

**A Civil and Ecclesiastical Union?  
The Development of Prison Chaplaincy in Aotearoa-New Zealand**

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## **Attestation of Authorship**

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person (except where explicitly defined in the acknowledgements), nor material which to a substantial extent has been submitted for the award of any other degree or diploma of a university or other institution of higher learning.

**Signed:**

**Name:** **Douglas Mansill**

**Date:** **03 December 2008**

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I hope that the information provided by this study will assist Church and State administrators to enhance the spiritual well being of the men and women who are incarcerated in the penal institutions of New Zealand.

Douglas Mansill.

## List of Abbreviations

ACRP	Auckland Central Remand Prison
AJHR	Appendix to the Journal of the House of Representatives
ATL	Alexander Turnbull Library
CCANZ	Conference of Churches in Aotearoa New Zealand
CCAW	Catholic Church Archives, Wellington
COG	Corrections Operations Group
CPCG	Catholic Prison Chaplains' Group
DNZB	Dictionary New Zealand Biography
DoC	Department of Corrections
DSC	Daily Southern Cross
ECA	Employment Contracts Act
FTE	Full Time Equivalent Chaplain
ICAB	Interim Chaplaincy Advisory Board
ICCoP	Inter-church Council on Public Affairs
LDO	Legal Deposit Office
NCC	National Council of Churches
NZH	New Zealand Herald
NZPC	New Zealand Prison Chaplains
NZPCA	New Zealand Prison Chaplains' Association
PCAB	Prison Chaplaincy Advisory Board
PCACF	Prison Chaplains' Association Correspondence File
PCSANZ	Prison Chaplaincy Service of Aotearoa New Zealand
PFA	Public Finance Act
PPR	Penal Policy Review
PPS	Public Prisons Service
Roper Report	Prison Review - Te Ara Hou: The New Way
Perry Report	Prison Chaplaincy Review
SPC RC	Catholic Senior Prison Chaplain
SPC	Senior Prison Chaplain
TGC	The Gaols Committee

## ABSTRACT

New Zealand prisons were a colonial construct established by early colonial administrations to deal with criminal behaviour occurring at the time of European settlement. Like the prison system, prison chaplaincy also had its origins in colonial experiences from the United Kingdom where chaplains were employed to meet the spiritual needs of those in institutions such as schools, hospitals, colleges, the military and legations.

This thesis addressed the question of how the partnership between Church and State administrators in New Zealand for the provision of chaplaincy services developed between 1840 and 2006. Four phases were identified in the evolution of prison chaplaincy: phase one 1840-to-1950, characterised by ad hoc arrangements between clergy and local prison management; phase two 1951-to-1989 when Secretary for Justice Samuel Barnett established a formal relationship with the National Council of Churches and the Roman Catholic Church to provide chaplains for penal institutions; phase three identified as 'prisons in change' 1990-1999, when the Interim Chaplaincy Advisory Board and Prison Chaplaincy Advisory Board worked in tandem with the Departments of Justice and Corrections to administer the Prison Chaplaincy Service, arising from the recommendations of the *Roper* and *Perry Reports*; and phase four 2000-to-2006, a period when the Prison Chaplaincy Service of Aotearoa New Zealand was contracted to the Department of Corrections to employ prison chaplains.

The research adopted a multi-faceted approach, consisting of phenomenology, ethno-methodology and hermeneutics to understand attitudes and experiences of key players and institutions in the evolution of Prison Chaplaincy. Data was collected through interviews of key informants, critical evaluation of published and unpublished material in public and private collections.

The study identified six key factors that influenced the development of Prison Chaplaincy in New Zealand. These were: the nature of the Church-State interface, the impact of biculturalism, the influence of theological and ecclesiastical trends, the impact of inter-church politics, the influence of socio economic trends and developments, and changes in Government policy. It also found that while there were tensions, the Church-State partnership had positive benefits for the spiritual outcomes for prisoners.

# CHAPTER ONE

## INTRODUCING THE STUDY

This study asks: “how did Church and State administrators manage the relationship for the provision of chaplaincy services in New Zealand prisons between 1840 and 2006?” Consideration of this issue is important because evidence shows that there were tensions and misunderstandings in this Church-State partnership, hence the title of this thesis. By examining available literature, documentary data and the views of key informants, this enquiry seeks to address this question as well as identify developmental trends in the evolution of chaplaincy services in New Zealand penal institutions.

### **The Role of the Prison Chaplain**

Understanding the role and function of a chaplain is a prerequisite for considering the Church-State partnership that evolved in the provision of chaplaincy services to New Zealand penal institutions. Prisons in New Zealand were a colonial construct and after 1840 they were established by the early colonial settlers and administrators as an attempt to deal with criminal behaviour that was occurring in their communities. Prison chaplaincy was also a colonial construct which had its origins in England’s state employment of clergy to serve in institutions such as schools, hospitals, colleges, work houses, the military, embassies, legations and prisons.

*The Oxford Dictionary of the Christian Church* defines a chaplain as “a priest or minister who has charge of a chapel. He or she is ordinarily a cleric who performs non parochial duties.”<sup>1</sup> Commenting specifically on the role of a prison chaplain from a Catholic perspective, Father T.G. Keyes observed:

the chaplain in a prison or borstal is concerned with rehabilitation, chiefly from God’s point of view: the reconciling of the sinner to the friendship of God and the imparting to him of the knowledge and help that will enable him to persevere to the end and thus share in the life of God in Heaven ... the chaplain takes Christ’s place in person. He must be full of loving concern for the prisoners as human beings and avoid the narrow concept of being interested in salvation only.<sup>2</sup>

In 1965, the Department of Justice described the role of its chaplains as follows:

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<sup>1</sup> Cross, F.L. (Ed.), (1966). *The Oxford Dictionary of the Christian Church*, London, Oxford University Press, p. 264.

<sup>2</sup> Keyes, T.G. (1970). “Reflections on the Role of a Prison Chaplain,” *New Zealand Prison Chaplains’ Association Magazine*, September 1977, No. 10, pp. 34 and 41.

The chaplain serves as a counsellor and friend to people in prison. He is dealing ... with men and women who are for the most part ignorant of religion. By presenting the Christian religion in its original simplicity and by showing compassion and unflinching goodwill, the prison chaplain gives comfort and hope. His is the privilege of bringing the Gospel to many people who have probably never heard it preached nor seen it put into practice.<sup>3</sup>

Since the early 1990s not all chaplaincy duties in New Zealand prisons have been undertaken by ordained clergy and the appointment of un-ordained lay chaplaincy workers has become common place. Their role and function has been to promote spiritual growth and well-being and to service the spiritual needs of the particular institution or location to which they have been appointed. Addressing the Annual Training Event of the Prison Chaplaincy Service of Aotearoa New Zealand (PCSANZ) in 2006, Peter Lineham noted that in the contemporary penal context, chaplains could be regarded as servants to the institution to which they were appointed, responsible to it and under its control.<sup>4</sup> The Policy and Procedures Manual of the PCSANZ amplifies this understanding in its statement on the aims and objectives of the Prison Chaplaincy Service. Prison chaplains are responsible for:

- Providing spiritual leadership and support
- Providing pastoral support and counselling
- Liaising with the wider community on matters relating to the spiritual and pastoral needs of inmates
- Contributing where appropriate to the development and implementation of inmate programmes
- Contributing where appropriate to inmate case management planning
- Contributing to the development of chaplaincy services within the Public Prisons Service
- Accepting and respecting the individuality of people and their cultural heritage
- Being sensitive and responsive to cultural issues and needs

Chaplains minister in accordance with their own beliefs and consciences and are accountable to the Chaplaincy Service for working in accordance with its written plan, to their religious authority in matters of faith and religious practice and to the Department of Corrections in matters of protocol, policy and security.<sup>5</sup>

The role of chaplains in New Zealand prisons is unique.

The chaplain is to act as *kaitiaki* (Trustee/Guardian of Gospel principles and values) and *pononga* (Servant, Promoter of holistic and spiritual growth) in the institution to which they are appointed.<sup>6</sup>

The concepts of trusteeship and servanthood are fundamental to the service provision of New Zealand Prison Chaplains. They are the trustees of spiritual values, particularly

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<sup>3</sup>Department of Justice, (1964). *Crime in the Community*, Wellington, R.E. Owen, Government Printer, p.63.

<sup>4</sup>Lineham, P. (2006). Information drawn from notes taken by the writer during an address given by Peter Lineham of Massey University to the National Prison Chaplain's National in Service Training Event held at Vaughan Park, Long Bay, Auckland, 6 May 2006.

<sup>5</sup>Prison Chaplaincy Service of Aotearoa New Zealand, (PCSANZ), (2004). "Policy and Procedures Manual," Wellington, Section 1, p.2.

<sup>6</sup>Ibid, Section one, p.2.

those of the Christian Gospel within their prison and they act as servants of the prison community in the spirit of this understanding.

### **Prison Chaplaincy: 1840 – 2006**

In the years 1840 to 2006, the Church-State partnership for providing prison chaplaincy services in New Zealand evolved through four identifiable phases. The first of these was the period between 1840 and 1950 when Churches provided chaplains to prisons by way of ad hoc arrangements with local prison management. During the early colonial period prior to 1880, prisons were managed by local authorities and there was considerable regional variation in service provision and standards of pastoral practice. Despite the nationalisation of the New Zealand prison system in 1880 under Arthur Hume, this situation continued until 1951, although the 1908 Prisons Act and 1925 Prisons Regulations did provide for authorised clergy to conduct Divine Worship in penal institutions and interview prisoners of their respective denominations

The second phase of this evolution occurred between 1952 and 1989 when Secretary for Justice, Samuel Barnett, established a formal partnership with the National Council of Churches (NCC) and the Catholic Church to provide officially recognised chaplains to New Zealand prisons. The 1954 Penal Institutions Act gave the first statutory recognition of this role by providing legislative authority to confirm prison chaplaincy appointments. Between 1952 and 1979, the active support of Minister for Justice John Marshall and Barnett's successor John Robson, ensured that this scheme for prison chaplaincy provision became firmly established. After 1980, however, prison chaplaincy administration was marked by increasing difficulties which were affected by influences such as a growing sense of Maori consciousness, a separation between Ecumenical chaplains and the NCC and the advent of Pentecostalism.

The third phase of prison chaplaincy development could be described as a period of prisons in change and it was significantly influenced by the processes of decolonisation that occurred between 1989 and 1999 in New Zealand. In 1991 and 1992, the Interim Chaplaincy Advisory Board (ICAB) and Prison Chaplaincy Advisory Board (PCAB) were created to provide a closer church-State liaison for prison chaplaincy administration; and in 1995 the Department of Corrections was established as a new Government entity for the management of prisons. Key influences during this period

included: *Prison Review, Te Ara Hou: The New Way (Roper Report)*;<sup>7</sup> *Prison Chaplaincy Review (Perry Report)*;<sup>8</sup> and the Department of Justice submission to the Roper Enquiry, *Prisons in Change*.<sup>9</sup> Their policy recommendations were for the implementation of biculturalism, regionalisation, management restructuring and case management. State administrators attempted to employ the provisions of the Public Finance, State Sector and Employment Contracts Acts to facilitate this policy direction and impose greater control over the functioning of the Prison Chaplaincy Service.

The fourth phase of this partnership occurred between 2000 and 2006 with the development of a contracting relationship between the PCSANZ and the Department of Corrections. With this arrangement, the Catholic and Ecumenical Churches provided chaplains for prisons and administered the Prison Chaplaincy Service under the auspices of an independently registered charitable trust that was bulk funded by the Department of Corrections.<sup>10</sup> Prison chaplaincy services were also provided to the privately administered Auckland Central Remand Prison (ACRP) between 1999 and 2005 and while there was liaison between the PCSANZ and ACRP management, no formal agreement was ever established for this purpose. ACRP chaplains were placed under the direction of the PCSANZ in 2005 when management of this institution reverted to the Public Prisons' Service (PPS). Influenced by the 1990 Bill of Rights, the 2004 Corrections Act removed the statutory recognition of the Prison Chaplaincy Service and left decisions about meeting prisoners' spiritual needs to the discretion of public officials. At the time of writing this study, the contracted partnership between the PCSANZ and the Department of Corrections continued to be the vehicle for providing chaplaincy services to New Zealand prisons.

### **Justification for this Study**

The administration of the prison chaplaincy service changed considerably between 1840 and 2006, but there has been no academic consideration of this development since John Roberts' 1975 Auckland University dissertation: "Prison Chaplaincy in New

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<sup>7</sup> Ministerial Committee of Enquiry into the Prison System, (1989). *Prison Review, Te Ara Hou: The New Way*, The Crown, Wellington.

<sup>8</sup> Perry, N. (1990). *Prison Chaplaincy Review*, Report of the Working Party to the Department of Justice-Penal Division, Wellington.

<sup>9</sup> Department of Justice, (1988). *Prisons in Change*, Wellington, The Crown.

<sup>10</sup> There is some debate regarding the terminology to be used for the purpose of describing non Catholic Chaplains. The term Ecumenical Chaplain will be used for the purposes of this study.

Zealand.”<sup>11</sup> A lack of available data has impeded understanding of historical precedents and frequently hampered forward planning for ongoing service provision. Consequently, Church and State administrators have often been swayed by a random variety of stimuli and influences rather than intentional policy development. Further, controllers of public expenditure have seldom been aware of the rehabilitative potential of spiritual awareness for guiding prisoner attitudes towards positive living and the maintenance of personal, family and community well-being.

State administrators have asked their Church counterparts to justify why chaplains should continue to be appointed in New Zealand Prisons. The following questions asked during contract negotiations have formed the basis for the renewal of each contract:

1. How does the continued presence of a chaplaincy service add value to the Department of Corrections Business?
2. What relevance do chaplaincy services have for the development of reintegration programmes for prisoners and how can this be demonstrated?
3. Can chaplaincy services be operated by providers other than the PCSANZ and is it possible to do this on a cheaper basis that adds more value to the tax payer dollar?

Finding satisfactory answers to these questions is necessary for the continued provision of funding of the Prison Chaplaincy Service. This study will recapture data that has been held in the memories of an increasingly aging group of individuals or in private collections which is in danger of being lost. By addressing the question: how did Church and State administrators manage their relationship for the provision of chaplaincy services in New Zealand prisons between 1840 and 2006? this thesis will highlight some of the tensions as well as the benefits of Church-State partnership. Understanding these historical precedents will contribute towards future development of the Prison Chaplaincy Service, justify its continued existence during contract negotiations and create a framework for consistent policy development.

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<sup>11</sup> Roberts, J. (1975). “Prison Chaplaincy in New Zealand,” Dissertation, Diploma in Criminology, Auckland, University of Auckland.

## **Scope and limitations of this study**

This study does not seek to provide a comprehensive enquiry into the evolution of the Prison Chaplaincy Service in New Zealand. Issues such as a comparison of New Zealand experience with prison chaplaincy services in other countries; a prognosis for the future development of prison chaplaincy services in this country; the role of women in prison chaplaincy; the provision of chaplaincy services to people of non-Christian belief and the role of prison chaplaincy programmes in assisting prisoners to reintegrate into the wider community are not addressed in this study. The key influences between 1840 and 2006 that came to bear upon the evolution of the Church-State relationship for the delivery of prison chaplaincy services in New Zealand prisons and how Church and State officials dealt with tensions in the partnership are the primary focus of this thesis.

## **Emergent themes and structure of this study**

Six key themes emerged during the course of the research. These provided the basis for the structure of this thesis.

1. The nature of the Church-State interface
2. The impact of biculturalism on prison chaplaincy service provision
3. The influence of theological and ecclesiastical trends
4. The impact of inter-church politics
5. The influence of socio- economic trends and developments
6. How changes in Government policy affected chaplaincy service provision

These themes are organised in a logical form, commencing in chapter two with an explanation of the key methodologies that impacted on the collection and interpretation of data for this study.

Chapters three and four consider the first phase in the evolution of the Prison Chaplaincy Service between 1840 and 1950 when ad hoc arrangements between prison managers and local clergy. Chapter three describes the provision of chaplaincy services prior to 1880 under the auspices of the early colonial administration. It represents an overview of the evolution of the New Zealand Prison system between 1840 and 1952, an account of the origins of prison chaplaincy provision in New Zealand after 1840 and a consideration of colonial prison chaplaincy and Maori spiritual issues. The chapter

argues that prison chaplaincy initiatives prior to 1880 were significantly influenced by an institutional colonialism which affected the whole of prison administration during this period.

Chapter four continues the examination of the ad hoc arrangements for prison chaplaincy and describes developments that occurred between 1880 and 1950 within a nationalised Prison Service. The impact on service delivery of Hume's implementation of the "English System," as well as chaplaincy provision between 1909 and 1949, when ministers of religion were authorised by the 1909 Prisons Act to provide worship services and pastoral care in prisons are critically analysed. This chapter asserts that the nationalisation of the prison service in 1880 under Hume had little impact on the quality and consistency of prison chaplaincy provision and standards continued to vary considerably.

Chapters five, six and seven consider Samuel Barnett's initiation of a formal relationship between the Justice Department, NCC and Catholic Church to provide chaplaincy services in New Zealand prisons, and the 1954 Penal Institutions Act's statutory recognition of this new partnership. Chapter five examines key factors that helped to influence this new development including, the personal beliefs held by Barnett and his colleagues, the desire for penal reform after Dallard's retirement in 1949, the sound position of New Zealand's economy during the early 1950s and the changing mood of New Zealand society after the Great Depression of the 1930's and World War II. This chapter also explores the different responses of the NCC and Catholic administrators to Barnett's proposal, and asserts that Barnett's personal belief and determination to ensure the success of this new venture were key factors in establishing this new Church-State partnership.

Chapter six considers the evolution between 1954 and 1980 of Barnett's initiative by examining attempts to provide chaplaincy services for Maori prisoners, the development of the relationship between Catholic and NCC chaplains, training and theological issues for chaplains and the creation of the Prison Chaplains' Association. This chapter also provides two examples of the pressures that prison chaplains faced during this period and illustrates that the future of the Prison Chaplaincy Service was not as secure as it might have appeared to be in 1980.

Chapter seven rounds off the development of this second phase by examining the increasing pressures that impinged on the Prison Chaplaincy Service during the 1980s following the publication of the 1981 *Report of the Penal Policy Review Committee*.(PPR) These factors included a growing distance between Ecumenical chaplains, the NCC and the CCANZ, the growth of Pentecostalism and the advent of Prison Fellowship, the resurgence of Maori consciousness during the 1970s and 1980s and the impact of Government policy on Public Service administration. By 1989, it became clear that Barnett's initiative could not meet the service delivery requirements of Church and State administrators and new models needed to be employed in order to meet these expectations.

Phase three in the evolution of the Prison Chaplaincy Service is referred to in this thesis as prisons in change. This forms the basis for the discussions in chapters eight and nine which describe how the influence of Government policy direction, Public Service restructuring and the impact of biculturalism combined to bring about a new direction for the Prison Chaplaincy Service. Chapter eight examines the significance of the *Roper Report* and the *Perry Report* and the Justice Department report: *Prisons in Change* for the future direction of the Prison Chaplaincy Service. The central argument of this chapter asserts that the *Roper* and the *Perry* reports had only limited impact on the future development of the Prison Chaplaincy Service, and that a greater influence came from the report: *Prisons in Change*. The key recommendations of this report relating to case management, regionalisation and management restructuring had a profound impact on the provision of prison chaplaincy services.

Chapter nine examines the impact of the State Sector, Public Finance, Employment Contracts and 2004 Corrections Acts on prison chaplaincy administration. This chapter also describes how the creation of the ICAB and PCAB, the response of the Catholic Church and the inauguration of the Department of Corrections in 1995 created significant administrative issues for Church officials. While it may be argued that Church administrators were ill equipped to deal with the contingencies that arose out of these developments, their persistence in dealing with these matters ensured the future of the Prison Chaplaincy Service.

Chapter ten concludes the examination of the four phases of prison chaplaincy development. It provides a critical examination of the contracting relationship that was

established in 2000 between the PCSANZ and the Department of Corrections. The consideration of this new Church-State partnership included an enquiry into developments within the Department of Corrections between 1995 and 2006, the negotiation and implementation of the new contract, the response of the Catholic Church to this new initiative and prison chaplaincy provision at ACRP. One of the key factors in this period was the need for Church administrators to be adept at functioning in the new commercial environment of contracting for outcomes. This will continue to be an ever present factor in the ongoing evolution of the Prison Chaplaincy Service.

The involvement of prison chaplains at executions prior to 1961 was a bizarre expression of the Church-State partnership. The penultimate chapter of this study examines this involvement by describing the use of capital punishment in New Zealand between 1840 and 1961, the moral dilemmas for chaplains associated with its use, the impact of executions on participants and the provision of ministry to the condemned prisoner. The execution in 1866 of Mokomoko and his associates illustrates the moral and ethical dilemmas faced by prison chaplains and the clash between Maori values and Pakeha colonial culture. The impact that this event created for chaplains at Mount Eden Prison was felt right up to the 1980s and 1990s.

Chapter twelve, the final chapter of this thesis, returns to the key research question that was posed at the beginning of this study: “how did Church and State administrators manage their relationship for the provision of chaplaincy services in New Zealand prisons between 1840 and 2006?” It attempts to pull together the six emergent themes of this study and provides a brief summary of each of these emergent themes. The chapter also identifies areas for further study that would help provide a more comprehensive understanding of the Prison Chaplaincy Service in New Zealand.

## CHAPTER TWO

### METHODOLOGY: THE CHALLENGES OF DATA COLLECTION AND INTERPRETATION

A variety of instruments were employed for collecting and interpreting data for this study. These included a critical examination of available literature, analysis of official documents and records, as well as collecting primary data through oral interview of key informants from both the State sector and prison chaplaincy.

#### Literature Reviewed

An initial search of available literature indicated a relative paucity of published material on the subject of prison chaplaincy in New Zealand. Two Department of Justice documents, the *Roper Report* and the *Perry Report* were important, as they influenced significant changes in policy direction and the administration of prison chaplaincy. Apart from these reports, only five other pieces of literature could be identified and located. They were: Melville Harcourt's biography of George Edgar Moreton, *A Parson in Prison*;<sup>12</sup> "Prison Chaplaincy in New Zealand," Roberts' dissertation submitted to the Auckland University for a Diploma in Criminology; "A Shepherd Behind Bars: The Ministry of a Prison Chaplain," a report compiled by the Reverend Robert Grinder;<sup>13</sup> *A Poison in the Blood Stream*,<sup>14</sup> written by Father Jim Consedine and *About Time*, a biography of former Senior Prison Chaplain Lawrence More written by Marie Gray.<sup>15</sup>

Harcourt's biography of Moreton was a product of the time when individual denominations made their own arrangements for the provision of chaplaincy services. It provided insight into the pastoral practices of an Anglican chaplain who served at Mt Eden Prison in the decade prior to the development of the NCC partnership with the Department of Justice. This book outlined Moreton's views about: the transformational nature of Christian experience; the prophetic function of the chaplain's role on behalf of prisoners; the right of prisoners to have access to spiritual resources and penal reform.

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<sup>12</sup> Harcourt, M. (1942). *A Parson in Prison*, Auckland, Whitcombe and Tombs Ltd.

<sup>13</sup> Grinder, R. (1982). "A Shepherd Behind Bars," Auckland.

<sup>14</sup> Consedine, J. (1990). *A Poison in the Bloodstream*, Whatamongo Bay, Queen Charlotte Sound, Cape Catley Ltd.

<sup>15</sup> Gray, M. (1991). *About Time*, Wellington, Moana Press Ltd.

Harcourt also provided graphic accounts of Moreton's ministry to condemned prisoners at two executions.

"Prison Chaplaincy in New Zealand," presented some valuable information about the development of prison chaplaincy prior to 1975. Roberts provided a brief overview of the history of prison chaplaincy until 1972, some consideration of administrative and legislative issues that arose out of the Church-State partnership for providing prison chaplains and his views regarding the future development of prison chaplaincy after 1975. Roberts acknowledged, however, that it was "a contextual piece of work, which because of this is either dated or limited in scope."<sup>16</sup> Like Harcourt's biography of Moreton, it presented a Pakeha world view of prison chaplaincy.

Grinder's report: "A Shepherd Behind Bars: The Ministry of a Prison Chaplain," was written to provide an alternative to conservative evangelical approaches to Prison Ministry. The outcome of the author's time spent on sabbatical leave, this report drew heavily on British and American perspectives and the work of pastoral theologians such as Paul Tournier and Russell Dicks. Grinder argued for the integration of worship and life experience and described how case-work models and group counselling might be employed for the pastoral care of prisoners. "A Shepherd behind Bars" concluded with some suggestions for approaches to worship in prisons.

The *Roper Report* and the *Perry Report* made significant recommendations for restructuring the management and governance of the Prison Chaplaincy Service, length of service for chaplains and the implementation of biculturalism into prison chaplaincy professional practice. Roper and Perry advocated the discontinuance of the employment by the Department of Justice of prison chaplains as temporary Public Servants and the organisation of prison chaplaincy on bicultural rather than denominational lines. These recommendations provided impetus for the creation of the Interim Chaplaincy Advisory Board (ICAB) and Prison Chaplaincy Advisory Board (PCAB). Both of these reports were critical of ecumenical approaches to prison chaplaincy that had been in place prior to 1989 and they argued for the development of models of chaplaincy provision that would be more relevant to the spiritual needs of Maori prisoners. There has, however, been little critical evaluation on the impact of these recommendations after 1989.

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<sup>16</sup> Roberts, J. (2007), Oral Interview, 15 June 2007. Auckland.

*A Poison in the Blood Stream* was written by a Catholic priest who supported the recommendations presented by Roper and Perry. Consedine drew heavily on the insights of his own pastoral experience as a prison chaplain, the influences of liberation theology and Catholic perspectives on social justice, to argue for the development of a bicultural approach to prison chaplaincy, use of ethnically appropriate models of pastoral care for prisoners, greater commitment by the Church to the prophetic role of prison ministry and the administration of prison chaplaincy to be independent of State coercion and control. Consedine believed that orthodox Pakeha spirituality was inadequate for meeting the spiritual needs of Maori prisoners. His views were intended to influence church administrators, government officials and the general public alike, but they were not necessarily shared by other church administrators, his chaplaincy colleagues or State officials.

*About Time*, a biography of More who served as a chaplain at Mount Eden Prison before becoming Senior Ecumenical Prison Chaplain, provides a personal account of More's life which highlighted the uniqueness of prison chaplaincy as a service to penal institutions and the tensions that can arise from attempting to minister to the spiritual needs of prisoners. More advocated for the need of wairua-mana and mauri which Gray describes as the compelling life force of body, mind and spirit, to be recognised in the pastoral care and rehabilitation of Maori prisoners and their families. Gray invites her readers to consider the proposition that successful prison chaplaincy depends on an almost indefinable and yet unique blend of personal attributes including, faith awareness and commitment to this form of ministry. These qualities were demonstrated by More.

The apparent paucity of written literature was not an insurmountable issue as it was intended to locate and identify archival material for use in this study. There was some uncertainty, however, regarding the amount of information on prison chaplaincy that could be located in Government archives. Important archival data contained in Justice Department archives, appeared to have been lost or mislaid after the separation in 2005 of the Department of Justice and Corrections into two separate entities. For instance, Roberts indicated to me that he had lodged audio tapes of oral interviews with chaplains who were alive during the time of capital punishment, with the Department of Justice for safe keeping.<sup>17</sup> A subsequent search of the National Archives as well as the

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<sup>17</sup> Roberts, 15 June 2007.

Department of Justice and Corrections Libraries, failed to locate this material. Their eventual fate has remained a matter of conjecture.

### **Data Collection**

Approaches to the librarians at the Departments of Corrections and Justice for assistance brought different responses. The Department of Justice Department librarian proved to be most helpful in making relevant documentation available for perusal. In contrast, the Department of Corrections librarian was reluctant to allow access to library resources, allegedly for reasons of confidentiality and security. This attitude persisted in spite of assurances that appropriate section managers would be consulted before any potentially sensitive information would be used in this study. There was an irony to this situation. Under the Corrections Act of 2004, Chaplains were regarded as Corrections Department employees and could use the library's resources for their own research. As Chairperson of the PCSANZ Board and technically one of the employers of the prison chaplains, I could not gain access to this information. A subsequent request to the Chief Executive Officer of the Department of Corrections helped to overcome this problem but little data of value for this study could be located in Department of Correction's archives. Chaplains and local prison managers, however, proved to be more helpful whenever they were approached for assistance and some valuable information was obtained from local prison sites.

Other difficulties also occurred in locating data for this study. Both Mayhew and Dunn referred to "The Wellington Gaol Diary," a journal written between 1849 and 1852 by Macaiah Reid, an early prison superintendent. This document could not be found in the National Archives, National Library, Departments of Justice and Corrections Libraries or the Alexander Turnbull Library. Accordingly, references to this document will quote either Mayhew or Dunn's citation of it. In another instance, discussion with former Police Historian Sherwood Young indicated the existence of an English Home Office memorandum that was circulated to the British Colonies in 1880, which provided instructions for people involved in the execution of prisoners. This included guidelines for chaplains who were present at these events. Young indicated that he had obtained this reference from the Police College Library, but an original copy of this document could not be found at this source. An internet search eventually located this document in the Queensland State Archives in Australia which provided a copy for this research.

Attempts to obtain information from Church and other archival sources were far more positive. NCC and Conference of Churches in Aotearoa New Zealand (CCANZ) reports and minutes of meetings were lodged in the Alexander Turnbull Library (ATL) and they were readily available for examination. Archives staff from the Salvation Army, Catholic and Presbyterian Churches responded helpfully to requests for information and in a number of cases they provided very useful data for this study. The same could also be said of former church employees, chaplains and other workers from non-Government organisations and Government Departments, many of whom provided written data held in their own personal files and collections.

Data collection also occurred through oral interviews with former prisoners, Church and Government administrators and prison chaplains. These key informants were drawn from a variety of age, gender and ethno-cultural backgrounds and they were selected for interview because of their potential to provide important insights for this study. In most cases, individual interviews were conducted, but several group discussions also occurred. The data that they provided was usually descriptive in nature and related to their personal opinions and experiences.

Prior to interview each key informant was provided with background information about the intentions of the research and they were invited to sign consent forms which signified their willingness to allow themselves to be interviewed. Care was taken to ensure that the health and wellbeing of elderly people was sufficient to allow them to participate in the interviews and if desired, members of their whanau or other support people were present during the course of the interview. Provision was made for counselling or other support if recollection of past memories caused distress to the participant. All recorded data was copied and stored in a safe location. At the completion of the study the interview tapes will, according to the wishes of the informant, be destroyed, returned to the informant or lodged in a suitable archival repository after a period of six years.

Effort was made to ensure that Te Ao Maori and other cultural perspectives were properly and fully represented in the body of this research. The following observations made by Huia Jahnke and Julia Taiapa were noted and acted upon, particularly with regard to the understanding of the colonial background and context of New Zealand's

past history, adoption of appropriate methodologies for Maori research, understanding of Maori theoretical contexts and consideration of who should conduct such research.

Despite the complexities in carrying out research with Maori people and their communities, there is a need to abide by a Maori system of ethics and accountability that provides the justification for appropriate methodologies. Without this kind of approach it is doubtful that any investigation would find acceptance by a Maori audience or research community. Therefore meeting the criteria is necessary for validity of findings and for purposes of accountability. Research about Maori requires clear goals and objectives and reliable information based on actual Maori experience.. This does require that Maori themselves should be involved in the design, delivery, management and monitoring of the research process.<sup>18</sup>

The interview outline for use in discussions with key informants was submitted to a focus group of Maori prison chaplains who made a number of suggestions regarding its format. Consultation with members of this group continued on a regular basis both during the collection of research data and the writing of this study. Similar processes were also initiated with regard to Pacific Island cultural awareness and matters of Catholic theology and doctrine.

### **Underpinning Methodological Approaches**

Michael Patton's following observations that research should not be divorced from the processes and meanings which may underpin human interaction were also considered to be pertinent for this study:

The focus of the enquiry is determined by the framework within which one is operating and the findings are interpreted and given meaning from the perspective of that preordained theory. Such qualitative enquiry therefore aims to describe and explain such specific manifestations of already presumed general patterns. Such enquiry is aimed at confirmation and elucidation rather than discovery.<sup>19</sup>

This study describes the evolution of Church and State bureaucratic systems as well as providing interpretation of meanings and world views that were held by people who were involved in the development of prison chaplaincy. Much of the collected data was qualitative and descriptive in nature and the use of a single methodological approach was not able to encompass the evolution of bureaucratic systems, the world views of people who were involved in the evolution of prison chaplaincy or the social factors that influenced its development. Again, as Patton observed: "one cannot reasonably ask which theoretical framework is "right," "best" or most useful. It depends on what one wants to do and which assumption one shares."<sup>20</sup> A multi-faceted approach was adopted

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<sup>18</sup> Jahnke, H. Taiapa. (2003). J. "Maori Research," *Social Science Research in New Zealand*, In Davidson, C. and Tollich, M. (Eds.), Auckland, Pearson Education Ltd.

<sup>19</sup> Patton, M.Q. (2002). *Qualitative Evaluation and Research Methods*, California, Sage Publications, p. 87.

<sup>20</sup> Ibid. p. 87.

for interpreting collected data and the following four methodological perspectives were of assistance for this purpose.

Phenomenology asks the question: what is the structure and essence of experience of this phenomenon for any given individual or group of people? Employing this methodology for this study helped provide understanding of how the attitudes and experiences of colonial, penal and church administrators as well as politicians, influenced policies for prison chaplaincy development. For instance, data collected through oral interviews contained the personal opinions of key informants on topics such as capital punishment, the 1965 Mount Eden Prison riot and chaplaincy provision in private prisons.

Ethno-methodology enquires about how people make sense of their everyday activities so as to behave in socially acceptable ways. The application of ethno-methodology was important in order to understand issues of Maori spirituality and awareness from data that was collected through published and unpublished literature, oral interviews, and consultation with Maori support groups. In particular, ethno-methodology was pertinent for interpreting and understanding chaplains' roles in the disinterment of human remains at Mount Eden Prison in 1988, Maori attitudes towards punishment and imprisonment in the 1840's and 1850's and the impact on prison chaplaincy of the rise of Maori consciousness in the 1970s and 1980s.

Systems theory provides a framework for understanding how and why systems function as a whole. The application of systems theory provided a useful tool for interpreting how data collected from government reports, minutes of meetings and Acts of Parliament was significant for describing the development of prison chaplaincy administration. For instance, the use of systems theory to interpret this data helped with understanding: the impact of restructuring within the Departments of Justice and Corrections during the 1990s, the significance of Hume's policies in the 1880s and 1890s as well as the effects of the Public Finance, State Sector and Employment Contracts Acts on prison chaplaincy administration.

Hermeneutics interprets the conditions under which a human act took place or a product was produced that makes it possible to interpret its meanings. Hermeneutics became a useful complement to ethno-methodology and phenomenology for discerning opinions

and attitudes among Church and State administrators from data collected through oral interviews, written correspondence and reports. For example, hermeneutics assisted with understanding the views of Catholic Church administrators towards various aspects of prison chaplaincy development, the impact of the rise in Pentecostalism in the 1980s and 1990s and why the beliefs and attitudes of key public servants and politicians during the 1950s led them to formalise the placement of chaplains in New Zealand prisons.

The writer's own personal experience has also influenced the content of this study. I served as a prison chaplain at Waikeria Borstal in association with Nehe Dewes between 1977 and 1985. I have also represented the Presbyterian Church of Aotearoa New Zealand on the ICAB, PCAB and PCSANZ since 1991 and served as Chairperson to the PCSANZ Trust Board for the past five years. I do not believe, however, that I must necessarily be a disinterested party to achieve objectivity in this research. Attempts to eliminate the role that individuals play in acquiring conceptual knowledge could create an artificial dichotomy between facts and values and how values influence interpretation of facts and the development of policy. While every effort has been made to retain objectivity by way of regular consultation with supervisors, advisory groups and colleagues, there is no doubt that my personal experience will impact on the way I interpret the findings of this study.

The use of these instruments in this study was of great assistance for interpreting and supporting its central argument and considering the Church-State partnership that developed between 1840 and 2006 for providing chaplains in New Zealand prisons. The next chapter of this thesis will describe the origins this relationship by examining the evolution of chaplaincy services in New Zealand prisons between 1840 and 1880.

## CHAPTER THREE

### THE ORIGINS OF PRISON CHAPLAINCY IN NEW ZEALAND 1840 – 1880

Between 1840 and 1952, there was no formally established Prison Chaplaincy Service in New Zealand prisons and the arrangements for providing clergy to minister in these institutions relied upon the preparedness of local churches and the availability of clergy to undertake this task. There were some instances of notable chaplaincies being undertaken during this period, but they appear to have arisen either out of the individual interest of particular clergy towards this responsibility or a uniqueness of personality which enabled them to operate effectively in the prison environment. The patterns of ministry provision were grounded in the attitudes and practices of the early colonial churches and while there may have been some individual attempts by Pakeha chaplains to use Te Reo to minister to Maori prisoners it appears that there were no Maori chaplaincy appointments to New Zealand prisons during this time.

Roberts' dissertation, *Prison Chaplaincy in New Zealand*, appears to be the only written document that intentionally seeks to trace the development of prison chaplaincy in New Zealand. This study was a product of the 1970s and it did not consider issues that concerned Church and State administrators during the following decade such as biculturalism, the rise of Pentecostalism and the distancing that occurred between Ecumenical chaplains and the NCC. Therefore, it is limited in its content and scope. Nevertheless, it has been possible to locate and examine new data that was not considered by Roberts including: biographical, archival, historical and legislative documents as well as personal papers held by key informants. This has enabled the content of this study to be developed beyond the parameters of Roberts' original work.

#### **The Development of the Prison System in New Zealand 1840 – 1952**

Awareness of the historical context is a prerequisite to understanding the nature of the relationship that evolved between Church and State administrators over the provision of chaplaincy services in prisons after 1840. Imprisonment as a means of dealing with criminal offending was introduced from Britain and Europe. Newbold noted that “from

the start, prison development in New Zealand was deeply influenced by 19<sup>th</sup> century European trends particularly those in England” and the understanding that chaplains should be provided for prisons also originated from the same source.<sup>21</sup> Chaplains had served in British prisons prior to 1840 and their role and function were part of the life of colonial prisons after the first penal institutions were built in New Zealand in 1841.

The first settlers in New Zealand included whalers, sealers, runaways, castaways and escaped convicts from the penal colonies in Australia who began to arrive in this country in the late 18<sup>th</sup> century. James Belich noted that

long-term settlers began arriving about 1800: at first they came as isolated individuals, living with Maori as Maori; then in camps killing seals and cutting timber; then, from 1814, in stations of missionaries, shore whalers, timber workers and traders. About 1830, some settlers began clustering into towns or town like entities, and from that time on the settler population ... doubled each decade until the 1870's.<sup>22</sup>

These new immigrants differed from most of their Australian counterparts in that they arrived in New Zealand as free people and not convicts, but nevertheless, they brought instances of criminal behaviour with them.<sup>23</sup> This in turn led to a growing need to control and regulate their behaviour. From 1813 onward, a number of British ordinances gave the colony of New South Wales increasing jurisdiction over British subjects in New Zealand. In 1814, the missionaries Samuel Marsden and Thomas Kendall established themselves in the Bay of Islands and in an attempt to ensure the maintenance of law and order, Kendall was appointed as Resident Magistrate by Governor MacQuarie of New South Wales. The Reverend John Butler succeeded him in this role in 1819. In 1817, the Imperial Parliament in England also passed the Murders Abroad Act which gave British Crown officials the right to deal with homicides committed in New Zealand on the same basis as those enacted on the high seas, even though New Zealand was not considered to be part of the British domain at that time. It was on this basis that Edward Doyle was hanged in Sydney in 1837 for robbery and attempted murder committed in the Bay of Islands. With the exception of Doyle however, the means of enforcing this legislation did not exist and it had little effect.

James Busby became British Resident in 1833 with responsibilities for regulating trade, the conduct of British subjects and apprehending escaped convicts. Once again

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<sup>21</sup> Newbold, G. (2007). *The Problem of Prisons*, Wellington, Dunmore Publishing Ltd, p.22.

<sup>22</sup> Belich, J. (1996). *Making Peoples: A History of the New Zealanders*, Auckland, Penguin Books (NZ) Ltd, p.116.

<sup>23</sup> Lineham, “Notes from Address to Prison Chaplains National Training Event.”

however, Busby had neither the legal power nor the military backing to regulate the affairs of the new settlements.

Prior to 1840, law enforcement in New Zealand was often carried out without legal sanction and settlers tended to self regulate their own communities. In 1833, settlers at Kororareka in the Bay of Islands drew up a set of self policing rules. In 1838, the Kororareka Association established a code of punishment which included fines, tarring and feathering as well as confinement in an old sea chest ventilated with gimlet holes.

Mayhew noted that

when everyone is a pioneer and virtually no-one is a policeman it must be expected that such crime as exists will go largely undiscovered and unpunished. .... There was no recognisable courts organisation until 1841 and until that date such justice as existed was administered by men appointed or elected locally by each group of settlers. It was primitive justice.<sup>24</sup>

In 1840, British sovereignty was established over New Zealand and British systems of law and punishment were given legal sanction and were enforceable in the new colony. The laws of New South Wales were extended to New Zealand which began administering its own legal system in 1841. Courts were empowered to sentence offenders to imprisonment with hard labour in local prisons. In 1842 the Legislative Council assumed responsibility for the administration of justice in the new colony and following the British practice of that time, people convicted of serious crimes were transported to Tasmania. Gaols and lock-ups, however, were provided for lesser offenders in each settled locality and these were administered by the town councils or other local authorities. From 1840 to 1846 the Police Magistracy Service ran the whole of the criminal justice system in New Zealand. Located in the Bay of Islands and Auckland, “they appointed the chief constable and staff, took reports of offences, investigated offences, arrested people, tried people sentenced people and imprisoned people – all rolled up.”<sup>25</sup> The Police Magistracy Service was abolished in 1846 and replaced by Resident Magistrates who continued to carry out the functions of the Police Magistrates except for control of the new armed police forces who operated independently of the judicial system with their own officers and reported directly to the Governors of New Ulster and New Munster.

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<sup>24</sup> Mayhew, P.K. (1959). *The Penal System in New Zealand 1840–1924*, Wellington, Department of Justice, p.1.

<sup>25</sup> Young, S. (2007). Oral Interview, 13 November 2007. Wellington.

Dunn recorded that “the first prisons of which there is any official record were established in Wellington, Auckland and Russell in 1841.”<sup>26</sup> The gaols at Auckland and Wellington were flimsy affairs, being constructed of raupo and toetoe. The early Dunedin gaol consisted of a tent in which intractable prisoners were kept in irons as a means of security. The original prison at Nelson consisted of a single room which was shared both by gaoler and prisoners. The Russell institution proved to be an exception, being of stouter wooden construction. The Wanganui gaol was also built from wood and the local Magistrates adopted the practice of ordering offenders to supply appropriate amounts of timber by way of a fine to be used in its construction. There was no attempt at separate confinement or classification in any of these prisons and prisoners were placed in overcrowded and unsanitary communal cells. In 1842, the local sheriff wrote these comments about the Auckland gaol:

The effluvia rising from these cells was exceedingly offensive, although they were cleaned out every day that the weather will permit of so doing and every precaution is used to ventilate them during the day, but the number of prisoners confined in so small a space renders it inoperative. ... On Wednesday next I anticipate the introduction of from 20–25 debtors, where I am to place them I cannot possibly imagine.<sup>27</sup>

Poor discipline resulted from these conditions and escapes were common. Prisoners were employed on hard labour both within and without the prisons, usually on public works such as building roads, drains and government or public buildings. Prior to 1880, complaints about the conditions in the various gaols were frequent, but money for prison administration was provided only grudgingly and despite a number of enquiries, little effective reform took place. In 1846, the Colonial Administration instituted the Ordinance for the Regulation of Prisons, which had the potential to bring some administrative uniformity by giving the Governor power to declare buildings to be gaols and establishing some basic rules for prison administration and discipline. Mayhew noted however, that:

Correctly administered it had all the ingredients for creating a uniform gaol system throughout the colony and for ensuring that responsible standards were established and maintained. Unfortunately the opportunities it offered were not fully exploited. In many instances no visiting justices were appointed and such regulations as the Governor may have made do not appear to have been implemented.<sup>28</sup>

As a consequence of the New Zealand Constitution Act of 1852, a system of provincial administration was instituted, dividing the country into six and later ten regions, each

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<sup>26</sup> Dunn, J. (1948). “An Enquiry into the New Zealand Prison System 1840 – 80,” Thesis, Master of Arts, Wellington, Victoria University, p.2.

<sup>27</sup> Mayhew, *The Penal System in New Zealand*, p.4.

<sup>28</sup> *Ibid.* p.9.

responsible for running its own affairs, including prisons. In 1858, after yet more criticism from newspapers, visiting justices, politicians and judges regarding conditions in penal institutions, the Department of Justice was created as a separate entity to oversee prison administration. In the same year the Gaolers Act handed official responsibility for prison administration to Provincial Superintendents. Improvements to this situation were slow in forthcoming. Judges of the Supreme Court in 1861, alarmed at the conditions existing in New Zealand gaols, produced a report which criticised conditions and demanded re-organisation and reform. In 1868 a Royal Commission reported on the eleven major gaols and nineteen lockups in existence throughout New Zealand noted that they were overcrowded with insufficient prisoner accommodation. The Prisons Act was passed in 1873, repealing the Ordinance of 1846. Three years later in 1876, Provincial Government was abolished in New Zealand, paving the way for a centralised prison system to be established. Dunn noted that

the Act contains little that is new, and nothing that is exceptional, but it did attempt to do away with the confused tangle of the old laws and replace them with something consistent so that under regulations governing reorganising the prison system, the Inspector was required to report to the government on conditions in the prisons, and see that laws relating to prisons were carried out, as well as rendering the necessary assistance to the Government in initiating and carrying out measures for the proper supervision of prisons and care of prisoners.<sup>29</sup>

In 1878 there was another enquiry into the prison system in New Zealand. The Gaols' Committee was appointed "to inquire into the present state of the gaols of the colony and the improvements necessary to enforce proper classification and discipline."<sup>30</sup> Information for this report was gathered primarily from evidence provided by witnesses under cross examination. The preamble of the report noted that

at present the Government exercises no real control over the gaols and gaol officers. ... Every gaol is ... managed to a great extent according to the views of the gaoler. ... Though the Visiting Justices are most valuable ... as independent and unofficial visitors, it is impossible that they should supply the sort of inspection and control which it is necessary that the Government should keep in their own hands. ... In technical matters and with respect to a great deal of the discipline and conduct of the gaol, the Visiting Justices must necessarily ... be in the hands of the gaoler. ... The first essential step towards a reform in prison discipline and management is an efficient system of Government inspection.<sup>31</sup>

Following the reception of this report by Parliament, a decision was made to appoint an officer to manage the country's prisons. Captain Arthur Hume, a career soldier who had worked as Deputy Governor at Millbank, Portland, Dartmoor and Wormwood Scrubs

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<sup>29</sup> Dunn, "An Enquiry into the New Zealand Prison System," pp. 125-126.

<sup>30</sup> The Gaols' Committee, (1878), Report of the Gaols Committee. *Appendix to the Journal of the House of Representatives*, (AJHR), I.4, 1878, p.i.

<sup>31</sup> *Ibid.* p.i.

prisons in England, commenced duty as the first New Zealand Inspector of Prisons in 1880.

Hume was essentially a conservative who sought to introduce the solitary confinement methods in operation in English gaols between 1863 and 1895, known as the “English System.”<sup>32</sup> During his time in New Zealand however, he “moderated his punitive stance as he came to accept that some offenders could be diverted from future offending.”<sup>33</sup> His administration was responsible for establishing the Probation Service, classification of prisoners and a uniform system of management in New Zealand Prisons. While he was Inspector of Prisons, Hume’s “attitude towards remission of sentences changed completely. Far from being a great error it became one of the main factors in his disciplinary system.”<sup>34</sup> He retired in 1909 and although “a controversial appointment right from the start, he succeeded in bringing order to a system of chaos.”<sup>35</sup>

Until Samuel Barnett’s appointment as Secretary of Justice in 1948, New Zealand penal administration essentially followed the format established by Hume, although there were some changes in policy and attitude towards penal governance during this period. Dr Frank Hay succeeded Hume as the controller of the Prisons Department in 1909, but it was the Minister of Justice Dr John Findlay, who set about modernising the correctional system in 1910. Findlay’s main reformatory tool was the Crimes Amendment Act of 1910 which replaced an emphasis on punishment with that of correctional training and which instituted the use of the indeterminate sentence of correctional training for up to three years.<sup>36</sup> Using the Elmira System as an example, Findlay stated that the three principles of the “new method”<sup>37</sup> were: “to restore self respect in criminals; to identify the presenting causes of an offence; and to prescribe treatment that would stop re-offending.”<sup>38</sup> Findlay’s initiatives were important, in that they sought to replace the punitive emphasis of the Hume administration with one that was reformatory in its intent. Findlay’s new philosophy aimed to: “restore self respect in

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<sup>32</sup> Matthews, C. (1923). *Evolution of the Prison System*, Wellington, W.A.G. Skinner, Government Printer, p.3.

<sup>33</sup> Newbold, *The Problem of Prisons*. p.29.

<sup>34</sup> Mayhew, *The Penal System of New Zealand*, p.44.

<sup>35</sup> Newbold, *The Problem of Prisons* p.34.

<sup>36</sup> Webb, P.M. (1982). *A History of Custodial and Related Penalties in New Zealand*. Wellington, P.D Hasselberg, Government Printer, p.17, defines an indeterminate sentence as: “a term which implies that the criminal judge imposes a penalty or measure without at that time fully determining its duration.”

<sup>37</sup>The Elmira Reformatory was established in New York State in 1875. It used an indeterminate sentence with a maximum of ten years. It was administered through a mark system and its whole aim was to develop minds and bodies arrested in their growth so that they might become more susceptible to moral influences that good work habits. and correct thinking might be established

<sup>38</sup>Newbold, *The Problem of Prisons*, p.35.

criminals; identify the precipitating causes of an offence; and ... prescribe treatment that would stop reoffending.”<sup>39</sup>

Soon after the Crimes Amendment Act was passed, Findlay lost his seat in a general election and in 1912, Findlay’s Under Secretary Charles Matthews, became Inspector of Prisons. He was more conservative than Findlay but he still implemented Findlay’s intended reformatory emphasis, albeit at a slower rate. Matthews still believed that prisoners should be treated as responsible human beings and that they could be reformed while in prison by supplying them with healthy outdoor work which at the same time might “yield a considerable monetary return to the State to relieve the burden on the tax payer for prisoners’ upkeep.”<sup>40</sup> It was during this era that prison farms and camps such as those at Waikeria, Waikune, Hautu, Rangipo and Wi Tako were established and “in this area at least the domination of the prison system by English ideals was reduced.”<sup>41</sup> Other achievements of the Matthews era were the introduction of Borstal Training, again influenced by the Elmira system; the classification of the country’s twelve prisons to allow them to provide specialised treatment for certain types of criminal and the expansion of the probation system to apply to all offenders and not just former prisoners.

Charles Matthews died in 1924 and he was replaced in 1925 by Controller General of Prisons B.L. “Bert” Dallard. In some circles it was felt that Matthew’s experiments had gone too far and that “prisoners were being mollycoddled.”<sup>42</sup> Further, at the time of Dallard’s appointment, the post First World War economy was erratic and many government officials felt that a tighter control on public spending was required. Dallard, with his conservative views and more authoritarian approach seemed to be the ideal person to become Matthew’s successor. Newbold was of the opinion that Dallard’s overall impact on prisons was “minor” and

his 24 year tenure is remembered more than anything else for its austerity, conservatism and uneventfulness. Dallard’s parsimony had however endeared him to his employers in the first place and ... it is significant that in 1933, at the height of the Depression, Dallard was put in charge of the Department of Justice as well as of prisons.<sup>43</sup>

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<sup>39</sup> Newbold, *The Problem of Prisons*, p.35.

<sup>40</sup> Missen, E.A. (1971). “A Brief Review of New Zealand Penal History,” Wellington, Department of Justice, p.13.

<sup>41</sup> Ibid. p.13.

<sup>42</sup> Newbold, *The Problem of Prisons*, p.40.

<sup>43</sup> Ibid. p.41.

Because of the collapse in the New Zealand economy caused by the 1930's depression and a subsequent preoccupation with the events of World War II, public interest in prisons was minimal. After the end of World War II, this situation began to change as conscientious objectors such as Ormond Burton began to speak out about the harsh conditions they had encountered while they were in prison. Burton had been imprisoned for anti war activities and in 1945 he published the book *In Prison*, which was strongly critical of the austerities that had been set in place under Dallard's administrative regime.<sup>44</sup> In 1947 and 1948, prisoner demonstrations took place over poor food and other conditions and these were given significant publicity in the press. As a consequence, penal reform became a matter of public concern once more and although Dallard refused to be swayed by this growing tide of public opinion, he resigned in 1949 to enter retirement.

This brief historical outline of the development of prisons prior to 1952 provided the context in which prison chaplaincy evolved. It is worth noting that while Newbold set out a thorough exposition of the development of prisons in New Zealand, he only mentioned the role of prison chaplaincy once in a reference to capital punishment. Yet chaplains served in penal institutions in this country from 1841. While their contribution may have been overlooked by writers such as Newbold, it should not be ignored as a factor for consideration in any comprehensive historical study of New Zealand Prisons.

Accordingly, this study will now proceed with its main purpose, which is to trace the development of prison chaplaincy from its origins to the current situation whereby prison chaplaincy services are administered under the auspices of the PCSANZ. It will reconsider Roberts' contention that "the ministry of clergyman under this arrangement was limited" and assert that while there were considerable variations in consistency and standards of service during this period, there were also occasions between 1840 and 1952 when chaplains were able to minister to prisoners and staff in a manner that was in accordance with their "priestly, educational, pastoral" and "prophetic roles."<sup>45 46</sup>

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<sup>44</sup> Burton, O. (1954). *In Prison*, Wellington, A.H. and A.W. Reed.

<sup>45</sup> Roberts, J. "Prison Chaplaincy in New Zealand." pp. i-ii.

<sup>46</sup> Davies, J.G. (1969). "Ministry," Allan Richardson, (Ed.), *A Dictionary of Christian Theology*, London, SCM Press Ltd, p.215, notes that "the Ministry of the Church has always been regarded as one with that of Christ ... The fundamental characteristics of this, as they are expressed in the New Testament are authority, mission, service, preaching, teaching and oversight."

## Prison Chaplaincy in New Zealand under the Provincial Government

The New Zealand Government Blue Books of Statistics (Blue Books) provided some significant clues about the early functioning of prison chaplaincy in the local colonial prisons. From 1842 onwards, they included a section on “Gaols and Prisoners” for which each gaol was required to provide records demonstrating how religious observance was maintained. A perusal of the regulations governing the functioning of each institution indicated that there was little consistency or conformity in the provision of religious services. For instance, the rules and regulations for the gaols at Nelson and Russell made no mention of this matter, while those for Auckland and Wellington outlined specific requirements in this respect.<sup>47</sup>

Moreover, there often appears to have been a rather perfunctory attitude displayed to the reporting of statistics. Three questions were asked of each gaol:

Is there a chapel in the prison or suitable apartment for the performance of religious services? How are the prisoners separated therein?

What duties are performed by the chaplain? What provision is made for the instruction of the prisoners; and are they supplied with Bibles and other suitable books?

Are Dissenting Ministers allowed to have access to the prisoners; and if so, at what times and under what restrictions?<sup>48</sup>

The statistical returns of the gaols at Russell, and Wellington, revealed a similarity of content with comments such as “No chaplain. No provision for instruction of the prisoners” and “Dissenting Ministers<sup>49</sup> are allowed to visit at reasonable times” being recorded in the returns for each institution in successive years.<sup>50</sup> The records for Auckland and Wellington, gaols on the other hand, were much fuller and they provided some understanding of religious service provision in that prison.<sup>51</sup> Daily prayers, weekly Divine Service and other religious provisions were carried out at these institutions as follows:

Prisoners are then to be assembled and their names called over, and a portion of scripture and prayer will be read by the Gaoler or such other person as the Sheriff shall select.

After prayers the prisoners will take their breakfast.

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<sup>47</sup> Public Records Office, London, Colonial Office New Zealand. (1844). *Blue Books of Statistics*, (Blue Books). pp. 95-7, pp. 102-103, p. 105, and 1847-8, pp. 104-109.

<sup>48</sup> Ibid. p.106.

<sup>49</sup> Cross, ed. p.963 describes dissenters or non conformists as being “those who agreed with the doctrines of the Church of England, but refused to conform to its discipline and practice, particularly in matters of ceremony.”

<sup>50</sup> Blue Books. pp. 99, 104.

<sup>51</sup> Ibid. pp. 95-97.

On Thursdays the hard labour men are to leave off work at four in order to attend the visitation of the clergyman.

Each prisoner is to be provided with a Bible and a prayer book.

Each prisoner unless specifically excused is to attend Divine Service at appointed times and to behave himself with the greatest propriety.

The Officer on duty is to attend upon the Clergy during their visit to the gaol.<sup>52</sup>

David Gee recorded that similar regulations were instituted for the Lyttelton Gaol which was opened in 1860 and they also appeared to have been adopted for other new gaols that were established within New Zealand prior to 1880.<sup>53</sup> It is worth noting that as early as 1842, the early colonial administrators sought to gain information on religious observance in prisons by requiring statistical returns to be filed for this purpose.<sup>54</sup> If this information had not been available for this study, it would have been more difficult to understand the nature of prison chaplaincy provisions in New Zealand prisons in the 1840's. The data provided strong indications that the regulations for attending to the spiritual needs of prisoners was adhered to in Auckland, defaulted from entirely at Kororareka and adapted because of circumstances, in Nelson.

Dunn and Mayhew provided amplification and support for Roberts' findings regarding chaplaincy provision to prisons prior to 1880. For instance, Dunn and Mayhew both recorded that there was no chapel available at the Auckland Prison, but from the time of its construction, clergymen visited the institution regularly and on Thursday afternoons, they held Bible classes in cells that were made available for this purpose. Prisoners finished work early at 4.00 p.m. to attend these gatherings. On Sundays the Colonial Chaplain read services, preached and heard prisoners read the Bible. Attendance was compulsory for all Protestants. Prayers and Bible readings were read at the Auckland gaol each morning at 7.00 a.m. and again at 5.45 p.m. in the evening. If a clergyman was not available for this task it was undertaken by one of the gaolers or another suitable person appointed by the sheriff. The Catholic Priest visited each Saturday and the Presbyterian Minister also visited occasionally. There appeared to be no restriction on Dissenting Ministers visiting prisoners provided that they did so at reasonable times. Prisoners were allowed to have their own Bibles, prayer books and other appropriate

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<sup>52</sup> Ibid. pp. 95-97. 1848. pp.104-108.

<sup>53</sup> Gee, D. (1975). *The Devil's Own Brigade*, Wellington, Millward Press Ltd. p.i.

<sup>54</sup> Contemporary chaplains and administrators operating within the requirements of today's contracting environment should note that there is nothing new about the necessity of providing statistical returns to Government authorities detailing the conduct of religious observance. These obligations were present in 1842.

literature. During worship services, prisoners were classified and arranged in separate seating for females, un-convicted prisoners, petty larceners and felons. Ironically this was one of the few times that prisoners were ever classified for any purpose during this period.<sup>55</sup> Roberts noted that there were also other times when prisoners could seek the assistance of clergy and that this would often happen near the time of the prisoner's discharge when they could: "seek advice about family, employment and other matters."<sup>56</sup> Apart from these visits, however, clergymen did not seem to see much of the prisoners except during Divine Service on Sundays.

At Auckland, one chaplain attempted to move beyond the provision religious services and Bible classes. In 1842, he recommended that a school be started at the gaol for those who could not read or write. This recommendation was supported by the Sheriff who was prepared to make an hour available for such classes in the evening.<sup>57</sup> The scheme appeared to have had the support of the Governor, but ultimately it was never put into operation. It demonstrated however, that at least one chaplain was prepared to think about exercising his role beyond that of leading public worship and Bible classes. Nevertheless, it is also worth noting that there was no record of these visiting clergymen lending their support to the criticism of conditions contained in the Supreme Court Judges Report of 1861. The exercising of their prophetic voice was conspicuous by its silence. In 1861, agitation for penal reform came from the Judiciary, not the Church.

In 1844, the Nelson Gaol received ministry from the local Anglican curate who held Divine Services in the gaoler's room on Friday nights. Prisoners were also provided with Bibles and New Testaments.<sup>58</sup> This arrangement ceased after the curate was moved to another appointment, but prisoners were then allowed to attend worship at local churches on Sundays.

In Wellington, initially there were no regular chaplains, books or Bibles, but prisoners were visited by clergy from various denominations. Dunn recorded that they ceased work at 2.00 p.m. on Wednesdays for religious instruction.<sup>59</sup> Roberts noted that a "Mr Morpeth attended Wellington, under the direction of the visiting Justices to hold a Bible Class for those who chose to attend" but attendance at these classes was not

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<sup>55</sup> Dunn: "An Enquiry into the New Zealand Prison System," pp. 12-13, 15-19.

<sup>56</sup> Roberts, "Prison Chaplaincy in New Zealand," p.7.

<sup>57</sup> Mayhew, *The Penal System in New Zealand*, p.8.

<sup>58</sup> Blue Books 1844, p.101.

<sup>59</sup> Dunn, "An Enquiry into the New Zealand Prison System," p. 29.

compulsory.<sup>60</sup> By 1872 Divine Service was held on Sundays and sometimes on other days. These services were led by local Anglican priests, the Reverend C.S. De Castro and Archdeacon Arthur Stock, who commenced these duties in 1856 and conducted them for twenty years and also Roman Catholic Priests, Fathers Petitjean, Kearny, Kerrigan and O'Reily. There was no ecumenical co-operation at this stage, however, and the clergy of the two denominations officiated at these worship occasions at different times and independently of each other. On Saturday afternoons, Mr David Hall the local Anglican city missionary, attended the prison and addressed the prisoners. There was, however, a negative aspect to these activities. As in Auckland, attendance at Divine Worship for Protestants was compulsory and any breach of this requirement involved punishment. Mayhew recorded that in 1874, on two occasions, William Ashton was placed in solitary confinement in a dark cell and fed only bread and water for refusing to take part in church services and that on another occasion he was placed in irons until he decided to attend.<sup>61</sup> In a more humane vein, Donald MacKenzie also noted that in 1850, O'Reily intervened on behalf of prisoner Jenkins after he had received 50 lashes for an assault on another prisoner requesting that: "Jenkins be forgiven promising to be good in future."<sup>62</sup>

Mayhew noted that the role of the chaplain must have been difficult in the overcrowded women's division of Christchurch Prison, where most of the prisoners were prostitutes with very high recidivism rates. The prisoners did not seem to be interested in improving themselves and they "did not care for the books in the prison as they are all of a religious character."<sup>63</sup>

In the early 1860s, the Otago Provincial Government authorised chaplains to enter the Dunedin Gaol. As a consequence, in 1866, John A. Torrance was appointed as the first prison chaplain to that institution, a position which he held for the next ten years. Torrance's chaplaincy duties were also carried out to the Dunedin Hospital and Mental Asylum in addition to the gaol. He was a printer by trade, an elder of the Presbyterian Church, and not an ordained minister. Funding to pay for his stipend of 225 pounds per year came from voluntary subscription, as did the finance to cover the multitude of welfare work with which he became engaged. He led worship each Sunday at the gaol

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<sup>60</sup> Roberts, "Prison Chaplaincy in New Zealand," p. 6.

<sup>61</sup> Mayhew, *The Penal System in New Zealand*, p. 30.

<sup>62</sup> MacKenzie, D.F. (1980). *While we have Prisons*, Auckland, Methuen Publications (N.Z.) Ltd. p. 62.

<sup>63</sup> Mayhew, *The Penal System of New Zealand*, p. 32.

and also the Hospital and Mental Asylum. Prison visits were not just confined to the old gaol in Stuart Street, but also to the prison hulk “Sarah and Esther” moored at the Otago Peninsula. As gaol chaplain he was required to attend executions and offer spiritual comfort to the condemned, although these were few in number. Today, much of Torrance’s ministry would be regarded as being community work: helping released prisoners into employment, providing money for them to return home and giving donations of food and clothing to their families. His methods were simple and uncomplicated and his object was to give people a chance to set their lives in order. If he could encourage them into the Christian Faith at the same time, that was a bonus.

Gordon Parry noted that

Torrance was fortunate to have strong support from the business community he was a man of exceptional quality. Although an elder of Knox Church and a staunch supporter of all Presbyterian causes, he made it clear that sectarianism never affected his work. Where there was a need he tried to deal with it, no matter what religious profession (or lack of it) the individual happened to have. Evidence of this came a few years down the track when a Roman Catholic Priest expressed gratitude for the help Torrance had regularly given to my people.<sup>64</sup>

Torrance was supported by the Gaol Chaplain’s Fund Society in his ministry, but his position was terminated after the demise of the Provincial Government. In 1877 at a public meeting in Dunedin, The Patients and Prisoners’ Aid Society was established with

the object as stated in the constitution to employ an agent to encourage and instruct by means of religious services and otherwise the inmates of Dunedin Hospital Gaol and Lunatic Asylum, and to aid persons discharged from these institutions to make a fresh start in life.<sup>65</sup>

The Dunedin Patients and Prisoners’ Aid Society became the forerunner of a cluster of voluntary organisations of a similar nature that were set up in other parts of New Zealand in the 1880’s and which later grew into the New Zealand Prisoners’ Aid and Rehabilitation Society. Some local Prisoners’ Aid Societies continue to maintain close links with prison chaplains who, in a number of instances, continue to serve on their management committees.

By 1868, there was advocacy for a recognised national prison chaplaincy service, when the Royal Commission on Prisons took a forward looking view and supported the

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<sup>64</sup> Parry, G. (2002). *Patients, Prisoners and Progress*, Otago. Patients and Prisoners’ Aid Society Otago Incorporated. pp. 4-5.

<sup>65</sup> Chisholm, J. (Ed.), (1898). *Memorials of John A. Torrance*, Dunedin, N.Z. Bible Tract and Book Society. p.8.

principle of religious instruction together with the appointment of official chaplains in penal institutions with the recommendation that

Religious services should be performed and given to prisoners according to settled rules, by duly appointed chaplains, one being a Protestant clergyman and the other a Roman Catholic priest, the Protestant clergyman of that church or denomination to which the majority of Protestants of the Colony belong. The chaplains should be regular officers of the establishment, with defined duties and privileges.<sup>66</sup>

It was to be another eighty years, in 1953, before this intention was realised under the administration of Secretary for Justice Barnett. Nevertheless, it is worth noting that, as long ago as 1868, a Royal Commission on prisons expressed awareness about the weaknesses and inconsistencies that could arise out of an arrangement whereby local clergy were appointed as prison chaplains and stated that it was prepared to advocate for the development of a centralised Prison Chaplaincy Service. The nationalisation of the Prison Service under Hume's administration could have provided an opportunity for the recommendations of 1868 Royal Commission to be implemented. Hume believed that the main role of prisons was punishment and on account of his antipathy towards religion, he was not interested in establishing a Chaplaincy Service in prisons. The views of those early administrators should not be forgotten whenever current State administrators advocate a return to prison chaplaincy provision by clergy working in community based appointments.

Ten years later in 1878, the Gaols' Committee undertook another enquiry into prison conditions. Most of the key informants who spoke to this committee seem to have worked in the Wellington,, Lyttleton, Napier and Dunedin gaols. The contents of this report were significant in that they cited evidence from several chaplains who were prepared to use the Enquiry as a vehicle for publicising their views and perspectives and they also provided an indication of the duties required of prison chaplains at that time.

Ministers of religion mainly visited the prisons to lead worship services. Stock observed that he also called on sick prisoners, and attended to those sentenced to death as well as any others who sent for him. When Stock commenced his ministry at the prison there had been a roster under which all denominations would undertake pastoral duties in turns, but by 1878 he was the only clergyman who provided this ministry. At Wellington,, arrangements for worship were made for "only two denominations,

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<sup>66</sup> Ibid. p.18.

Catholic and Protestant.”<sup>67</sup> In this case Protestant meant Church of England and all “Non Conformist” prisoners. The one Jew attended the Protestant service and “sometimes Archdeacon Stock officiates and sometimes Mr De Castro.”<sup>68</sup> Lack of available time for a third service was given as a reason for not providing a separate worship service for “Non Conformists.” “The time is fully occupied by Roman Catholic Priests and others.”<sup>69</sup> Attendance at these services was compulsory because “Prison Regulations say that prisoners shall attend Divine Service.”<sup>70</sup> Prisoners were not permitted to change their denominational affiliation once they had entered the prison.<sup>71</sup> Stock observed that: “I think they are glad to come as a relief to the monotony.”<sup>72</sup> The order of this service was liturgical in format. “It is a precisely similar service to what you have in the Cathedral” and the sermon generally occupied from “half past 11 to 12.”<sup>73</sup> There was a small organ for music and the prisoners made responses and sang hymns and chants during the service.

Worship services for both Catholic and Anglican prisoners were held in “the same place a small passage.”<sup>74</sup> Father Kearny commented to the Commission that the Catholics would like to have “an altar or permanent place where the sacrifice might be offered” and that by 1878 there was no celebration of the Mass in Wellington Prison. “A few prayers are read and that is all.”<sup>75</sup> Stock made a similar observation: “Divine worship is held in a corridor where all kinds of work is done. There is no sense of dignity or reverence attaching to this place.”<sup>76</sup> Female prisoners could not attend these services as the location would bring them into close association with their male counterparts. Father Kerrigan also noted that there were occasions when illness or other outside pastoral duties prevented attendance of the Catholic Priest on Sundays; he did not think the prison staff mistreated prisoners and he would like to be able to gain access to the prison to meet with prisoners during week days “to speak to them on religious matters and give them advice and encouragement.”<sup>77</sup>

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<sup>67</sup> The Gaols’ Committee Report, (1878). AJHR, I.4. p.7.

<sup>68</sup> Ibid. p.7.

<sup>69</sup> Ibid. p.7.

<sup>70</sup> Ibid. p.7.

<sup>71</sup> Ibid. p.7.

<sup>72</sup> Ibid. p.33.

<sup>73</sup> Ibid. p.7.

<sup>74</sup> Ibid. p.29.

<sup>75</sup> Ibid. p.29.

<sup>76</sup> Ibid. p.32.

<sup>77</sup> Ibid. p.30.

The Gaols' Committee report for the Dunedin Gaol indicated that religious instruction was provided by the Reverend Mr. Harper or Mr. Turnbull and the Catholic Priest attended "once a fortnight."<sup>78</sup> Mr Sherrin commented that he did not know whether the prisoners liked the worship services or whether they had any effect on them. The chaplain's report signed by Torrance and provided in the appendix to the Gaols' Committee report, provided additional information. Divine Service was held every "Sabbath" and when practicable, a choir composed of prisoners "led the psalmody" on religious holidays. An organ accompanied the singing, religious books and other reading material was supplied to prisoners and a night school conducted by an educated prisoner under the supervision of the chaplain provided literacy tuition and "special studies, such as languages, phraseography, engineering etc."<sup>79</sup> The newly formed Patients and Prisoners' Aid Society was already supporting the chaplains by supplying welfare services to the Dunedin Gaol.

The Report also provided statistics on the denominational affiliation of prisoners held in the Lyttleton gaol for the three years prior to December 1877: "Church of England 189; Roman Catholics 73; Presbyterians 44; Wesleyans 11; others 23."<sup>80</sup> Church services were conducted on a rotational basis by Anglican, Wesleyan and Presbyterian clergy as well as a Catholic priest who was unable to attend on the last Sunday of the month because of parish commitments. Anglican and Catholic clergy visited prisoners on Saturday afternoons and the Presbyterian and Wesleyan ministers undertook interviews with prisoners on week days after working hours. There was no chapel in the prison and church services took place in the mess room. Writing materials, Bibles, prayer books, and other literature were provided for prisoners. It was noted that "special cases are brought privately to the notice of the clergymen to counsel and advise."<sup>81</sup> Noting submissions by the clergymen and prison officers, the Report commented:

although every attention is paid to their ministrations there seems to be artfulness, craftiness etc., underlying the actions of the prisoners in general. However, bright spots do appear at times and instances of reformation are apparent in some few cases, particularly those not sunk very deep in vice. ... Prisoners appreciate the church services – with the exception of a few dogged ones – for the sake of the break in their monotonous existence.<sup>82</sup>

The Gaol's Committee report indicated that a range of chaplaincy services were being provided in New Zealand prisons by 1878 and although these may have varied from

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<sup>78</sup> Ibid. p.46.

<sup>79</sup> Ibid. p.76.

<sup>80</sup> Ibid. p.70.

<sup>81</sup> Ibid. p.70.

<sup>82</sup> Ibid. p.70.

prison to prison in the manner in which they occurred, it was obvious that there were prisons where prison chaplaincy practice was not just confined to leading Bible classes and conducting services of worship. Roberts' conclusion that "ministry ... under this arrangement was a limited one,"<sup>83</sup> needs to be reconsidered in the light of the extra evidence that is now available. While there were locations where prison chaplaincy service provision was limited by clergy availability and the prison environment, there is also evidence to show that in gaols such as Wellington, and Dunedin, where force of personality and commitment to this undertaking were coupled with sympathetic co-operation from the prison authorities, sacramental and pastoral ministries did take place.

The pioneering work of chaplains such as Stock, Petitjean and Torrance in particular, should be noted in this respect and their ministries demonstrated instances of involvement in sacramental observance, religious counselling, literacy tuition, pre-release preparation and intervention on behalf of prisoners over matters of injustice. In carrying out these actions, they established a tradition which demonstrated that meeting prisoners' spiritual needs required a more holistic approach to prison chaplaincy than just leading worship services and conducting Bible classes. There were short comings and inconsistencies in prison chaplaincy service provision between 1840 and 1880, but these need to be set in the context of expectations of clergy roles that existed at that time.

### **Prison Chaplaincy and Maori Spiritual Issues 1840-1880**

Consideration of whether the development of bicultural awareness had any significant impact on the development of prison chaplaincy services is included among the goals and objectives of this study. According to Matt Hakiha, Maori are "increasingly and disproportionately represented – 62% by year 2010 – in New Zealand prisons."<sup>84</sup> He also noted that:

For years, Maori in general and their respective tribal leaders ... have cried out, "*Let Maori take care of their own.*" This statement should be taken in its broadest sense, including legislation, policy, consultation, programmes, practices and appropriate and adequate resources.<sup>85</sup>

It is therefore important to consider whether prison chaplaincy pastoral practice has been able to address the spiritual needs of Maori prisoners in a manner that is

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<sup>83</sup> Roberts, "Prison Chaplaincy in New Zealand," pp. 40-41.

<sup>84</sup> Hakiha, M, (2004). "What is the State's Role in Indigenous Justice Processes." In Zehr, H. and Toews, B. (Eds.), *Critical Issues in Restorative Justice*, New York, Criminal Justice Press, p.356.

<sup>85</sup> Ibid. p. 257.

appropriate for them. In order to make this assessment at a later stage in this study, it is first necessary to understand Maori attitudes to prisons from an historical perspective and gain an appreciation of why Maori were averse to the use of imprisonment as a means of punishment.

