval of politicians and officials in both England and New Zealand. And she claimed that I was 'too busy having a good time to do my job properly', a view later repeated by others and perpetuated by media.

However, there was plenty to do. I was extended in the role, dealing with and researching speeches on a wide variety of subjects upon which I was called upon to be involved and to speak and a multiplicity of conferences, functions and events – a sixteen-hour day was the norm – and this was my pre-occupation. At the end of my term, there were many written messages, from a large number of different sources at the highest level, of recognition and congratulations. They show that the intrusions had not impacted upon my public role, nor upon public perceptions.

Thus, the Palace thanked me for all I had done while I had been in London, and wrote that 'relations between New Zealand and the United Kingdom could hardly be better, fostered as they are by someone who could be described as the highest common denominator'.

The Minister of State for Foreign and Commonwealth Affairs, Sir Jeremy Hanley, who was responsible for British relations with New Zealand, in hosting a farewell lunch for me at Lancaster House, is recorded by the New Zealand Ministry as 'effusive' in praise of my 'exceptional effort in promoting good relations between the two countries' and that we two enjoyed 'exceptional rapport'.

The Prime Minister John Major wrote thanking me for 'all you have done to contribute…to the special relationship' and 'close co-operation at its many different levels'. Alastair Goodlad (Chief Whip), also a cricket enthusiast, hosted a reception and dinner for me in the Long Room at Lords.

The Secretary of State for Northern Ireland, Sir Patrick Mayhew, referring to NZ's strong and visible support of the peace process, wrote saying that he and all of his colleagues 'have appreciated the close relationship which has developed over the past few years'.

Senior Law Lord and President of the Privy Council, Lord Goff, wrote that 'you have been an admirable ambassador for your country, and established such excellent relations', and the Lord Chancellor sent his 'warm congratulations on a very distinguished term of office'. Lord Cooke (previously the New Zealand Chief

Justice) who was in England as a member of the House of Lords, also wrote to me of my 'successful service as High Commissioner'.

The Master of the Butcher's Guild, closely associated with the New Zealand meat industry, wrote of the 'very high standing in which we all hold you in' and said of all the High Commissioners since Sir Thomas McDonald in 1963 'my most cherished memories will be of the special accord I have enjoyed with you'.

The Chairman of the Royal Society of St George, which promotes England and fosters its relations with other countries said that, of all the High Commissioners and Ambassadors during my term, I was 'the best'.

The Master of University College, Oxford, Dr John Albery, hosted a formal Dinner in Hall for me followed by an evening revue performed by the Martlets, at which there were many invited guests, past and contemporary.

There were also letters of appreciation from New Zealand societies in Britain which foster UK links. The Chairman of the London New Zealand Society wrote of my 'accomplishments over the past three years' and support for the Society: 'New Zealand owes you a debt of gratitude for the tremendous work you have undertaken during your time as High Commissioner'. The Waitangi Foundation also thanked me for my 'positive support' and 'success of the Foundation' and London Connections wrote: 'congratulations on your valuable input and commitment'.

Various Commonwealth organisations (eg the Commonwealth Institute, the Royal Commonwealth Society and the Institute of Commonwealth Studies) thanked me for my 'advice', 'support', 'contribution' and 'guidance', as did the Royal Life Saving Society and the British Red Cross.

Career diplomats from the United Kingdom were also supportive. The First Assistant Marshall Diplomatic Corps, in charge of the overseas diplomats in the UK, wrote to me of 'how much all of my colleagues have enjoyed our close association and co-operation with you'.

From New Zealand, the Secretary of Foreign Affairs and Trade, Richard Nottage, wrote: 'As you shoulder your bat, I did not want you to leave the London post without letting you know personally how much I and the Ministry have appreciated the hard work you have put in over the last three years to promote and develop New Zealand's relationship with the United Kingdom…For that you have my and the Ministry's gratitude.'

From the New Zealand Government, the Minister of Foreign Affairs & Trade (later Sir Don McKinnon) wrote upon receipt of my Valedictory: 'I wanted to say simply that the achievements of you and those of the High Commission under your leadership speak for themselves'.

