

IN THE MATTER

OF THE TREATY OF
WAITANGI ACT 1975

AND

IN THE MATTER OF

RIHARI DARGAVILLE

IN THE MATTER

Wai 1040, Wai 121, 654, 861,
884, 1129, 1460, 1896, 1941,
1970, 2179

RECEIVED Waitangi Tribunal
<i>2 September 2014</i>
Ministry of Justice WELLINGTON

BRIEF OF EVIDENCE OF
RIHARI DARGAVILLE

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Brief of Evidence of Rihari Takuira

Background/Whakatuwhera

1. My name is Rihari Takuira Richard Dargaville and I was born in Hokianga, Panguru, Papata
2. Me waiho ahau taku whakapapa ki Hokianga ki e taha, mo tenei o aku korero, engari ki roto tena I taku tu tanga ki mua I te Taraipunara I te tau 8 July 2014 I te Kerikeri.

2.1. Ko wai ahau ki taku whakapapa ki Whanagroa

Ko Ohakiri Te Maunga

Ko Whangaroa te Wahapu,

Rere ki Ririwha te Motu

Hoki muri ki uta ko Whakaki te pa

Titiro Ki Whakarara

Hoki Ki te Whenua Te Touwai ki Matangirau

Ko Karangahape te Marae

Ko Ngatikawau te Hapu

2.2. Taku whakapapa ki Ngaitupango, to matou ringa – kaha ki te hapu Matarahurahu.

Tame Horo

.....

Tahuhunuiorangi = Whaiti

i

.....

!

KAWA

PAKA

WHAUTERE HAKAIRO
TOHUAO AHUAITI = RAHIRI
KAREARIKI = UENUKU KUARE

MAIKUKU = HUATAKORO

TORONGARE

RUAKINO

TANIWHA

WAIKAINGA

AUWHA

HAUMIA

URURANGI = TE KAMO

WAIATUA = WHAREKAURI (PORORUA)

TAME HORO= NGATAU TANGIWAI

No enei tupuna I moe ki a Hemi Tupe heke mai

Tauke = Tame Te Awa

Kaputa ko Hauraki = Mariata

Kaputa ko Ngarui = Haawai

Ka puta ko te tangata e tu nei

Rihari Teihi Tiapakeke Takuira, Dargaville

Oku Maunga, ehara e te maunga nekeneke.

Tu te po. Tu te ao. Tihei Mauriora. Tihei Mauri Mate

Koiane te rohe potae o Whangaroa

te taku tai moana i te tonga ko Takou- ki te raki ko Te Whaturere ki te
Moana Nui a Kiwa hoki ki te tua whenua ki Waipapa whenua atu ki
Maunga Taniwha te rohe pao; Timatanga i Oruru tae noa ki te awa o Orua-
iti. Me huri aku kamo ki te whatu o Parikana i Mangonui Taipa. I
hakawhitu atu ana ki Maunga Taniwha ki te hauauru o Otangaroa tae noa atu
ki te ngahere o nga Puketiti o te waka o Mataatua. I rere tenei o nga ra roto

whenua, ra runga whenua o Waipapa, Te Whau, Upokorau. I marere atu au ki te moana o Takou ki te awa o Te Kopua Kawau te wahi i takoto mai ana te waka tipuna o Mata Atua. Toro atu ki te takutai o Te Rawhiti me huri ano te kanohi ki te Pokopoko o Hinenuipo me te Urenui o Mauipotiki. Me te Aukanapanapa, he tohu mo te ara taku tai moana tae noa atu ki te ki tee tuawhenua ki Tangitu.

Translation

Start at Oruru until it reaches the stream of Oruaiti turn our eyes to Berghans point[sic] at Mangonui and Taipa. Then we cross to the western side of Maungataniwha to Otangaroa. Then we reach the forest where skid [sic] were made for the waka Mata Atua called Puketi, then we reach the underground streams of Waipapa, Te Whau and Opokorau., From here we fly to Takou, to the stream, Te Kopua Kawau the place there lies the waka Mata Atua. Then we reach the foreshore and seabed of the East Coast, facing towards Te Poko o Hinenui Po and Te Urenui o Maui (Whangaroa Harbour) from here is Te Au Kanapanapa a sign of flashing water, it is from here we turn and look into the hinterlands to see Tangitu.