Prior to the arrival of the British settlers, Maori society was founded on its own customary system of law and although there may have been some tribal variations there was also a commonly accepted basis for ensuring acceptable behaviour and conduct. Moana Jackson noted that: “its bases, constructs and methods of application were naturally quite different to the state centred models of Western jurisprudence. However, a system of social control and dispute resolution did exist and Maori people recognised it as a system of law.”<sup>86</sup> Furthermore,

the traditional Maori ideals of law had their basis in a religious and mystical weave which was codified into oral traditions and sacred beliefs. They made up a system based on a spiritual order which was nevertheless developed in a rational and practical way to deal with questions of mana, security and social stability. Like all legal systems it covered both collective and more specifically individual matters.<sup>87</sup>

According to Jackson, causes of criminal offending were understood within the same philosophical framework that shaped the laws themselves with anti social behaviour resulting from an imbalance in the spiritual, emotional, physical or social well being of an individual or whanau.<sup>88</sup> The causes of this imbalance and the motives for offending had to be fully considered and a process of restoration put into effect if any offending behaviour was to be resolved. In this belief system there was an emphasis on group rather than individual concerns, with the rights of an individual being indivisible from the welfare of his whanau, hapu or iwi. Reciprocal obligations were tied to the precedents handed down or shared by the ancestors and these established clear patterns of social regulation. Every human was part of an inter-connectedness which drew life and strength from Papatuanuku the earth mother and rules of conduct and sanction were simply part of the process of maintaining this balance. Within Maori systems of maintaining social order, the rehabilitation of a person or group was as important as punishment.

John Pratt also indicated that the regulation of Maori society provided sanctions for actions that were also considered to be inappropriate in European jurisdictions, such as

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<sup>86</sup> Jackson, M. (1988). “The Maori and the Criminal Justice System: A New Perspective: He Whaipaanaga Hou,” Wellington, Department of Justice, p.37.

<sup>87</sup> Ibid. p.39.

<sup>88</sup> Ibid. p.39.

rape, murder and theft.<sup>89</sup> In addition, however, infringement of tapu would be strictly sanctioned in order to prevent offended ancestors from taking revenge, as would religious practices such as sorcery, while behaviours such as adultery (puremu) and trespass, which would be understood in a European context as civil matters, could also be dealt with under this jurisdiction.<sup>90</sup>

The processes of dealing with these imbalances usually took the form of a hearing on a marae where the issue of concern was investigated, attempts were made to restore the balance that had been disturbed and wherever possible, redress was made to the victim for harm injury or damage that had taken place. The nature of this redress would depend on the situation concerned. There could be some form of compensation (utu) and also the provision of mediation to remove the causes of tension. Other offences, including some of those involving a breach of tapu, could be seen as being sufficiently serious to involve the taking of life. In this respect Pratt observed that:

the interests of the victim and his or her family or tribe were **central** to the administration of justice. Indeed the victim's "right" to justice could be handed down from one generation to another and could be pursued against the wrong doer and his next of kin or tribe. Hence the importance attached to dispute proceedings which might last for days while a resolution was being negotiated. Here as well, the justice system did not exist in isolation from the rest of society (as with the elitism and professional dominance to be found in the European model) but as completely integrated within it, rooted in the everyday experiences of Maori people.<sup>91</sup>

Jackson acknowledged that the Maori system of social regulation did not always function according to its ideal intentions and there were occasions of unresolved disruption when he observed: that "the laws of the Maori did not ... prevent all violence and outbreaks of war just as the Pakeha law has not done in Western history. They did provide, however, a basic framework which ensured that Maori society could function in an ordered way."<sup>92</sup>

In the eighteenth century an influx of European settlers began to arrive in New Zealand and the onset of colonisation brought with it an increase in lawlessness and strained relationships between Maori and Pakeha as the settlers failed to comply with native laws (Tikanga Ture) and engaged in dubious land sales that robbed Maori of their heritage. As a consequence, the balances that effected the functioning of Maori society were quickly disrupted. Jackson commented thus: "the early Pakeha settlers ridiculed

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<sup>89</sup> Pratt, J. (1992). *Punishment in a Perfect Society*, Wellington, Victoria University Press, p.40

<sup>90</sup> Ryan, P.M. (2008). *The Raupo Dictionary of Modern Maori*, North Shore, Penguin Group, p.305, defines "tapu" as "sacred, forbidden, confidential, taboo."

<sup>91</sup> Pratt, *Punishment in a Perfect Society*, p.35.

<sup>92</sup> Jackson, "The Maori and the Criminal Justice System," p.43.

the efficacy of the spiritual powers, the missionaries condemned the philosophy which underpinned them, and the colonial government suppressed the sanctions and institutions which gave force to them.”<sup>93</sup>

In 1834, as a response to the threat of French encroachment into New Zealand, 234 northern chiefs and the British Crown signed the Declaration of Independence, which declared New Zealand to be an independent state that looked to the King of England to become its protector. Under this agreement, northern iwi were clearly mandated “to take control of their own affairs, both at a micro and a macro level.”<sup>94</sup> In 1840 Treaty of Waitangi promised “Maori people the status of British subjects – a formal commitment which was unusual in British practice at that time.”<sup>95</sup> Hakiaha noted that: “the Treaty promised protection of Maori customs and cultural values and the rights of Maori to possess and control that which is theirs,” including “the ability ... to develop and establish their own community jurisprudence independently of the State.”<sup>96</sup>

After 1840, a system of courts was established by the Ordinances of 1841 and 1842 within the growing settler communities. Justices of the Peace were appointed and a Police Magistrates Court and Supreme Court were instituted. Hastily constructed gaols followed these developments, but for a relatively short period of time Maori and British law enforcement systems co-existed alongside each other. Belich observed that “the advent of the State did receive substantial Maori free ‘concurrence’” and there was

acceptance of the agents of the state – governors, magistrates, police and others inside and to some extent outside the main European settlements. British law and the machinery of state often received a surprisingly enthusiastic reception among Maori from 1840 right into the 1860s.<sup>97</sup>

In 1844, Governor Fitzroy promulgated the Native Exemption Order, which recognised and formalised the principle of utu or compensation for injured parties in court proceedings. In criminal cases other than rape and murder, Maori offenders were freed on payment to the victim of a sum of twenty pounds. “Those convicted of theft could avoid a prison sentence by paying compensation to the victim of four times the value of the goods stolen.”<sup>98</sup> This principle was extended to assault cases by authorising the payment of half the fine to the victim. No Maori could be imprisoned for debt. Pakeha

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<sup>93</sup> Ibid. p. 44.

<sup>94</sup> Hakiaha, “What is the State’s Role in Indigenous Justice Processes?” p. 355.

<sup>95</sup> Orange, C. (1987) *The Treaty of Waitangi*, Wellington, Allen and Unwin Ltd. p.32.

<sup>96</sup> Hakiaha, “What is the State’s Role in Indigenous Justice Processes?” pp. 355-356.

<sup>97</sup> Belich, *Making Peoples*, p.196.

<sup>98</sup> *The Roper Report*, p. 11.

offenders as well as Maori who were detached from their hapu continued to be transported or hanged.

In 1846 Governor Grey appointed resident magistrates who were assisted in some instances by Maori assessors chosen by local chiefs. Initially, this strategy allowed for the partial achievement of dispute settlement through an amalgamation of British law and Maori methods of social control. In 1852, the New Zealand Constitution Act demonstrated a willingness by legislators “to allow Maori and non Maori the ability to give effect to a parallel bicultural legal system.”<sup>99</sup> Over the next decade, the implementation of the two approaches to the administration of justice continued, but they depended largely on the attitudes of the local magistrates for their implementation. The ever growing influence of increasing numbers of Pakeha settlers entering New Zealand, together with their desire to acquire larger amounts of land, meant that the institutions of Maori law and general social stability were rapidly subsumed by the dictates of the settler government. Commenting on this situation, Hakiha observed:

These three documents – The Declaration of Independence, The Treaty of Waitangi and the New Zealand Constitution Act – were never given the opportunity to flourish. They were violated, breached or left dormant, never realising their full potential.<sup>100</sup>

The *Roper Report* described how the outcomes of this situation included “deep seated notions of racial and cultural superiority on the part of the settlers” which “worked against opportunities to include Maori in the mainstream of the judicial process, so setting in place the basically mono-cultural institutions of today.”<sup>101</sup> Jackson also observed:

Within this context, any notions of Maori authority were to be supplanted by a mono-culturalism which assumed that the Maori would willingly accept the imposition of English institutions and by a racism which believed they were not really competent to share in the administration of those institutions. In effect, this meant that the Treaty reference to British rights was to be restrictively construed to deny Maori participation and authority both in the development of law and the machinery of administration. Any possibility of retaining Maori autonomy or establishing complementary legal systems was therefore effectively undermined by the racial attitudes which in practice overwhelmed the ideals of the missionaries and the wishes of the Maori.<sup>102</sup>

In 1877, Chief Justice Prendergast created a legal reinforcement for these attitudes of cultural and racial superiority held by the early colonial settlers, when he declared that the Treaty of Waitangi “was a legal nullity because it had not been incorporated into

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<sup>99</sup> Hakiha, “What is The State’s Role in Indigenous Justice Processes,” p.356.

<sup>100</sup> Ibid. p.356.

<sup>101</sup> The *Roper Report*, pp. 9-10.

<sup>102</sup> Jackson, “The Maori and the Criminal Justice System,” p.49.

domestic law.”<sup>103</sup> This legal decision meant that the Treaty of Waitangi had no legal standing or significance in the work of Government departments, including prisons, for meeting the cultural aspirations of Maori and Maori rights were ignored in favour of Pakeha interests. This situation was to remain until 1988 when the State Sector Act provided for a commitment to the implementation of biculturalism in Government Departments.

In the 1840s and 1850s, Maori leaders regarded the use of imprisonment as a sanction within the colonial judicial system as being “a degrading, inappropriate and pointless method of punishment” and there was often “considerable resistance to surrendering their people to custodial methods of punishment.”<sup>104</sup> While much offending by Maori was usually dealt with by way of the principles espoused in the Native Exemption Order of 1844, historical records show that some Maori were imprisoned from the outset in the first gaols that were built in New Zealand. For instance, the Blue Books of 1842 and 1844 revealed that in Auckland, Wellington, and Nelson prisons, “black or coloured people” were already among those who were being held in custody.<sup>105</sup> Further, there was also some evidence to show that on some occasions, Maori prisoners were treated more harshly than their Pakeha counterparts and little attention seemed to have been given to the unique perspectives of Maori social, physical and spiritual needs. For instance, Dunn cited an 1863 judge’s report on gaol discipline to describe treatment of Maori prisoners:

Three Maoris have died from working too hard, and when sick they are compelled to lie on the boards, waiting for the doctor. Sometimes they are sent to work and sometimes to hospital, whence they are taken to their graves. ... I have seen a Maori treated in a more severe manner than I ever saw any other man treated. He was left abroad on the stone heap all day, trying to break stones. He was suffering very much from illness.<sup>106</sup>

In the northern prisons, the first prison chaplains were drawn predominantly from the Anglican or Catholic Churches, while after 1866, the principal chaplaincy at the Dunedin Gaol was Presbyterian. They provided ministry for the new settler communities as well as the local prisons and the worship practices of these men would have followed the traditions of their own particular denominations which evolved out of their British and European church traditions. Their world view still regarded New Zealand as being an extension of their home countries and their patterns of worship and church governance reflected this understanding. For instance, Allan Davidson described

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<sup>103</sup> Orange, *The Treaty of Waitangi*, pp. 186-187.

<sup>104</sup> *The Roper Report*, p.10.

<sup>105</sup> Blue Books, 1842, p.105, 1844, p.92.

<sup>106</sup> Dunn, “An Enquiry into the New Zealand Prison System 1840–1880,” pp. 74 and 76.

a constitutional convention of Anglican Church leaders held in Taurarua, Judges Bay, Auckland in 1857 which accepted that the Thirty Nine Articles, The Book of Common Prayer of 1662 and the Authorised Version of the Bible which could only be changed if “the United Church of England and Ireland modified them;” a clear indication of “the way in which the Church in New Zealand was wanting to identify itself with the Mother Country and its mother church.”<sup>107</sup> Similarly, although Catholic prison chaplain Petitjean, was appointed to work in the new Wellington Diocese under Bishop Viard as one of eleven Marist priests who “were competent in Maori, some quite accomplished”, he provided most of his pastoral ministry to the early Catholic settlers located in the bottom half of the North Island and the South Island.<sup>108</sup> It is also most likely that Petitjean would have conducted his ministry as a prison chaplain according to the rites and practices of the Catholic Church that were in vogue at that time. Further, it is worth noting that Petitjean was instrumental in establishing the Wellington branch of the St Vincent de Paul Society in 1876 and that this was not an organisation that had its origins in New Zealand but in France. These two examples indicate that, during the colonial period, prison chaplains, ministering to Maori and Pakeha prisoners alike, drew their inspiration from the mother churches of Britain and Europe.

Before 1880 however, some attempts were made by Pakeha chaplains to meet the spiritual needs of Maori in a manner that was appropriate for them. Again, data available for this study is limited, but the following two examples identify occasions when attempts were made to minister appropriately to the spiritual needs of Maori prisoners.

The first of these was described by Young in his account of the execution of Hamiora Peri at the Terrace Gaol in Wellington, in 1869. On that occasion, Stock provided pastoral support to Peri in the following manner:

At 8.27 a.m. on Tuesday 16 November the Wellington Gaol, sheriff James Crawford went to the door of the debtor’s room in the Terrace Gaol where Hamiora Peri was waiting with the Reverend Stock. At 8.30, moaning in agitation, he was pinioned by the hangman. Mr Stock spoke to him in Maori, which calmed him somewhat, and the little group walked along the corridor to the gallows, Mr Stock reading the burial service in Maori as they progressed.<sup>109</sup>

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<sup>107</sup> Davidson, A. (1992). *Christianity in Aotearoa: A History of Church and Society in New Zealand*. Wellington, Ministry for Education Board, p.31.

<sup>108</sup> O’Meeghan, M. (2003). *Steadfast in Hope*. Palmerston North, Dunmore Press Ltd. p.16.

<sup>109</sup> Young, S. (1998). *Guilty on the Gallows*, Wellington, Grantham House, p.56.

The words of the service may have been in Maori, but the format would have been that of the “Rawiri,” a translation of the Anglican Book of Common Prayer of 1662.

The second of these accounts was provided by Torrance when he wrote of his ministry to the people of Ngati Ruanui, led by Titokowaru, who James Belich describes as being “not just a general” but also “a spiritual leader” who was “pioneer of passive resistance” and then to the prisoners from Parihaka, some of whom were also held at the Dunedin Gaol after 1870.<sup>110</sup> Torrance’s views were those of his own Presbyterian background. They revealed a mix of this worldview and a genuine desire to assist the prisoners under his pastoral care in a manner that was sensitive to and appropriate for them. Of the Ngati Ruanui and Parihaka people he wrote:

The Taranakis, headed by their chief, an aged, tall profusely tattooed man of princely appearance and demeanour, and reverentially looked up to by all, were a fine body – men of splendid physique and of noble spirit and mien: but the Parihaka folk, a mixture of full Maoris and half castes and quarter castes, were in every aspect a poor lot – in appearance, as in fact aimless in appearance, mischievous, larrikin louts, altogether destitute of the qualities that marked the warriors who preceded them. The Taranakis ... were deeply sympathised with ... the general bearing of the riff raff from Parihaka inclined one to cuff their ears.<sup>111</sup>

Torrance observed that these men “were also sincerely religious” and he described how the Reverend Alexander Blake “then of the Kaikorai Valley Presbyterian Church and formerly Provincial Maori Missionary” was engaged to lead services “at which the older men were speakers.”<sup>112</sup> He talked of provision of craft material for them to “produce ornaments,” a “war canoe performance,” his presence at the death of a young man in the presence of “an old tattooed father” who sat at the foot of the bed, and an instance of cultural misunderstanding between himself and a group of Maori prisoners in which he recorded: “their manner showed they felt stung, and I regretted the incident.”<sup>113</sup>

A casual conversation at Dunedin in March 2007 between the writer of this study and Hine Forsythe (Otako), indicated that Torrance could have also intervened to stop the practice of burying Maori prisoners in unmarked graves. Documentation has been sighted which listed the names of these men and the locations where they were buried. The same documentation also showed how Pakeha were subsequently interred on top of these people.<sup>114</sup> At the time of writing, it has not been possible to verify further whether

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<sup>110</sup> Belich, J. (1988). *The New Zealand Wars*, Auckland, Penguin Books (NZ) Ltd. p. 235.

<sup>111</sup> Chisholm, pp. 48–49.

<sup>112</sup> *Ibid.* pp. 48–49.

<sup>113</sup> *Ibid.* pp. 50–51.

<sup>114</sup> D. Harold, (Undated). “Maori Prisoners of War in Dunedin 1869–1872: Deaths and Burials and Survivors,” Unpublished Paper.

Torrance was actually involved in this matter. If this was to be the case, however, it would be an early example of “prophetic” intervention by a chaplain in support of the cultural and spiritual needs of Maori prisoners.

Although there is a limited amount of available data, it is sufficient to provide tentative assumptions about how the world view of early colonial settlers, public administrators and church leaders in New Zealand influenced the attitudes of prison chaplains. Prior to 1880, an institutional colonialism affected all prison administration and during this period, there were few, if any, Maori clergy available to act as prison chaplains. Judging from the little information that is available, chaplains such as Stock and Petitjean, had ability to speak and minister in Te Reo. The liturgical forms used for worship, however, were still those of the British and European church traditions and not those of indigenous religious practice and these chaplains had only limited awareness and appreciation of Maori spiritual values.

Torrance’s attitudes would have reflected this assertion. He was sympathetic to the plight of Maori prisoners held in Dunedin and because of this he employed a former missionary to Maori to minister to them. Nevertheless, Torrance was essentially an observer, who viewed Titokowaru’s people as being: “calm, thoughtful, decorous, respectful ... it was a pleasure to minister to them” but his remark: “the general bearing of the riff-raff from Parihaka inclines one to cuff their ears,” revealed that he did not seem to be able to appreciate the reasons for their spiritual malaise.<sup>115</sup> The example of miscommunication between Torrance and a group of Maori prisoners also indicated that his world view was essentially that of his Scottish Presbyterian heritage.

Prior to 1880, while prison chaplains acted out of genuinely altruistic motives, they did so according to the ecclesiastical traditions that they brought to New Zealand from Britain and Europe and the precepts of the early colonial period. Their pastoral practice provided some limited recognition of the principles of biculturalism but not tino rangatiratanga. It would be inappropriate, however, to judge the actions and motivations of these clergy from the point of view of a contemporary understanding of bicultural pastoral practice. They acted out of good conscience according to the world view of the early colonial period. Nevertheless, it is also important, to note that this colonial heritage continued to be a feature of prison chaplaincy administration and pastoral

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<sup>115</sup> Chisholm, ed, p.49.

practice until the 1970s and 1980s, when the public rise of Maori consciousness stimulated awareness of the need to adopt appropriate strategies for implementing pastoral care to address the unique spiritual issues affecting Maori prisoners.

By 1880, the groundwork for future prison chaplaincy development had been established, although until 1952, chaplains would continue to be appointed by way of local arrangements between Churches and prison management. The reasons why the Prison Chaplaincy Service did not immediately become centralised after Hume nationalised the New Zealand Prison Service will be considered in further detail in the next chapter of this study.

## CHAPTER FOUR

### LEARNING TO LIVE WITH A CENTRALISED PRISON SYSTEM 1880–1949

By the 1870s, New Zealand had entered a stage of its development where: “it was possible to talk of a growing national entity rather than a group of scattered, unconnected settlements” and the “nine provinces had outlived their usefulness.”<sup>116</sup> Harry Atkinson who was Premier at the time “expressed the view that a very large saving” could “be made by the amalgamation of the general and provincial services.”<sup>117</sup> The Abolition of the Provinces Act was passed in 1875 and it came into force in 1876, vesting “the powers and property of the provinces ... in the central government.”<sup>118</sup> The Education Act of 1877 provided for a uniform system of primary schooling and the Financial Arrangements Act of 1878 established a national funding regime for maintaining hospitals. In 1876, the government decided to establish the position of Inspector–General of Prisons, with a view to centralising the Prison Service, although,

no money was voted for his salary and no positive steps were taken until 1878 to find a suitable applicant for this appointment. ... On July 7<sup>th</sup> 1880, Captain Arthur Hume, aged 40, late of the 79<sup>th</sup> Highlanders was appointed Inspector General of Prisons for New Zealand.<sup>119</sup>

The administrative environment created by these developments could also have been conducive to nationalisation of the Prison Chaplaincy Service, but no change occurred in the structure of Prison Chaplaincy administration until 1953. The implementation of Hume’s new policies, however, did cause Torrance’s ministry at Dunedin Prison to be terminated.

Mayhew noted that: “the improvement in the standards of the prison officers was one of Hume’s most important achievements. They were undoubtedly of a higher standard and had greater skills by the time that he retired.”<sup>120</sup> Hume’s policies for elevating the professional standards of prison staff, however, did not apply to prison chaplains. He did not believe that religion was a significant factor in shaping human behaviour or affecting the rehabilitation of prisoners and improving the quality of prison chaplaincy

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<sup>116</sup> Bassett, M. (1998). *The State in New Zealand 1840–1984*, Auckland, Auckland University Press, p.65.

<sup>117</sup> *Ibid.* p.65.

<sup>118</sup> *Ibid.* p.65.

<sup>119</sup> Mayhew, *The Penal System of New Zealand*, p.39.

<sup>120</sup> *Ibid.* p.45.

services was not one of his priorities. Consequently, Hume made no attempts to establish uniform codes of practice and professional standards for prison chaplains, or improve consistency of service provision while he was Inspector-General of Prisons.

It was not until the implementation of The Prisons Act of 1908 and the subsequent Penal Regulations of 1925 that attempts were made to gain some consistency in prison chaplaincy standards, when this legislation provided for the recognition of official chaplains to prisons. In spite of this statutory recognition of their role, however, chaplains continued to be appointed by way of local arrangements that were made between Churches and prison management and this situation was not to change until 1953.

### **Prison Chaplaincy under the Hume Administration: 1880 – 1909**

In the period 1880 – 1909, church services continued to be held in prisons, but Hume was not in favour of other gatherings of any kind for social or educational purposes. Implementation of Hume's policies of solitary confinement and minimalisation of association between prisoners appeared to have been applied as much to chaplaincy activities such as Bible classes, as they were to other educational activities in prisons. Matthews cited Hume's first report in 1881 to the Government, after he was appointed Inspector-General of Prisons:

Prisoners should have their meals in their cells and be kept quite separate, except when on the works, at exercise or at Divine Service. The existing system of prisoners having their meals and spending their spare time in association is most detrimental to prison discipline.<sup>121</sup>

As a consequence, prison chaplaincy initiatives often evolved as adaptive responses to these restrictions. One of these was the creation of church missions to prisoners and their families. Torrance's involvement with the Dunedin Patients and Prisoners' Aid Society, the development of the Salvation Army Prison Gate Ministries, Petitjean's initiative in establishing the Christchurch St Vincent de Paul Society, and the "mission" activity of Duncan McPherson in Auckland were all expressions of this trend. It is not my intention to discuss further the development of the Prisoners' Aid or St. Vincent de Paul Societies as they were not prison chaplaincy initiatives. It is sufficient to note that these organisations were established to meet the holistic needs of prisoners' and their families that were being ignored by the State authorities and they originally developed

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<sup>121</sup> Matthews, *Evolution of the Prison System*, p. 4.

as church based attempts to circumvent the limitations imposed by the Hume administration. Another response to the restrictions of Hume's administrative regime was the initiation of public discussion by chaplains concerning prison conditions and penal reform. Using their experience of providing ministry to prisoners, chaplains such as Kayll began to employ the insights of social science to criticise the impact of Hume's policies on prisoners and advocate for a more humane and positive penal system. Consideration will now be given to several of these initiatives, together with their influence on the future development of prison chaplaincy.

Mayhew noted that under Hume's administration, Sunday in prison continued to be a day for compulsory worship services for Protestants and Roman Catholics.

It is certain that every man could attend a Protestant or a Roman Catholic Service at least once a week, but there was only rather a restricted freedom given to a dissenting minister to hold services in the prisons.<sup>122</sup>

Nevertheless, Prison administrators did not encourage religious services, beyond what was absolutely necessary and at times, prison staff could be quite obstructive in their attitude towards religious observance. There was an occasion when Stock attempted to administer the sacrament of Holy Communion to prisoners in Wellington's Terrace Gaol, "but the gaoler objected that the use of wine would be a breach of regulation 29- which governed the giving of spirituous or alcoholic liquor to prisoners."<sup>123</sup>

Mayhew also described two other instances of similar note. In the first of these, an unknown representative of "one or other of the churches" lodged a complaint:

My attempts to perform my spiritual duties have been met by offensiveness from the gaoler, Bratby. I went this morning to the prison and had to speak about the lad's (15) spiritual life, prayers etc. in Bratby's presence. While the lad was in tears—for instance at a reference to his being a child of God's (while) he was an earthly parent—the fellow Bratby was yawning continually.<sup>124</sup>

On another occasions, Hume himself was rebuked by the Minister of Justice following a request by Wesleyans in New Plymouth for the government to purchase a musical instrument for use at Sunday services in the prison. They received no immediate reply to their request and they then wrote directly to the Minister who asked Hume to explain his apparent negligence. Hume responded as follows:

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<sup>122</sup> Mayhew, p. 75.

<sup>123</sup> Ibid. p.75. It is worth noting that this issue reoccurred again in 2007 as a consequence of Department of Corrections policy which prohibited drug use in prisons. A delegation of Anglican and Catholic bishops to the Minister of Corrections resulted in a ministerial intervention which allowed the continued use of alcohol based wine to celebrate the Eucharist. The State administrators who had made the initial ruling were neither aware of historical precedent nor the consequences of their actions.

<sup>124</sup> Ibid, p.75. Mayhew does not provide the source of this quote.

I delayed making any reply to this matter in hopes we would hear nothing more about it. I cannot see that a musical instrument is necessary at a small prison like New Plymouth. A musical instrument means some outsider to play it and a choir; that means practice on Sunday afternoons, and that always follows quarrelling among members of the choir. I do not think that singing in the services does the Prisoners' the slightest good, and therefore I recommend the request be refused.<sup>125</sup>

Hume received a "rather rattling rebuke" for failing to answer this correspondence.<sup>126</sup>

Following a similar initiative that was established in Melbourne, the Salvation Army opened the Prison Gate Brigade in Auckland in 1884, "consisting of officers and soldiers who would endeavour to get in touch with all men discharged from prison with the idea of helping them towards employment and giving them fellowship."<sup>127</sup> The October 1884 edition of *The War Cry* reported:

Following the example of our comrades in Victoria, Australia, we purpose at once, Prison Gate Brigades in the chief centres of population in New Zealand ...we were able to secure a suitable house for the reception of those who, having finished their term, are discharged from prison. An Officer has been placed in charge of the Home where they will be provided with food, dealt with personally about their sins and their need of Salvation through Christ and helped as far as possible to suitable employment. Thus the work is being warmly taken up, and we have not the least doubt but it will prove a source of blessing.<sup>128</sup>

A second such home was opened in Christchurch soon afterwards in 1885. In 1890 the Salvation Army petitioned for a grant of land that was closer to Auckland Prison than their site in Queen Street. Hume recommended that the petition be refused "on the grounds that acceptance would lead to similar requests in all towns in which the Army was carrying out similar work."<sup>129</sup> Hume's antipathy towards bringing church workers into prisons has already been noted, but his response in this case may also have arisen because he jealously guarded his own initiative of setting up the probation service. Further, he also regarded imprisonment as being a deterrent and he was suspicious of any actions which could be perceived to undermine this perspective. The Salvation Army's comprehensive aid plan offered substantial help towards prisoner rehabilitation, but as Virginia Flaus noted:

Hume had given it a very poor reception. The apparent paradox can only be explained in terms of his uncompromising attitude towards prisoners and prison administration. He was too inclined to conceive of outside interest as interference, or prejudicial to his own official prerogatives; and he was suspicious of any proposal which involved

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<sup>125</sup> Ibid. p.75. Mayhew does not provide the source of this quote.

<sup>126</sup> Ibid. p.75.

<sup>127</sup> Bradwell, C.R. (1982). *Fight the Good Fight, The Story of the Salvation Army in New Zealand 1883-1983*, Wellington, AW and AH Reed Ltd. p. 50.

<sup>128</sup> "A New Departure," *War Cry*, (October 1884). It has not been possible to sight the original document. The quotation is contained in notes provided to the writer by Territorial Archivist Major Garry Mellsoy in January 2008.

<sup>129</sup> Wilson, T. (1970). "New Zealand Prisons 1880-1909: The Administration of Colonel Arthur Hume," Thesis, Master of Arts, Wellington. Victoria University. p. 176.

a possible compromise of discipline and deterrence. The place of welfare organisations was outside the prison walls.<sup>130</sup>

The Chaplaincy work undertaken by Presbyterian Inner City Missioner, Duncan MacPherson, at Mt Eden Prison was another initiative that bore many similarities to the Salvation Army Prison Gate ministries. MacPherson was able to gain access to Mount Eden Prison on a regular basis, and like Torrance he was also the Missioner to the Auckland General and Psychiatric Hospitals. He would visit Mount Eden Prison on Saturday afternoons, spending time with those in the prison hospital, recreation yards and the “Women’s Department.”<sup>131</sup> In the Women’s Department he would also read scripture verses to the prisoners or get them to do this and then follow this action with a prayer.<sup>132</sup> Conversations during these encounters with both male and female prisoners often focussed on obtaining lawyers, pre-release plans and finding accommodation for people who were considered to be too disreputable for release into boarding houses. There were occasions when prisoners would ask MacPherson to intervene on their behalf over perceived injustices and these occasions drew a response along the following lines:

I do not know anything about the matter, and I am only permitted to come here and help you spiritually, and it is as you believe in the Lord Jesus Christ that you can become better men, and keep out of prison altogether.<sup>133</sup>

MacPherson also provided support to people in the courts and he paid visits to the homes and families of prisoners, often maintaining contact with them after they were released from prison. He was an advocate for changes in prison treatment, believing that “if young men and boys when commencing their life of crime were physically punished and then kindly treated”<sup>134</sup> this would check their criminal career. He also maintained that the prison chapel should be open at night for the conduct of Bible Classes and that parents were often to blame for the misbehaviour of young people by neglecting their moral and religious training so that they are “ignorant of the elementary facts of morality. They have nothing to check them when tempted.”<sup>135</sup>

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<sup>130</sup> Flaus, V. (1977). “Expectations and Realities in the New Zealand Prison System and Dunedin Gaol, 1881–1891.” Thesis Bachelor of Arts (Hons.), Dunedin, University of Otago, p.185.

<sup>131</sup> Friend, A. (1914). *A Faithful Standard Bearer: Life of Duncan MacPherson*, Auckland, Clark and Matheson, p.115.

<sup>132</sup> MacKenzie, *While We have Prisons*, p.68, notes that only four males were officially admitted to the woman’s division; the superintendent, chaplain, doctor and welfare officer. This always took place in the company of a female prison officer, the rationale being that the presence of the female escort afforded protection for the male from subsequent blackmail by the female prisoner who might well accuse him of indecency.

<sup>133</sup> Friend, *A Faithful Standard Bearer*, p.113.

<sup>134</sup> *Ibid.* p. 124.

<sup>135</sup> *Ibid.* p. 125.

MacPherson's chaplaincy may have been practical in nature and somewhat basic in its theological emphasis, but other prison chaplains were beginning to engage in theological and social reflection at a deeper level and to enter public debate about penal reform from this perspective. Kayll was an Anglican curate at the Church of the Holy Sepulchre and he undertook chaplaincy duties at Mt Eden prison between 1892 and 1894. This experience stimulated his interest in penal reform after 1900 and he became a strong advocate of the system of indeterminate sentences used at the Elmira Reformatory in New York State of the United States of America.<sup>136</sup> Robson recorded that he wrote to Sir Joseph Ward in 1904 extolling the virtues of the Elmira system, stressing that its failure rate was no more than four per cent and that according to criminal anthropologist Cesare Lombroso<sup>137</sup> the Elmira system had: "practically solved the great question of the disposal of the criminal."<sup>138</sup> Kayll's letter was referred to James McCowan, the Minister of Justice, but McCowan's reply was cautious: "in view about the lack of unanimity about the Elmira approach he felt the motto of the Department should be *festina lente*."<sup>139</sup>

Kayll also reacted strongly to the views expressed by Dr. W.A. Chapple that were published in a book: *The Fertility of the Unfit*. Chapple argued that the acceptance of Christian teachings had upset the natural selection process of the state of nature where weaklings perished and advances in industry, agriculture, increased medical knowledge and sanitation had guaranteed the survival of the defective:

in a state of nature, that is in a state unaffected by man's rational interference, defective offspring and weaker brethren were the victims of the inexorable law of natural selections. When Christ gave his reply to the question, "Am I my brother's keeper?" the defective and the weakling became the special care of their stronger brother. They constituted thenceforth The Fit Man's Burden. Man's disabilities from incidental and epidemic disease have been immeasurably reduced by modern sanitation, and the teaching and practice of preventative medicine. ... While the burden has been lessened by industrial and scientific progress of the last half century, it has been augmented by the fertility of the unfit and the maintenance in idleness and comfort of the great army of defectives constitutes the fit man's burden.<sup>140</sup>

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<sup>136</sup> Robson, J.L. (1969). *Sacred Cows and Rogue Elephants*, Wellington, Government Printing Office p. 21, recorded that: "the indeterminate sentence, through a maximum of ten years, was cardinal to the Elmira approach and it was administered through a mark system. The whole aim of the Elmira system was to develop minds and bodies, arrested in their growth, so that they might become more susceptible to moral influences, and that habits of correct thinking and useful industry might be established."

<sup>137</sup> Nixon, A.J. (1974). *A Child's Guide to Crime*, Sydney, Angus and Robertson, p.21, noted that criminal anthropologist Cesare Lombroso (1835-1909) regarded the criminal as being a different kind of person from the non-criminal and this conception is central to the explanation of criminal behaviour of a more serious kind. The "born criminal" behaves as he does because of his primitive brain structure and convicts were "throw backs to more primitive types of humanity."

<sup>138</sup> Roberts, "Prison Chaplaincy in New Zealand," p.21.

<sup>139</sup> *Ibid.* p.21.

<sup>140</sup> Chapple, W.A. (1903). *The Fertility of the Unfit*, Melbourne, Whitcombe and Tombs Ltd. pp. xi -xii.

Kayll responded to Chapple by publishing *A Plea for the Criminal*, in which he presented his own theological views and their relationship to what he called criminological and reformatory science. Kayll rejected the principles of Social Darwinism upon which Chapple's theories and their attendant solutions were based, saying that

reformatory science effectively guarantees society against the evil that Dr Chapple has proposed to eradicate, and it does it by a method compared with which turbo-ligature is most crude. The criminal is either set free as a reformed man or is to be kept in captivity because his resistance to reformatory discipline has shown him to be unfit to rightly use his liberty. Not only are the chances of his becoming the parent of criminally disposed children effectively removed but he is himself transformed from having a negative to having a positive social value.<sup>141</sup>

In addition, Kayll also criticised notions of retribution as a basis for effective penal policy.

The new born science with its first powers of articulation, loudly repeat the words of Revelation, "Vengeance is mine, I will repay says the Lord." A system of vengeance instituted by man against man is impossible. ... The new penology repudiates all such systems. The amount of pain which an individual is called upon to suffer may well be left to the higher tribunal. The obvious duty of man to his fellow man who is depraved, is to endeavour to recover him, but there is every satisfaction in reforming him.<sup>142</sup>

Kayll argued for more emphasis to be placed on reforming the criminal and he felt that the aim of the criminal justice system should be to

assist everyman to recover by his own effort a place in society from which he has fallen. No man is incapable of improvement and under a wise systematic discipline most men do improve.<sup>143</sup>

Contradicting Hume's views on isolating prisoners, he stated that

if it is to serve any purpose whatever it must be accompanied by an educational process which will work him back to that point where he left the social track and then so propel him forward that he may recover his lost ground, and when restored to society be enabled to identify himself with a progressive system.<sup>144</sup>

Kayll believed that "vindication of the "reformatory approach was found in the results of the Elmira system."<sup>145</sup> The public mind needed to rid itself of all prejudices and misunderstandings about criminals in order to understand why they offended, who they were and what could be done about their rehabilitation. Every circumstance surrounding criminal activity should be investigated and studied and no detail was too trifling or insignificant to be ignored.

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<sup>141</sup> Kayll, J.L.A. (1905). *A Plea for the Criminal*, Invercargill, W. Smith Commercial Printers, p.109.

<sup>142</sup> Ibid. pp. 133–134.

<sup>143</sup> Ibid. p.77.

<sup>144</sup> Ibid. p.77.

<sup>145</sup> Ibid, p.77.

Contemporary apologists would regard Kayll's views with their mix of a theological understanding of free will and the determinist criminology of theorists such as Lombroso, as being a somewhat paradoxical and confusing. Kayll was significant, however, in that he presented an alternative view to those held by Hume and the "public demands for retributive justice" that were being espoused at this time.<sup>146</sup> Wilson observed that

it is impossible to assess the impact of Kayll's book on the intellectual climate of New Zealand. It was published privately for free distribution, a fact that does not suggest that it would receive a wide circulation. ... It has no recognisable impact on prison policy during Hume's administration. The indeterminate sentence adopted under the Habitual Criminals and Offender's Act 1906 carried none of the institutional reforms of Elmira. Nevertheless it was symptomatic of an unmistakable trend towards positive criminology ... (which) ... condemned the retributive attitude.<sup>147</sup>

Kayll's opinions continued to contribute to ongoing penal policy discussion beyond 1905, and it is significant that they had their genesis in the experience of a serving prison chaplain. Kayll's views may not have found favour with Hume, but they did influence other government officials. For instance, Roberts noted a memo that he found in a Justice Department file which was written by Dr Hay and addressed to Waldegrave shortly after Hume retired in 1909.

I believe that here is a want in our system for the action of healthy on unhealthy mind, and influence which cannot be imparted readily by mere warders. I believe that it would pay us to appoint chaplain school masters, officials whose duties it would be to visit prisoners in their cells, assist them in selecting books, question them on what they are reading, explaining where necessary, and exercising generally a wholesome friendly, but not obtrusively religious influence.<sup>148</sup>

Hume may not have wanted chaplains in his prisons but other Government officials of that period were prepared to consider a more significant role for chaplains in prisons.

Roberts also recorded that in 1908, Kayll met with the Minister of Education to discuss his ideas and Robson notes that later in that same year, Kayll again approached Prime Minister Ward on the matter of implementing the Elmira System and indeterminate sentences. The proposal was referred to Hume who declined to act or comment further because he was: "strongly of the opinion that any such system would not be suitable for New Zealand ... our probation and tree planting schemes were working good reformation among convicted people."<sup>149</sup>

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<sup>146</sup> Wilson, "New Zealand Prisons 1880-1909," p.78.

<sup>147</sup> Ibid. p.78.

<sup>148</sup> Roberts, "Prison Chaplaincy in New Zealand," p.34.

<sup>149</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 22.

In 1912 Kayll was appointed as Superintendent to the Waikeria Institution, and he held that position for two years, but it has not been possible to determine further whether he was able to effect any of his ideas and theories while he held this position.

Kayll was not the only clergyman of his time who thought seriously about prison reform or the possibilities of what today would be described as a Faith Based Unit. The Reverend Albany Hoggins was not a prison chaplain.<sup>150</sup> In 1901 however, while he was Diocesan Inspector of Schools in Christchurch, he published *An Essay on Prison Reform* in which he proposed that management of what he called the “reformed prison” should rest directly with the chaplain and the doctor.<sup>151</sup>

Hoggins believed that “crime is a disease in the region of morals”<sup>152</sup> and the role of chaplain was fundamental to the operation of any prison. “A rational system of prison discipline would naturally make the work of the clergyman the chief factor in the prisoner’s treatment.”<sup>153</sup> The chaplain had a much greater role than leading worship services.

The real work of the chaplain is his work with the individual—the work of restoring lost self respect and strength of character by counsel, guidance, instruction and above all brotherly sympathy.<sup>154</sup>

The chaplain would also become involved in planning suitable employment for each prisoner and in conjunction with the doctor deal with classification issues. In the “reformed prison” the principal staff members would be the governor, chaplain, doctor and prison officers. The governor would have ultimate responsibility and authority in matters of discipline, but the direct management of the prison would be in the hands of the chaplain and doctor. Within this management structure, however, the chaplain would come first, at least in name, “since the diseases treated are chiefly moral and spiritual.”<sup>155</sup> Thus the chaplain’s main responsibility was to

raise degraded souls out of the mire of self-seeking, to give right tone to the perverted instincts, and, fixing their gaze upon the Perfect Man, to teach his pupils to realise their own manhood and reach after its complete development in this life and in those to come.<sup>156</sup>

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<sup>150</sup> Blain, M. (2007). *The Blain Biographical Directory of Anglican Clergy in the Pacific*, <http://anglicanhistory.org/nzblain.directory>. Blain lists all of the appointments held by Hoggins. There is no record of him serving as a prison chaplain.

<sup>151</sup> Hoggins, A.C. (1901). *An Essay on Prison Reform*, Christchurch, Smith, Anthony, Sellars and Co. Ltd.

<sup>152</sup> Ibid. p.32.

<sup>153</sup> Ibid. p.32.

<sup>154</sup> Ibid. p.33.

<sup>155</sup> Ibid. p.44.

<sup>156</sup> Ibid. pp. 43-44.

Hoggins may have overstated the role of the chaplain in the “reformed prison” but his ideas were a departure from previously held conceptions about prison chaplaincy, in that he advocated full recognition of the chaplain’s pastoral role with the individual prisoner. Hoggins contribution to the debate on prison reform was also significant, in that he proposed the creation of what amounted to a Faith Based Unit almost 100 years prior to the initiative established under the auspices of Prison Fellowship at Rimutaka Prison in 2003.

These examples indicate that there was only a limited partnership between Church and State for providing chaplaincy services to prisons during Hume’s tenure as Inspector-General of Prisons. His implementation of the “English System” with its emphasis on solitary confinement and minimal opportunities for association between prisoners restricted chaplaincy opportunities to leading worship services and some visiting of prisoners. Torrance’s chaplaincy at Dunedin Prison was terminated as a consequence of Hume’s policies, but the nationalisation of the Prison Service did not achieve a nationally based Prison Chaplaincy Service, nor did it provide any consistency in the delivery of prison chaplaincy services. Wilson’s comments about Hume’s jealous protection of the newly created probation service from the possible competition of church based care initiatives could partially explain his resistance to religious initiatives, but it would be a mistake to assume that Hume’s natural conservatism and his antipathy towards religion brought a halt to developments within the Prison Chaplaincy Service between 1880 and 1909.

New chaplaincy initiatives did occur and these evolved either as adaptations, or counter reactions to the restrictiveness of Hume’s policies. For instance, recognition that prisoners and their families needed holistic care influenced the development of Mission Work conducted by Church and welfare agencies such as the Salvation Army Prison Gate Brigade, Saint Vincent de Paul Society, Prisoners’ Aid and Duncan MacPherson’s mission. The negative aspects of Hume’s administration also sparked a response from clergy such as Kayll and Hoggins who drew not only on their Christian heritage to develop their thinking, but also the theories of the newly established disciplines of social science. It is open to question whether the views espoused by Kayll and Hoggins had any impact on Government and social attitudes and their opinions may lack credibility with contemporary scholarship. Nevertheless, they provided an alternative to Hume’s theories that was positive in its approach. Their public advocacy and expression

of a prophetic voice promoting alternatives to Hume's "English System" were forerunners to the later developments such as the creation of the Faith Based Unit at Rimutaka Prison and the implementation of pastoral practice which required chaplains to broaden their role and minister to prisoners and their families on a holistic basis.

The chaplaincies of the Hume era may have differed in style, with Kayll choosing the path of public advocacy and MacPherson declining to take this option, focussing instead on practical engagement with prisoners and their families. Both chaplaincies had their place and they ensured that the traditions of prison chaplaincy continued to function in a penal environment that was not conducive to the development of new prison chaplaincy initiatives. Between 1880 and 1909, penal policy and prison chaplaincy practice continued to be strongly influenced by ideas imported from outside New Zealand. When Hume "referred to particular prisoners, they were either simply prisoners' (in the case of Europeans) "or native prisoners'" beyond this designation he did not discuss racial difference."<sup>157</sup> No evidence has been found to show that either the Inspector-General of Prisons, or the chaplains of this period gave credence to indigenous solutions for solving crime, rehabilitating prisoners or improving the quality of prison chaplaincy service provision. The conduct of prison chaplaincy, under Hume's administration, continued to be a colonial undertaking.

### **Prison Chaplaincy in the Post Hume Era: 1909 – 1949**

Hume retired in 1909 and until 1925, his successors Findlay and Matthews, brought more enlightened policies to the management of the prison system in New Zealand. Dallard was then appointed as Controller of Prisons in 1925 and until his retirement in 1949 prison management reverted to the severe austerities of the Hume era. The economic depression of the 1930's and the need to focus on maintaining the war effort during World War II meant that little finance, interest or energy was available for prison reform and Dallard with his conservative views was the ideal administrator as far as the politicians were concerned during this period. Between 1909 and 1949, the Churches continued to provide chaplains for prisons on a similar basis to that which had existed since 1840, although some Government Officials also began to recognise the need the need for chaplains in prisons. The professional practice of Prison Chaplaincy also

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<sup>157</sup> Egarr, T. (2006). "Am I my Brother's Keeper? State Confinement in New Zealand under Dr. Duncan Macgregor and Capt. Arthur Hume, 1880-1910," Thesis, Bachelor of Arts (Hons.), Dunedin, Otago University, p. 57.

showed signs of a growing maturity, as chaplains increasingly employed fuller pastoral priestly and prophetic roles in their ministry.

Two themes may be identified in this description of prison chaplaincy in New Zealand prisons in the years 1909–1953. The first of these is the interface between chaplains, prison staff, Public Service and Church administrators and the manner in which this affected the delivery of prison chaplaincy services. The second is the manner in which chaplains exercised their prophetic voice to criticise unsatisfactory prison conditions and that affected the wellbeing of prisoners. These issues would continue to reoccur in differing guises during future stages of the evolution of the Prison Chaplaincy Service.

The principal over-riding purpose of the 1908 Prisons Act was to ensure the provision of safe custody, confinement and discipline of prisoners and it dealt with issues such as hard labour, mechanical restraint by use of irons, restricted diets as a means of punishment, infliction of corporal punishment and the use of disused ships (hulks) for use as prisons. Commenting on the content of this legislation, Judge S.T. Thorburn observed, The Act “gives us an eerie reminder of how things were in the prisons of an earlier era.”<sup>158</sup> The Prisons Regulations of 1925 eventually provided a working basis for implementing the 1908 Prisons Act and for the first time statutory recognition was given to prison chaplains by permitting

such ministers of the several religious denominations as may be authorised by the Controller General shall be allowed to attend prisons and hold Divine Service therein and to interview prisoners who are members of their respective denominations and convenient times and hours.<sup>159</sup>

Under these regulations Sunday was to be observed as a day of rest as far as possible. Prisoners were still required to attend the service of their own particular religious denominations and behave themselves with the greatest of propriety. They were not allowed to change their religious denomination without permission of the prison authorities. Jews could be exempted from hard labour on their Sabbath and other religious festivals identified in regulation 298.<sup>160</sup> Religious literature could be made available to prisoners, but only to those who could read.<sup>161</sup> These regulations had some importance as they established a uniform set of requirements for the provision of spiritual support to prisoners, but they did little to alter the structure of the prison

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<sup>158</sup> Thorburn, S.T. (2005). “Address to Prison Chaplains Board Annual Meeting,” 17 November 2005. p.1.

<sup>159</sup> House of Representatives, (1908), “Regulations under the Prisons Act 1908.” Wellington, *New Zealand Gazette*, 1925, p.2638.

<sup>160</sup> *Ibid.* Regulation 298.

<sup>161</sup> *Ibid.* Regulation 299.

chaplaincy system that existed at that time and this remained essentially the same until 1953. Rather, it was in the relational interface between prison chaplains and State officials that the most significant developments occurred during this period and examples of these interactions will now be considered.

Between 1922 and 1927, Presbyterian minister, the Reverend James Holmes provided chaplaincy services to the Wi Tako Prison. Roberts recorded that he wrote letters for prisoners, arranged jobs for them after their release from prison and helped to organise special Christmas activities.

In 1927, the memorial minute for James Holmes stated that

perhaps the most remarkable service rendered by Mr Holmes, was on behalf of the inmates of Wi Tako Prison. He preached to them regularly and so interested himself in their wellbeing that he won their entire confidence, and was used by God to effect the moral and spiritual transformation of not a few of them, a work which drew forth the unstinted praise of the highest State officials.<sup>162</sup>

Apart from leading worship at “two churches and four preaching stations” on Sundays, Holmes would also conduct a service at 9.00 a.m. at Wi Tako Prison after which he gave “personal advice to the prisoners and correspond with their relatives. When he received replies he would read them to the prisoners.”<sup>163</sup> Holmes obviously provided chaplaincy in a far more relaxed and less security conscious environment than that which exists in contemporary prisons, because it was recorded that he “once conducted a marriage service in the prison for one of the inmates and some of the church ladies served a wedding breakfast.”<sup>164</sup> The Justice Department recognised Holmes worth by supplying him with notepaper and stamps to give to prisoners for their use. After his death in 1938 a memorial cairn located at the prison was unveiled in his memory in the presence of the Minister of Justice, The plaque on the cairn read:

In Remembrance: The Reverend James Holmes visited this prison as a minister of the Gospel and a friend of those in trouble and Wi Tako is the better because he came here.<sup>165</sup>

Holmes was also interested in prison reform and he contributed articles about his experiences to various newspapers, but he was obviously well respected by prisoner and prison officer alike and his ministry demonstrated that a chaplain could be regarded as a servant to the total prison community. Some chaplains managed to implement this

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<sup>162</sup> Presbyterian Church of Aotearoa New Zealand, (1927), “Memorial Minute for James Holmes,” (1927).

*Presbyterian Church of Aotearoa New Zealand, Proceedings of the General Assembly*, p.60.

<sup>163</sup> Evans, M.E. (Undated). “From Quiet Homes and First Beginnings 1879–1979.” Private Publication, p.16.

<sup>164</sup> *Ibid.* p.17.

<sup>165</sup> Roberts, “Prison Chaplaincy in New Zealand,” p.16.

balance in their ministries and not all of them were in conflict with the staff and administration of their penal institutions.

Melville Harcourt's account of Anglican prison chaplain George Edgar Moreton's ministry to Mt Eden Prison provided a detailed account of a prison chaplain's duties and routines during the 1930's. In 1929, at the beginning of the Great Depression, Moreton was appointed as assistant Auckland City Missioner and Prison Chaplain to Mount Eden Prison. Moreton's ministry provided a full complement of pastoral activity; visiting and counselling prisoners, leading worship and celebrating the sacraments, developing theological understanding of ministry in prison, providing advocacy on behalf of Prisoners', offering spiritual and pastoral support at the time of executions, acting as secretary and treasurer to the Auckland Discharged Prisoners' Aid Society and engaging in debate with political leaders and public servants on penal policy on prison reform.

Moreton was a person of conscience who held strong opinions. In 1931, after disagreeing with his immediate superior who supported the theories advocated by Cesare Lombroso, he resigned from his post at the Auckland City Mission to continue his work with prisoners through the Auckland Prisoners' Aid Society. "The only thing to do was to get out—I got."<sup>166</sup> Like Kayll, he thought considerably about the causes and cures of crime, but unlike Kayll he did not see solutions being provided by the institutional correction of human behaviour. Instead, they were to be found in addressing the social and economic malaise that existed in New Zealand during the years of the Great Depression.

Crime, I'm convinced, can't be completely cured in any society, because as I have already indicated, there are, in every age, in any social situation, people who are instinctively anti social: also anger, jealousy and sexual passion lead to offences which are not attributable to any economic system. But crime can be considerably reduced by an amelioration of social conditions. How are we to accomplish this? Well, personally I have, like most thinking people today, some definite ideas on the subject which would automatically qualify me for a concentration camp in any Fascist country. ... If we are honest in our attempt to reduce crime in modern society then we must not scruple to scrap the system around us that has tried to refine the jungle law by calling it Big Business.<sup>167</sup>

Nevertheless, Moreton was still keenly interested in the subject of prison reform. He condemned the legacy of Captain Hume as being: "severe unimaginative discipline" and he asserted that prison officers should be competent in the performance of their duties as

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<sup>167</sup> Harcourt, *A Parson in Prison*, p. 159.

well as being provided with specialist training.<sup>168</sup> He also believed that the design of prison buildings was not conducive to reformatory practice and that Hume's implementation "English System" of prison management could not be compared with contemporary British practice because the latter operated on a more humanitarian basis. The medium of radio could be used to a positive reformatory effect; psychological and psychiatric factors should be recognised in the treatment of prisoners; individual case management and appropriate classification should be introduced for each prisoner; "senseless and servile labour" should be replaced by the "institution of technical and cultural classes;" organised sporting and recreational activities for prisoners should replace the "iniquitous yard system" and solitary confinement should be reduced to an absolute minimum. He concluded that "the whole object of a prison sentence is reformatory not retributive" and "in order to reform a man we must use the methods of the reformer and not the torturer."<sup>169</sup>

Unlike MacPherson, Moreton made representations to the civil authorities on matters of injustice that affected prisoners. On one occasion he wrote to Dallard regarding a prisoner called Henry Scott. After receiving a negative response to his enquiry Moreton observed:

the fear of the Department that clergymen and social workers might become agents for barristers within the prison walls is a palpable reflection upon a body of people whose integrity is probably as sound as that of the individuals controlling our prison system. I for one was not acting as a barrister's agent but as a priest who refused to stand aside and witness a patent injustice.<sup>170</sup>

Moreton's constant agitation for penal reform and his advocacy activities on behalf of prisoners caused him to fall out with the prison authorities. During a visit to the United Kingdom in 1936, he was impressed by the British attempts to humanise prison conditions and after revisiting Mount Eden Prison upon his return from Great Britain, he claimed that it like moving from the twentieth century to "the darkness of a previous age."<sup>171</sup> The publication of Moreton's biography in 1942 led to negative reactions from prison administrators and the denial of access to Mount Eden Prison. As a result his chaplaincy had to be terminated. This did not deter Moreton from engaging in public advocacy and he continued to become ever more active in his public criticisms of penal policy and prison conditions. Margaret Tennant indicated that: "the Minister and the Department were rattled by this media exposure" and they "tried to dismiss Moreton as

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<sup>168</sup> Ibid. p.182.

<sup>169</sup> Ibid. pp.190-191.

<sup>170</sup> Ibid. pp. 203-204.

<sup>171</sup> Ibid. p.277.

a vindictive obsessed man motivated by revenge and unpopular with prisoners.”<sup>172</sup>

Tennant also observed that

ironically, many of the reforms for which Moreton had fought, and for which he was banned from Mt Eden were later promoted within the Justice Department. But even those who acknowledged George Moreton’s social conscience regretted his lack of tact.<sup>173</sup>

Moreton’s chaplaincy at Mount Eden Prison became a prototype for subsequent prison chaplaincy developments. He was sympathetically supported by his Bishop, The Right Reverend W.J. Simkin, who understood that the chaplaincy role could not operate in isolation from the support and encouragement of the wider Church. Moreton’s chaplaincy practice evinced a pastoral, priestly and prophetic dynamic that was to be modelled by many of his successors after 1953, but his high profile advocacy as a voice of conscience on spiritual and social matters had costly outcomes. Moreton had to deal with the moral issue that often had to be faced by prison chaplains at some stage in their careers, as to whether to speak out about unjust institutional practices or whether to remain silent about them. Further, if prison chaplains engaged in advocacy, what was the most appropriate method for doing this? There were no simple answers to these questions. Moreton chose the path of high profile advocacy and he had to pay the cost for his actions by being excluded from Mount Eden Prison. Some of Moreton’s successors would undergo similar experiences in the years to come.

In 1933, the Reverend K.D. Andrews-Baxter, Vicar of All Saints Church in Invercargill, commenced a high profile media campaign criticising the conditions at Invercargill Borstal. Roberts recorded that Andrews-Baxter was never given recognition by the Department of Justice because another of his colleagues, Canon Lush, had been appointed as official chaplain to the Borstal and Andrews-Baxter doubted “his colleagues ability to minister to the inmates and hence he sought to minister to the inmates in his own right.”<sup>174</sup> For instance in 1933 he wrote a letter to the *Otago Daily Times* which stated:

Services are held on Sundays and Bible Class during the week in the chapel, but what a chapel! Cold and bare, more like a barn; no altar, but a large uninspiring pulpit. Religion preached in such a place must be a very cold thing to youths. With very little expense this terrible building could be changed into a warm inspiring chapel; if a pulpit is necessary, let there be one, but please put in an altar and a few good pictures and some pleasing colouring and make this so-called chapel attractive. In the English Borstal the chaplain and the chapel play a big part in the training of boys. If there is a need for a chaplain in the English Borstals, surely the need is no less in those of New

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<sup>172</sup> Tennant, M. (2002). *Through the Prison Gate*, NZPARS, p.42.

<sup>173</sup> Ibid. p. 43.

<sup>174</sup> Roberts, “Prison Chaplaincy in New Zealand,” p. 16.

Zealand. If a boy is to be fitted for the normal life of the world, he needs spiritual power and he must have training and help to get it.<sup>175</sup>

Andrews-Baxter's campaign against conditions at the Borstal was not confined to publicity in the media. At a meeting of his church's Diocesan Synod in 1933, he moved: "that Synod set up a commission to discuss and report on the need for better spiritual ministrations in our Government Institutions."<sup>176</sup> Apparently there was no celebration of Holy Communion at the Borstal at that time nor was there any attempt to prepare the trainees for confirmation. The motion was carried but not all of Andrews-Baxter's colleagues agreed with his views. Andrews-Baxter also helped to establish the Invercargill Branch of the Howard League for Penal Reform and after returning from a parish appointment in Australia which took place between 1934 and 1944, he recommenced his campaign over conditions at Invercargill Borstal. In 1944 he asked the Wellington, Diocesan Synod to

ask the Government to review the work of the Borstal Institutions and homes for mentally deficient children, so that they may be brought up to a higher standard and be run on the lines of those in England.<sup>177</sup>

Wellington Synod responded by requesting

the Inter Church Council on Public Affairs to enquire into the conditions and workings of the Borstal Institutions for mentally deficient children and to act as the committee sees fit.<sup>178</sup>

Andrews-Baxter's continued criticism of the Borstal system eventually provoked a reaction from Dallard, who, in response to Andrews-Baxter remarked: "The Borstal System is but an ambulance to deal with those in respect of whom the churches and other socialising agencies have failed."<sup>179</sup> Andrews-Baxter may only have preached occasionally at Invercargill Borstal, and he was not the officially appointed chaplain under the 1925 Regulations. The Department of Justice was reluctant to act on the matters he raised because there "was already an Anglican priest ministering to the institution. The Department suggested that Andrew-Baxter discuss this with him."<sup>180</sup>

The response of Andrews-Baxter's church colleagues to his campaign to improve conditions at Invercargill Borstal foreshadowed future reluctance by Church administrators to support advocacy by chaplains on penal matters. It was easier for them to refer contentious matters to a committee for consideration rather than undertake

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<sup>175</sup> Ibid. p.17.

<sup>176</sup> Ibid. p.17.

<sup>177</sup> Ibid. p.19.

<sup>178</sup> Ibid. p. 19.

<sup>179</sup> Ibid. p. 20.

<sup>180</sup> Ibid. p. 19.

direct action. This incident also raised another future dilemma for church administrators about how to take appropriate action when their views differed to those of an officially appointed chaplain. This issue was to reoccur in the 1980s under another guise when the opinions of the CCANZ administrators differed to those expressed by chaplains who had been appointed as temporary Public Servants under the auspices of the NCC.

D.E. Martin was a Presbyterian minister who conducted services at Mount Crawford Prison. Roberts reported that he referred to a prison officer as a “screw” while preaching a sermon and, that unknown to the Justice Department he circulated a questionnaire about prison conditions among parolees.<sup>181</sup> These actions elicited a reprimand from Dallard.

Martin then began a media campaign to bring about reform in the Prison System. Roberts quoted Martin as saying that: “the average gaolers and warders in New Zealand are quite unfitted for their tasks of handling the misfits of society.”<sup>182</sup> In 1937 Martin presented a petition to Parliament requesting that

a commission of enquiry be established to investigate the operation of the Prison and Borstal system, to report upon its adequacy, particularly with reference to its reformatory effects and to make recommendations as to what changes if any should be introduced.<sup>183</sup>

Dallard responded to this criticism by defending the Justice Department’s policies but the Petitions Committee under the chairmanship of the Hon. A.H. Nordmeyer, referred the petition to the Government for favourable consideration with a further recommendation that a Parliamentary Committee be set up to investigate the whole penal system in New Zealand. Dallard in turn opposed this course of action and he recommended to Cabinet that no further action be taken concerning this matter, a suggestion that was subsequently approved by cabinet in December 1943. Nothing more was heard publicly from Martin on these matters and at this point his campaign for reform appeared to come to an end.

Martin’s chaplaincy was indicative of how problems can arise for prison chaplains if they do not retain good relationships with prison staff. Chaplains’ opinions might differ to those of other Justice Department employees, but if they do not maintain effective working relationships with them the conduct of their ministry will be greatly impeded.

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<sup>181</sup> Ibid. p. 20.

<sup>182</sup> Ibid. pp. 20-21.

<sup>183</sup> Ibid. p. 21.

In this respect, Martin also had to deal with similar issues to those faced by Moreton and Andrews-Baxter. His voice of conscience led him to advocate publicly for prison reform. The issue of whether it is appropriate for chaplains to speak out on this matter and if so, how this should be done, will also reoccur as an ongoing theme of this study.

These examples indicate that between 1909 and 1949, the nature of the relationship between Prison staff, chaplains, Church and State administrators varied considerably according to local circumstances. Walsh and Holmes were obviously held in high regard by prisoner and prison officer alike, while Moreton, although in good rapport initially with the administration at Mount Eden Prison, was eventually forced to resign his position, because neither Dallard nor the Mount Eden Superintendent could accept his high profile criticism of penal policy and advocacy on behalf of prisoners. Martin and Andrews-Baxter suffered similar outcomes and Dallard remained stubbornly obdurate and unsympathetic in his attitude towards their criticisms which ultimately seemed to have little effect as long as he retained his position as Controller of Prisons. Moreton, Andrews-Baxter and Martin did add their voices to a growing body of dissatisfaction with Dallard's administration during this era, but it is a moot point as to whether their public advocacy achieved any significant changes in prison conditions. It may even be argued that their criticisms of Dallard placed their pastoral care of prisoners at risk because they did not have ready access to pastoral care once these chaplains were denied prison access.

Nevertheless, the relationship between Church and State administrators did enter a new phase after The Prisons Act of 1908 and the Penal Regulations of 1925 provided a statutory basis for the existence of officially appointed chaplains for the first time. Chaplains did not become full-time appointments to penal institutions, however, and they still had to exercise their ministry in conjunction with other community and church based responsibilities. This legislative change in the status of prison chaplains was enacted during the reformatory administrations of Findlay and Matheson, but neither of these administrators seemed to countenance the possibility of creating a nationalised prison chaplaincy service to complement the uniform administration of prisons that had been set in place under Hume. This had to wait until the creation of the NCC and Catholic Church partnership with the Department of Corrections in 1953 when the intentions of the 1868 Royal Commission on Prisons became realised. Dallard's retirement in 1949 left a prison system that was urgently in need of overhaul and

renewal. Barnett's appointment as Secretary for Justice created the opportunity for this to take place. Unlike Findlay and Matheson, Barnett understood the need to develop consistent standards for prison chaplaincy service provision, as well as the need for these to be integrated fully into the Justice Department's rehabilitative aims and objectives. This development will be described in chapter five of this study.

## CHAPTER FIVE

### CHURCH, STATE AND PRISONS: A NEW PARTNERSHIP 1949–1954

John Marshall described the origins of the policy which provided a centralised chaplaincy service for New Zealand Prisons.

No, less positive, in snatching brands from the burning fire, would, I believe, be the influence of practical Christianity. Happily ... Sam Barnett shared this view with unsentimental sincerity and together we formulated the policy for a prison chaplain service.. Up till this time the various churches had held services in the prisons and church ministers had on some occasions, visited prisoners who wished to see them. We believed that much more effective work would be done by placing all the Protestant chaplaincy work in the hands of one full time chaplain for each institution.<sup>184</sup>

Prior to their implementation, rumours of Marshall and Barnett's intentions came to the notice of the Salvation Army who brought the matter to the NCC because of concern that "such a scheme would exclude ministers representing various churches."<sup>185</sup> The NCC Executive agreed that no purpose would be "served by the various churches approaching the Government individually on this matter" and "further comments would be inappropriate until official information was presented to the Council."<sup>186</sup>

Arrangements were then made for Secretary for Justice, S.T. Barnett, to address the NCC Annual General Meeting of July 1951 on the subject of chaplaincy provision in penal institutions in order to gain an understanding of the Government's intentions. Speaking to those present, Barnett indicated that there was a "need for religious work in prisons" as well as "training and goodwill for those administering it."<sup>187</sup> He said that he had studied the arrangements for prison chaplaincy provision in Great Britain and the United States of America. He was convinced that it was desirable for an official chaplain to be appointed to each prison and their qualifications for undertaking this ministry should be more important than the church denomination that they represented. Such appointees would be expected to conduct weekly worship services, spend time in the administration of the prison and establish personal contact with prisoners. An honorarium would be paid by the Department of Justice, but it would only be sufficient to provide for part-time service. It was to be clearly understood that this arrangement

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<sup>184</sup> Marshall, J. (1983). *Memoirs Volume One: 1912 to 1960*, Auckland, William Collins Publishers Ltd. p.229.

<sup>185</sup> NCC, (1951). Minutes of Annual General Meeting 17-18 July, Alexander Turnbull Library, (ATL,) 87-204-001/1

<sup>186</sup> Ibid. 17-18 July 1951.

<sup>187</sup> Ibid. 17-18 July 1951.

would not interfere with the rights of ministers to visit members of their own communion who were in prison.

Barnett's proposal was discussed and the NCC resolved to

record our deep appreciation of Mr Barnett's talk and the expression of the attitude of the Prisons' Department relative to prison chaplains and ask the Executive to give careful consideration to the whole problem and keep in touch with the Department and the constituent Churches, with a view to securing the utmost co-operation in this whole field.<sup>188</sup>

Barnett remained committed to this proposal and he was particularly interested in establishing an experimental chaplaincy at Invercargill Borstal because he had "a genuine belief that the young men in Borstal presented a special opportunity and challenge."<sup>189</sup> In 1952, The Justice Department Report to Parliament noted under the heading of "Religion:"

Through the aegis of the National Council of Churches we have now arranged for the appointment of a part-time Chaplain at Invercargill. He will not only conduct services, but enter freely into the life of the Institution. He will interview boys on admission and generally participate in the welfare work. He will of course see that boys keep in touch with any religious denomination with which they may have had some previous association.<sup>190</sup>

Attempts were then made through the Southland Branch of the NCC to find a chaplain for Invercargill Borstal. There were delays in finding a suitable candidate for the position however, to the point where

Barnett, having waited (I think for nearly two years) for a chaplain to be found, had written one of his famous letters to the Southland Branch of the N.C.C. ... It was an ultimatum in fact, that was extremely embarrassing to the local clergy and ministers. Sam said, in effect: "if you don't find someone in the next month, I'll come down and find one myself!"<sup>191</sup>

After this direct prompting from the Secretary of Justice, an appropriate candidate was promptly recruited and the 1952 NCC Annual General Meeting commended the appointment of the Reverend L. Clements, a Methodist minister, as part time chaplain to Invercargill Borstal.<sup>192</sup> Clements had been a conscientious objector during the Second World War and he accepted the chaplaincy position at Invercargill Borstal because: "of his own personal experiences as a prison inmate which led to his

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<sup>188</sup> Ibid.17-18 July 1951.

<sup>189</sup> Clements, L. (1977). "Once Upon a Time," *New Zealand Prison Chaplains' Association Magazine*, No. 10 September 1977, p.16.

<sup>190</sup> Justice Department, (1952). Annual Report to Parliament.( JDARP). Photocopies of the relevant sections of the Justice Department Reports, 1950-1978 were contained in data held in PCSANZ archives.

<sup>191</sup> Clements, "Once Upon a Time," p.16.

<sup>192</sup> NCC, (1952). Minutes of Annual General Meeting. ATL, 87-204-001/2.

awareness of the inadequacies of the church's ministry in prison."<sup>193</sup> In proposing Clements nomination, the Reverend A.D. Robertson noted that two factors were complicating this work: "the prison like nature of the buildings" and "the considerable number of inmates who were Maori" who would "probably be happier and more responsive" to the ministry of the chaplain in the North Island "where they could be visited by more of their family and friends.

By 1953, Clements Chaplaincy at Invercargill was well established and the NCC Annual General meeting of that year resolved to extend congratulations to him for the "great success which is attending his ministry to the young men in that institution."<sup>194</sup>

The Annual Report of the Justice Department for 1953 also noted:

Last year I wrote of the appointment of a part time chaplain to the Invercargill Borstal. The Reverend L.C. Clements was appointed on the advice of the National Council of Churches and has set about his tasks devotedly and with a good sense. So encouraging has been the results of his work that I feel if other suitable clergymen are available, similar appointments should be made at all the larger institutions.<sup>195</sup>

In 1954, The Penal Institutions Act provided legislative authority to confirm prison chaplaincy appointments. In section 6(2) the Act provided that

the Minister may from time to time appoint to any institution such persons as may be required as chaplains, welfare officers, education officers, or other officers in part time capacities.<sup>196</sup>

According to Thorburn, this was "the first statutory recognition of such a role," although it should be noted that any appointment made under this legislation was discretionary and part-time."<sup>197</sup>

After eighty-six years the intentions of the 1868 Royal Commission on Prisons had finally been realised. A number of factors contributed towards this development and they can be identified as follows:

- The changing mood that was taking place in New Zealand society after World War II;
- The sound New Zealand economy which made the Government funding of such a venture possible;

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<sup>193</sup> Grinder, R. (1977). "Chaplaincy Service in New Zealand," *New Zealand Prison Chaplains' Association Magazine* No. 10, September 1977, p.6.

<sup>194</sup> NCC, (1953). Minutes of Annual General Meeting. ATL, 87-204-001/2.

<sup>195</sup> JDARP, 1953.

<sup>196</sup> House of Representatives, (1954), Penal institutions Act, 1954. Section 6 (2). 30 September 1954, *The Statutes of New Zealand, Vol. II*, p.670.

<sup>197</sup> Thorburn, "Address to Prison Chaplains Annual General Meeting," p.2.

- The influence of conscientious objectors who had been held in New Zealand prisons during World War II; a growing humanitarian desire for penal reform following the austerities of Dallard's penal administration;
- The presence of Christian leaders and administrators of influence within the Government and Public Service.
- The strategic position of the NCC which together with the Catholic Church was able to provide an umbrella organisation for the administration and direction of prison chaplaincy services.

The role of each of these influences will now be considered in turn.

### **Social, Economic and Religious Factors 1951-1954**

Writing in the Prison *Chaplain's Magazine*, Leslie Clements commented:

1952 was a memorable year, as the English Sunday papers have recorded this week. Hilary climbed Everest, the Korean War ceased, the Queen was crowned—and quite unnoticed by the world press the Ecumenical Prison Chaplaincy Service began in New Zealand.<sup>198</sup>

Clements' remarks may have been somewhat tongue in cheek, but they reflected the changing mood that was taking place in New Zealand in the immediate post World War II era. Graeme Dunstall noted that “the complexity of the post-war society was wrought not only by changes in material life ... but also ... shifts in opinion and belief that began in the 1930s and early 1940s.”<sup>199</sup> The post depression economic reconstruction of the late 1930s had created the expectation and “the dream of a material utopia” in which there was “equality of condition and equality of opportunity for all.”<sup>200</sup> During World War II these expectations of reconstruction and reform had been heightened and reinforced as a consequence of full employment that was in place after 1945. In the late 1940s, there was a preoccupation with returning to normal as ex-servicemen became busy in making up for lost time and settling down to employment and married life.

Gustafson observed that

in the late 1940s and the 1950s, after more than thirty years of wars and depression and tight post-war rationing and government controls, there was a widespread desire among New Zealanders for peace, normalcy security and prosperity. There was a consensus that New Zealand should be a prosperous and fair society, free from fascism, communism, depression, unemployment, war and want. Everyone should

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<sup>198</sup> Clements, “Once upon a Time,” p.14.

<sup>199</sup>Dunstall, (1981). “The Social Pattern.” In *The Oxford History of New Zealand*, Oliver, W.H. and Williams, B.R. (Eds.), Wellington, Oxford University Press. p. 398.

<sup>200</sup> Ibid.p.398.

have a job, a decent home, access to free education (up to and including tertiary level) and security in illness in old age.<sup>201</sup>

Belich also noted that

the clouds of doom lifted. ... Post War New Zealand was torn between two strong trends: a sense of irrevocable change, a world shattered and rebuilding in different shapes; and a desire to *restore*, to restore a past that, ideally at least was more familiar and secure.<sup>202</sup>

The desire to rebuild New Zealand Society and for a return to normalcy after the ravages of the 1930's Depression and then World War II, took place in the context of the State's role in directing the economic situation that was in existence during the late 1940s and early 1950s. In 1949, a National Government was elected to replace Labour, but there were few changes in economic direction as the new administration continued the task of its predecessor, "underpinning ever-increasing affluence, tempering inequalities, ensuring security and helping to maintain the high degree of uniformity in New Zealand life."<sup>203</sup> Gustafson commented:

The major division and debate between Labour and National was over which of the two parties was best able to manage the economy and over the extent to which individual freedom needed to be circumscribed by the State in the interests of the collective community. Both parties were content to govern a pluralistic society in which all the major economic sectors of society were recognised and involved in decision making at the corporate level. The leaders of the farmers, manufacturers, employers and trade unions were constantly consulted by politicians and civil servants. Legislation and regulation were used frequently to resolve conflicts among them. The State itself however, was no mere referee, but a major player with vested interests of its own, particularly in maximising production, and export receipts and in stabilising society and minimising social conflict.<sup>204</sup>

The "long slow economic boom" of the post 1945 period was accompanied by an "equally long but slower boom in the role of the state."<sup>205</sup> Belich recorded that "between 1949 and 1972 the number of core public servants increased from 51,000 to 72,000" and despite the waterfront workers strike of 1951, unemployment was almost non-existent.<sup>206</sup> Supported by high prices for primary products and ever increasing farm production, the Government of the time was prepared to invest in the infrastructure required to support the wellbeing of the country by the development of significant public works in transport, road building, forestry, hydro electric power and public buildings. "Over a quarter of the entire national product was thrust into capital formation." In a political, social and economic climate where Government expenditure

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<sup>201</sup> Gustafson, B. (2003). "The Transition from Holland to Holyoake." In *Holyoake's Lieutenants*, Clark, M. (Ed.), Palmerston North, Dunmore Press Ltd. p. 21.

<sup>202</sup> Belich, *Paradise Reforged*, (2000), Auckland, Penguin Books (NZ) Ltd. p. 297.

<sup>203</sup> Dunstall, p. 398.

<sup>204</sup> Gustafson, p.22.

<sup>205</sup> Belich, *Paradise Reforged*, p.313.

<sup>206</sup> *Ibid.* p. 314.

was accepted as being necessary for the development and maintenance of public wellbeing and the restoration of New Zealand society after the ravages of war and depression, investment in prison reform also became accepted by some sectors within New Zealand as being a necessary factor for setting to rights the short comings of Dallard's administrative regime of the 1930s and 1940s. Dallard himself observed that his tenure as Controller General of Prisons had focussed on the need for economical and efficient administration.