In commercial matters, the Deputy Chairman of the NZ Earthquake Commission, Trevor Roberts, after an official visit to England, was reported in

the New Zealand media as saying: 'John was extraordinarily helpful and effective in rendering assistance on commercial matters of no small significance to New Zealand' and that, in his experience, I was 'warmly regarded by the commercial community, the various Governmental authorities and his diplomatic colleagues'.

The *NZPA* correspondent in England at the time, Simon England, in a dispatch from London, writing on my background in Britain reported in conclusion that I was 'comfortable dealing with the Oxbridge types who still largely run Government and industry in Britain': 'Put him in a pin striped suit and Mr Collinge is the archetypal English city gent'.

Based on the foregoing examples, recorded in writing, I believe that the intrusions by 'Catherine' did not impact upon my public role or upon public perceptions during the three year term.

10 On one occasion, it seems that 'Catherine' was interrupted and in so doing had left behind a purchase receipt, the Police were called and fingerprints taken – hence the charge of pouring oil on the steps of the Residence. One of the assaults had produced a major bruise on Maggie's arm which was photographed and later handed to the Police – hence the charge of assault.

11 That 'Catherine' was the victim was later repeated to the media: 'He gave me the impression that he wanted me to be his partner'. 'I had had to put up with so much'. I had 'forgiven and forgiven' him, you know. Adding 'I was totally in love with guy…attracted to his intellect but also his immense charm and lifestyle he offered'. 'John's public persona is very different from his private persona… he has a really dry humour and in private he is really romantic' (*Women's Day*).

12 Yet, at the conclusion of the case, 'Catherine' apparently trying to renew a relationship was reported by Simon England of *NZPA* as saying : 'I no more wanted to ruin John than I wanted to fly to the moon. This has damaged both our reputations and it is unfortunate that this has happened. I have not hit out at all against him'.

13 In the course of his submission, Defence Counsel, Mr Dan O'Callahan, who was engaged privately by 'Catherine', was reported as telling the Court: 'One hesitates to call this a "fatal attraction" case because here it did not get that bad'. Interpolating, *Fatal Attraction* is a film starring Michael Douglas and Glenn Close. After a brief affair, her character obsessively pursues his, a successful lawyer, by calls, surveillance and other forms of stalking, including damaging his car. When he tries to break the affair off, she threatens to tell his wife of her alleged pregnancy. When he tells his wife of the threats, the stalker pursues her also. Finally, the stalker attempts to kill the wife, the obstacle to her obsession, using a knife. In the climax to the film, she herself is killed in a final desperate scramble. Counsel is reported as saying: 'It did not get that bad', an extra-ordinary concession.

The Prosecutor had led that this was a case of 'stalking'. It was said by Defence Counsel that 'Catherine' was still in love with me years later. The Magistrate herself used the word 'obsessive' in relation to her conduct. With a better understanding of stalking, these references, as a matter of judgment, might instead have triggered concern for the safety of Maggie. The danger of stalking was beginning to be understood, nine days before the hearing, an Act outlawing stalking had been enacted in England. However, in New Zealand it was not until five months later (on 1 December 1997) that the Harassment Act 1997 specifically outlawed stalking. The media frenzy in New Zealand was in a climate where the subject of stalking was very much under the radar and misunderstood.

14 'Catherine', frustrated at her lack of status as 'Mrs High Commissioner', later wrote of the dinners she had attended that 'she was bored to tears'.

15 At the time of 'Catherine's' unsolicited arrival in London, my pre-occupation was with the new role – this occupied most of my waking time and I did not pay as much attention to her activities as perhaps, in hindsight, I might have. 'Catherine' at first gave the impression that the previous request for renewal of the relationship in New Zealand had abated and that I need not be concerned. I thought of her as a friend, felt kindly towards her and was sympathetic and sorry that she had taken the break-up badly. As a friend, I provided help and assistance to her particularly by introductions and invitations.