Submission of Rihari Takuira Dargaville

Before the Waitangi Tribunal 7th to 12th July 2013



Kawenata Kohimarama

1. My great great uncle Tamati Whakanene led the proceedings for Maori at Kohimarama. The kaupapa of my tupuna was to understand Te Tiriti as a document of protection, and an agreement which did not diminish the mana of the Rangatira.
2. He had special standing as participating in He Whakaputanga, Te Tiriti, Pukawa, and the Kawenata of Kohimarama. He stayed with his concept that this was merely a modest change to He Whakaputanga in providing a kawana to facilitate the Whakaminenga . He had lived through twenty years post Te Tiriti and he continued to exercise his tino rangatiratanga.

3. The minutes show

Ngapuhi (Bay of Islands)—Tamati Waka, Wiremu Kaitara, Huirua Mangonui, Wiremu Hau, Tango Hikuwai, WiTete, Hori Kingi.

Parawhau, (WHANGAREI)—\ianihera, Wi Pohe, Taurau, Tirarau. ^

Ngatimahanga, (Whaingaroa)—Hemi Matini, Te Waka.

Manukau—Rihari.

Ngatihine, (Aotea)—Manihera, Hira Kingi.

Ngatiwhatua, (Orakei)—Wiremu Hopihona, Paora, Keene, Kawau.

Ngatihine, (Waik ato)—Horohau.

Ngatipaoa—Patara Pouroto.

4. Those arriving during proceedings included



Ngapuhi: Eruera Mahi Paraone, Maihi Paraone Kawiti, Hore Te Hau, Honatana, Hori Winiata,

Wetiriki Maui, Kuhukuliu, Wiremu Te Hakiro, Wiremu Kawiti, Matiu, Wiremu Te Whatanui, Pomare, Paikea Te Wiohau, Hone Waiti, Paraone Ngawake, Tipene Te Awhato, Te Alatenga Te Whe. Arama Karaka and Manuka Matohi.

Ngatiwhatua Ihikiera, Te Otene Kikokiko and Pakihi Taraia.

Ngatimahanga :—Wiremu Nero Te Awaitaia and Hetaraka Nero.

] Ngatihourua :—Te Matutaera Kaniwhaniwha.

Te Rarawa :—Te Hakitara Wharekawa.

5. The Kohimarama conference represents to Waka Nene's hapu and others a lost opportunity of frank engagement with the Crown on the issues of a constitutional structure in this country to reflect the Te Tiriti partnership and the consequent retention of tino rangatiratanga. It was referred to subsequently as the kawenata.
6. In 1861 Governor Gore Browne convened the Kohimarama Conference to discuss issues of Maori self-governance, including Maori law-making and the ability to self-regulate. This conference contemplated both special areas for Maori, and areas where special Maori law would apply, or laws that would apply to Maori only. The Crown was also trying to legitimate its position in Taranaki and isolate the Kingitanga.
7. This process was cut short by the Crown's need to wage war in the Waikato, and the desire not to encourage Maori self-governance arising from a change in governor. It was clearly recognised as part of

the rights of Maori, pursuant to the Treaty partnership that these discussions were necessary. The texts of the minutes of the Kohimarama Conference are full of references to the fact that there was contemplation of separate Maori law, and that the Crown was in a protectorate role to Maori, and would obviously have a fiduciary duty in undertaking that. This is completely in line with the principles of international law at the time.

8. This uncompleted process cries out for a reconvening of the conference. It was a lost opportunity. We have the opportunity again.
9. The reconvening of the Kohimarama Conference, as originally convened by a 19th century colonial governor, should be an extremely modest proposal for the Government of a 21st century social democracy. It is, accordingly, with this modest proposal, that it is suggested that the conference be reconvened and funded by the Crown, and that the agenda would include consideration of the establishment of Maori rule-making bodies and the mechanisms by which this would occur, the nature of the areas, both territorially, jurisdictionally, that such powers would exist. The specific areas of law and the draft laws that would be the subject of the process.
10. The fundamental issue is that the basic questions of that conference have not been addressed in the subsequent 150 years. The bringing together of the Rangatira is full hui is the way that is appropriate to such issues, not engagement with small crown selected favourites.
11. A small step to rescue a lost opportunity.