During my term as head of the Prisons Department, the difficulties arising from financial stringency were even greater than those affecting my predecessors. There were two periods of economic depression as well as the after effects of two world wars. Consequently the cold hand of Treasury with its concern for restraint on the expenditure of public moneys precluded any capital development ... I realised that the cake available from taxation provided only a limited number of slices, each of a thickness based on need. ... I had a definite leaning to the idea ... that much in prison administration should be applied the 'cost benefit test' as to what worthwhile result will ensue from this or that action.<sup>207</sup>

The outcome of Dallard's policies for prison administration was that

New Zealand's methods of treating offenders remained unimaginative and directed more to retribution than to corrective training. Little thought appeared to be given to the fact that society would be carried on less expensively and more humanely if the person temporarily in prison could become a useful citizen and little attention was paid to the interesting advances in the treatment of offenders in other countries such as Sweden and in some states of the USA.<sup>208</sup>

This situation had been highlighted by conscientious objectors who had been incarcerated in New Zealand penal institutions during World War II who began to clamour for their release as the conflict in Europe and Japan drew to an end. Public attention to their plight was enhanced in 1945, through the publication of Methodist minister and pacifist Ormond Burton's book *In Prison*. As a soldier in World War I, Burton had been decorated for bravery, but after becoming a Methodist minister, he became an avowed pacifist and opponent of war. Burton was arrested and gaoled five times during World War II for anti war activities, serving a total of two years and eight months in custody at Mount Crawford, Napier and Wi Tako Prisons. Greatly affected by the conditions that he found in prison, Burton described the austerity, tedium and lack of purpose in prison life. He also drew attention to inconsistencies regarding the provision of religious services for prisoners with comments such as: "The prisons are not overrun by Parsons ... and many feel that prison warders are better fitted to deal with the really sinful than are the clergy."<sup>209</sup> While commending the work of chaplains

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<sup>207</sup> Dallard, B.L. (1980). *Fettered Freedom, A Symbiotic Society or Anarchy?* Wellington, Department of Justice, p.52.

<sup>208</sup> Sutch, W.B. (1987). *Poverty and Progress in New Zealand*, Wellington, A.H. and A.W. Reed Ltd. p.290.

<sup>209</sup> Burton, O. (1945). *In Prison*, p. 79.

W.E.D. Davies, N.E. Winhall and G.W.Hunt who were “regular in their visitation and genuinely desirous of giving help and encouragement to the prisoners,” Burton also criticised worship services “of the type known as “evangelistic” - a type which has diminishing appeal for a long while, as it is not sufficiently related to men’s intellectual or psychological needs.”<sup>210</sup> Burton’s experiences were similar to those experienced by other Christian conscientious objectors. For instance, Allan Handyside recorded that the Methodist minister at Taumaranui was only able to visit Rangipo and Hautu detention camps occasionally because of petrol restrictions, and that when he received permission to undertake this task, “galling restrictions were imposed, banning him from preaching a sermon, but allowing him to administer Holy Communion.”<sup>211</sup>

Burton publicly attacked Dallard’s administration of prisons, indicating that if one held a punitive view of prison administration, “Mr B.L. Dallard would be regarded ... as an excellent administrator.”<sup>212</sup> As a counter to Dallard’s views that “any stable change of character must come from within the prisoner himself,”<sup>213</sup> Burton argued that prisons should become places of “reformatory treatment.” and that each prisoner should be “treated virtually as a sick man.”<sup>214</sup> He also maintained that there should be: improvement in the facilities for personal cleanliness and in the quality of clothing; a reduction of hours spent in solitary confinement; a granting of greater freedom for prisoners; more adequate payment for work that was done; a repeal of some sections of the Crimes Act that dealt with detention of prisoners after the expiry of their sentences and psychological examination and remedial treatment for all prisoners.<sup>215</sup>

With regard to the provision of religious services, Burton was of the opinion that while evangelical groups such as the Brethren and the Salvation Army were to be “commended for their keenness” they had to come to terms with modern research regarding Biblical studies if they were to present a credible witness to prisoners.<sup>216</sup> The services of the other denominations were generally “too impersonal and remote” and that “nothing can be hoped for in the way of reformation until some really friendly and sympathetic contact is made with men as individuals.”<sup>217</sup> He argued that the Church

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<sup>210</sup> Ibid. pp. 79-80.

<sup>211</sup> Handyside, A. (2005). *Indeterminate Sentence*, Wellington, Philip Garside Publishing Ltd. p. 49.

<sup>212</sup> Burton, *In Prison*, p.148.

<sup>213</sup> Dallard, *Fettered Freedom*, p.54.

<sup>214</sup> Burton, *In Prison*, p. 150.

<sup>215</sup> Ibid. pp. 153–158.

<sup>216</sup> Ibid. p.159.

<sup>217</sup> Ibid. p.159.

should take care in the appointment of prison chaplains, who should be men of sympathy and understanding and their work should be supplemented by carefully chosen prison visitors. Churches should also strengthen the amenities of prison life in practical ways as well as help through the provision of employment and communal support to released prisoners.

*In Prison* contributed to public awareness of conditions in New Zealand penal institutions and as a consequence, the NCC asked Burton “if he would ... write a small devotional book for the use of men in prisons.” Burton responded by producing *My Heart Goes Free*, which the Minutes of the 1954 NCC Annual General Meeting recorded as being in “the printer’s hands” for distribution to provide support and encouragement for Borstal trainees.<sup>218</sup> Grinder commented that *In Prison*, “influenced the Government so much ... that it led to prison reforms soon after,”<sup>219</sup> while Lineham maintained that the experiences of Burton and other conscientious objectors contributed to the search for a new penal policy in New Zealand and improvements in the classification of prisoners.<sup>220</sup> Until his retirement, Dallard continued to provide a vigorous and public rebuttal of Ormond’s views, but “support for Burton grew stronger. Eventually the tide of public opinion turned against Dallard and it became generally accepted that wide deficiencies existed in the prisons he ran.”<sup>221</sup>

Barnett’s vision for prison chaplaincy echoed many of the principles that were promoted by Burton and it presaged much of what was to develop subsequently through the NCC and Catholic chaplaincies. There is still uncertainty however, as to whether Burton had any direct influence on the policies that were initiated by Barnett and it has not been possible to locate data that would resolve this issue. Barnett must have known about Burton’s views and certainly they were well known within NCC circles, but Barnett also appeared to have been influenced significantly by prison chaplaincy models that he had seen in 1950 during his travels to Britain, Europe and America. Support for this point of view would be found in the minutes of the 1951 NCC Annual General Meeting, which stated that: “Mr Barnett had studied arrangements” for prison chaplaincy “in Britain and America.”<sup>222</sup> Burton and the other conscientious objectors may well have had a significant influence on the penal reforms that Barnett initiated in

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<sup>218</sup> NCC, (1954). Minutes of Annual General Meeting, ATL, 87-204-001/2.

<sup>219</sup> Grinder, “Chaplaincy Service in New Zealand,” p.6.

<sup>220</sup> Lineham, “Notes taken from address to Prison Chaplains’ Annual Conference.”

<sup>221</sup> Newbold, *The Problem of Prisons*, p.43.

<sup>222</sup> NCC, (1951). Minutes of Annual General Meeting.

the 1950s, but it is an open question as to whether he had any direct influence on the formation of the nationalised chaplaincy service under the auspices of the NCC and Catholic Church after 1951.

At the time of his appointment in 1949, Barnett was a career public servant who had served the Government for 30 years. Newbold recorded that

with an LLB, Barnett was well acquainted with the vagaries of law and department politics and at the time of his assignment he had been Dallard's deputy in Prisons and Justice for a year. ... After Dallard left, the Departments of Prisons and Justice were buzzing with optimism, reflected in the bold and somewhat uncontrolled developments that punctuated the first half of the decade.<sup>223</sup>

In spite of a growing public criticism of prison conditions from organisations such as the Inter-Church Council on Public Affairs, the desire for penal reform was not always universally held and Barnett's appointment was initially opposed both by the Labour Minister of Justice, Rex Mason and then by new National Minister of Justice, Cliff Webb. Webb was a conservative lawyer who was responsible for the reintroduction of capital punishment and he saw little point in vigorous penal reform. Newbold recorded that the "relationship between the two was polite but sometimes strained, with the result that some of Barnett's hopes for sweeping legislative change were moderated."<sup>224</sup> Much of what Barnett did "in office was effected in his early years" and was of "administrative rather than legal significance."<sup>225</sup>

In 1950, Barnett travelled overseas to Great Britain, Europe and the United States of America under the auspices of a Carnegie Fellowship and a Fullbright Award, to observe the most effective advances that were being made in these places for the treatment of offenders. Robson recalled that

in the light of his ... visit overseas, Barnett thought that better training work could be done in New Zealand. Those involved he stressed, should constantly remind themselves that training was the most important purpose of a prison system – training in some form of employment which would fit the prisoners to earn their living after release; training through education; training for the development of character and a sense of personal responsibility.<sup>226</sup>

Upon his return to New Zealand he initiated policies that provided for prisoners' access to education, psychological, psychiatric, vocational and religious help and which

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<sup>223</sup> Newbold, *The Problem of Prisons*, p.47.

<sup>224</sup> *Ibid.* p.47.

<sup>225</sup> *Ibid.* p.47.

<sup>226</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 52.

promoted work skills development rather than “invented drudgery.”<sup>227</sup> While he was instigating these new initiatives, Barnett declared that “religion was one of the best reformative influences upon inmates”<sup>228</sup> and he set about reorganising the prison chaplaincy system that had existed prior to 1951. By the end of 1959, all of the Justice Department’s penal institutions were served by part or full-time chaplains representing the NCC and by visiting priests of the Catholic Church.

It is unlikely that this development would have taken place without the ready support of key individuals within the Public Service and the Government who held strong personal Christian beliefs. Clements noted that Barnett’s “passion for social justice – his deep humanitarianism–his fairness and integrity had their roots in evangelical Baptist origins.”<sup>229</sup> Barnett had the vision and the drive to set about reforming the penal system and he was responsible for recruiting a range of professional people from the fields of medicine, psychiatry, teaching, psychology vocational training and the Church to assist with the implementation of his new policies. For instance Mayhew, who was described as “a distinguished Englishman and likewise a Churchman and humanitarian,” was recruited from Great Britain to oversee the restructuring of the Probation Service.<sup>230</sup> Robson, who had his roots in the social justice traditions of the Methodist Church, was appointed as one of three Assistant Under-Secretaries to oversee staff, organisation methods and accommodation. When Clements was appointed to Invercargill Borstal as the first NCC chaplain, there was a “willingness on the part of ... Superintendent, Harry Blake, (a loyal Anglo-Catholic), to welcome a chaplain.”<sup>231</sup> Marshall, who became Minister of Justice in 1954, was the final key player in this scenario. He was a Presbyterian elder who was strongly influenced by: “the church and his Christian Faith which sustained him throughout his life.”<sup>232</sup> Of Marshall’s support for the instigation of the Prison Chaplaincy Service under the auspices of the NCC, Clements noted: “it is clear that there would have been no progress in penal reform if the minister of the day had not been open to suggestion and improvement in the right direction.”<sup>233</sup> Marshall himself wrote:

One cannot measure the influence of chaplains within the prisons and among prisoners. ... By their presence and preaching, and teaching and counselling, and

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<sup>227</sup> Sutch, *Poverty and Progress in New Zealand*, p. 291.

<sup>228</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 61.

<sup>229</sup> Clements, “Once upon a Time,” p. 14.

<sup>230</sup> *Ibid.* p.14.

<sup>231</sup> *Ibid.* p.16.

<sup>232</sup> Marshall, J. (2003). “Sir John Marshall,” In *Holyoake’s Lieutenants*, Clark, M. (Ed.), Palmerston North, Dunmore Press Ltd, p.38.

<sup>233</sup> Clements, “Once upon a Time,” p.15.

listening, and praying, and not least by their example, it can be claimed that some souls have been saved, some troubled minds have been relieved, some marriages have been preserved and families reunited, some faith and hope kept alive, and, at the end, some leave prison better men, and some come back. I cannot put a value on it, but I felt and said that the tax payer's money, and it was not much, was being well spent.<sup>234</sup>

Clements also observed that

from the minister down, a whole line of church men were involved ... who believed ... that the official recognition and employment of full-time chaplains would mean the more effective proclamation of the gospel and better pastoral care and counselling which would in turn mean that men and women would be redeemed. The plan of course called for team work among the professionals (medicine, psychiatry, teaching, psychology etc.). ... Our prisons were envisaged as therapeutic communities. If that idea seems hilarious now, I can assure you it was regarded quite seriously as our goal.<sup>235</sup>

The Christian influence of key politicians and public servants was not enough in itself, however, for the Prison Chaplaincy Service to be established. Unlike Britain, there was no established church in New Zealand and an appropriate structural entity was necessary to undertake the appointment and oversight of prison chaplains in a manner that would be acceptable to both Church and State authorities. Clements described the situation in this way:

It was the Ecumenical Movement that made the prison chaplaincy possible. The Cabinet of the day would not (perhaps could not) buy the idea of official prison chaplains if there was any hint that one church was going to appear to be elevated over another. It was a complex situation ... but it was clear ... that if the NCC had not co-operated, there would not have been a prison chaplaincy service.<sup>236</sup>

Other ecumenical bodies such as the Inter-Church Council on Public Affairs, chaired for a time by Marshall before he became Minister of Justice, had also expressed concern for the wellbeing of prisoners. This advocacy had helped to establish recognition "by the Justice Department of the Church's wisdom and expertise on Criminal Justice matters."<sup>237</sup> Following a request from the Methodist Church Public Questions Committee, the Inter-Church Council on Public Affairs began to consider the issue of prison reform in 1942. In 1943, the Council had written to Controller of Prisons, Dallard, on this matter, following the presentation of a report entitled: "The Conditions in New Zealand Prisons in the Light of Christian Principles."<sup>238</sup> The Council then gave further consideration to the war time Emergency Regulations as well as prison conditions and sentences.

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<sup>234</sup> Marshall, *Memoirs Volume One 1912-1960*, p.229.

<sup>235</sup> Clements, "Once upon a Time," p.19.

<sup>236</sup> *Ibid.* p.16.

<sup>237</sup> Lineham, "Notes taken from the Address to the Prison Chaplains' Annual Conference"

<sup>238</sup> Inter-Church Council on Public Affairs, (1942). Minutes of Meeting 12 February 1942, ATL, MSX 2278.

The Council considered a pamphlet on prison conditions received from the Presbytery of Dunedin in 1946 and noting that prison reform was a long term commitment, the Council made further attempts to enter into discussion with Dallard over the welfare of prisoners.<sup>239</sup> Between 1946 and 1950, the Council continued to lobby Government and the Churches on matters of penal reform and in 1950, it organised a conference which drew Justice Department and Church personnel together to look at the principles of prison reform. While the Inter Church Council on Public Affairs adopted an advocacy role for prison reform and better prison conditions, it never aimed to be a promoter or administrator of prison chaplaincy services. The activities of the Council may have raised public awareness about the state of conditions in New Zealand prisons during the 1940s and it may well have established credibility with regard to the Church's ability to speak on such issues, but the task of providing the umbrella under which the new prison chaplaincy system was to be administered, was given to the NCC.

The NCC initially appeared to be more preoccupied with matters such as marriage, evangelism, housing, education and faith and order, but by 1951, it had established a reputation for dealing with denominational differences and providing opinion and co-operative action on matters of national significance. It was therefore, a logical step for Barnett to ask "the NCC to co-operate in devising a scheme for ecumenically accredited chaplaincies" drawn from the non-Catholic Churches.<sup>240</sup> Commenting on this initiative twenty five years later, Alan Brash, one time Deputy General Secretary of the World Council of Churches said:

It meant that there was to be a major act of trust by each of the churches in handing over the major pastoral care of the prison population to a chaplain of a particular church. There had to be agreement about the persons appointed, there had to be confidence in the way that that person would provide for whatever special facilities were required by representatives of other churches; there had to be some kind of working arrangement which ensured the spiritual freedom of the chaplain really to do his work.

The churches at that time were not so used to trusting one another, nor to accepting responsibility under the rules of official institutions.

Nevertheless we were well served by those who represented the churches on the N.C.C., who promoted the programme very strongly within the member churches. We were equally well served by people within the Prisons Department who knew the problems from our point of view as well as from theirs, and finally we were well served by Les Clements himself in regard to a first experiment. Had that not proved effective, the whole future might have been very different.<sup>241</sup>

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<sup>239</sup> Inter-Church Council on Public Affairs, (1945). Minutes of Meeting 28 September 1945, ATL, MSY 1836.

<sup>240</sup> Brown, C. (1981). *Forty Years On*, Christchurch, National Council of Churches, p.104.

<sup>241</sup> Brash, A. (1977). "Letter to Reverend R.B. Gringer." 1 September 1976 *New Zealand Prison Chaplains' Association Magazine*, September 1977, No. 10, p.12.

If the NCC had not been in existence as a national church entity, and if this organisation had not been prepared to accept the offer from Barnett to become the vehicle by which prison chaplains other than Catholic chaplains were appointed to work in New Zealand prisons, the ensuing implementation of Barnett's vision could well have been very different.

### **The Catholic Chaplaincy 1951-1954**

When the NCC was established in 1941, its founding members were the Anglican, Methodist, Presbyterian, Congregational and Baptist Churches together with the Associated Churches of Christ and the Quakers. The Salvation Army joined in 1944 and the Greek Orthodox Church in 1947. In 1951, however, when Barnett made the invitation to Churches to provide chaplains for New Zealand prisons, the Catholic Church was not included in this arrangement as it had chosen not to participate in the NCC. Catholic observers were not present at NCC meetings until 1965 and there was little joint co-operation between the NCC and the Catholic Church on social, theological and immigration issues until after that date.

The reasons underpinning this decision were very much bound up with differences between the ecclesiology, theology and polity of the Catholic Church and the NCC Churches. Cardinal Thomas Williams explained the Roman Catholic position towards chaplaincy appointments in this way.

Ecclesiastically, our attitude towards chaplaincy was that the chaplain, just as with the parish priest, was the vicar acting vicariously on ... behalf of the pastor of the diocese who is the Bishop. We'd always been keen to make sure that the chaplain was the Bishop's appointment. The Bishop didn't want anyone acting in his name, or on his behalf, who didn't have his confidence. ... Whether a person was qualified or not was the judgement of the Bishop. So in all the institutions with a Catholic chaplain ... the judgement was always the Bishop's and the chaplain was accountable to the Bishop. We sought to maintain that. We know that in former times when ecumenical relationships were pretty slender, if they existed at all, then the common denominational distinction was accepted by everybody, not necessarily because it was good, but because it was there. It was realistic ... but in general we have tried to carry that through making modifications in working relationships and assisting in the common good that we could.<sup>242</sup>

After 1951, with the inauguration of the arrangement between the Department of Justice and the NCC, the Catholic Church did not immediately enter into a similar accord with the Government for chaplaincy provision in prisons and its pastoral care for Catholic Prisoners' continued along lines that had taken place in previous decades. By 1958, this

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<sup>242</sup> Thomas Williams, (2007). Oral Interview, 12 July 2007. Waikanae.

situation had changed. Clements took some personal credit for enabling Catholic chaplains to be included within the new arrangement for providing chaplains in prisons. Believing that Barnett did not seem to fully appreciate the Catholic position he observed:

I take unashamed credit for the early involvement of the Roman Catholic Church in the scheme. This, I think, Sam Barnett had not appreciated so soon at any rate. I broached the subject with him one day and he was not immediately enthusiastic. However, he knew and admired Leo Downey immensely and I think it suddenly struck him that it was a marvellous idea. And in next to no time Leo was the Senior Roman Catholic Chaplain. Sam remarked in his wry way that dealing with the hierarchical structure of the Roman Catholic Church had some advantages over the loosely constructed democratic N.C.C.<sup>243</sup>

An examination of Catholic archival data provided a somewhat different picture to that portrayed by Clements. Catholic Church leaders had to alter their opinions regarding a number of issues before the appointment of Catholic chaplains and a Catholic Senior Chaplain could take place. Initially, there was strong rejection of the notion that a Senior Catholic Chaplain could have authority to adjudicate on Catholic matters.

Writing to Father Tom Curran, Archbishop McKeefry noted:

Your thought about it being an attempt to establish the position of this so-called Senior Chaplain is right, and you can give it a miss. If the Department has anything to say about your work, it is for the Department to speak directly to you. You can write to him in any form except that which might be used by the I.R.A.<sup>244</sup>

By 1957, this position had been modified and there was recognition from within the Catholic Church of the need for the position of a Senior Catholic Chaplain which

would be an honorary position in every way (except salary) equivalent to Mr Clement's position as Senior Protestant Chaplain. From the Department's viewpoint it would clear up the difficulty of our not recognising Mr Clements and it would give them a definite liaison in dealing with all Catholic chaplaincy matters.<sup>245</sup>

Nevertheless, there was still wariness in providing the Senior Catholic Chaplain with authority that would usurp the over-riding pastoral responsibility of the local Diocesan Bishop. David O'Neill noted that

from our point of view, I think that the matter would be very simple. We would appoint one of our present prison chaplains, and his duties would, for the present at least, be very slight. ... He would need to have discussions with Mr Barnett and his head office people only once or twice a year. He would visit all the prison chaplains throughout the country perhaps once a year, or even more seldom when things were working smoothly and deal with them in an advisory way only, with no other authority than that of discussing matters with the local Bishop if he thought necessary.<sup>246</sup>

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<sup>243</sup> Clements, "Once upon a Time," p.21.

<sup>244</sup> McKeefry, P. (1956). "Letter to Father Tom Curran, Chaplain, Wellington Prison," 27 December 1956. Catholic Church Archives Wellington, (CCAW).

<sup>245</sup> O'Neill, D. (1957). "Letter to McKeefry," 20 September 1957, CCAW.

<sup>246</sup> Ibid. 20 September 1957.

At first, there was also some Catholic suspicion of Clements' motives. Following an invitation to attend the NCC chaplains' conference in 1956, Curran wrote to McKeefry as follows:

As you will notice, the whole venture seems to be a personal effort on the part of Mr Clements, and not a Departmental thing. It could be the first move towards establishing his supremacy over the Catholic chaplains.<sup>247</sup>

In spite of these difficulties, Barnett remained committed to the principle of finding a way to include Catholic chaplains within the new arrangements for prison chaplaincy and for bringing greater co-ordination and stability into their pastoral practice. Barnett recognised the principle that the Catholic Church wished to preserve its authority for prison chaplaincy appointments and that it did not wish to enter into an agreement with other churches for providing a combined ministry to prisons. McKeefry was asked to select a senior chaplain to provide oversight for the Catholic chaplaincy to work alongside the chaplains who were appointed under the auspices of the NCC. In 1958, Downey was appointed as the first Catholic Senior Chaplain. Neither he nor any other Catholic chaplain was to receive personal payment for their duties as a priest. This cost continued to be born by the Catholic Church. The Justice Department did agree, however, to pay an allowance to Catholic chaplains so that prayer books, rosaries and other religious material could be provided to prisoners. Initially, Downey combined his appointment with parish duties, but in 1972 he moved to Wellington, and became the first full time Senior Catholic Chaplain. In 1958, the Annual Report of the Justice Department noted:

The agreements between the National Council of Churches in New Zealand and the Roman Catholic Church for the appointment of Chaplains to our institutions have earned the warm praise, not only of church men and others in this country, but of overseas visitors as well. In the past year, with the appointment of chaplains to the prison camps, and the considerable strengthening of the Roman Catholic Chaplaincy Service by the appointment of the Rev. Father Downey, Director of Catholic Social Services in Auckland, as part time Senior Roman Catholic Chaplain and the subsequent nomination and recognition of Catholic priests to all our prisons and borstals, our immediate goal has been reached.<sup>248</sup>

### **A reluctant Bride and an avid Suitor?**

The processes that led to the creation a nationalised prison chaplaincy service in New Zealand prisons had significant ramifications for the ongoing relationship between Church and State administrators after 1951. Clements may well have held the subjective viewpoint that God's purposes were being worked out in the evolution of this

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<sup>247</sup> Curran, T, (1956.). "Letter to McKeefry," 24 December 1956.CCAW.

<sup>248</sup> JDARP, 1958.

relationship: “if God’s clock was chiming and his men were already employed in the Justice Department, he had put together the other pieces too,”<sup>249</sup> A more detached view must be taken for the purposes of this study, however, and it was the combination of a propitious set of circumstances that occurred in the late 1940s and the early 1950s plus the vision and action of Barnett and other key public servants and politicians that enabled the new arrangement for prison chaplaincy service provision to be set in place.

Contributing social, economic and political factors enabled Barnett to pursue his policy intent of creating a nationalised prison chaplaincy service in New Zealand penal institutions and finally bring to fruition the intentions of the 1868 Royal Commission on Prisons. These included the: changing mood and growing sense of optimism within New Zealand after the Great Depression and the Second World War; New Zealand’s sound economic position and a willingness by Government to invest in infrastructure that would benefit the wellbeing of the general populace and strategic position of the NCC as an umbrella organisation which together with the Catholic Church could appoint and oversee the administration of prison chaplains.

Other influences, such as the demands from Burton and other conscientious objectors for improved conditions in prisons, probably had some indirect influence on Barnett, although there did not appear to have been any direct communication of substance between the two men. Further, that while the Inter-Church Council on Public Affairs may have established credibility with Government through its advocacy on behalf of prisoners, its primary focus was penal reform and not the creation of a nationalised Prison Chaplaincy Service. There is little if any evidence in either the Inter Church Council on Public Affairs or NCC records, to suggest that the churches were actively campaigning for the creation of a centralised prison chaplaincy service prior to 1951. At best, the activities of the conscientious objectors such as Burton and the Churches’ public advocacy for penal reform helped to create a suitable environment in which Barnett’s new policy could be implemented, but they were not, primary factors in the initiation of the new Prison Chaplaincy Service.

While in 1951, some churches were engaging in advocacy for prison reform, there appeared to be little active desire to change the pre-1951 arrangements for prison

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<sup>249</sup> Clements, “Once upon a Time,” p.15.

chaplaincy provision. Across the denominational and theological spectrum, from Salvation Army to Catholics, the Churches seemed to be more interested in defending their own interests for providing ministry to prisoners. Available data has indicated that the Churches were defensive, cautious and apprehensive about entering into this proposed new venture between Church and State because there was a reluctance to give up authority for making ministry appointments, as well as distrust in the motives of other churches and those of the State. McKeefry's comments about the NCC churches and the Salvation Army's suspicion of Barnett's intentions were indicative of this assertion. Barnett's address to the NCC in 1951 may have resolved some of the disquiet, but the attitude of the Southland branch of the NCC over Clements appointment demonstrated that there was no great rush from the Churches to act on Barnett's proposal. It took pro-active action from the Secretary for Justice to ensure that his intentions were realised and if Barnett had not intervened personally after the procrastination of the Southland Branch of the NCC, the whole scheme may have foundered at that point.

Barnett's personal beliefs played a significant role in motivating his reform of the Prison Chaplaincy Service and it was his action as a public servant, in conjunction with other sympathetic State administrators and politicians that ultimately ensured the founding of a centralised chaplaincy service in New Zealand prisons. Without his personal intervention, the evolution of the Prison Chaplaincy Service would have been vastly different.

NCC records provide evidence to indicate that Barnett became interested in models of prison chaplaincy that he saw in 1950 during his overseas trip to America, Britain and Europe. After his return to New Zealand, he set out to reform the Prison Chaplaincy Service and improve the effectiveness of a chaplaincy system that had functioned without creativity or imagination under Dallard's administration. The existence of the NCC provided the vehicle for Barnett to establish his intention. His persistent sensitivity towards the Catholic Church's unique viewpoint also demonstrated goodwill on the part of a State administrator which enabled these initiatives to take place. Clements may well have persuaded Barnett of the need to include the Roman Catholic Church in the new arrangements for prison chaplaincy. It took ongoing tact, patience and understanding, however, from Barnett and members of his staff to ensure that a way was found for the Catholic Church to participate in a manner that was acceptable to

itself, the Justice Department and the NCC and which did not deny the integrity of any of these parties. During the 1960s and 1970s, Barnett's initiative continued to grow and flourish. The way in which this occurred will be described in the next chapter of this study.

## CHAPTER SIX

### CHURCH, AND STATE: DEVELOPING THE NEW PARTNERSHIP 1954–1980

In the decade and a half following 1954, there appeared to be considerable goodwill between the Justice Department and the Churches as they jointly managed the new prison chaplaincy system sponsored by Barnett. Between 1954 and 1980, the optimism and altruistic intentions of Church and the Government administrators combined to lay solid foundations for the future and to bring Barnett's intentions to fruition during the period that might be regarded as the golden age of prison chaplaincy in New Zealand prisons.

In the 1950s and 1960s, the Department of Justice seemed to take a good degree of pride in this new venture which had been established “to enable the values of religion to be efficiently communicated.”<sup>250</sup> In 1964, the Department of Justice lauded the “the two sections of the chaplaincy service, the National Council of Churches and the Roman Catholic Church,” who were “drawn together by a common concern for the inmate” and who “attained a closer ecumenical relationship than in any other phase of Christian Service. ... Christianity had always been regarded as a major force in reformation” and

the Christian doctrine of forgiveness is an essential element in therapy if any real progress is to be made in character reformation. ... Thus the chaplain serves as a counsellor and friend to the people in prison. ... by presenting the Christian religion in its original simplicity and by showing compassion and unfailing goodwill, the prison chaplain gives comfort and hope.. He has the privilege of bringing the gospel to many people who have never hear it preached nor seen it put into practice.<sup>251</sup>

These comments described a relationship that had evolved, apparently without major complication and with the fullest of goodwill and co-operation between all of the parties involved.

Following the success of the Invercargill experiment, in 1955, the Department of Justice decided to “to extend the principle of one institution – one chaplain” and discussions were entered into with the NCC to appoint chaplains to Waikeria and Arohata Borstals.<sup>252</sup> In 1956, Clements was appointed as the first “full-time chaplain to

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<sup>250</sup> Department of Justice, *Crime in the Community*, p.63.

<sup>251</sup> *Ibid.* pp. 62-63.

<sup>252</sup> JDARP, 1955.

the Department.”<sup>253</sup> In this role, he would undertake chaplaincy duties at Mount Crawford and Wi Tako Prisons as well as provide leadership to the part time chaplains at Invercargill, Arohata and Waikeria Borstals. There was also mention that

the institution of chaplains’ libraries and the extended use of good religious films have been made possible by the appointment of chaplains. The goodwill of local churches is being channelled into all sorts of services for the benefit of the prisoner. Choirs sing in our prisons and borstals on Sundays, concerts are given, parcels are sent out, and prisoners helped on release. This sort of thing will be extended as more chaplains are appointed and their work receives greater recognition.<sup>254</sup>

In 1956, the ministry of Catholic Chaplains was noted for the first time.

Roman Catholics in prison are cared for by their own Church, and most faithful work is carried out by visiting priests, both in prison through the celebration of the Mass and in personal interviewing and counselling, and when men are released from custody, in charity and helpfulness.<sup>255</sup>

In 1957, the Rev. A.G. Dunn was appointed as a full time chaplain-welfare officer to Mount Eden Prison, “the first time ... that the dual office of chaplain and welfare officer has been attempted and the experiment will be watched with interest both by the Churches and the Department.”<sup>256</sup> By 1958, there was almost a full complement of Catholic and NCC chaplains serving in New Zealand prisons.

With the exception of the prison camps, all our institutions are now served by part-time or full-time chaplains representing the National Council of Churches in New Zealand and by visiting priests of the Roman Catholic Church. We are now able to say with confidence, that few if any, enter our prisons or Borstals without being offered spiritual help and guidance by men who are becoming increasingly better informed and skilled in this field of pastoral care.<sup>257</sup>

By 1960, the Senior Chaplain’s Report had replaced the heading of “religion” in the Department of Justice Annual Reports. In the same year Clements resigned as Senior Prison Chaplain to undertake a new appointment in which he would establish a marriage guidance service for the Department. Methodist minister and chaplain at Wellington Prison, the Reverend E.S. (Mac) Hodinott, became the new Senior Chaplain. In 1961, the chaplaincy service had expanded to five full-time and nine part-time NCC chaplains and thirteen part-time Catholic chaplains. Hodinott died in office on the 5 March 1967, and his replacement as Senior NCC Chaplain in July of that same year was Waikeria chaplain and Baptist minister, the Reverend Rex Goldsmith.<sup>258</sup> Goldsmith’s duties were coupled with those of chaplain at Arohata Borstal. By 1972, the number of serving chaplains in New Zealand Prisons had grown to 12 full-time and six part-time appointments representing the NCC and “an equivalent number of Catholic priests

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<sup>253</sup> JDARP, 1956.

<sup>254</sup> JDARP, 1956.

<sup>255</sup> JDARP, 1956.

<sup>256</sup> JDARP, 1957.

<sup>257</sup> JDARP, 1958.

<sup>258</sup> JDARP, 1968.

serving on a part-time basis.”<sup>259</sup> In 1977, the Prison Chaplaincy Service’s Silver Jubilee year, the Senior Prison Chaplain’s report to the Department of Justice commented:

For 25 years the ecumenical chaplaincy representing the National Council of Churches and the Council of Catholic Bishops, has played its part in our institutions, alongside specialists, educationalists and prison staff. Through the team of chaplains, full-time and part-time, a great variety of church and community fellowship and help is contributed to the total effort towards a realistic approach to the problems of men and women in custody. Some imaginative programmes and study are aimed at enabling self understanding and responsible living in society, assisted by the sharing of folk from the community. Through their annual conference, regional seminars and a magazine, the chaplains seek to increase efficiency in their work. Canon H. I. Hopkins ... was honoured with the award of the O.B.E.<sup>260</sup>

The Minutes of the NCC Annual General Meetings provide valuable data for tracing the evolution of this partnership, although they are couched more in language employed by church administrators. In 1954, Clements provided a report on his previous two years of chaplaincy work at Invercargill which was: “well received” and it was reported that the Justice Department wished to increase the number of part-time and full-time chaplaincies in borstals and gaols. Upon Clements’ recommendation, the matter was referred to the NCC Executive for consultation with Barnett over future appointments.<sup>261</sup> In 1955, a letter was sent to St Peter’s Methodist Church in Invercargill thanking the congregation for releasing Clements to the chaplaincy work at Invercargill Borstal.<sup>262</sup> In 1956, Clements’ report discussed not only his own ministry situation but also those of other chaplaincies and it made mention of projected appointments at Christchurch and Mount Eden Prisons.<sup>263</sup> After Clements’ resignation, the NCC Executive was consulted over the appointment of his replacement and the position of NCC Senior Chaplain was to be combined with the part-time position at Wi Tako Prison.<sup>264</sup> In 1960, Hodinott presented his first report as Clements’ successor to the NCC Annual General Meeting which resolved to write to Barnett: “congratulating him on the reception of his Queen’s Birthday Honour and thanking him for all that he had done while he was Secretary of Justice.”<sup>265</sup> A letter of support and appreciation was also sent to each of the prison chaplains serving throughout New Zealand. By 1961, six of the member churches of the NCC were represented among serving chaplains and in 1963 there was mention that “prisons and borstals accepted the principle that chaplains were fully integrated into the staff and yet they were able to carry out their work with

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<sup>259</sup> JDARP, 1973.

<sup>260</sup> JDARP, 1977.

<sup>261</sup> NCC, (1954). Minutes of Annual General Meeting, ATL, 87-204-001/2.

<sup>262</sup> NCC, (1954-1955). Minutes of Annual General Meetings, ATL, 87-204-001/2.

<sup>263</sup> NCC, (1954, 1956). Minutes of Annual General Meetings, ATL, 87-204-001/2.

<sup>264</sup> NCC, (1959). Minutes of Annual General Meeting, ATL, 87-204-001/2.

<sup>265</sup> NCC, (1960). Minutes of Annual General Meeting, ATL, 87-204-001/2.

remarkable freedom.”<sup>266</sup> By 1965, the NCC was beginning to consider how it could make better strategic use of prison chaplains “as much as possible to foster Christian conscience with regard to the custodial staffing of prisons” and to “encourage suitable young people to train themselves for institutional work in the framework of prisons.”<sup>267</sup> This concern was discussed again in the following year when it was recorded that “Christianity had so much to give” and yet no “authoritative material of value” had been produced to give to those who wished to work in prisons.<sup>268</sup> Hodinott’s death was recorded in 1967 and the appointment of Goldsmith as his replacement was affirmed. In the same year, Lawrence More spoke to the meeting about the growing relationship between Catholic and Protestant chaplains, the only occasion that this matter appeared to have been mentioned at any of the NCC Annual General Meetings. Letters of thanks were sent to Robson as Secretary for Justice and to the Minister, the Honourable J.R. Hanan for sponsoring “liberal and humane” legislation that was being enacted with his support in 1969.<sup>269</sup>

The Annual Reports of the Catholic Senior Chaplain to the Catholic Bishops also provide valuable information regarding the early development of the Catholic Chaplaincy. Despite initial misgivings, Catholic Church administrators quickly came to see the possibilities that could arise from Barnett’s new initiative for prison chaplaincy provision. In 1959, Downey observed:

1. I feel that since we now have our own chaplaincy and some official status with the Department, such a visit is of great value.
2. I am able to give your Graces and My Lords an accurate overall assessment of our Catholic population in prison.
3. I am able to report on each institution and with respect make suggestions.
4. I am able to discuss problems with our local chaplains and perhaps stimulate the work somewhat in one or two places.<sup>270</sup>

Downey also suggested that a conference for Catholic Chaplains could be held at the end of that year. After this event had occurred, Downey reported that all of the Catholic Chaplains had agreed on the following points:

- (a) That the Catholic priest comes as Chaplain to the prison in the first place to provide for the prisoner regular divine worship through the Sacrifice of the Mass and regular opportunities to go to Confession and Holy Communion.

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<sup>266</sup> NCC, (1967). Minutes of Annual General Meeting, ATL, 87-204-001/2.

<sup>267</sup> NCC, (1965). Minutes of Annual General Meeting, ATL, 87-205-001/2.

<sup>268</sup> NCC, (1966). Minutes of Annual General Meeting, ATL, 87-204-001/2.

<sup>269</sup> NCC, (1969). Minutes of Annual General Meeting, ATL, 87-204-001/2.

<sup>270</sup> Downey, L. (1959). “Report on the Visitation of All Prisons in New Zealand, May 1–June 10 1959.” CCAW

- (b) That his third work is to give individual spiritual guidance and help to the prisoners as far as possible. ...
- (c) The Catholic Chaplain must be convinced that he is not a Welfare Officer, nor must he become identified as a Departmental Official.<sup>271</sup>

He also enthused about the assistance he had received from Departmental Officials: “Everywhere, local Superintendents and Staff were most co-operative. Nothing was a trouble. Timetables were made to suit our convenience. Great interest in our chaplaincy work was evidenced by all officials.”<sup>272</sup>

In 1962, Downey reported that missions had been held at Waikeria, Invercargill and Arohata Borstals as well as at Christchurch, Mount Crawford and Mount Eden Prisons. Although the Waikeria and Mount Eden Prison missions were conducted simultaneously with NCC chaplains, Downey made no mention of this joint undertaking, an indication that the Catholic Chaplaincy was still very much focussed on its own denominational concerns. In 1963, Downey noted that earlier concerns regarding the appointment of suitable priests to act as chaplains were being dealt with through “the willingness and understanding of the Hierarchy in the appointment of suitable chaplains.”<sup>273</sup> He also reported that NCC Senior Chaplain Hodinott was present at the Catholic Chaplains’ conference at which he gave an address entitled: “The Role and Distinctive Resources of the Chaplain for Rehabilitation.”<sup>274</sup>

It has not been possible to sight intervening reports that were provided between 1963 and 1974, but by 1973 Father Tom Hogan had replaced Downey as Senior Catholic Chaplain. In his report of 1973-74, Hogan considered the conflict of interest between parish and prison responsibilities for Catholic Chaplains and he recommended that “more thought be given to such a set up in such a parish. With a younger priest the workload could be more evenly shared and thus more time available for the chaplain to care for his institution, which after all is an ‘extra’.”<sup>275</sup> He was also positive about the relationship that existed between the Catholic Chaplaincy and Justice Department Officials. “If any one impression gained on this inspection tour stands out ... it is the

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<sup>271</sup> Downey, (1960). “Annual Report to the Roman Catholic Bishops, CCAW

<sup>272</sup> Ibid. p.7.

<sup>273</sup> Downey, (1963). “Annual Report to the Catholic Bishops, 18 November 1963.” CCAW.

<sup>274</sup> Ibid. 1963.

<sup>275</sup> Hogan, T. (1974), “Catholic Prison Chaplaincy 1973/4, Report of the SPC, T. Hogan.” Wellington, Catholic Bishops, CCAW.

obvious desire of the authorities to facilitate and co-operate with us in our work as priests in penal institutions.”<sup>276</sup> Hogan concluded this report by observing that

the New Zealand Chaplains, by world standards hold a strong, responsible and unique position within the Justice Department and in our Penal Institutions. I feel that we owe it to those who have made this possible, and all who are to come after us, to do all that we can to retain and strengthen this position.<sup>277</sup>

The events described in these annual reports, however, presented a somewhat selective and idealised picture of what was actually taking place. Amidst the letters of congratulation and encouragement, the statistics portraying the increasing number of chaplaincy appointments and the acknowledgement of mutual support between the Department of Justice, the Catholic Church and the NCC administrators, there were difficulties that had to be worked out on a practical basis. These matters included, Church-State and inter-church communication, personal conflicts between colleagues, relationships with Justice Department staff and differences in theological and procedural awareness. The following four incidents were representative of some of those that had to be faced by the early chaplains and State administrators in the years 1954 to 1980.

Shortly after he was appointed as Senior Chaplain, Clements was strongly criticised by Burton in a private conversation for “betraying the cause.”<sup>278</sup> Burton believed that chaplains should be withdrawn from the armed forces and that the same should occur for prison chaplains. He also felt that after Clements was appointed as Senior Chaplain, he would simply “become a tame and obedient servant of the Justice Department, whitewashing its un-Christian practices”<sup>279</sup> Although Clements had been assured by Barnett that he would be free to fulfil a prophetic as well as pastoral ministry, he was still worried about Burton’s views and he sought an interview with Secretary for Justice Robson to discuss his concerns. Clements recorded:

I will always remember how he gave me one of the best ten minute lectures on Church–State relations that I have ever heard and left me in no doubt whatsoever that he was as sensitive as anyone to the issues I posed. He assured me that neither he nor Sam Barnett wanted “yes” men around them. I was relieved.<sup>280</sup>

On another occasion, Rangipo prison officers met together and passed a resolution asking for Clement’s dismissal because he had been in prison and there was a regulation in existence that prevented the employment of ex-prisoners in the Prison Service. They alleged that Clements had rebuked a prison officer in the presence of prisoners because

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<sup>276</sup> Ibid, p.1.

<sup>277</sup> Ibid. p.3.

<sup>278</sup> Clements, “Once Upon a Time,” p.20.

<sup>279</sup> Ibid. p.19.

<sup>280</sup> Ibid. p.20.

he had “herded in a small group of inmates to a morning worship service in something less than the spirit of reverence and had then stood behind them with his arms folded and his hat on.”<sup>281</sup> In Clements’ presence, Barnett phoned Prison Superintendent David Dunlop, and informed him that he was coming to National Park that same night to address a full staff meeting on the next day with a view to having the motion rescinded. This was done. Following this incident Clements commented:

The important thing however, that I was able to say to them was the Secretary for Justice entirely supported my action in telling the prison officer to either join in worship or leave. It might appear a small matter now, but in the context of that early skirmishing to establish certain rights for chaplains it was a milestone.<sup>282</sup>

There were also procedural problems in making some of the early appointments. The Justice Department Annual Report for 1965 noted the appointment of the Reverend R. Grace in 1955 to the chaplaincy position at Arohata Borstal and that “the initial results are very encouraging,”<sup>283</sup> but it did not refer to difficulties that had arisen within the NCC over his appointment. Clements had reported to the NCC in 1954 that Grace had begun his work at Arohata Borstal and while there had been “frequent consultation with the Wellington Branch of the NCC, little if any discussion took place with the National Executive. The NCC recorded concern that Mr Grace “appears to have been appointed virtually by the Department of Justice, though in some consultation with the Wellington NCC.”<sup>284</sup> The Justice Department may have expressed public enthusiasm about the new chaplaincy experiment, but procedures for communication between Department of Justice officials and Church administrators still had to be improved. In order to avoid future potential problems of this nature, the NCC resolved that future appointments should be “handled by the executive” who would “liaise with Mr Barnett.”<sup>285</sup>

Another incident occurred at Arohata Borstal. In 1959, the Head Matron initiated a morning religious assembly and roll call for all of the trainees, at which “this religious effort consists of reading from the Scriptures, (Mons. Knox translation), prayers and hymns.”<sup>286</sup> Downey’s comments reflected Catholic attitudes of the time towards other churches:

Our Catholic girls there resent the compulsory attendance at this function, and whilst not always convinced myself of the purity of their motives in complaining about this, I discussed the matter with the Head Matron and I was assured by her that their attendance was not compulsory. I told the girls to apply for an exemption if they

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<sup>281</sup> Ibid. p.20.

<sup>282</sup> Ibid. p.20.

<sup>283</sup> JDARP, 1955.

<sup>284</sup> NCC, (1954), Minutes of Annual General Meeting.

<sup>285</sup> NCC, (1955), Minutes of Annual General Meeting.

<sup>286</sup> Downey, (1959) “Letter to McKeefry, 30 January 1959.” CCAW.

were worried in conscience. However, I have heard that the girls are compelled to go, and Miss Lorimer says that the Archbishop has given his permission for their attendance.

I did not worry too much about the matter but the girls felt that Father Connor and myself were not supporting them in their fight for freedom to practise one's own religion. ... I have reason to think that Miss Lorimer, whilst being suave and competent, does not care for Catholics and she has said our girls are the worst behaved in the institution.<sup>287</sup>

Downey wrote to Barnett on this matter and he received a reply which stated:

I always thought it was sufficiently innocuous as to give no offence to members of your faith. It is not meant to be a religious ceremony but a corporate beginning of the day. ... If you are really serious that there is something objectionable in what is done, then of course the inmate of Roman Catholic persuasion will have to be excused from attendance. ... I am willing to see that changes are made that will be acceptable to your people. Would you care to make any suggestions?<sup>288</sup>

After further consultation with Downey, McKeefry denied that he had given his assent to this morning assembly, but he did suggest that prayers considered to be suitable for Catholic and non-Catholic alike, which were used by the armed forces, could be used at the assembly together with a recital of the Lord's prayer and continued use of the Knox translation of the Bible. McKeefry then referred the matter to Father D.O'Neill for further advice. In reply, O'Neill stated:

Miss Lorimer has no justification as far as I know for saying that you have approved of the morning service. I disagree thoroughly with Mr Barnett ... that if you have a morning assembly in an institution, it should contain elements of a corporate and religious beginning of the day I think it brings religion into disrepute among prisoners; they feel badly enough about being caught by the police, without the police praying over them. If Mr Barnett's idea is true and sincere, he should apply it equally to the beginning of the day at Head Office. ... Why should it be imposed on prisoners who are unable to object. I think we should take the stand that if prison officers do conduct any religious observances, they should be limited to simple introductory and concluding prayers and the prayers themselves should be submitted to the Catholic chaplain for approval.<sup>289</sup>

A full copy of O'Neill's letter was then transmitted to Barnett, who replied:

I have read your argument and while I do not accept it, and think there are quite good answers that could be made, it would be unfriendly and unfruitful to do so. The important thing is that good relationships should remain undisturbed and that the wishes of your church should be respected. I am therefore giving instructions that the reading of scriptures, saying of prayers at the Arohata Institution should be discontinued. However, it is my wish that the singing of a hymn should be an item of the morning assembly. I assume there would be no objection to this. I am obliged for your putting your point of view so courteously and plainly. It is pre-eminently desirable that there should be no misunderstanding between us.<sup>290</sup>

Barnett's response seems to have mollified the concerns expressed by Downey, McKeefry and O'Neill. In a final letter to McKeefry, Downey commented:

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<sup>287</sup> Ibid. 1959.

<sup>288</sup> Barnett, S.T. (1959). "Letter to Father Leo Downey," 23 January 1959. CCAW.

<sup>289</sup> O'Neill, (1959). "Letter to Archbishop McKeefry," 9 February 1959. CCAW.

<sup>290</sup> Barnett, (1959). "Letter to Downey," 25 February 1959. CCAW.

I suppose one can understand his reaction, but the main point of his letter, as I see it, is that ‘the wishes of your Church, as it concerns any form of religious observance on the part of its member, should be respected.’ This recognition is what we asked for and now we have it.

Re the singing of a hymn, I take it that that is in order and quite in accordance with our stand – maybe “Faith of Our Fathers” will be most popular.<sup>291</sup>

The official policy of “one institution, one chaplain” also created problems in some prisons where the appointed chaplain was not an Anglican. Grinder recorded that

they sought to have the right to minister to inmates of their own denomination even though they often had no pastoral contact with them. The NCC and Senior Prison Chaplain were cautious about this problem as competition between the various denominations threatened the ecumenical basis of the chaplaincy.<sup>292</sup>

More recalled that after he had been appointed to follow Dunn as chaplain to Mount Eden Prison, Prison Superintendent, Edward Buckley, had asked him about the status of the NCC chaplain’s position in the institution, together with that of other ministers who were also visiting the prison: “I don’t know what’s going on. We’ve got five chaplains in this place. As far as I’m concerned there are only two. What are we going to do with the rest?”<sup>293</sup> More noted that “these were sincere people ... and they had access to their own denomination” through information that was supplied to visiting clergy upon a prisoner’s arrival at Mount Eden.<sup>294</sup> He did not know what they did or what he was going to do with them. “They did do pastoral work in a sense but it was kind of chit chat stuff.”<sup>295</sup> More said that he dealt with the situation by calling all these visiting clergy to a meeting where he informed them that their presence was valuable, but he wanted them to enter a “deeper ministry” whereby they would interview every prisoner under their respective pastoral care a month before they were due to be released.<sup>296</sup> If these prisoners had no accommodation or work to go to this situation was to be rectified. Another meeting was then arranged, at which More was informed by the visiting clergy that they were experiencing difficulty in meeting these new requirements that were being set for them. As a result, they had decided to use their time elsewhere. “That was the end of their visits and they left.”<sup>297</sup> More recalled that he never advised the NCC what had happened. When he told Buckley about what had occurred, he received the comment, “That is starting to make sense for us.”<sup>298</sup> In this case, the matter was

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<sup>291</sup> Downey, (1959) “Letter to McKeefry,” 3 March 1959.

<sup>292</sup> Grinder, “Chaplaincy Service in New Zealand,” p.7.

<sup>293</sup> More, Oral Interview, 9 October 2006.

<sup>294</sup> Ibid, 2006.

<sup>295</sup> Ibid, 2006.

<sup>296</sup> Ibid, 2006.

<sup>297</sup> Ibid, 2006.

<sup>298</sup> Ibid, 2006.

resolved to the satisfaction of both prison management and the NCC chaplain but there was no record of the reaction of the visiting clergy who declined to return to the prison.

Each of these incidents may not have been greatly significant in themselves, but they were indicative of many of the difficulties that had to be surmounted as Church and State administrators learned to work together between 1954 and 1980. Nevertheless, any one of these issues had the potential to disrupt or even bring about the termination of the fledgling Prison Chaplaincy Service and there were occasions when they severely tested the goodwill of those who were involved in them.

### **Developing Ministry to Maori Prisoners**

Mention has already been made of the NCC's concern for North Island Maori prisoners who were held at Invercargill Borstal. Justice Department administrators were also aware of this issue, together with that of the rising incidence of criminal offending by Maori. Robson stated that

in 1954, Barnett pointed out that although Maoris constituted seven per cent of the total population, they formed 38 percent of the borstal inmates and twenty percent of the adult prisoners.<sup>299</sup> Although there was a higher proportion of young people in the Maori population, Barnett nevertheless, considered that there was far too much crime among Maoris. This was a problem of national concern.<sup>300</sup>

Barnett continued to be concerned "that the situation with respect to Maori crime was not improving; indeed it was getting worse" and in 1957 he established a special committee made up of representatives of the Department of Maori Affairs, Department of Statistics, Child Welfare Division of the Education Department, and the School of Social Science from Victoria University of Wellington, to consider this issue.<sup>301</sup> The special committee had difficulty in collating and interpreting the available statistics, but

it remained an indispensable fact that Maoris formed a quite disproportionate percentage of offenders, borstal trainees and prisoners. While they did not constitute the whole, Maori offenders certainly constituted the heart of the penal problem. Furthermore, the age structure of the Maori population was such that unless some way was found to reduce the amount of crime among Maoris, the future outlook was deplorable.<sup>302</sup>

As part of its recognition of this situation, the Department of Justice attempted to supplement the chaplaincy provision at Invercargill Borstal by agreeing to provide

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<sup>299</sup> Belich, *Paradise Reforged*, p.481, confirmed Robson's observation by stating that "the Maori imprisonment rate in 1950 was 4.7 times the non Maori rate... It climbed somewhat faster to 6.9 in 1965."

<sup>300</sup> Robson, *Sacred Cows and Rogue Elephants*, p.62.

<sup>301</sup> *Ibid.* p.62.

<sup>302</sup> *Ibid.* p.62.

coverage of expenses for one Maori minister who would visit the institution on a quarterly basis for one week on each occasion. In addition, arrangements were made for one Presbyterian, one Methodist and two Anglican ministers to visit on an annual basis, with the cost of their travel being borne by the Department. This venture was noted by the Justice Department:

The Maori Section of the National Council of Churches is taking an active part in serving members of their race, particularly at Invercargill, where quarterly visits are made each year.<sup>303</sup>

In 1955, the NCC Maori Section recorded that this initiative provided a “valuable opportunity for keeping in touch with youths. This is an important contribution to their rehabilitation.”<sup>304</sup> In 1958, the inauguration of this initiative was also noted, but there was difficulty in finding men who could be released from their pastoral responsibilities for this ministry. “One visit had been missed. Two others were behind schedule, but the Justice Department considered this work to be worthwhile.”<sup>305</sup> Beyond this initiative, however, there appeared to be no policy directive or request from either the Department of Justice or the NCC to appoint Maori chaplains as a strategy for addressing Maori offending. While NCC records and Robson’s comments showed that both Barnett and the NCC were aware of the situation, the joint initiative for providing Maori ministers to visit Invercargill Borstal trainees was a supplementary addition to Clements’ appointment. The NCC did not appear to be interested in campaigning for a full time Maori appointment to Invercargill and Clements continued as the officially appointed chaplain to that institution.

In 1959, the prison chaplaincy administrators became concerned about the need to improve the training, qualifications and selection processes for chaplains. In that year, the Justice Department noted: “it is becoming universally accepted that an efficient redemptive ministry to the offender demands not only goodwill and idealism, but a high degree of selection and training.”<sup>306</sup> The clergy who had been appointed to the serving in the Prison Chaplaincy Service, however, were trained and nurtured in the Pakeha traditions of their churches and prison chaplaincy administrators regarded the British and American clinical pastoral training models as being the most appropriate method for preparing clergy to minister in a penal institution. Events such as the seminar conducted in 1958 by American pastoral counsellor Seward Hiltner were employed to

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<sup>303</sup> JDARP, 1957.

<sup>304</sup> NCC Maori Section, (1955). Minutes of Annual General Meeting. ATL, 211-4.

<sup>305</sup> NCC Maori Section, (1958). Minutes of Annual General Meeting. ATL, 211-4.

<sup>306</sup> JDARP, 1959.

develop and upgrade the pastoral skills of prison chaplains, but there appeared to have been no training provision to enable chaplains to meet the special awareness required for addressing the spiritual needs of Maori prisoners. Knowledge of tikanga Maori or proficiency in Te Reo was not considered to be a prerequisite for prison chaplaincy appointments at this time.<sup>307</sup>

This basis for chaplaincy training continued into the 1960s. During Robson's administration, there was no active policy encouragement from within the Justice Department for chaplains to pursue Maori pastoral care initiatives in their ministry. Cameron noted that Robson may have been "adept at securing the support of the churches," but like many at the time, he seemed to "lack perception of the underlying nature and causes of the problem of Maori offending."<sup>308</sup> Church and State administrators continued to employ models of prison administration imported from Britain and America.

Nevertheless, during the 1960s, there were two indications that attitudes were beginning to change. A worship book: *Order of Worship*, produced under the direction of Hodinott in 1965, contained a number of Maori hymns and *He Ritenga Karakia* as its ninth order of worship. The Orders of Service for Holy Communion and the Commissioning of a Chaplain, however, remained written entirely in English.

In 1964, the Department of Justice decided to

appoint a Maori clergyman at Waikeria Youth Centre as soon as a suitable person is available. This should considerably assist in the treatment of young Maori offenders.<sup>309 310</sup>

In 1965, the "Reverend Manu Bennett was commissioned associate chaplain at Waikeria and as adviser to the chaplains on the treatment of Maori inmates."<sup>311</sup> In that year, Bennett also attended NCC Maori Section Annual General Meeting and presented a paper on "The Prisoner the Public and the Church" in which he questioned long-standing assumptions about prisoners and appealed to the church to "participate in their

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<sup>307</sup> Ryan, P.M. (2008). *The Raupe Dictionary of Modern Maori*, Auckland, Penguin Group (NZ). p. 324, defines tikanga as, "meaning, custom, obligations and conditions (legal), provisions (legal), criterion, convention."

<sup>308</sup> Cameron, J. (2000). *Robson, John Lochiel 1909-1993*, DNZB, Volume Five (1941-1960). <http://www.dnzb.govt.nz/>. 29 July 2008.

<sup>309</sup> JDARP, 1964.

<sup>310</sup> There was no mention of this projected undertaking in the NCC Annual Report for 1965.

<sup>311</sup> JDARP, 1965.

rehabilitation by preaching Christian attitudes to offenders” and open “Christian homes to those who were released.”<sup>312</sup>

These initiatives, however, were limited in their scope and the Prison Chaplaincy Service did not appear to make any other organised attempts to address the specific spiritual needs of Maori prisoners during the 1960s. In fact, this issue did not seem to be of importance. An examination of the articles contained in the early issues of the *Prison Chaplains' Association Magazine*, revealed that there were discussions on subjects as diverse as: chaplaincy training for theological students (1966); the use of punishment (1972); the impact of institutionalisation (1974); and the role of the prison chaplain (1975) but it was not until 1977, that two specific references were found on issues affecting Maori prisoners. In an article: “The Prison Chaplaincy of Tomorrow,” Invercargill Borstal Chaplain, George Sweet, argued for “correctional chaplains” rather than “prison chaplains” and he noted: “the frightening remark of Roy Te Punga yesterday that the Maori adapts too easily to the communal situation of imprisonment.”<sup>313</sup> Sweet also observed further that:

Christianity must take root in the cultural soil of many different peoples and so become really indigenous. It cannot do this if it is tied up with a system of doctrine that is worked out and defined in western terms (and our boys certainly aren't “western”).<sup>314</sup>

In a response to Sweet, Waikeria Chaplain Lane Tauroa considered the impact of imprisonment, rehabilitation programmes and the employment of chaplains, but he did not respond directly to Sweet's proposition that Christianity must express itself in an indigenous setting rather than that of its western heritage. Tauroa then wrote another article entitled: “Where Do We Go From Here?” in which he considered the future direction of prison chaplaincy and proposed that the church must set the future direction for the Prison Chaplaincy Service. Again, however, there was nothing in this article that represented a peculiarly Maori viewpoint and no mention is made of the way in which Maori resources within the churches could be utilised to assist Maori prisoners.<sup>315</sup>

Nevertheless, Bennett's appointment initiated a gradual momentum for change. By 1977, a total of four Maori chaplains had been appointed and all of them were NCC

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<sup>312</sup> NCC Maori Section, (1965). Minutes of Annual General Meeting, ATL, 211-4.

<sup>313</sup> Sweet, G. (1975). “The Prison Chaplaincy of Tomorrow,” *New Zealand Prison Chaplains' Association Magazine*, No.7 February 1975, p.25.

<sup>314</sup> Ibid. p.25.

<sup>315</sup> Tauroa, L. (1977). “Where Do We Go From Here,” *New Zealand Prison Chaplains' Association Magazine*, No.10 September 1977, pp. 28-30.

appointments.<sup>316</sup> In 1978, Dewes presented a paper to the Annual Prison Chaplains Conference on “Maori Attitudes to Crime, Sin and Guilt” in which he made the following observations:

This is an area which frustrates me because I believe that within our communities there are groups of people involved in a sort of competition to see who can “make” Borstal first. ...

An inmate said to me: if guilt is the name of the thing I feel when I think of my family’s name being dragged through the mud, then stink can be added to my name ... It’s not embarrassment that makes me want to hide, but it’s the guilt and shame I’ve put on the names. ... Because when you bring God into it, he looks at everything that’s wrong and links that with sin. Mate Maori (Maori sickness), Makutu (to be bewitched), Kehua (ghosts), When he is ready to talk about it you still hear him ask: “do you believe in them? Can we talk about them? Where have I gone wrong?” ... These are searching questions and we cannot reject them.<sup>317</sup>

In 1979, Dewes gave another presentation to the Conference on: “Pastoral Care of the Maori in Prison,” in which he considered concepts such as: whakama, (shyness), tangi (sorrow), turangawaewae (home base), wairua whakaiti (humble spirit), te iwi kainga (the home folk), hangaia e huaraki (create a way), and bereavement parole. In concluding his paper, Dewes commented:

If pastoral care of Maori in prison is to be effective, it must begin the moment he enters the institution. A favourable atmosphere should be established. This is the time in which we should develop a trustful relationship and it demands a lot of oneself.<sup>318</sup>

In spite of these developments, however, the majority of Prison Chaplains in 1980 were still of Pakeha descent and their world view continued to be predominant in much of the pastoral practice of prison chaplains. *The Order of Worship* that was produced under Hodinott’s direction in 1965 had initiated some recognition to the need for Maori prisoners to express themselves in Te Reo at worship. Nevertheless, this service book had its limitations, as it was produced by a Pakeha minister, its liturgical format was that of the Pakeha Churches and there were only English versions of the orders of service for the celebration of the Eucharist and the Commissioning Service for Chaplains. Available data has not allowed any full assessment of the impact of Bennett’s appointment at Waikeria in 1965, and Lane Tauroa’s contributions to the *Prison Chaplains’ Association Magazine* did not reflect a view point that is peculiarly Maori. The two papers presented by Dewes at the Prison Chaplains’ Conferences of 1978 and 1979 appeared to be the first attempts of any substance to consider unique aspects of pastoral care to Maori. Nevertheless, although the Catholic Church had not

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<sup>316</sup> These chaplains were Manu Bennett, Lane Tauroa, Kori Hill and Nehe Dewes.

<sup>317</sup> Dewes, N. (1978) “Maori Attitudes to Crime Sin and Guilt,” Unpublished paper presented to the Prison Chaplains Annual Conference, Palmersto North, pp.1-2,

<sup>318</sup> Dewes, N. (1979). “Pastoral Care of the Maori in Prison,” Unpublished paper presented to the Prison Chaplains’ Annual Conference, Palmerston North, p.2,

been able to respond in suit, by 1980, four Maori clergy had been appointed to NCC chaplaincy positions. These appointments had sown the seeds for change and the issue of making special provision for meeting Maori prisoners' spiritual needs would gain further momentum during the 1980s and 1990s. The impact of events such as the Land March of 1975 and the occupation of Bastion Point in 1977-78 focussed attention on Maori rights and historical grievances and they would influence both the Department of Justice and the Churches to implement policies for addressing the specific needs of Maori prisoners. These factors will be considered in the next chapter of this study.

### **The Catholic - Protestant Relationship**

Following the 1958 agreement between the Department of Justice and the Catholic Church to provide chaplains in New Zealand prisons, effusive comment emanated from Government publicity about the manner in which chaplains of the various church denominations worked in close harmony with each other. "The relationship between the National Council of Churches' Chaplains and those of the Roman Catholic Church has been most cordial"<sup>319</sup> and "the two branches of the Chaplaincy Service continue to work in the closest accord."<sup>320</sup> In 1968 there was mention that

the spirit of the chaplaincy is seen in the fact that the National Council of Churches' Chaplains and the Catholic Chaplains, 27 in number, held their study and conference at their own expense, through the good offices of the Catholic Senior Chaplain, ... at the Catholic Retreat House, "Futuna," in Wellington."<sup>321</sup>

Prior to 1963, the NCC and Catholic chaplains participated in their own respective conferences and gatherings, but in that year, Senior Chaplains Hodinott and Downey had attended the respective conferences for each group and the two branches of the Chaplaincy Service "joined forces in holding combined Christmas services at Auckland, Wellington, and Christchurch Prisons."<sup>322</sup> In 1966 it was decided that: "all future conferences will be combined conferences of Roman Catholic and National Council of Churches' chaplains."<sup>323</sup>

The facilitation of missions, in the 1950s and early 1960s, was another area of co-operation between the Catholic and NCC chaplains. The missions were designed to create interest in the Christian faith and establish contacts between prisoners and their

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<sup>319</sup> JDARP, 1960.

<sup>320</sup> JDARP, 1962.

<sup>321</sup> JDARP, 1968.

<sup>322</sup> JDARP, 1963.

<sup>323</sup> JDARP, 1966.

churches. Initially, the early missions were conducted by the Catholic chaplains. In a letter to McKeefry written in 1957, O'Neill mentioned a three day mission at Wellington Prison that was to be conducted by Downey and Curran:

The little mission is going ahead at the moment; it is on a rather experimental basis, but both priests seem very happy with the response from the prisoners. It is to last three days, finishing with Mass on Sunday morning.<sup>324</sup>

Downey also mentioned a Catholic mission that took place at Invercargill Borstal in 1960, but from 1959, there was also growing co-operation in the conduct of these events.<sup>325</sup> In that year, Martin Sullivan, Dean of the Anglican Cathedral in Christchurch, and Dr. David Sheerin of the Catholic Church, were missionaries to a combined mission at Mount Eden Prison. The Justice Department noted that “a great deal of interest both within the prison and outside and subsequent reports indicate that permanent good was achieved.”<sup>326</sup> In 1960, a “simultaneous mission” was held at the Waikeria Youth Centre and led by the Reverend Luke Jenkins for the NCC and Father Dunning for the Catholic Church. “Over the eight days the total attendance was 1280. It was a period of moral and spiritual stimulus and of great value to many individuals.”<sup>327</sup> In 1961, another “simultaneous” mission was organised by Downey and Dunn, again at Mt Eden Prison with the Reverend J.S. Somerville, Moderator of the Presbyterian Church of New Zealand and Father Ted Forsman, parish priest at Parnell, acting as missionaries. *The Outlook*, noted that Forsman and Somerville were “fellow chaplains in the 4<sup>th</sup> Brigade at one stage of the last war” and while no further comment was made about the Catholic participation in the mission, mention did occur that

the mission aimed at two things – one the instruction of the men in the Christian Faith; the Moderator’s theme was the Doctrine of the Church; two, the offer of the Gospel in its grace and power to save, to help and to restore.<sup>328</sup>

These missions were not totally combined events, but they were organised to coincide with each other and they required co-operation and goodwill between Catholic and NCC Chaplains for their facilitation.

Despite the Justice Department’s public affirmation of the co-operation and goodwill between Catholic and NCC chaplains, there were also occasions of tension. More observed that the Catholic-NCC chaplaincy developed in the context of “forty or fifty

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<sup>324</sup> O'Neill, (1957). “Letter to McKeefry,” 20 September 1957, CCAW.

<sup>325</sup> Downey, (1960). “Annual Report to the Roman Catholic Bishops,” CCAW.

<sup>326</sup> JDARP, 1960.

<sup>327</sup> JDARP, 1961.

<sup>328</sup> “In Prison and Ye visited Me”, (1961), *The Outlook*, 20 May 1961, p.14.

years ago when the relationship between the Catholic and the Protestant Churches anywhere was not good.”<sup>329</sup> At one of the first joint conferences the Catholic chaplains had walked out and left the NCC chaplains wondering whether the relationship would continue.<sup>330</sup> He could not remember the reason for this action, “but it’s like the differences we have with our wives. In the course of time they are forgotten” although “they were pretty important at the time.”<sup>331</sup> It may have been about celebrating Mass and Communion in the same room, but “there were these areas we weren’t prepared to go into.”<sup>332</sup> More indicated that the Catholic chaplains “needed space” and that Downey took them off for a private discussion and after a period of time they returned and the conference resumed. McCormack also remarked that Downey could be “righteous and rigorous about the Catholic position being upheld” and his action may have been “a ploy to ensure that the Catholic position which was immovable in a lot of ways was accepted as part of the process whether people liked it or not.”<sup>333</sup> Reflecting on this incident More commented:

We also had to show understanding what the Holy Spirit was saying to us, but for the Catholic chaplain it was a different matter. He was not sure if he had permission of his Bishop or his Church. There were 2,680 Prisoners’ in our care and there had to be give and take so, we went through that and it was a hard hour or so. (Ultimately) we were redeeming people. That was the wonder of the chaplaincy. Whatever else, that had to come first.<sup>334</sup>

McCormack believed that some of the tensions arose out of differences in polity and theology that existed between the two church bodies:

Part of the problem for the relationship between the Catholic and the Protestant chaplaincies, was, while it was never addressed very often or dealt with simply the tension between the full time nature of the National Council of Churches Chaplaincy and the part time nature of the Catholic Chaplaincy.<sup>335</sup>

He said that no bishop could tell another bishop how to run his diocese and attitudes towards prison chaplaincy depended on those of individual bishops. The Catholic Bishops as a group had decided unanimously that Catholic chaplaincy was to be regarded as either an extension of parish outreach or Catholic Social Services. Differing theological interpretations also influenced what the bishop allowed. “In the early days we were dealing with priests being chaplains and offering sacramental services to prisoners. There were clear divisions between the Catholic and Protestant chaplains as

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<sup>329</sup> More, L. (2006). Oral Interview, 23 December 2006. Auckland.

<sup>330</sup> Neither More nor McCormack could remember the precise date of this event and it is not recorded in any archival records that have been made available for this study.

<sup>331</sup> More, 23 December 2006.

<sup>332</sup> Ibid. 23 December 2006.

<sup>333</sup> McCormack, P. (2007). Oral interview, 16 June 2007, Auckland..

<sup>334</sup> More, 23 December 2006.

<sup>335</sup> McCormack, 16 June 2007.

to what these responsibilities were but by and large it seemed to work reasonably well on the ground.”<sup>336</sup>

Another difficulty arose because the Catholic Chaplains in this period saw their Protestant counterparts more

as a servant of the State rather than as a servant of the Church. While it was never brought out or dealt with in any way, it was just something that always flavoured the sort of attitude that Catholic Priests brought to conferences, because very often you were hearing people talk about money and the need to be able to pay their mortgage within the groupings.<sup>337</sup>

It was not until the Catholic Chaplaincy started introducing people who were not priests: “brothers, to keep it male to start with, sisters and finally lay people, an evolutionary process began to work through” and attitudes began to change.<sup>338</sup> After the Second Vatican Council (1962-65), there were a number of priests who “had a much clearer way” of understanding “what the ecumenical movement was.”<sup>339</sup> McCormack said that prior to the Second Vatican Council, many Catholics had been guilty of “theological arrogance,” of saying for instance, that the “Anglican Eucharist was not the same as the Catholic Eucharist, let alone Methodists, Presbyterians and Baptists.”<sup>340</sup> Although the Chaplaincy had readily reached an understanding whereby they could share the word, if not the bread and wine, joint Eucharistic observance “became a bit of an issue, especially when we had some shared Eucharists.” McCormack recalled telling his Bishop that the theological dimensions of the ecumenical movement were “moving faster in the combined chaplaincy than anywhere else in the country. In a way, there were models that could be usefully used to further that whole debate.”<sup>341</sup>

This sense of a growing co-operation between Catholic and NCC chaplains was highlighted at the 1973 Annual Prison Chaplains’ Conference. Aware of the pressures that were placed on Catholic chaplains in the performance of both their parish and prison pastoral duties and desiring to have fulltime Catholic chaplains to work alongside them in prisons, the NCC chaplains passed the following remit: “We recommend the appointment of full-time Catholic chaplains in centres where the Senior Prison Chaplains, in consultation with the Conference of Bishops, would

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<sup>336</sup> Ibid. 16 June 2007.

<sup>337</sup> Ibid. 16 June 2007.

<sup>338</sup> Ibid. 16 June 2007.

<sup>339</sup> Ibid. 16 June 2007.

<sup>340</sup> Ibid. 16 June 2007.

<sup>341</sup> Ibid. 16 June 2007.

recommend.”<sup>342</sup> Hogan reported this matter to the Catholic Bishops’ Conference in his report of 1973–74, but it has not been possible to ascertain the response of the Catholic Bishops to this proposal. They continued to exercise their authority however, and there was no change in the ongoing manner in which Catholic chaplains were appointed.

Understanding of the relationship between Catholic and NCC chaplains needs to be set in the context of what was happening in New Zealand Church life between 1958 and 1980. This was an era when the Catholic and NCC Churches had very different understandings of ministry roles, sacramental observance, church polity and theology. Following the Second Vatican Council Decree on Ecumenism in 1964, the Joint Working Committee of the NCC and Catholic Church met between 1969 and 1984. “Its consultations ranged widely over theological, moral, educational, liturgical and community issues and were important in breaking down barriers and building up trust.”<sup>343</sup> These deliberations would have helped to bring about better understanding between chaplains drawn from the Catholic and NCC Churches, but there was also another common denominator that brought them together. This was the practical necessity of providing ministry to prisoners which required a unity of purpose to make it effective. McCormack noted that “it seemed to work on the ground.” Between 1958 and 1980, NCC and Catholic chaplains began to understand the need to work together and the growing co-operation between churches outside of the prisons would certainly have helped rather than hindered this development.

### **Training and Theological Development**

After 1951, Catholic, NCC and Justice Department administrators were concerned about finding suitable chaplains and equipping them to work in prisons. In 1957, there was concern that

there are now eight part-time and two full-time (NCC) chaplains employed in our institutions and it was necessary to call them together at the beginning of this year for a conference at which lectures were given covering every aspect of chaplaincy work in prisons and foundations were laid for a chaplaincy training scheme.<sup>344</sup>

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<sup>342</sup> Hogan, “Catholic Prison Chaplaincy,” 1973/4,” p.2.

<sup>343</sup> Davidson, *Christianity in Aotearoa*, p.177.

<sup>344</sup> JDARP, 1957.

In 1958, this view continued to be expressed with the observation that “an efficient redemptive ministry to the offender demands not only goodwill and idealism, but a high degree of selection and training.”<sup>345</sup>

Finding suitable priests and training them to serve as prison chaplains also became matter of concern for Catholic administrators. In his 1959 report to the Catholic Bishops, Downey observed:

Perhaps the general picture in our chaplaincies is that of a very busy priest, with a multitude of other duties which preclude him from giving the necessary attention to his prison work. There is also the other fact and we must face it, that not all priests are temperamentally suited to this particular type of work.<sup>346</sup>

He also recommended that “in appointing a priest to a parish wherein there is a penal institution, consideration be given to his suitability for prison work. ... Chaplaincy work calls for a tremendous spirit of faith and great patience.”<sup>347</sup>

In 1959, steps were taken to address these concerns. Catholic and NCC chaplains attended a training course conducted by Seward Hiltner: “Fullbright Research Scholar and acknowledged authority on pastoral counselling and allied subjects.”<sup>348</sup> By 1960, church administrators were planning a policy to

include preliminary training in theological halls and seminaries and further training when an appointment is made to a prison charge. It is our hope with the greater number of full time chaplains and a full staff of part-time chaplains, some research and original work may be undertaken in this challenging and difficult field of work.<sup>349</sup>

In 1961, the Reverend Doctor D.O. Williams, a lecturer at the Methodist Theological College, conducted a second course in pastoral counselling for prison chaplains. The 1963 Conference programme included a study of the theological aspects of ministry to prisoners. In 1964, further attempts were sought to gain support from the theological seminaries to prepare clergy for “the special problems involved in chaplaincy service.”<sup>350</sup>

Theological students began to work in prisons during the 1960s as part of their training requirements and Grinder supervised summer placements for theological students while

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<sup>345</sup> JDARP, 1959.