Although I did not appreciate sufficiently at the time, it seems that 'Catherine' was endeavouring to create situations in which she might claim (and show to others) that she had a relationship with me or at least the appearance of one – she later said that she was my 'official escort' and my 'partner' which she was not. For example, she would ask me for tickets to functions which I attended saying she could not otherwise obtain them; she 'put pressure' (as she admitted in writing) on me to be at functions; and she bought (without my knowledge) tickets for us for events so we could be seen together – specifically to Wimbledon and a concert at Hyde Park. She would, for example, have her friends invite us to drinks together, make excuses to meet and to visit, ask for legal assistance, offer to show me various parts of England which she knew from her youth and to assist in various ways. Thus, it seems that both her perception of and her objective in any relationship were very different from mine.

However, in April 1995 when I first met Maggie, there was no relationship of any shade or kind. Since her arrival in July 1994, 'Catherine' had previously admitted in writing: 'We have no commitment of fidelity to each other though in my dreams I wish it were so'. Before the end of 1994, I had in fact been avoiding her as much as possible due to her sending the condoms to the other lady. At the end of January 1995, confirming the absence of a relationship 'Catherine' had

admitted there was no relationship and had written: 'I hope that we can continue to be friends and see each other occasionally'.

When I met Maggie, I did not 'field two women at once' as it was later alleged by 'Catherine'. I had no relationship with 'Catherine' and, from the outset, there was significant contact with Maggie (including outings, visiting her home and her regular visits to the Residence). Given my huge regard and feelings for Maggie and my hopes for the future, a 'love triangle' was unthinkable.

16 After the Court case, rather differently, 'Catherine' then said to *Women's Day*: 'Here was this wonderful guy, and having the time of his life…There was I living in a grotty flat with no money and struggling to survive'.

17 For example, the *Evening Standard* (UK) commented that I was 'no Adonis' and in an article headed 'Girls, Girls, Girls' said that 'Catherine' was 'fresh fragrant and wonderful' and that Maggie was 'lovely and a picture of elegance' whereas I was 'a 'rubicond, bespectacled old codger of 58'. 'Is he the Casanova of the dullest little country on earth?...Another example of the touching truth that charming beautiful women are prepared to throw themselves away'.

18 Published with consent of Tom Scott and Stuff Limited. The cartoon relating to Winston Peters was published by NZME.

19 In fact, the media did not want to know that the story was false. Buried in an article on other subjects, John Roughan of the *Herald* wrote 'I have some terrible news. John Collinge tells me that the table at Chelsea Square is old and fragile, and groans under a plate of scones'.

However, the *Sunday Star Times* and the *Sunday News*, upon Maggie's arrival in New Zealand, each wrote a story around the theme that we were very much in love and wanted to spend our lives together. I said 'it was love at first sight and that my feelings hadn't changed…I think she is wonderful for sticking by me' having endured such 'vile behaviour'. Maggie was reported as saying: 'my friends who thought I might be in danger wanted me to end the relationship, but I was not going to be put off by my feelings for John'.

20 Stalking in its modern sense is a course of conduct involving a pattern of unwanted contact and intrusions which threaten another's well-being or safety. It is a form of mental or psychological assault. There is a threat (which may be implicit) that if you do not comply with my wishes, say to have a relationship of some kind, I will keep up the harassment or seek revenge. It is a form of blackmail.

The law against stalking had proven difficult to draft. The problem was to distinguish between behaviour quite ordinary but yet which could become sinister in context. It was said that stalking was ambiguously located somewhere between crime and conformity. In a love interest, it is not always easy to describe where

the cut-off point between proper advances and stalking lies – there is an invisible line between what is appropriate and what is too far. In this respect, the essence of the offence is that the concerted conduct and activities create a reasonable fear of distress or detriment to another. Behaviour which is merely unwelcome or annoying is not stalking.

To establish stalking, there must first be a series of acts, which need not be in themselves illegal – a pattern of conduct directed against another. These acts must be likely, when viewed reasonably, to cause that person alarm or distress, or fear of violence or safety. The actions do not require proof of intent or malice – they may be simply for love or to establish a relationship or they may be borne out of admiration or ambition, for example. It is an objective test – what a reasonable person would think of the effect of the conduct. It is sufficient to show that the stalker ought to have known that the course of conduct was likely to have the stipulated effect upon the person against whom the activities are directed.