Nature of Proceedings at Kohimarama

12. The Crown was clearly unhappy with the nature of their legal/constitutional position. They hoped to ratify their version of all encompassing sovereign authority. The issues of Taranaki and Kingitanga were overshadowing proceedings.

13. As Claudia Orange observed in her article Kawenata Kohimarama

*"The issue of more immediate concern in 1860 was the government's problem of the crisis in Maori affairs. During the conference, British sovereignty somehow had to be confirmed; but it was essential to obtain Maori assent without appearing to trespass on Maori rights, or mana, particularly those relating to land. Implicit in a European understanding of sovereignty is the acquisition and exercise of territorial rights. Yet to dwell on these aspects would surely have been as unwise in 1860 as it had been in 1840. Almost certainly, then, the Maori chiefs were encouraged to understand 'sovereignty' in the protective sense, as the Crown's benevolence."*¹

14. She goes on to observe the clear evasiveness of the notorious McLean.

*"In 1860, McLean translated 'sovereignty' as nga tikanga me nga mana kawanatanga katoa, the authority and all the powers of governorship, a rendering that expanded on kawanatanga, yet added little of the sense of 'sovereignty'. Later in the conference he omitted any reference at all to kawanatanga, emphasizing instead the protection, or maru, that derived from sovereignty."*²

15. This reflected the Canadian experience where Indians regarded treaties as protective in nature. This emphasis coming from government agents during negotiations like McLean.

16. The views expressed by Maori at this meeting reflected the firm position of retention of their undiminished mana.

¹ The Covenant of Kohimarama A RATIFICATION OF THE TREATY OF WAITANGI NZJH 14 1 05

² The Covenant of Kohimarama A RATIFICATION OF THE TREATY OF WAITANGI NZJH 14 1 05

17. This is confirmed in the speech of Otene Kikokiko at the Kohimarima whare at Orakei in March 1871 when he recounted Gore Brown as stating that Maori retained the mana in their land and control over their forests and fisheries.

18. The governor before and after the conference was concerned about the validity of British jurisdiction in the country. He knew it was a fiction and knew the need to find a practical approach to co-governance, as he did not have the resources for a singular model.

English law was by a fiction assumed to prevail over the whole colony; and Lord Normanby (15th August, 1839) speaks of the repression of "cannibalism human sacrifices, and warfare among the Native tribes by actual force within any part of the Queen's dominions." The Governor, however, had no means of using force, and tacitly permitted these customs to continue: indeed, the last is not yet extinguished;³

19. The Governor knew the reality of his situation. This was not a situation where they chose to waive exercising their jurisdiction, they had no capacity to enforce it. There were two legal structures operating, English law in the settlements and Maori tikanga varying by hapu beyond that.

"The result has been that English law has always prevailed in the English settlements, but remains a dead-letter beyond them; that Government has been continually exposed to contempt from being unable to perform its duty, and has been driven, to temporize and ignore aggression or crime, which it could neither prevent nor punish."⁴

³ **DESPATCH from GOVERNOR T. GORE BROWNE, C.B., to his Grace the Duke of NEWCASTLE.**
Auckland—General Policy of the New Zealand Government. Government House, Auckland, 1st November, 1860

⁴ Ibid

20. He observed that even with the resources given Grey a proper system of law was not established.

*A large annual grant from the Imperial Treasury, full power, and great tact enabled sir George Grey to keep the country tranquil; but he was unable to establish any system or machinery which could effectually prevent the collision of elements so discordant as those with which the New Zealand Government has to deal.*⁵

21. Gore Browne saw the section 71 of the Constitution Act 1852 as a lost opportunity.

*When the Constitution Act was prepared, a second opportunity was offered to declare English provinces, and leave Maori districts beyond their pale to be governed by laws specially adapted to the people inhabiting them. Instead of so doing, however, the 71st clause of the Act declares that "It may be expedient that the laws, customs, and usages of the aboriginal inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity should for the present be maintained "for the, government of themselves in their relations to and dealings with each other," &c. This leaves the difficulty unsolved, either as relates to the customs which are repugnant to the principles of humanity, or to their dealings of any sort with Europeans who have been permitted to scatter themselves thinly over the whole Northern Island.*⁶

22. Gore Browne obviously saw a proposal of persuasion and cooperation as the only way forward but prophetically saw the lack of funds as an issue that could thwart the initiatives;