<sup>346</sup> Downey, “Report on Visitation to all Prisons in New Zealand,” pp.2 and 7. CCAW.

<sup>347</sup> Ibid. p. 2.

<sup>348</sup> JDARP, 1959.

<sup>349</sup> JDARP, 1960.

<sup>350</sup> JDARP, 1964.

he was chaplain at Tongariro prison. In the late 1970s, students undertook similar training placements at Waikeria during their summer vacations and the Prison Management provided accommodation food and basic house furniture for them. After he became chaplain at Mount Eden prison, Grinder was able to extend this scheme by having theological students “placed on the payroll, which was apparently something that was quite new at the time. ... It could be done at Mount Eden because the theological colleges were up there.”<sup>351</sup> These students would commence their appointments in November or December and then operate through the rest of the ensuing year.

That was very, very useful. It meant I could have assistance I could have leave without the job falling over and it also meant that we had a build up of ministers in denominations who had first hand information about the prisons who could be useful to other chaplains elsewhere and also become chaplains.<sup>352</sup>

More concurred with Grinder, by observing that while these placements were aimed at training future chaplains, they also had another purpose because “in one sense, it was intended that we educate the church.”<sup>353</sup>

During the period 1958 to 1980, prison chaplains began to share their views with the wider community and also undertake periods of sabbatical leave in order to reflect on the biblical, theological and pastoral aspects of their ministry in penal institutions. In March 1972, Hautu Prison Chaplain Angus MacLeod, addressed the Taupo Rotary Club on the problem of crime in New Zealand. Using data which alleged an increase in criminal activity in New Zealand and noting that other countries appeared to have similar problems, MacLeod asked the question: “What is to be done with the offenders? Give them longer sentences?” or “flog them?”<sup>354</sup> He then proceeded to survey the use of punishment before describing the modern New Zealand Prison system with its use of psychology, sociology, medical advances and the “Christian message of the “nature man and the possibility of redemption.”<sup>355</sup> MacLeod concluded his address by outlining his views on “The New Prison Policy” where “every possible reformatory influence must be brought to bear on the prisoner” and “the period of imprisonment should be used to prepare the individual vocationally, physically, mentally and spiritually for his

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<sup>351</sup> Grinder, R. (2006). Oral Interview, 7 December 2006. Auckland

<sup>352</sup> Ibid. 7 December 2006.

<sup>353</sup> More, 23 December 2006.

<sup>354</sup> MacLeod, A. (1972). “Address to Taupo Rotary Club,” 23 March 1972. p.1. Private Archive.

<sup>355</sup> Ibid. p.2.

return to society.”<sup>356</sup> MacLeod believed that the chaplain was a central part of this process because he was

the only person in the mind of the prisoner not associated with the authorities. The chaplain tries to give their life perspective and meaning. Reformation must come from within. The chaplain must reach the innermost life of the prisoner and help to see the possibilities of forgiveness and new life. (He) does this through worship, personal counselling (and) group work.<sup>357</sup>

More also undertook two separate periods of sabbatical leave. In 1973, he was awarded a Winston Churchill Fellowship to undertake an examination of prison chaplaincy systems in Britain, Europe and America.<sup>358</sup> More commented about what he saw and experienced at that time:

It's quite revealing there was something prophetic about it in the end after visiting half a dozen countries to see which one was going to help us ... that trip took on some sort of international significance. I found the English system had gone much, much further than we hoped we'd need to go. They were already dealing with terrorists. They were already dealing with men who needed protection, although I learned very little from the English system. From what I saw as possibilities we could introduce into New Zealand, I didn't see much of that.

We have borrowed our judicial system and penal policy from a country that in many ways has nothing to do with us.<sup>359</sup>

These thoughts were amplified in his written report:

The problems of the sixties were problems of security, and the problems of the seventies will be problems of control. And the eighties – as a chaplain I would hope a meaningful treatment of the inmate and the continuing evaluation of a meaningful sentence by society ...

Does the needle-head swing now towards England, Holland, the Scandanavian countries or America. Ultimately, it points to New Zealand where we must continue to work out our own policy within our own culture and traditions, which as yet we are only beginning to realise.

One thing which continually confronted me as a visitor overseas – the Maori has a culture and tradition which he is struggling to maintain, one which we as Pakeha could have embraced and preserved with him – and that culture is community based. ...

Perhaps without ever leaving the country at all, we could learn from the realistic that once a person loses his identity he is lost. The Maori is becoming aware of this, but he has a culture, a tradition, an available Polynesian heritage, a community he can claim as his own.<sup>360</sup>

After its publication, More's report did not appear to make any real impact either on Justice Department Policy or prison chaplaincy provision and practice. This may well have been because

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<sup>356</sup> Ibid. p.3.

<sup>357</sup> Ibid. p.2.

<sup>358</sup> More has not retained a personal copy of this report and it has not been possible to locate another copy, although its conclusion is quoted in Gray's book *About Time*.

<sup>359</sup> More, 23 December 2006.

<sup>360</sup> Gray, *About Time*, pp. 170-171.

part of the New Zealand experience in penal matters, was not the absence of ideas or the motivation to improve the conditions of the incarcerated. It seemed rather, a stubborn political failure to make a decision, a deliberate obstruction, or a planned slowness to act, so that the introduction of meaningful methods often came too late to be of benefit, or had become outdated.<sup>361</sup>

In 1978, More undertook another period of sabbatical leave at St John's Theological College in Auckland, during which wrote a paper entitled "Crime Sin and the Body." This study was an attempt to translate theological concepts such as grace and forgiveness into the common language of criminal offenders and the prison. More talked about "stockpiling" when "Jesus saw clearly how desperate man becomes in his insecurity, hoarding acquired treasures or helping himself to things that are not his by right."<sup>362</sup> There is, however, "another kind of breaking in going on. Unlike the thief he is of good intent."<sup>363</sup> More then described a number of historical and Biblical references to this process and he came to the conclusion that "when man does allow God to break in and his loud 'no' changes to a 'yes', man's incarnate goodness is freed up and becomes part of the will and purpose of God."<sup>364</sup> Concerning Jesus Christ's actions and words at his crucifixion, More wrote that "he initiated the healing process not by judging or condemning, but in a kind of forgiveness which may not have been expressed in words, yet is nevertheless understood."<sup>365</sup> In the final section of his paper entitled "God Crime and the Sin Bin," More concluded that

for English speaking people, the basis of our law rests on a murderer, Moses; the basis of our rule and monarchy on King David, an adulterer. For the world, the dating of the time in which we live, rests on a crucified prisoner, Jesus Christ.

A criminal offender made captive to meet society's requirements may be imprisoned until released to freedom, but such confinement alone will not affect any positive change in his criminality.

The "spoilers" have moved in, thrown all sorts of switches, but the master switch operator has exposed himself. He has announced that he is breaking in to repossess his model of incarnate uniqueness with a unique kind of mercy, love and justice, before death or some other catastrophe wipes him out.<sup>366</sup>

Grinder's study: "A Shepherd behind Bars" was also produced following a period of sabbatical leave. Grinder argued for the need to develop appropriate models of worship and pastoral care for prisoners as a counter to "a conservative, evangelistic, pietistic form of evangelism." After considering the five "P's" of chaplaincy: "personal, pastoral, prophetic, preaching and participating," Grinder indicated that

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<sup>361</sup> Ibid. p.174.

<sup>362</sup> More, L (1978). "Crime, Sin and the Body," Unpublished Paper, p.1. Private Archive.

<sup>363</sup> Ibid. pp.1-2.

<sup>364</sup> Ibid. p.3.

<sup>365</sup> Ibid. p.5.

<sup>366</sup> Ibid. p.9.

the task of the Prison Chaplain is wide-ranging and demanding; the skills and contributions he brings are important and appreciated; the place in which God has placed him for service is a complex, difficult sometimes depressing battlefield. Serve he must, to follow his Lord conscientiously for prison inmates have been singled out as a group requiring special care by our Lord ... and his directions we may not ignore. They are the target of the chaplain's work.<sup>367</sup>

Grinder then used case studies drawn from probation reports to identify a variety of issues that affected prisoners' lives including: "powerful resentment to authority, failure as a way of life, inner emptiness, violence, fear of people, guilt and a desperate need for structure" before he asked the question: "can a Christian ministry be exercised which can encompass such a profound and complex area with any degree of confidence, healing and influence?"<sup>368</sup> Following this query, Grinder then gave consideration of the "armoury" at the disposal of the chaplain which when "knit together provided a whole view of salvation and forgiveness."<sup>369</sup> There was: forgiveness, which "involved a "divine initiative and human response;" love, which granted: "forgiveness in pure radical grace;" acceptance, "we need to come to terms with ourselves" and a sense of worth, "the worth of man is inherent in his life;" a new response to God, which is "the renewal of a person in a new relationship."<sup>370</sup> "We must look at life through bifocal glasses. Through one lens we see and recognise the strength of our guilt and brokenness. Through the other we see and recognise the reality of God's forgiveness."<sup>371</sup> To be effective, pastoral care of the prisoner should not be fragmented into components and it required a total package of implementation through groups, proclamation, worship and Bible study.

The prison chaplain is to be a compassionate, caring pastor, reaching to people who are hurting, building with them a sensitive and respectful relationship to all who enter prison doors, and providing through that available personality, a channel through whom God may reach into prison cells.<sup>372</sup>

Grinder concluded his study by quoting from his own experience to describe the way a chaplain could "keep his spiritual reference point clear and true" in the midst of "the pressures, the rampant evil, the tangled and jangled emotions of many people" and "the sometimes scorching emotions he meets."<sup>373</sup> This could be done by developing personal disciplines of reading and prayer, as well as maintaining good working links with the Churches. Appendices to his study provided a resource to assist with:

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<sup>367</sup> Grinder, "A Shepherd behind Bars," pp. 2-3.

<sup>368</sup> Ibid. pp. 14-15.

<sup>369</sup> Ibid. p.46.

<sup>370</sup> Ibid. pp. 47-55.

<sup>371</sup> Ibid. p.55.

<sup>372</sup> Ibid. p.67.

<sup>373</sup> Ibid. p. 69.

relationships with other staff, classification and work parole, administration and security, personal records, discussion starters for group counselling and orders of service for worship.

These studies may have been products of their time and context, but they were indicative of the manner in which prison chaplains were beginning to reflect theologically and pastorally about their professional practice between 1958 and 1980. They also provided evidence that much of the “best practice” for pastoral care of prisoners between 1958 and 1980 was based on clinical pastoral models that were being used in Britain and America at that time. While Grinder and MacLeod did not critically assess their relevance for Maori prisoners, there were signs in More’s Winston Churchill Fellowship report that he was beginning to consider this issue although it did not reoccur in his second paper: “Crime Sin and the Body.” Nevertheless, the existence of these studies was indicative of a growing confidence and maturity within the Prison Chaplaincy Service which enabled chaplains to test their ideas about ministry in the public domain and ensure that the unique nature of their ministry was known and understood by ministry colleagues, Church and State administrators and the general public alike.

### **The Prison Chaplains’ Association**

The Prison Chaplains Association was formed in 1965 at the first joint conference of NCC and Catholic chaplains.<sup>374</sup> At the time, not all of the chaplains were in favour of this initiative and Grinder observed that

I sense Rex Goldsmith resisted it somehow, but the chaplains wanted it, so after two or three years it was kicked off ... the reason for it was the chaplains feeling the need to have a separate route to head office staff separate from the Senior Chaplains. ... In the sense that the Chaplains Association could write direct to Head Office, this was achieved.<sup>375</sup>

Robson was elected as its first Patron while Hodinott and Father Tom Keyes became the first President and Secretary. The Association aimed to improve communication among the chaplains and give them a stronger voice for making their concerns known to the Department of Justice. A constitution was developed 1966 in which the following goals and objectives were established:

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<sup>374</sup> This development was noted without further comment in the Justice Department Annual Report of 1966.

<sup>375</sup> Grinder, 7 December 2006.

1. To provide opportunity for professional growth through its meetings and the circulation of its magazine and literature.
2. To serve as a vehicle for interchange of ideas.
3. To afford an opportunity for collective thinking and thus make a contribution to the entire penal field.<sup>376</sup>

Until 1971, either the Catholic or NCC Senior Chaplain acted as President and then it became the custom to elect another chaplain to this role, thus providing the chaplains with an additional spokesperson who could speak and act on their behalf alongside the Senior Chaplains. The Association provided a vehicle for prison chaplains to consider issues affecting their ministry and forward recommendations to the Department of Justice by way of remits. A variety of matters were discussed during the Association's early years including: classification procedures (1972), the qualities required for superintendents (1973), identity cards for chaplains (1974), Polynesian Studies for Prison Officers (1974), a psychiatric institution (1975) and release to work for prisoners (1975).<sup>377</sup> On a number of occasions the Association made formal submissions to the Department of Justice on these matters but again it is not possible to determine whether they had any immediate impact on the development of Justice Department Policy.

The Prison Chaplains' Association published a magazine as a forum for the discussion of ideas and the first edition was printed in 1966.<sup>378</sup> By 1974, the Justice Department had "agreed to accept the magazine as a training magazine and meet the cost of publication."<sup>379</sup> The second volume, under the editorship of Sweet and Keyes, contained articles entitled: "Christian perspectives in New Zealand Prison Chaplaincy Work," "Chaplaincy Training for Theologues," "Reflections on the Chaplain's Task," "The Reluctant Chaplain," "Tell us about Penology" and "WCC and NCC and All That."<sup>380</sup>

A perusal of subsequent editions of the Magazine provided an overview of the issues that concerned the Prison Chaplain's Association between 1966 and 1986.<sup>381</sup> Not all of the contributors were drawn from the Chaplaincy Service. Robson and Geoff Hickman of St John's Theological College both contributed articles in this second volume.

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<sup>376</sup> Roberts, "Prison Chaplaincy in New Zealand," p.59. It has not been possible to locate a copy of the original document among the Prison Chaplains' Association records.

<sup>377</sup> New Zealand Prison Chaplains' Association, (1971-1975). Minutes of Annual General Meetings 1971-1975. Private Archive.

<sup>378</sup> It has not been possible to locate a copy of this initial publication.

<sup>379</sup> New Zealand Prison Chaplains' Association, (1974). "Minutes, Annual Meeting, 12 March 1974." Private Archive.

<sup>380</sup> New Zealand Prison Chaplains' Association, (1966). *The Chaplain, Journal of the Prison Chaplains' Association*, (1966), Vol. 1, No. 2.

<sup>381</sup> It was not possible to locate all of the copies of the Prison Chaplains' Association Magazine, but some copies were found in the Alexander Turnbull library, the Kinder Library and the PCSANZ National Office.

Robson's article was worth noting from a policy point of view, because he argued that: "the church is an important actor in a progressive penology" and "there is little purpose in attempting to introduce so many of the helping disciplines, and outside agencies such as PARS<sup>382</sup> and interested citizens into our planning if we believe that human personality cannot be fundamentally changed."<sup>383</sup> Robson was not the only Justice Department Head to contribute to the magazine. The 1985 edition published an address given by Director of Penal Institutions, R.O. Williams at the Chaplains' conference in 1972 on "the "Role of the Prison Chaplain." Williams noted that "Chaplains have a favoured position in the institutions. Chaplaincies have been invited to assist the Department and we see your role as a helping service along with other specialists and the Prison Staff."<sup>384</sup> Justice Department staff other than chaplains read the magazine and reflected upon its content. In 1978, H.E.Wash, Superintendent at Wi Tako Prison, wrote an extended letter commenting on a debate that had taken place between Roberts and John Mabon over the contents of Roberts' Auckland University Dissertation. Chiding Roberts for asserting that chaplains were "subservient" to the Justice Department, Wash noted that: the "chaplains I have dealt with over the years have been anything but hesitant to disagree with me."<sup>385</sup> He then suggested to Mabon that he be "more tolerant to such criticism," before tendering a good natured closing remark: "Well, Mr Editor, thank you for being so tolerant ... I turn my collar back to its normal position and return to my foxhole to dodge the next salvo."<sup>386</sup>

In 1972, the editorship passed to Mabon and each edition of the Magazine focussed on a central theme such as "Punishment and Crime in a Multi Racial Society." In 1977 Grinder took over the editorship and he received favourable comment from David Thomson, Minister of Justice, who wrote: "For twenty five years our prison chaplains have shown initiative and humanity in a difficult task. The standards they have set are a lasting inspiration." Secretary for Justice G.S. Orr also noted: "I add my congratulations to those of other contributors to this Jubilee Issue of your magazine."<sup>387</sup> The final issue published under Grinder's editorship was known as the *Remand Issue*. It sought to draw attention to the conditions under which remand prisoners were held in custody by

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<sup>382</sup> The New Zealand Prisoners' Aid and Rehabilitation Society.

<sup>383</sup> Robson, (1966). "Tell us about Penology in New Zealand," *The Chaplain*, (1966) Vol. 1, No. 2.

<sup>384</sup> Williams, R.O. (1985). "The Role of the Prison Chaplain," *New Zealand Prison Chaplains' Association Magazine*, January 1985, No. 17. p.30.

<sup>385</sup> Wash, H. (1978). "Letter to R.B. Grinder, NCC Chaplain," *New Zealand Prison Chaplains' Association Magazine*, September 1978 No. 11. p.26.

<sup>386</sup> *Ibid.* p.26.

<sup>387</sup> Thomson, D. and Orr, G.S. (1977). "Letters to R.B. Grinder." *New Zealand Prison Chaplains' Association Magazine*, September 1977, No 10. pp. 2-3.

asking the question: “Remand in Custody: Confinement or Punishment?”<sup>388</sup> Commenting on this particular edition, Grinder remarked: “we managed to do a big issue on remand conditions that in my view was the only time that the Chaplains’ Association made any significant contribution to debates about penal policy.”<sup>389</sup> Grinder’s opinion was a personal viewpoint, however, and while the *Remand Issue* may have drawn some attention to conditions in New Zealand remand facilities, there was little evidence to suggest that it changed the way they were administered. For instance, in 1989 the *Roper Report* cited the 1981 Penal Policy Review, which had observed that remand prisoners “do not fit into the normal prison routine and as a result may be locked away for longer periods, and through a sheer lack of facilities for them, be subject to harsher penalties than the rest.”<sup>390</sup> The *Roper Report* then stated “that the Committee expressed the expectation and desire that steps be taken to remedy these matters as soon as practicable It is clear to us that these have not yet been undertaken.”<sup>391</sup>

The editorship of the magazine was transferred to Boyd Glassy in 1985 and two more issues were produced before publication ceased in 1986. Glassey was a member of the Christchurch Prison Chaplaincy Team and the content of these final editions reflected many of the concerns espoused by this group of chaplains, including: an article on Christchurch’s Salisbury Street Foundation, the transcript of an address given by Consedine, and a copy of a letter sent by the Christchurch Chaplaincy Team to the Minister of Justice.<sup>392</sup> The Christchurch chaplains were influenced by an activist, liberation theology approach to their pastoral practice and they maintained a strong team commitment to each other. Their views were not always accepted within the Prison Chaplaincy Service at that time, but they reflected the commitment of a close knit group of chaplains who desired to present a strong prophetic voice on matters of penal policy to the Department of Justice and the wider community. The final editions of the Magazine became a mouthpiece for their approach to chaplaincy:

It is now seven years since we set our original six goals of chaplaincy to ...

1. provide regular worship.
2. provide programmes that would help develop the maturity of the inmate and his/her spiritual growth in Jesus Christ.

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<sup>388</sup> Gunby, J. (1983). “Remanded in Custody,” *New Zealand Prison Chaplains’ Association Magazine*, June 1983, No.15. p.4.

<sup>389</sup> Grinder, 7 December 2006.

<sup>390</sup> The *Roper Report*, p. 184.

<sup>391</sup> *Ibid.* p.184.

<sup>392</sup> *New Zealand Prison Chaplains’ Association Magazine*, April 1986. No. 19.

3. provide counselling where necessary.
4. witness by our life style to the values of the Gospel.
5. offer “follow up” pastoral care to ex-inmates and their families.
6. where necessary, to take a stand in the interests of biblical justice in the spirit of Amos, Jeremiah and Jesus. We felt called as chaplains to act as the “cutting edge” with the Department of Justice and the wider community on matters relating to penal policy. ... It is the sixth aim – the prophetic voice ... which raised all the clamour and led to so much shared pain.<sup>393</sup>

A search of the minutes of the Prison Chaplains’ Association executive meetings gave no clues as to why the Magazine ceased publication, but in July 1989, Grinder replied to an enquiry from the Legal Deposit Office for back dates copies of the magazine by stating: “The Magazine was last published in 1987. A new editor has been appointed and I am led to believe that the next issue is soon to be distributed.”<sup>394</sup> This intended edition was never published.

The Prison Chaplains’ Association was formed to provide a professional body to represent the voice of prison chaplaincy in the public arena. It arose in part out of a suspicion that the Senior Chaplains were not always representing the full viewpoint of the Prison Chaplaincy Service, either to the Department of Justice or the Churches. On a number of occasions the Association made direct submissions to the Department by way of remits passed at annual conferences, but it is difficult to make any firm judgement about whether these submissions had any direct influence on the creation of Government Policy and former Secretary for Justice, David Oughton commented that as far as he was concerned, “it never registered as an organisation per se.”<sup>395</sup> Nevertheless, the Association did make an attempt to ensure that State administrators remained aware of the issues affecting prison chaplains. The publication of the Magazine became another strategy for attempting to fulfil the Association’s aims of assisting professional development, exchanging ideas and contributing to penal thinking. Initially the Magazine was read by chaplains and Department administrators alike and it was a useful vehicle for the interchange of ideas. In the latter stages of the Magazine’s existence, however, chaplains contributed less and less to its content. By 1986, because of its association with the public advocacy of the Christchurch Prison Chaplaincy team, the Magazine’s acceptance by State administrators and the wider chaplaincy declined

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<sup>393</sup> Consedine, (1986). “Seventy Seven Times Seven,” *New Zealand Prison Chaplains’ Association Magazine*, April 1986, No.19. pp. 6-7.

<sup>394</sup> Grinder, (1989).” Letter to Legal Deposit Office,” 11 July 1989, Private Archive.

<sup>395</sup> Oughton, D. (2007). Oral Interview 20 September 2007. Wellington.

and it ceased to fulfil the original intentions of its founders. No attempt was made to reinstitute publication after the final edition was published in 1986.

## Two Crises

Throughout the period 1958-1980 occasional crises arose which affected the work of individual chaplains as well as the functioning of the Prison Chaplaincy Service as a whole. The following two markedly different incidents demonstrated the extreme type of situation that chaplains could occasionally encounter in the course of their ministry and the fragility of the Church–State partnership with the ever present potential for the Prison Chaplaincy Service to be terminated.

The first crisis occurred in 1966. When New Zealand committed troops to the Vietnam War, a number of church leaders, including officials of the NCC, publicly criticised this move. Brown noted that “even before the Prime Minister had announced on May 27<sup>th</sup> 1965 the decision to send combat troops, the NCC was involved.”<sup>396</sup> Three serving prison chaplains put their names to a full page advertisement in *The New Zealand Listener*, expressing opposition to the war in Vietnam.<sup>397</sup> Minister of Justice, Hanan, reacted to this criticism and he asked Robson, to terminate the Prison Chaplaincy Service. “The Minister tried to persuade me in 1966 to agree to a proposal that full time prison chaplaincy should be abolished,”<sup>398</sup> but Robson reneged on this request observing that Hanan’s intended reaction

ignored the history of the question and the administrative justification for the current arrangements. ... What troubled me most of all was the Minister’s motivation for wanting to make the change. This political element would be perceived by the chaplains and inevitably it would lead to loss of morale among them and a drop in our standing with the churches.<sup>399</sup>

A prolonged discussion then took place “between two determined characters,” and Robson noted that: “if Hanan issued this minute requiring me to carry out this directive, then I would submit my resignation and retire,” even though “from a constitutional angle the minister had to win,” Hanan eventually gave way and a compromise was reached.<sup>400</sup> Roberts recorded that

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<sup>396</sup> Brown, *Forty Years On*, p.145.

<sup>397</sup> The names of these chaplains were not mentioned either by Roberts or Robson.

<sup>398</sup> Robson, *Sacred Cows and Rogue Elephants*, p 280.

<sup>399</sup> *Ibid.*, p. 280.

<sup>400</sup> *Ibid.* p. 280.

this was a crucial moment for the chaplaincy – the work of fourteen years could well have been nullified and strangely enough the crisis was precipitated by something that had nothing whatever to do with the work of prison chaplains.<sup>401</sup>

There were consequences, however, after this incident. Hanan then wrote to the NCC requesting a policy for chaplaincy appointments to be made for a three year period with a right of reappointment by mutual agreement for up to six years. In 1967, notice of this policy was issued to Prison Superintendents who were advised that:

1. Initial appointment of chaplains will be for a term of three years.
2. Chaplains will serve for a maximum period of six years and extensions beyond that period will be sought only in exceptional circumstances.
3. In recommending appointments the combined interviewing committee of representatives of the National Council of Churches and the Department of Justice will consider all facets of the candidate's previous experience, including service in the Armed Forces.
4. Chaplains, who have given good service, may be considered for re-appointment after a suitable period in parish work.<sup>402</sup>

It is difficult to comprehend the relevance of clause three of this policy directive, but Roberts concluded that it “probably reflected the conflict over the Vietnam War.”<sup>403</sup> In 1974, these regulations were amended to remove the six year restriction for length of service, but the clause relating to service in the Armed Forces remained.<sup>404</sup>

This incident was indicative of political pressures that could be brought to bear, not only on individual chaplains, but also the entire Prison Chaplaincy Service. The State had invited the Churches to provide chaplains to serve in prisons and the Vietnam incident demonstrated that the existence of the Prison Chaplaincy Service depended upon the continued goodwill of Public Servants and politicians. There was an element of irony in Robson's intervention on behalf of the Prison Chaplaincy Service. He was aware that the NCC still held considerable political influence in 1966 and he did not want his minister to be subject to public criticism that could have arisen from the termination of the Prison Chaplaincy Service. His persuasion of Hanan to depart from taking this course of action appeared to be both a desire to protect the minister and also the future of prison chaplaincy in New Zealand Prisons. It was a mark of his astuteness and tenacity that he was ultimately able to achieve both goals. A sympathetic senior Public Servant risked his career to support the future of the Prison Chaplaincy Service

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<sup>401</sup> Roberts, “Prison Chaplaincy in New Zealand,” p.53.

<sup>402</sup> Ibid. p.54.

<sup>403</sup> Ibid. p.54.

<sup>404</sup> It was still contained in the draft job description presented to the ICAB for consideration in October 1991.

against political expediency. It took Robson's intervention as a senior Public Servant to preserve the ongoing existence of the Prison Chaplaincy Service when it was threatened by an event that had nothing at all to do with the ministry of chaplains in prisons. Roberts observed that "this was a crucial moment for the chaplaincy" and if Robson had not stood his ground over this matter, "the work of fourteen years could well have been nullified."<sup>405</sup>

The second incident was of an entirely different nature. It involved More's role as a chaplain following the riot at Mount Eden prison in 1965. The riot took place after a failed breakout attempt by two prisoners who ambushed a prison officer and then took a second officer hostage. The officer's keys were used to release other prisoners who then began to smash up and set fire to the prison. Newbold recorded that

although made of stone the prison walls were covered in thick oil based paint and the dry sarkings in the ceilings burned fiercely. Fire fighters, trying to douse the flames were attacked and repelled, but prison officers who entered to release inmates trapped in their cells were allowed to proceed. With the jail perimeter surrounded by armed police and soldiers and the hostages released, no attempt was made to force a surrender and it was three days before the last of the men, cold and dispirited, gave themselves up.<sup>406</sup>

Gray described how More was required to provide an appropriate response to the aftermath of this event:

The fire had done its damage, not only in the destruction of the building itself, but also in destroying whatever good relations there were between staff and inmates. The tragedy of its aftermath sparked off tension between the two parties in a normally controlled and subdued situation.<sup>407</sup>

A significant part of Mount Eden Prison had become uninhabitable. Decisions had to be made about which prisoners would be transferred to other prisons and where they would be sent. Prisoner proximity to families and to other personal contacts became irrelevant when these decisions were made. There were ironies in this situation. Two arsonists became indignant about their projected removal elsewhere: "they have burnt down our home."<sup>408</sup> When More handed out cigarettes to help placate prisoners during their transfer to other prisons and "keep them quiet while you are driving," he was promptly criticised by some prison staff who were angry about giving luxuries to people who were regarded as being perpetrators of the riot.<sup>409</sup>

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<sup>405</sup> Roberts, "Prison Chaplaincy in New Zealand," p.53.

<sup>406</sup> Newbold, *The Problem of Prisons*, p.105.

<sup>407</sup> Gray, *About Time*, p.105.

<sup>408</sup> *Ibid.* p.105.

<sup>409</sup> More, 23 December 2006.

A gun had been used in the initial escape attempt. A search for other “illegals” ensued. Personal possessions already scattered among the rubbish left after the riot, were often ignored. It fell to the chaplain, together with the prison social worker, Joyce MacDonald, to sort out and identify the owners of these personal possessions and ensure that they were returned wherever possible. “Nobody gives a stuff these are sacred things to men.”<sup>410</sup> The chapel had been burnt in the fire. Books, paintings, records of interviews, musical instruments and addresses of important contact people were all destroyed. They were not covered by the Justice Department’s insurance. The chaplains were left with the problem of attempting to secure their replacement. It was to be some time before the chapel could be refurbished and a cell, minus its bed became an office and temporary area for worship. Two significant articles survived the chaos of the riot: a cross and a communion chalice. They were dug out of the rubbish as two remaining “symbols of hope in the whole place.”<sup>411</sup>

The primary role of the chaplain in this situation, however, was concerned with more than restoration of objects and things. It involved the pastoral care of people. Gray noted:

There would be much more than the obvious things that would need restoration and dignified attention – the broken relationships; the distrust; suspicion; the injury to officers; restoration of confidence. Scattered personal effects yes, but what of the unspoken, undisclosed thoughts? The wives, families and friends of those being transferred away, the morale of the staff, their wives and their families?<sup>412</sup>

Many of More’s congregation had been re-located to other prisons. There were other chaplains in these institutions, but as Gray commented: “there was something about the sheep knowing the shepherd’s voice when he calls them by name, but a stranger’s voice they do not know.”<sup>413</sup> One of More’s initial solutions to this situation was to hire a caravan and visit prisons at Waikeria and National Park, to deal with “requests, messages, small items and homely needs.”<sup>414</sup>

In the midst of these angry and frustrated feelings being expressed by prisoner and prison staff alike together with public expressions of uncertainty about the future of Mount Eden Prison, More felt isolated from and ignored by the Church. He recalled that: “the loneliest time I have had was at Mount Eden and that was after the riot there

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<sup>410</sup> Ibid. 23 December 2006.

<sup>411</sup> Gray, *About Time*, p.107.

<sup>412</sup> Ibid. p106.

<sup>413</sup> Ibid. p.107.

<sup>414</sup> Ibid. p 107.

was not one minister who rang up and said: “how’s things?”<sup>415</sup> He seriously questioned his future as a prison chaplain and it was only a subsequent visit from Presbyterian Maori Synod Minister, Tawhiao Tioki, in which the importance of his ministry was affirmed, that More became convinced of the necessity to continue with his work. Reflecting on this decision More commented: “Was it Tawhiao Tioki? I don’t know. It seemed to me as if God had sent a messenger of the right kind. So now we’re back to relationships and trust.”<sup>416</sup> In retrospect, however, he believed that “this loneliness thing was a great experience to go through” and that ultimately it helped to strengthen his resolve not to give up. “I don’t ever regret doing it.”<sup>417</sup>

Gray asked the following question about More’s involvement in the 1965 riot at Mount Eden Prison: “How does the mind cope with fires, riots and regulations, inmates and staff problems, and still have feelings for conditions of people? Unless you created the opportunity there was not much time for sharing of human or heart philosophy at Mount Eden.”<sup>418</sup> Prison Chaplains had to face moments of tension in relating both to prison staff and prisoners and bring hope in the midst of the denigration of personal dignity. There was an unsympathetic working environment, where: feelings of isolation and a lack of support from church colleagues brought about the necessity of having to deal with personal doubts and fears. More’s involvement in this incident has been described in some detail because it was indicative of these sorts of pressures. The unique role of the chaplain provided for the hand of friendship to dilute tensions in an atmosphere of hostility. More may have been able to provide support for prisoner and prison officer alike, but with one exception, the support of the Church for him in this crisis, appeared to be conspicuous by its absence.

### **A Golden Age or Seed Bed for future Difficulties?**

The period, 1958-1980, could be described as being a settling in period during the development of the Prison Chaplaincy Service. This was a period of growth and consolidation, but it was also a time in which the seeds of later difficulties were already being sown. These potential problems were not always recognised at the time, but behind the effusive reporting of events in reports and minutes of meetings, relational

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<sup>415</sup> More, 23 December 2006.

<sup>416</sup> Ibid. 23 December 2006.

<sup>417</sup> Ibid. 23 December 2006.

<sup>418</sup> Gray, *About Time*, p.112.

issues came into play and there were moments of tension and difficulty as Church and State administrators undertook the practical realities of implementing Barnett's new arrangement for prison chaplaincy provision.

To a large extent, Robson played a key role in ensuring the continuation of this prison chaplaincy initiative and without his active encouragement and support the new venture could rapidly have come to an end. Robson was "the Civil Servant par excellence" who had an "ability to perceive the wider issues affecting Church and State. A lot of his ability to have an appreciation of what the chaplains did in the whole life of the Justice Department came out of his relationship with Downey and Clements."<sup>419</sup> He would have "liked to have been able to go further in achieving things in terms of the role of the chaplains but there were certainly constraints with the ministers of the day," but he "believed the chaplaincy was there to keep people honest. His far seeing attitudes were predominant to really assist the chaplaincy. The chaplaincy would never have got really far off the ground if Robson hadn't absolutely supported it."<sup>420</sup>

Robson retired in 1970 and by 1980, public servants who did not have the understanding of, or interest in, supporting prison chaplaincy were to be appointed to senior positions in the Justice Department. Official support for the Prison Chaplaincy Service from this source could no longer be guaranteed. Further, after the demise of the NCC in 1987, the Prison Chaplaincy Service became increasingly detached from its Church roots and social forces external to the chaplaincy were also beginning to make their impact on its future shape and direction. Hindsight has indicated that the position of the Prison Chaplaincy Service was not as secure as it might have appeared to be in 1980. The evolution of these developments will be explored in the next chapter of this study.

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<sup>419</sup> McCormack, 16 June, 2007.

<sup>420</sup> Ibid. 16 June, 2007.

## CHAPTER SEVEN

### RELATIONSHIPS UNDER STRAIN: 1980 – 1989

Despite some occasional relationship difficulties, the Prison Chaplaincy Service appeared to be well established by 1980, with positive attitudes existing between the Prison Chaplaincy Service, Department of Justice, Catholic Church and the NCC. In that year, newly appointed NCC Senior Chaplain More reported:

The prayer of my predecessor Rev. Rex Goldsmith M.A. in the concluding sentence of his tenth and final report to this Council “that I receive the same encouragement he enjoyed,” has been an experience already appreciated through good wishes, support, loyalty, co-operation from the Chaplaincy Service, assistance from Church groups and the Justice Department. This is largely due to the good relationship which Mr Goldsmith achieved.<sup>421</sup>

Yet by 1989, this situation had changed markedly. In its submission to the Ministerial Enquiry into the Prison System, the Department of Justice noted:

The functions performed by prison chaplains have extended beyond conducting religious services and counselling in religion and associated matters. Over the years, chaplains have tended to become general counsellors, social workers and welfare officers. Recently, however, the appointment of specialist staff means a narrowing in the role played by chaplains with a concentration on their religious and spiritual functions. ... There is considerable potential for overlap between the role of chaplains and that of specialists such as social workers and psychologists. ... The department recognises that the growth of specialist services must result in a narrower role for chaplains than they have adopted in the past. ... Given the narrower role for chaplains in recent years ... the department sees little scope for future growth in the number of full – time chaplains.<sup>422</sup>

So, two questions need to be asked: What were the reasons for this change in attitude? Why did it happen in the in the years prior to 1989? It is possible to identify several factors that help answer these questions, including: a change in attitude towards the Prison Chaplaincy Service from Justice Department administrators; the demise of the NCC in 1988 and the failure of the CCANZ to become an effective support instrument for the Prison Chaplaincy Service; the growth of Pentecostalism within New Zealand churches and the advent of Prison Fellowship; the rise of Maori consciousness within New Zealand during the 1970s and 1980s and a restructuring of the Public Service together with new economic policy that was initiated after the election of the Fourth Labour Government in 1984. There was little, if any, planned correlation between these influences, but each of them made their impact on the evolution of the Prison Chaplaincy Service in the decade following 1980.

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<sup>421</sup> More, L (1980),. “Annual Report to the National Council of Churches in New Zealand,” *New Zealand Prison Chaplains’ Association Magazine*, No.13, (December 1980), p.13.

<sup>422</sup> Department of Justice, *Prisons in Change*. pp. 282-284.

## The Penal Policy Review: 1981

The publication of the *Report of the Penal Policy Review Committee* (PPR) in 1981 indicated that some State administrators were reconsidering the prison chaplaincy system that had been set up under Barnett and Robson. The Cabinet of Robert Muldoon's National Government had given approval for the Review to take place and it was

based on the recognition that there was a growing disquiet over the amount of crime at present occurring in the community and the apparent ineffectiveness of present remedies. Earlier reforms of the Hanan-Robson era could be related only to social conditions as they were at that time, but it was not realistic to expect they could meet the changes of the 1970s and 1980s. New Patterns of criminal offending, especially in the areas of violence, drug dealing and major white collar crime, need to be met.<sup>423</sup>

Several Churches made submissions to the Review. The Methodist-Presbyterian Public Questions Committee forwarded a six page written report which made recommendations on issues such as: "sanctions and dispositions available to the courts; prisons hostels and other facilities; appropriate programmes for offenders; and "policy for the provision of work in prisons."<sup>424</sup> This submission did not, however, make any recommendations on the role of prison chaplains. The Joint Working Committee of the Catholic Church and the NCC also presented a submission that noted:

In the God of the Bible we find one who involved himself with a whole social and political community; Christian thinking encourages the creation of a society in which those who offend are both dealt with and rehabilitated by responsible participation of the whole society; (and) the Christian Gospel urges us to stand against a penal system that relies so heavily on imprisonment; tends to reduce prison inmates to non persons; restricts contact to the confines of the prison community almost entirely; tends to remove people so completely from the life of society that they alone are seen to be the problem.<sup>425</sup>

Again, however, no specific recommendations or statements were made concerning the role of chaplains in prisons.

Unlike the *Roper Report* of 1989, which confined its attention solely to a review of prisons, the 1981 PPR enquired into the functioning of the entire penal system. The Report was substantial. Nevertheless, its total contribution towards prison chaplaincy,

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<sup>423</sup>Justice Department, *Report of the Penal Policy Review Committee*, (PPR), (1982). Wellington, P.D. Hasselberg Government Printer, p.9

<sup>424</sup>Joint Methodist, Presbyterian Public Questions Committee, (undated). "Submissions to the Penal Policy Review Committee." Dunedin, Presbyterian Church of Aotearoa New Zealand Archives (PCANZA), GA0057, Public Questions Committee, 52/24 AP 1/6.

<sup>425</sup>Joint Working Committee of the Roman Catholic Church and The National Council of Churches, (undated). "Statement on Penal Policy and Punishment," Dunedin, PCANZA, Ministry Committee Director's Papers, AH5/5, pp. 1-3.

was little more than half a page in length and its recommendations about the Prison Chaplaincy Service were confined to a single paragraph.<sup>426</sup>

In our view, the chaplain would be far more effective were he to approach his ministry as the representative of a religious community in which he is a minister, rather than from within the prison as a paid employee. We envisage no difficulty about suitable remuneration on this basis instead of as a full-time employee. He would then become independent of the prison system and become another link between the prisoner and the outside community, establishing contacts with members of his parish which may well carry on after discharge ... Sometimes the relationship has extended to the inmate's family and has lasted long after he has been discharged. We are sure the present concern by the chaplains about their role will result in the increase in the religious and charitable work which they perform with such dedication.<sup>427</sup>

While the PPR was being conducted, the Prison Chaplains' Association had expressed some disquiet about the way it was being facilitated. Robert Sanders, Secretary of the Prison Chaplains' Association, wrote to Manawatu Youth Institution Superintendent Rae Bell:

I write on behalf of the Prison Chaplains' Association to thank you for your contribution to our conference, and not least for the subtle warning you included!

I think most of us are somewhat uncertain about the Penal Policy Review, and therefore uncertain of our role within it. It was most useful to have others show us what we needed to see.<sup>428</sup>

Again, in 1981, Sanders wrote to Secretary for Justice, John Robertson, expressing

disappointment and unease at the shortness of time available for making submissions to the Penal Review Committee. People ... will not have sufficient time to meet and prepare reasonable submissions. The lack of time prevents the necessary research being made for the presentation of an adequate case and the shortness of time may well inhibit people and organisations like ourselves who will find themselves unable to be ready in time. We therefore feel bound to register a protest at this stage.<sup>429</sup>

Grinder also had his say about the Review process in an editorial in the *Prison Chaplains' Association Magazine*:

Eighteen months had been used to determine the terms, leaving only a little over two months to assemble submissions and a mere six months to discuss, debate, visit, listen, collate and write the report. What possibly could have prompted the decision to allow only two months for the preparation of submissions and six months for their collation? To what degree can we expect a report which will be adequate to meet the needs of the 1980s and beyond when the review must be squeezed into six months? I am left with the uncomfortable feeling that somehow we have sold ourselves short.<sup>430</sup>

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<sup>426</sup> The PPR was 232 pages in length.

<sup>427</sup> PPR, p.90.

<sup>428</sup> Sanders, R. (1981). "Letter to Rae Bell, Superintendent Manawatu Youth Institution." (No date on the letter). Prison Chaplains' Association Correspondence File (PCACF). Private Archive.

<sup>429</sup> Sanders, (1981). Letter to Secretary for Justice, 26 March 1981. PCACF, Private Archive.

<sup>430</sup> Grinder, R. (1981). "Editorial," *New Zealand Prison Chaplains' Association Magazine*, No. 14, December 1981, pp.2-3.

Despite these expressions of concern, Justice Department administrators were determined for the Review to be implemented as speedily as possible. Robertson's reply to Saunders gave an insight into this determination:

I agree with you that time is short for submissions to be put together for the committee. However, I merely carry out the dictates of the Government. These requirements force the time scale which we have now given those whom we hope will make submissions. I might add that it puts pressure on this Department as well because we will be making very full submissions on each item.<sup>431</sup>

It has not been possible to ascertain who was responsible for making the PPR recommendation about prison chaplaincy. Church submissions to the PPR had not mentioned the Prison Chaplaincy Service and it would be reasonable to assume that this view emanated either from a member of the Review Committee or a Justice Department official. This opinion however, produced strong disagreement from prison chaplains.

Robertson then responded by indicating that there had been an "incorrect premise" regarding the PPR recommendation and he invited More to submit a further presentation to him for forwarding to the Review Committee.<sup>432</sup> More's new submission was given to Robertson in October 1981 and it was divided in to three sections: "a brief statement on the ministry of the Chaplaincy, its ministry and purpose; an overview of the Chaplaincy during the last 15 years" and "a summary of a recent dialogue to investigate how the Chaplain as the Church's representative and the Church as the Body of Christ complement each other in the redeeming work with the offender."<sup>433</sup> The first two sections of More's submission did not contain any radically new proposals. In the third section, however, he employed the concept of *throughcare* described in other parts of the PPR, to argue for an expanded role for prison chaplains which would "provide a follow through pastoral care from the time of arrest until recovery within society."<sup>434</sup> The chaplain would become a key agent in the implementation of this scheme because he would be

aware that an inmate on admission will suffer: the shock of his new situation; loneliness estrangement and uncertainty; fear of a closed environment; uncertainty of the present and future; the routine that is not of his/her choosing; survival without props from the outside.<sup>435</sup>

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<sup>431</sup> Robertson, J. (1981). "Letter to Robert Sanders," 1 April 1981. PCACF, Private Archive.

<sup>432</sup> More, (1982). "Report of the Senior Prison Chaplain Department of Justice," p. 1. Private Archive.

<sup>433</sup> More, (1981). "To the Secretary for Justice 21<sup>st</sup> October 1981," Wellington, Private Archive.

<sup>434</sup> PPR, p.60.

<sup>435</sup> More, "To the Secretary for Justice, p.5.

In the administration of *throughcare*, the chaplain would have special responsibilities in preparing a prisoner for release to society as well as offering pastoral care while a prison sentence was being served. More acknowledged that there could be difficulties in implementing this proposal, but “the system needed to be changed”, and “by offering friendly relationships to offenders” and not requiring them “to carry the whole responsibility for themselves the Chaplaincy would offer a more parish type of ministry to use its strengths, parish resources, fellowship circles, forgiving agencies as part of the Christian concept of the Family of God.”<sup>436</sup> By involving community groups such as Churches in the process of *throughcare*, chaplains could become a catalyst for changing attitudes in the community who would recognise that “the offender was produced, by the community, is part of its life, and has a continuing responsibility for his/her welfare.”<sup>437</sup> Strategies for implementing this proposal included: the chaplain’s involvement in pre-release arrangements, ongoing pastoral counselling and the preparation of community volunteers. A regional administrative structure would be established to provide liaison between the churches and the Department of Justice and the Senior Prison Chaplain would:

1. Co-ordinate the chaplains’ pastoral responsibilities on a national basis and bring support to them and the Department.
2. Keep before the Church its responsibility to the fallen member of society through its chaplaincy representative.
3. Ensure that as the Church’s senior representative to the Department, parish resources are made available to the Department’s needs and policy.
4. Plan programmes and consultations with Church representatives that make understandable the Biblical and historic mission of the church as the only custodian of the redeeming work of God in Society in nearly 2000 years.<sup>438</sup>

When More attempted to prepare churches for involvement in the implementation of *throughcare*, there was reluctance to adopt his proposal. The NCC had already reacted to the PPR which made “unwarranted assumptions about the ability of the community to respond.”<sup>439</sup> Chaplains should be full-time and not part-time appointments as parish ministers were not always suited for the role of prison chaplains. The role of the chaplain should entail pastoral care, as a “promoter of personal growth to maturity,” acting prophetically and evangelism.<sup>440</sup> If chaplains were overly identified as being part of the Justice system, this could be reduced by

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<sup>436</sup> Ibid. p.7.

<sup>437</sup> Ibid. p.8.

<sup>438</sup> Ibid. pp. 9-10.

<sup>439</sup> NCC, (undated), “A Response to the Penal Policy Committee Report 1981,” Unpublished Report, ATL, 87-204-03 Folder.242, Senior Chaplain’s File. It is assumed that this report was forwarded to Robertson although it was not possible to sight any further response to its recommendations.

<sup>440</sup> Ibid.

greater accountability to the churches, association of chaplains with existing social service agencies in the churches, becoming part of a regionally based team and the Senior Chaplain being appointed by the Churches in consultation with the Department of Justice.<sup>441</sup>

The NCC then sought to back up this reaction by producing a discussion paper entitled: “Working Paper on Ways Congregations can assist Prisoners and their Families” which was to be distributed to local churches as a means of encouraging discussion on these issues.<sup>442</sup>

More however, wanted action that went beyond the production of discussion papers and he set about trying to encourage the NCC to become involved in the implementation of *throughcare*. In his 1982 Senior Chaplain’s Report, he appeared to be getting frustrated with the reluctance of NCC administrators to grasp the opportunity that was being offered to them. Noting that the PPR’s recommendations for prison chaplaincy had “begun from an incorrect premise” and that the Secretary for Justice had given assurance that the role of prison Chaplaincy would be “enhanced and not diminished,” More asked whether church groups would be able to meet the demands of *throughcare* and offer “pastoral responsibility to custodial and non custodial offenders and their families.”<sup>443</sup> He observed that “the chaplaincy cannot presume to know the extent of parish resources or the Church’s commitment if the *throughcare* concept is to be effective.”<sup>444</sup> He then added:

At the time of writing, some 19 months after the last NCC Meeting, the SPC is still waiting to make use of the recommended working paper. The continuing anticipation of that possibility has now passed but the seriousness of that possibility has not. In matters pertaining to Justice we have one of the rare areas where Church and State are responsible for a common concern. It is the State and not the Church, which meets the costs in providing chapels, essential equipment, chaplain’s expenses to Church conferences and chaplain’s salaries, in a ministry that some notable clergy describe as front line evangelism.

This does not remove the responsibility and opportunity for the Churches to provide essential funds to assist chaplains in the welfare of inmates in prison and when released and sometimes their families also.<sup>445</sup>

The NCC was either unable or unwilling to respond to More’s proposal in practical terms. The PPR had already made unrealistic assumptions about the wider community’s willingness to become involved in the rehabilitation of prisoners. More’s proposal to involve churches in the pastoral care of prisoners from the time they entered the

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<sup>441</sup> Ibid.

<sup>442</sup> NCC, (1981). “Working Paper on Ways Congregations can assist Prisoners and their Families,”. PCANZ, Ministry Committee, Director’s Papers, A115/5.

<sup>443</sup> More, (1982). “Report of the Senior Prison Chaplain to the Department of Justice,” p.1.

<sup>444</sup> Ibid. p.1.

<sup>445</sup> Ibid. pp. 1-2.

criminal justice system until after their return to the community did likewise. Member churches of the NCC did not have the will, expertise, resources, or capability to engage effectively with his proposition and the implementation of More's plan fell into abeyance.

The Catholic Church also had to re-think its approach to prison chaplaincy as a consequence of the PPR's recommendations. In 1982, McCormack wrote to Williams enclosing a discussion paper entitled: "Submissions to the New Zealand Conference of Catholic Bishops."<sup>446</sup> After outlining the historical background to Catholic chaplaincy in prisons, McCormack stated that Robertson, had asked "both the National Council of Churches and ourselves to review their commitment to the Chaplaincy"<sup>447</sup> he then provided: a definition of the concept of *throughcare*, a proposal for the role and function of Catholic Chaplaincy in a team ministry involving Catholic and NCC chaplains and a possible future structure for prison chaplaincy administration.<sup>448</sup> McCormack noted that the Catholic Bishops' Conference needed to be aware that:

1. Changes to the nature of chaplaincy are imminent.
2. The concepts of throughcare and regionalisation demand a change from institutional chaplains to Regional and local team ministry chaplaincy.
3. We need to work with the NCC if an effective ecumenical chaplaincy is to evolve.
4. The Catholic contribution to the chaplaincy will require making certain persons available – priests, religious and/or dedicated lay persons who can work in the Chaplaincy with the full knowledge of the support of the Bishops' Conference and the local Church communities.
5. We need to negotiate with the NCC Chaplaincy to present a plan of action to the Secretary for Justice.
6. They appoint one of their Conference members to liaise with the Senior Catholic Chaplain to advise regarding future developments."<sup>449</sup>

It has not been possible to discern the response of the Catholic Bishops' Conference to these proposals.<sup>450</sup> It seemed however, that the Catholic Bishops viewed the *throughcare* proposal in a similar manner to the NCC administrators, as being too difficult to set in place. The Catholic Church had neither the personnel, resources nor the capability to meet the demands that would be required by its implementation. The Catholic Chaplaincy continued to function in its pre-1981 format until the end of the decade, when its structure and format were to be challenged once more by the recommendations of the *Roper Report* and the *Perry Report*.

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<sup>446</sup> McCormack, P. (1982). "Submission to the New Zealand Conference of Catholic Bishops," CCAW, p.1.

<sup>447</sup> Ibid. p.1.

<sup>448</sup> Ibid. pp.2-11.

<sup>449</sup> Ibid. pp.11-12.

<sup>450</sup> Catholic Archives in Wellington could not provide data about the response of the Catholic Bishops to McCormack's proposal.

The initial recommendations of the PPR were brief and liable to ready dismissal because they were founded on a misconception. It has not been possible to ascertain who was responsible for including them in the Report, or what agendas lay behind the proposal to return to the pre 1952 system of chaplaincy provision in which ministers in local parishes, would also become chaplains in prisons. It should be noted, however, that after the prison chaplains protested about these recommendations, Robertson was prepared to consider alternative options. It could be very easy to minimalise or overlook their implications for the future direction of prison chaplaincy that and at first glance, they seemed to advocate a retrograde step, especially when they are compared with the radical and forward looking proposals that were made by the *Roper Report* nine years later.

More's response, on behalf of the Prison Chaplaincy Service, utilised the concept of *throughcare* to envisage a much greater community role for prison chaplains. His proposal for the pastoral care of prisoners entailed a radical shift in emphasis from the institution based prison chaplaincy system that had been established by Barnett in 1952. It would have required prison chaplains to work outside their institutions and develop a wider community role under the auspices of regional administrative structures that would be jointly operated by Church and State administrators. It was unlikely that More's intentions were influenced by the "think big" philosophy that underpinned Government policy during the Muldoon era, but they were reflective of its mindset. Church participation in *throughcare* failed because the whole scheme was too grandiose and unwieldy to be realistic and the Catholic Church and the NCC had neither the resources nor the will to become involved in its implementation. Within two years *throughcare* had fallen into abeyance and the principal focus of prison chaplaincy continued to be the prisons in which chaplains conducted their ministry. The failure to implement *throughcare*, however, also became a watershed for the process of distancing that began to develop between chaplains, the NCC and then the CCANZ during the 1980s. After 1981, chaplains began to realise that churches were reluctant to engage in ministry with prisoners and they became increasingly disillusioned with the Church's inability to support them in any meaningful way. As this awareness developed alongside the NCC's increasing preoccupation with its own agendas, the Prison Chaplaincy Service was often left to its own devices. As a consequence, many NCC chaplains came to regard the Prison Chaplains' Association as their representative for professional matters and develop a primary functional relationship with the Department of Justice as

their employer. The seeds of this development were grounded in the failure of the Churches to respond meaningfully to the recommendations of the PPR. The outcomes of the PPR were significant for the development of prison chaplaincy in New Zealand, in that they were the first real indication for NCC chaplains that the security of the pre 1981 era was coming to an end.

### **A Fraught Relationship: Prison Chaplains, the NCC and CCANZ 1980–89**

According to Brown, “the NCC arose in part, out of the administrative need for a body that would deal with issues which were ... the province of several of the interdenominational agencies.”<sup>451</sup> “Its very existence made ... negotiations with Government easier. The development of the prison chaplaincy system was made possible by the coming together of a substantial section of the churches in the Council” and Government officials were able to deal with them “in a way that would have been awkward if each denomination had continued to act as an independent entity.”<sup>452</sup>

After 1952, Church and State administrators co-operated well in the appointment and provision of oversight for chaplains and a positive relationship existed between the NCC and the chaplaincy. Yet after 1981, there was evidence of a growing sense of tension between chaplains and the NCC, which was coupled with an increasing inability or reluctance to be able to understand each other’s respective points of view.

MacLeod commented about this development:

With the NCC there were a number of chaplaincies that were developed. There were the hospital chaplaincies and the university chaplaincies in particular. The big advantage from the NCC point of view was that we didn’t have to worry about money as far as the prison chaplaincy was concerned. That was a huge blessing because we were always struggling to get money for the hospital chaplaincies and for so many other things that had to be done. The Department of Justice provided the finance so the tendency was, well we didn’t have to worry too much about the (prison) chaplaincies, they are well looked after and they are doing this good work. We are entirely behind them. We’ll hear their report annually. There was very little we had any major problems with, with the Prison Chaplaincy<sup>453</sup>

MacLeod also noted that because of the positive relationship between the Prison Chaplains and the NCC, if issues cropped up, we would tend to say “let the chaplains

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<sup>451</sup> Brown, *Forty Years On*, p.260.

<sup>452</sup> *Ibid.* p.260.

<sup>453</sup> MacLeod, A. (2007). Oral Interview, 21 July 2007. Auckland.

sort it out themselves. We would deal with it in that informal way.”<sup>454</sup> The irony was, however,

because everything was going fairly harmoniously we tended to leave the Chaplaincy in its own little circle and gradually over the years it became a unit on its own. It began if you like, as a department on its own and finished up as a separate business. It didn't happen over night. It was a gradual process.<sup>455</sup>

Furthermore, the NCC was not particularly concerned about penal matters during the 1980s. There were other issues of national significance in New Zealand society which occupied its attention and prison chaplains did not seem to be that interested in raising matters of penal concern with the NCC either. Again, MacLeod remarked:

The NCC was very concerned at that period about the Springbok tour, (and) racism. These were the things that took the headlines and I would have to say that there was no great prophetic action that I can recall. The actual prison system itself was not a major focus for discussion and again, the major tendency was to leave it to the chaplains. If they wanted us to say something, they could say it at the Annual Meeting and we could move it as an NCC resolution, but nothing much came up at Annual Meetings. When they gave their report it was always very brief and in a way they didn't make a great impact on the rest of us. If the chaplains had come up and said “we think there should be a major change in Justice Policy.” We were waiting for a lead. And I can't recall the chaplains giving us that with any distinctive edge.<sup>456</sup>

MacLeod also believed that along with this gradual process of distancing from their relationship with the NCC, some prison chaplains were also undergoing a similar process with their parent denominations.

I can only speak from the Baptist point of view, but by and large when someone from the Baptists entered an ecumenical position, they were neither in nor out. They were kind of isolated. Ecumenically speaking, the prison chaplains who were Baptists ... would have felt a little bit isolated from the denominations that own them.<sup>457</sup>

There was also other evidence to support MacLeod's contention. Wellington Presbytery conducted a quinquennial visitation for More in 1981. In the review report of More's ministry as Senior Prison Chaplain, mention was made of the “lack of support” for the work of the Prison Chaplains “from Churches in the Wellington area.”<sup>458</sup>

In 1984, the NCC sought to rectify this situation by establishing a process whereby it could take greater responsibility for prison chaplaincy appointments and undertake increased oversight of the Prison Chaplaincy Service. An advisory committee was established to act as a selection committee for all appointments, consisting of seven

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<sup>454</sup> Ibid. 21 July 2007.

<sup>455</sup> Ibid. 21 July 2007.

<sup>456</sup> Ibid. 21 July 2007.

<sup>457</sup> Ibid. 21 July 2008.

<sup>458</sup> “Report of Presbytery Visitation to Lawrence More Senior Prison Chaplain,” (1981). ATL, 87-204-03, Senior Prison Chaplain, File 242. It is the custom for Presbyterian Ministers to undergo a review of their pastoral work every five years.

people at least two of whom were to be women, and two of whom were to be representatives of Te Rununga Whakawhanaunga i Nga Hahi o Aotearoa, (Te Rununga) The General Secretary of the NCC had to be present for any appointment interview as would the Senior Prison Chaplain and the Secretary for Justice or his appointed representative.<sup>459</sup> The committee would take responsibility for advertising all appointments, consulting with the Secretary for Justice regarding the short listing of candidates and interviewing and selecting a suitable candidate. The name of the successful applicant would then be forwarded to the NCC and heads of churches for approval before it would be announced by the Secretary for Justice.

Jocelyn Armstrong then replaced MacLeod as General Secretary of the NCC in 1985 and under her direction, the appointment committee for chaplains became a full advisory committee to the NCC Senior Prison Chaplain. In a letter to Senior Prison Chaplain, Edward Boyd, Armstrong advised:

It is ... imperative that the NCC be recognised as a full supportive partner in all dealings with the chaplaincy. The NCC at this point is the formal instrument entrusted by the member churches with these duties. We would therefore expect the NCC to be in close consultation with the Senior Prison Chaplain as is the secretary for the Justice Department.<sup>460</sup>

When Armstrong assumed her role as General Secretary in 1985, there was a growing awareness within the NCC that its administration and structures were no longer meeting ecumenical needs of the Churches. There was also a “growing concern to create an ecumenical body that could embrace the Catholic Church alongside the Protestant Churches.”<sup>461</sup> Armstrong observed that

the desire for the NCC to do something about a new body was there, way before my time in the NCC ... and I think what brought it to the fore was relations with the Catholic Church. It became clear that they would be willing to look at working with the Churches. The Catholic Church said we don't want to join the NCC we want to join a new ecumenical body. We want to start with something new. So that's why that happened.<sup>462</sup>

She also remarked that “When I took on the position in 1985, we began the meetings that looked towards: How do we plan? How do we set up a new ecumenical body? So

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<sup>459</sup> Minute Sheet, Meeting of Secretary for Justice with Representatives of the NCC and Te Rununga Whakawhanaunga, 11 December 1984. (1984). ATL, 87-204-03, File 242, Senior Prison Chaplain.

<sup>460</sup> Armstrong, J. (1985). “Letter to the Reverend Ed. Boyd Senior Prison Chaplain,” 27 March 1985. ATL, CCANZ, 97-096, Folder 242A, Box 13.

<sup>461</sup> Lineham, P. (2005). “Why the Conference of Churches in Aotearoa New Zealand failed: the birth life and death of an ecumenical experiment in New Zealand.” In Davidson, A. and Lineham, P. *Where the Road Runs Out ... Research Essays on the Ecumenical Journey*, Christchurch, Conference of Churches in Aotearoa New Zealand, p.33.

<sup>462</sup> Armstrong, J. (2007). Oral Interview, 5 October 2007. Auckland.

for the three years that I was General Secretary, that's what we were looking at in the CCANZ."<sup>463</sup>

The inauguration of the CCANZ in 1988 created the opportunity for a new emphasis in inter-church relationships. The Catholic Church became a member of the new organisation, but the Baptist Church decided not to join. There was also a change in the manner in which the CCANZ ordered its affairs and this in turn, led to further issues. Armstrong remarked:

One of the biggest desires of people in the CCANZ was that it become much more people oriented rather than church body oriented and that's where I myself got into trouble because I had the interests of the churches, I had the leadership of the churches that I had worked with and the chaplaincies. If you move them to a more general people body, they don't have the same sense of working with institutions. I think that was part of the difficulties there.<sup>464</sup>

These developments had their effect on the relationship with the Prison Chaplaincy Service and Roberts noted:

There was some reluctance to see the chaplaincy scene move away from the umbrella of the established ecumenical movement. I don't think there was any thinking or move that the chaplaincy should move out from under its umbrella, but that seemed to be the way that things were going and ties were lost. Maybe things could have been done to keep links, but there were no formal or established mechanisms for keeping these.<sup>465</sup>

In 1987, Armstrong informed Secretary for Justice David Oughton, that the CCANZ would replace the NCC as: "the ecumenical body of the Churches."<sup>466</sup> The Catholic Church would become "a full member of the ecumenical body for the first time" and the Baptist Union "has declined membership at this time. Te Rununga i Nga Hahi o Aotearoa will remain the Maori Ecumenical Council working in partnership with the Conference of Churches."<sup>467</sup> She then informed Oughton:

The NCC did not want to pre-empt any decisions to be made in the new year in relation to the chaplaincy by the CCANZ. Its executive did not wish to leave the chaplaincy unsupported, or the Department without an ongoing formal link with the Churches. The NCC Executive therefore asked the Executive of the CCANZ to undertake the same role as the NCC in relation to the chaplaincy for an interim period, ensuring the continuing involvement of all the Churches currently involved.<sup>468</sup>

By 1989, however, it was clear that the CCANZ was having difficulty in ascertaining where it stood in relation to The Prison Chaplaincy Service and a "Mission Church

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<sup>463</sup> Ibid.5 October 2007.

<sup>464</sup> Ibid.5 October 2007.

<sup>465</sup> Roberts, 15 June 2007.

<sup>466</sup> Armstrong, (1987). "Letter to David Oughton," 17 December 1987, ATL, CCANZ 97-096, Box 13, Prison Chaplaincy, Folder 242A.

<sup>467</sup> Ibid. "Letter to David Oughton."

<sup>468</sup> Ibid. "Letter to David Oughton".

Chaplaincy Consultation” was organised in order to try and improve this relationship, together with those of the other chaplaincies under its jurisdiction:

There is an urgent need to look afresh at our structures for ministry, the way we deploy clergy in the parish or chaplaincy, and how we can allocate our resources to enable the most effective strategies for mission.

The 1989 Mission Church Chaplaincy Consultation offers the opportunity for a first comprehensive bringing together of the full range of chaplaincies, the parish ministries and the church court decision making ministries.<sup>469</sup>

A report of the Consultation noted:

Catholic Chaplaincies are financially secure and have clear connections to their church structures because of their sacramental nature and their hierarchical management structure. Democratic denominations cannot find their decision making “boss.”<sup>470</sup>

A telling insight into the growing gulf in the relationship between the CCANZ and prison chaplains was found in responses made to a questionnaire that was circulated to representatives who attended the Consultation. The responses made by prison chaplains demonstrated clearly that by 1989, they saw their primary accountabilities as being to their own association and the Department of Justice and not the CCANZ.

Who are you?

20 Prisons, 35 chaplains ... All both Catholic and Protestant belong in Prison Chaplain’s Association.

How do you relate to church structures and other institutions and/or chaplaincies?

Protestant Chaplains are appointed by Justice Department but with ‘responsible independence’

Catholic Chaplains are responsible to the Catholic Bishops’ Conference.

The question of which national inter church grouping Protestant Chaplains relate to is being discussed since the demise of the NCC.<sup>471</sup>

In effect the primary functional relationship between the prison chaplains and the NCC had altered to become a de-facto relationship with the State authorities, with the Prison Chaplains’ Association representing their professional interests. Belich used the concepts of “interest group capture” and “provider capture” to suggest that although many Public Servants entered their employment with altruistic intentions, these

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<sup>469</sup> Conference of Churches in Aotearoa New Zealand, (1989). “Mission Church Chaplaincy Consultation 1989 Publicity Document.” ATL, CCANZ, 97-096, Box 13, Prison Chaplaincy Folder 242A.

<sup>470</sup> Kilgour, A. (1989). “Report on CCANZ Chaplaincy Consultation, 3 March 1989”, p.2. ATL, CCANZ 97-096, Box 13, Prison Chaplaincy Folder 242A.

<sup>471</sup> Mission Church Chaplaincy, (1989). “The Chaplaincy–Notes taken at Methodist Church Conference, 14-16 February 1989,” p. 5. ATL, CCANZ, 97-096, Box 13, Prison Chaplaincy Folder 242A.

ambitions were replaced by a motivation “to preserve and enhance their own jobs” and also to harness “the State sector for this purpose.”<sup>472</sup>

The change in the NCC chaplains’ perceptions of their primary employment relationship and professional accountability structure was evidence that elements of interest and provider group capture were beginning to emerge in the mindset of some NCC chaplains prior to 1990. In 1984, MacLeod wrote to Jocelyn Armstrong, who was the leader of an NCC delegation designated to meet with Justice Department officials to discuss the future of the Prison Chaplaincy Service. MacLeod commented with regard to Senior Chaplain Edward Boyd’s participation in this group: “Ed. sees himself as a representative of the Department and not the NCC. This bothers me a bit but Ed. argues that ‘the Department pays my salary.’ He feels he should not be one of the NCC delegates.”<sup>473</sup> In his submission to the Prison Review of 1989, Boyd himself commented:

There was never any intention for the Prison Chaplaincy to become a career service. However, this has happened for a small group of full time chaplains. In terms of service to a Government Department the advantage of continuity appears to greatly outweigh any disadvantage. We would recommend that the status of the full-time prison chaplain should be that of a full member of the Public Service.<sup>474</sup>

The Prison Review of 1989 had also received and considered submissions on this issue because the *Roper Report* observed:

We are not in favour of chaplains being public servants. They cannot serve two masters and conflicts must arise. We recommend that Protestant chaplains, including the senior chaplain, receive their stipend from the church they serve, with the Department reimbursing the church.<sup>475</sup>

Chaplains still wanted some form of identification with the wider church, however, but not necessarily with the CCANZ. Following the Mission Church Chaplaincy consultation, the Prison Chaplain’s Association took its own initiative to try and arrange a meeting with Heads of Churches to:

1. Create a selection and advisory group for all Prison Chaplains (Roman Catholic and Protestant) which will have some status both in the Department of Justice and the Churches and will advise both.
2. Create some machinery to provide discussion and resolution of ongoing Prison Chaplaincy issues.<sup>476</sup>

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<sup>472</sup> Belich, *Paradise Reforged*, p.418.

<sup>473</sup> MacLeod; A. (1984). “Letter to Jocelyn Armstrong,” 30 November 1984. ATL, CCANZ 97-096, Box 13, Folder 242A.

<sup>474</sup> Boyd, E. (1989). “E. Boyd, Submission to the Prison Review.” Private Archive.

<sup>475</sup> The *Roper Report*, p. 94.

<sup>476</sup> Grinder, R. (undated). “Open Letter to Heads of Churches,” Albany, Private Archive.

The untimely death of Chaplain Wattie Tahere, however, caused this meeting to be cancelled and a subsequent attempt to re-schedule it with the additional presence of CCANZ and Te Rununga representatives was overtaken by the imminent publication of the *Roper Report*.

The Rununga has made it clear that the review and planning should not begin until after the Roper Commission on Prison Systems Review has published its report. The Committee has asked me to write to the Chaplains' Executive to ask them to postpone the meeting, in the light of these agreements and concerns.<sup>477</sup>

So, by 1989, the Catholic prison chaplains still remained fully under the direction and control of their church. The former NCC chaplains, however, did not hold any great allegiance to the CCANZ as a representative church body and they had begun to identify themselves as Department of Justice employees who belonged to the Prison Chaplains' Association. This change in attitude and allegiance was to create increasing difficulties for Church administrators, especially after the demise of the NCC in 1988, following which, a number of chaplains no longer recognised the authority of the CCANZ to act on their behalf. This situation was to remain until the creation of the PCSANZ in 2000 when the new contracting relationship with the Department of Corrections provided an instrument for church administrators to reclaim their administrative jurisdiction over the Prison Chaplaincy Service. It was only then that they were able to begin the process of overcoming attitudes of interest and provider group capture that had their roots in the distancing process that evolved between NCC administrators and chaplains since the early 1980s.

MacLeod's observations were important for understanding the origins of this development. During the 1980s, the NCC had become preoccupied with issues such as racism and the Springbok rugby tour. The Prison Chaplaincy Service was being financed by the State authorities and so it was not a drain on the finances of the member churches of the NCC. Because prison chaplains appeared to be functioning soundly, they were left largely to their own devices. At the same time, attitudes of "provider capture" began to influence a number of chaplains and the combination of these two trends led to a process of distancing from the NCC and the CCANZ. Church administrators eventually became aware of this situation and they made attempts to deal with it. Their response however proved to be largely ineffective. The replacement of the NCC by the CCANZ in 1988 also provided another complication for this situation, as a number of chaplains did not regard the CCANZ as being a representative church

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<sup>477</sup> Armstrong, J. (1989). 'Letter to Reverend R. Grinder,' 5 May 1989. ATL, CCANZ, 97-096.

body that could serve their interests. This was particularly so for Baptist chaplains whose church no longer belonged to the CCANZ. Grinder was a Baptist minister and his contribution to this development was significant. His opinion that: “the CCANZ seemed to lose the support of the churches somehow. I think it was because they became driven by issues that churches” did not want “to be driven by,” was pertinent for understanding what took place.<sup>478</sup> Grinder was a long serving and experienced chaplain and his denomination was not represented in the CCANZ. He was one of a number of chaplains who became increasingly unsure about where they should place their allegiance. The NCC was gone. Their own denominations were not always in active support of their ministry and by the late 1980s, they were functioning in an ecclesiastical limbo. Grinder was a significant voice of advocacy within the Prison Chaplaincy Service for finding an alternative church body to represent its interests. His approach to the Heads of Churches was an attempt to achieve this goal which did not progress further because of the death of Tahere and the immanent publication of the *Roper Report*. Consequently, neither this attempt to find a representative church body to provide ecclesiastical oversight for prison chaplains, nor the attempts by the CCANZ to establish jurisdiction over them came to fruition.

Effectively, by 1989, Barnett’s system of chaplaincy provision in New Zealand prisons had come to a conclusion. Chaplains would continue to serve in New Zealand penal institutions after that date, but Church and State administrators would redefine their relationship for enabling this to take place.

### **Pentecostalism and Prison Fellowship**

During the 1970s, the “major denominations faltered and lost ground, while at the fringes, notably in Pentecostalism, startling and sometimes spectacular growth occurred.”<sup>479</sup> The Pentecostal Churches had their origins in Great Britain and the United States of America, and they began to establish themselves in New Zealand in the 1920s. Their life and practice were characterised “by features such as baptism in the Spirit, gifts of healing and speaking in tongues.”<sup>480</sup>

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<sup>478</sup> Grinder, 7 December 2006.

<sup>479</sup> Brown, *Forty Years On*, p.125.

<sup>480</sup> Brown, C. (1985). “The Charismatic Contribution.” In Colless, B. and Donovan, P. (Eds.), *Religion in New Zealand Society*, Palmerston North, Dunmore Press Ltd. p.99. Brown uses the following terms to describe the organization and activity of the Pentecostal Churches: (1) Pentecostal Churches: refers to the movement outside the larger Christian denominations. (2) Charismatic Renewal: refers to the movement within the larger denominations,

The Pentecostal Churches had some differing theological viewpoints, but, “on the whole they provided reinforcement for conservative positions on theological and social issues.”<sup>481</sup> Davidson noted that the Pentecostal Churches may have been “ecumenical in sympathies and membership,” but church entities such as the NCC and the social issues which engrossed a good deal of its attention, were of little interest to the practices and attitudes of classical Pentecostalism “with its fundamentalist approach to the Bible and ... anti-institutional stance.”<sup>482</sup> They also “helped develop a sense of spiritual ecumenism independent of moves towards church union and the ecumenical movement which was somewhat subversive of attempts to bring about organic church union.”<sup>483</sup> MacLeod was more forthright in his opinion about the Pentecostal Churches when he observed: “their job is to convert the sinner and the world can go to the Devil.”<sup>484</sup>

During the 1970s and 1980s the influence of the Pentecostal Churches began to influence the ministry of the Prison Chaplaincy Service in the following four ways, bringing yet another dynamic into its life, which could not be ignored.

1. The Pentecostal Churches provided a new group of people whose faith experience was grounded in the dynamics of the Pentecostal movement to support the work of prison chaplains. Alongside this development, chaplains whose church experience was grounded in the Pentecostal Churches rather than the Catholic Church or the NCC also began to be appointed as prison chaplains.
2. The theological and pastoral perspectives of the Pentecostal Churches were added to the already eclectic mix of perspectives that moulded and shaped the ministries of the NCC and Catholic Chaplains.
3. The impact of Pentecostal theology and pastoral practice was often resisted by established prison chaplains whose ethos and training were grounded in the perspectives of the Catholic and NCC Churches.
4. As a representative organisation of the Pentecostal movement, Prison Fellowship provided considerable concern for Prison chaplains who

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(3) Pentecostalism: refers to the movement as a whole. Brown’s first and third definitions will be used for the purposes of this study.

<sup>481</sup> Ibid.p.125.

<sup>482</sup> Davidson, *Christianity in Aotearoa*, p.171.

<sup>483</sup> Davidson, (2005). “The New Zealand Ecumenical Journey 1814-1988.” In *Where the Road runs out ... Research Essays on the Ecumenical Journey*, Christchurch, Conference of Churches in Aotearoa New Zealand, 2005. p.28.