Contact with the targets provide an opportunity for stalkers to continue their objectives. Nowadays, with legislation against stalking, the Police have clear authority to intervene and to make it clear that the contact or stalking must stop. Notwithstanding, this does not always happen. Likewise, protection orders are often breached – 5,000 cases per year in New Zealand according to the *Herald*, 8.11.2021. The syndrome is not uncommon – it can happen to anyone. Now too, mainstream media will, responsibly, often not name the victims of stalking (for their privacy) and sometimes omit the name of the stalker as well (to lower the risk of retaliation for the safety of the target).

21 On 1 September 1998, Maggie received at her home in Wiltshire an envelope in 'Catherine's handwriting with a chain letter of the type that, if you do not send it on, you will incur some misfortune (in one example, the recipient when she did not was said to have died). This was not in breach of the Court Order – this had expired in June 1998.

22 After Maggie's death in 2017, I compiled a book of some of her pictures, paintings, poems, short stories, drawings and memorabilia: *Maggie – Some Memories*, Thesaurus Press, Auckland, 2019. It contains her 2015 poem signed 'MPC':

'To my Love
I will catch the moon in my butterfly net
And leave the larger stars behind
For my love this orb I'd save
And shake the stars through a silver sieve
And to my love this present give.'

Although to some extent this Chapter is an explanation on Maggie's behalf,

due to the depth of her feelings I am concerned that this account does not show her perspective sufficiently, nor the extent of her concern, nor the pressures she felt under. Had she been involved in writing this, which she was not, I feel sure (and also based on her written notes) that she would have added to and expressed the events with much greater feeling, detail, depth and strength.

23 On 5 February 1998, this was in the *New Zealand Herald* headed 'East Tipped to Miss out on Post' – he was later appointed. The *NZ Truth* published an article in which Nigel Allardice, Regional Property Secretary of Ministry of Foreign Affairs said: 'It would be a matter of national embarrassment if the table were to stay at the High Commissioner's residence…The table has done its fair share of work and is to be replaced. Such items would normally go up for auction but maybe we should sell the table as a curiosity. We'd probably get more for it'.

24 A brief outline of *Diplomatic Ladies* is repeated here for the purposes of rebuttal. In response to a question from TV3 News, I was able to say in return that 'the contents of the Chapter were grossly false and defamatory of me' and that 'they were also damaging to the diplomatic service and did not reflect well upon New Zealand'.

25 Mrs Woods also said that Maggie was accused point blank by 'Catherine' of being a prostitute, that notes had been scattered on the pavement outside the Residence reading 'The Whorehouse of Chelsea Square, Madam Margaret Postlethwaite' and that prostitute cards had been sent to the prestigious Hurlingham Club where Maggie was a member. She concluded: 'To Collinge, however, Margaret always seemed such a perfect lady'. There was no qualification that the allegations were false and left it open that they might be true, if not insinuating that they were.

26 The spokesperson for the Otago University Press was reported as saying that the recovery involved recalling the books from 'libraries and shops'.

27 I have endeavoured to set out facts and some observations but have no psychology qualifications and this is not an assessment or diagnosis. I have deliberately omitted names, addresses, images and associations for Catherine' to help aid anonymity and to acknowledge the compliment inherent in expressions of love and esteem.

CHAPTER IX: BLACKOUT

1 David McLoughlin, in an article entitled 'Blackout', *North & South*, March or April, 1998, explained: 'Despite Collinge's silver spoon National Party credentials, Labour had kept him on as Chairman of the Commerce Commission. When Prebble sacked the elected AEPB, he retained Collinge as Chairman of the

new appointed five-member Board. Collinge then and now was no blazing-eyed ideologue of the Left or Right. If any-thing he was a diplomatic centrist which at least partly explains his suitability for his later appointment as High Commissioner to London.'

2 *Sunday Star*, 11.10.1991, Greg Ninness.