13. It has been urged that by a judicious use of moral influence the Maoris might have been induced to adopt a system of self-government which would have supplied the place of English law. To exert this influence successfully has been the study of my

⁵ Ibid

⁶ Ibid

*predecessors and myself, and the aim of the legislation of 1858, in which I cordially concurred. But while the difficulties attending the transition of the aborigines from absolute barbarism to comparative civilization have been annually increasing, the power of the Governor has been diminished and divided, and the funds at his disposal greatly reduced. In plain terms, the means which Government could command have not been sufficient for the attainment of the end desired.*⁷

23. The attempts to simplify the constitutional landscape and enhance the strength of kawanatanga as a term of power required some spinning of the wording.

*It should also be noted that Browne's speech reversed the order of the Waitangi clauses, stressing first the protective benefits gained by Maoris, in return for which they had ceded sovereignty. Significant alterations to the original draft of this speech further suggest an attempt to obscure the transfer of power by treaty and to emphasize protection.⁶⁷ It is hardly surprising, therefore, that the sense of sovereignty as te maru Kuini, was accepted by the conference.*⁸

24. This was seen by the tupuna as a protective arrangement. Claudia Orange goes on to surmise

⁷ **DESPATCH from GOVERNOR T. GORE BROWNE, C.B., to his Grace the Duke of NEWCASTLE.**
Auckland—General Policy of the New Zealand Government. Government House, Auckland, 1st November, 1860

⁸ The Covenant of Kohimarama A RATIFICATION OF THE TREATY OF WAITANGI NZJH 14 1 05

Perhaps this gives a new insight into the meaning of those oft-cited words of Nopera Panakareao at the signing of the treaty at Kaitia in April 1840, that 'the shadow of the land will go to him [Hobson] but the substance will remain with us'. That Nopera reversed his point of view is well-known. What remains unknown is Nopera's choice of words in Maori. It has been variously suggested that the 'shadow' was te atarangi, te aria, or te wairua.⁶⁸ But whatever expression Nopera may have used in 1840, it was maru, a word often chosen to express 'sovereignty', that was invariably used at Kohimarama: 'It was at that time [1840] that this Island was taken under the shadow (maru) of the Queen⁹

25. What I can say is ko Te Hakitara Wharewaka a tetahi o aku tupuna I no Te Rarawa reira I Kohimarama

26. *"Me utonu ho tatou ki te Whakaputanga hei tino korowai ki tenei huhuitanag I te kore, e kore rawa tenei kawana e whakarong ki a tatou"* We must enter the Whakaputanga for without it we will not be recognised.

27. This is a remarkably sentient statement. It is that without a firm written evidence of the expression of independence they will be disregarded as a sovereign power.

28. It also underlines their clear intention to establish an entity for sovereign recognition.

29. He saw the shadow of the land as a light touch of protection not the heavy hand of authority. This is supported by papatupu books of Te Rawawa which say "E kite ana ahau te mapua o te whenua he kaitiaki e hara I te ringa taimaha mo t e kawana"

⁹ The Covenant of Kohimarama A RATIFICATION OF THE TREATY OF WAITANGI NZJH 14 1 05

30. The quote of Nopera Panakareo is known in the English but the Maori has been obscured. In English Shade and Shadow can be used as synonyms. Shade however has also a meaning of canopy or protection. Even shadow can have that meaning in the sense of wind shadow or rain shadow.
31. It is suggested that the Maori word was translated as shadow was . maru
32. This is inline with the ongoing reference to maru at the Kohimarama conference. This compounds the view that the kawanatanga was in the nature of protection and protectorate. This is the view reiterated by many Rangatira.
33. The reports of the Maori Messenger during the conference report 12 occasions the word shadow is used, and 10 of those refer to protection such as shadow of the wing of the Queen.
34. In some ways we can use the reports of the conference but we must be cautious. The Messenger was a government sponsored publication.
35. There are also questions about the legitimacy of some of the proceedings. There are suggestions that the voting on the resolutions was questionable, voters were apparently confused and or counting of votes. The extent of gifts etc was called into question.¹⁰. This was observed by a number of independent parties.
36. It is however possible to find clues that more was said than what was reported in the official record. Even the official record allows us to understand matters such as the relationship of shadow/ maru to protection. The other is the clear difference in the Rangatira between their relationship to the Crown/Governor and the Queen.
37. Rangatira saw themselves as equal to the Governor but protected by the Queen.