<sup>484</sup> MacLeod, 21 July 2007.

came to see its theological stance and pastoral practice as being inappropriate for prison ministry.

In their response to the 1981 PPR, the main stream churches demonstrated that they were either unwilling or unable to provide pastoral and logistical support of any great consequence to prison chaplains or to prisoners. By stepping into this void, the Pentecostal Churches began to bring their own contribution to support the ministry of prison chaplains. David Connor observed:

It has something to do with a theology of commitment. If God has called me to work in prisons and you say that I need to come in at a quarter to six, which means I leave work early and I drive through rush hour traffic and I miss my dinner - that's what God calls me to do. But, if I'm used to a more structured organisation, I have my tea at six o'clock and I don't knock off work until five.<sup>485</sup>

Grinder also noted that “the charismatic movement had been very useful for chaplains because most of the groups who came into prison seemed to come from the charismatic side of things” and “sometimes their leaders were quite outstanding.”<sup>486</sup> Grinder also qualified this observation, however by noting:

It was unfortunate that they provided a theological shape to the chaplaincy which was inappropriate. I describe it as groups who tend to use the prison as the target for commando raids style of evangelism; that is swoop in and hit them and leave just as quickly.<sup>487</sup>

It was this perception of the “inappropriateness” of theological understanding and pastoral practice that often caused tensions with many of the prison chaplains who came from NCC or Catholic backgrounds. By the 1980s, there were few chaplains who had experience of the missions of the 1950s and 1960s when prisoners had been invited to reconsider their personal life styles and adopt the Christian Faith as a motivating force for rehabilitation and reintegration into society. These missions, however, had been conducted in a different context to the setting in which prison chaplaincy functioned during the 1980s.

While some prison chaplains, such as Grinder and Connor, were prepared to acknowledge the loyalty and support of the Pentecostal Churches, others, such as Consedine, believed that the Pentecostals were “all up in the air and not earthed in the reality of the human condition. Their approach was too heavily message centred and not sufficiently person centred” and it appeared “to have a greater concern for the delivery

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<sup>485</sup> Connor, D. (2006). Oral Interview 28 December 2006.

<sup>486</sup> Grinder, 7 December 2006.

<sup>487</sup> Ibid.

of the message than real care or relationship to those who hear it.”<sup>488</sup> Consedine described Pentecostalism as: “the palliative model” of ministry...”one type of drug replacing another,” wherein the prisoner is “called to a literal understanding of being born again in a very fundamentalist sort of way.” In this process:

One is encouraged to bury oneself in the Bible claimed as the only source of truth with daily readings and regular personal prayer. Regrettably there is little, if any critical study of the scriptures. The student, it is hoped, emerges with a changed attitude to crime and anti-social-behaviour. This is now called sin and is requiring of punishment and amendment. The model stresses the sinfulness and badness of the individual in the eyes of God and the need to reform or go to Hell.<sup>489</sup>

It was not surprising then, that many prison chaplains treated the advent of Prison Fellowship in New Zealand in 1982, with suspicion and wariness, because it seemed to epitomise many of these concerns. Prison Fellowship’s founder, Charles Colson, who was imprisoned in the United States of America following his involvement in the Watergate scandal of 1974 and his experience is narrated in two books: *Life Sentence* and *Born Again*.<sup>490</sup> Prior to his incarceration, Colson underwent a dramatic conversion to Christianity which was of great assistance to him while he served his prison sentence. Colson founded Prison Fellowship after his release from gaol as a Christian support and training organisation for prisoners, both while they were in prison and after their release.

Colson visited New Zealand in 1982, with the intention of establishing the work of Prison Fellowship which he believed could be readily extrapolated from the American context into that of New Zealand. His personal experiences of prison chaplaincy had not been very positive while he was in prison. For instance, while he was incarcerated at Maxwell Airbase: “the only planned Christian activities I found were church services conducted twice a week by visiting ministers.”<sup>491</sup> Then, while establishing Prison Fellowship in America, Colson had also run into resistance from established Church hierarchies. There had been criticism from the Catholic Bishop of Memphis and “complaining letters” to members of Congress regarding the activities of Prison Fellowship and he also encountered difficulties with the response of Protestant Churches to his new organisation. “Several Protestant Churches balked too. We found ourselves plunged headlong into encounters with critical church bureaucracies. There

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<sup>488</sup> Consedine, J. *A Poison in the Bloodstream*. p. 83.

<sup>489</sup> Ibid, p.83.

<sup>490</sup> Colson, C. (1976.) *Born Again*, London, Hodder and Stoughton.

Colson, C. (1980). *Life Sentence*, London, Hodder and Stoughton.

<sup>491</sup> Colson, *Born Again*, p.294.

was suspicion about our programme.”<sup>492</sup> There was little doubt that these experiences influenced Colson’s attitudes and he failed to recognise that New Zealand’s prison chaplaincy system was different to that which he had encountered in America.

Upon his arrival in New Zealand, Colson conducted a series of public meetings in order to try and gain support for the work of Prison Fellowship. More recorded that as Senior Chaplain, he had attempted to act in co-operation with Colson’s initiative. “When Colson came I was asked to represent the New Zealand Chaplaincy.”<sup>493</sup> More had attended the public meetings and despite some personal reservations about its creedal statements, he had invited Prison Fellowship to make further responses about their intentions. He had also kept Assistant Secretary for Prisons, Williams, informed about their intentions. A representative of Prison Fellowship met with More who “explained the prison system to him particularly what we call a privilege and our relationship with the Department” so that: “he understood the area that he was coming in to.”<sup>494</sup> More then informed Williams that the Justice Department should wait for further developments before making any further response. If there were to be any trial experiments, they could be attempted in a low security setting such as Wi Tako Prison. More was then informed by Williams that a representative of Prison Fellowship was trying to arrange for classes to be held in Auckland Maximum Security Prison’s D block; “the worst place to begin.”<sup>495</sup> This initiative had been taken without consultation and in a subsequent conversation More informed the Prison Fellowship representative:

you have betrayed a trust and I explained what that trust was. Every now and again there’s a touchy area between the Church and the State. We in the Chaplaincy have to contend with that. Whatever arrangements you have made you had better cancel them now. Otherwise we can dismiss Prison Fellowship altogether.<sup>496</sup>

In spite of this incident, More and Williams agreed that the actions of one person should not be allowed to affect the overall initiative and that Prison Fellowship should be “allowed to have a second chance.”<sup>497</sup> More, however, continued to retain strong reservations about their presence. He was sceptical about the ability of an overseas organisation to succeed, when previous attempts to involve New Zealand churches in prison ministry and the support of chaplains had failed. Furthermore, despite the significant number of Maori being held in prisons, the backing people for Prison

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<sup>492</sup> Colson, *Life Sentence*, p.232.

<sup>493</sup> More, (2006). 9 October 2006.

<sup>494</sup> More, 23 December 2006.

<sup>495</sup> Ibid. 23 December 2006.

<sup>496</sup> Ibid. 23 December 2006.

<sup>497</sup> Ibid. 23 December 2006.

Fellowship seemed to be “all white faces there’s not a Maori face in sight.”<sup>498</sup> The Senior NCC Chaplain and his successors were not endeared to Colson’s lack of sensitivity towards the New Zealand social and cultural context, or his attempts to provide imported American solutions for local issues. In addition, they became suspicious of Prison Fellowship because of its attempts to bypass the Prison Chaplaincy Service in order to achieve its objectives. This legacy continued to impact on the relationships between the two organisations until after the founding of the PCSANZ in 2000.

Connor had also attended Colson’s public meeting in Wellington, and he also had been uneasy about this experience.

That’s when the alarm bells started to ring. It was chaired by the Mayor of Wellington, another prominent speaker was the Singaporean ambassador ... there was the Speaker of the House ... The whole diplomatic corps was on the platform standing behind Chuck Colson all saying how much they cared for prisoners. I had a few years under my belt by then. I knew that not one of them had ever set foot in a gaol. That rang hollow.<sup>499</sup>

Connor observed that “in those days” many Prison Superintendents were “not that keen on Prison Fellowship.”<sup>500</sup> His Superintendent, John Smith, informed him that Prison Fellowship had placed a notice in the *New Zealand Herald* advertising a public meeting that was to be held in the Auckland Town Hall which stated:

All those interested in working in prisons with inmates, come to a public meeting. I didn’t know about it, the Superintendent of “Maxi” didn’t know about it, the Superintendent of Mount Eden didn’t know about it, who are these Prison Fellowship?<sup>501</sup>

Despite these reservations, Connor also observed: “personally, my experience of Prison Fellowship has always been a reasonably happy one. What they did was useful. It’s what they said that has always been the problem.”<sup>502</sup>

Catholic chaplains also had their concerns about Prison Fellowship. As a member of the Christchurch chaplaincy team, Consedine acknowledged his background in “social analysis and social justice,” together with the impact of “liberation theology ... and the Second Vatican Council” on their consciences as Catholic chaplains.<sup>503</sup> Once this had

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<sup>498</sup> More, 9 October 2006.

<sup>499</sup> Connor, 28 December 2006.

<sup>500</sup> Ibid, 28 December 2006.

<sup>501</sup> Ibid, 28 December 2006.

<sup>502</sup> Ibid, 28 December 2006.

<sup>503</sup> Consedine, (2007). Oral Interview, 8 July 2007. Christchurch.

happened, “you can’t go backwards to privatised religion.”<sup>504</sup> Mary Kamo, another member of the same team, explained the importance of “bicultural” approaches to chaplaincy and her links to Ngai Tahu through her husband Ray Kamo.<sup>505</sup> These influences motivated the Christchurch Catholic chaplains into “believing” that Prison Fellowship “should not have Catholic support.”<sup>506</sup> In 1981, they wrote to the Catholic Bishops’ Conference indicating that Prison Fellowship had little in common with main stream Christianity as its theology was simplistic, weak and “often in conflict with Catholic teaching authority;” there was no acceptance of the “Catholic Church’s clear teachings regarding the dignity of people;” it was funded from America; its leadership was primarily “white male and middle class” and the Pentecostal influence created the potential for divisiveness “among staff and inmates” which would duplicate work already being undertaken by organisations such as Prisoners’ Aid.<sup>507</sup> There was no available indication as to how the Catholic Bishops responded to this submission, but the formal representation of these opinions indicated that Catholic chaplains were also becoming concerned about the presence of Prison Fellowship during the 1980s.<sup>508</sup>

The activities of the Chief Officer at Christchurch Prison exemplified Prison Fellowship’s early anti-chaplaincy stance and amplified concerns of the Christchurch Catholic Chaplains.. He “was a Pentecostal and God had told him that he’d sent him to Papanui and he was going around telling the prisoners not to have anything to do with the chaplains because they came from the Devil.”<sup>509</sup> The Superintendent had tried to intervene to curb his activity, to no effect and it had required a deputation consisting of Neven McEwan, the first Director of Prison Fellowship, Boyd, Workman, and “Mel Smith who was the Minister’s representative” to intervene and “tell the Chief to pull his horns in. I don’t know how successful they were.”<sup>510</sup>

After 1982, the ongoing relationship between the Prison Chaplaincy Service and Prison Fellowship continued to experience difficulties, although in some local areas it grew and developed in a positive manner as individual chaplains and Prison Fellowship workers became more aware of each other’s viewpoints. In 1991, Prison Fellowship

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<sup>504</sup> Ibid. 8 July 2007.

<sup>505</sup> Ibid. 8 July 2007.

<sup>506</sup> Christchurch Prison Chaplains’ Group, (1981) “Submission to the Catholic Bishops Conference, Low Week 1981,” CCAW.

<sup>507</sup> Ibid. 1981.

<sup>508</sup> A copy of the response of the Catholic Bishops to this submission could not be located in CCAW.

<sup>509</sup> Connor, 28 December 2006.

<sup>510</sup> Ibid. 28 December 2006.

unwittingly helped the ICAB to define an item of policy by applying for membership of the ICAB Board. The application was declined because the *Perry Report* “had recommended that established churches would have membership on the Board. Because Prison Fellowship was not accountable to a church base it should not be included.”<sup>511</sup> The oversight of prison chaplains was a role of the Church. Because Prison Fellowship was not a Church it could not have representation on the ICAB. This policy continued to be maintained by the PCAB and the PCSANZ, all of whose founding trustees were representatives of Churches. It was not until after 2002, with the appointment of Workman as National Director for Prison Fellowship and Connor as Executive Manager of the PCSANZ, that a closer degree of understanding and co-operation began to develop between the two organisations.

During the 1990s, relational, theological and pastoral misunderstandings continued to create points of tension between the Prison Chaplaincy Service and Prison Fellowship. The mistrust that evolved out of the early relationship between the two organisations continued to be a feature of their interaction with each other. For instance, in the 1990s there were fears among Prison Chaplaincy administrators that there was going to be a “take over” attempt by Prison Fellowship which “dominated the discussion for the next five or six years.”<sup>512</sup>

Before 2002, both organisations had to undergo significant restructuring and establish sound governance systems for themselves. For the Prison Chaplaincy Service this necessity evolved out of the recommendations of the *Roper* and *Perry* Reports while for Prison Fellowship, they had to establish their credibility as a contracting organisation with the Department of Corrections. Workman also acknowledged that there had been historical conflict, factions and dislocation within the Board of Prison Fellowship and that they had initial difficulties in “identifying the difference between governance and management which didn’t settle until around 1993.”<sup>513</sup> Prison Fellowship also had deal with criticism of its early mono-cultural approach to ministry and implement: “a browning of Prison Fellowship.”<sup>514</sup> During this same period the Prison Chaplaincy Service began to employ a number of chaplains who came from Pentecostal Church backgrounds and in 1995 Pastor Craig Marsh attended his first meeting of the PCAB as

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<sup>511</sup> PCAB, (1992). Minutes of meeting 15 September. PCSANZ Archives.

<sup>512</sup> Workman, K, (2007). Oral Interview, 21 September 2007.

<sup>513</sup> Ibid. 21 September 2007.

<sup>514</sup> Ibid. 21 September 2007.

a representative of the Associated Pentecostal Churches of New Zealand.<sup>515</sup> Many of these men and women had a more sympathetic understanding towards the ethos of Prison Fellowship. These developments, coupled with a distancing from early historical tensions, brought about an eventual change in attitudes and the creation of closer co-operation and understanding between the two organisations.

The impact of Pentecostal Churches on the Prison Chaplaincy Service during the 1980s was marked by two significant features: the Pentecostal's anti authoritarian stance which failed to recognise the authority of main stream churches and theological differences that existed between the Pentecostals and the clergy of the NCC and Catholic Churches. The Pentecostal focus on personal conversion and a fundamentalist approach to the Bible was not always readily accepted by clergy of the main stream churches, whose pastoral practice was grounded in the theological traditions and attitudes towards social justice of their own Churches. Furthermore, under Barnett and Robson, the NCC and Catholic Church had developed a working relationship with the Department of Justice for the provision of prison chaplaincy services, which seemed to respect the understandings of both Church and State. This institutional respect was not present in the teachings and actions of the Pentecostal Churches however.

The advent of Prison Fellowship as an American import and as an expression of the Pentecostal movement, was treated warily by the main stream churches and the Prison Chaplaincy Service alike. In the 1980s and 1990s, many prison chaplains regarded Prison Fellowship's theological, biblical and pastoral approach to prison ministry as either being simplistic, or a culturally inappropriate form of religious expression which did not respect the unique spiritual requirements of Maori. In spite of promises to work with the Prison Chaplaincy Service, Prison Fellowship demonstrated a lack of institutional respect by acting unilaterally to achieve its own ends. This action resulted in a loss of trust from chaplains, who developed a perception that Prison Fellowship lacked the necessary discipline to provide effective ministry in the prison context. These factors created a legacy of mistrust that was not to be overcome for some twenty five years. The admission of a representative of the Associated Pentecostal Churches of New Zealand to the PCAB in 1995 has helped to improve relationships with the Pentecostal churches at an administrative level, but the inability of some of these

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<sup>515</sup> PCAB, (1995). Minutes of Meeting, 20 April. PCSANZ Archives.

churches to appreciate the requirements of prison management, has meant that their involvement in chaplaincy programmes is still treated with reservation.

### **The Resurgence of Maori Consciousness**

During the 1970s a resurgence of Maori activism centred on the Treaty of Waitangi became “sustained, high profile and intense. Yet very few Pakeha including politicians, technocrats, economists and media understood the complexity of the issues or that their responses were often counter-productive.”<sup>516</sup> Between 1975 and 1984, the National Government either dismissed or repressed this revitalisation of Maori consciousness, a response which only served to refuel the grievances and intensify “Maori demands for their resources and power to be restored.”<sup>517</sup>

Two world views were in force at that time. In the late 1970s and early 1980s, Pakeha tended to regard New Zealand as an “independent, post colonial state governed by a Westminster style Parliament.”<sup>518</sup> For many Maori, however, New Zealand was still: “occupied by a colonial power.”<sup>519</sup> Maori

had resisted through military, extra legal, legal and political means, the usurpation of tribal sovereignty for almost 150 years. Their main point of reference was the Treaty of Waitangi signed in 1840 between representatives of Maori tribes and the British Crown. The Treaty had guaranteed tribes *tino rangatiratanga* – continued exercise of independent authority over their lives and their land – a promise that settler governments systematically breached.<sup>520</sup>

As a consequence, for many Maori living in urban settings in the 1970s there was

increased knowledge of the alienating culture of metropolitan society and its techniques for the maintenance of the structural relationship of Pakeha dominance and Maori subjection. Knowledge of the alienating culture leads to transforming action, resulting in a culture of being freed from alienation, is an apt description of the Maori cultural renaissance.<sup>521</sup>

During the 1970s and 1980s, a number of significant incidents occurred that were indicative of this cultural renaissance. These included the: Maori land march led by Whina Cooper of 1975; Ngati Whatua occupation of Bastion Point in 1978; He Taua confrontation with the Auckland University engineering students haka party, and

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<sup>516</sup> Kelsey, J. (1995). *The New Zealand Experiment: A World Model for Structural Adjustment?* Auckland, Auckland University Press, with Bridget Williams Books. p.23.

<sup>517</sup> Ibid. p.23.

<sup>518</sup> Ibid. p 22.

<sup>519</sup> Ibid. p.22.

<sup>520</sup> Ibid. pp.22-23.

<sup>521</sup> Walker, R. (1990). *Ka Whawhai Tonu Matou: Struggle without End*, Auckland, Penguin Books (NZ) Ltd. p.209.

protests undertaken by the Waitangi Action Committee. These events were symptomatic of a growing sense of self belief and confidence within Maoridom, which

made for a sharper critique of the role of the State, of welfarism, and of claims to social equality and multi racial harmony. It also guided the quest for forward looking alternatives, which frequently required radical economic and constitutional change – although there was diversity among Maori views.<sup>522</sup>

This high profile increase in Maori consciousness also began to make an impact on the Department of Justice during this period. Evidence of this development was seen in the publication of the prison staff training document: *The Maori and the Criminal Justice System, A New perspective: He Whaipaanga Hou*, in which Jackson asserted:

if the stated objectives to foster nga tikanga Maori within the department are to be applied simply as an example of cultural appropriation while leaving the basic monocultural structures unchanged, then the process is conceptually flawed. In this case the implementation of biculturalism becomes dependent on Pakeha limits on Maori contribution and “catering for the Tangata Whenua” becomes defined by the needs of the institution rather than the needs of Maori people seeking justice. If however, the objectives are to lead ultimately to a new structure in which Maori authority and participation is dependent on their right as Tangata Whenua, not on the benign awareness of bureaucrats, then the cultural aims will more effectively address the needs of Maori people.<sup>523</sup>

Jackson’s views were received with caution by Justice Department administrators and politicians alike. Consedine observed:

Reaction to the Jackson report from the Pakeha establishment was predictable. The Justice Department gave it a cautious welcome, but highlighted the difficulties of coming to terms with its basic thrusts. The National Party dismissed the report out of hand as being unworkable except in some of its minor recommendations. The then Minister of Justice, Geoffrey Palmer dismissed the call for an alternative system of justice as a profoundly unacceptable development within New Zealand. It would produce such differences of treatment between similar peoples as to be unacceptable.<sup>524</sup>

Despite Consedine’s assertion, however, Workman stated that between 1983 and 1986: “the bicultural imperative was being taken on” in the State Services Commission and that “this reality was beginning to drive policy.”<sup>525</sup> When he came to the Department of Justice in 1989, he had come from Maori Affairs which had been grappling with the “issue of an indigenous response to the Treaty” and he had been chosen for his “job in prisons because of that understanding.”<sup>526</sup> At the time there was a “cadre of chief executives John Grant from Social Welfare, David Oughton” from Justice and “others

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<sup>522</sup> Kelsey, *The New Zealand Experiment*, p.22.

<sup>523</sup> Jackson, “The Maori and the Criminal Justice System,” p.249.

<sup>524</sup> Consedine, *A Poison in the Bloodstream*, p.56.

<sup>525</sup> Workman, 21 September 2007.

<sup>526</sup> Ibid. 21 September 2007.

as well who were picking up on the bicultural responsibility to Maori. ...The Minister was less enthusiastic in those days, but he became a convert later on.”<sup>527</sup>

There was also growing support in some church circles for assisting Maori to deal with historical injustices. Dr Raymond Pelly of St. John’s Theological College “wrote to the Christian Conference of Asia for a grant of \$5.000 to support the Waitangi Action Committee defendants and their families after they “had been brought before the courts as a consequence of their activities.” The churches were also “becoming uncomfortable over their involvement in the (Waitangi) celebrations” because “they felt embarrassed at having to bless a celebration that Maori people saw as an injustice.”<sup>528</sup> In 1982, Williams replaced the usual prayer used at the Waitangi Day Service with one of his own and it was delivered both in English and Maori “as an indication of the changing stance of the churches.”<sup>529</sup> The Catholic Church’s Education, Justice and Development Commission then decided to conduct an in depth enquiry into Waitangi Day as a “Catholic contribution to a corporate reflection by the whole Church.”<sup>530</sup> In 1983 the Presbyterian General Assembly and the Methodist Conference: “urged their congregations to repent for Waitangi Day,” while in 1984 the NCC “issued its own warning to Minister of Lands, Jonathan Elworthy, by proposing a moratorium on Waitangi Day observances.”<sup>531</sup> Pakeha had become “as much a part of the process of social transformation in the post-colonial era as radical and activist Maori.”<sup>532</sup>

Structural changes were also taking place within the main stream churches to enable Maori church people to administer their affairs on their own terms. The dissolution of the NCC Maori Section in 1982 was a significant development for the Prison Chaplaincy Service, “because it often seemed peripheral to the work of the NCC” and its replacement with Te Rununga, the Maori Council of Churches, “in which the Catholics participated from the beginning.”<sup>533</sup> Te Rununga had grown out of the rise in “Maori self awareness” in the 1970s “which developed in response to the debates over racism, sporting contacts with South Africa and Maori land issues” and it was

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<sup>527</sup> Ibid.21 September 2007.

<sup>528</sup> Walker, *Ka Whawhai Tonu Matou*, p.232.

<sup>529</sup> Ibid. p.233.

<sup>530</sup> Ibid. p.233.

<sup>531</sup> Ibid. p.254.

<sup>532</sup> Ibid. p.234.

<sup>533</sup> Davidson, “The New Zealand Ecumenical Journey, 1814-1988,” p.20.

established as an autonomous entity in its own right, although Te Rununga and the NCC Executives had “representatives on each other’s organisations.”<sup>534</sup>

The public advocacy of Te Rununga began to mirror that of other Maori activist groups in the 1980s. As the Maori Council of Churches, Te Rununga claimed the sole right (tino rangatiratanga) and responsibility within the Churches to speak for spiritual issues that concerned Maori prisoners.<sup>535</sup> By taking a more activist stance than the NCC Maori Section, Te Rununga broke with the previously established Church systems and conventions of its predecessors and demonstrated a preparedness to act unilaterally from either the NCC or the CCANZ on prison chaplaincy matters.

In March 1985, Te Rununga “declared its competence to select and train suitable persons for chaplaincies in hospitals, prisons and the armed services” together with the need to give priority to “a prison chaplain appointment for Auckland which would help meet the needs of the unnaturally large number of Maori inmates at Paremoremo and Mount Eden.”<sup>536</sup> Hone Kaa indicated that he had become involved with this issue after he had been appointed as Anglican Maori Missioner at Holy Sepulchre Church in Auckland and his pastoral duties frequently required him to visit Mount Eden Prison. The Maori side of the Anglican Church “had no links at all” with this ministry and Te Rununga had provided Kaa with a “perfect entrée into that kind of arena.”<sup>537</sup> Grinder had been the chaplain at the time, but Kaa said that few Maori appeared to relate to Grinder’s ministry. “It was then that I started to agitate for a Maori chaplaincy to be established at both Mount Eden and Paremoremo. From there the growth in interest in Maori chaplaincies started to shift.”<sup>538</sup>

In 1985, Kaa’s Bishop, the Right Reverend Whakahuihui Vercoe, attempted to arrange a meeting with Armstrong to discuss the need for Maori Chaplains to be appointed at Mount Eden and Auckland Prisons.<sup>539</sup> He claimed support from the Auckland District Maori Council who had also indicated a willingness to pursue this matter further. As the incumbent chaplain at Mount Eden Prison, Grinder felt threatened by these discussions,

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<sup>534</sup> Ibid. p.40.

<sup>535</sup> Barlow, *Tikanga Whakaaro*,” p. 131, defines “tino rangatiratanga” as: “sovereign power and status.”

<sup>536</sup> Te Rununga, (1985). “Memo from the Annual General Meeting, 8-10 March 1985, Re: Chaplaincies,” CCANZ, 97096, Box 13, 22J.

<sup>537</sup> Kaa, H. (2007). Oral Interview, 14 June 2007. Auckland.

<sup>538</sup> Ibid. 14 June 2007.

<sup>539</sup> According to Kaa, Vercoe was his Bishop at this time. This information was confirmed by Kaa in a telephone conversation that took place on 20 April 2009.

some of which had taken place through the media. He wrote to Armstrong and informed her that he had not been consulted on this matter and that he cautioned her about the wisdom “of listening too carefully” to the opinions of people who had “little association with the prison.”<sup>540</sup> Armstrong then apologised to Grinder: “I did not know that media statements included suggestions of your replacement” before she added that “the matter of the Maori appointment in Auckland” should be “an extra appointment, well argued from their point of view” from the “ratio of numbers of chaplains to prisoners.”<sup>541</sup> She also wrote to Secretary for Justice, S.J. Callahan seeking the further appointment of a Maori chaplain to Auckland. Callahan’s reply stated that “there is no vacancy for an additional chaplain in the service of the Department. One possibility would be to encourage some exchanges making it possible to transfer one of the existing Maori chaplains to the Auckland area.”<sup>542</sup>

In spite of the way in which he had been treated, Grinder was not unsympathetic to the intentions of what was being proposed. At a subsequent meeting with Te Rununga representatives, he agreed to transfer to an existing vacancy at Auckland Prison with their blessing so that a Maori chaplain could be appointed to Mount Eden. Although Grinder maintained that this agreement had been reached with Te Rununga representatives on an amicable basis, the situation changed after his transfer to the new position at Paremoremo. There had been demonstrations outside the prison led by Te Rununga representatives who were accompanied by members of the Mongrel Mob. They had spoken “about the inadequacy of the chaplaincy in the prison” and “suggested I should resign.”<sup>543</sup> The protesters had expressed similar views in television interviews. Grinder however, remained silent and he declined to take part in any of these public discussions. His appointment at Auckland Prison continued.

In 1987, a group of Maori chaplains had met with Manuka Henare of Te Rununga at the annual chaplains’ conference. The record of this meeting noted: “a lack of awareness or expectation regarding prison chaplains from mainline churches commitment to a bicultural chaplaincy,” together with a significant question from the conference: “who do I belong to?”<sup>544</sup> Those present made a “commitment to bicultural chaplaincy” and Te

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<sup>540</sup> Grinder, R. (1985). “Letter to Jocelyn Armstrong 12 June 1985.” CCANZ, 97-096, Box 13, 225.

<sup>541</sup> Armstrong, J. (1985), “Letter to Robert Grinder 19 July 1985.” CCANZ, 97-096, Box 13, 225.

<sup>542</sup> Callahan, S.J. (1985). “Letter to Jocelyn Armstrong,” Private Archive.

<sup>543</sup> Grinder, 7 December 2006.

<sup>544</sup> Senior Prison Chaplains’ Advisory Committee, (1987). “Notes of Meeting 20 November 1987,” ATL, CCANZ, 97-096, Box 13, File 242A.

Rununga agreed to ask the Department of Justice to arrange a meeting for Maori chaplains to consider and review the place of chaplaincy in prisons.<sup>545</sup> Te Rununga would organise this gathering and then work with the CCANZ “to prepare a submission to the Department for the forthcoming prisons review and prepare a report for the Department of Justice regarding outcomes.”<sup>546</sup> This submission never eventuated. Armstrong informed the Prison Review Committee that the CCANZ had decided “not to make submissions to the Ministerial Committee” and that “a new instrument is needed to enable the churches to work together in support of prison chaplains. The churches have agreed to work together to develop this instrument.”<sup>547</sup> She also stated that Te Rununga had been asked to “initiate the process of planning” which would be carried out “through a bicultural process of consultation” that will “lead to a consultation with the Department of Justice.”<sup>548</sup>

In the meantime, however, Te Rununga continued to take its own initiatives over dialogue with the Department of Justice “regarding a bicultural approach to the Prison Chaplaincy Service.”<sup>549</sup> These conversations would take place together with CCANZ, but Te Rununga would take responsibility for notifying the Department directly of this intent before consulting with “Nga Hahi o nga Whanaunga Pakeha.”<sup>550</sup> Assistant Penal Secretary, Bell was reluctant to enter into direct discussion with Te Rununga and he sought to channel these discussions through Senior Chaplains Boyd and McCormack, but this action was not acceptable to Te Rununga. “Te Rununga members prefer the dialogue to be undertaken directly with the Department.”<sup>551</sup> In reply to Cooper, Bell expressed concern about the competency of Te Rununga to provide “competency in the spiritual area” and he continued to be reluctant to enter into direct discussions with Te Rununga on this matter.<sup>552</sup>

While Te Rununga was trying to initiate this dialogue, Bell and Boyd also attempted their own discussions with individual Church leaders regarding the future of the Prison Chaplaincy Service. “Boyd for a variety of reasons has sought to meet with various church leaders individually so that a model of relating to the churches which avoids the

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<sup>545</sup> Ibid. 20 November 1987.

<sup>546</sup> Ibid. 20 November 1987.

<sup>547</sup> Armstrong, J. (1988). “Letter to T.A.F. Withers, Secretary of Ministerial Committee of Enquiry into Prisons System, 25 March 1988,” Private Archive.

<sup>548</sup> Ibid. 25 March 1988,

<sup>549</sup> Cooper, R. ((1987). “Letter to Rae Bell, 17 November 1987,” CCANZ, 97-096, Box 13, Folder 242.

<sup>550</sup> Ibid. “Letter to Rae Bell.”

<sup>551</sup> Cooper, R. (1988). “Letter to Rae Bell. 1 March 1988,” CCANZ, 97-096, Box 13, Folder 242.

<sup>552</sup> Bell, R. (1988). “Letter to Rob Cooper. 24 March 1988,” CCANZ, Box 13, Folder 242.

CCANZ and Te Rununga and some underlying questions can be put in place.”<sup>553</sup> Te Rununga became then concerned that it was being sidelined in these discussions and Te Rununga secretary, Rob Cooper, wrote directly to Minister of Justice Geoffrey Palmer concerning: “the difficulties into entering into discussion with the Justice Department;” direct discussions that the Department was having with chaplains about an “in house proposal” for a structure to “maintain and develop the prison chaplaincy” and the “apparent rejection of attempted and well intentioned negotiations does not sit well with Te Rununga.”<sup>554</sup> It has not been possible to sight a copy of Palmer’s letter of reply, but Te Rununga’s direct communication with Palmer was evidence of a preparedness to take direct action to achieve its own ends when recognition was not given to their point of view.

Armstrong then attempted to arrange the meeting herself, but Bell informed her that he had already consulted with church leaders. She then made a final effort to get Boyd to co-operate by writing to Stan West, General Secretary of the Methodist Church, who informed her that he was concerned that “consultation with churches has involved individual meetings with each denomination” and that “a collective meeting together will often result in more creative decision making.”<sup>555</sup> Beyond that response, however, the Methodist Church seemed reluctant to be involved further and it left the matter to Armstrong and the CCANZ to resolve. By mid 1988, the imminent publication of the *Roper Report* set aside momentum for further meetings and no further direct action was taken between Te Rununga, the CCANZ and the Justice Department to consider the future of the Prison Chaplaincy Service until after 1990.

A degree of caution needs to be adopted in any attempt to assess the impact of Te Rununga on the development of the Prison Chaplaincy Service. The advent of Te Rununga was set in the context of the rise of Maori consciousness that took place in the 1970s and 1980s. Its activist approach towards achieving its objectives was premised on the principles of liberation theology which modelled methods used by other Maori non-church groups during this period to achieve self-determination (*tino rangatiratanga*) over their own affairs. Te Rununga claimed to speak on behalf of the Churches of New Zealand, but in reality its membership consisted primarily of representation from the Anglican, Methodist, Presbyterian, Baptist and Catholic Churches. Consequently, there

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<sup>553</sup> Armstrong, (1988). Letter to Norman Brooks, undated letter. CCANZ, 97096, Box 13, 242.

<sup>554</sup> Cooper, R. (1988). “Letter to Geoffrey Palmer, 17 April 1988.” CCANZ, 97-096, Box 13, 242.

<sup>555</sup> West, S. (1988). “Letter to Rae Bell, 8 July 1988, : CCANZ, 97-096, Box 13, 242.

were occasions when Te Rununga was open to criticism for not being fully representative of Maori Christians. For instance Boyd's submission to the Roper Enquiry stated:

On the bicultural and multi cultural area, we are urged by the head of the Cultural Advisory Unit to be strongly in liaison with Te Rununga. ... The head of the unit is of that mind but his assistant is opposed to that. And I find this is symptomatic of the whole situation as we move into the area of trying to provide an adequate provision for Maori needs. The Rununga is representative really of four denominations. And again I would have to make a strong claim for Ratana for instance. That seems to be a very, very difficult one to deal with and even more difficult for me as a Pakeha. I don't think there are simple answers to any of the issues that we are raising.<sup>556</sup>

Te Rununga's direct advocacy did cause concern and some immediate discomfort for Church and State administrators and prison chaplains. At the same time, however, Te Rununga's actions alienated some chaplains who were sympathetic towards their goals. In this respect, Te Rununga's activities contributed to the distancing process that was taking place between the Prison Chaplaincy Service and the CCANZ, as it was perceived by some chaplains to be yet another Church body meddling unnecessarily in chaplaincy affairs that did not concern them.

There is justification for claiming that Te Rununga's intervention led to the appointment of Dewes at Mount Eden Prison in 1985. By pressuring the NCC to move Grinder to Paremoremo, Te Rununga achieved an immediate goal of having a Maori chaplain placed in Auckland. Dewes' chaplaincy at Mount Eden Prison, however, was not underpinned by the principles of liberation theology and he did not appear to rely on Te Rununga to provide his community support network. Kaa observed: "Nehe was not politically inclined and if you raised issues like that, it was like talking to a blank wall."<sup>557</sup> Dewes himself confirmed this view when he remarked: "I'm a minister, not an administrator."<sup>558</sup> Dewes' principal support person during his time at Mount Eden was Tainui kaumatua David Mackie who came from an Open Brethren Church background. Support for facilitating the exhumations described in chapter eleven of this study came from Workman, the families from Te Whakatohea and Taranaki as well as his own personal commitment to this task. In chapter ten of this study, Metherell also noted that Dewes achieved considerable changes in the pastoral environment at Mount Eden Prison, but this was done through a unique combination of his own personal attributes

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<sup>556</sup> Boyd, Transcript of interview with members of the Roper Commission, 1989. Private Archive.

<sup>557</sup> Kaa, 14 June 2007.

<sup>558</sup> Dewes, N. (2008). Oral Interview, 28 February 2008. Wellington.

and his judicious use of support networks for this purpose. Te Rununga was not a key participant among this group of people.

There is little evidence to show that, Te Rununga made any significant impact on Justice Department Policy for the administration or supervision of the Prison Chaplaincy Service. Workman's comments would suggest that both he and Oughton were influenced more by the bicultural developments that were taking place in the Public Service during the 1980s. Ultimately, it was the *Roper Report* and the *Perry Report* that became catalysts for change. As the next chapter of this study will demonstrate, the writers of these two reports had their own agendas and they were not directly lined with those of Te Rununga.

By 1985, there were also indications that prison chaplains were beginning to respond to the increasing sense of Maori consciousness that was developing within the Department of Justice and the wider community and they would have developed more proactive strategies for meeting the spiritual needs of Maori prisoners anyway, without the actions of Te Rununga. In 1985 and 1987 the annual conferences were held in marae settings and Jackson was the keynote speaker in 1985. These initiatives, however, came from within the Prison Chaplains' Association who made a strong commitment to the implementation of a bicultural chaplaincy. Their submission the Roper Enquiry stated:

Associated as we are with a statutory institution we work within a certain framework, that is of Pakeha – European type. This poses serious difficulties for all chaplains, especially those wishing to minister in terms of their cultural values. This issue needs to be addressed in the coming review of the penal system and raises the question of other models based in different cultural values. ...

The chaplaincy must be bicultural under the Treaty of Waitangi. The Treaty provides for power-sharing in decision-making; biculturalism may mean that all chaplains should have bicultural capacity; biculturalism may mean that there should be a Maori and a European chaplain in each institution and we are endorsing and following the lead of all our parent churches commitment to biculturalism.<sup>559</sup>

It has not been possible to sight any record of the process by which this submission was prepared, but it clearly emanated from within the Prison Chaplains' Association itself and its presentation was not the outcome of a joint venture with either Te Rununga or CCANZ who made their own submissions to the Roper Enquiry. Consedine's comments on the Justice Department's acceptance of *The Maori and the Criminal Justice System* could suggest that one of the key influences behind Prison Chaplains'

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<sup>559</sup> New Zealand Prison Chaplains' Association, (Undated). "Submission to the Prison Enquiry," pp.1-2. Private Archive.

Association submission may have been the Christchurch Chaplaincy Team. This group of chaplains maintained an activist liberation theology approach to their ministry, their chaplaincy provision was sourced in the social justice teaching of the Catholic Church in the post Vatican II era, and their links with Ngai Tahu through Ray and Mary Kamo rather than a direct association with Te Rununga.

Beyond the achievement of Dewes' appointment to Mount Eden Prison however, Te Rununga was unable to achieve either of their goals of taking over the administration of the prison chaplaincy service and having Maori Chaplains appointed to all of the Auckland Prisons. Grinder and Connor continued to act as chaplains at Auckland Prison during the 1990s, with Grinder retiring as chaplain at Auckland East Prison in 1998.<sup>560</sup> The first full-time Maori appointment to the Auckland Prison chaplaincy team did not occur until 2003 when Wally Hayward was appointed as chaplain to Auckland West Prison under the auspices of the PCSANZ. Furthermore, Te Rununga did not achieve their goal of becoming the sole administration body for the appointment and supervision of Prison Chaplains. The NCC and CCANZ did not continue with this role but the changes that were brought about by the *Roper Report* and *Perry Report* devolved this responsibility to the ICAB, PCAB and the PCSANZ. Te Rununga's participation on these Boards was that of appointed Board representatives. At best, Te Rununga's high profile activism may have been part of a wider ground swell for recognition and change within Maoridom, but this was already beginning to impact on the Prison Chaplaincy Service anyway. It is open to question whether Te Rununga actually made any significant impact on prison chaplaincy developments beyond 1990.

### **Public Service Administration and Government Economic Policy**

The National Government fell from office following Muldoon's decision to call a snap election in 1984. Labour came to power again for only the fourth time in half a century and the outcome of the election

swept out of office a generation of politicians whose views and values had been shaped by the Great Depression and participation in World War II. Ministers in the new government ... were mainly in their 40s and brought new perspectives to bear on both government policies and New Zealand's place in the world.<sup>561</sup>

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<sup>560</sup> PCAB, (1988). Minutes of Meeting 20 May. PCSANZ Archives.

<sup>561</sup> King, M. (2003). *The Penguin History of New Zealand*, Auckland, Penguin Books (NZ) Ltd. p. 489.

The economic stewardship of the Muldoon administration had caused New Zealand to subside swiftly down the OECD performance ladder and the new Labour administration initiated a radical departure from the basic economic strategies that had been in operation in New Zealand since the 1930s. After being persuaded by the arguments of Finance Minister Roger Douglas, the Labour Cabinet set about re-structuring the Public Service, transforming some Government Departments into State Owned Enterprises which were charged with making a profit and selling others such as the telephone and banking sections of the Post Office, New Zealand Steel and the Shipping Corporation. Until 1984, traditional Labour policies had sought to be as widely involved as possible in the business of running the country. The Fourth Labour Government, however, was ready to devolve and sell as many of New Zealand's public assets as it could. Douglas's "programme – more market, less state – was nothing if not coherent" and it involved the reduction and reorganisation of the state sector; deregulation of the economy and comprehensive commitment to the free market.<sup>562</sup>

Under Douglas's agenda, economic controls were greatly reduced, agriculture and consumer subsidies were phased out, the financial markets were deregulated, controls on foreign exchange were removed and the New Zealand dollar was floated for the first time. A Goods and Services tax was introduced, the marginal tax rate was reduced and a heavy surtax was placed on superannuation. "The combined effect of all these measures was ... eventually to reduce inflation dramatically, bring down the national debt and increase economic growth."<sup>563</sup>

There was a price to pay for these reforms, however, including the loss of jobs and employment opportunities, especially in smaller communities. Some of Douglas's colleagues reacted to these reforms which many Labour supporters considered to be contrary to their traditional values and heritage and they fought a rear guard action to either slow them down or prevent further changes from occurring. Nevertheless, these reforms were set firmly in place. The Labour Government was re-elected in 1987, but a stock market crash in the same year, resulted in company collapses and a significant loss of funds by private investors. This in turn led to a public loss of confidence in the Government's ability to deal effectively with financial matters. Prime Minister David Lange attempted to control the implementation of Douglas's policies, but this action

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<sup>562</sup> Belich, *Paradise Reforged*, p.406.

<sup>563</sup> King, *The Penguin History of New Zealand*, p. 491.

only served to exacerbate internal disputes within the Government. Lange resigned as Prime Minister and he was followed in quick succession in this role, by Palmer and Mike Moore. After the 1990 election, Jim Bolger's National Government replaced Labour and it continued to implement many of the strategies that had been employed by its predecessor. Prison Chaplains were still employees of the Department of Justice during this period and so it is pertinent to consider whether the Fourth Labour Government's economic reforms and restructuring of the Public Service had any impact on the Prison Chaplaincy Service. Prior to the 1984 election there had been a "huge increase" in Central Government's involvement in economic activity which "involved bureaucrats, scientists, academics and industry in an interlocking series of committees and quangos. The economy became more centralised by the day."<sup>564</sup> At the same time

New Zealand was going through a period of rapid and unchecked economic decline. Per capita income had fallen 11 per cent in real terms since 1974. This stemmed principally from low commodity prices on the world market, high domestic inflation and negligible growth. Inflation was being propelled along by ever higher government spending and by the protected nature of the New Zealand economy.<sup>565</sup>

When the Labour Government took power in 1984 it found a situation where

not only were costs increasing at an unsustainable rate in Health Education and Welfare but there were huge Bills for "Think Big" coming to book. On top of all these debts the Government's estimates carried many hundreds of grants and subsidies to organisations and services that had come to rely on state help, some dating back before World War I. The general public had come to think of the New Zealand Government as a milch cow with endless teats. Government Departments employed nearly 86,000 people in March 1984 and more than another 1000,000 were paid indirectly from the Consolidated Fund.<sup>566</sup>

After 1952, the Prison Chaplaincy Service had become one of those non Government organisations which had come to rely on State help to pay the salaries of its employees. NCC chaplains had been appointed to all penal institutions throughout New Zealand on a part-time or full-time basis. The penal Institutions Act of 1954 and the Penal Institutions Regulations of 1961 had confirmed these appointments.

(1) The secretary shall encourage and facilitate religious observance in each institution and shall make all proper provision for the spiritual welfare of inmates.

(2) He may enter into any arrangement with any organisation or group of churches for the appointment to any institution of a chaplain to represent all denominations of which the organisation or group is composed.<sup>567</sup>

It would not have been surprising therefore, if the Prison Chaplaincy Service had become one of the targets of the Labour Government's proposals to reduce the State

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<sup>564</sup> Bassett, *The State in New Zealand*, p.361.

<sup>565</sup> *Ibid.* p.362.

<sup>566</sup> *Ibid.* pp.372-374.

<sup>567</sup> Penal Institutions Regulations, (1961) *Religion*, 96(1), (2), Wellington, p.18.

bureaucracy and cut back Government spending. These reforms, however, were directed towards other areas of public administration such as the Railways and the Post Office. The Department of Justice was one Government Department that was neither sold nor transformed into a State Owned Enterprise. As a consequence, the Prison Chaplaincy Service remained largely unaffected by Douglas's reforms until the implementation of these policies continued under Bolger's administration after 1990. As Public Service employees, Prison Chaplains continued to be part of "the 40 per cent mega-state" that "remained in place between 1984 and 1990, and which "only began to shrink ... in the 1990s."<sup>568</sup>

Nevertheless, by 1990, Barnett's scheme for providing chaplains to New Zealand prisons had ceased to be a viable option. Although it had been enshrined in statute, Barnett's initiative was essentially an institution-focussed relational arrangement which had to be worked out on a practical day to day basis by Church and State administrators as well as chaplains. By 2000, however, prison chaplains were no longer able to meet the expectations required by Church and State for service delivery to New Zealand Prisons and fresh options needed to be employed. The *Roper Report* and *Perry Report* provided the catalyst for consideration of new perspectives for prison chaplaincy administration. Government economic policies and Public Service restructuring then began to threaten the future viability of prison chaplaincy as a publicly funded service for meeting prisoners' spiritual needs and the ICAB, PCAB and PCSANZ evolved to replace the NCC, CCANZ and Te Rununga as Church instruments for supervising the oversight and appointment of Prison chaplains. All of these factors eventually contributed to the signing of a contract agreement between the PCSANZ and the Department of Corrections for providing chaplaincy services to Public Prisons in 1990. This arrangement was more prescriptive and less relational than the system that had been inaugurated by Barnett, with the obligations for Church and State administrators being defined and enshrined in a contract for service provision. The process by which this development took place will be considered in the next three chapters of this study.

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<sup>568</sup> Belich, *Paradise Reforged*, p.420.

## CHAPTER EIGHT

### ROPER AND PERRY: RE-THINKING THE RELATIONSHIP

In August 1987, the Minister of Justice, Geoffrey Palmer, announced details of an enquiry into the New Zealand Prison System that was to be undertaken by a committee made up of: Sir Clinton Roper (Chairman), the Reverend Robert Biddle, Ms. Kathy Dunstall, Mr. Bill Garrett and Dr. Iain McCormick. Its terms of reference were wide ranging, but unlike the PPR of 1981 which covered the entire criminal justice system, this enquiry was confined to consideration of factors related to prisons.

The Roper Enquiry into Prisons was initiated only six years after the PPR of 1981, but shifts in social awareness had occurred within New Zealand during the intervening period and there had also been a change of government in 1984. The number of people being incarcerated in penal institutions had continued to rise with prisoner numbers “increasing by over 900 between 1987 and 1990.”<sup>569</sup> The Roper Enquiry occurred not so much as an outcome of the Fourth Labour Government’s agenda for economic and Public Service restructuring, but rather as a consequence of decolonisation which was the process of looking for New Zealand solutions to deal with New Zealand issues. It was grounded in a combination of political opportunism, concern about the growth in prisoner numbers and the need to reassess the penal system in a New Zealand context, rather than that of the British models of prison administration employed in New Zealand prior to 1987.

#### **Background to the Roper Enquiry**

Roper was appointed to chair the Enquiry into Prisons following a similar role that he had undertaken for an Enquiry into Violence in 1986. There was

a change of government in 1984 and Palmer was Minister of Justice. Shortly after they came into power, there was some offending that got great public attention. There was an organized post a coupon to your minister or member campaign demanding that things be done on law and order. The response to it was here’s an opportunity, let me have a ministerial enquiry into this to show that I’m willing and they arranged for Roper to head this committee.”<sup>570</sup>

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<sup>569</sup> Newbold, *The Problem of Prisons*, p.93.

<sup>570</sup> Oughton, D. (2007). Oral Interview, 20 September 2007. Wellington.

The Roper Committee on Violence made “a whole lot of very short, sharp, snappy recommendations on things, some of which were able to be picked up in legislation” and “others were to provide programmes.”<sup>571</sup> At the same time, it highlighted that there was another “area that needed to be explored in greater depth and that was the second Roper Committee” which became the Enquiry into Prisons<sup>572</sup> Workman, noted that Roper had again been chosen to lead the Enquiry into Prisons, because of the manner in which he had conducted the Enquiry on Violence and as a consequence “it was assumed that” he “would do other work that would be favourably disposed to the Department and where it was heading.”<sup>573</sup>

Workman also observed that in the late 1980s

the prisons were in a bad way. They weren't being well run. They were archaic. They looked like the Prussian Army really. They had these ranks and layers of people a good third of the Prison Superintendents came from the U.K and they were either Prison Service people there or ex-army. So there's that very military look about them.<sup>574</sup>

This view was substantiated by Terry Craig, who was Director of Planning for the Justice Department when the Roper Enquiry into Prisons was initiated:

Roper was sparked off by a general concern about the nature of the prison system. There was beginning to be an examination of what had always been and that wasn't unique to prisons. That was The Public Service. It was part of a wave of let's look at what we're doing. It's not necessarily a commentary that it's wrong, but we need independently and objectively to review it. The Labour Government gave it a bit of a biff along, but it was a general Public Service movement. It wasn't about prisons per se. It was part of that wave that motivated it.<sup>575</sup>

During the late 1980s there had been concern about the growth in the prison population:

It sounds a bit ironic now, but people were worried about the prison population because it was two thousand three hundred or something. I knew about the prison population because as director of public planning we did the forecasts for budgets.<sup>576</sup>

The New Zealand penal administration did not seem to be dealing with this situation effectively. Craig also observed that prisons were

very old fashioned and incomprehensible to the outsider and the outside world. You had a Superintendent, Deputy Superintendent, Assistant Superintendent, First Officer, Second Officer, Third Officer and Divisional officer, none of which told you what anyone did. So, to the insider it meant something, but that varied enormously up and down the country. But to the outsider it didn't mean a thing. That typified the way it was. It was a fairly sloppy system. Roper came around from that.<sup>577</sup>

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<sup>571</sup> Ibid. 20 September 2007.

<sup>572</sup> Ibid. 20 September 2007.

<sup>573</sup> Workman, 21 September 2007.

<sup>574</sup> Ibid. 21 September 2007.

<sup>575</sup> Craig, T. (2007). Oral Interview, 21 September 2007. Wellington.

<sup>576</sup> Ibid. 21 September 2007.

<sup>577</sup> Ibid. 21 September 2007.

Several external influences came to have an effect the work of the Roper Enquiry as it progressed. Oughton commented that the first Enquiry had: “exposed Roper to a lot of Maori cultural influence that he had not previously had any previous exposure to” and this had influenced his subsequent attitudes to the Enquiry into Prisons. Perry also indicated that during the Roper Enquiry on Violence, he had had been able to talk privately with Roper: “Roper took me to his room to get my angle,” and these conversations had greatly influenced Roper’s attitudes towards the Enquiry into Prisons.<sup>578</sup> Oughton, Workman and Craig also indicated that the personal opinions of the other Enquiry members also influenced the nature of its findings. Oughton observed that the Enquiry: “to a certain extent got “shanghai-ed a wee bit onto some hobby issues that one or two of the members had.”<sup>579</sup> Workman amplified this comment when he noted that that there were: “two or three driving views. One was the idea that there was something that was secure but wasn’t necessarily a prison, so they were looking at the idea of habilitation centres.”<sup>580</sup> Also there was the “possibility of contracting out to the private sector.” Craig was even more forthright in his opinion that Roper and the committee were “captured with the concept of habilitation.”<sup>581</sup> Newbold’s observations about the composition of the Enquiry Committee reflected those made by Oughton, Workman and Craig:

The composition of the committee was odd. Chaired by retired High Court Judge Sir Clinton Roper, other members of the committee were a management consultant, a former nurse ... a Maori tribal representative. The only party with any professional experience in Corrections was a former prison superintendent and retired inspector of prisons. This committee, notwithstanding its unfamiliarity with its assignment, conducted investigations throughout 1988.<sup>582</sup>

### **The Roper Report: Terms of Reference and Findings**

Under its terms of reference, the Roper Committee of Enquiry was appointed to: enquire into the “management of the prison system,” examine the “staffing structure of prisons,” investigate “special aspects of prison control and discipline,” consider any relevant changes in “the organization and management of prisons” as well as ‘the appropriateness of existing State Services Commission provisions in the area of personnel management and industrial relations” and consider the “special needs for any particular ethnic group and how any such special needs should be organised and

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<sup>578</sup> Perry, N. (2006). Transcript of Oral Interview, Auckland, 20 June 2006. Notes taken by Sir Norman Perry’s daughter, Gwenda Perry, who was present during the interview.

<sup>579</sup> Oughton, 20 September 2007.

<sup>580</sup> Workman, 21 September 2007.

<sup>581</sup> Craig, 21 September 2007.

<sup>582</sup> Newbold, *The Problem of Prisons*, p.93.

managed within the prison system.”<sup>583</sup> In carrying out the Enquiry, The Committee had to recognise not only New Zealand statutes and regulations, but also “have regard to international standards including those identified in the United Nations Standard Minimum Rules for the Treatment of Prisoners.”<sup>584</sup> In announcing the Enquiry, Palmer stated:

The Government considers this to be a most important review and expects the recommendations and ideas that develop from it to mark the path for prison development into the 21<sup>st</sup> Century.<sup>585</sup>

The Roper Enquiry took more time to gather its information than the 1981 PPR. It canvassed widely and received a total of 298 written and over 400 oral submissions. The 297 page *Roper Report* contained seventeen pages of submissions on subjects such as, the future of the prison system, staff issues, inmate services, women in prison, special groups of prisoners, justice issues and prison management.

The submissions on prison chaplaincy emanated from a group of individuals and organizations as diverse as: Prison Chaplains, Connor, Pittams, Boyd, Grinder, Kamo and Blakely; Full Gospel Business Men’s Fellowship; Ohura Community Methodist Church; CCANZ, Catholic Commission for Justice and Development, the Church and Community of Saint James, the Joint Methodist and Presbyterian Public Questions Committee and Prison Fellowship. The content of these submissions included: Maori and the prison system, escorts of prisoners on compassionate leave, prisoners’ clothing, prison officer training, classification of prisoners, attendance at church services, community involvement; prisoner accountability, conditions for remand prisoners, provision of psychological services, prisoner employment, length of service for chaplains and reducing the numbers of people incarcerated in prisons.

The *Roper Report’s* recommendations on prison chaplaincy were significant in that they advocated the need to adopt a bicultural approach to chaplaincy provision in prisons. Maori prisoners could request the attendance of a tohunga who would have the same rights as a minister of religion as well as minister or priest. Prisoners should be allowed to change their church denomination. “Protestant” chaplains should receive their stipends from their parent church with the Department of Justice reimbursing that church. The CCANZ should develop a support plan for chaplains, but there should be

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<sup>583</sup> The *Roper Report*, p.1.

<sup>584</sup> Ibid. p.1.

<sup>585</sup> Ibid. p.2.

full discussion with them before any change was made to their role in prisons. Chaplains' terms of appointment would be for three years only and there should be one full time chaplain for every 200 prisoners. Whenever possible, chaplains, kaumatua or Maori Wardens should escort prisoners on occasions of compassionate leave in cases of death or illness.<sup>586</sup>

Membership of the Enquiry Committee did not include representatives from either the CCANZ, Te Rununga or Catholic Church. Robert Biddle was the sole member who had any claim to expertise on religious matters and he held office in the Ringatu Church, which could not be regarded as a mainstream church entity. It is pertinent, therefore, to consider the expertise that was brought to the decision-making process about the future of the Prison Chaplaincy Service. Dunstall recalled that before she participated in the Enquiry's deliberations, she had no previous experience of chaplaincy in prisons and the information that she had to consider in this respect was "all new" for her.<sup>587</sup>

I went in there absolutely fresh which I think was actually quite valuable, because you do look at things as an outsider. The memory that I have is that people spoke very strongly about aspects of the chaplaincy. We became aware that ... the role was bigger. People made extraordinary efforts and that's true across the whole range of submissions.<sup>588</sup>

She indicated, however, that as the Enquiry Committee began to receive submissions, major issues concerning the delivery of spiritual services to prisoners became apparent:

We had some concerns about chaplains who were involved in administrative roles within the prison which we felt compromised their independence. It was a very political area. There was competing interests from the various different groups and church people who came representing different aspects of the chaplaincy. So, it was quite a difficult area to negotiate.<sup>589</sup>

The Enquiry Committee's members adopted the following strategy for attempting to resolve this situation.

What we had to sort out was that some of us were keen write up sections of the report and some of those issues that were covered in the Report clearly fell in the areas of expertise of particular Committee members. In terms of the submissions from all the chaplains and the church groups it soon became apparent that this was a very complex area and it generated a lot of heat from people who were making submissions. He (Roper) assumed responsibility for working his way through all these issues and primary responsibility writing up the section on the chaplains.<sup>590</sup>

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<sup>586</sup> The *Roper Report*, pp. 93-98.

<sup>587</sup> Dunstall, K. (2007). Oral Interview, 8 July 2007. Christchurch.

<sup>588</sup> Ibid. 8 July 2007.

<sup>589</sup> Ibid. 8 July 2007.

<sup>590</sup> Ibid. 8 July 2007.

Hence, according to Dunstall, it was a retired High Court Judge who was responsible for collating and presenting the Report's recommendations on the future direction of prison chaplaincy, although these recommendations were subject to endorsement from other members of the Enquiry Committee prior to the *Roper Report's* publication. The members of the Enquiry Committee had little practical experience of ecclesiastical matters or of prison chaplaincy and yet, they made recommendations on biculturalism and the need for chaplains to be independent of Justice Department control that were to be of important significance to the future development of the prison chaplaincy service. In spite of Dunstall's observations to the contrary, the *Roper Report's* recommendations on prison chaplaincy would probably have been different if someone with greater ecclesiastical expertise and experience had prepared them. Roper's action provided a practical solution for coping with the diversity of submissions that were received from individuals and church bodies, but the question remained as to whether his pragmatism dealt adequately with the issues concerned.

### **Prisons in Change**

The Department of Justice made its own "evidence based" submission to the Roper Enquiry entitled: *Prisons in Change*.<sup>591</sup> This submission "recognized identifiable groups within the prisoner population and it proposed strategies for dealing with their special needs."<sup>592</sup> Case management was to become a tool for implementing this service delivery and specialist staff such as, psychologists, educationalists and social workers would be key participants within this undertaking. If chaplains were to have any meaningful future role to play in prisons, this would need to occur within the context of the "team approach" to prisoner management.

*Prisons in Change* devoted five pages to the subject of "meeting the spiritual needs of Prison Inmates," in which consideration was given to: a historical overview of the Prison Chaplaincy Service; the role of chaplains in the case management team; the attachment of chaplains to institutions; requirements for meeting the spiritual needs of Maori prisoners and an expanded role for female chaplains, especially in women's prisons.<sup>593</sup> The opinions of Church administrators do not appear to have been sought in

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<sup>591</sup> *Prisons in Change*, The submission contained 435 pages of proposed policy direction and recommendations for its implementation.

<sup>592</sup> Craig, 21 September 2007.

<sup>593</sup> *Prisons in Change*, pp. 281-286.

their formulation, but these proposals were significant, in that they would require prison chaplains to include the new recommendations for service delivery within their professional practice.

Three themes were identified at the beginning of *Prisons in Change*: the regionalisation of prisons, case management and a flexible management structure that would provide a team oriented approach to prison management.<sup>594</sup> The recognition of these themes is important for understanding the reasoning behind the submission's recommendations for the future of the Prison Chaplaincy Service and why the Department of Justice Administrators wanted to gain greater control of prison chaplaincy administration.

Under Barnett's system of chaplaincy provision, prison chaplains had operated largely as sole agents who would fulfil a variety of human resources needs within the functioning of a prison. Connor observed that after he became chaplain at Waikune Prison in 1973, "the chaplain did everything the guys in uniform didn't do. If there was a need in the institution and it wasn't the role of a prison officer then the chaplain did it."<sup>595</sup> Furthermore, chaplaincy appointments were often made for the convenience of Prison Chaplaincy Service administration as much as for the special needs prisoners. For example, in the 1970s and early 1980s, the NCC Senior Prison Chaplain's position was a half-time appointment that was arranged in conjunction with the chaplaincy appointment to Arohata Borstal. Senior Chaplains Goldsmith and More, both of whom were male, were appointed under this arrangement.<sup>596</sup> Department of Justice Administrators wanted greater control over chaplaincy appointments so that appropriate appointments could be made to assist with the implementation of the new proposed case management system. Dunstall observed:

As I recall, ... the Department of Justice was in favour of setting up a prison chaplaincy board of some sort and certainly of taking much greater control of the chaplains.<sup>597</sup>

*The Roper Report* rejected this intention however, by stating:

If the Department's plan is put into effect, we see a real danger that the chaplaincy would become increasingly isolated from the church and the tension which already seems to exist through divided allegiance to Department and the Church would be increased. A further consequence might be that chaplains would become so closely

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<sup>594</sup> Ibid. p.10.

<sup>595</sup> Connor, 28 December 2006.

<sup>596</sup> The Senior Prison Chaplain's Report to the NCC for August 1985 reported that Jane Griffith was appointed as the first female chaplain to Arohata Borstal.

<sup>597</sup> Dunstall, 8 July 2007.

identified with prison administration that inmates would have no confidence in them Complete confidence is essential if inmate confidence is to be retained.<sup>598</sup>

*Prisons in Change* also expressed concern about the growing identification of the Prison Chaplaincy Service with the Justice Department's bureaucracy. Proposals contained in recommendations three and four of the submission, were similar to those that had been made in the 1981 PPR, for example "It would be ideal if ministers from the local community acted as prison chaplains" and "chaplains should continue their policy of encouraging ministers from the community to offer services to prisons."<sup>599</sup> In 1981, clergy in parish appointments had been either reluctant or unable to entertain the possibility of providing effective services for meeting the spiritual needs of prisoners. The authors of *Prisons in Change* might have been unaware of the reaction that arose as a consequence of the 1981 PPR recommendations. They may also have been preparing the way, however, to limit the extent of the Prison Chaplaincy Service in the event of failure to gain greater control for future policy implementation. If chaplains could not actively participate in the proposed new strategies, they were perceived as being peripheral to requirements. Either a totally new experiment would need to be initiated to meet the Justice Department's legal obligations to cater for prisoners' spiritual needs, or a return to the pre Barnett era would allow the Justice Department to meet its statutory obligations in this respect. *Prisons in Change* did not consider a continuation of the 1989 system of prison chaplaincy provision to be a viable option for the future.

As well as seeking to gain a greater control over the Prison Chaplaincy Service, *Prisons in Change* also attempted to give greater definition to the role of chaplains. The chaplain could no longer be regarded as a universal care person who undertook a variety of responsibilities, but, "with the extension of specialist services within the prisons, their role should concentrate more on the spiritual dimension and in most cases other matters should be referred to the appropriate specialists."<sup>600</sup> Justice Department administrators were aware that they had responsibilities to meet the spiritual needs of prisoners, but they had difficulty in understanding what these were and how this service provision should be provided. The *Roper Report*, provided evidence of this dilemma when it acknowledged that: "provisions concerning religious observance in institutions" were contained in the 1961 Penal Institutions Regulations, but then sought to define "spiritual well being" in non specific terms as: "a state of intangible quality, having

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<sup>598</sup> The *Roper Report*, p.96.

<sup>599</sup> *Ibid.* p.285-6.

<sup>600</sup> *Prisons in Change*, p.285.

unique significance to the individual.”<sup>601</sup> Church administrators, on the other hand, believed that they understood the realities of the “spiritual dimension,” but they had difficulty in creating language and conceptual terms that could be used to communicate their viewpoint to State officials. Concepts that lacked precise definition were not appropriate communication tools for convincing Public Servants who were influenced by the precepts of positivism and the use of evidence based criteria as a basis for the implementation of policy direction. The issue of trying to define “the spiritual dimension” continued to be a matter of contention for both Church and State administrators after 1989.

Craig was of the opinion that the ongoing influence of *Prisons in Change* should not be underestimated. Apart from the re-structuring of prison management, many the *Roper Report’s* recommendations were never implemented and when the economic policies of Bolger’s National Government began to make an impact on the Department of Justice “the Department ... had to fall back on its own submission.”<sup>602</sup> While many of *Roper Report’s* recommendations for the future direction of prison chaplaincy had fallen into abeyance by 1992, implementation of the policies of case management, regionalization and management restructuring continued to be significant factors in prison administration during the 1990s. If Craig’s opinions are to be taken into account, it was the influence of State administrators and Government policy that significantly shaped the future direction of the Prison Chaplaincy Service as much as the recommendations of the *Roper and Perry Reports*. The manner in which this occurred will be considered further in the next chapter of this study.

### **The Perry Report**

The recommendations of the *Roper Report* and *Prisons in Change* were not the last word on the future direction of the Prison Chaplaincy Service, however, and the publication of the *Perry Report* provided yet another attempt to determine its future. Shortly after Workman was appointed as Assistant Secretary of Penal Institutions in 1989, he attended the prison chaplains’ annual conference at Futuna Retreat Centre in Wellington. This was not a positive experience for Workman, who had gained an impression that the chaplaincy was “all old boys together.”<sup>603</sup> In addition, he had

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<sup>601</sup> The *Roper Report*, pp.93-94.

<sup>602</sup> Craig, 21 September 2007.

<sup>603</sup> Workman, 21 September 2007.

experiences of observing chaplains who seemed to spend a considerable degree of their time undertaking activities that did not appear to be directly related to their chaplaincy role, including, teaching computer studies and te reo Maori. Workman then visited a prison where he had been greeted by the chaplain in the presence of a prison officer. In a subsequent conversation, the prison officer asked Workman about the identity of the person to whom he had had just spoken. He was not aware that a chaplain had been appointed to that particular prison.

Workman then became concerned about trying to understand “what it was that chaplains did” and he began to ask: “who are these people and who do they represent? Do they come from “a cross-section of the church? Are they just confined to mainstream?”<sup>604</sup> Workman also asked other questions: “have these people become institutionalized? What is the relationship between them and the church and should there be a different structure whereby they have some responsibility to the wider community?”<sup>605</sup> He then decided that “he would like to find someone from outside the current mix, to lead a review and examine the role of the chaplaincy.”<sup>606</sup> The publication of *Prisons in Change* and the *Roper Report* provided an ideal opportunity for such a review to be initiated and in 1989, Workman informed Armstrong that a working party would be established to “examine the recommendations of the 1981 Penal Policy Review, the Department’s submission in *Prisons in Change* and the recommendations of the Ministerial Enquiry into the Prisons System.”<sup>607</sup>

Oughton supported this proposal and after further consultation with Workman, they agreed that Perry would be a suitable chairperson for the work group as “a former lay Moderator of the Presbyterian Church” who, “had also a link with the Ringatu Church. For me, coming from the Department of Maori Affairs and being aware that such a large number of prisoners were Maori, this guy will bring sensitivity to things Maori to this.”<sup>608</sup> Craig observed that Perry

had the religious credentials. He had been with the Maori Battalion. These things were of importance. Everyone was saying ‘Kia ora’ to everyone and politically he was very influential. The Churches were lucky to get someone of that position and authority. To be able to say that Sir Norman Perry was involved with this carried a lot of weight with a lot of people.<sup>609</sup>

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<sup>604</sup> Ibid. 21 September 2007.

<sup>605</sup> Ibid. 21 September 2007.

<sup>606</sup> Ibid. 21 September 2007.

<sup>607</sup> Workman, K. (1989). “Letter to Jocelyn Armstrong, 12 September 1989,” ATL, CCANZ, 97-096, Box 13, Prison Chaplaincy Correspondence.

<sup>608</sup> Workman, 21 September 2007.

<sup>609</sup> Craig, 21 September 2007.

Although he was politically well connected, a prominent church layman and former Moderator of the Presbyterian Church of Aotearoa New Zealand, Perry did not have direct involvement with the CCANZ, the Roman Catholic Church or Prison Chaplaincy Service at that time. According to Workman, Perry was chosen to chair the working party because of “my relationship with him and David Oughton’s relationship.”<sup>610</sup>

After his appointment, Perry consulted with the two Senior Chaplains Garvey and Boyd who recommended that the Working Party should consist of Senior Catholic Chaplain Garvey, Auckland Prison Chaplain Grinder, Executive Director of Prison Fellowship Neven McEwan, Mount Eden Prison Chaplain Dewes and Maureen Gerrity, the Catholic Chaplain at Wi Tako Prison.

This proposal did not find acceptance with the CCANZ, however, and in December 1989 Armstrong wrote to the Associate Secretary for Justice Mel. Smith seeking wider Church representation on the Working Party: “since chaplaincy is a ministry of the church, it seems right and proper for the churches to be involved in the Review. I write to ask if this is to be the case.”<sup>611</sup> The Senior Chaplains’ Advisory Group met with Workman in March 1990 and again it expressed concern with regard to the proposed membership of the working party. Minutes of this meeting record that dissatisfaction was expressed regarding the proposed membership of the working group; chaplaincy was a ministry of the churches who would need to be a “key part of any organization to support the chaplaincy.”<sup>612</sup> CCANZ and Te Rununga had been given responsibility to act on behalf of the churches but the Baptist Union, which was not a member of the CCANZ, should also be involved in any discussions. The Catholic Church would continue to maintain a separate chaplaincy. The Churches would name their own representatives on the Working Party and Te Rununga should be consulted as “a first step in their work.”<sup>613</sup> Perry was present at this meeting and he “asked for an open brief. He wanted to visit communities, to hear the voices of those involved in the prisons and with the lives of prisoners; he wanted trust and openness in a continuing communication and discussion” with the Working Party.”<sup>614</sup>

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<sup>610</sup> Workman, 21 September 2007.

<sup>611</sup> Armstrong, J. (1989). “Letter to Mel Smith, 14 December 1989.” ATL, CCANZ 97-096, Box 13, Prison Chaplaincy Correspondence.

<sup>612</sup> Senior Prison Chaplains’ Advisory Group, (1990). “Minutes of meeting of Senior Chaplains’ Advisory Group, 7 March 1990,” ATL, CCANZ 97-096, Box 13, Prison Chaplaincy Review File.

<sup>613</sup> Ibid. 7 March 1990.

<sup>614</sup> Ibid. 7 March 1990.

In May 1990, Armstrong then proposed to Workman that Vercoe, Roberts and Cooper would represent Te Rununga; that there “should be at least two women” who would be Kamo and herself; the Baptist Union would be represented by Geoff Pound and The Reverend Reg. Weeks would represent the Presbyterian Church if further Presbyterian representation was required in addition to Perry.<sup>615</sup> These suggestions did not find acceptance from Workman and the final composition of the Working Party consisted of an almost entirely new set of names to those which had been originally proposed by the Senior Chaplains, CCANZ and Te Rununga. Perry would remain as chairman, but the Working Party would now consist of: Cooper, Anne Delamere, Kitty McKinley, George Pickering and the Reverends Muru Walters, Graham Brogden and Lloyd Cullen.<sup>616</sup> Workman could not remember how the final composition of the Working Party was reached, but he was able to achieve his objective of finding people outside “the current mix” of the Prison Chaplaincy Service and the CCANZ who could provide a fresh perspective on the future direction of the Prison Chaplaincy Service.

The Working Party’s terms of reference were to: examine the “future role, organization and structure of the chaplaincy in prison; enquire into current policies relating “to the appointment and selection of chaplains and their professional and administrative responsibilities”; examine the relationship of prison chaplains with CCANZ and Te Rununga; report on the means by which the spiritual requirements of prisoners and particularly those of Maori and Pacific Island origin could be met in prisons, including the role of tohunga and consider the “future resourcing” of the Prison Chaplaincy Service, as well as ways in which spiritual needs of prisoners could be met other “than through the provision of a chaplaincy service.”<sup>617</sup> The report produced by the Working Party was brief, being some seven pages in length. An appendix on theology was attached to the end of the document.

The CCANZ provided a submission to the Working Party that expressed concerns about the supervision and future direction of the Prison Chaplaincy Service. The CCANZ was committed to a bicultural relationship which reflected the Treaty of Waitangi, and its aims were for a Prison Chaplaincy Service that would “move beyond the predominance

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<sup>615</sup> Armstrong, J. (1990). “Letter to Kim Workman, 16 May 1990,” ATL, CCANZ, 97-096, Box 13, Prison Chaplaincy Review File.

<sup>616</sup> The *Perry Report*, p.2. The Report does not identify the denominational allegiance or the ethnicity of the Working Party members.

<sup>617</sup> *Ibid.* p.2.

of the Pakeha cultural system” and “address Treaty issues in the way it is restructured.”<sup>618</sup> Chaplains were to have a distinctive spiritual role and the spiritual needs of Maori prisoners needed to be met “in culturally appropriate ways.”<sup>619</sup> The work of the chaplains should be reviewed at regular intervals. There should be one chaplain for every 200 prisoners and the primary focus of the chaplain should be with the prisoner, offering pastoral care, and facilitating worship. The chaplains were also to undertake a prophetic role, speaking out on behalf of those who had no advocate. A proposed structure for the administration of the Prison Chaplaincy Service would consist of a National Chaplaincy Board who would advise the Department on all matters related to chaplains, together with three regional committees who would be primarily responsible for making appointments.

Many of these proposals were incorporated in the recommendations of the *Perry Report*, which noted that the Department of Justice recognized a responsibility to “provide for the spiritual well being of inmates” and the churches affirmed a “continuing commitment to do this through their ministry” that would “maintain a strong and effective chaplaincy in prisons.”<sup>620</sup> Perry observed that “traditional denominational distinctions were not a feature of prison life” and “in the spirit of He Ara Hou,” he advocated a radical departure from the previous system of prison chaplaincy provision to that of “one united ecumenical chaplaincy.”<sup>621 622</sup> In addition, “following on from the growing appreciation of the imperatives of the Treaty of Waitangi, the one united chaplaincy should be bicultural in nature.”<sup>623</sup> Maori and Pakeha Senior Chaplains would replace the denominational appointments of the CCANZ and Catholic Church. If two or more chaplains were to be appointed to any one prison, one of them should be Maori. Chaplains should “hold their position primarily for the spiritual well-being of inmates” and there should be “full understanding of the need for the appointment of well trained and motivated chaplains.”<sup>624</sup> Chaplains were “not to be seen as civil servants,” their pastoral role was to include ministry to inmates’ families and within the prison system it “is necessary for chaplains to be seen as independent of the system that governs prison life.”<sup>625</sup> An Advisory Board, consisting of one

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<sup>618</sup> Ibid. p.1.

<sup>619</sup> Ibid. p.2.

<sup>620</sup> Ibid. p.3.

<sup>621</sup> Ibid. p.3.

<sup>622</sup> The term “He Ara Hou” means a new way.

<sup>623</sup> *The Perry Report*, p.4.

<sup>624</sup> Ibid. p.4-5.