3 The four directors were Jim Macaulay (Chairman of NZI Bank and former Chief Executive of National Bank), Jeff Jackson (Chief Executive of AFFCO), Richard Jeffrey (formerly Managing Director of Goodman Fielder Wattie) and Murray Sweetman (President of the Electricity Supply Association). Jackson and Jeffrey were members of the Business Round Table. Macaulay, Jeffrey and Jackson did not have an electricity background.

4 Article by Greg Ninness, a meticulous reporter, in the *Sunday Star*, 13.12.1992.

5 *Sunday Star*, 18.10.1992.

6 *Christchurch Press*, 11.11.1992.

7 *Evening Post*, 4.11.1992.

8 Also, see for example *Sunday Star*, 8.11.1992 where nearly all National and Labour Auckland MP's objected to the ownership structure and called for a referendum.

9 Quoted from Board minutes on 9 December 1992 recording the public part of a meeting held 23 November 1992 and confirmed by Bernard Orsman in a contemporaneous *NZ Herald* article.

10 Greg Ninness, *Sunday Star*, 13.12.1992.

11 *Evening Post*, 8.1.1999.

12 The cartoon appeared in the *Sunday Star*, 31.1.1993 and is published with permission of Stuff Limited. The Tom Scott cartoon in published with consent of Tom Scott and Stuff Limited.

13 Another member, Ailsa Duffy, who would likely have voted against the Plan was in Wellington with a Court commitment on that day. In any event, O'Brien had indicated that he would, at 5 all, have exercised his casting vote as Chairman in favour of the Plan. The Plan was signed off by O'Brien, Martin Gummer and Fred Beattie. It is noteworthy that Sue Corbett, Stan Lawson and Patrick Dempsey, all longstanding participants in Auckland public affairs, voted against the Plan.

14 See the article by David McLoughlin entitled 'Blackout' in *North and South,*

March or April 1998. He said that the Plan was 'an initiative of the Labour Government of the time (Richard Prebble was Minister of Energy). Jim Bolger's National Party defeated Labour in the General Election shortly afterwards and appointed pro-privatisation John Luxton as Minister of Energy and Luxton, rubber stamped Prebble's actions, pushed on with the reforms'.

15 The Auckland City Council did take legal proceedings to review the decision and this was heard by Justice David Williams. As a compliment to and mark of respect for the Judge (who was a former partner of the firm of Russell McVeagh which had advised on the scheme) it did not ask him to recuse himself from the proceedings. The Judge acknowledged the objections were well-intentioned but found that the public's loss of decision making in relation to its asset, the highly unusual scheme (which meant the absence of shareholder oversight of directors) and the public opposition did not meet the standard of '*Wednesbury* unreasonableness' (a high legal standard designed to discourage local bodies from being inundated with litigation). The political issue (of privatisation or not) was, quite properly, not appropriate for judicial determination.

16 Successive annual reports track the progress. Specifically, Mc Loughlin reported: 'In 1993, Mercury earned $21.8 million after tax, had 1141 staff, sold 3725 gigawatt hours of electricity, had assets of $400 million and debts of $63 million. By 1997, Mercury's profit was $82 million after tax, the company almost halved its staff to 596, electricity sales were up 40% to 5201 gigawatt hours, it had assets worth $896 million and debts of $419 million'.

17 The core majority directors through the six years and at the time of the Blackout continued to be Macaulay, Jackson and Jeffrey. Graeme Hawkins and Rosanne Meo were also directors for a time. At the blackout, John Hood, the only engineer, had recently been appointed. Fred Dagg was prompted to say 'I'm an accountant, that's why I'm running a power company'.

The minority directors appointed by AECT included Michael Barnett (as Deputy) and Karen Sherry who had been directors throughout much of the six years.

18 It was said to be the hottest February on record with a high demand for power through the aging cables, but normally all climatic scenarios and extremes would be taken into account in assessing capacity and contingencies.

19 Ministerial Inquiry into the Auckland Power Supply Failure, *NZ Herald* 21.7.1998. The Inquiry was also critical of the AEPB even though it had been some eight years during which the majority directors were in control. In addition, the AEPB had, in fact, in the mid 1980's, put in place procedures to investigate and renew the cables and had annually set aside funds for this purpose.