¹⁰ The Kohimarama Conference of 1860 A contextual reading Journal of New Zealand Studies, Lachy Paterson vol 12 2011 p38 <https://ojs.victoria.ac.nz/jnzs/article/view/487>

38. In the minutes of the Kohimarama Conference commented on the position of Nga Puhi rangatira

With regard to the Treaty, Tamati Waka and the other Ngapuhi Chiefs showed themselves to be wise men in asking for protection.

To matou Ranagtira a Hongi Hika he tangata pumau matekite ahakoa I murua he maha nga patu mate o te tangata iaia I ona tini pakanga,ko tona hinengaro he tino koi , ko tona whatumanwa he tino aroha mo tona whenua I te mea ko kite ke a ia ko te taimai te muru ki runga I tona iwi no reira tu rangakaha aia me etahi atu ki tenei muru. Hongi Hika was a sagacious Chief, and although he destroyed many lives in war, yet he was a man of great mind who loved his country, fore saw danger and provided against it. He and others perceived the necessity of having protection. They applied to the King of England for it, and the result was this Treaty of Waitangi. Whatever you may now say respecting it, it has been a great boon to you. It is folly to accuse your Chiefs of the past generation of ignorance. Do not imagine that you are intellectually superior to them, or that they were less competent than yourselves to form a judgment as to what would benefit their people. Had they not the same faculties as you ? And were they not quite as capable of using them ? You should not impugn the wisdom of those chiefs who signed this treaty. Let not the children now talk of repudiating the wise acts of their fathers. They knew in their day what they were about as well as or better than you of the present generation.

Te Tiriti should be regarded by you as a valuable property, the benefit of which will be experienced by you in your day and hereafter by your children.

39. It is quite true that what is done here may be considered as a fuller ratification of that treaty on your part. I therefore agree with you, Paul, in your view as to the importance of a Conference like the

present at which, as you observe, the various tribes of New Zealand are so well represented.

40. *Your words also, Thompson, are correct. Attempts have been made in England to set aside this Treaty. But the Queen maintained it. She would not take advantage of your ignorance to set it aside ; and let me tell you, Chiefs of the Council, that that Treaty is your safeguard. If it were set aside you would be the sufferers.*¹¹

41. *Yet 'sovereignty' was also translated at the conference as mana. Tuhaere, in referring to the conference, claimed that it was 'the real treaty upon which the sovereignty (mana) of the Queen will hang'. The final resolution recognized the Queen's sovereignty (mana). And individual letters from various tribal groups also acknowledged the Kuini mana.⁷⁰ One might have assumed that the word mana would have caused a degree of unease amongst the chiefs had they considered the Queen's mana to be a challenge to their own. But apparently this was not so. Commitment to the Kuini mana was seen only in terms of benefits to be received. And later, Maoris would claim that their mana had been guaranteed to them at the 1860 conference.*^{7'}

42. *How can these apparent contradictions be reconciled? Perhaps the answer lies in the understanding of 'sovereignty' and mana conveyed during the conference?*¹²

43. *It seems very likely that several meanings for mana were understood; the first was the mana of the Queen who personified the sovereignty,*

¹¹ THURSDAY, 26TH JULY, 1860. P18 minutes of proceedings of Kohimarama conference

¹² The Covenant of Kohimarama A RATIFICATION OF THE TREATY OF WAITANGI NZJH 14 1 05

or maru, ceded in 1840 (an understanding either conveyed during the conference or confirmed by conference discussion);⁷² secondly, beneath this stood the mana kawatanga, the benevolent governorship deriving from the Queen; and then, alongside kawatanga existed the Maori mana or rights—the whole confirmed in their relationships by the treaty of Waitangi. That this understanding was possible is suggested by Te Hapuku's exposition of Maori rights. He seems to have believed that Maori chiefs could enjoy a similar, if not equal status to that of governors under the Queen: 'If only a position like that of a Governor were claimed for their King, [Tawhiao]⁷³ there being one Queen, it would be well; and let Tiaroa⁷⁴ also be made King for the other Island, for he has a separate Island. The Europeans have many Islands, and many Kings; but all derive their authority from the Queen alone.'⁷⁵

44. Other chiefs, such as Waka Nene, expressed similar points of view indicating a belief that under the sovereignty of the Crown it would be possible for authority [or mana] in New Zealand to be shared by the two races—one people under one law. Hence many chiefs at Kohimarama sought a greater Maori involvement in European runanga, or councils.