<sup>625</sup> Ibid. p.5.

representative from each of the churches, the CCANZ, Te Rununga and the Department of Justice would meet at least annually. This Board would be responsible for the selection appointment, training supervision and pastoral care of all chaplains, as well as offering advice to the Department of Justice on prison chaplaincy matters. All chaplains would be employed by the Advisory Board in association with the chaplain's own church and the Department of Justice. Chaplains would receive their stipend and expenses from their parent denomination, with the Department reimbursing that Church. All appointments would be subject to a review every three years and no chaplain could serve for more than nine years in total. The concluding remarks of the *Perry Report* observed:

It is the Working Party's conviction, that within the exciting new dimension and the spirit of He Ara Hou, the spiritual needs of inmates and the prison environment can be enhanced.

It is the message and personal witness of the dedicated chaplain with a touch of life on life influence which can provide the wairua mana mauri – the compelling life force and strength of a total person, body mind and spirit.<sup>626</sup>

The CCANZ was supportive of the “Working Party discussion and the resulting recommendations,” with their “bicultural and Treaty of Waitangi emphasis” for a single united ecumenical Prison Chaplaincy Service.<sup>627</sup> The CCANZ also confirmed that

the major change that has been advocated that the chaplaincy become one ecumenical body of the churches to include both the ecumenical and the Catholic chaplaincies in the one chaplaincy is a significant step. We applaud it and appreciate the willingness of the Catholic Church to make the substantial change in policy that is involved.<sup>628</sup>

The realities of church governance and the practicalities of ministry in prisons were soon to temper this enthusiasm. The Catholic Church did not want to be drawn into a system of chaplaincy provision over which it would have only limited control. Williams stated that the *Perry Report's* recommendations on biculturalism and a single ecumenical chaplaincy presented a dilemma for the Catholic Church:

As far as we were concerned it would have involved a kind of a revolution, so we needed to be thinking about that pretty carefully. There were two things as I recall. One is the idea of a fully ecumenical chaplaincy and the second part touched on the Maori Pakeha chaplaincy. The first impacted on us because it would have meant that ... Catholic chaplains would have to apply to be members of those teams and on the basis of staffing we would probably have had four or five chaplains that would have been our entitlement. Our objective had always been that we wanted to have a Catholic Chaplaincy available to each of the institutions. The second thing that impacted on us we had very few Maori priests we knew then, if that went through our contribution would be minor. The few Maori priests we had there were many calls on

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<sup>626</sup> Ibid. p.6.

<sup>627</sup> “Prison Chaplaincy Review: Response of the Prison Chaplaincy Sub-committee to Perry,” (Undated). p.1, ATL, CCANZ, 97-096, Box 13, Prison Chaplaincy Review File.

<sup>628</sup> Ibid. p.1.

them and prison chaplaincy might not get the attention that we would want to give it so we had to advance those points of view.<sup>629</sup>

While the *Perry Report* may have achieved Workman's objective of presenting a fresh appraisal for the future direction for the Prison Chaplaincy Service, it failed to take into account the Catholic Church's views on the appointment and supervision of prison chaplains and many of its recommendations were never fully implemented. Consideration, therefore, needs to be given to Perry's personal influence in the final production of the Report and whether in his enthusiasm he was fully cognisant of the issues that were involved in its recommendations.

Perry himself stated that because of the influence of Apirana Ngata he had served in the Maori Battalion during World War II.<sup>630</sup> "He decided I should go with the Maori Division."<sup>631</sup> During this time, Ngata had told him "what he wanted done for the Maori" and his involvement with Maori issues had continued for the rest of his life. "The Pakeha had been too dominant" and he and "Apirana Ngata had walked together." His experiences of chaplaincy had been greatly influenced by "Padre Huata" and during the War denominational influences had counted for little. What mattered more was the "Maori side."<sup>632</sup> Furthermore, he also observed that during the Roper Enquiry, "there were all of these submissions," but Maori "were not coming up with the ideas." While the *Perry Report* was being written there had been "spirited discussions" but it was "an honest thing."<sup>633</sup> The *Perry Report* may have been the product of a working party, but Perry's influence in its final production was significant.

Perry was a past Moderator of the Presbyterian Church General Assembly, but he had been elected to this role as a lay person and he was not an ordained clergyman. Perry had not received the formal theological training that was required for ministers in his denomination and he probably had little awareness of the historical and theological significance of the Catholic attitudes towards ministry appointments that would have been more readily been understood by ministers of the Presbyterian Church. He either did not understand, or he misread the reasons why Catholic chaplains had to be appointed under the supervision of their Diocesan Bishops. The Catholic Church could

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<sup>629</sup> Williams, 12 July 2007.

<sup>630</sup> Sorrenson, M.P.K. (2007). "Apirana Ngata, 1874-1950," *DNZB*. pp. 1-7, <http://www.dnzb.govt.nz/recorded> that "Ngata was born at Te Araroa on the East Coast on 3 July 1874. ... He used his knowledge of the Pakeha world and his professional skills to assist his people ... to preserve their culture and maintain their own identity."

<sup>631</sup> Perry, 20 June 2006.

<sup>632</sup> *Ibid.* 20 June 2006.

<sup>633</sup> *Ibid.* 20 June 2006.

not or would not be persuaded by Perry's arguments and it quickly re-established its jurisdiction over its own chaplains and within two years Perry's vision of "one united ecumenical chaplaincy", organized on bicultural rather than denominational lines had been set aside.

Workman described Perry as the "consummate lobbyist" who was "constantly badgering ... Oughton for money."<sup>634</sup> Oughton indicated that Perry would lobby Justice Department officials regarding his projects and the reply would be: "No, you can't do that!"<sup>635</sup> Perry would then consult another senior official "or a minister" who would give him the same reply. This same person would then ask the colleagues that had previously been consulted by Perry; "Why haven't you told him that?" only to be told "we have."<sup>636</sup> These comments indicated that Perry was both an enthusiast and an individualist who was reluctant to take "No." for an answer. While the final production of the *Perry Report* may officially have been the product of a working party, it was highly influenced by a combination of Perry's personal experiences, lack of understanding of Catholic Church polity and individualism. Workman observed: "that was the way Norman operated. He didn't consult much."<sup>637</sup> Kaa was even more critical of Perry, describing him as being "like a runaway train." As a pakeha, "he knew what was good for Maori."<sup>638</sup>

Careful consideration needs to be given to the impact of the *Roper* and *Perry Report's* on the future direction of the Prison Chaplaincy Service. At one level, they demonstrated the ineffectiveness of church administrators' attempts to influence policy recommendations made by either of these committees of enquiry. Individuals and church organisations made a significant number of submissions to the Roper Enquiry, but ultimately it was Roper's pragmatism that was the deciding factor in the presentation of the recommendations contained in the *Roper Report*. The Prison Chaplains' Association, Te Rununga and the CCANZ lobbied strongly for their representatives to be included on the Perry Working Party and yet it was Workman who made the final decisions regarding its composition. Furthermore, while Perry's views may have coincided with those of the CCANZ and Te Rununga, the *Perry Report* was as much an expression of his personal opinions as the collective views of the Working

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<sup>634</sup> Workman, 21 September 2007.

<sup>635</sup> Oughton, 20 September 2007.

<sup>636</sup> Ibid. 20 September 2007.

<sup>637</sup> Workman, 21 September 2007.

<sup>638</sup> Kaa, 14 June 2007.

Party. While these manoeuvrings were taking place, the Catholic Church held to its traditional stance whereby Catholic chaplains acted in persona of the Diocesan Bishop and by 1992, this position had been reclaimed in spite of Perry's recommendations to the contrary.

Connor was of the opinion that Perry's influence had some ongoing impact on the evolution of the Prison Chaplaincy Service because Perry forced consideration of the Treaty of Waitangi and biculturalism "far more than we ever have. ... We have a much greater proportion of Maori chaplains."<sup>639</sup> Connor also noted, however, that Perry did not include a place for women nor was he able to anticipate the changing demographic in the New Zealand population where "twenty per cent of Auckland was Asian" and where a "considerable number of prison officers now have English as a second language and do not understand the principles of biculturalism or the need for biculturalism."<sup>640</sup> The *Perry Report* did challenge some firmly established institutional practices that had developed in the provision of chaplains to New Zealand prisons prior to 1990 and in this respect, it became a reference point for rethinking prison chaplaincy administration and pastoral practice in the decade after 1990.

Nevertheless, Church administrators, like the authors of *Prisons in Change*, had become increasingly concerned about the growing institutionalisation of the Prison Chaplaincy Service, but their primary preoccupation appeared to be with biculturalism and the manner in which it could be implemented. In pursuing this agenda, they, like Perry, failed to recognise other changes in policy direction that were being developed within the Justice Department at the end of the 1980s. Biculturalism would continue to be an issue, but it was the implementation of case management, regionalisation and management restructuring in conjunction with the financial restrictions imposed by the Bolger Government during the 1990s, that was to make the biggest impact on the ongoing development of the Prison Chaplaincy Service. After 1990, the balance of power rested firmly in the hands of Justice Department officials. This reality was to continue to be a feature of the development of the Prison Chaplaincy Service during the 1990s. The manner in which this occurred and the compromises that were required to allow this process to take place will be considered in the next chapter of this study.

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<sup>639</sup> Connor, 28 December 2006.

<sup>640</sup> Ibid. 28 December 2006.

## CHAPTER NINE

### RELATIONSHIP DIFFICULTIES AND A NEW PARTNER 1990–1998

Complex issues had to be faced by Church and State administrators after 1990 as they sought to implement the recommendations of the *Roper* and the *Perry Reports*. Both groups had to come to terms with the ramifications of legislative changes contained in the State Sector Act (1988), the Public Finance Act (PFA) (1989) and the Employment Contracts Act (ECA) (1991). These three Acts of Parliament, focused on reforming “structures, systems, corporate planning, remuneration policies, information technology and financial management” which were to produce an “endless cycle of restructuring which featured budget cuts, job insecurity, a pay freeze and threats to privatise.”<sup>641</sup> The perspectives of market forces, employment contracts and organisational re-structuring were alien concepts to Church administrators, who had considerable difficulty in coming to terms with their application within the new administrative regime that developed within the Department of Justice. The Church representatives on the ICAB and PCAB had been trained to administer systems of local church governance and pastoral practice, but between 1990 and 1998 they were required to work co-operatively with Public Servants in a business setting, in which they provided joint oversight for the Prison Chaplaincy Service. If this was not enough, the Church administrators also had to cope with the diverse understandings of theology, church polity and pastoral practice of the various denominations represented on the ICAB and PCAB.

After Barnett and Robson, Department of Justice administrators were not always sympathetic towards the continued existence of the Prison Chaplaincy Service, either because of negative historical experience or because they did not believe that the expense of its continued existence could be justified. Many of the *Roper* and *Perry Reports*’ recommendations for the future direction of prison chaplaincy were overtaken by the policy direction initiated by the Bolger Government and the proposals contained in *Prisons in Change*. They were either not implemented or quickly set aside. The implementation of regionalisation, restructuring, case management and financial restrictions were to test the good will of Church and State administrator alike, as they

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<sup>641</sup> Kelsey, *The New Zealand Experiment*, p.138.

sought develop a relevant new direction for the Prison Chaplaincy Service during the 1990s.

### **Legislative and Restructuring Influences**

Under the requirements of the 1998 State Sector Act, Public Service Chief Executive Officers were employed to run Government departments on renewable, performance related contracts which lasted for up to five years. “Appointment criteria stressed management and efficiency skills” and “initial turnover was rapid. Eighteen months after the Act was passed two thirds of departments had new CEO’s.”<sup>642</sup> A number of these appointments were “short term change agents” who moved

from transport to social welfare, from forestry to education, fisheries and social welfare, from commerce to justice, from Treasury to labour health and prisons. Their lack of knowledge of the subject area seemed of little consequence to those making the appointments – the restructuring formula and managerial skills required were the same.<sup>643</sup>

The CEO’s were required to enter into annual performance agreements which set out financial performance and management goals to be achieved and followed, with their ministers, who had full authority to hire and fire staff. The State Sector Act also legislated for a commitment to biculturalism although many Maori regarded this as “a device to placate demands to share real power” and the “policy rarely went beyond the cosmetic co-option of Maori intellectual and cultural property by government departments.”<sup>644</sup> The State Sector Act had significant consequences for Public Service employment practices as a “traditional centralised employment structure and the collective award, tenure and grievance procedures of the public service” were replaced by “decentralised employment, enterprise bargaining, individual contracts and Employment Tribunal coverage.”<sup>645</sup> As a consequence, public servants were asked to do more work with fewer resources. The accountability required of public servants increased and the security of their positions was undermined. “Qualities of professionalism, loyalty, innovation, integrity and commitment to public well being were subordinated to the goals of efficiency and managerial-ism.”<sup>646</sup> Workman noted: “I think we lost six Superintendents in the first eighteen months.”<sup>647</sup> Commenting on the impact of this situation for Waikeria Prison staff in 2003, former Prison Officer

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<sup>642</sup> Ibid. p.139.

<sup>643</sup> Ibid. p 139.

<sup>644</sup> Ibid. p.141.

<sup>645</sup> Ibid. p.141.

<sup>646</sup> Ibid. p.142.

<sup>647</sup> Workman, 21 September 2007.

Instructor Peter Croucher also observed: “it was a nightmare as far as the way people were being treated. Everybody used to look after each other and watch each other’s back.” Then it became “look after number one” otherwise “they would pot you. ... In the early days you could trust your work mate but not now.”<sup>648</sup> Former Waikeria prison chaplain Heremaia Mutu said that these changes affected his work in this way: “I had changed from I am going to work that I love and I’m getting paid, to I can’t wait to get out of here. I could see myself changing and becoming bitter like my fellow workers and saying this is just all bull.”<sup>649</sup>

The 1989 PFA also had a major influence on Public Service restructuring because it changed the emphasis on the way that Government Departments operated. Prior to the PFA, a Government department would place emphasis on acquiring financial resources to deliver services (inputs). The PFA changed this responsibility to that of focusing on the delivery of services (outputs), with ministers being responsible for the delivery of outcomes:

Ministers wanted to reduce the crime rate and they were responsible if they stopped offending. Prisons were responsible for delivering services, the outputs. They weren’t responsible for reducing re-offending and therefore they didn’t necessarily have to rehabilitate. The ministers contracted and they specified the services they wanted which they believed would reduce re-offending. That contextual stuff about the public sector reforms is extremely important because it shaped a lot of thinking.<sup>650</sup>

The PFA had “two potentially conflicting goals: to improve the quality of service and responsiveness to changing client needs and to increase efficient and accountable use of resources.”<sup>651</sup> The process was driven by Treasury whose main concern was to keep a limit on departmental operations and spending. The outcome was that “departments and staff became absorbed with constant restructuring, compliance with stringent financial targets and providing quantified outputs. Complex functions were reduced to easily measured targets irrespective of whether these were accurate or appropriate.”<sup>652</sup> Commenting on the impact of these changes on prisoners’ and prison staff at the time that they were being instituted, Croucher observed that many prison industries were disbanded because “the prime object” was “to make money” rather than “to be of service” and “I have always maintained that the prisons are a public service not an industry to make money. A lot of those industries that were there to give the inmates

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<sup>648</sup> Croucher, P. (2008). Oral Interview 1 February, 2008. Henderson Bay.

<sup>649</sup> Mutu, H. (2007). Oral Interview, 28 February 2007. Auckland.

<sup>650</sup> Craig, 21 September 2007.

<sup>651</sup> Kelsey, *The New Zealand Experiment*, p.143.

<sup>652</sup> *Ibid.* pp.143-144.

something to do disappeared.”<sup>653</sup> He also believed that when “the system was changed “from a service to a business things started to go belly up. His Waikeria Prison Manager at the time, “had a mandate” to make changes and “he certainly achieved that all right,” although the changes “made no difference to the recidivism rate.”<sup>654</sup>

Craig noted that after the PFA was passed, there was a review of prisons within the Justice sector, which “stripped the money” out of them because “they were fat.”<sup>655</sup> “There was an enormous amount of money in the prisons that they couldn’t justify” that was “being spent on all sorts of things. They took it off them. At that time, the budgets were going down.”<sup>656</sup> He also observed that

we were operating in this world full of theory. There was this Public Sector Act and Public Finance Act where theoretically if you made gains financially you would benefit from it as an organization but the people who worked in it weren’t benefiting at all ... the theory was that if you saved money you would be rewarded and implicitly you could save some of that money and use it on other things but you weren’t allowed to. So the Department stripped the prisons of money which you weren’t allowed to use and at the same time prison musters began to rise you had no flexibility around the edges to cope with this enormous situation of growth in the actual work you were doing, the challenge of reducing budgets, the antagonism of many members in the community and the extraordinary enthusiasm of others. On top of that we had all these disasters happening Invercargill, Christchurch, Wanganui, every prison almost.<sup>657</sup>

Oughton indicated that in addition to the ideological intent to implement change, there was also inter department competition for available funding:

Money was being required to pay for extra police appointments and facilitating Treaty of Waitangi Settlements. We were fighting Treasury who didn’t want to do it .We were fighting the Minister of Finance who had a personal antipathy with the minister of Justice. We were told to buzz off, you can have ten million dollars and that’s it. The prison population was still taking off, staffing requirements needed to be filled. Government wasn’t prepared to fund it. Lots of the other issues went by the board.<sup>658</sup>

Influenced by Treasury’s briefing papers, in 1990, the incoming National Government, sought to achieve sustainable higher living standards by giving

greater freedom to workers and firms to enter into mutually beneficial employment arrangements with minimal external interference. Such reforms would facilitate enterprise bargaining, reward productivity and training and ... encourage more efficient and responsive trade unions.<sup>659</sup>

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<sup>653</sup> Croucher, 1 February, 2008.

<sup>654</sup> Ibid. 1 February 2008.

<sup>655</sup> Craig, 21 September 2007.

<sup>656</sup> Ibid. 21 September 2007.

<sup>657</sup> Ibid 21 September 2007.

<sup>658</sup> Oughton, 20 September 2007.

<sup>659</sup> Kelsey, *The New Zealand Experiment*, p.180.

These reforms put “downward pressure on real wages for some workers” at the time in which they were initiated, but it was also “envisaged that consequent increasing levels of skill and higher productivity would lead to better standards of living and increased participation in the work force in the medium term.”<sup>660</sup>

The ECA was passed in 1991 with the intention of reinforcing the reforms that had already been established under the auspices of the State Sector Act and the PFA. Under the provisions of the ECA, national awards and compulsory unionism were replaced by individual employment contracts between individual employer and individual employee. Collective contracts were still allowed, but not encouraged. Kelsey commented that the ECA had two goals: “to force wages down and break the Unions” and that “the Act was stacked against workers and unions in favour of the employer there was no guaranteed access for unions or anyone else seeking authority to represent workers.”<sup>661</sup> With Government as its employer, the Public Service Association (PSA) came under heavy attack and “many SOE’s and departments backed by the SSC campaigned to de-unionise the workforce.”<sup>662 663</sup>

The Department of Justice was not immune from the impact of this legislation. In 1989, Workman was appointed Assistant Secretary of Penal Institutions after being transferred from the Department of Maori Affairs. He promptly set about instituting major changes in the way in which penal institutions were operated. Craig observed that he was “effectively a manager of change and the structure that we put in place simply didn’t cover all the bases.”<sup>664</sup> Workman was motivated “partly by his own belief systems” which “valued the meeting of spiritual need and things Maori,” as well as the recommendations of the *Roper* and the *Perry Reports*.<sup>665</sup> He attempted to “force a dramatic shift in the working philosophy of prisons from one dominated by discipline, custody and punishment, to one of co-operation, treatment and training.”<sup>666</sup> As part of this initiative, senior management positions were redefined with new job descriptions which required the current incumbents to reapply for them. Not all of these reapplications were successful and there were instances when new appointments were made from outside the Justice Department.

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<sup>660</sup> Ibid. p. 180.

<sup>661</sup> Ibid. p 181-182.

<sup>662</sup> Ibid. p. 183.

<sup>663</sup> SOE, State owned Enterprise. SSC, State Services Commission.

<sup>664</sup> Craig, 21 September 2007.

<sup>665</sup> Ibid. 21 September 2007.

<sup>666</sup> Newbold, *The Problem of Prisons*, p.95.

Mutu noted:

these changes caused: “upheaval in every sector of the prison at Waikeria. ... People on the floor were being called dinosaurs if you didn’t keep up with the changes. There was change from those who had very little experience in the prison were going to be made managers and those who had experience were going to be stepping down. From our point of view on the floor we didn’t understand why the Department was changing its management style. Here we were. Those who knew it all were called dinosaurs and not fit for the service with nothing to offer (by) those who had come fresh out of university, or from WINZ or CYFS or Probation, the new managers who knew nothing about the management of prisons.”<sup>667</sup>

Nevertheless, the overall impact of Workman’s endeavours was limited. A number of high profile incidents including the escape of Dean Wickliffe from Paremuremo in 1992 and troubles at the new Mangaroa Prison, including staff corruption, theft of prisoner and Departmental property and the degradation of prisoners by staff, brought about a ministerial enquiry chaired by Basil Logan which resulted in a “tightening of procedures.”<sup>668</sup> Workman resigned as a consequence of these events in February 1993 and Oughton followed at the end of the same year. Workman’s attempts at reform had only lasted four years, although many of the innovations that “he had fostered such as unit management – remained” and “security and procedures gradually tightened from 1994 onward.”<sup>669</sup>

While Minister of Justice, Douglas Graham,<sup>670</sup> continued to hold “liberal sympathies and humanitarian principles,” after the departure of Workman and Oughton, his interest in prison reform was soon overtaken by the practicalities of coping with the continually rising prison population and the associated costs that accompanied this development.<sup>671</sup> This increase in the prisoner population was exacerbated by the passing of the 1993 Criminal Justice Act Amendment, which placed yet further pressure on custodial services by providing for longer sentences for violent offending. “Between 1991 and 2000 the average sentence length for violence grew by 22 per cent.”<sup>672</sup> Newbold observed that

between 1986 and 1990 the Department had spent \$150 million upgrading prison facilities and holding capacities. In Graham’s nine years musters jumped 42 per cent and the unresolved problem of overcrowding dogged his entire administration. Within eight months of taking over, Graham pledged another \$20 million worth of

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<sup>667</sup> Mutu, 28 February 2007.

<sup>668</sup> Newbold, *The Problem of Prisons*, p.97.

<sup>669</sup> *Ibid.* p.98.

<sup>670</sup> Douglas Graham was Minister of Justice between 1990 and 1999.

<sup>671</sup> Newbold, *The Problem of Prisons*, p. 98.

<sup>672</sup> *Ibid.* p.101.

expansion for the next financial year and by December 1991 he acknowledged that 1,000 new cells would soon be needed at a cost of \$75 million.<sup>673</sup>

After Workman resigned, Logan's recommendations led to further restructuring within the Corrections Division of the Justice Department. In 1995, the Department of Justice was split into three separate Government departments: the Department of Courts, the Ministry of Justice and the Department of Corrections. Mark Byers became the Chief Executive of the new Corrections Department. Byers continued to drive the policy direction that had been proposed in *Prisons in Change* which in turn continued to provide challenges for spiritual service providers, because:

From this point attempts at rehabilitating inmates wore a distinctively scientific mantle, but at the same time, tightening budgets, continuing population pressure and a renewed emphasis on security from the late 1990s created problems in themselves and moderated the achievements that the new approach envisioned.<sup>674</sup>

In the midst of this situation, however, the ICAB and PCAB administrators persisted with their attempts to bring church focused perspectives to their interface with the State Administrators with whom they were required to work. The manner in which these church representatives sought to engage with the task of administering the Prison Chaplaincy Service will now be narrated in some detail so as to provide some understanding of the difficulties that they faced in undertaking this task.

### **The Interim Advisory Board**

Prompt action was taken to address the recommendations of the *Perry Report* following its publication. On the 8th May 1991, Justice Department officials met with Church leaders to "consider the report of the working party which undertook a review of the prison chaplaincy services."<sup>675</sup> People who attended this meeting included: "Reverend Muru Walters, Reverend John Roberts, Cardinal Thomas Williams, Reverend Father Peter McCormack, Kim Workman Assistant Secretary Penal Institutions, Reverend Graham Brogden, Reverend Ken Orange, Reverend Robert Grinder (representing Prison Chaplains in an observer capacity), Terry Craig, Manager Inmate Programmes," and "Alanna Bennet, Senior Advisory Officer, Inmate Programmes."<sup>676</sup> An apology was received from: "Mr Rob Cooper, representative of Te Rununga."<sup>677</sup>

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<sup>673</sup> Ibid. p. 99.

<sup>674</sup> Ibid. p. 102.

<sup>675</sup> ICAB, (1991). Minutes of Chaplaincy Review Meeting, 8 May. PCSANZ Archives, Chaplains Advisory Board, 1988-1992.

<sup>676</sup> Ibid. 8 May 1991.

<sup>677</sup> Ibid. 8 May 1991.

At this meeting Craig explained that the Justice Department “wished to establish a process for handling the implementation of the review and in particular, the filling of outstanding vacancies within the prison chaplaincy.” The Department and the Senior Prison Chaplains’ Advisory Committee had mutually agreed in 1990 that this process should wait until after the Perry Working Party had completed its deliberations and published its report, especially with regard to the appointment of a Senior Prison Chaplain and it was now time to deal with this matter.<sup>678</sup> Craig then further explained that that “such an approach was necessary because the implementation of the Review’s discussion would take some time given the detailed arrangements between the parties that needed to be resolved.”<sup>679</sup>

Several important issues were also considered at this meeting. Williams stated that the *Perry Report’s* recommendation for one united ecumenical chaplaincy had been discussed by the Catholic Bishops’ Conference as well as by Catholic Prison chaplains who felt that “the general thrust of the report had much to commend it.”<sup>680</sup> The Catholic Bishops’ Conference however, wanted to know “what was meant by one united ecumenical chaplaincy.”<sup>681</sup> They had interpreted this statement as meaning a non-denominational chaplaincy. The meeting then agreed that: “it is a matter for the Churches to decide whether the prison chaplaincy should be ecumenical or non-denominational in nature.”<sup>682</sup>

Attention was also given to the task of filling the current prison chaplaincy vacancies within the Department of Justice and an Interim Advisory Board was established “primarily for the purpose of developing an interim process for appointing chaplains to existing vacancies” which would include “development of selection criteria consistent with the spirit of the chaplaincy review.”<sup>683</sup> Membership of the Board would consist of one member from each of the Roman Catholic, Presbyterian, Anglican, Methodist, Anglican, Baptist and Salvation Army Churches, two representatives from Te Rununga, one representative from CCANZ, and one also from the Department of Justice.

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<sup>678</sup> Senior Prison Chaplain’s Advisory Group. (1990). “Minutes of Senior Prison Chaplain’s Advisory Group, 7 March 1990,” ATL, CCANZ, 97-096, Box 13, Chaplains’ 1990 Review Folder.

<sup>679</sup> Senior Prison Chaplain’s Advisory Group.(1991). “Minutes of Chaplaincy Review Meeting 8 May 1991,” ATL, CCANZ, 97-096, Box 13, Chaplains’ 1990 Review Folder.

<sup>680</sup> Ibid. 8 May 1991.

<sup>681</sup> Ibid. 8 May 1991.

<sup>682</sup> Ibid. 8 May 1991.

<sup>683</sup> Ibid. 8 May 1991.

Churches would be asked to nominate representatives for the Board and importance should be given to having female representation. The Senior Prison Chaplains, however, “should be detached from the interim Board” which would be required to consult with them, however, “to ensure that their views were taken into account.”<sup>684</sup>

Two project officers were appointed to ensure appropriate consultation with the Justice Department and adherence to its requirements. Two temporary part-time personnel were seconded to this position, “one familiar with departmental procedures and requirements and one familiar with undertaking consultation with the Churches.”<sup>685</sup> Their duties “would extend to preparation of position papers for meetings to ensure that the meetings were well focused.”<sup>686</sup>

The first meeting of the new Interim Chaplaincy Advisory Board (ICAB) occurred on the 8<sup>th</sup> August 1991. The Churches appointed a totally new group of representatives to this body and the Department of Justice representative, Craig, was the only person present who had attended the prison chaplaincy review meeting. The agenda included consideration of: a future role for the ICAB; appointment of senior and other chaplains and the development training criteria for them; the creation of policies regarding chaplaincy independence, prophetic voice, accountabilities; funding and budget requirements; and Perry’s recommendations for biculturalism and one united ecumenical chaplaincy.

These latter recommendations received an immediate set back. Craig indicated to the meeting “that present funding would limit the expenditure on additional appointments” and the ability to employ two senior chaplains.<sup>687</sup> Consequently, the following compromise was agreed to:

The Board support the need to have two Senior Prison Chaplains and that the first appointment should be a person who would address the special cultural, spiritual and lingual requirements of Maori inmates.<sup>688</sup>

As the Church representatives were soon to find out, this would not be the only occasion when the Justice Department’s financial constraints would impinge on attempts to reconfigure the operation of the Prison Chaplaincy Service.

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<sup>684</sup> Ibid. 8 May 1991.

<sup>685</sup> Ibid. 8 May 1991.

<sup>686</sup> Ibid. 8 May 1991.

<sup>687</sup> ICAB, (1991). Minutes of meeting, 8 August. PCSANZ Archives, Chaplains’ Advisory Board 1988–1992.

<sup>688</sup> Ibid. 8 August 1991.

## **The New Job Description: Re-configuring the Role of Prison Chaplains**

The ICAB then gave serious consideration to the Senior Ecumenical Chaplain's job description. Te Rununga representative, Eru Potaka Dewes had consulted with Te Rununga and he affirmed their stated position, which included the wish to see the appointment of a Senior Chaplain (Maori) who would be

accountable to Te Rununga. ... The position, duties and policies of the Senior Chaplain (Maori) should be consistent with the Treaty of Waitangi and with the Gospels. The Senior Chaplain (Maori) would have direct access to the Secretary of Justice and act as a consultant to the Advisory Board at all its meetings.<sup>689</sup>

Te Rununga wanted an employment arrangement whereby the new Senior Chaplain would be accountable to them, but funded by the Justice Department. Craig indicated that such an arrangement would not be possible because "chaplains were included in a Departmental employment agreement (and) there were real difficulties in changing the rules at this stage."<sup>690</sup> The proposed Senior Prison Chaplain would continue to be "an employee of the Department of Justice and the appointment processes set out by the Department would have to be followed."<sup>691</sup> Craig also informed Potaka Dewes that the ICAB was "an Advisory Board to advise on best process and policies to both churches and the Department."<sup>692</sup> Craig's actions would support Kelsey's contention that despite the State Sector Act's commitment to biculturalism, it was used by Public Servants as a device to placate demands to share real power. Department of Justice officials were never going to devolve tino rangatiratanga to Te Rununga to administer the Prison Chaplaincy Service.

A draft job description was prepared and presented to the ICAB for discussion. Again issues of accountability arose. The Senior Chaplain was to be responsible to the "Manager Inmate Programmes (for matters related to Departmental management)" and "Te Rununga (for professional matters)."<sup>693</sup> While they accepted responsibility to Te Rununga for professional matters, ICAB representatives were concerned that traditional lines of direct communication with either the Secretary for Justice or the Assistant

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<sup>689</sup> Potaka Dewes, E. (1991). "Guidelines for the Appointment of Senior Chaplain (Maori)," Hand written memo presented to the Interim Advisory Board for consideration by Eru Potaka Dewes. 8 August 1991. p.1. PCSANZ Archives.

<sup>690</sup> ICAB, (1991). Minutes of meeting 17 September PCSANZ Archives.

<sup>691</sup> Craig, T. (undated). "Letter to Eru Potaka Dewes, For the attention of Te Rununga." PCSANZ Archives.

<sup>692</sup> ICAB, Minutes of Meeting 17 September 1991. PCSANZ Archives.

<sup>693</sup> ICAB, "Job Description, Senior Prison Chaplain," (1991). Document presented to ICAB meeting 15 October 1991. PCSANZ Archives, Chaplains' Advisory Board, 1988-1992.

Secretary for Penal Institutions were being lost in this proposed new arrangement. Baptist representative Taylor, expressed concern that “they were being pigeon holed with programmes,” while Potaka Dewes “wanted lines of responsibility to the Secretary or the Assistant Secretary retained.”<sup>694</sup> In response to these concerns, Workman replied that

the size of the department had changed and it was no longer practicable to have close contact but this was still available where it was needed ... the chaplaincy is now incidental to the main role of prisons ... if we make chaplains directly responsible to the General Manager, further conflict may arise. The important role is service to the inmate and in special cases access to the General Manager is available.<sup>695</sup>

ICAB representatives continued to insist, however, that the job description for the Senior Chaplain should indicate a “responsibility line to the Assistant Secretary with a “notation that it be delegated to the Manager Programmes.”<sup>696</sup> Craig was left to take up this matter once more with Workman and a compromise was reached whereby the Senior Chaplain would be “responsible to the Manager Inmate Programmes (for matters related to departmental management to the Assistant Secretary Penal Institutions.)”<sup>697</sup> The ICAB then agreed to advertise the Senior Chaplain’s position and set up an interview panel consisting of Justice Department representation: Craig plus a woman, and ICAB representation: Mansill, Potaka Dewes, Taylor, and three representatives of Te Rununga. The ICAB’s task would be to “short list candidates, interview applicants and make a recommendation to the Department of Justice.”<sup>698</sup> Approval was also given to proceed with filling chaplaincy vacancies once the new Senior Chaplain was selected.

Even though only one Senior Chaplain could be appointed, the ICAB was determined to ensure that Perry’s recommendations were put into effect. The new Senior Chaplain would be required to have abilities to address the cultural and spiritual needs of Maori prisoners and strategies were deliberately set in place to ensure this intention was fulfilled. Grinder observed that “the political climate was that a Maori had to be Senior Chaplain. There was no question about suitability; a Maori had to be Senior Chaplain.”<sup>699</sup> The appointment interviews took place at Nga Whare Waatea Marae in Auckland and they employed Maori protocols for conducting the interviews. The interview panel then informed the ICAB that “Dewes’ appointment to the vacant Senior Prison Chaplain’s position had been made and the Department was awaiting his

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<sup>694</sup> ICAB, (1991). Minutes of Meeting 15/16 October. PCSANZ Archives.

<sup>695</sup> Ibid. 15/16 October 1991.

<sup>696</sup> Ibid. 15/16 October 1991.

<sup>697</sup> ICAB, “Job Description, Senior Prison Chaplain.”

<sup>698</sup> ICAB, (1991). Minutes of Meeting, 31 October. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>699</sup> Grinder, 7 December 2006.

acceptance and his church's support."<sup>700</sup> The Prison Chaplains' Association asked for Dewes' commissioning service to be held at Futuna Retreat Centre during the annual Prison Chaplains' Conference, because it had "special mana in the chaplaincy."<sup>701</sup> The ICAB, however, opted for an alternative "Marae venue, (probably Wainuiomata)" for this service of recognition to take place.<sup>702</sup> In this case, the wishes of the Prison Chaplains' Association were overridden both by Department of Justice and ICAB administrators. The chaplaincy may have had an emotional link with the Futuna Retreat Centre, but Church and State leaders wanted to send a clear signal that a new order was being established. The choice of the marae venue at Wainuiomata provided a strong symbolic message about this intention. The facilities at Futuna would not have been able to accommodate the large crowd who attended this event at Wainuiomata and Grinder reported that Maori responded "very strongly and positively" to the new appointment and at the commissioning Service at Wainuiomata, "Maori people were gleeful on that occasion."<sup>703</sup>

Dewes comments on his appointment as the Ecumenical Senior Chaplain were revealing. As a minister of religion, he suddenly found himself pitched into a role for which he had not been prepared even though his colleagues within the Prison Chaplaincy Service had actively supported his appointment. "All of a sudden, I was Senior Prison Chaplain. Was I mentally prepared for that? Was I sort of misguided? I went through that heck, what now?"<sup>704</sup> He then observed: "sitting at Head Office quickly revealed that it was a different world. For me, I was still in that mode of I'm a minister, not an administrator."<sup>705</sup> Unprepared for dealing with the changes being set in place by the PFA, the State Sector Act and the ECA he had to meet expectations from his fellow chaplains, PCAB, the wider Church as well as

being Maori as Senior Prison Chaplain and translating the Maori voice into the Head Office environment on behalf of chaplaincy. That was quite a difficult thing to do right throughout the Department, Maori issues were a kind of clip on to the existing structures that was loud and clear.<sup>706</sup>

At the time of his appointment, Justice Department Head Office was a place where decisions were made "without much consultation with the people;" dictating "how

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<sup>700</sup> ICAB, (1992). Minutes of meeting of 16 July. PCSANZ Archives, Chaplains' Advisory Board, 1988 -1992.

<sup>701</sup> Kamo, M.(1992)." Letter to Keith Stewart, 14 April." PCSANZ Archives, Chaplains' Advisory Board, 1988-1992.

<sup>702</sup> ICAB, Minutes of meeting, 16 July 1992.

<sup>703</sup> Grinder, 7 December 2006.

<sup>704</sup> Dewes, 28 February 2008.

<sup>705</sup> Ibid. 28 February 2008.

<sup>706</sup> Ibid. 28 February 2008.

things should be done without listening to the people working on the floor.”<sup>707</sup> As a minister of the Church this was a different environment to the prisons in which he had previously worked. He survived and got away with it by “being Maori” and “being Nehe.”<sup>708</sup> Dewes said that not many people at Head Office “spoke te reo and because of his abilities in this respect he became a kaumatua for the staff and senior management. Because he was familiar with the prison environment, he also became a link for Head Office managers who had little or no practical working experience of penal institutions. This provided him with an opportunity to bring Maori perspectives to Head Office and because he was also a chaplain and ordained minister, he was able to employ “leverage” to ensure spiritual perspectives were kept before senior management.<sup>709</sup> He tried to make the best of the opportunities that were presented to him and when it became time for him to resign, he did so without grudges or regrets.

By October 1992, Senior Catholic and Ecumenical chaplains had been established in their positions and the pre-1990 situation had reasserted itself. Although one was Maori and the other Pakeha, they reflected the pre-*Perry Report* denominational basis for making these appointments and not that of biculturalism. While Dewes’ appointment had been made in the spirit of Perry’s intentions, he was required to relate to all chaplains and not just those who were Maori. The ICAB was certainly aware of this situation when it recorded: “care will need to be taken to ensure that Nehe is not perceived as the Senior Maori Prison Chaplain and his job relates to inmates of all cultures.”<sup>710</sup> Garvey recorded that Dewes had made an attempt to establish Perry’s intentions within the denominational framework of their appointments. Garvey “would become the Senior Prison Chaplain for all the Pakeha” and Dewes “would be the Senior Chaplain for all the Maori.”<sup>711</sup> Garvey observed that this arrangement

couldn’t work because Nehe could not be responsible to the Catholic Bishops’ Conference for Catholic chaplains who were Maori. More importantly, I wasn’t prepared to take on the responsibility for the needs of the Ecumenical Chaplains. Their wages, their superannuation, I knew nothing about that. I wouldn’t be the proper person to speak on that because I have never earned a wage in my life.<sup>712</sup>

By the end of 1992, Perry’s intentions for one united ecumenical and bicultural chaplaincy were at best present only in a symbolic sense. Economic constraints, departmental expediency and the polity of the Catholic Church had all combined to

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<sup>707</sup> Ibid 28 February 2008.

<sup>708</sup> Ibid 28 February 2008.

<sup>709</sup> Ibid 28 February 2008.

<sup>710</sup> PCAB, (1992) Minutes of meeting 29 October. PCSANZ Archives.

<sup>711</sup> Garvey, K (2008). Oral Interview 20 May 2008. Wellington.

<sup>712</sup> Ibid. 20 May 2008.

override his vision for a new direction for the Prison Chaplaincy Service. The Department of Justice had not acceded to Perry's intentions for two senior Chaplains, one of whom would be Maori and the other Pakeha. The fiscal environment created by the PFA and State Sector Act meant that the resources were never going to be made available for the two positions. Nor was the Catholic Church ever going to accede to Perry's intentions for a bicultural chaplaincy rather than one that was denominationally based. There was an irony in this situation, however. In one sense, the ethnicity of the two Senior Chaplains reflected Perry's intentions; one was Maori and the other Pakeha. Nevertheless, the old pre 1990 denominational divide remained in existence.

### **The Catholic Response to the Perry Report**

After the publication of the *Perry Report*, the Catholic Church took prompt action to define its attitude towards the proposal for one united ecumenical chaplaincy. Catholic representative, Father Bernard Miles, presented a report to the ICAB which represented "the position of the Catholic Church in New Zealand vis-a-vis the Interim Advisory Board."<sup>713</sup> He noted that the Catholic Bishops' Conference welcomed the establishment of the ICAB and they understood that its first priority was the appointment of a Senior Protestant Chaplain by observing:

We believe that this leaves intact the present parallel Protestant Catholic chaplaincies and that this will continue into the future in an ecumenical framework in which all understand and respect the theological differences between denominations, that though working for unity they will understand that this is not yet achieved. This model will in no way affect the cultural recommendations of the Prison Chaplaincy Review.<sup>714</sup>

There was, however, a difference "in the philosophy of chaplaincy, highlighted by the method of appointment." Catholic chaplains were appointed and commissioned by the Diocesan Bishop. They were not "salaried by the Justice Department."<sup>715</sup> Therefore "Catholic Chaplains would not be consulted about the appointment of other chaplains, and vice versa, and so they would not be part of the body which makes the appointments."<sup>716</sup>

The Catholic Bishops' Conference then gave further consideration to its position on the *Perry Report*. Williams indicated to Craig that the Catholic Bishops had agreed to

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<sup>713</sup> Miles, B. (1991). "Notes on Interim Advisory Board, 17 September 1991." PCSANZ Archives, Chaplains' Advisory Board, 1988–1992.

<sup>714</sup> Ibid. "Notes on Interim Advisory Board."

<sup>715</sup> Ibid. "Notes on Interim Advisory Board."

<sup>716</sup> Ibid. "Notes on Interim Advisory Board."

support the general ecumenical and bicultural thrust of the *Perry Report*; continue with the positions of Catholic Senior and other chaplains in the interim period; give publicity in Diocesan news media to chaplaincy vacancies and “keep under review the provision of pastoral care to Catholic inmates and their families.”<sup>717</sup> He also requested a continuation of the position of Senior Catholic Chaplain with remuneration of the stipend until July 1993 and continued recognition of the Catholic chaplains. In asking for this maintenance of the pre-1990 status quo Williams noted:

The primary concern of the Catholic Bishops is that Catholic priests and pastoral workers have access to the Catholic inmates for celebration of Mass where appropriate, the ministration of the Sacraments and for pastoral counselling. We would want to guard against the introduction of any changes which would have the effect of impeding or making difficult such access.<sup>718</sup>

The ICAB replied to Williams, “thanking him and endorsing the views in the last paragraph.”<sup>719</sup> The request of the Catholic Bishops’ Conference was accepted and in October 1992 Garvey attended his first full meeting of the PCAB as Catholic Senior Chaplain.<sup>720</sup> In 1993, Miles informed the PCAB that the Catholic Bishops’ Conference had “decided to continue permanently with the present arrangement re: appointment and oversight of chaplains.”<sup>721</sup> Both the Methodist and Presbyterian Churches expressed “disappointment” and “concern”<sup>722</sup> over this decision and although Williams invited leaders of these churches to “explain how the continuation of Catholic Chaplaincy is not in the best interests of prisoners or prison staff and how it impedes effective chaplaincy on the part of chaplains drawn from other churches,” the return to the pre Perry recommendations appeared to have been accepted reluctantly by the other church denominations.<sup>723</sup> Williams observed:

We have never tried to get into any kind of involvement with the other churches in what has to be seen as the province of those churches. They were their concerns and not ours. I think we’ve caused awkwardness by holding to those things of the chaplain acting in persona of the Bishop. That makes it very difficult for us to enter into what other denominations consider as normal process so we’re a bit awkward and I’m always sorry that we are a source of asymmetry, but I feel that we have to stick to our theological principle in regard to pastoral care. My part would be to see where we can cooperate without compromise and if we could then we should.<sup>724</sup>

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<sup>717</sup> Williams, T. (1992). “Letter to Terry Craig, 7 February 1992.” PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>718</sup> Ibid. 7 February 1992.

<sup>719</sup> ICAB (1992). Minutes of meeting, 3 April. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>720</sup> PCAB, (1992). Minutes of meeting. 29 October. PCSANZ Archives. Chaplains’ Advisory Board, 1988–1992.

<sup>721</sup> PCAB, (1993). Minute of meeting 24 September. PCSANZ Archives, Chaplains Advisory Board, 1993–1994.

<sup>722</sup> PCAB, (1993). Minutes of meeting 16 November. PCSANZ Archives, Chaplains’ Advisory Board, 1993–1994.

<sup>723</sup> Williams, T. (1994). “Letter to Father B. B. Miles, 2 February 1994.” PCSANZ Archives, Chaplains’ Advisory Board 1993–1994.

<sup>724</sup> Williams, 12 July, 2007.

Garvey continued in this role as the Senior Catholic Chaplain following Miles' death in 1996. Williams indicated to the PCAB that the Catholic Bishops' Conference had agreed that he would "fill the vacancy for the time being."<sup>725</sup> The theological position of the Catholic Church prevented an accommodation to Perry's proposal for one united ecumenical chaplaincy and its chaplains continued to serve in New Zealand Prisons alongside their Ecumenical counterparts until the end of the decade.

### **Accountabilities and Matters of Principle**

In October 1991, the ICAB began to consider its future role beyond the task of completing the appointment of the Ecumenical Senior Chaplain and discussion focused on "responsibility levels, chairpersonship, setting up an appointments and personnel sub-committee."<sup>726</sup> Workman indicated that "he would find a Board most useful to understand the special needs of our business."<sup>727</sup> Stewart then prepared a paper which "proposed in general terms that the Board would advise the Churches and the Department about the prison chaplaincy and arrange for selection, appointment, training, supervision and pastoral care of chaplains."<sup>728</sup> A revised version of this paper then stated: "the Interim Board has met on several occasions and has developed job descriptions. We have also learnt that involvement by the Advisory Board in the appointment process will be limited to a recommendatory role."<sup>729</sup>

The role for the ICAB would include: ensuring that the principles embodied in the Treaty of Waitangi and the Gospels are met in relation to the prison chaplaincy, providing input into strategic plans and policy issues, making recommendations on the roles of chaplaincy and appointments of chaplains, as well as chaplaincy employment issues and funding requirements, liaising with churches and ensuring that "the needs of unrepresented churches are met."<sup>730</sup> A further revision of this paper defined membership of the ICAB as being: the "Church representatives of that time, with the Senior Chaplains also participating as "kaitiaki. (trustee guardian, steward)."<sup>731</sup> The Board

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<sup>725</sup> Williams, T. (1996). "Letter to Douglas Mansill, 2 October 1996." PCSANZ Archives, Chaplains Advisory Board, 1995–1996.

<sup>726</sup> ICAB, (1991). Minutes of meeting 15-16 October. PCSANZ Archives.

<sup>727</sup> ICAB, (1991). Minutes of meeting 31 October. PCSANZ Archives.

<sup>728</sup> Stewart, K. (1991). "Role of the Advisory Board," PCSANZ Archives, Chaplains' Advisory Board, 1988–1992.

<sup>729</sup> Stewart, K. (1992). "Role of the Chaplaincy Advisory Board." PCSANZ Archives, Chaplains' Advisory Board, 1988–1992.

<sup>730</sup> Ibid. March 1992.

<sup>731</sup> Stewart, K. (1992). "Prison Chaplaincy Advisory Board." PCSANZ Archives, Chaplains' Advisory Board, 1988–1992.

would “annually appoint its own chairperson.”<sup>732</sup> Stewart’s proposals were eventually endorsed, subject to the inclusion of “a preamble defining the advisory role to the church and the department,” a “reference to the gospels” and recognition of “other religious groups.”<sup>733</sup> The ICAB then set aside its interim status by agreeing “that the Board should now be known as the Prison Chaplaincy Advisory Board.”<sup>734</sup> Anglican Bishop, Tom Brown, was elected to the chair, taking over the role that had previously been fulfilled by Craig. This achievement, however, was symbolic and it did little to alter the balance of power between the Department of Justice and the Churches. The ICAB and later, the PCAB remained Advisory Boards and in most of the administrative and financial matters affecting the employment of prison chaplains, the Department of Justice continued to have the final say.

In 1992, Justice Department Senior Managers had been invited to consider the new proposed Senior Chaplain’s Job Description which indicated the right to exercise a prophetic voice on penal issues. They then informed the ICAB, that in their opinion, Justice Department chaplains should not

go off and work with others to address perceived injustices without consultation with prison management. We do not suggest that chaplains should not be allowed to have their say. Appropriate procedures would at least allow issues to be debated in house before appearing in the public arena.<sup>735</sup>

Soon afterwards the ICAB also became concerned about prison chaplains who publicly spoke out and acted on matters of social justice. This matter came to a head because a Christchurch Chaplain had

through the media, referred to prison administrators as lacking in moral fibre because they were forced following a public outcry to revoke future home leave for an inmate who had been convicted of white collar crime. In my view it was not appropriate for the prophetic voice to be exercised in that way.<sup>736</sup>

Craig noted that “there had been embarrassment to both officers and inmates at recent media appearances by chaplains without prior consultation.”<sup>737</sup> As a consequence of these submissions, the ICAB agreed “there needs to be a process of consultation before

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<sup>732</sup> Ibid June 1992.

<sup>733</sup> ICAB, (1992). Minutes of meeting 16 July. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>734</sup> PCAB, (1992). Minutes of meeting 15 September. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>735</sup> White, K.R. (1992). “Letter to Keith Stewart (Projects Officer), 6 January 1992.” PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>736</sup> Workman, K. (1992). “Letter to Members Interim Chaplaincy Board, 17 March 1992.” p.2. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

<sup>737</sup> ICAB, (1992). Minutes of Meeting 3 April. PCSANZ Archives.

media involvement,” a precedent that was to continue until the founding of the PCSANZ in 2000.<sup>738</sup>

Nevertheless, this resolution did not satisfy the management of Christchurch Prisons, who sought to prevent further repetition of unwelcome publicity and embarrassment for prison staff by preventing access by Senior Chaplains to prisons under their jurisdiction, making their own direct appointments of chaplains rather than through the ICAB and PCAB and subjecting chaplains in their prisons to the provisions of the ECA. The regionalization policies which allowed Christchurch prison managers to take these actions continued until the creation of the Department of Corrections in 1995. It was only then that the PCAB was able to recommence the process of working with Christchurch prison management to regularize prison chaplaincy appointments.

The ICAB also attempted to develop its own policy position on how chaplains could exercise their prophetic voice. Acting Senior Chaplain Grinder prepared a position paper for presentation to the ICAB, who decided that further consultation should take place with the Catholic Church and the Prison Chaplains’ Association before final guidelines could be established.

Garvey then presented another paper to the ICAB entitled “The Prophetic Ministry of Prison Chaplaincy,” in which he considered a variety of aspects of the Christian prophetic tradition including: the Church view, facets of prophecy, prophecy as a pronouncement of God and authentic prophecy. Garvey concluded that

in the context of prison chaplaincy, this will involve trying to lead all, the Department of Justice, prison staff, inmate and the community at large to a realization that it is only through reconciliation based on mutual respect that the goal of the prison system can be realized.<sup>739</sup>

Garvey’s paper did not appear to have received further consideration. The minutes of ICAB meetings did not record any further discussion on this matter which appeared to lapse as an issue of concern, possibly because the events that precipitated its consideration had ceased to be of any further significance for the ICAB.

Church and State administrators often held differing views about lines of administrative accountability and how these should be set in place. These opposing views were shown

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<sup>738</sup> Ibid. 3 April 1992.

<sup>739</sup> Garvey, K. (1992). “The Prophetic Ministry of Prison Chaplaincy,” p.4. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

in the requirement for the Prison Chaplaincy Service to become accountable to the Justice Department's Manager of Programmes. Initially, the chaplains themselves reacted strongly to this proposal, but it also became a matter that occupied considerable PCAB attention during 1993.

In 1992, the Christchurch Chaplaincy Team presented a paper to the Chaplains' Annual Conference entitled: "Chaplains in the Programmes Context," which considered "our role in relation to Programmes Managers and the new case management system."<sup>740</sup> Newly appointed managers had little historical understanding of the role of prison chaplains who were being regarded as programme providers who would have to account by way of reports and statistics that would be fed into the national case management system. The chaplains affirmed that their primary accountability was to the PCAB through the Senior Chaplains as representatives of their churches. Church services were not to be regarded as programmes and only "satisfactory attendance" should be recorded for educational and therapeutic groups run by chaplains. If counselling was conducted by a chaplain, written reports would only be provided to Justice Department personnel with the consent of a prisoner. General reports on chaplaincy activities would only be made available in order to co-ordinate with "colleagues in related fields."<sup>741</sup> The paper concluded:

We affirm the right of all inmates to have free access to us and to activities we provide subject to the usual security considerations, without their being referred or vetted by case management procedures. We will co-operate with colleagues who share professional responsibility for their nurture and care, but without compromising the mana and trust vested in us as Christian ministers.<sup>742</sup>

"Chaplains in the Programmes Context" elicited a response from Lucy Sandford, Manager of Programmes, at Christchurch Women's Prison, who was prepared to acknowledge that church services were not programmes "in the conventional sense" and that prisoners should have free access to chaplains.<sup>743</sup> She was concerned, however, about chaplaincy involvement in "the context of education, therapeutic groups and provision of counselling."<sup>744</sup> Sandford believed that these specialist areas were necessary for the newly established case management process for prisoners and they should be treated as such. Further, she felt that there should be monitoring and

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<sup>740</sup> Christchurch Chaplaincy Team, (1992). "Chaplains in the Programmes Context," PCSANZ Archives, Chaplains' Advisory Board, 1988–1992.

<sup>741</sup> Ibid. 1992.

<sup>742</sup> Ibid. 1992.

<sup>743</sup> Sandford, L. (1992). "Chaplains in the Programmes Context. Response to the Paper Presented at Conference," PCSANZ Archives, Chaplains' Advisory Board, 1988–1992.

<sup>744</sup> Ibid. 22 October 1992.

evaluation of chaplains who engaged in these activities in a similar manner to that which was required of other specialist service providers.

Sandford acknowledged that Chaplains were involved in a lot of “hidden work” and such monitoring would also provide more formal recognition of this aspect of their ministry.<sup>745</sup> For case management purposes, accountability did not mean detailed information about a prisoner contact, but rather it was a statement as to whether goals or specific tasks had been achieved. Because chaplains were involved in case management and assisting inmates with preparation for release to the community, clear accountability systems should be set in place to monitor their involvement in this work. Since Justice Department funding was involved, programmes delivered by chaplains should be subject to a performance agreement or some other form of contractual arrangement that would be negotiated in a manner similar to that which was required of other service providers. While penal regulations laid down specific requirements for the provision of spiritual services for inmates, there was no formal mechanism in place for their evaluation. Sandford’s paper concluded by noting that Penal Institutions General orders J.1.6.4 stated that a chaplain’s

initial appointment will be for a term of three years, thereafter to be reviewed each three years.” It is unclear whether this applies to both Justice employed Chaplains and those appointed by other organizations. There is no evidence to suggest that this process has been undertaken in respect of Chaplains at Christchurch Women’s Prison. Clarification of this matter is requested.<sup>746</sup>

Sandford’s views were referred to the PCAB for consideration, who “agreed they needed more time to consider comments made in the paper.”<sup>747</sup> The differences of opinion between Christchurch chaplains and Sandford continued well into 1993. There was a reported incident when a chaplain was told that she did not have sole authority to invite her Senior Chaplain to the Prison. She was advised that the invitation “must be made through programmes management.”<sup>748</sup> In 1993, Dewes reported to the PCAB: “During my pastoral visits to chaplains and institutions I get the feeling of us and them – you are from Head Office (this) defeats the wairua of our concerns and objectives.”<sup>749</sup> The 1993 Prison Chaplains’ Annual Conference passed a remit urging that “chaplains not be responsible to the Programmes Manager, but rather to the Senior Chaplain and

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<sup>745</sup> Ibid. 22 October 1992.

<sup>746</sup> Ibid. 22 October 1992.

<sup>747</sup> PCAB, (1992). Minutes of Meeting, 29 October. PCSANZ Archives, Chaplains’ Advisory Board, 1988-1992.

<sup>748</sup> Kamo, M. (1993). “Letter to Terry Craig, 8 November.” PCSANZ Archives, Chaplains’ Advisory Board, 1993–1994.

<sup>749</sup> Dewes, N. (1993) “Report to Prison Chaplaincy Advisory Board Meeting, 22 September 1993.” PCSANZ Archives, Chaplains’ Advisory Board 1993–1994.

that the Chaplaincy be funded through a budget which is not part of a Programmes' budget, but which is also administered through the Senior Chaplains."<sup>750</sup> By 1994, however, the Department of Justice finally recognised that the Senior Chaplains had a role for "advising management and providing professional support to chaplains," but Justice Department administrators continued to require greater accountability from chaplains in their professional practice.<sup>751</sup> In 1993, the PCAB attempted to develop a system for performance and pastoral reviews and Conner was the first chaplain to be reviewed under this process in 1994.

The format for these reviews was derived from the quinquennial visitations which were used to assess Presbyterian ministers and not the assessment procedures that were employed for Justice Department staff. PCAB administrators were still thinking in terms of their own church practices rather than the requirements for service provision in the new Public Sector environment. Craig observed:

I don't think that the chaplaincy ever understood that the Department was an independent entity (and) that it worked within the Public Service Structure. It did have to apply models it required a specification of outputs and you were only paid on outputs that contributed to services. Almost all the professional groups could not work in that model.<sup>752</sup>

Sandford's interaction with the Christchurch chaplains would support Craig's contention that both chaplains and the PCAB were largely unaware of and ill-prepared to meet the challenges of policy intent that had been proposed in *Prisons in Change*. By 1992, regionalisation, case management and management restructuring had become the Justice Department administrator's tools for instituting a reform of the penal system. The *Perry Report* did not give any indication of the professional requirements expected of service providers resulting from the introduction of case management or the authority that would be devolved to local prison management through the processes of regionalisation of prisons. Perry was obviously either unaware or unheeding of the intentions of *Prisons in Change* when he stated that chaplains were "not to be seen as civil servants. They are accountable to the church."<sup>753</sup> Perry's bicultural and church focused recommendations were simply overridden or set aside in the drive to implement the policies for reform that had been initiated by the Justice Department and Central Government.

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<sup>750</sup> Kamo, "Letter to Terry Craig, 8 November 1993."

<sup>751</sup> Department of Corrections, (1994). "Roles and Functional Relationships, Senior Health Advisor, Chief Education Officer, Senior Prison Chaplains, Corrections Operations Group Circular," PCSANZ Archives, Chaplains' Advisory Board, 1993-1994.

<sup>752</sup> Craig, 21 September 2007.

<sup>753</sup> The *Perry Report*, p.4.

The process of developing the employment package for prison chaplains also demonstrated differences in understanding between Church and State administrators. In 1993, Dewes asked the PCAB to endorse the principle of offering fixed term renewable employment contracts to chaplains. In 1992, the Public Service Association (PSA) had assumed that it would become the bargaining agent for chaplains under the terms of the ECA, in the forthcoming negotiation of a new collective employment agreement for Justice Department staff. Clergy in parish appointments, however, were not subject to the requirements of the ECA but some chaplains belonged to the PSA and this situation raised questions about employer jurisdiction. Were prison chaplains ultimately accountable to the Church or to the Justice Department? Some Justice Department administrators had already sought to employ chaplains under the auspices of enterprise agreements and individual contracts and to use the provisions of the ECA to obtain greater levels of compliance from them. These actions created dilemmas for the PCAB. Were prison chaplains in the same position as ministers employed in parish based appointments? If so, were they still subject to the conditions of the ECA? If chaplains were subject to the ECA, who would act as their bargaining agent? Should the Churches act on their behalf in this capacity rather than the PSA? These issues were never fully resolved, although the ICAB and PCAB continued to be the primary negotiator with the Justice Department regarding salaries and terms of employment for chaplains, albeit not always very successfully.

Under the authority conferred on local prison management through the regionalization process, there were occasions prior to 1995 when prison managers simply took control of chaplaincy appointments. They advertised vacancies, hired chaplains and set salary levels according to their own determination, by-passing the authority of the PCAB to undertake this role. In 1994, Sandford informed Dewes of a proposal to advertise the chaplaincy position at Christchurch Women's Prison. "The position" was "to be treated as a contract position, with the contracts being annual and renewable."<sup>754</sup> Craig commented that "in effect it was decided by management that the spiritual needs of inmates were being satisfactorily met by current arrangements."<sup>755</sup> The PCAB expressed concern about this development, observing: "The department was ignoring its contract with the Churches for the provision of ecumenical chaplaincy and it had moved

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<sup>754</sup> Sandford, L. (1994). "Letter to Nehe Dewes, 7 February 1994." PCSANZ Archives, Chaplains' Advisory Board, 1993–1994.

<sup>755</sup> PCAB, (1994). Minutes of meeting 10 November. PCSANZ Archives, Chaplains' Advisory Board 1993–1994.

away from the recommendations of the *Perry Report*.”<sup>756</sup> The struggle between the PCAB and some local prison managers remained unresolved at the end of 1994. Kevin White, General Manager of Christchurch Prison, was of the opinion that “it is the GM responsibility to ensure that the spiritual and religious needs of inmates are met and such services need not necessarily be met by an Ecumenical Chaplain.”<sup>757</sup> Christchurch Prison Management backed up their opinions by appointing Stephen Ferguson as chaplain to Paparua Prison without consulting the PCAB. It took a visit from Dewes and ongoing negotiations between Ferguson’s Church, Christchurch Prison Management and the PCAB to endorse this appointment in 1996 although it was also noted that “this appointment should not be seen as setting a precedent for how chaplains are appointed.”<sup>758</sup>

Legislative outcomes that arose out of the PFA, State Sector Act and ECA, coupled with the financial constraints imposed on the State Sector by Government, contributed towards the lowering of wages for Ecumenical chaplains and a winding back of their terms and conditions of employment. Further, with the devolution of authority for making decisions about chaplaincy appointments to local managers, Church administrators experienced great difficulties in establishing national guidelines for ensuring that salaries and terms of appointment remained on a par with those of clergy who were working in community based appointments.

Evidence of this situation was seen in 1992 when the PCAB took active steps to fill the chaplaincy vacancies at Waikeria, Rolleston and Rangipo prisons. During the interviews for these vacancies, members of the interview panels became aware that the policy of providing low cost housing for public servants had been replaced by a requirement to pay market rentals for Government accommodation or purchase their own homes. In 1988, Government policy had directed all State Sector employers to “sell 10% of their housing stock” and a “requirement for departments to pay a return for the level of capital invested in them” had been introduced.<sup>759</sup> For Justice Department employees this meant that

the Department is in the business of running prisons effectively and efficiently and must be accountable to the Government and the tax payer for its use of resources. It finds being in the rental business is increasingly incompatible with those

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<sup>756</sup> PCAB, Minutes of Meeting, 10 November 1994.

<sup>757</sup> PCAB, (1994). Minutes of meeting, 8 December. PCSANZ Archives, Chaplains’ Advisory Board, 1993–1994.

<sup>758</sup> PCAB, (1996). Minutes of Meeting, 8 May. PCSANZ Archives, Chaplains’ Advisory Board, 1995–1996.

<sup>759</sup> Department of Justice, Penal Division, (1992). “Information about the National Housing Policy,” p.1. PCSANZ Archives, Chaplains’ Advisory Board, 1988–1992.

responsibilities and with the need to put scarce resources into achieving its primary objectives such as the reduction of reoffending and the provision of secure containment for inmates.<sup>760</sup>

Further it was unlikely that the Justice Department would continue the former policy of assisting with removal expenses for new appointees and the Justice Department had placed chaplains under its Residential Social Work Class (Chaplains) with a starting salary of \$28,546.00 per annum. These decisions had been made without consultation with the PCAB. This was a matter of serious concern for PCAB administrators. Clergy in parish based appointments were used to the provision of removal expenses and low cost housing as part of their terms of appointment. Prison chaplains would now be disadvantaged in comparison with their colleagues working in the wider community.

Te Rununga immediately expressed concern that: “a prison chaplain’s salary is lower than that of the mainline churches.” and the PCAB attempted to have these terms of remuneration aligned to a level that was comparable to that of ministers employed in community based appointments.<sup>761</sup> Dewes’ prepared a report for the PCAB, in which he proposed an alternative salary range of \$31,345 - \$37,221. This salary scale would still be linked with the Residential Social Work Class, but “excellent performance,” would be acknowledged and a review system would be set in place to help justify incremental increases in salary levels.<sup>762</sup> Salary progression however, would be the responsibility of the Manager Programmes, who would be required to consult with the “relevant professional body covering performance” and not the PCAB.<sup>763</sup> Chaplains would remain in the superannuation schemes of their parent Churches and they would be required to pay rent at market rates if they resided in Justice Department Houses. The Justice Department appeared to ignore Dewes’ proposal and the issue of salary scales and their comparison with those paid to community based clergy remained a matter of ongoing concern. For instance, Anaru Takarua resigned from his appointment at Waikeria, for reasons of inadequate salary, to return to a community based position on the East Coast after less than two years service at Waikeria Prison.<sup>764</sup> In 1996, Chaplain Don Wards asked members of the Pastoral Review and Assessment group to Waikeria prison to “enter into discussion with Head Office for salary reviews ... the whole

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<sup>760</sup> Ibid, p.11.

<sup>761</sup> PCAB, Minutes of Meeting 1 April 1993, PCSANZ Archives, Chaplains’ Advisory Board 1993-1994.

<sup>762</sup> Dewes, N. “Salaries offered to Newly Appointed Prison Chaplains,” Memo to PCAB, p.1. PCSANZ Archives, Chaplains’ Advisory Board, 1993-1994

<sup>763</sup> Ibid. p.2.

<sup>764</sup> Department of Justice, (1994). “Re: Prison Chaplains–Waikeria.” Unsigned Memo. PCSANZ Archives, Chaplains’ Advisory Board 1993-1994.

question has been raised as to market value and comparison which could be drawn ... from the churches.<sup>765</sup>

This situation had a flow on effect for the Prison Chaplaincy Service which included: a lowering of professional standards with fewer experienced and qualified clergy from the main stream churches applying for prison chaplaincy positions; a consequent growth in the appointment of lay chaplains or chaplains from churches who had less stringent training requirements; a rise in the age of chaplaincy appointees as men and women with families to support could not afford to be employed in chaplaincy positions and a tendency for clergy who were unemployed because of personal short comings in their own denominations, to apply for chaplaincy positions. It is a matter of conjecture whether there would have been different outcomes if the Church administrators had recognized their inexperience in wage bargaining processes and employed the PSA to act on behalf of chaplains. The outcomes for chaplains' salaries and conditions of employment may well have been different if this step had been taken.

Other fiscal constraints also made an impact on the functioning of the Prison Chaplaincy Service. After 1990, the automatic holding of "national conferences for any management or special focus group" was abandoned in March 1994 and consequent permission to hold the prison chaplains' annual conference in August of that year was declined on the basis that it "couldn't further the aims of the division and therefore the expense of holding it couldn't be justified."<sup>766</sup> No further national conferences for chaplains took place until 1997.

By 1995, Church and State administrators continued to affirm their partnership for providing chaplains to New Zealand prisons, but the power balance rested heavily in favour of the State administrators. The constancy of restructuring and appointment of new managers made it increasingly difficult for Church administrators to establish long-standing and positive relationships with their State counterparts. In addition, financial constraints and use of the State Sector Act, PFA and ECA had become tools which were used to effect ever greater control over the Prison Chaplaincy Service. As never before, authority was firmly entrenched in the hands of senior Public Servants and attempts to

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<sup>765</sup> "Pastoral Review and Assessment, Reverend Don Wards and Heremaia Mutu, Chaplains Waikeria Prison, 25 October 1996". PCSANZ Archives.

<sup>766</sup> J.W. Kirton, (1994). "Penal Circular to General Managers, 24 March 1994." PCSANZ Archives, Chaplains' Advisory Board, 1993-1994.

redress this imbalance had become increasingly unsuccessful. Kelsey's comments regarding the lowering of wages and the growing power of the State as an employer, reflected realities that had to be faced by church administrators who, within their churches, operated with very different understandings of employment agreements between clergy and local congregations. Few if any members of the PCAB had the managerial skills or awareness necessary to deal adequately with this situation. They were church administrators not secular business people. They neither understood, nor were adequately prepared to deal with the implications of the new financial and fiscal environment in which they found themselves.

There was also a sense in which the Church and State administrators talked past each other in this process. The Church Administrators on the ICAB and PCAB were preoccupied with their own agendas: the implementation of biculturalism in the prison chaplaincy service, parity for chaplains with ministry colleagues serving in community-based appointments and a need to ensure that their theological and church governance perspectives were recognized. Prior to 1995, there was no indication in any of the records of ICAB and PCAB meetings that Church administrators were aware of *Prisons in Change* and the implications for prison chaplaincy of case management, regionalization or management restructuring. Further, because clergy in parish appointments were not subject to the ECA, they had little experience in dealing with the new management requirements that would arise from its implementation. Their main preoccupation was with the *Perry Report*, which had been prepared by a church administrator whose sponsors had resigned from the Department of Justice by the end of 1993.

On the other hand, the new cadre of State administrators had become driven by the policy direction contained in *Prisons in Change* and they were prepared to employ the machinery of the State Sector Act, PFA and ECA to implement them. State officials remained resolute in their determination to ensure that cost cutting measures were maintained with regard to prison chaplaincy provision and they continued to use the provisions of the ECA to maintain tight control over appointments and policy, even to the extent of making their own decisions about appropriate spiritual provision. Case management required accountabilities that chaplains perceived as being contrary to their professional practice. Regionalisation provided greater authority to local managers to employ chaplains at their discretion and on their own terms. Management restructuring

placed chaplains under the direction of secular departmental administrators rather than those of the church and these State managers believed that chaplains should be subject to the same performance criteria as other Justice Department employees. If this did not occur the value of chaplains could not be assessed and they were perceived as being of little value and expendable. Ultimately, it was the State administrators who held the balance of power after 1990 and this was vested in financial control and legislative authority. The intentions of *Prisons in Change* and their adoption within the *Roper Report* had a far greater impact on the development of the Prison Chaplaincy Service after 1990, than did the recommendations of the *Perry Report*. By the end of 1993, Perry's recommendations had become an idealistic dream that was never to be achieved prior to 1998.

### **The Department of Corrections**

In October 1995, the Department of Corrections was established as one of three administrative entities which devolved out of the Department of Justice. Its core business was to manage sentences given by the courts, including prison sentences and community corrections. The Department was

responsible for contributing to safer communities through reducing reoffending by effective management of policy advice and provision of information, custodial sentence management, community based sentences and order management, custodial remand services (and) custodial supervision of offenders.<sup>767</sup>

In February 1996, Phil McCarthy, General Manager, Public Prisons Service, addressed the PCAB. On that occasion, he spoke of his own Christian commitment and “how his choice of job was not solely for career development, but a call ... however, he was at the meeting in his capacity as GM Public Prisons and the meeting must not lose sight of this fact.”<sup>768</sup> PCAB members then aired a number of long standing issues with McCarthy, including: the Christchurch situation, funding for the chaplains' conference and employment conditions for chaplains. The PCAB was: “greatly encouraged by his response and clarity of vision.”<sup>769</sup> Other senior officials from within the Department of Corrections then adopted the custom of joining the PCAB for part of its meeting to engage in discussion on pertinent issues as part of a process of re-establishing lines of

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<sup>767</sup> Department of Corrections, (1994). “Structure of the Department of Corrections.” PCSANZ Archives, Chaplains' Advisory Board, 1993–1994.

<sup>768</sup> PCAB, (1996). Minutes of Meeting 8 February. PCSANZ Archives, Chaplains' Advisory Board, 1995–1996.

<sup>769</sup> Ibid.

communication that had been damaged or lost during the previous Justice Department administration.

McCarthy appointed David Marriott, Deputy Manager Public Prisons, as the Department's representative to the PCAB and a first step towards strengthening the relationship between the PCAB and the Department of Corrections. In 1996, the Department of Corrections consulted with the PCAB about a new job description for prison chaplains which was to be aligned with the Department's stated aims and objectives. The Department of Corrections wanted to see key tasks in the job description evaluated in terms of "awareness as to the complexity, accountability, decision making and problem solving of the particular role."<sup>770</sup> Dewes and Garvey then responded by compiling a statement on the "Structure and Framework of the Prison Chaplaincy" which defined the role of the PCAB and its relationship to the new Department and set out strategies by which this would take place. "The Board advises the Churches and the Department of Corrections on all issues affecting the prison chaplaincy including, selection, training, supervision and pastoral care of all chaplains."<sup>771</sup>

In 1997, a Chaplaincy Working Party was formed to redress past difficulties. A report was presented to the PCAB which stated that although much of the *Perry Report* had not been implemented, it contained important matters of principle for the functioning of the Prison Chaplaincy Service. These included: recognition of: the Department of Corrections responsibility to provide for the spiritual well-being of prisoners; the organization of the Prison Chaplaincy Service in a bicultural basis; a united chaplaincy that would be maintained by co-operation between the Catholic Church and other denominations and a recognition that Chaplains were no longer part-time public servants with their appointment being regarded as a recognition of partnership between the Department of Corrections and the Churches. In addition, the PCAB would arrange for selection, training supervision and pastoral care of all chaplains who would also be subject to pastoral review processes.<sup>772</sup> In 1998, the new job description for prison chaplains had been developed and agreed to by the Department of Corrections and the PCAB. A longstanding grievance over lines of accountability for prison chaplains was

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<sup>770</sup> PCAB, (1996). Minutes of Meeting 14 August. PCSANZ Archives, Chaplains' Advisory Board, 1995-1996.

<sup>771</sup> Dewes, N. and Garvey, K. (1996). "Structure and Framework of the New Zealand Prison Chaplaincy," p.3. PCSANZ Archives, Chaplains' Advisory Board 1995 -1996.

<sup>772</sup> "Chaplaincy Working Party Report (May 1977)." (1997), PCSANZ Archives, Chaplains" Advisory Board 1995-1996.

finally resolved with chaplains being required to report to “the Regional Manager through the Client Services Manager for security, administration and Prison Management” and the Senior Prison Chaplain “for religious policy and ministry.”<sup>773</sup>

The same job description also provided an important change in understanding of the chaplain’s role from kaiwhakamana to that of pononga. Dewes stated that the initiative for this change came from Bishop Muru Walters who advised the PCAB that the term kaiwhakamana which had been used in the previous job descriptions represented concepts of powerful leadership which could “make all the decisions” and “provide all of the answers.”<sup>774</sup> Walters believed that this was not the chaplains’ role. “They were there as servants in the spirit of Jesus Christ the suffering servant” and their role should be “looked at in a different light.”<sup>775</sup> Chaplains should be regarded as: “pononga” or servants; “pononga a te iwi or pononga o te Atua; servants of the people and servants of God.” This change in emphasis aligned New Zealand prison chaplains to the description of the chaplaincy role that was outlined at the beginning of this study. In 2006, pononga was still being used in job descriptions to describe the role of New Zealand prison chaplains.

The balance of power between Church and State still remained firmly with the Department of Corrections, but McCarthy took active steps to initiate processes of consultation to resolve longstanding grievances. Furthermore, the functioning of the Prison Chaplaincy Service was starting to be defined in a manner that was acceptable to both the Department of Corrections and the PCAB. There were still instances of tension between the two parties, however, and the following two incidents were indicative that difficulties still remained.

In 1996, the PCAB was informed that Te Rununga representative, Kaa, “would not be attending “for the time being” as Te Rununga “do not feel their wishes are being listened to by the Department.”<sup>776</sup> Te Rununga had lost patience with the attitudes of Justice Department administrators and they expressed their dissatisfaction by non-attendance at PCAB meetings. Despite attempts to remedy this situation, Te Rununga

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<sup>773</sup> Department of Corrections, (1988). “Job Description for Prison Chaplains.” PCSANZ Archives.