20 During the public consideration of the Plan, I was photographed with Jim Anderton (Alliance Party) and Jonathan Hunt (Labour) jointly objecting against the structure, and this caused some consternation in National Party circles. Some in the Party conflated and confused the issues and took me as being also against privatisation per se. I had no difficulty with the partial privatisation – the subsequent and eventual sale by Vector of 24.9% of the electricity lines and the Government venture into distribution via Mercury Energy – since the public retained control, the consumers were able to be protected if required and the public reimbursed for a share of its assets. Given public oversight of the lines monopoly, consumers had some protection from possible exploitation.

21 The Trustees of the AECT are elected by its consumers and it is very much a public body. In order to stop it being so viewed, the AECT has now changed its name to Entrust and purports to be a private trust, saying that, as a result, it cannot be terminated without compensation to its consumer beneficiaries – an act of blatant self-preservation.

22 The Council might continue to pay the dividend to the electricity consumers so that no one would be adversely impacted by such an arrangement.

There are other reasons for the early termination of Entrust and the substitution of the Council. There have been rumblings about its operations and oversight of Vector. By way of example, Justice Ailsa Duffy (herself a former and valued member of the AEPB and now of the High Court) recently ruled that Vector pay $3.575 million for breaching its network quality standard through an excessive level of power outages in 2015 and 2016 saying that these were 'serious contraventions'. Further, from the Commerce Commission report Vector exceeded the required duration of outages (lights out) for five years in a row. It is the responsibility of Entrust, as principal shareholder of Vector, to ensure that it complies with legislation, prescribed quality standards and quality of service.

Also, the Trust has been the subject of controversy and criticism over the years, including for politicking and infighting (which has no part in electricity supply); for trustees being appointed as directors of Vector and hence overseeing their own activities; and for failure to provide community services such as removing unsightly overhead lines.

Then too, while not good at discharging its obligations, Entrust has been proficient in increasing salaries enjoyed by its Trustees and by Executives of Vector – notwithstanding that the responsibilities of the Trust are miniscule and that Vector is a monopoly. Entrust exists, at great expense simply to hold shares in Vector (it is for the directors to run the business) and to pass on the dividend to its consumers. The Council could do this at a fraction of the cost. The lack of transparency of Entrust is also concerning due to the secrecy of its meetings

and limited knowledge of its workings. It is hard to see why this little known, inactive, expensive and self-protective appendage should not, by early termination, be dispensed with. After all, the Council is the ultimate owner of the asset and will own it in due course.

23 The issue of whether effective competitive markets (in generation and distribution) for a homogeneous and essential product such as electricity can be successfully developed is not dealt with here. The electricity market reforms, which treated electricity as a commodity like any other, do not take into account that without product differentiation electricity is largely unresponsive to price changes. Likewise, competition in distribution is considerably lessened and is, at best, on the margins only and a marketing exercise. The system was instituted in the mid 1990's when market ideology was at its height and, having failed, is in need of review.

Nowadays too, there have been questions as to whether the 51% controlling interest (in generators and distributors) by Government is effective – where, notwithstanding Government control, generators do not produce expensive power when required for peak periods (eg for cold snaps) thereby causing blackouts for some consumers in adverse weather. This makes them more profitable but at the cost of an essential consumer service.

24 www.globalpetrolprices.com/electricity_prices.

CHAPTER X: NEW ZEALAND'S DEMOCRACY

1 In due course, Britain changed too.

2 This is taken from a letter by me to the Editor of the *NZ Herald*, 24.8.2019.

3 Although not exclusive to any Party or Parties, to date these rules have on occasions been used by National and ACT – if say ACT (with the assistance of National) returns one Member with 4% of the vote this allows it say five Members – its 'tail' being recognised once an Electorate member is returned. If there were to be a lower threshold of say one proportional seat, the ACT Party would still be entitled to seats in proportion to its vote, whether or not it returned an Electorate Member.