45. Maori treaty rights confirmed in 1860 became a point of reference for the expression of organized Maori protest in a series of conferences beginning in 1879. The first were convened by Ngatiwhatua,⁸¹ then Ngapuhi gatherings at Waitangi followed two years later.⁸² Referring back to 1860, Maoris once again debated the treaty and the explanations contained in Browne's speech.⁸³ There was little of the vagueness shown at the earlier conference; speakers had a good grasp of treaty clauses. The rights understood as guaranteed were

now seen to be unfulfilled. Yet the assurances about the benefits of the treaty, given in 1860, were still so firmly believed in, that Maoris were hesitant to find fault with the treaty, or to perceive that its clauses were impossibly contradictory. They searched instead for the 'real' meaning of Waitangi and Kohimarama, to see if the 'spirit' of the treaty had been carried out: 'Let us see whether the stipulations made in the Treaty of Waitangi are still in force or not. Do not let our grievances be attributed to the wrong causes.'⁸⁴

46. It was apparent from the grievances voiced at these conferences that Maoris were intensely disturbed by the direction of events affecting their lives: legislation was constantly whittling away Maori land;⁸⁵ local government was intruding into Maori areas with roads and taxes;⁸⁶ individually and collectively, Europeans were encroaching on Maori fishing preserves;⁸⁷ and confiscated Maori land was finally being forcibly taken for European settlement;⁸⁸ everywhere chiefly mana was being trampled underfoot.

47. Under the full impact of this assertion of government authority and European dominance, Maori confidence in the goodwill of Waitangi was shaken. Maoris felt that the mana guaranteed to them over land, forests and fisheries had been lost. More generally, the sense of Maori mana lost was confirmed by the exclusion of Maoris from various government positions in a general retrenchment of expenditure in Maori affairs that began at the end of the seventies.⁸⁹ The representation of Maori interests in the Wellington parliament by the four Maori members, judged generally to be ineffectual, was no compensation.⁹⁰

48. Maoris searched for a reason to explain why the promised benevolence of the Crown had been withdrawn from them. Failing to find any satisfactory answer and becoming increasingly suspicious of all government legislation, Maoris turned to the Queen. After all, she was still that same special person to whom they had committed the sovereignty of New Zealand. Surely she would not desert 'her own

especial people'? Abandon those in whose welfare she took 'so deep an interest'?⁹¹ She had, in fact, 'granted her protection to the Maoris in order to prevent their destruction.'⁹² Appeals were made to the Queen, therefore, to uphold the promises of Waitangi and to curb the violations being carried out by the New Zealand government. Two groups of Maoris even visited England to plead personally before the 'great mother'.⁹³ But the appeals inevitably had to be referred back to the New Zealand government which had held responsibility in Maori affairs since the 1860s.⁹⁴ In spite of a number of such rebuffs in the 1880s, Maoris continued to grasp at that elusive shadow, the promised protection that they believed the Queen, or the Imperial Parliament, might yet accord them." Their hopes were sustained by successive governors and politicians who, possibly inadvertently, persisted in postulating a special relationship between the Queen and the Maori people.⁹⁶ As a consequence, a full appreciation of the impersonal quality of the 'Crown' was evaded, while the myth of Crown benevolence continued.

49. The words of Hoana from the Bay of islands reflects a need to get to the core issue of governance and sovereignty, the sceptre being the symbol of the Queens authority.

"People of different places are associated together and constitute a church; in like manner let the opinions of all the people be united (on the subject of the laws) Now I say let us fully enquire into the meaning of Queen Victoria's sceptre. If we of New Zealand do not understand that sceptre we shall be like unto gold eaten up of rust. I have nothing more to say."¹³

50. It is these simple words that foreshadow the need for a constitutional congress

¹³ PROCEEDINGS OF OF THE KOHIMARAMA CONFERENCE, COMPRISING NOS. 13 TO 18 OF THE "MAORI MESSENGER." P42

51. We see the failure to continue the conference as a lost opportunity of our country. The opportunity to create true partnership. It is not a matter that can be defined as to specifics of how the status of He Whakaputanga can be reflected in the modern constitutional landscape by the Tribunal. It is however appropriate that the Tribunal recommend a vehicle that has historical resonance and addresses a long standing historic grievance.