<sup>774</sup> Dewes, (2008). Oral Interview, 1 September, 2008. Tikitiki.

<sup>775</sup> Ibid. 1 September, 2008.

<sup>776</sup> PCAB, (1996). Minutes of meeting 8 February.

representatives did not attend any further meetings of the PCAB until 1999.<sup>777</sup> Kaa noted:

I was never very happy with that Chaplaincy Board, because I was never certain about what the Government intention was in establishing that Board. My suspicion was that the crown wanted to try and control the prophetic work that the Church had at its finger tips I thought it was a mistake that the Church got into bed with the State and I still believe that, over the prison chaplaincy issue, because it allowed the State to control what the Church now does in prisons.<sup>778</sup>

Kaa said that after differences of opinion with Vercoe, who was his Bishop, he “didn’t get the episcopal support that he needed” and so he did not re-involve himself with the PCAB.<sup>779</sup> “The Church ... lost its prophetic role in the prisons and the church” was “now utterly and totally controlled by what the Crown did. Why has the church allowed itself to be caught in this position?”<sup>780</sup> Kaa’s comments would support Kelsey’s observations regarding the way many Maori viewed the State Sector Act’s impact on the implementation of biculturalism within the Public Service. He was not interested in symbolic or cosmetic gestures towards biculturalism. He wanted to see the implementation of genuine structural change within the Prison Chaplaincy Service and the Department of Corrections that would provide for the implementation of the principles of tino rangatiratanga with regard to chaplaincy provision for Maori prisoners. When this action failed to occur, and having lost the support of his Bishop, Kaa no longer saw purpose in supporting the Prison Chaplaincy Service and his action in withdrawing from the PCAB was indicative of his opinions about its effectiveness for meeting the spiritual needs of Maori prisoners.

Dewes appointment occurred at a time when Justice and Corrections managers were focusing their attention on the implementation of financial constraints and management restructuring but his appointment cannot be readily dismissed as being cosmetic or just a symbolic gesture towards biculturalism. It would be simplistic to dismiss his tenure as Senior Chaplain as one which the Departments of Justice and Corrections were able to exploit for their own ends. Dewes chose to exercise a ministry of presence. He believed that his appointment was a call from God and it was not his style to directly confront Departmental structures or policies. He set out to provide a ministry of presence in which he would seek to alter attitudes of Head Office staff by way of personal

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<sup>777</sup> The Minutes of the PCAB meeting of 22 April 1999 record that Hera Clarke had been appointed by Te Rununga as their PCAB representative. “Her group wanted it clear that she was representing them and not the Anglican Church.”

<sup>778</sup> Kaa, 14 June, 2007.

<sup>779</sup> Ibid. 14 June 2007.

<sup>780</sup> Ibid. 14 June 2007.

interaction with them and by using his Maori cultural awareness to provide opportunities to represent his faith, values and ideals. In doing this he replicated the style of ministry that he had adopted at Waikeria and Mt Eden Prisons. His presence amidst the secular business approach of the Department was in itself a challenge to the secularised values of Public Service Administration. There were occasions of tension and compromise for him in the exercising of his role, but he regarded his appointment as an opportunity for influencing opinions rather than a situation in which he was being exploited by the Justice and Corrections Departments.

Dewes' response contrasted to that of Kaa. Both men were ordained ministers of their respective churches and although they were of the same iwi, each acted in different ways according to their personal consciences and deeply held beliefs. Neither Dewes nor Kaa was able to achieve significant structural or policy change within the Department of Corrections and the effectiveness of their respective approaches is open to debate. Nevertheless, they were contrasting examples of how Maori continued with their attempts to influence the ongoing development of the Prison Chaplaincy Service.

The second example of continuing tensions between Public Service administrators occurred in 1997, following another round of restructuring within the Department of Corrections. Cost cutting measures had further reduced senior management positions and the outgoing Assistant General Manager Service Development, John Meeuwsen, informed Dewes, Garvey and the PCAB, that he intended to disestablish the Ecumenical Senior Chaplain's Position at Head Office. The Senior Chaplain would be replaced by a "position or arrangement" in the nine Public Prisons Service Regions "which will act with management to ensure appropriate performance and accountability appraisal arrangements are in place."<sup>781</sup> Arguing that "chaplaincy services needed a thorough going re-think," Meeuwsen believed that the benefits his proposal would require chaplains to tackle the issues of their relationship with management in each region; force management in each region to become "explicit in its expectations of chaplaincy;" place chaplains in a better position to demand attention from the Department; provide better use of funds currently being used to support the Ecumenical Senior Chaplain; enable "the team of nine to streamline its relationship" with the PCAB and enable Regional Managers to "have a greater influence in partnership with both their chaplains

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<sup>781</sup> Meeuwsen, J. (1997). "Improving Communications, Policy Development and Accountability in Prison Chaplaincy, Internal Memorandum Public Prisons Service, 5 September 1997," p.1. PCSANZ Archives, Chaplains' Advisory Board, 1997–July 1998.

and local churches on the delivery and quality of chaplaincy services.”<sup>782</sup> Meeuwsen’s recommendations immediately drew a critical response from Garvey who noted: “if there is a lack of communication and reporting structure, it is not within the chaplaincy.” Removing “the central contact persons from chaplains will” cause them to “become isolated and the chaplaincy will lose the focus and attention it deserves.”<sup>783</sup> PCAB member Craig Marsh communicated directly to McCarthy concerning this matter and he received a response which stated that Meeuwsen’s proposal “remains just that, a proposal.”<sup>784</sup> McCarthy, however, also observed:

The very tight pressure on expenditure and the developing ‘zero based’ approach to reviewing what we are doing in the Service, the fact that the Senior prison Chaplain costs in the order of \$100, 000 means that it, along with all other areas of expenditure needs careful scrutiny to ensure that it is adding value and that the services provided by Nehe’s position cannot be provided more cost effectively.<sup>785</sup>

Meeuwsen was replaced as Assistant General Manager Service Development, by John Hamilton, who recommended to the PCAB “that we look closely at where we are going ... chaplains need to define their roles by developing a pastoral plan for chaplains.”<sup>786</sup> Garvey and newly appointed acting Senior Chaplain Ian Dodge responded to Hamilton’s request by commencing the task of encouraging chaplains to develop pastoral plans in order to: “ensure that Management and the Chaplaincy have a clear understanding of each other’s roles and expectations.”<sup>787</sup> In 1998, Justice Department administrators were still making efforts to define and control the functioning of the Prison Chaplaincy Service.

Dewes tendered his resignation as Senior Chaplain in January 1998 in order to return to parish ministry in the Presbyterian Church. Immediately prior to his resignation, he circulated a memorandum to the PCAB in conjunction with Garvey and Dodge on the “Contract Supply of Prison Chaplaincy Services” for consideration at the meeting of February 1998. The Prison Chaplaincy Service was about to enter the next phase of its evolution whereby the PCSANZ would replace the PCAB and become a Corrections Department funded contractor who would provide chaplaincy services to New Zealand prisons.

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<sup>782</sup> Ibid. pp. 2-3.

<sup>783</sup> Garvey, K. (undated.), “To Prison Chaplaincy Advisory Board, Subject, John Meeuwsen,” Report. PCSANZ Archives Chaplains’ Advisory Board 1977–July 1988

<sup>784</sup> McCarthy, P. (1997). “Letter to Craig Marsh, 2 October 1997”. PCSANZ Archives, Chaplains’ Advisory Board, 1977–July 1988.

<sup>785</sup> Ibid.

<sup>786</sup> PCAB, (1997). Minutes of Meeting 9 October.

<sup>787</sup> Dodge, I. and Garvey, K, (1998). “Prison Chaplains–Pastoral Plan,” Internal Memorandum, Public Prisons Service. PCSANZ Archives.

The situation for the ICAB and PCAB administrators during the 1990s contrasted very strongly to that which had been encountered by the NCC administrators in 1953. With the exceptions of Workman and McCarthy, there were few State administrators in key positions who had any active sympathy for Christianity. The new breed of State sector managers was driven by a different ethos than that of their early 1950s forbears. *Prisons in Change* with its emphasis on case management, restructuring and regionalization had provided the policy intent. The *Roper Report* had provided some reinforcement to these proposals, but ultimately the passing of the PFA, State Sector Act and the ECA provided legislative authority for their implementation. They enabled State administrators to impose their own views, control resources and influence the future direction of the prison chaplaincy according to their own priorities and in a manner that would not have been possible in Barnett's time with its centralized authority and sympathetic approach to the prison chaplaincy initiative.

The Church administrators on the ICAB and PCAB were too inexperienced in these realities and too agenda-focussed to be able to fully understand the realities of the situation in which they found themselves. They were clearly unaware of the implications of *Prisons in Change* and their experience of church administration had not equipped them for the realities of dealing with its proposed policy initiatives. Throughout their existence, the ICAB and PCAB were subjected to economic and statutory power that was used by State administrators to maintain their control over the management of the Prison Chaplaincy Service and Church administrators were largely ineffective in their attempts to address this situation. The *Perry Report's* recommendation for a bicultural chaplaincy was overridden by financial considerations in 1991 and the decision by the Catholic Bishops to retain a separate Catholic chaplaincy on theological grounds meant that Perry had been effectively set aside by 1993. While there was an attempt to recreate the spirit of Perry's intentions in 1997, economic, managerial and restructuring factors continued to be the principal driving force behind the shaping of the Prison Chaplaincy Service. As late as 1998, Meeuwssen was still attempting to dispose of the Senior Chaplain's position under the pretext of cost cutting. In 1998, the future existence of the Prison Chaplaincy Service was still in a highly precarious position.

Nevertheless, despite the naivety and focus by Church administrators and the overriding dominance of the State officials, the Prison Chaplaincy Service continued to operate in New Zealand prisons. This, in itself, was testimony to the tenacity of the Church administrators who were determined to ensure its future survival. Their lack of experience was to be tested again in 1999 and 2000 as the relationship between the PCSANZ and Department of Corrections was redefined by a contract for provision of prison chaplaincy services. This development will be described in the next chapter of this study.

## CHAPTER TEN

### CONTRACTING THE UNION: 1998–2006

In 2000, the provision of prison chaplaincy services entered the new phase of a contracted partnership. Under this arrangement, the Churches formed a charitable trust known as the PCSANZ which took over responsibility for the appointment and management of prison chaplains. Church representatives became trustees of the trust that was bulk funded by the Department of Corrections.

The PCSANZ was formed because Church and State administrators had become increasingly dissatisfied with many aspects of prison chaplaincy provision which no longer met the expectations of either the Department of Corrections or the Churches. While the contracting solution to this dilemma appeared to give Church administrators a greater say in the policy direction and management of the Prison Chaplaincy Service, it did not prove to be a quick fix solution and again, Church administrators came to learn some hard lessons about the realities of operating within a commercial business-oriented environment. Two manifestations of this development occurred between 1995 and 2006: the initiating of the contracting relationship between the PCSANZ and the Public Prisons Service (PPS) and the less formal understanding that was established with Australasian Correctional Management (ACM) who had contracted with the Department of Corrections to administer the privately run facility at ACRP.

#### **Department of Corrections Developments 1995 – 2006**

Mark Beyers, Chief Executive of the Department of Corrections between 1995 and 2005, “inherited an organization that was lacking in effective processes, systems, sufficient management capability and adequate infrastructure.”<sup>788</sup> Oughton stated that it “was somewhat ironic” that Beyers inherited this “sadly depleted” situation upon his appointment as he had been involved “in all this savaging in 1991-92” as “head of the Treasury Panel that was doing all the departmental funding so, he had to live with it when he inherited it.”<sup>789</sup> Upon his appointment, Beyers immediately established a new

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<sup>788</sup> Newbold, *The Problem of Prisons*, p.105.

<sup>789</sup> Oughton, 20 September, 2007.

business platform for the Corrections Department which implemented a wide-ranging overhaul of operational management, human resources systems and the use of technology, including computer and email processes. He was also determined to continue with the rehabilitative perspectives that had been proposed in *Prisons in Change* and initiated by Workman. The therapeutic tool that Beyers sponsored for this purpose became known as Integrated Offender Management (IOM).

IOM was put into operation in 2000, as part of an integrated crime strategy which was “a multi-pronged attempt to reduce offending by combining the efforts of police, justice and welfare agencies. Facilitating inmate reintegration after release was part of this process.”<sup>790</sup> The creation of a computer database which held information about a prisoner’s case history, strategies for dealing with personal issues and rehabilitation interventions, was critical to its functioning. Under IOM, each prisoner was assessed and given a sentence plan which could address offending behaviour by way of participation in appropriate interventions such as violence prevention, straight thinking and treatment for substance abuse. Each sentence plan was to be monitored by a case manager. IOM made provision for “addressing the spiritual needs of inmates” and it was intended that chaplains could provide input into the IOM system.<sup>791</sup> IOM also provided separate needs assessment processes for Maori and analytical tools to guide the implementation of strategies for reducing Maori offending. Newbold noted that the expenses associated with IOM were “difficult to assess” but out of the \$30 million required for “the capital costs of IT developments after 1996, the bill for IOM was \$13.8 million of this.”<sup>792</sup> These figures took no account of the subsequent costs of upgrading the IOM system or training staff in its use. After its implementation, IOM proved to be too complicated and expensive to apply to all eligible prisoners and in 2001, its management programmes “were funded to apply to 18% of inmates only.”<sup>793</sup>

Other concerns also occupied the Department of Corrections prior to 2006. The Department was required to improve security in prisons and deal with an increasing prison population. In the years 1995 to 2000, the “prison population grew by 24 per cent to 5661 in 2000” and to cope with this situation, “1500 new cells were built between 1995 and 2003.”<sup>794</sup> Concurrent with this increase in prisoner numbers, a series of

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<sup>790</sup> Newbold, *The Problem of Prisons*.p.109.

<sup>791</sup> PCSANZ, (2001). Minutes of meeting, 26 April. PCSANZ Archives.

<sup>792</sup> Newbold, *The Problem of Prisons*, p.113.

<sup>793</sup> Ibid. p. 114.

<sup>794</sup> Ibid. p. 114.

dramatic escapes brought about the need to improve prison security, including the construction of high perimeter fences around a number of prisons where they did not previously exist. Measures were also taken to deal with prisoner drug use, including the implementation of a compulsory testing regime, the employment of drug dogs and tighter restrictions being placed on prison visitors. Commenting on these developments on the prison population, Department of Corrections Regional Manager Leanne Field noted:

We have to do it. It's on account of the amount of contraband coming into the place and the amount of crime that's being managed by cell phones and things like that ... With methamphetamine people's behaviour is totally unpredictable. ... We have absolutely got to have that tight security and I think it does make it more difficult for some people to operate inside there.<sup>795</sup>

Security issues made an impact on the functioning of prison chaplaincy. Chaplains were often no longer permitted to conduct activities without prison officers being present and Auckland Prison chaplain, Perema Alofivae, stated:

Security is the paramount thing. We work to fit in with the security issues. Towards the end of last year some chaplaincy programmes were stopped because there was not staff there to monitor them. We complied with that. Everything now happens in the chapel and there is an officer stationed there in a way that never happened before.<sup>796</sup>

He also observed that "there had been a cut down in weekly services" because prison officers "had to comply with requirements other than our programmes" such as "locking and unlocking." Activities involving church visitors and volunteers had to be rearranged to suit the availability of custodial staff and "we have to rearrange and think about the way we do things ourselves."<sup>797</sup>

Public agitation led by the Sensible Sentencing Trust occurred following after a number of high profile cases involving murder, home invasion and violent offending. The Labour Government, which had been re-elected to power in 1999, responded in 2002 by initiating the Sentencing and Parole Acts. The Parole Act replaced 17 district Parole Boards with a single entity which became known as the New Zealand Parole Board. The new Board promptly took a harder line on the granting of parole. The overall effect was to ensure that people convicted of violent offences spent longer periods of time in prison and prisoner numbers continued to increase. In 2005, "the ratio of those serving time for crimes of violence grew from 54 per cent to 62 per cent. The number of lifers and preventative detainees grew from 233 to 441."<sup>798</sup> Part of the Department of

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<sup>795</sup> Field, L. (2007). Oral Interview, 26 November 2007. Waikeria

<sup>796</sup> Alofivae, P. (2007). Oral Interview, 13 September 2007. Auckland.

<sup>797</sup> Ibid. 13 September 2007.

<sup>798</sup> Newbold, *The Problem of Prisons*, p.128.

Corrections response to this situation was to build four new prisons, at Ngawha (Northland), Manukau (South Auckland), Spring Hill (Meremere) and Milton (Otago). Commenting on these developments and their impact of penal policy and practice, Field observed that political expectations

had changed drastically in the last twenty odd years. This Department has taken an absolute hammering. In the late eighties and early nineties there was nowhere near the media interest in what we're doing. Every man and his dog these days is a judge and jury. They're all experts about how we should fix these people.<sup>799</sup>

Connor supported Field's contention with the comment that changes "in public attitude" were strongly influenced by

the media. There was some research I saw reported in the *Herald* that said 20-25 years ago 15% of the news was about crime and then ten years later about 25% was about crime and now 35% is about crime, whereas the actual crime figures have gone down. There were dreadful things happening but they just didn't seem to shake the world like now.<sup>800</sup>

The impact of the media scrutiny and tightened security in New Zealand Prisons affected the nature of prison chaplaincy service provision. Alofivae's comments would suggest that chaplains adapted to this situation, but the more relaxed styles of chaplaincy provision that existed prior to 1990 were no longer possible. After 2000, chaplaincy provision had to take place in an increasingly restricted and punitive environment, where longer prison sentences had been imposed by the courts and there was less public sympathy for prisoners and their rehabilitation. Not only did chaplains have to become more adept at dealing with this situation, but their professional and pastoral practice required greater awareness in an environment where both management and the media are less tolerant of mistakes and more likely to seek dismissal for human error.

Following incidents of inappropriate staff conduct at Auckland and Paparua Prisons, Byers resigned in 2004. His replacement, former Police Commissioner to Western Australia, Barry Matthews, "inherited a Department facing serious challenges" which included: an increase in the amount of time spent by those prisoners remanded in custody; inadequate library, recreational and sporting facilities in most prisons; delays in the preparation of prisoners' sentence management plans; a high turnover of staff and an increase in reconviction rates of prisoners in spite of their involvement in IOM.<sup>801</sup> In 2005, former General Manager of Public Prisons, McCarthy, was appointed to a new

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<sup>799</sup> Field, 26 November 2007.

<sup>800</sup> Connor, 28 December 2006.

<sup>801</sup> Newbold, *The Problem of Prisons*, p.134.

position of oversight and co-ordination of reintegrative services. By 2006, however, the increasing cost of running prisons and building new ones had forced yet more economies and further cut backs in programmes and services, including prisoner employment, education and substance abuse treatment. The PCSANZ had to establish itself and develop as a contracted service to the Department of Corrections within this context of budget constraints, increasing prison security, greater public antipathy towards violent offenders and a growth in prisoner numbers.

During this period, legislative changes also redefined the status of the Prison Chaplaincy Service and its right to exist ceased to be enshrined either in statute or penal regulations. The 1999 Penal Institutions Regulations replaced the assumption contained in those of 1961 that “religion in prison would be Christian” and the requirement to meet the spiritual needs of prisoners became couched in more general terms.<sup>802</sup> “The Secretary must ensure that adequate and appropriate provision is made for the various religions and spiritual needs of inmates.”<sup>803</sup> Thorburn commented that while it “became mandatory” to ensure the meeting of spiritual needs for prisoners, the nature of this provision was “unspecified” and it was not “the language of a chaplaincy role.”<sup>804</sup> Religious observation “was no longer expressed in terms of Christianity and what is appropriate” and it was to be “determined by a policy official.”<sup>805</sup> The status and role of chaplaincy had been considerably downgraded, to “something that existed at the pleasure of that person for so long as that person” saw “it as useful.”<sup>806</sup>

The promulgation of the 1999 Penal Regulation was influenced by changes in New Zealand society since 1961. After 1960, immigration had brought a marked increase of non Christian Faiths into New Zealand society. In 1985, Lloyd Geering had noted that

by migration, there have arisen some non-western religious groups such as Eastern Orthodox Christian, Hindu and Muslim communities. In 1971 for example, there were for the first time, more Hindus than Jews in New Zealand. Before 1961, there were no Buddhists. In 1961 there were 350. By 1981 they had increased to 3,693, a growth of 1055% in 20 years! The religious character of New Zealand had become less and less homogenous and religious allegiance had become increasingly diversified and individualized.<sup>807</sup>

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<sup>802</sup> Thorburn, “Address to Prison Chaplains’ Board Annual Meeting,” p.1.

<sup>803</sup> Penal Institutions Regulations, (1999). 36 (1), Wellington.

<sup>804</sup> Thorburn, “Address to Prison Chaplains’ Board Annual Meeting.” p. 2.

<sup>805</sup> Ibid. pp. 2-3.

<sup>806</sup> Ibid. p. 3.

<sup>807</sup> Geering, L. (1985). “The Pluralist Tendency.” In Colless, B. and Donovan, P. (Eds.), *Religion in New Zealand Society* Dunmore Press Ltd., Palmerston North. pp. 215-216.

This trend continued into the 1990s and in 2005, Davidson observed that “the increasing social, cultural, religious economic and ethnic pluralism since the 1970s has changed the nature of New Zealand society.”<sup>808</sup> In the same year, Thorburn also commented “it would be correct to say that our society had become pluralistic and so to be consistent with UN declarations of equality of human rights New Zealand laws adopted neutrality of language in the area of religion.”<sup>809</sup>

During the period 1960 to 1990, New Zealanders also began to alter their views about the role of the State as a provider for the needs of its citizens. In terms of spiritual needs, New Zealand “never was a Christian State.”<sup>810</sup> Settlement by Europeans had occurred at a time when “the principle of non-establishment was gaining favour in Britain” and a “formal adherence to secularity” had been “affirmed in the Education Act of 1877.”<sup>811</sup> The initiative to establish the Prison Chaplaincy service in 1953, arose out of the personal convictions of Barnett, Marshall and Robson, who were able to use the machinery of the State to implement their religious viewpoint and it occurred at a time when State intervention governed many aspects of New Zealanders’ lives.

During the 1960s, however, “individuals” began “to assert their own rights against the collective, while in the 1970s, participation in New Zealand society began to mean the “ability to differentiate oneself from everyone else” as individuals increasingly came to “exercise their own spiritual, cultural, sexual, ethnic and consumer choices.”<sup>812</sup> In the 1980s, a process of “de-institutionalization began to spread across” New Zealand society as “a response to a “growing emphasis on freedom to allow individuals to participate within society” and the “idea of human rights” was expanded “to a larger pool of ... institutionalized people,” including those in prison.<sup>813</sup> These trends were encapsulated in the 1990 Bill of Rights Act which stated that “a person who belongs to an ethnic religious or linguistic minority in New Zealand shall not be denied the right in community to enjoy the culture, profess and practice the religion, or use the language of that minority.”<sup>814</sup> Ahdar observed that the enactment of this legislation had “deliberately

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<sup>808</sup> Davidson, “The New Zealand Ecumenical Journey,” p.29.

<sup>809</sup> Thorburn, “Address to Prison Chaplains’ Board Annual General Meeting,” p.2.

<sup>810</sup> Ahdar, R. (2000). “New Zealand and the Idea of a Christian State.” In Ahdar, R. and Stenhouse, J. (Eds.), *God and Government, the New Zealand Experience*, Dunedin, University of Otago Press. p.75.

<sup>811</sup> Ibid. pp. 61-62.

<sup>812</sup> Belgrave, M. (2004). “Needs and the State.” In Dalley, B. and Tennant M. (Eds.), *Past Judgement: Social Policy in New Zealand History*, Dunedin, University of Otago Press. p.28.

<sup>813</sup> Ibid. p.35.

<sup>814</sup> Ahdar, “New Zealand and the Idea of a Christian State,” p.72.

spurned the opportunity to make a formal recognition of God as the ultimate authority in New Zealand.”<sup>815</sup>

In 2004, the Corrections Act advanced the intent of the 1999 Penal Regulations by stating “the Chief Executive must ensure that in every Corrections prison, so far is as reasonable and practical, appropriate provision is made for the various religious and spiritual needs of prisoners.”<sup>816</sup> The definition of “what is reasonable and appropriate” was to remain the opinion of an official “notably the Chief Executive.” But the new definition introduced some additional wording with: “so far is as reasonable and practical.” Thorburn observed that this phrase might really be a way of saying: “if the budget allows.”<sup>817</sup>

As a consequence of these social and legislative trends, New Zealand laws “adopted neutrality of language in many areas” and especially that “of religion” which were significant for the continued presence of chaplains in prisons.<sup>818</sup> There was no longer any statutory provision for the creation of a Prison Chaplaincy Service and spiritual needs were defined as being “non specific to any particular religion.”<sup>819</sup> The identification of spiritual needs had come to be the decision of a Government official who would decide whether or not the chaplaincy role was a suitable vehicle for meeting this need. There was no requirement for the service to be adequate and assessment of this factor would again be defined by a State administrator. The existence of the Prison Chaplaincy Service now rested on the goodwill of the Department of Corrections and it was no longer vested in any form of statutory guarantee. Thorburn observed “my assessment is that under the present legislation, chaplaincy only exists by virtue of the relationship of the past and present goodwill with the Department, because there is no statutory basis for the role at all.”<sup>820</sup>

By 2000, the Prison Chaplaincy Service had developed into a very different entity to that which existed before 1990. Changes in legislation, and social awareness, together with the evolution of an increasingly pressured work environment, had all combined to affect the ministry offered by chaplains in New Zealand Prisons. In addition to these

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<sup>815</sup> Ibid. pp. 71-72.

<sup>816</sup> Corrections Act, (2004). Section 79 (1).

<sup>817</sup> Thorburn, “Address to Prison Chaplains’ Board Annual Meeting,” p.3.

<sup>818</sup> Ibid. p. 2.

<sup>819</sup> Ibid. p. 4.

<sup>820</sup> Ibid. p. 4.

factors, the Ecumenical chaplains then had to come to terms with the understanding that their employer was no longer the State, but the Church. Furthermore, both Catholic and Ecumenical chaplains would be required to adhere to changes in administration and accountability in order to fulfil the requirements of a new contract for the provision of chaplaincy services which their new employer had negotiated with the Department of Corrections. Some chaplains responded positively to this situation while others were to find it difficult to deal with.

### **Negotiating the Contract**

When the Department of Corrections was established in 1995, part of its core business was “to manage sentences given by the courts.”<sup>821</sup> One of its strategic goals was “the development of a contracting framework” whereby the Department’s services were specified in a “Purchase Agreement and other accountability documents,” which were “reflected in internal service level agreements and contracts with external providers.”<sup>822</sup>

In February 1998, Garvey’s Senior Chaplain’s Report to the PCAB noted that a proposal had originated from within the Department for the Board to “consider contracting chaplaincy services”<sup>823</sup> and Dewes, Garvey and Dodge had prepared a position paper on the “Contract Supply of Prison Chaplaincy Services” which was also presented for consideration. The paper stated that “the concept of the Department contracting with Churches for the provision of chaplaincy services has been raised within the churches from time to time.”<sup>824</sup> It also noted Perry’s recommendations that chaplains receive their stipend from the church they served, with the Department reimbursing the church; Meeuwson’s consideration that the chaplaincy needed to look at its future direction more closely and the understanding that a contractual relationship would provide a basis for greater definition of chaplaincy services thus helping to overcome “a lack of common universal understanding of the role and requirements of the Prison Chaplaincy.”<sup>825</sup>

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<sup>821</sup> Department of Corrections, (1994), “Structure of the Department of Corrections.” PCSANZ Archives. Chaplains’ Advisory Board, 1994.

<sup>822</sup> Ibid. 1994.

<sup>823</sup> Garvey, K. (1988). “Advisory Board Report, (Senior Prison Chaplain (R.C.).” PCSANZ Archives, Chaplains’ Advisory Board 1998-1999.

<sup>824</sup> Dewes, N. Garvey, K. Dodge, I. (1998). “Contract Supply of Prison Chaplaincy Services”, Internal Memorandum, Public Prisons Service. PCSANZ Archives, Chaplains’ Advisory Board 1998-1999.

<sup>825</sup> Ibid.

A contracting relationship could help overcome past financial difficulties by ensuring that Central Government's allocation of funding for prison chaplaincy services was not diverted to other projects under the control of regional management. This would allow a greater degree of independence from the control of State authorities and involve the Churches more directly in the administration of the Prison Chaplaincy Service. In order to implement the contracting proposal, an appropriate Church entity would need to be created to receive funds and manage the Prison Chaplaincy Service. Decisions would have to be made about the: funding provision for Ecumenical and Roman Catholic chaplains; relationship between contracted chaplains and Prison Management; the number of chaplains required to provide an effective service together with their terms of employment and establishment of a "fair budget to ensure delivery of an effective, efficient and accountable chaplaincy service."<sup>826</sup> The PCAB agreed to investigate the possibility of contracting further, and a working party was set up to investigate this matter. The PCAB declined to be rushed into any hasty decisions and a recommendation to have a completed proposal prepared by the end of March 1998 to "allow for budget allocations for the ensuing financial year" was rejected.<sup>827</sup>

In May 1998, the Working Party reported that a contracting system for the provision of prison chaplaincy services would provide distinct advantages for chaplains, their ministry and prisoners. The PCAB then resolved to "enter into negotiations with the Department of Corrections Public Prisons Service, with a view to the drafting of a contract for providing chaplaincy services."<sup>828</sup> It was agreed that Dodge and Garvey be appointed to meet with Department of Corrections' management and draw up a draft contract for consideration. In the meantime, the PCAB would look at developing a new structure for the administration of the Prison Chaplaincy Service. Churches would be consulted with a view to acquiring their endorsement for this proposal and human resources issues affecting chaplains' employment would be considered.

Most of the Churches had expressed qualified support for the contracting proposal by October 1998, although the CCANZ delayed its response until March 2000 and then informed the PCAB that "because of the present broad spectrum of Church representation they saw no need also to have a representative."<sup>829</sup> No further

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<sup>826</sup> Ibid.

<sup>827</sup> PCAB, (1988). Minutes of meeting 18 February.

<sup>828</sup> PCAB, (1998). Minutes of meeting, 12 May.

<sup>829</sup> PCAB, (2000). Minutes of Meeting, 16 March.

explanation was given regarding this decision. Lineham recorded that after 1990, “ecumenism within the mainstream Protestant world had lost its vision and become one institutionalized system vying with others,” with a consequent “decline of denominational contributions and personnel from Ecumenical churches” and that this trend “had forced the emergence of new structures.”<sup>830</sup> Davidson also observed that “ecumenism had “become fragmented” and ecumenical bodies such as the CCANZ had “difficulties in speaking on behalf of their members” and for those who were “not part of their organization.”<sup>831</sup> The agenda of biculturalism had driven much of the CCANZ’s determination to become involved in prison chaplaincy administration in the late 1980s. Perry’s recommendations, however, had been subsumed within the management policies of the Department of Corrections and a situation where prison chaplaincies “had expanded to include chaplaincies not from the traditional churches” and where “effectively chaplaincies became voluntary or private enterprise corporations, forced to develop their own basis ... and establish their own appointment criteria and standards in an environment increasingly pre-occupied by standards or safety.”<sup>832</sup> Because individual churches could provide representatives to serve on the new entity, the CCANZ felt that it was appropriate in the circumstances to leave them to continue with this task. An inability to provide continuing representation, a reluctance to engage with the PCSANZ as a new ecumenical entity when individual churches were already undertaking this task, and uncertainty about its own future were likely contributors to the CCANZ decision. Unlike the CCANZ, however, Te Rununga continued to engage with the PCSANZ.

A draft contract was provided to the PCAB for consideration and systems were established to keep absentee members informed of ongoing developments. Noting that the original draft contract appeared to be “unilateral and intentional” rather than a vehicle for “negotiated changes,” the PCAB immediately sought to make the intent of the contract more consultative and co-operative by changing references to the “Department of Corrections” to “either party.”<sup>833</sup> Other concerns that would need further clarification included the basis for the price payable, status of a chaplain as a contracted employee, management accountabilities within local prisons, and provision of

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<sup>830</sup> Lineham, P. (2005). “Why the Conference of Churches in Aotearoa New Zealand failed: The birth, life and death of an ecumenical experiment in New Zealand,” *Where the Road Runs Out: Research Essays on the Ecumenical Journey*, Christchurch, CCANZ, p.37.

<sup>831</sup> Davidson, *The New Zealand Ecumenical Journey*, p.31.

<sup>832</sup> Lineham, “Why the Conference of Churches in Aotearoa New Zealand failed,” p.68.

<sup>833</sup> PCAB, (1998). Minutes of meeting, 14 October.

administrative support and other resources and a process for review at the end of the contract period. Another working party would “address concerns about financial and management issues.”<sup>834</sup>

The PCAB had received independent legal opinion which indicated that potentially the contract was a good document, but the principle of mutuality needed greater acknowledgement. Hamilton conceded this point and he also indicated that the new contracting entity would have single provider status for providing religious services to prisons. In comparing the new proposal with policies and procedures that had been adopted for hospital chaplains, the PCAB noted that they provided a good example of how a contracted worker could fit into a Government Department, whereby “they were given staff status in the hospital with access to normal staff facilities” and “were “bound by hospital policies and regulations”<sup>835</sup> Concepts of spiritual leadership were also considered and “the Gospel concept of pononga” would continue to be the basis under which spiritual leadership would be defined.<sup>836</sup>

Legal advice had deemed that forming a company for the purpose of providing chaplaincy services to prisons was not appropriate as “Churches other than the Catholic Church are not legal entities and could not be shareholders.”<sup>837</sup> The creation of a charitable trust would be more appropriate for this purpose. A draft Trust Deed based on a similar model to that of the Hospital Chaplaincy Service was prepared by Archdeacon Tony Clarke and approved by the PCAB in December 1999.

The Trust Board would “be made up of Churches holding a Trinitarian Confession” and be able to co-opt extra people who “would bring expertise and balance to the Board’s functioning chaplains would be appointed “from any denomination with a Trinitarian Confession.”<sup>838</sup> PCAB members believed that adherence to a Trinitarian belief was important for ensuring that the agendas of religious groups such as Mormons, Jehovah’s Witnesses and the Ratana Church could not gain a foothold within its area of jurisdiction. The PCAB still considered that prison chaplaincy was an undertaking of the Christian Churches. Chaplains would ensure that prisoners who belonged to Faiths other than Christianity could gain access to their own spiritual support, but intentions to

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<sup>834</sup> Ibid. 14 October 1998.

<sup>835</sup> PCAB, (1998) Minutes of meeting, 24 November.

<sup>836</sup> Ibid. 24 November 1998.

<sup>837</sup> PCAB, (1999). Minutes of meeting 25 February.

<sup>838</sup> Ibid. 25 February 1999.

observe the Human Rights Act of 1990 would only be accommodated to this point. Leaders from non-Christian Faiths would not to be allowed to influence policy direction of the PCAB by having have representation on the new entity for providing prison chaplaincy services. It is worth noting that the Corrections Department administrators did not challenge the PCAB on this viewpoint.

Gordon Copeland, Prue Neild and Russell Adams from the Catholic and Presbyterian Churches and the Salvation Army, were co-opted for their professional expertise, to assist with: preparation of a budget for the final contract negotiation, a memorandum of understanding between the Churches, and terms and conditions for the future employment of chaplains. The new entity was to be called “The Prison Chaplaincy Service of Aotearoa New Zealand and the intended staff complement would consist of 27 full time equivalent (FTE) chaplains and 2 FTE leadership positions. The salary level of any ‘senior position’ was to be “the same as other chaplains. This was to follow the usual practice in most Churches rather than to have a corporate scale of incomes.”<sup>839</sup>

In July 1999, six potential budget options were prepared for consideration, which ranged from a total cost of \$1,5376,780.00 for 27 “full time equivalents and a two person support team to \$1,255,005.00 for “17 full time equivalents and one support person plus \$25,000 for the Catholic Bishops’ Conference.”<sup>840</sup> The latter option was considered to be the minimum sustainable costs for operating the Prison Chaplaincy Service at a viable level, but negotiations with the Department of Corrections would commence at the level of the first budget.

Preliminary discussions with Department of Corrections representatives outlined “the proposal and principles ... questions to be decided on” and a “budget for 27 full time equivalent chaplains.”<sup>841</sup> The Department of Corrections had “supported the general direction of the proposal and had flagged to the Government that there needs to be an increase in expenditure to provide adequate chaplaincy services.”<sup>842</sup> In March 2000, however, the realities of contract negotiations supplanted the original optimism of the preliminary discussions of the previous August. Hamilton informed the PCAB that the costs associated with option one of the proposed contract price were greater than those

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<sup>839</sup> PCAB, (1999). Minutes of meeting 1/2 June.

<sup>840</sup> “Suggestions for Board Action with regard to Budget,” (1999). paper presented to PCAB meeting of 29 July. PCSANZ Archives, Chaplains’ Advisory Board, June 1999-July 2000.

<sup>841</sup> PCAB, (1999). Minutes of meeting 9 December.

<sup>842</sup> Ibid. 9 December 1999.

currently required to operate the Prison Chaplaincy Service. The Department of Corrections was “under strict criteria for funding” and “one of the original premises in this matter was that there could not be any extra spent in this area ...you are supplying essentially the same service, why is more money needed?”<sup>843</sup>

On the day before meeting with the PCAB, Hamilton had astutely asked Dodge for relevant information supporting the budget that had been submitted the previous August. In addition to the “ideal budget” Dodge had also provided him with data on salary costs for chaplains and a “guesstimate for other expenses” together with copies of the other budget proposals, including “the bottom line budget.”<sup>844</sup> Armed with this information, Hamilton was quick to take the initiative and ask “which level of budget could” the PCAB “cope with.” He expressed the opinion that although the lowest budget could possibly be funded from within the Department, this would still need to be presented to the General Manager and the Chief Executive for approval. Any other specific request for funding would have to be made with the Government and this could be “a drawn out affair involving negotiation.”<sup>845</sup> Hamilton then asked the PCAB to immediately “confirm the level of acceptance.”<sup>846</sup> After Hamilton’s departure, the PCAB considered his proposal and decided reluctantly to “agree to negotiate from the bottom line budget. ... If the Department could not fund this proposal from within” they would “seek from Government an additional and specific budget request.”<sup>847</sup> PCAB Chairperson, Fletcher Thomas, informed Hamilton that “after serious consideration the Board reluctantly agreed to negotiate from the bottom line budget ... below which we feel we could not provide an adequate chaplaincy service.”<sup>848</sup> Thomas also told Hamilton that extra funding would be required to set up an office and advertise the position of a new chaplaincy coordinator and that these costs would be extra to the agreed contract price, but the PCAB could proceed on this basis.

The difference in values and attitudes evinced by State and Church administrators during the negotiation of the contract needs to be noted. The commercial realities of contract negotiation required Hamilton to obtain the greatest input of service for the lowest possible price and the rules of the secular business world left little room for

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<sup>843</sup> PCAB, (2000). Minutes of meeting 16 March.

<sup>844</sup> Ibid. 16 March 2000.

<sup>845</sup> Ibid. 16 March 2000.

<sup>846</sup> Ibid. 16 March 2000.

<sup>847</sup> Ibid. 16 March 2000.

<sup>848</sup> Thomas, F. (2000). “Internal Memorandum Public Prisons Service to John Hamilton.” PCSANZ Archives, Chaplains’ Advisory Board, June 1999-July 2000.

sentiment during these negotiations. Church administrators, however, had been used to working in a more collaborative environment where information was shared openly and they suddenly had to learn hard lessons about the retention of commercially sensitive information. Dodge's naivety and his intention to act in good faith, was out-manoeuvred by Hamilton who was astute enough to take an opportunity when it was given to him. There was no personal malice in Hamilton's actions, however, and having succeeded in this undertaking, he continued to encourage and support the Prison Chaplaincy Service in other matters. Perhaps the best insight into his motivation was provided by Garvey who observed that "around the country he was seen as a hatchet man," but "John Hamilton was a great supporter."<sup>849</sup> This fundamental clash in attitudes and worldviews raised important issues for the PCSANZ. In future contract negotiations, should they continue to operate by their own intrinsic values or should they become more adept in the commercial strategies of the market economy in order to get a better deal for themselves? This question was to resurface again during the contract renegotiations of 2005 without ever being totally resolved, but it was indicative of the moral dilemmas that had to be faced by the PCSANZ administrators as they sought to reach an accord with their State counterparts for the continued provision of chaplaincy services in New Zealand prisons.

This was not the only occasion Church administrators were to learn hard lessons about the new contracting environment. The PCSANZ understood that the Department of Corrections would continue to "provide the resources necessary to effectively deliver the services set out" in the contract, as well as providing the income to pay for chaplain's salaries.<sup>850</sup> A year later, however, Yew Aik Tan, liaison manager for the Department of Corrections, told the PCSANZ that he interpreted this clause in the contract to mean that the chaplain would provide "Bibles, prayer books, devotional guides and religious objects" and pay for them. The PCSANZ continued to argue that this clause meant that the chaplain should be "allowed to provide" these items and that they would be paid for through Corrections Department funding, but without success.<sup>851</sup>

The PCSANZ was adamant that Tan had departed from an agreement that was made in good faith in order to gain as much economic advantage as he could for his employers.

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<sup>849</sup> Garvey, 20 May 2008.

<sup>850</sup> Department of Corrections, (2000). "Agreement for the Provision of Chaplaincy Services in the PPS," PCSANZ Archives.

<sup>851</sup> Ibid.

Garvey remarked: “that was one of the major problems ... some sections of the Department were saying: you are the provider, you will provide everything.”<sup>852</sup> Debate continued over this matter until the next round of contract negotiations took place in 2005. Trust and good will had little place in this commercial environment where the realities of contracting required each party to get the best possible deal to achieve its own ends.

After the contract had been negotiated, The PCAB continued to occupy itself with a number of issues in preparation for the transfer of prison chaplaincy administration to the PCSANZ including: final representation on the Board, employment issues affecting chaplains, the transfer of chaplains employment contracts to the PCSANZ, chaplains’ responsibilities towards prisoners of non Christian faiths, setting up the new administration and the appointment of a coordinator to manage the new chaplaincy service. The PCAB resolved that “The Trust be duly constituted as from 1 June 2000 and on the 13 June 2000, the Trust Deed had been signed by member churches.”<sup>853</sup> On the 29 June 2000 acting chairperson Clarke signed the contract on behalf of the PCSANZ. In becoming a contract service provider, the Churches had significantly changed the nature of their relationship with the Department of Corrections. Dodge told the PCSANZ: “you now have a greater responsibility on the Board than before and need to give the meetings your highest priority of attention and attendance.”<sup>854</sup>

### **Contracting Partners: the PCSANZ and Department of Corrections, 2000 – 2006**

Between 2000 and 2006, the PCSANZ had to adjust to its new contracting relationship with the Department of Corrections. Many of the issues remained similar to those that had been dealt with by the ICAB and PCAB, but they now had to be managed in accordance with the requirements of the new contract. During the first two years of its operation as a contract service provider, the PCSANZ had to liaise with five different contracts managers within the Department of Corrections. These people were career managers with little corporate memory and minimal understanding of the prison Chaplaincy Service. Garvey observed: “one of the major problems we had with the contract was the fact that in a period of two years” there were “five different people who we were discussing the contract with. We often struggled in that area because we were

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<sup>852</sup>Garvey, 20 May 2008.

<sup>853</sup>PCAB/PCSANZ, (2000). Minutes of Meeting, 13 June.

<sup>854</sup>Dodge, I, (2000). “Letter to PCSANZ Trust Board Members,” PCSANZ Archives.

never able to tell them what our role was.”<sup>855</sup> As soon as one of these people became aware of the requirements of the Prison Chaplaincy Service, they would move on and the whole process of re-educating their successor would then need to take place. This situation was only resolved with the appointment of Colin Ryder, as Contracts Manager, and from that point a more stable relationship between the Department of Corrections and the PCSANZ began to develop.

Nevertheless, Church administrators still had to come to grips with the reality of operating in this commercial environment. New chaplains had to be appointed to fill the vacancies that had accrued in the previous twelve months. The PCSANZ also inherited the employment contracts that Ecumenical chaplains had previously held with the Department of Corrections together with all of the attendant issues that accompanied them. Health insurance, sick leave, overtime payments, study and sabbatical leave as well as superannuation had previously been the responsibility of the Department of Corrections. Now they became concerns of the PCSANZ.

As the new co-ordinator had yet to be appointed, the PCSANZ had to take responsibility for routine management decisions as well as work out its new governance role and confusion began to develop about the role and function of PCSANZ Board members. In 2001, Baptist representative, Murray Cottle asked whether the PCSANZ Board was a governance or management organization. Cottle was of the opinion that “governance was involved in future planning, policy provision and oversight.”<sup>856</sup> Policy development, strategic planning and a policy manual would be required to resolve these issues. Independent facilitation helped to resolve many of these issues, although the “Policy and Procedures Manual” was not finally published until February 2004.

The Chaplaincy Coordinator’s position was advertised and four potential candidates were short listed for interview. None of the applicants was recommended for appointment, however, and PCSANZ Salvation Army representative, Kelvin Gooder, agreed to act in an interim capacity until such time as an appointment could be made. The Chaplaincy Co-ordinator’s position was re-advertised, but again no appointment was made. Gooder resigned, in June 2002 and Chaplains Connor and Ferguson were appointed to act as interim Senior Chaplains for six months. In November 2002 the

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<sup>855</sup> Garvey, 20 May 2008.

<sup>856</sup> PCSANZ, (2001). Minutes of meeting 20 September. PCSANZ Archives.

PCSANZ decided that the Chaplaincy Co-ordinator's job title should be changed to that of Executive Manager and the position was offered to Connor on a three year contract with right of renewal. Connor would commute from Auckland but the National Office would remain in Wellington, although in 2004, a second administrative office was opened in Auckland.

In 2001, the development of a new employment contract for chaplains established three important principles. The PCSANZ was now solely responsible for the appointment of Prison chaplains; the services required of chaplains were set out in the contract and chaplains would now be responsible to Regional Managers for the maintenance of prison security, but they were now accountable to the PCSANZ for professional performance. Appointment interviews were conducted for vacancies at Waikeria, Auckland and Christchurch prisons and affirmation of the Board's responsibility for this process was set out in policy established for chaplains' commissioning services at the beginning of their appointment. "The commissioning service is the sole right and responsibility of the Prison Chaplaincy Service" representing the Churches. "Board members must be involved. This is important ... for prison management. The Board makes the appointment" of the worship service leader "but the chaplain's church affiliation members can take part."<sup>857</sup> Cultural and ecclesiastical boundaries were also defined with "powhiri" being the prison's concern/responsibility" and "commissioning the Board's concern/responsibility."<sup>858</sup>

Ecclesiastical jurisdiction issues occurred when one chaplain wished to change his denominational allegiance. The PCSANZ needed assurance that chaplains were not changing their denominational affiliation in order to avoid sanctions for misconduct that may have been imposed by their original denomination. The PCSANZ decided that chaplains should only be employed if they were in good standing with their church and if this was not the case, they would be required to resign. "Chaplains are expected to remain with the denomination which supported them at the time of appointment. Changes may only be made with the approval of the Board who would be satisfied that the chaplain wishing to change remains in good standing with the original denomination."<sup>859</sup>

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<sup>857</sup> PCSANZ, (2001). Minutes of meeting, 26 April. PCSANZ Archives.

<sup>858</sup> Ibid. 26 April 2001.

<sup>859</sup> PCSANZ, (2003). Minutes of meeting, 12 February. PCSANZ Archives.

Potential competition from another contracted service provider also became an issue for the PCSANZ following the agreement between the Department of Corrections and Prison Fellowship to establish the Faith Based Unit at Rimutaka Prison. The Department of Corrections had not consulted with the PCSANZ about this project and it appeared to militate against the contract which stated: “the Department recognises that the PCSANZ is the organisation best placed to provide and facilitate a full range of prison Chaplaincy services.”<sup>860</sup> The PCSANZ then decided

that there is a distinction between the contracted services covered by the current agreement with the PCSANZ and the Department and the programme to be provided by Prison Fellowship New Zealand in the special awareness unit at Rimutaka Prison. Chaplains would continue to offer their contracted services in a manner supportive of and complementary to the programme provided.<sup>861</sup>

Covert suspicions of competition from Prison Fellowship mentioned at an earlier stage in this study remained, however, even though the PCSANZ publicly affirmed its “intention to work in co-operation with PFNZ to achieve a better understanding” between the two organisations.<sup>862</sup>

Financial constraints again became an issue. No formal provision had been made for cost of living adjustments in the contract price, which until 2003 had been adequate to sustain the work of the PCSANZ. Inflation began to impact on the PCSANZ’s ability to pay chaplains’ salaries at a level of parity similar to those received by their colleagues in community-based ministry appointments. An application was made to the Department of Corrections for an increase in the contract price, but Department Liaison Person, Lisa Williams, indicated that she was not optimistic that the Department would “have the funding to increase the contract price.”<sup>863</sup> An approach for assistance was then made to Member of Parliament, the Hon. Phil Goff, who wrote to the Department of Corrections on behalf of the PCSANZ and received a reply that “the External Output Pricing Review Steering Committee did not support the Department’s business case for an increase in the contract price. Department officials have been requested to identify mutually agreed option for the delivery of chaplaincy services within the constraints of the existing contract funding.”<sup>864</sup> With the re-negotiation of the contract pending in 2005, the PCSANZ Board then wrote to Byers, “requesting a new contract” that would

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<sup>860</sup> “Agreement for the provision of Chaplaincy Services in PPS,” (2000.)

<sup>861</sup> PCSANZ, (2003). Minutes of meeting, 12 February. PCSANZ Archives.

<sup>862</sup> PCSANZ, (2003). Minutes of meeting, 13 May. PCSANZ Archives.

<sup>863</sup> PCSANZ, (2003). Minutes of meeting, 20 November. PCSANZ Archives.

<sup>864</sup> PCSANZ, (2004). Minutes of meeting 19 February. PCSANZ Archives.

be “supported by a budget reflecting current requirements.”<sup>865</sup> McCarthy responded to this approach on Byers’ behalf, indicating that while the PCANZ was still the preferred chaplaincy provider, any new contract would be negotiated “at the same level of funding.”<sup>866</sup>

While, the Department of Corrections may have been supportive of an increase in funding for the Prison Chaplaincy Service, it was not able to obtain extra funding from Treasury for this purpose. The Prison Chaplaincy Service was not alone in having to face this dilemma. Newbold’s comments about the impact of increasing operational expenses within the Department of Corrections that had been caused by the cost of IOM, an increase in the prisoner population and the need to provide greater prison security, indicated that the whole of the Department was suffering from financial restrictions. Garvey commented: “the situation often came to, OK we need a chaplain, but we also need two or three other staff, so which do we appoint? We were competing.”<sup>867</sup> Garvey also believed that this situation brought about a decline in the quality of chaplains who were appointed to the PCSANZ when he noted: “at that time we couldn’t get top professionals because they couldn’t afford to live and sustain a family on what was being provided.”<sup>868</sup>

Negotiations for the renewal of the contract occurred in 2004 and 2005. Lessons had been learned from past experience and this time, people with professional experience of negotiating contracts were asked to assist with preparation of budgets and projected costs. PCSANZ representatives insisted that they could not continue with the contract price on offer from the Department of Corrections. The length of the contract was reduced from five to three years, but sufficient funding was made available to award chaplains a five per cent increase in their salaries. The contract price was set in place for the first two years but provision was made within the agreement to negotiate cost of living adjustments for the third year. The new “agreement with Corrections was signed on 26 October 2005.”<sup>869</sup> This contract was still not ideal from the point of view of the PCSANZ administrators but they were becoming more aware of the requirements of operating as contracted service providers.

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<sup>865</sup> PCSANZ, (2004). Minutes of Meeting 16 September. PCSANZ Archives.

<sup>866</sup> PCSANZ, (2004). Minutes of meeting. 18 November. PCSANZ Archives.

<sup>867</sup> Garvey, 20 May 2008.

<sup>868</sup> Ibid. 20 May 2008.

<sup>869</sup> PCSANZ, (2005). Minutes of meeting 17 November. PCSANZ Archives.

One of the original intentions of the Church administrators for entering a contracting relationship with the Department of Corrections was to gain more control over chaplaincy administration. They were church people and they believed that they knew best how to manage church employees, but the contract was not to become an instant panacea for overcoming past difficulties. Because of their inexperience in commercial management, the PCSANZ administrators made some early mistakes. The balance of power, in the relationship with Department of Corrections, still remained firmly in the hands of the State officials and economic restrictions meant that the PCSANZ had to compromise on the effectiveness of its service delivery. The advantages in this situation all seemed to be with the State with its backing of legislated authority and economic control.

Yet this was not the full reality of this situation. Since 2000, the contract placed obligations on both parties and its signing helped to curb some of the excesses that had been enacted by state officials in the previous decade as they were now also bound by a legal agreement. Admittedly, the Department of Corrections officials were more adept at implementing the contract's provisions to their own advantage during the early stages of its inception and ultimate power still lay with the State as contractor and funding provider. Nevertheless, as the PCSANZ administrators and chaplains became more experienced they began to find ways of using the contract to their own advantage.

Connor commented: "my feeling is that over the last few years we have started to regain the ground." There were "several reasons for that. The most important one was that the chaplains themselves have established credibility ... where they have done that they are taken seriously."<sup>870</sup> He also observed that under the terms of the Corrections Act of 2004, "all people who are contracted to work in prisons are classified as staff."<sup>871</sup> While chaplains are still present in New Zealand Prisons at the whim of the Chief Executive Officer of the Department of Corrections, "it is not all negative. The other thing" was that the "Board and management have established relationships with Corrections both nationally and locally which give us a credibility"<sup>872</sup>

During contract re-negotiations, attention was paid to redefining some aspects of service provision as well as attempting to secure extra funding. Attempts were made to translate

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<sup>870</sup> Connor, 28 December 2006.

<sup>871</sup> Ibid. 28 December 2006.

<sup>872</sup> Ibid. 28 December 2006.

terminology about chaplaincy concepts and practice into language that could be readily understood by State officials. Chaplains also began to use the contract to their advantage by ensuring that prison staff were aware of the schedule of services they were contracted to provide and this helped to overcome obstructive decisions and actions made by prison officers which had been a periodic historical feature of chaplaincy operation within some prisons. Chaplains were able to advocate for their position because they were legally contracted to provide their services and for the duration of the contract period there was a guarantee of their position in a penal institution provided that they maintained security and administrative requirements.

This sense of security was only confined to the period of each contract term, however, and a sense of uncertainty about the future of the Prison Chaplaincy Service remained until each renewal was completed. The maintenance of good relationships became an important factor in this process and the PCSANZ has endeavoured as a matter of policy to maintain these with the Department of Corrections, but not at the expense of its own integrity. Furthermore, in future contract negotiations, The PCSANZ also began to appoint people with experience in contract negotiations who not only had awareness of church practices and policies, but also the skills to engage effectively with State administrators to achieve successful outcomes. These strategies contributed significantly to the creation of an increasingly strengthened partnership between Church and State for providing chaplaincy services for prisoners and in 2006, the relationship has continued to function with some differences of opinion, but without major conflict between the two parties.

### **The Catholic Church and the Contract**

The Catholic Bishops' Conference was supportive of the contracting proposal, but they were concerned to "not so much obtain for the Catholic chaplains improvement on their present situation as to ensure the move to contracting does not decrease Catholic involvement in prison chaplaincy."<sup>873</sup> Noting that the appointment of Catholic Chaplains involved nomination by the Diocesan Bishop, Williams indicated that there were two possibilities available for the appointment of Catholic Chaplains under the proposed contracting system. One was for the Provider Board to contract with the Catholic Church to provide chaplains on much the same basis as their current agreement

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<sup>873</sup> Williams, T. (1988). "Letter to Ian Dodge, 13 July 1998." PCSANZ Archives.

with the Department of Corrections. The alternative was to appoint Catholic chaplains on the same basis as their Ecumenical counterparts. The defect of the latter option from the Catholic point of view was that only four or five Catholic chaplains would be appointed because no more could be afforded. Therefore, the former proposal appeared to be more feasible although it “would necessitate the Provider Board having a contract with the Catholic Bishops whereby some payment would be made by the Provider Board and some by way of subsidy from the Catholic Dioceses.”<sup>874</sup>

Financial Administrator to the Archdiocese of Wellington, Copeland, suggested to the PCAB that this proposal be confirmed by way of entering into an arrangement that would be expressed

in a formal contract of services with the Catholic Church. The contract would also give the Board the right to terminate the services of a particular Catholic chaplain, following mutual contractual process. In the event of unsatisfactory performance the performance of the individual chaplains would remain subject to the oversight of both the Catholic Church and also of the Board on the same basis as chaplains provided by other churches.”<sup>875</sup>

The Catholic Bishops’ Conference would receive a payment of 20% of the lump sum payable under the contract with the Department of Corrections and in return, it would undertake to provide a minimum of 5.4 FTE chaplains who would become members of prison site teams and be subject to the same forms of review as their non-Catholic colleagues. The PCAB supported this proposal noting that: “in the interests of providing uniform standards in an integrated service Williams offered to provide a way in which Catholic chaplains could be assessed for appointment on the same basis as other chaplains.”<sup>876</sup> Williams observed “we realised that we had no claim to have a distinctive Catholic Chaplaincy” with regard to

the distinctive characteristics of appointment and qualification unless we could foot it with everybody else. The last thing we wanted was to have an ecumenical chaplaincy at a certain level and at a lesser level a second class Catholic Chaplaincy. We had to be at a level. That is why I was happy at meeting assessment standards. It was for our good.”<sup>877</sup>

This arrangement had “worked well for the Prison Chaplaincy Service because it kept Catholic arguments in the Catholic “domain instead of in the general purview.” Furthermore, that as a consequence of the payment of 20% of the amount of money

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<sup>874</sup> Ibid. 13 July 1998.

<sup>875</sup> Copeland, G. (1999). :Letter to the Prison Chaplaincy Advisory Board, 4 May 1999.” PCSANZ Archives.

<sup>876</sup> PCAB, (1999). Minutes of meeting 1–2 June.

<sup>877</sup> Williams, 12 July 2007.

received from the Department of Corrections “we were immeasurably better off to that extent we were able to sustain our chaplains much better.”<sup>878</sup>

In 2004, the Catholic Bishops’ Conference asked Garvey to advise the PCSANZ that the Catholic Bishops’ Conference, wished “the PCSANZ Board to carry out the regular appraisal of prison chaplains”<sup>879</sup> This gesture was significant and it opened the way for a uniform appraisal of chaplaincy site teams in prisons for the first time as well as providing recognition that the Catholic chaplains were accountable to the PCSANZ under the terms of the contract. Following the renewal of the contract between the PCSANZ and the Department of Corrections in 2005, “a warm amicable meeting” took place between representatives of the PCSANZ and the Catholic Bishops’ Conference at which “an agreement satisfactory to both parties had been decided.”<sup>880</sup> The understanding that Catholic chaplains were appointed by and accountable to the Bishop of the local diocese remained unchanged, but there was now recognition that they had accountabilities not only to the Department of Corrections for security matters but also to the PCSANZ for professional performance and maintenance of the contract. This collegiality was fundamental to the development of integrated site teams that took place after 2006.

The initiation of the PCSANZ enabled the development of a closer liaison between Catholic and Ecumenical chaplains. While theological and pastoral reasons caused the Catholic Bishops to retain the right to appoint their own chaplains, they undertook to appoint at least one chaplain to every prison in New Zealand thereby providing for an overall increase in the chaplaincy complement in each institution. More significantly, they also agreed to subject Catholic chaplains to the same management and assessment processes employed by the PCSANZ in the oversight of ecumenical chaplains. As a consequence of this decision, Catholic chaplains became integrated members of site teams

Under their sub-contract agreement with the PCSANZ, the Catholic Bishops received 20% of the total contract price and they were responsible for making the decisions as to how this money was to be distributed among the various dioceses. Originally, most of the Catholic chaplains were members of religious orders and the cost of sustaining them

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<sup>878</sup> Ibid. 12 July 2007.

<sup>879</sup> PCSANZ, (2004). Minutes of meeting 18 November.

<sup>880</sup> PCSANZ, (2006). Minutes of meeting 16 February.

was not as great as that for their ecumenical counterparts. But the Catholic Church has had to face a decline in the number of men and women seeking vocations and currently there is only one ordained priest serving as a chaplain within the PCSANZ. Many current Catholic chaplains are lay people who need to earn an income to maintain family commitments. It remains to be seen whether the Catholic Church will be able to sustain its commitment to provide a chaplain for every prison. The manner in which this issue is resolved will affect not just the functioning of Catholic prison chaplaincy, but also functional relationships within the total operation of the PCSANZ.

### **Prison Chaplaincy at ACRP**

New Zealand's move towards the privatisation of prison services "was influenced by overseas developments driven by overcrowding and was consonant with the move towards corporatisation and the *laissez-faire* economics that had commenced in New Zealand in the 1980s."<sup>881</sup> Oughton noted that the establishment of a private prison

might have been driven from some political quarters and Treasury would certainly have wanted it and the National Party had come in with it as a policy plan, but we had been looking at it very seriously and seeing it as a pretty good option. In fact, the Department of Justice had considered the possibility of prison privatisation as early as 1988.<sup>882</sup>

In 1989 the *Roper Report* stated:

While there is little incentive in New Zealand to experiment with full privatisation we have recommended that consideration be given to private involvement in the provision of separate remand centres (particularly in Auckland).<sup>883</sup>

After the defeat of the Labour Government in 1990, incoming Justice Minister Graham, expressed interest in the possibility of prisons being operated and managed by private contractors. The passing of the Penal Institutions Amendment Bill in 1994 allowed for this to become a reality. Two tenders to build and manage a 275 bed remand facility adjacent to Auckland's Mount Eden Prison were rejected on the grounds that "while one tender had a clearly superior architectural design, the other's operational proposal was better" and as "neither applicant fulfilled the specifications laid down in the tender no contract would be awarded."<sup>884</sup> In 1995, a second attempt was made to call for tenders and a contract to operate the Auckland Central Remand Prison (ACRP) was awarded to Australasian Correctional Management, a subsidiary of the American Wackenhut

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<sup>881</sup> Newbold, *The Problem of Prisons*, p. 223.

<sup>882</sup> Oughton, 20 September, 2007.

<sup>883</sup> *The Roper Report*, pp. 246–247.

<sup>884</sup> Newbold, *The Problem of Prisons*, p. 224.

Corporation.<sup>885</sup> A Labour Government replaced National in 1999 and in 2004 the passing of the Corrections Act prohibited the extensions of any contracts to run private correctional facilities. In July 2005, the contract with GEO expired and “on a question of ideology,” management of the ACRP reverted to state control.<sup>886</sup>

In 1992, the PCAB became concerned about “standards of chaplaincy” in private prisons and this matter was discussed with Workman.<sup>887</sup> In 1999, the PCAB offered its services “if appropriate” for the provision of chaplaincy to the new prison.<sup>888</sup> No further action developed from this initiative, however, as the PCAB had become preoccupied with finalising details of its own contract with the Department of Corrections. Metherell, Inmate Services Manager at ACRP, then advised the PCAB that the new prison was “seeking a chaplaincy co-ordinator” and that he would welcome the “advisory role” of the PCAB in assisting them with this task.<sup>889</sup> He provided the PCSANZ with details of the job description for the chaplaincy position at ACRP, indicating that: “they would be very open to developing contact and a working relationship” with the PCSANZ and “would appreciate representation being on their selection panel.”<sup>890</sup> The PCSANZ in turn confirmed their intention to “take steps to enter into discussion with Australasian Correctional Management PTY Ltd, concerning the provision of chaplaincy services to the new ACRP at Mt. Eden.”<sup>891</sup>

Selection interviews took place and Waikeria Chaplain, Mutu, was appointed to the position at ACRP. The PCSANZ was invited “to be present and conduct the service” for Mutu’s commissioning.<sup>892</sup> ACRP management also expressed a desire to develop protocols for working with the PCSANZ, but no further action was taken regarding this intention. No more mention was made of this matter in PCSANZ records until in November 2004 when it was noted that ACRP would return to the control of the Public Prisons Service in July 2005 and that staff of the prison would come under the direction of the Department of Corrections. Management of chaplaincy reverted to the PCSANZ and by 2006, the ACRP chaplains had been integrated into the wider Mount Eden site team. While there was cooperation between ACRP management and the PCSANZ, this

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<sup>885</sup> In 2004, Australasian Correction Management became known as GEO Group, Australia.

<sup>886</sup> Oughton, 20 September 2007.

<sup>887</sup> PCAB, (1992). Minutes of Meeting, 29 October.

<sup>888</sup> PCAB, (1999). Minutes of meeting 9 December.

<sup>889</sup> Dodge, I. (2000). “Internal Memorandum to Douglas Mansill, Hera Clark, Kelvin Gooder and Tony Clarke. Subject, Auckland Central Remand Prison Chaplaincy,” PCSANZ Archives.

<sup>890</sup> PCAB/PCSANZ, (2000).Minutes of meeting 13 June.

<sup>891</sup> Ibid. 13 June 2000.

<sup>892</sup> PCSANZ,(2000). Minutes of meeting, 28 September.

relationship was never formalised. Mutu and Barrington attended conferences and other events involving PCANZ chaplains and there was mutual co-operation between the ACRP chaplaincy team and their PCSANZ counterparts located in the Mount Eden Prison sites adjacent to the new prison. The ACRP chaplains remained accountable to ACRP management and their chaplaincy provision grew and developed within the unique ethos and culture of that institution rather than that of the PPS.

Oughton considered that in order to operate prisons in a different manner, it had become necessary to break the culture that existed within the PPS. Originally, he had been “opposed to the idea of non-public sector employees having personal responsibility for custodial functions which would deprive a citizen of their liberty and therefore the person was not directly accountable to the minister”<sup>893</sup> He had come to change his mind, however, by observing the way in which private prisons had been administered in Australia, especially at “the remand level where there is no question of guilt.”<sup>894</sup> Effecting changes in the PPS had been very difficult because of its entrenched culture. “In a lot of organizations where penal time and other allowances supplement the basic salary people have no desire to carry responsibility” and they “say to the new recruits don’t take any notice of what you are told at prison training school ... so the job was not about custody,” it was “about making as much money as you can and so human relations and anything like that” was “not part of the deal.”<sup>895</sup> In order to “break that culture you had to start with people who had that non ambition as a key feature of their make-up.”<sup>896</sup>

ACRP had been established with the deliberate intention of providing an alternative to the PPS culture for administering prisons. Metherell observed that the contract with the Department of Corrections “was a really-well developed piece of work by the Department of Corrections. They covered off the aspects that were required for running an effective operation. ... It was quite extraordinary really, the level at which it operated and the things that it achieved. It wasn’t about we can’t do it. It was we will do it.”<sup>897</sup>

Metherell believed that the constructive environment that emerged at ACRP allowed

prisoners who had spent years and years in prison came to notice the difference and realized there was no shame and great gain to be involved in things that developed the person and addressed issues. We had hardened criminals achieving in areas of

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<sup>893</sup> Oughton., 20 September 2007.

<sup>894</sup> Ibid. 20 September 2007.

<sup>895</sup> Ibid. 20 September 2007.

<sup>896</sup> Ibid. 20 September 2007.

<sup>897</sup> Metherell, J. (2007). Oral Interview, 23 November 2007. Auckland.

study and they said this environment has allowed us to put aside all the bullshit and take the opportunities that are available.<sup>898</sup>

He acknowledged that not all of the private prison experiments were perfect. Wackenhut Corporation had made errors in Australia, but they learned by evaluating their mistakes and listening to people.

By the time the contract was signed, the Company was absolutely committed to doing it the New Zealand way not the Public Prisons Service way but having an account of and being responsive to the contract the contract was an absolute centre. If you didn't like it and didn't do it you got sacked. There was no mediation about this.<sup>899</sup>

Metherell said that ACRP provided initiatives that did not occur in Remand Centres operated under the auspices of the PPS. There was a Prisoner Committee at ACRP which was able to have input into the daily running of the prison. Prisoners were remanded to ACRP by the courts to complete drug and alcohol programmes before being released to the wider community once they were completed. "The whole contract became the absolute Bible for ACM" and it "provided an ideal opportunity to say what we need to do that is constructive and identifies and addresses the needs of Prisoners?"<sup>900</sup>

"In that environment, chaplaincy flourished" and chaplaincy became an integral part of the management team's functioning.<sup>901</sup> A Friday morning meeting which all senior staff, including chaplains were expected to attend had become a key part of the routine for implementing the contract. This gathering provided a conduit of information for running of the whole prison and it allowed issues and concerns to be sorted out on a face to face basis. The "flat hierarchy" of management made this possible and if people didn't turn up, questions were asked as to why they weren't there.<sup>902</sup> This implemented accountability and prevented tendencies towards isolation or individualism. ACRP chaplain Heremaia Mutu compared the ACM style of management with that of PPS in this way: "communication was different you only had one manager and there were no in betweens, but it sure made it easier for communication between management and staff."<sup>903</sup>

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<sup>898</sup> Ibid. 23 November 2007.

<sup>899</sup> Ibid. 23 November 2007.

<sup>900</sup> Ibid. 23 November 2007.

<sup>901</sup> Ibid. 23 November 2007.

<sup>902</sup> Ibid. 23 November 2007.

<sup>903</sup> Mutu, 28 February 2007.

Before he transferred to ACRP, Metherell had been Programmes Manager at Mount Eden Prison where he saw Dewes replace the “one on one” style of individual chaplaincy with a team whanau approach. “The private experience” of prison chaplaincy, “was one that was premised on the significant developments in chaplaincy that had been championed by Nehe Dewes” during his time at Mount Eden Prison.<sup>904</sup> ACRP had taken “that gift and” tried it “in a contractual type of approach. There was no conflict. It could be done and it was done ... effectively. We saw a constructive environment emerge.”<sup>905</sup> There was a strong emphasis on Maori culture, spirituality and music, but Dewes had sought to include people of all ethnic backgrounds and treat them with dignity and respect. Metherell believed that was the model of “how chaplaincy in New Zealand Prisons should operate.”<sup>906</sup> ACRP chaplains, Mutu and Eileen Barrington had adopted a similar approach, creating an environment where there was a sense of respect and involvement in Maori culture. Mutu also observed that this was assisted by having “a Maori General Manager at the helm” which “also gave impetus to making your ministry and everyone else’s place successful. The bottom line was that managers wanted you to succeed.”<sup>907</sup>

It is important to note the comments of both Metherell and Oughton, regarding the need to break with long-established administrative cultures within New Zealand Prisons in order to effect change, as well as Metherell’s observations about taking the best of the PPS traditions and reapplying them in a contemporary context. The ACRP experiment was significant because it demonstrated that it was possible to create positive alternatives for prison management and for chaplains to be involved at the centre of prison administration in a contemporary contracting environment.

ACRP was returned to the PPS for ideological reasons, in spite of its successful operation as an alternative model for prison administration. While chaplains and PCSANZ Board members need to retain corporate memory in order to use precedent to maintain their professional practice, they must also be wary of returning to a past that is no longer applicable to the contemporary situation in which they find themselves. The ACRP experiment adopted the best practice of past traditions and allied it with flexibility and a positive approach to the implementation of the prison’s management.

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<sup>904</sup> Metherell. 23 November 2007.

<sup>905</sup> Ibid. 23 November 2007.

<sup>906</sup> Ibid. 23 November 2007.

<sup>907</sup> Mutu. 28 February 2007.

There is much for PCSANZ administrators to learn from this approach as they seek to develop alternative approaches to prison chaplaincy as contracted service providers rather than Public Service employees.

### **Postscript**

During the years 2005 – 2008, the PCSANZ continued to develop its expertise in administering prison chaplaincy services as a contracted service provider to the Department of Corrections. As chaplains who served under the ICAB or PCAB resigned or retired, it became possible to change the prison chaplaincy culture and develop models of service that are more responsive to the contracting regime. Prison Chaplains are beginning to develop new patterns of ministry and worship that reflect the current environment in which they find themselves, rather than continue with the chaplaincy styles that existed under the ICAB and PCAB. Use of management tools such as: the implementation of annual pastoral plans, the employment of Regional Senior Chaplains, the holding of an annual hui for Maori chaplains as well as a National Training event for all chaplains, have helped to create and support chaplaincy initiatives such as the Alpha Unit at Manawatu Prison, the Sailing in Storms programme at Auckland Prison and special initiatives for female prisoners at Arohata Prison.

Church administrators and chaplains continue to become more adept at operating within this system and with the appointment of Department of Corrections Contracts Manager, Ryder, it has also been possible to build a more consistent and stable relationship between the PCSANZ and the Department of Corrections. At the time of writing this study, a new three year contract has been negotiated between the PCSANZ and the Department of Corrections and they will be bound into a contract for service provision to provide chaplaincy services to New Zealand prisons. Past lessons have been learned by Church administrators and extra funding has been acquired through processes of lobbying and bargaining. Attempts have also been made to interpret the schedule of services provided by the PCSANZ in terms that are more readily understood by State officials. Connor's observation was pertinent. "You can't go back. While we have not stood still, nor has the Department. The Department is not the same animal it was five years ago."<sup>908</sup> The indications are that the Union between Church and State to provide

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<sup>908</sup> Connor, 28 December 2006.

chaplaincy services to New Zealand Prisons will continue to evolve and that change will continue to be a constant factor in this process.

## CHAPTER ELEVEN

### PRISON CHAPLAINCY AND CAPITAL PUNISHMENT

The involvement of prison chaplains in the State's legally sanctioned processes for taking human life at executions was a bizarre expression of Church and State co-operation. Prior to 1961 prison chaplains had to provide pastoral care to prisoners on these occasions. The content of this chapter may be offensive and repugnant to some readers. Detailed description of some events has been necessary, however, in order to provide an appreciation of the moral dilemmas that officiating chaplains faced in the conduct of their duties together with the personal impact that they made on them.

The implementation of capital punishment in New Zealand was the responsibility of the State but clergy had a presence at all executions conducted in New Zealand. They were appointed to offer spiritual support according to the practices of the condemned prisoner's church denomination. Although te reo may have been spoken to assist Maori prisoners at some executions, church pastoral and liturgical practices adopted at executions followed those of the colonial churches. When the last execution took place in New Zealand in 1957, the rituals conducted by both Church and State at hangings had become so intertwined, as to be almost indistinguishable.

Ethical and pastoral dilemmas arose for chaplains as a consequence of their involvement at executions. Their physical presence however, was important for the support of condemned prisoners during the final hours of their existence. With the abolition of capital punishment in 1961, chaplains no longer had to support prisoners at hangings, but the legacy left by the use of capital punishment has continued to affect the pastoral practice of chaplains at prisons such as Mount Eden, to the present day.

#### **Capital Punishment in New Zealand 1840-1961**

Newbold observed that

the roots of New Zealand's criminal codes and its approach towards capital punishment lie in Victorian England. When the territory was annexed to the British Crown by the

Treaty of Waitangi in 1840, it inherited much of England's law and the Westminster system of government.<sup>909</sup>

English common law applied in New Zealand until 1893 when New Zealand passed its own Criminal Code Act which made the offences of culpable homicide, high treason and piracy punishable by death.