4 A former Chief Justice, Elias CJ, has said, in the context of the creation of New Zealand's Supreme Court: 'Where human rights and constitutional values (such as participation in the democratic process) are engaged, assumptions of legislative intent and deference to executive discretion may no longer be as potent'. What appears to have been said is that in constitutional matters the Supreme Court may no longer be as deferential to Parliament or the Executive as in the past. This is not proclaiming judicial supremacy over Parliament given that the

Courts must apply its clear wishes, nevertheless, the veiled comment appears designed to create an attitudinal power shift to the local New Zealand judiciary. While judicial oversight is proper and welcomed, it might be magnified unduly were there to be a written Constitution.

5 If it were ever necessary for the Governor-General to exercise the Reserve Power, there is a risk that those adversely affected may claim political bias or similar – that raises the question of the impartiality of Governors-General in making judgments. This is one of the reasons why Governors-General take great pains to be cautious, not to engage in controversy, tread on safe ground and be apolitical – there is good constitutional reason for such reticence even though it can make Governors-General appear lacklustre. There have been calls for reform to aid political impartiality, one being that there should be multi-Party consultation as to the appointment of Governors-General to avoid perceptions of bias. However, the absence of need to use the power to date has lessened the imperative for any such call. There has been no pressing call for reform.

6 The system of the Monarch as Head of State could end by a vote of Parliament – but likely only after a referendum has been held. It is very much a decision for New Zealand alone.

7 Taken from the case *NZ Maori Council v Attorney-General*, [1987] 1 NZLR 641.

8 There is also acknowledgment of Maori interests including matters where Maori are particularly affected (eg as to where Maori burials by tradition should take place); or extra funding and measures where Maori are seen to be currently disadvantaged (eg in health or prison statistics); or say where the objective is to correct perceived structural racism or subconscious bias.

9 Parliament may decide to give Maori a right of veto – it is sovereign and can constitutionally do so – it is a matter for political judgment. The issue then comes down to how well this is administered and whether it achieves the outcomes for all.

10 As Audrey Young (*Herald*, 22.4.2021) perceptively says, transparency as to how the money is spent and the outcomes adjudged is essential.

11 Under the Constitution Act 1986, certain elements of the electoral system can be amended only by majority in a referendum or a three quarters majority of Parliament, but only six provisions are so entrenched including the term of Parliament, provisions relating to division of electorates, the minimum voting age of 18 years and secrecy of voting. Without going into an arcane constitutional debate, the most likely view is that this section can be altered by a simple majority

– Parliament cannot bind itself.

12 This can include for example the unnecessary use of urgency, the reduction of speaking times, the use of Omnibus Bills to hide contentious issues, the overuse of patsy questions, and answers that are obscure and evasive.

13 It is noteworthy that in 2015, New Zealand ranked sixth in the world according to the Rule of Law Index. This index takes into account the views of the whole of the population including marginalised sectors, and covers judgments matters such as the controls on Government power, the absence of corruption, the existence of open government, the protection of fundamental rights, order and security, and enforcement and justice. Only Scandinavian countries rank higher. It would be better to be first but this inspires confidence in the New Zealand Parliament and Courts.

14 This is so in practice even though the onus tends to be on the media to establish or justify the truth of allegations made.

15 Perhaps the most vexed question is who is to judge such standards. Again, for the purpose of eliminating self-interest, an Authority should be independent of the media while not necessarily excluding media representation and expertise. Obviously too, it should not be the Government so as to ensure that it cannot unduly influence decisions. Independent appointees, arbitrators and audit might assist. There should be no restriction upon access to such Authority – such as the need to agree to forgo the right to seek any remedy available at law from the Courts. All persons should have, without impediment, the protection of the Code and access to the Authority.

16 See the report of the Levenson inquiry in Britain which recommended, for the protection of the public and people against widespread abuse, an independent audit of voluntary regulation.

17 Likewise, again for the first time, the Harassment Act 1997 made it illegal to advance personal ambition and relationships by way of activities cumulatively causing intimidation, fear or distress to others. Then too, since the Defamation Act 1998, the mainstream media have, noticeably, become more and more to recognise and foster responsible reporting.