52. We suggest that see such a conference could consider propositions such as:

(1) That the laws of this country will be reviewable by the Courts to be in compliance with Te Tiriti and Treaty principles, to reflect the derivative nature of kawanatanga.

(2) that under Article 2 Maori land will not be subject to current Local Government but will have its own local government structures

53. Structures be recommended to reflect Treaty partnership in terms of the legislative process.

Conclusion

54. The Conference was cut short by the Crown's need to wage war in the Waikato. The desire not to encourage Maori self-governance came with a change in governor.

55. It was recognised that rights of Maori, pursuant to the Treaty partnership that these discussions were necessary. The texts of the minutes of the Kohimarama Conference are full of references to the fact that there was contemplation of separate Maori law, the protection of the Crown, and a fiduciary duty.

56. This process cries out for a reconvening of the conference. It was a lost opportunity. We have the opportunity again.

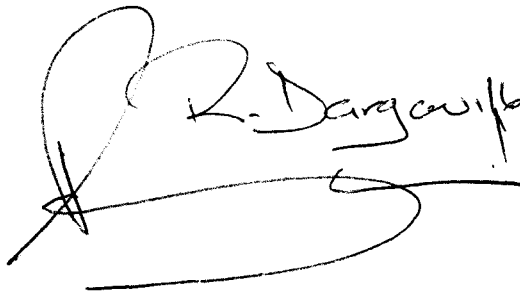
57. The reconvening of the Kohimarama Conference, as originally convened by a 19th century colonial governor, is an extremely modest

proposal for the Government of a 21st century social democracy. It is, accordingly, with this modest proposal, that it is suggested that the conference be reconvened and funded by the Crown.

58. The agenda would include consideration of the establishment of Maori rule-making bodies and the mechanisms by which this would occur, the nature of the areas, both territorially, jurisdictionally, that such powers would exist. The specific areas of law and the draft laws that would be the subject of the process.

59. The fundamental issue is that the basic questions of that conference have not been addressed in the subsequent 150 years. The bringing together of the Rangatira in a full hui is the way to approach such issues, not engagement with crown appointed cabale.

60. This is a small step to rescue a lost opportunity.

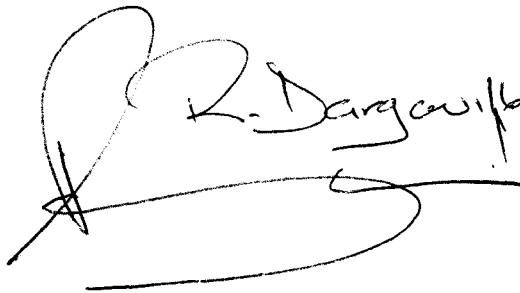
 R. Dargaville
01/09/2014

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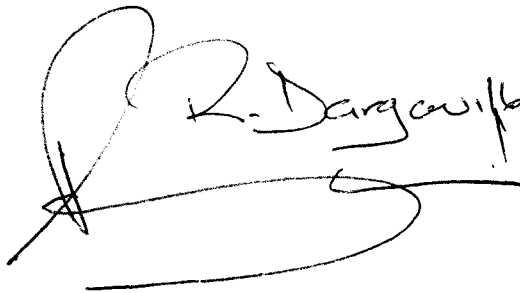
 R. Dargaville
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proposal for the Government of a 21st century social democracy. It is, accordingly, with this modest proposal, that it is suggested that the conference be reconvened and funded by the Crown.

58. The agenda would include consideration of the establishment of Maori rule-making bodies and the mechanisms by which this would occur, the nature of the areas, both territorially, jurisdictionally, that such powers would exist. The specific areas of law and the draft laws that would be the subject of the process.

59. The fundamental issue is that the basic questions of that conference have not been addressed in the subsequent 150 years. The bringing together of the Rangatira in a full hui is the way to approach such issues, not engagement with crown appointed cabale.

60. This is a small step to rescue a lost opportunity.



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