Death was the mandatory sentence for those convicted of murder between 1840 and 1961, except for nine years between 1941 and 1950 when the Labour Government abolished capital punishment and replaced this sentence with that of imprisonment with hard labour for life. Other capital offences remained, however, until in 1989, the Abolition of Death Penalty Act finally removed treason, mutiny and treachery in the Armed Forces as offences that could be punishable by death. In 1842, Wiremu Maketu was the first person to be hanged in New Zealand after the signing of the Treaty of Waitangi. Eighty-five executions took place in New Zealand between 1840 and 1961 before the death penalty for murder was abolished in 1961 following a free vote by Parliament. Initially executions took place in public, but with the passing of the Execution of Criminals Act in 1858, this practice was abolished and all hangings took place inside prisons. Almost half of the executions carried out in New Zealand between 1840 and 1961 took place in Mount Eden Prison. Of these 85 executions, 84 were for murder and one was for treason and only one involved a woman, Minnie Dean, who was executed at Invercargill in 1895.

In New Zealand, hanging was the method of execution used to carry out death sentences. In 1874, Britain's principal hangman, William Marwood introduced the "long drop" to bring about instant death by dislocation of the cervical vertebrae instead of strangling. A metal slip ring instead of the traditional hangman's noose was also devised to aid the effectiveness of this process and in 1880 the British Home Office issued a "Memorandum upon the Execution of Prisoners" which was forwarded in hand written form together with illustrations for use in New Zealand. The memorandum pointed out that "death by hanging with a long drop ought to result from dislocation of the neck, or nervous shock."<sup>910</sup> These instructions also provided advice regarding the rope to be used for the hanging drop, (its construction and length to weight ratio),

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<sup>909</sup> Newbold, *The Problem of Prisons*, p. 89.

<sup>910</sup> British Home Office, (1880). "Memorandum upon the Execution of Prisoners by Hanging with a Long Drop," Circulars on Capital Punishment ID17282. p.1. Attempts were made to locate a copy of this document within New Zealand archival sources without success. The copy of this memorandum was provided by the Queensland State Archives.

procession to the scaffold, pinioning of the condemned prisoner, provision of spiritual assistance; correct way to place the noose, time that was to elapse before the body was taken down, and the best way to remove the body after the hanging had occurred.

In 1883, these instructions were codified into the Criminals' Executions Act and a revision of these instructions was issued in the Criminal Code Act of 1893. The Crimes Act of 1908 brought the provisions of these two Acts of Parliament into one consolidated statute.

Young described the processes involved in conducting executions in some detail, including the use of several portable scaffolds that were transported between prisons for this purpose and a silver painted apparatus known as the "Meccano Set" which was placed permanently at Auckland in 1950 after the Government decided that all executions should take place at Mt. Eden Prison.<sup>911</sup> Not all executions were conducted in an efficient manner and on a number of occasions the person being executed, suffered a prolonged death by strangulation as a consequence of errors made by the hangman or the malfunctioning of the scaffold. From the moment that the Executive Council confirmed the death sentence for a prisoner, a death watch was instituted ensuring that: the light in the condemned man's cell was kept going permanently; daily health checks took place to determine his size and weight so that the prescribed "table of drops" could be observed for an instantaneous death, and a prison officer remained with the prisoner at all times "lest justice be frustrated" by the condemned man committing suicide.<sup>912</sup> Prison staff who had sat on the death watch with the prisoner did not attend hangings as they had become well acquainted with the man who was about to die. Other prison officers who had volunteered, were appointed to this duty.

From 1950 onwards, all the preparations for executions were carried out by prison staff, except for the duties of the hangman. This position was publicly advertised and approved by the Police, the executioner receiving a fee of fifty pounds tax free, for the carrying out his duties. After 1950, the scaffold was placed in a small yard at the end of the East Wing of Mount Eden Prison. Prior to an execution, tarpaulins were spread above a wire mesh cover to prevent unauthorised observation. All hangings took place at night and other prisoners were locked away after 5.00 p.m. in order to permit

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<sup>911</sup> Young, S. (1998). *Guilty on the Gallows*, pp. 13-15.

<sup>912</sup> Engel, P. (1977). "The Abolition of Capital Punishment in New Zealand 1935-1961," Thesis, Master of Arts. Auckland, University of Auckland, p. 5.

uninterrupted preparation for the event. After 1950, the condemned man was given notice that his execution would take place within three weeks, but he was not told the precise date when this would occur as this was thought to be more humane. This secrecy also made it easier for the hangman to enter and exit the prison and it prevented members of the condemned prisoner's family and the general public from gathering outside the gaol on the appointed day of any hanging. An hour before the execution took place the prisoner was taken to another cell and at the appointed time prison staff

pinioned the offender, accompanied him to the scaffold and placed him on the correct position on the trap door. The hood was placed over the prisoner's head and the rope placed around his neck. The hangman awaited the signal from the Sheriff, who gave it with the hand holding the warrant. No bell was rung in the 1950s but a black flag was flown.<sup>913</sup>

Following each execution, the white hood was taken away and washed in preparation for future use.

Capital Punishment was abolished in New Zealand with the passing of the Crimes Act of 1961. Robson noted that a review of punishment meted out for murders in the preceding twenty-five years created injustice in that the use of executions depended on which ever political party was in power at the time. Some very bad murders had occurred between 1936 and 1949 when the Labour Government was in power and the perpetrators of these offences had their sentences commuted to life imprisonment. Newbold commented that suspension of capital punishment between 1936 and 1949 "was an extension of Labour's liberal/humanitarian philosophy"<sup>914</sup> and Robson observed that others whose "crimes shocked less, but who happened to commit them between 1951 and 1957 had been executed."<sup>915</sup> In support of Robson's contention, Belich was of the opinion that "half of the eight executions of the 1950s occurred in 1955" and that the use of "capital punishment appears to have increased as a direct response" to "moral panics about hooligan and larrikin boys" that took place in New Zealand in the early 1950s rather than any actual increase in criminal offending.<sup>916</sup> As the debate to abolish capital punishment neared within the House of Representatives in 1961, Robson, as Secretary for Justice, had real concerns that this legislation would not attain the majority of votes necessary for it to be passed and he advised the Minister of Justice the Honourable J.R. Hanan accordingly. Robson realised that additional support was needed from within the public domain and from the Churches of New Zealand in

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<sup>913</sup> Young, *Guilty on the Gallows*, p. 14.

<sup>914</sup> Newbold, *The Problem of Prisons*, p. 241.

<sup>915</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 157.

<sup>916</sup> Belich, *Paradise Reforged: A History of the New Zealanders*, p.505.

particular, in order to achieve his goal of abolishing capital punishment. To this end, he consulted with the NCC Senior Chaplain, the Reverend E.S. Hodinott and his Roman Catholic counterpart, the Reverend Father Downey, the latter having attended executions at Mount Eden Prison in his capacity as chaplain. As a group, prison chaplains do not appear to have given high profile support to the abolitionist cause, but Robson knew that both Senior Chaplains were opposed to the use of the death penalty. Robson recalled that

it was not for me to suggest lines of action to them, but from time to time I gave them some indication of the way that policy was developing. They were in touch with their own chaplaincy groups and also the organisations within the church world and beyond. The fruits of their work and that of other likeminded people became evident as the months passed.<sup>917</sup>

As a public servant who opposed the use of capital punishment, Robson was able to turn to the Senior Chaplains to engage the support of their Church constituencies to influence the Members of Parliament who were preparing to vote on this contentious public issue. He was well aware of the potential that existed in churches for shaping public opinion and he used the chaplaincy as resource to help implement his goal of abolishing capital punishment. By working together over this issue, Church and State administrators played a key part in shaping the final outcome of the vote in Parliament. As a consequence of these discussions, the Very Reverend J.S. Somerville, the Moderator of the Presbyterian Church in New Zealand, issued a statement which was published in the *Dominion* of 26<sup>th</sup> July which claimed that “society was apt to lose its sense of balance and forget the damage it was doing to itself in allowing this barbaric custom to continue.”<sup>918</sup> In August 1961 the Anglican Church issued a statement calling for the “abolition of capital punishment in all cases,” while the Methodist Church considered “that it was doubtful whether capital punishment was a greater deterrent than a long term of imprisonment.”<sup>919</sup> Only the Catholic Church appeared to be ambivalent to the ground swell supporting the abolition of capital punishment, although some Catholics actively associated themselves with abolitionist groups within the wider community. Engel noted that

the individual Catholic was not committed by his faith to make a stand either way on capital punishment. Provided he did not deny the right of the State to exact the death penalty in just conditions. Official Catholic opinion, therefore could not repudiate this principle by giving open support to an abolitionist movement. In a pre-ecumenical age too, the Church was rarely to be found publicly aligning itself with others on socio-moral questions.<sup>920</sup>

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<sup>917</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 161.

<sup>918</sup> *Ibid.* p. 161.

<sup>919</sup> *Ibid.* p. 161.

<sup>920</sup> Engel, “The Abolition of Capital Punishment in New Zealand,” p. 84.

After the passing of the Criminal Justice Act in 1961, Robson commented: “I think that the significant thing is that abolition was carried under a Government of the right and I do not think we will be bothered with it at least during my official life-time.”<sup>921</sup>

### **The Moral Dilemmas**

Consideration of a prison chaplain’s involvement in the processes of capital punishment and its employment as a State sanctioned punitive measure, needs to be considered in the context of the moral dilemmas associated with its use. Historically, both proponents and opponents of capital punishment have held strongly conflicting views which have often been complicated by the “confusion of both moral and pragmatic arguments, used frequently with a degree of inconsistency by both parties.”<sup>922</sup>

The primary argument in favour of capital punishment rested on two main principles: retribution and deterrence.

This retributive element is given simple expression in ‘A life for a life.’ Legal punishment for murder grew out of attempts to limit vendetta justice. There is a sense that the crime must be expiated and therefore it is not sufficient that the criminal simply die; he must be put to death ritually by the state in the name of the people. A prisoner who commits suicide is somehow felt to have ‘cheated the gallows.’<sup>923</sup>

This principle could be carried to bizarre extremes. In 1955, Frederick Foster was admitted to hospital suffering from appendicitis a few days prior to his execution date to prevent a worsening of this condition. He was then returned to the prison and hanged several days later even although “the wound had not healed when he was hanged.”<sup>924</sup>

A more primitive expression of the retributive principle was contained in the idea that the criminal, was a menace to society, and therefore ought to be exterminated because there was a real danger that a convicted murderer could re-offend in a like manner upon release from prison. In more contemporary arguments, however, supporters of the death penalty have based their case on the notion that its use provided a strong deterrent for murder and that imprisonment for a very long period of time can actually be an even more cruel punishment than the use of the death penalty. Dallard was of this opinion when he stated that

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<sup>921</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 170.

<sup>922</sup> Engel, “The Abolition of Capital Punishment in New Zealand,” p. 4.

<sup>923</sup> *Ibid.* pp. 4-5.

<sup>924</sup> MacKenzie, *While we have Prisons*, p. 80.

when abolition was mooted, a full life sentence without remission was suggested as an alternative to capital punishment. A living death in other words and considered by many to be more horrible in its suffering than death itself.<sup>925</sup>

The moral and religious arguments against the use of capital punishment focussed on a tenet that was not heeded in the use of the death penalty; namely, that reform was one of the main aims of punishment. Further, abolitionists also argued that a correct understanding of the Old Testament principle of *lex talionis*, in fact provided a significant argument against the use of capital punishment. Engle observed that

the abolitionist counters the ‘eye for an eye’ doctrine by pointing out that even in its Old Testament context it is intended as a limitation on private vengeance rather than as a licence.<sup>926</sup>

Abolitionists of the death penalty argued that if there was a risk of even one innocent person being wrongly executed, then nothing could justify its use. Robson supported this view by quoting the view of Archbishop Temple: “if the state held life sacred, it would express this better by refusing to take life in any circumstances than by taking it to prevent others from doing so.”<sup>927</sup> Further, it was also argued that the crime of murder had rarely been that of the professional criminal but “an incident in miserable lives” and “mental instability is a most frequent factor in the crime of murder.”<sup>928</sup> Former Prison Superintendent Rae Bell’s experience would provide support for this contention. As a junior prison officer, Bell was assigned to sit with James Bolton at Wellington Prison prior to his transfer to Mount Eden Prison for execution. He spoke of this experience as follows:

There was a particular cell set aside at Mount Crawford where they were supervised twenty four hours a day and I did one shift with the last man to be hanged in New Zealand, James Bolton. I recall well, he had no shoes on. His belt was taken from him and there was a toilet seat in the corner that he could use. It was a sparse room. In the course of that night I got talking to him quite well and I got an understanding that there were too many question marks about this man from what he told me of himself. He struck me as being honest and a very brave man who had been in a difficult family situation. ... Years later evidence came out that could have changed the whole hearing.<sup>929</sup>

In practical terms, the abolitionist argument could be summed up by the following statement:

However carefully the death penalty is inflicted, a State execution is a repulsive proceeding. Capital Punishment is objectionable because, first, contrary to the modern developments of penal reform, it abandons the possibility of reforming the murderer, secondly being irrevocable, it gives no opportunity for reversing a wrong

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<sup>925</sup> Dallard, *Fettered Freedom A symbiotic Society or Anarchy?* pp. 120-126.

<sup>926</sup> Engel, “The Abolition of Capital Punishment in New Zealand,” p. 6.

<sup>927</sup> Robson, *Sacred Cows and Rogue Elephants*, p.92.

<sup>928</sup> Engel, “The Abolition of Capital Punishment in New Zealand,” p. 6.

<sup>929</sup> Bell, R. (2007). Oral Interview, 9 March 2007. Christchurch.

sentence, thirdly, it places a hateful duty on all who take part in an execution, fourthly it lowers the moral standard of the whole community.<sup>930</sup>

Engel noted that it would “be impossible to do justice to the depth and range of the capital punishment controversy” in New Zealand but that this was given full coverage in the three full parliamentary debates on this matter that took place in the House of Representatives in 1941, 1950 and 1961.<sup>931</sup> During these debates, both sides in the controversy sought to place the burden of proof on the other. Each party employed non proven arguments based on moral principles and alleged empirical premises to support their respective opinions. Ultimately, however, the abolition of the death penalty in 1961 did not depend on some universally accepted and unchanging moral principle but rather on a growing sense among politicians that the issue of capital punishment had to be settled once and for all. As Newbold commented: “There was a powerful feeling in Parliament that whatever the outcome, a matter as serious as capital punishment should not be subject to the oscillation of party politics. One way or another, a permanent solution should be reached.”<sup>932</sup>

Awareness of the parameters of this debate is an important factor in considering prison chaplains’ participation in the rituals associated with the carrying out of executions prior to 1961. The question as to whether prison chaplains sanctioned the repressive policies and systems of the State by their presence in prisons was a constant moral issue for prison chaplaincy and their involvement in the processes of capital punishment became an extreme expression of this dilemma. Historically, not all prison chaplains were opposed to the use of the death penalty. For instance, Stock was recorded as saying: “I believe capital punishment is a deterrent,” when he made his submission to the 1878 Gaols Committee’s investigation into the conditions in New Zealand Prisons.<sup>933</sup> Whatever the personal beliefs of prison chaplains, however, their involvement in the provision of spiritual, ministry to prisoners at executions entailed a highly distressing, stressful and bizarre working out of the Church State relationship. With the possible exception of military chaplains, prison chaplains were unique in having to come to terms with the issue of legally sanctioned executions.

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<sup>930</sup> Robson, *Sacred Cows and Rogue Elephants*, p. 92.

<sup>931</sup> Engel, “The Abolition of Capital Punishment in New Zealand,” p. 4.

<sup>932</sup> Newbold, *The Problem of Prisons*, p. 251.

<sup>933</sup> AJHR. I.4. p. 33.

Young recorded that from the time of the first hanging carried out in New Zealand in 1842, the State Authorities recognised need for prisoners to have spiritual direction, comfort and support at this critical moment in their lives:

Spiritual advisers had a significant role in the last days of those who were facing death on the scaffold and quite a lot has been written about the efforts they made to assist their charges at that time. Few of those condemned were unaffected by these efforts, even if they were not prepared to respond in the way the clerics hoped they would. Probably the clergymen were offering them the example of the two criminals who were crucified with Jesus Christ, one of them acknowledged his wrong doing. On seeing his sincerity, Jesus told him “today you will be with me in paradise”. (Luke 23:43)<sup>934</sup>

If chaplains had not been present at these occasions it is unlikely that this pastoral care would have been available from other sources and prisoners would have had to face these last days and hours of their existence without this support. Yet, by being present and actively participating in the processes of executions, clergy, who were committed to the spiritual well-being of prisoners and the enhancement of the quality of their existence, were also seen, at least by implication, to be aiding and abetting the termination of life, even though this action was sanctioned by legal statute.

The following words written by Downey reflected these moral dilemmas and incongruities that chaplains had to face by their presence at executions. Citing Psalm eighty-eight he wrote that

I am numbered with those who go down to the abyss and have become like a man beyond help, like a man who lies dead or the slain who sleep in the grave, whom thou rememberest no more. I am in prison and I cannot escape. Thou hast taken lover and friend far from me and parted me from my companions.<sup>935</sup>

Downey then provided this personal observation:

When an execution was decided upon, the first one to be told, in secret, was the chaplain. Why? “I want this thing to go without a hitch –so do your stuff.”

Without a hitch indeed they went. The select audience would be conducted immediately after to the Superintendent’s office for whisky, provided of course by the Treasury.

“Go without a hitch.” Yes, no panic, no false “goes,” a nice neat job. No one but the Lord, the man and the chaplain knew why these executions went without a hitch. For three weeks, the chaplain was hardly ever far from the one, soon to be united “with lover, friend and companion.” These man walked up these seventeen steps, with the chaplain on their right side-there was a strength, a calm which made it all look and sound to be “a nice neat job.” The last words heard from the body dropping at the gallows were words of prayers, cut short in the eerie night silence: Good show-it all went without a hitch.”

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<sup>934</sup> Young, *Guilty on the Gallows*, p. 16.

<sup>935</sup> Downey, (1977). “More Than a Father Christmas or a Brownie.” *New Zealand Prison Chaplains’ Association Magazine*. September 1977. No. 10. p. 23.

Chaplains ... are pastors who are privileged to go into the pit,-to see Christ peeping out somewhere, in all who are now in prisons, but who no longer “are beyond help, like men who lie dead, or the slain who sleep in the grave.”-They are in good company-“for I was in prison.”<sup>936</sup>

## The Impact of Executions

The impact of executions on the physical, mental and spiritual well being of prison staff, chaplains and other people who were involved with them, was considerable. Horace Haywood, Superintendent of Mount Eden prison from 1951 to 1963, had these observations to make on this matter:

Commenting on the executions that have taken place over the last few years, my impressions are that there certainly is strain. There must be, or we would not be human. There is strain on everyone in the prison, to some measure or degree. Some of us can put on a bold front and cover up our feelings but all men are not built the same. However, it does have its effects, whether they are shown or not.<sup>937</sup>

At a more specific level, the impact of hangings seemed to vary considerably, according to the section of the prison demographic to which one belonged. Newbold observed that

the effect of these ghoulish proceedings on inmates is difficult to assess. Certainly the majority were against capital punishment, but they were remarkably acquiescent about it. A collective sense of political, social and even moral commitment to one another was only weakly developed among maximum security prisoners in the 1950s. There had been some resistance to assisting with the scaffold and attending films when hangings were scheduled. And there was some banging on doors afterwards. But there was no effective, organised action, and as far as inmates were concerned, routine was very quickly restored.<sup>938</sup>

It appeared that some prisoners were “more troubled by executions than others, but feelings remained fairly personal.”<sup>939</sup> MacKenzie recorded that the proximity of the scaffold to the prison had a “general effect on the prison population” as it allowed prisoners to see its vague outline through the window of the east wing.<sup>940</sup> Further, during an execution, the loud metallic clang of the gallows trap doors would ring out through the prison as they struck scaffold supports.

This was the signal for a noisy demonstration from the whole inmate population who knew that the condemned man was at that moment twitching in his death throes. It was an intolerable moment for men who had for several weeks identified with him and to whom he had become a focus of pity.<sup>941</sup>

Apart from prison personnel, the hangman and the doctor, a limited number of spectators were permitted to attend executions. Justices of the Peace, Police

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<sup>936</sup> Ibid. pp.23-24.

<sup>937</sup> Ibid. p. 154.

<sup>938</sup> Newbold, *The Problem of Prisons*, p. 247.

<sup>939</sup> Ibid. p.247.

<sup>940</sup> MacKenzie, *While we have Prisons*, p. 76.

<sup>941</sup> Ibid. p.76.

representatives, newspaper reporters could attend as witnesses and the condemned prisoner was permitted to request that a minister of the denomination of his choice could be present at this time. For non-institutional personnel, the impact of the hangings was also various. Newbold noted that: “one Justice of the Peace attended every one. He was studying their psychological habits.”<sup>942</sup> On the other hand, Mackenzie described how between 1951 and 1957, “three sheriffs between them took the responsibility for the conduct of eight executions”<sup>943</sup> and each of them was adversely affected by events. “Two of them went sick the day after an execution and were ill for some time. One became seriously ill, but both suffered from shock and from ailments often attributable to overstrain, a duodenal ulcer in one case and hypertension in the other.”<sup>944</sup> On another occasion, one suffered a physical collapse at an execution and had to be supported by two prison officers while he performed his duty. Another is reported to have so dreaded executions that he began turning up to them in a state of intoxication and each of these officials took sick leave for up to four months after an execution, suffering from symptoms of shock, anxiety, nervous exhaustion and duodenal haemorrhaging.

Mackenzie also recorded that he became well acquainted with Frederick Foster and when “his time arrived he grieved for him as a close friend.”<sup>945</sup> As a consequence, MacKenzie also decided however, that in future similar situations he would “maintain a more detached stance.”<sup>946</sup>

Chaplains were no less affected by executions. Newbold, citing an interview with Father A.H. Hyde who was parish priest at St Benedict’s Catholic Church, noted that

there was reluctance among the clergy to attend to the condemned, because of the terrific emotional stress it imposed upon them. They had to be pressured into doing their share of what they clearly considered to be an unpleasant duty. Father Leo Downey, Director of Catholic Social Services and a man of great strength and compassion, counselled all four men who requested Catholic instruction before their deaths. Downey insisted that no Padre should ever go to a hanging alone. Father Hyde saw two and he described them as the most unnerving experience of his life. The morning after, Hyde was so distressed that he was unable to stand up straight when he got out of bed. It took him a week or two to get over the impact.<sup>947</sup>

Prison officers and Superintendents also had a mixed reaction to hangings. Newbold recorded that after 1950: “opinion among prison staff was divided about 50/50 on

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<sup>942</sup> Newbold, *The Problem of Prisons*, p. 248.

<sup>943</sup> MacKenzie, *While we have Prisons*, p. 76.

<sup>944</sup> *Ibid.* p.76.

<sup>945</sup> *Ibid.* p. 80.

<sup>946</sup> *Ibid.* p.80.

<sup>947</sup> Newbold, *The Problem of Prisons*, p. 248.

capital punishment, but tended towards abolition as the number of executions rose.”<sup>948</sup> Prison officers selected for this duty were chosen for their reliability and stoicism and they took the view that there was nothing personal in doing this; they were simply carrying out the sentence of the court. They were quickly replaced, however, if they showed signs of nervousness. It was not unusual for prison officers to gain intimate and personal knowledge of the condemned prisoner over the period of the “death watch” and frequently they developed considerable empathy for him. MacKenzie noted that

in the two or three weeks he had to live, for twenty four hours a day he was attended in a small cell by three different officers, each in eight hour shifts. Never alone, sleeping or waking, eating washing or defecating, always within an arm’s reach of a stranger who sat there detached, bored but morbidly curious and emotionally sated. Here was a living, healthy man who would certainly be dead by 7 p.m. one day soon.<sup>949</sup>

MacKenzie also commented on the effect of hangings on otherwise decent prison officers who had to participate in hangings.

One of these was a senior prison officer whom it would be hard to fault in conduct and bearing and in his normal compassion for men in his charge. Yet when Foster stood petrified on the scaffold, refusing to raise his chin for the rope, this officer stuck his two fingers in Foster’s eyes to force his head back – and boasted about it later. When Bolton’s body, washed of its waste material, was brought upstairs to the washing room and laid naked on a makeshift stretcher, the officer grabbed the dead man’s penis, saying with obscene levity that never again would he ‘dip’ it into a woman. The guilt and shame of hanging brought out the worst in him, and in everyone.<sup>950</sup>

Former Police Officer William Brien was a nineteen year old constable when he was required to attend the hanging of James Bolton as part of his official duties. He described how he reported for duty at Mount Eden Police Station one afternoon and was informed that he was to be one of the Police witnesses at the execution of James Bolton that was to take place later on that same day. He had “no idea in the world” that when he started his one to nine shift that he would be going to an execution and it came as a “big shock” to him and it was “something that worried me for a long while, I have to say.”<sup>951</sup> He remembered that Bolton remarked on a damaged door frame that would need to be fixed as he left his cell to be executed. Brien recorded he felt “uncanny” about the whole thing and questioned himself: “what’s this all about? I really felt quite bereft about it for a long time.”<sup>952</sup> Brien also spoke of older prison officers who were “quite tough and hardy” who tried to scare “a young constable” with accounts of

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<sup>948</sup> Newbold, *The Problem of Prisons*, p. 249.

<sup>949</sup> MacKenzie, *While we have Prisons*, pp. 79-80.

<sup>950</sup> *Ibid.* p.83.

<sup>951</sup> Brien, W. (2007). Oral Interview, 12 November 2007. Wellington.

<sup>952</sup> *Ibid.* 12 November 2007.

previous hangings and he indicated that he was also told about the behaviour of the senior prison officer at Foster's hanging mentioned in the previous paragraph.<sup>953</sup>

It was the Prison Superintendent, however, who carried the greatest burden regarding the entire ritual of executions. He was in close contact with the condemned man and his family from the date he was sentenced to the time when his body was taken from the institution after his death. Newbold noted that "he thus had no escape from their anguish, their pleading and their suffering."<sup>954</sup> Horace Haywood, the Mount Eden Superintendent during the 1950s, was responsible for relaying news of a reprieve if it was granted as well as informing the condemned prisoner that he would face the gallows within fourteen days once the sentence was confirmed. He was also responsible for preparing the prisoner for death, having him transferred to the death cell, the pinioning of the limbs, the positioning of the noose and the fitting of the hood on the evening of the execution. Haywood made no secret of his abhorrence of executions and

while he always adopted a show of bravado the effect on him was all too apparent. He became and looked, a lonely, ageing man, carrying a burden that grew heavier as days passed. It usually took him several weeks to become his old self.<sup>955</sup>

Consumption of alcohol was permitted for the use of the hanging party after the execution was completed and the custom was for those present to gather in the Superintendent's office for a much needed drink. In the latter days of Haywood's career, it was believed that he developed a drink problem as a consequence of his involvement with these executions. An un-named official summed up the total impact of executions on members of the prison community in this way:

Each execution was attended by tension which mounted throughout the institution as the day and the hour approached. But it was noticeable to me that the tension was less each time. There seemed to be a growing acceptance among the inmate population. The tension and anxiety among those who had to carry it out grew no less, however, and the effect on the Superintendent was cumulative. To myself and some others on the staff, it appeared that we were participants in an unreal and ghastly drama.<sup>956</sup>

It is difficult to assess how much pastoral support chaplains were able to offer people who were involved with executions, but none of the data examined for this study makes any specific mention whether this took place. The main focus of the chaplain's attention seemed to have been on providing spiritual support for the condemned prisoner.

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<sup>953</sup> Ibid. 12 November 2007.

<sup>954</sup> Newbold, *The Problem of Prisons*, p.250.

<sup>955</sup> Ibid. p.250.

<sup>956</sup> *Crime in New Zealand*. p.71. Similarities of data provided in *Crime in the Community* and *While we have Prisons*, would indicate that this official was MacKenzie.

## Ministry to the Condemned Prisoner

The task of the prison chaplain was to prepare the condemned prisoner for his fate prior to his execution. Providing spiritual comfort, solace and support to condemned prisoners was arguably the most harrowing and difficult of any task that was undertaken by prison chaplains. Spiritual advisors were usually present with the condemned prisoners as part of the total ritual that took place at these events and after 1880, the British Home Office circular “Hanging with a Long Drop” provided guidelines as to how these clergy were to carry out their duties.

Where the convict professes the Christian religion and the services of a chaplain of a suitable denomination are available, the chaplain shall attend to the condemned cell and his place in the procession behind the governor and in front of the convict. In the discharge of his duties he will be guided by the rules and usages of the church to which he belongs.<sup>957</sup>

In all of the twenty cases considered by Young, clergy were involved prior to, during and in some instances, following these executions. Chaplaincy practice seems to have varied according to the denomination concerned, but it included: prayer and counselling support; provision of a physical presence as a friend and comforter; dispensing the sacraments; reading the burial service, prayers or scripture passages immediately prior to or during an execution; ensuring that the body was disposed of appropriately after the execution and on occasions, conducting a burial or cremation service for the deceased prisoner. These duties were generally carried out by local clergy, who were either serving chaplains or appointed specifically to this task and there were instances when they officiated at the hanging itself fully clad in their vestments. MacKenzie noted: “that the 1891 regulations described executions as a ‘vindication and a deterrent’ and should be carried out with due solemnity and decorum without any hitch whatever or unwarranted incident.”<sup>958</sup> He also observed that it was “customary for the chaplain to read the burial service as the procession proceeds to the scaffold and to complete his ministrations before the final signal is given.”<sup>959</sup>

Chisholm made no mention of Torrance’s presence at executions at the Dunedin Gaol, but Parry noted that as gaol chaplain, he “was also required to attend executions and offer spiritual comfort to the condemned. Fortunately for him the hangman and the

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<sup>957</sup> “Hanging with a Long Drop,” p. 2.

<sup>958</sup> MacKenzie, *While we have Prisons*, p. 76.

<sup>959</sup> *Ibid.* p. 76.

gallows were infrequently called into service.<sup>960</sup> Chisholm recorded other facets of Torrance's ministry in considerable detail, but it is not known why he chose to remain silent regarding Torrance's involvement at executions or his attitude towards capital punishment.

Moreton was present as officiating chaplain at the hangings of John Edwards and William Bayly and he described the emotional impact both on himself and others who were present at these two executions. He visited Edwards, participated in his execution "vested in cassock, surplice and purple stole" and conducted the burial service for him after his execution. Concerning Edwards, Moreton wrote: "I didn't know whether Edwards was sane" and "in a few days the full bodied creature before me would look at the sky no more—it was a terrible, awesome thought."<sup>961</sup> Moreton also said that Bayly, seemed to be self-composed and "perfectly cool and natural" and yet he (Moreton) "felt my heart galloping; my nerves were in shreds as we walked beside the slim, self-composed figure."<sup>962</sup> At Bayly's execution, Moreton read the 130<sup>th</sup> Psalm on the walk to the gallows. He then described "the faces of the official spectators—white, grey, some tinged with the green of sickness" that "gazed at us from the yard below;" the giving of a final blessing immediately prior to the hanging itself and scattering Bayly's ashes on the afternoon following the execution at Waikumete cemetery.<sup>963</sup> Both of these experiences were obviously abhorrent for Moreton.

One of Moreton's successors, Captain S.R. Banyard of the Anglican Church Army also wrote of his experiences as a prison chaplain at executions:

I have sat and talked with them of spiritual and family things, carried out some of their last wishes, helped with their final letters, purchased for them their farewell gifts for loved ones and have marvelled once all hope has gone, at their calmness, the latter helped by tranquilisers. I have followed and helped to carry the body to an outside cemetery or crematorium and been responsible for handing over the deceased's 'effects' to the next of kin.<sup>964</sup>

In 1974, Banyard also commented to Roberts:

I was against hanging. I could see no sense in it. How I felt was simply terrible. You can get used to most things, but this is a thing you can't get used to. ... The man's thoughts about himself, his thoughts about his family, his thoughts when he cried out "what are my children going to think about this when they grow up." All these things were around me the whole time. This went with the bitterness or sorrow of the man.

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<sup>960</sup> Parry, *Patients, Prisoners and Progress*, p. 5.

<sup>961</sup> Harcourt, *A Parson in Prison*, pp. 238–239.

<sup>962</sup> *Ibid.* pp. 244–245.

<sup>963</sup> *Ibid.* p.246.

<sup>964</sup> Banyard, S.R. (1957.) "Gallows or Cross," *Mission Magazine (Auckland City Mission)*, October 1957, p. 41.

... You're glad you have an opportunity to go into the cell, but you always come out with a sigh of relief.<sup>965</sup>

Downey was the officiating chaplain to four of the last five men to be executed in Mount Eden Prison. Former Senior Prison Chaplain, Father Peter McCormack, was a close friend and confidant of Downey's and he had regular contact with him in the 1960s and 1970s. McCormack observed that Downey was opposed to capital punishment as it militated against the fundamental beliefs and practices of his ministry. As a Catholic Priest, Downey believed that an important part of his role was to try and help people work through reconciliation processes. He frequently had to deal with the tragedies of life, but "to have to deal with the brokenness of people who had gone a step too far in those days when hanging was still the object of serious crimes like murder, no matter how much you prepared the person for dying, you were left with having to pick up the pieces which no-one else was prepared to undertake."<sup>966</sup> This was especially so in dealing with the family of the condemned man and "having to explain things to them."<sup>967</sup>

Prior to an execution, Downey would sit with the condemned man in his cell offering basic spiritual support and reading scripture, including "Our Father" and the Rosary although the Catholic prayers for the dying couldn't be said until the time of the last anointing after the hanging took place. Downey described his ministry to the condemned prisoner over the final three weeks of his life:

I spent time with the man both day and night. I instructed the man in the faith, played cards, smoked, prayed, and talked about God, his life. They all asked me for a description of what would happen at the time and I would explain it to them.

I tried to live life with the condemned man and centre everything on Christ. On the day of the execution, about two hours before the actual time, when the prisoner was in the yard with me, the Superintendent would come and tell the man that it was to take place that evening. He would then have his meal in his own cell. I would talk with him and pray. This was the worst moment for me as a chaplain. After an hour in his cell we went to the death cell below ground level. There I had a crucifix with two candles. There we would pray and I would administer the mass. I would then sit him down and give him another smoke. He would be given an injection and then the guards would come and strap him up pinning his arms.

Five minutes before the execution time the bailiff would come in and demand the body of the accused. I always gave him a cross. I would walk with him from the death cell to the gallows. We climbed the seventeen steps. I was next to him frightened as hell. It was as if something was pricking my heart. I kept on praying

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<sup>965</sup> Roberts, "Prison Chaplaincy in New Zealand," p. 31. Quotation drawn from a personal Interview that Roberts conducted with Banyard on 6 March 1974. The original tape of this interview was handed to the Justice Department and has subsequently been lost.

<sup>966</sup> McCormack, 16 June 2007.

<sup>967</sup> Ibid. 16 June 2007.

and he would join in. Then he was blindfolded. The door would open and he would fall. Often his last words of prayer would waft up.

I would then go down and get a step ladder to anoint the body with oil and give a blessing. That was a poignant moment for me.

I'd go home and have a couple of tablets. I'd commit the body for burial next day at Waikumete Cemetery.<sup>968</sup>

McCormack commented about Downey's ministry to condemned prisoners:

The fear of actually knowing that you were going to be going through the trap door was enough, Leo used to say, what more can you actually do for people when you are with them than try and give them the human support that somebody loves them, understands where they have come from, also understands hopefully where they are going to and that these people have got nothing left now than to do than to be honest about themselves and to work with that. That was Leo's philosophy in the way he dealt with that. He didn't linger too much on the impending death but the support that was required that people had made a reconciliation and there was a lot about God's love and support.<sup>969</sup>

Downey also had to deal with a peculiarly bizarre situation that arose out of the Canon Law of the Catholic Church and which has since been altered. As a chaplain, he was required to anoint a prisoner's dead body immediately after an execution. The doctrine of *pericolo mortis* stated that a person could be anointed before they died, but they had to be in danger of death through sickness. "If you were in danger of dying, then that was the time to call in the priest and give the anointing. The power of the anointing and acknowledgement of forgiveness of sins was in people being aware of it. The person standing on the scaffold, however, was not sick in the sense that the church accepted."<sup>970</sup> McCormack said that Downey would stand on the scaffold praying with the condemned man and comforting him and then

as soon as the man had dropped through the trap door on the rope, he then had to run down the stairs get under the curtains and the twitching body was then considered to be sick. He would then anoint the person on the end of the noose and of course the fellow was literally still dying. That happened to Leo at least four or five times. He didn't talk about it very much but this plagued him right through to the day he died.<sup>971</sup>

McCormack also observed that Downey had

a terrible guilt about the Church having this law that was so ridiculous. He would have loved to have been able to have gone through an anointing ceremony with these people, which we can do these days but we couldn't then and this nonsense of having to wait until someone was actually in *pericolo mortis*. You're no more in *pericolo mortis* I guess when you've got a noose around your neck on the scaffold in danger of death so closely, but no you couldn't do the anointing and that aspect his theology really bugged him over the years and ultimately was the cause of a lot of his internal suffering.<sup>972</sup>

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<sup>968</sup> Roberts, "Prison Chaplaincy in New Zealand," pp. 32-33.

<sup>969</sup> McCormack, 16 June 2007.

<sup>970</sup> Ibid. 16 June 2007.

<sup>971</sup> Ibid. 16 June 2007.

<sup>972</sup> Ibid. 16 June 2007.

McCormack said that Downey's actions were bound up with the culture of the Catholic Church that existed at that time and he had often discussed their rationale with him. McCormack also believed that the impact of capital punishment was ultimately "the cause of a lot of Leo's later depression which I think he had in the latter years of his life."<sup>973</sup> Bell affirmed this observation when he noted that "the impact of being involved in the hangings had a terrible emotional impact on them all and affected their health as well."<sup>974</sup>

Providing this spiritual support to condemned men and women occurred in a context that was quite alien to normal pastoral practice and the perspectives of the Christian Church. It required of chaplains to use all of the spiritual resources at their disposal to support and comfort the condemned prisoner. It was obvious that each of the chaplains mentioned in this study found the performance of their duties to be distasteful, yet their presence ensured that people awaiting execution had pastoral support and they did not have to suffer their fate alone. They may have appeared to aid and abet the punitive processes of the State, but without their presence, a traumatic experience for the condemned prisoner would have been even more harrowing.

### **Postscript: A Time for Healing?**

This following account of the exhumation and reburial of the remains of Mokomoko and other condemned prisoners who were hanged with him in 1866, is narrated in some detail as an example of how the ministry of two Maori chaplains contributed toward the processes of reconciliation and restoration of mana for the people of Te Whakatohea. It is also an account of how they had to undertake this demanding task in a prison environment where there was scepticism and misunderstanding of their intentions, both from staff colleagues and their own Church support people.

Mokomoko, a chief of Te Whakatohea, was brought to trial and then executed for allegedly murdering the Reverend Carl Volkner. Davidson noted that

the events surrounding Volkner's death and the reason for his hanging are complex and their interpretation shaped by various perspectives. Some have seen Volkner's

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<sup>973</sup> Ibid. 16 June 2007.

<sup>974</sup> Bell, 9 March 2007.

death as murder or martyrdom, while others, accusing him of acting as a spy or government informant have described his death as execution.<sup>975</sup>

It is not the intention of this study to provide a detailed examination of why Mokomoko was blamed for killing Volkner, although allegedly it was “because the rope he used for his horse was taken and used for the hanging.”<sup>976</sup> Newspaper reports also noted that Wepiha was the chief witness against Mokomoko but there had been “disputes between them as to land.”<sup>977</sup> Mokomoko however, was tried and found guilty for Volkner’s murder together with Hakaraia and Heremitia. Although he protested his innocence, Mokomoko was hanged within the precincts of the Mount Eden prison stockade on the 16 May 1866, together with Hakaraia and Heremitia, as well as Horomona and Kirimangu of Ngati Awa who had also been tried and found guilty at a separate trial for murdering James Falloon. These executions were watched by a “considerable assemblage of people who had collected upon the high rocks overlooking the gaol” and also by a gathering up to 200 inside the gaol who gained “admission to the gaol yard by ticket.”<sup>978</sup> *The New Zealand Herald (NZH)* recorded that on the day of their executions, these men were given spiritual support by The Reverend Robert Maunsell and “the Roman Catholic Fathers MacDonald and Novardo,” who remained with the prisoners in prayer until a quarter of an hour before the execution.<sup>979</sup> They then proceeded to the scaffold with the Reverend Maunsell “reading the appropriate service” for Mokomoko and Horomona and Fathers MacDonald and Novardo “with breviary in hand and Crucifix in view, giving out the litany for the dying for Heremitia, Kirimangu and Hakaraia.”<sup>980</sup> Mokomoko is reported to have spoken the following words on the scaffold immediately prior to his execution:

E mate hara kore ana ahau. Tena koutou Pakeha. Hei aha.

(I die an innocent man. Farewell Pakeha. So be it.)

Tangohia mai te taura i taku kaki kia waiata au i taku waiata.

(Take the rope from my neck that I may sing my song.)

Violent shaking will not rouse me from my sleep.

They treat me like a common thief.

It is true that I embrace eternal sleep

For that is the lot of a man condemned to die.

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<sup>975</sup> Davidson, A. (2004). “Volkner and Mokomoko. Symbols of reconciliation in Aotearoa New Zealand,” Cooper, K and Gregory J. eds. *The Ecclesiastical History Society*, Bordell Press. 2004. p. 317.

<sup>976</sup> Baker, H. (1990). *The Strongest God*, Whatamongo Bay, Cape Catley Ltd. p. 232.

<sup>977</sup> *Daily Southern Cross*, (DSC), (1866). 18 May.

<sup>978</sup> *New Zealand Herald*, (NZH), (1866). 18 May.

<sup>979</sup> *NZH*, 18 May 1866.

<sup>980</sup> *Ibid.* 18 May 1866.

Shielded from the harsh light  
With narrowed eyes I reflect on the retribution taken at Hamukete.  
Remember how I was taken on board ship (chained)  
The memory of it burns me with shame.

Bring me justice from distant lands to break my shackles  
Where the sun sets is a government in Europe  
It is for them to say I must hang  
Then shut me in my coffin box.<sup>981</sup>

Following the hangings, the bodies of all five men were buried within the precincts of the prison despite Mokomoko's "hope that his body might not be buried within the gaol."<sup>982</sup>

Amoamo noted that apart from the executions of Mokomoko, Heremetia and Hakaraia, there were serious consequences for Te Whakatohea following their execution and "the years that followed were to be years of subservience ... decline in tribal numbers and general penury."<sup>983</sup> In 1981 Te Whakatohea pursued the matter of a government pardon for Mokomoko concurrent with a similar request that came from Ngati Awa for those who had been implicated in Falloon's murder in 1865.

In 1986, the Auckland Maori Council responded to growing public concern that the remains of these men continued to lie buried within the Mount Eden Prison walls, by initiating a campaign to have their remains disinterred and re-buried on their ancestral tribal lands. Then in 1987, "Mokomoko's family requested permission to exhume his remains from Mt. Eden gaol. This request was granted in 1988."<sup>984</sup> But there were delays. The prison authorities "just closed the doors on it" and it took a visit from Sir Graham Latimer to assure Mount Eden Prison Superintendent Humphrey Stroud that "there was nothing that was against the law or undermining anybody."<sup>985</sup> Kim Workman said that after his appointment as Assistant Secretary Penal Institutions in 1989, he became interested in the issue of the exhumation of the bodies of Mokomoko and the other executed prisoners after reading a file "that had been in the Department and this thing had been wandering along for two or three years."<sup>986</sup> Letters had been

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<sup>981</sup> Amoamo, T. (2007). "Mokomoko ?-1866," *Dictionary of New Zealand Biography*, (DNZB) <http://www.dnzb.govt.nz>, updated 22 June 2007.

<sup>982</sup> *DSC*, 18 May 1866.

<sup>983</sup> Amoamo, *DNZB*, 22 June 2007.

<sup>984</sup> *Ibid.* 22 June 2007.

<sup>985</sup> Dewes, N. Oral Interview, 27 February 2008. Wellington.

<sup>986</sup> Workman, 21 September 2007.

written by members Mokomoko's family to the Department of Justice seeking assistance with this matter, but they had been persistently ignored and no replies had been made to them. Workman recalled:

It quite worried me. When I read about suicides at Mount Eden and the views of some Maori inmates of the desecration of these men, and the way they were being trampled upon almost daily. It got a bit scary for me in the sense of Maori responsibility that there are some issues that you really need to address. So this became a pivotal thing for me and I started the ball rolling. And called Nehe (Dewes) in and said: why aren't we starting the ball rolling again? All he needed was the encouragement and got it rolling. It must have been done within six months from then.<sup>987</sup>

Dewes then became a key catalyst for enabling the disinterment of Mokomoko and the other men who had been executed with him to take place. Prior to his meeting with Workman, issues had arisen over the construction walls for the proposed new remand exercise yards at Mount Eden Prison. Site excavations for the walls had commenced in the area where Mokomoko was thought to be buried and prisoners became concerned about the way this undertaking was being carried out. They approached Dewes: "here we are, eating and sleeping on top of a grave yard." Dewes said that in response to their submissions: "I became very much the watch dog on behalf of the inmates. To ensure that things were being done properly. We opened up in karakia before they started to dig. I assured them (the prisoners) that we will keep an eye on them."<sup>988</sup>

A direct descendant of Mokomoko, then visited Dewes at Mount Eden Prison and after karakia, he indicated with his tokotoko that his tupuna, Mokomoko, had been buried beneath a certain spot in the prison yard. This visit was followed by a similar meeting with a group from Taranaki, one of whom also indicated: "this is where my tupuna, and he named his tupuna, is buried right here."<sup>989</sup>

Dewes recorded that colleagues and associates started to hear about what had taken place and he began to receive criticism for his involvement in this matter. "Some Maori and Pakeha friends asked why I, a Presbyterian Minister was becoming involved in a tohunga's rites. There were many negative feelings in the air. Some did not understand."<sup>990</sup> "Nehe, I thought you were one of us. Here you are involved with this mumbo jumbo and that really hurt me, but ... that sort of statement made me stronger

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<sup>987</sup> Ibid. 21 September 2007.

<sup>988</sup> Dewes, 27 February 2008.

<sup>989</sup> Ibid. 27 February 2008.

<sup>990</sup> Dewes, N. (1990). "The Exhumation and Reburial of the Remains of Mokomoko and Other Men," Appendix, Baker, H. *The Strongest God*, Whatamongo Bay, Cape Catley Ltd., p. 235.

than ever.”<sup>991</sup> He also noted that “in a round-about sort of way” Workman also heard about what had taken place and “the next thing I know I was being summoned.”<sup>992</sup>

Descendents of Mokomoko had met at Opotiki and formed a committee called Te Whanau a Mokomoko with the aim of exhuming the graves at Mt Eden and returning the remains of their tupuna to Te Whakatohea. With the active support and encouragement of Workman, Dewes met with this group and made arrangements for the exhumations to take place. He was able to convince Workman that although the process of the exhumations would be costly it had to be done. “Our people have been grieving for over a hundred years for their tupuna. That’s something we can’t put a price on.”<sup>993</sup>

At midnight on 18 October 1989, a group of about eighty people entered Mount Eden Prison and after karakia led by Monita Delamere, they began the exhumation. Dewes had been invited to participate in the karakia but he declined. “We are dealing with the hunga tawhito, the older generation. ... My job is to open the gates for you.”<sup>994</sup> Four prisoners, from Te Whakatohea, Whakatane and Ngapuhi, including a direct descendent of Mokomoko, were included in the exhumation party to represent the prison and provide what Dewes believed “would be a healing experience.”<sup>995</sup>

A kaumatua from Taranaki, who was a descendant of Horomona’s, struck the ground with a crow-bar to indicate that his tupuna lay beneath that spot. It took some time to uncover the remains of the executed man and Dewes said that he was beginning to hear Stroud’s words “ringing in my ears. ‘Nehe there’s nothing in there.’ I was beginning to worry too.”<sup>996</sup> Then there was a shout “kei konei, he is here.”<sup>997</sup> Horomona’s remains were uncovered and thereafter, one by one, the remains of the others were uncovered and placed in caskets built without screws or nails. The body of Mokomoko had been covered by a large rock, “the height of a chair” and others were buried together.<sup>998</sup> Then the concrete and the tar seal became too deep for crow-bars and pick axes to break through and jack hammers had to be brought in to complete the task. In all, “nine

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<sup>991</sup> Dewes, 27 February 2008

<sup>992</sup> Ibid. 27 February 2008.

<sup>993</sup> Ibid. 27 February 2008.

<sup>994</sup> Ibid. 27 February 2008.

<sup>995</sup> Dewes, “The Exhumations of the Remains of Mokomoko and other Men,” p. 236.

<sup>996</sup> Dewes, 27 February 2008.

<sup>997</sup> Ibid. 27 February 2008.

<sup>998</sup> Ibid. 27 February 2008.

caskets carrying the remains of eleven tupuna were carried out from the prison” together with the ten headstone markers for subsequent re-burial.<sup>999</sup> After “karakia to seal the place off,” all of those present stood in total silence as prisoners carried the remains of the dead men from the prison.<sup>1000</sup> One voice broke this silence: “tena koe Nehe. Well done padre. You have given them their release date at last.”<sup>1001</sup> Their tupuna were finally going home to be given a proper tribal tangi. Dewes accompanied the two groups, first to Taranaki and then to Te Whakatohia for the final interments of the executed prisoners.

At Te Whakatohia he was informed that this “is the first time that the Mokomoko family have come together. This is the first time we have had an opportunity of substance to call us together.”<sup>1002</sup> Dewes said that he was presented with a taonga by the Mokomoko family as an expression of gratitude for his role in these events. On the next day at the Sunday service at Mount Eden Prison he asked the descendent of Mokomoko’s who had “identified where his tupuna was” to bless it and “so I let it go. You could hear grown men crying as they awahi’d it as it moved among them.” The large stone that had covered Mokomoko had been re-buried in the prison yard. After a request from his family, it was also recovered and taken to Te Whakatohia where it was located at the urupa as a memorial stone describing the events that had taken place. Commenting on the after effects of these events, Dewes observed that at Mount Eden, “the doors just opened up for me left, right and centre”. (Prison Superintendent Humphrey Stroud) “was taken aback alright,” but he finally acknowledged the significance of what had taken place.<sup>1003</sup> Dewes also expressed the view that “much healing will come from what has been done today.”<sup>1004</sup>

Commenting on his involvement in this event, assistant Chaplain Howard Ashby observed that the “whole place” was covered to prevent media observation and the “fellow from New Plymouth knew where each one of the prisoners was buried,” indicating after prayer with a stick “that looked like a piece of drift wood.” where each one was buried.<sup>1005</sup> Ashby recalled that when Mokomoko’s resting place was originally identified by the kaumatua from Whakatohea, he only “half believed him,” until they

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<sup>999</sup> Dewes, “The Exhumation of the Remains of Mokomoko and Other Men,” p. 237.

<sup>1000</sup> Dewes, 27 February 2008.

<sup>1001</sup> Ibid. 27 February 2008.

<sup>1002</sup> Ibid. 27 February 2008.

<sup>1003</sup> Ibid. 27 February 2008.

<sup>1004</sup> Dewes, “The Exhumation of the Remains of Mokomoko and Other Men,” p. 237.

<sup>1005</sup> Ashby, H. (2007). Oral Interview 19 July 2007. Auckland.

found a piece of a cross still tied to his remains with flax. Two prisoners found together in one grave were Pakeha and they were “all buried in canvas mail bags,” except for the last one who “was the only one in a coffin.”<sup>1006</sup> When an attempt was made to carry the exhumed remains out of a side gate to the prison it was found that they would not fit and they had to be carried out the way they had come in through the main entrance. “There was something evil. They couldn’t go out they had to go out the way they came in.”<sup>1007</sup> Ashby recalled that several weeks later he was also part of a group of people who travelled to Te Whakatohea to give the rock that had covered Mokomoko’s remains to his people.

When he was asked whether the exhumations made any difference to the mood of the prison, Ashby commented that a lot of staff did not think anybody was buried there, but they were forced to change this opinion after the remains of the executed prisoners had been disinterred. After the exhumations, some staff would not work in that area of the prison and this continued to be the case, even after a final blessing service involving Ngati Whatua and Tainui was held in the prison. At a personal level, he still “has some hurts” regarding the scepticism of some prison staff “about what happened” and when he heard staff talking about these events he declined to participate in these conversations: “I just go away.”<sup>1008</sup> He also said, however, that it was one of the highlights of his ministry at Mount Eden Prison and in spite of all the ups and downs he was thankful he had been present at this event because “I was one of the lucky ones who experienced that.”<sup>1009</sup>

These events did not provide a conclusion in themselves, but they paved the way for the beginning of a process of pardon and reconciliation. Amoamo noted that: “Mokomoko was pardoned in 1992.”<sup>1010</sup> In 1996 the Crown and Whakatohea tribal elders entered into negotiations “to settle a 130 year old grievance” with a \$40 million dollar settlement that “would break the cycle of dependence so that a once proud people can provide a future for their own.”<sup>1011</sup> The settlement would include “an apology from the Crown,” which was “designed to redress the confiscation of about 70.000ha of tribal land following the killing in 1865 of the missionary Carl Volkner.”<sup>1012</sup> In 2006, final

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<sup>1006</sup> Ibid. 19 July 2007.

<sup>1007</sup> Ibid. 19 July 2007.

<sup>1008</sup> Ibid. 19 July 2007.

<sup>1009</sup> Ibid. 19 July 2007.

<sup>1010</sup> Amoamo, *DNZB*, 22 June 2007.

<sup>1011</sup> “Volkner, Penalty Redressed,” (1996). *NZH*, 2 October, 1996.

<sup>1012</sup> Ibid. 2 October 1996.

settlement for these historical grievances had yet to be reached, but Davidson observed, however, “repentance and reconciliation” were “not end points but new starting points as people formerly divided” could “begin to address the future together.”<sup>1013</sup>

While the return of the remains of Mokomoko and the other executed prisoners brought closure to their families, it did not bring about the same outcomes for the prisoners at Mount Eden Prison. Dewes observed that “the healing that I saw in it was a personal one for a couple of the inmates and their families.” They have never been back to prison since, but whether that eased the suicides, I don’t think so. People come to prison with troubled minds. The prison environment pushes them too far.”<sup>1014</sup> Former Mount Eden Prison Social Worker, Kiri Jones, commented that Ashby still spends a lot of time in the kitchen area because some prisoners were still “hearing things and seeing ghosts. The kitchen is where the old hanging thing and all the rest of it was. He’s blessing cells all the time.”<sup>1015</sup> Jones noted that Ashby deals with this by talking with the prisoners, “checking out what they are seeing and feeling” and blessing the rooms.<sup>1016</sup>

He knows the history and they appreciate hearing the truth, what it really was and what really happened. This is maybe why you are feeling this way. Once the inmates hear, yeah alright, OK. I’ll bless the room. They feel fine afterwards. It’s all about that communication and knowledge. so he does spend a bit of time in the kitchen. Some people even feel spirits on the path where they carried the prisoners out of the prison.<sup>1017</sup>

Jones commented that there may still be some human remains lying within the Mount Eden Prison precincts and some prison staff “admit they may not have got it all, but they ran out of time.”<sup>1018</sup> Her opinion was supported by Dewes, who observed: “to me there are still remains in the Prison but, whereabouts I wouldn’t have a clue.”<sup>1019</sup>

Ashby recalled going into a cell adjacent to what is now the cooking block for Mount Eden Prison where prisoners had waited prior to their executions. Despite painting and plastering renovations, etchings left by condemned prisoners were still visible on the walls and these had disturbed him considerably. Then in 2000, he had been present when Northern Region Cultural Advisor Des Ripi and two prisoners from Auckland Prison had unpacked the gallows and other equipment used in the executions, for re-location to the Auckland Museum. He commented thus: “on seeing the box with the

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<sup>1013</sup> Davidson, “Volkner and Mokomoko, Symbols of Reconciliation,” p.329.

<sup>1014</sup> Dewes, 27 February 2008.

<sup>1015</sup> Jones, K. (2007). Oral Interview, 21 March 2007. Auckland.

<sup>1016</sup> Ibid. 21 March 2007

<sup>1017</sup> Ibid. 21 March 2007.

<sup>1018</sup> Ibid. 21 March 2007.

<sup>1019</sup> Dewes, 27 February 2008.

sand bags, mask and ropes and all that, it made me sick.”<sup>1020</sup> When Ashby was asked how he would cope if capital punishment were to be reintroduced, he replied: “I wouldn’t be there. I don’t know how they coped.”<sup>1021</sup>

The spiritual legacy left by these events remains to this day. It has necessitated the need for contemporary chaplains at Mount Eden and other prisons to be aware of their continued impact on the spiritual and mental well being of some Maori prisoners and to incorporate relevant strategies into their pastoral practice for dealing with this situation.

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<sup>1020</sup> Ashby, 19 July 2007.

<sup>1021</sup> Ibid. 19 July 2007.

## CHAPTER TWELVE

### A CIVIL AND ECCLESIASTICAL UNION?

The following research question was asked at the beginning of this study: “how did Church and State administrators manage the relationship for the provision of chaplaincy services in New Zealand Prisons between 1840 and 2006?” This question has been addressed throughout the thesis by a critical analysis of the development of prison chaplaincy during the period 1840-2006. The Church-State relationship over the one hundred and sixty five years examined in this thesis showed that there were tensions. Despite these tensions, prison chaplaincy continued to develop to meet the spiritual needs of prisoners. Six themes that seemed to constitute the main factors influencing this relationship emerged during the course of this research. These are: the nature of the Church-State interface, the impact of biculturalism, the influence of theological and ecclesiastical trends, the impact of inter-church politics, the influence of socio economic trends and developments, and changes in Government policy. Each of these is summarised in the following sections. This chapter concludes with a brief summary of the positive outcomes of the union, and also identifies areas for further study.

#### **The nature of the Church-State interface**

Between 1840 and 2006, the nature of the Church-State interface for providing chaplaincy services to New Zealand prisons evolved through four distinct phases. The first of these occurred between 1840 and 1950 when service provision happened by way of ad hoc arrangements between clergy and local prison management. From 1840 to 1880, Church administrators were strongly influenced by the attitudes that the early colonial settlers imported from Britain and Europe. The nationalisation of the prison system took place in 1880, but there was no concurrent centralisation of the Prison Chaplaincy Service. Hume’s implementation of the “English System” and Dallard’s conservative approach to prison management between 1925 and 1949, severely limited prison chaplaincy initiatives which frequently emerged as adaptive responses to these restrictive policies. The 1909 Prisons Act provided for authorised chaplains to conduct Divine Worship and visit prisoners, but service delivery between 1840 and 1950 was characterised by varying and inconsistent standards.

During phase two of this development, Barnett established a formal partnership with the NCC and the Catholic Church to provide chaplains for New Zealand prisons, and the 1954 Penal Institutions Act provided statutory recognition of this new relationship. This initiative was greatly influenced by the personal beliefs of Barnett, Marshall and Robson, but after 1980, the Prison Chaplaincy Service came under increasing pressure from a variety of socio-economic and ecclesiastical sources and chaplains could no longer guarantee the personal support of sympathetic public servants to maintain their role in prisons.

The third phase of this evolution was marked by tension and misunderstanding as Church and State administrators sought to come to terms with the issues of biculturalism, Public Service restructuring, regionalisation and case management. There were occasions during this period when local prison management sought to use the provisions of the Public Finance, State Sector and Employment Contracts Acts to gain greater control over the Prison Chaplaincy Service. The ICAB and PCAB were only advisory boards and they had little authority to rebuff these actions. Church administrators lacked experience in working in the new commercial environment, but their persistence in maintaining a relational interface with State administrators ensured the survival of the Prison Chaplaincy Service. The 2004 Corrections Act removed statutory recognition for the continued existence of the Prison Chaplaincy Service and placed authority for making this decision into the hands of the Secretary for Justice or a designated official.

The fourth phase in the Church-State interface involved the creation of a contracting relationship between the Department of Corrections and the PCSANZ. Under this arrangement, the provision of prison chaplains was bulk funded by the Department of Corrections and the PCSANZ assumed administrative control over the appointment and supervision of chaplains. There were difficulties in the early stages of this new relationship and again, Church administrators were ill equipped to deal with the commercial realities of contracting. By 2006, however, a contracting relationship appeared to be the vehicle by which chaplaincy services would be provided for New Zealand Prisons into the foreseeable future.

The involvement of prison chaplains in capital punishment was one of the most bizarre examples of the Church-State interface and the participation of chaplains at executions created a moral and ethical dilemma. By their presence, they could be seen to endorse State processes for taking life, but if they refused to engage with the rituals of executions, condemned prisoners would lose the provision of spiritual comfort and support during the last moments of their lives. While there were tensions, there were also areas of co-operation and collaboration between Church and State and these were significant in maintaining the union. For instance, Robson as a State official, used the influence of Senior Chaplains Hodinott and Downey, to gain Church support for the abolition of capital punishment.

### **The impact of biculturalism**

Between 1840 and 1880, biculturalism was not a significant issue for prison chaplains who were strongly influenced by the attitudes of the early colonial settlers. While some chaplains spoke Te Reo, their worldview was that of Britain and Europe. Kayll's 1905 book: *A Plea for the Criminal*, with its focus on thinking that originated in Europe and America was evidence of these colonial attitudes which continued until after 1950. Despite the good intentions of Treaty of Waitangi negotiators and early missionaries, the place of Maori, Maori culture and the Treaty of Waitangi was not recognised by State agents including prison administrators. For example, in 1877, because The Treaty of Waitangi was not incorporated into domestic law, Justice Prendergast declared it to be a legal nullity. This decision meant that the Treaty of Waitangi had no legal standing or significance in the work of Government departments, including prisons, in meeting the cultural aspirations of Maori and Maori rights were ignored in favour of Pakeha interests.

Between 1950 and 1980, there were tentative attempts to recognise the specific spiritual needs of Maori, with the provision of visiting ministers for the trainees at Invercargill Borstal during the 1950s, the publication of *Order of Worship* in 1965 and the appointment of Bennett to Waikeria Borstal in the same year. The presentation of Dewes two papers to the Chaplains' Annual conferences in 1978 and 1979, were also evidence of changing awareness, but in 1980 most prison chaplains were Pakeha and their world view was that of Pakeha New Zealand, Britain, Europe and America.

The rise in Maori consciousness during the 1970s and 1980s stimulated a new awareness for the need to adopt bicultural pastoral practice in chaplaincy service provision to prisoners. Te Rununga influenced Dewes appointment at Mount Eden Prison, but its style of advocacy also alienated some chaplains who were sympathetic to the implementation of bicultural pastoral practice. The Justice Department's adoption of bicultural policies during the 1980s, had a stronger influence than Te Rununga, as chaplains were required to adapt their pastoral practice to their implementation.

The recommendations of the *Perry Report* sought to establish a bicultural prison chaplaincy service and they led to Dewes appointment as the first Ecumenical Maori Senior Chaplain in 1992. By 1993, however, Oughton and Workman had resigned and impetus for implementing Perry's recommendations was quickly lost. During the 1990s, the *Perry Report* became little more than a reference document. Dewes was able to use his position at Justice and Corrections Department Head Office to ensure that bicultural issues affecting Maori prisoners were kept in front of senior State administrators, but he was unable to achieve any effective policy change.

While biculturalism and the drive to meet the spiritual needs of Maori prisoners created tensions for Church and State administrators, the need to implement bicultural pastoral practice continued to influence the evolution of the Prison Chaplaincy Service. The use by the PCSANZ of the concepts of kaitiaki and pononga to describe the prison chaplaincy role is indicative of an ongoing commitment to bicultural pastoral practice. The description of the disinterment of the remains of Mokomoko and his associates helped to illustrate the need for prison chaplains to be aware of the unique spiritual issues affecting Maori prisoners and to incorporate relevant bicultural strategies into their pastoral practice.

### **The influence of theological and ecclesiastical trends**

The principal theological and ecclesiastical trends that influenced the development of prison chaplaincy in New Zealand originated in Britain, America and Europe, and the early colonial chaplains followed the pastoral and liturgical practices of their respective Churches. Kayll's 1905 book: *A Plea for the Criminal* provided an example of how prison chaplains were testing theological ideas against those of the new criminological sciences to advocate for penal reform. His attempts to combine a theological

understanding of free will with the determinist criminology of theorists such as Lombroso appear to be paradoxical and confusing by today's standards, but his work was significant as it represented an alternative view to Hume's retributive ideas on penal management.

During the 1950s and 60s, deliberate attempts were made through professional development programmes to improve the pastoral skills and awareness of prison chaplains. These training programmes were based on British, European and American models such as Clinical Pastoral Education, and they did not take into account the cultural context of prison chaplaincy in New Zealand.

The activism of both Te Rununga and the Christchurch Chaplaincy Team during the 1980s was influenced by the tenets of liberation theology. The advocacy of each of these groups caused considerable tension and difficulty for both Church and State administrators, but ultimately they achieved little change in Government policy. The approach of Te Rununga and the Christchurch Chaplaincy did not always seem to respect institutional processes of administration and they were perceived as meddling unnecessarily in matters that did not concern them. As a consequence, they often alienated Church and State administrators as well as chaplains, who were sympathetic towards their goals.

The Catholic theological understanding for prison chaplaincy provision remained consistent during the evolution of the Prison Chaplaincy Service. The doctrinal position of the Catholic Church led to the abandonment of Perry's recommendations for one united ecumenical chaplaincy because his proposal did not take Catholic belief and church polity into account.

The rise of Pentecostalism and the advent of Prison Fellowship impacted on Church and State administrators alike. With its fundamentalist theology and disrespect of established institutions, Pentecostalism did not initially endear itself to chaplains or State officials who were suspicious of its intentions. A representative of the Association of Pentecostal Churches in New Zealand was appointed to the PCAB in the early 1990s but it was not until after 2000 when Pentecostal chaplains were appointed to the PCSANZ that this wariness was finally overcome.

Mokomoko and his associates were executed under the rituals of their respective Church denominations. In addition, the theological beliefs and pastoral practice of the Catholic Church created dilemmas for chaplains. A critical example of this was when Downey had to face the situation of anointing the bodies of executed prisoners to fulfil his pastoral responsibilities.

### **The impact of inter-church politics**

The impact of inter-Church politics identified two principal strands: the evolution of the relationship between the Catholic and other Churches between 1950 and 2006, and the interface between Churches and prison chaplains. Before 1952, Catholic and Ecumenical chaplains functioned separately and had little to do with each other. The Catholic Church continued to adhere to its polity for implementing chaplaincy appointments; that the prison chaplain acted in persona to the Bishop who was responsible for appointments and accountabilities. This understanding led to the Catholic Bishops' rejection of the *Perry Report's* recommendations for one united ecumenical chaplaincy, and underpins the current sub-contracting relationship between the Catholic Church with the PCSANZ. During the 1960s, closer co-operation between Catholic and Ecumenical chaplains began to evolve as a consequence of the influence of the Second Vatican Council which also brought the Catholic Church into closer relations with other Churches. Catholic and Ecumenical chaplains often developed close working relationships at local prison sites out of practical necessity, although it is worth noting that after his appointment in 1992 as Senior Catholic Chaplain, Garvey declined to accept responsibility for Ecumenical chaplains.

After 1952, some members of the NCC were reluctant to give up their rights for providing their own chaplaincy services to prisoners although Churches appeared to accept NCC and Catholic oversight of chaplains during the 1960s and 1970s. A growing gulf between Ecumenical chaplains and the NCC emerged during the 1980s. Following the demise of the NCC in 1988, many chaplains began to reject the authority of both the CCANZ and Te Rununga to represent their interests. The decline in institutional ecumenism during the 1990s contributed to the model of private enterprise corporations for administering chaplaincy services and individual churches appointed their own representatives to the PCSANZ.

## **The impact of socio economic trends and developments**

The events that helped to undergird Barnett's chaplaincy initiative, the implementation of policy direction initiated by the fourth Labour Government in 1984 and changing awareness of human rights during the 1990s, provided examples of how socio-economic trends impacted on the evolution of the Prison Chaplaincy Service. Barnett's personal belief and enthusiasm contributed significantly to the inauguration of the partnership with the NCC and the Catholic Church. Other factors also came together to make this possible, including a changing mood in New Zealand after the Great Depression of the 1930's and the end of World War II, a desire for penal reform following the austerities of the Dillard administration, the creation of the NCC as a representative body for Churches, and a boom in the New Zealand economy which allowed the State to provide funding to pay for prison chaplaincy services.

Public Service and economic reforms initiated by the fourth Labour Government and continued by the Bolger National Government after 1990, created difficulties for Church administrators. The Public Finance, State Sector and Employment contracts Acts were used by State administrators in an attempt to gain greater accountability from the Prison Chaplaincy Service. Although Church administrators sought greater co-operation, their limited experience in dealing with the raft of legislative changes impacted on the development of prison chaplaincy.

During the 1990s, a combination of factors contributed towards a change in the status of the Prison Chaplaincy Service. New Zealand had become a more pluralistic society and processes of decolonisation together with the growth of a Maori cultural renaissance, an increase in secularism and non-Christian religions, meant that Christianity no longer held favoured status in New Zealand. The Corrections Act (2004) removed statutory recognition of the Prison Chaplaincy Service, defined spiritual needs in non-specific terms and placed the determination of spiritual need into the hands State administrators.

## **Changes in Government Policy**

Changes in government policy influenced the evolution of the Prison Chaplaincy Service. These changes occurred through legislative innovations, some of which were outlined in the previous section of this chapter, while others arose through the influence

of strategic individuals within the State sector. For example, Hume was not interested in the role of religion in effecting prisoner rehabilitation and he was more interested in developing his prison work schemes and the probation service. His implementation of the “English system” with its focus on prisoner isolation had a negative effect on the development of prison chaplaincy. On the other hand, Barnett’s initiative may be placed in the context of Government initiatives to promote prison reform.

The Public Sector Act provided for the implementation of biculturalism in the Public Service, but by 1993, Oughton and Workman had resigned and the policy direction of management restructuring, case management and regionalisation contained in *Prisons in Change* became of greater consequence. Devolution of power to local prison managers made it more difficult for PCAB administrators to pursue their own policy implementation for prison chaplaincy

The possibility of contracting prison services was proposed in the *Roper Report*. This policy direction re-emerged after the formation of the Department of Corrections in 1995. Church administrators grasped this initiative because they perceived it as an opportunity to regain greater control over prison chaplaincy administration. Although contracting placed obligations on both Church and State administrators, the balance of power in this relationship still remained firmly in the hands of the State.

The abolition of capital punishment in 1961 meant that chaplains no longer had to face the moral and pastoral dilemmas that were presented by their involvement at executions.

### **A Civil and Ecclesiastical Union?**

The title of this thesis posited that the Church-State partnership for providing chaplaincy services in New Zealand prisons was a union. But was it? And if it was, what was the form of the union?

The research has found that between 1840 and 2006, the relationship evolved from ad hoc arrangements to one where both parties became bound by a legal contract. As with any union or relationship there were tensions, misunderstandings, and differences, but there was also a mutual desire for sustainable partnership to deliver on the spiritual outcomes for prisoners.

The union delivered positive outcomes for both parties which may be summarised in the following bullet points.

- Prisoners and State administrators received pastoral support from chaplains in times of crises.
- Chaplains become a voice of conscience against unjust and/or unfair administrative practices.
- Chaplains became kaitiaki of spiritual values, providing appropriate spiritual support. In the case of Maori prisoners, they adopted bicultural practices for pastoral care into their ministry. As society changed and became more secular, the needs of other faiths became incorporated into prison chaplaincy practice.
- State administrators consulted chaplains and used their expertise in the development of penal reform as well as to address the spiritual needs of prisoners. Chaplains brought theological perspectives to State considerations of penal reform.
- Chaplains reminded the Churches of their responsibilities towards prisoners and provided a practical example of “hands on ecumenism” when structural ecumenism failed.
- State administrators used chaplains’ connections with Churches as a resource for supporting prisoners and their families.
- State administrators have challenged and questioned pastoral practices of prison chaplains, which has enhanced the quality of service provision.

The evidence provided in this study demonstrates that the relationship between Church and State administrators provided positive outcomes for chaplaincy services in New Zealand prisons. While the balance of power in this relationship was often weighted in favour of State administrators, they also took significant steps to secure and maintain this partnership. There were tensions in the relationship but there was also sufficient mutuality of interest to assert that a Civil and Ecclesiastical Union was established for providing chaplains in New Zealand prisons.

Regional Prison Manager Leanne Field affirmed that this assertion when she was asked what would happen if chaplains were to be removed from prisons under her management.

The mental and spiritual health of a lot of our prisoners would start to go into decline... We would start pressuring people to undertake tasks that they are not equipped to undertake ... such as somebody suffering grief. ... If we did not have chaplains here I would have to buy them in to come in to deal with that sort of stuff. ... I subscribe to the fact that we are not just all physical, emotional or mental or spiritual. We are all definitely made up holistically and so I just think a big chunk of people wouldn't be catered to if we did not have that on tap.<sup>1022</sup>

### **Areas for further research**

This study focussed on the key issues of the evolving Church-State relationship in the development of chaplaincy services in New Zealand prisons. There are, however, a number of important areas, including the role of women in prison chaplaincy, the provision of chaplaincy services to people of non Christian belief, the role of prison chaplaincy programmes for assisting the reintegration of prisoners into the wider community, a comparison of New Zealand experience with prison chaplaincy services in other countries and a prognosis for the future development of prison chaplaincy services in this country, that need to be considered to achieve a more complete picture.

Further assessment of the Church-State union can only be made after these pieces of research have taken place. They are well beyond the scope of a Master of Philosophy degree thesis.

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<sup>1022</sup> Field, 26 November 2007.

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## APPENDIX ONE: Ethics Approval



# MEMORANDUM

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To: Love Chile  
From: **Madeline Banda** Executive Secretary, AUTECH  
Date: 8 September 2006  
Subject: Ethics Application Number 06/160 **A civil and ecclesiastical union?**  
**The development of prison chaplaincy in Aotearoa New Zealand.**

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Dear Love

Thank you for providing written evidence as requested. I am pleased to advise that it satisfies the points raised by the Auckland University of Technology Ethics Committee (AUTECH) at their meeting on 14 August 2006 and that as the Executive Secretary of AUTECH I have approved your ethics application. This delegated approval is made in accordance with section 5.3.2.3 of AUTECH's *Applying for Ethics Approval: Guidelines and Procedures* and is subject to endorsement at AUTECH's meeting on 9 October 2006.

Your ethics application is approved for a period of three years until 8 September 2009. I advise that as part of the ethics approval process, you are required to submit to AUTECH the following:

- A brief annual progress report indicating compliance with the ethical approval given using form EA2, which is available online through <http://www.aut.ac.nz/research/ethics> including a request for extension of the approval if the project will not be completed by the above expiry date;
- A brief report on the status of the project using form EA3, which is available online through <http://www.aut.ac.nz/research/ethics>. This report is to be submitted either when the approval expires on 8 September 2009 or on completion of the project, whichever comes sooner;

You are reminded that, as applicant, you are responsible for ensuring that any research undertaken under this approval is carried out within the parameters approved for your application. Any change to the research outside the parameters of this approval must be submitted to AUTECH for approval before that change is implemented.

Please note that AUTECH grants ethical approval only. If you require management approval from an institution or organisation for your research, then you will need to make the arrangements necessary to obtain this.

To enable us to provide you with efficient service, we ask that you use the application number and study title in all written and verbal correspondence with us. Should you have any further enquiries regarding this matter, you are welcome to contact Charles Grinter, Ethics Coordinator, by email at [charles.grinter@aut.ac.nz](mailto:charles.grinter@aut.ac.nz) or by telephone on 921 9999 at extension 8860.

On behalf of the Committee and myself, I wish you success with your research and look forward to reading about it in your reports.

Yours sincerely



Madeline Banda

**Executive Secretary**

**Auckland University of Technology Ethics Committee**

Cc: Douglas Bruce Mansill [mansillwhenuahou@xtra.co.nz](mailto:mansillwhenuahou@xtra.co.nz)