18 The adage that power corrupts can affect Parliamentarians, officials, Judges, those in acting in a quasi-judicial capacity and the media – whether as a result of personality, self-interest, mistake, arrogance, ignorance or inexperience – all being human. The political, official, legal and media systems are dependent upon human operatives, so that perfection is impossible to guarantee.

19 Intervention can be say by involvement in political parties, lobbying,

petitioning, making submissions to consultative bodies, by leaflets, advertising, making views known, and so on.

POSTSCRIPT

1 Some examples of 'unwelcome truth' touched on in this book include:

that Governments (of both colours) were grossly cross subsiding electricity prices in order to balance their books, were unacceptably overcharging electricity consumers and were thereby depriving local businesses of a competitive advantage internationally;

that the directors of Mercury Energy, who sought to take over the company while appearing to retain it in public control, were depriving the public of decision making over its asset, increasing the price of electricity and placing security of supply at risk;

that a National Government had evaporated its landslide support at the 1990 election due to its continuance of Douglas policies and to broken promises;

that the Labour Government's privatisation of Government businesses in the mid 1980's was being rushed through without providing or having regard to a competitive environment for the industry – thereby simply replacing a Government monopoly with a private one.

2 But disclosing unwelcome truth at least assists one to sleep well at night.

3 It needs also to be acknowledged that, in addition to public service roles and contributions, there are many who undertake charitable works for the public and community good usually entirely without return – it is sometimes said that New Zealand runs on these. In my case, I chose Rotary because of its approach (is it the truth, is it fair, does it promote goodwill and is it beneficial?) and for its focus (particularly on peace, health and education). Essentially, it supports communities throughout the world in this way. I joined the Auckland Rotary Club and latterly became its President in 2017–18 and Paul Harris Fellow. Quite apart from normal charitable donations that year, having sat on the selection panel (consisting of the founding Sydney, Melbourne, Wellington and Auckland Clubs), I was particularly proud that the Club agreed, for its Centenary in 2021, to participate in and to provide initial funding to 'Give Every Child a Future'– a programme to vaccinate children in nine Pacific countries against the child killers pneumonia, diarrhoea and cervical cancer.

4 A day after completing this manuscript, I was reading the *Spectator* for relaxation (in particular, an article by Helen Dale, a journalist and award winning author, who had read law at Oxford). She described a species, of which she seemed

also to be a member, known as 'a political tragic – interested in intellectual history, constitutional law and parliamentary procedure' to which she might well have added 'public life', which was her subject. I felt that I was not entirely alone.

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ABOUT THE AUTHOR

John Collinge was educated at Auckland University (Senior Scholar in Law) and at Oxford University (Shell Scholar) and has undertaken many public roles in and for New Zealand. They include:

- Chairman, Auckland Electric Power Board
- President, Electrical Development Association of New Zealand
- Chairman, Policy and Finance Committee, Auckland Regional Authority
- Chairman, Commerce Commission
- Chairman, National Civil Defence Energy Committee
- Chairman, Alcohol Advisory Council
- President, National Party of New Zealand
- High Commissioner for New Zealand to the United Kingdom
- Ambassador for New Zealand to the Republic of Ireland
- High Commissioner for New Zealand to Nigeria
- Chairman, Intergovernmental Committee on Commonwealth Membership
- President, Auckland Citizen & Ratepayers Association
- President, Auckland Rotary Club
- Patron, British New Zealand Business Association

He has lectured in law at Universities in England and Australia and has practised as a Barrister & Solicitor in Australia and New Zealand. In New Zealand, he has held directorships of prominent companies, positions in both local and national politics, roles in administration and he has led delegations for New Zealand at international level.

He is the author of legal texts: *Restrictive Trade Practices, Monopolies, Mergers and Takeovers in New Zealand (Butterworths); Tutorials in Contact (Law Book Company); and the Law of Marketing in Australia and New Zealand (Thesaurus Press).* He has also written *An Identity for New Zealand?* (Thesaurus Press), a history of European immigration to New Zealand, its influences and impact.