Response to Questions from the Crown

Dr Vincent O'Malley

November 2010

Q. 1. At page 6 of your summary (#A11(b)) and at page 244 of your main report (#A11) you state that James Busby explained in a letter that Busby's:

> **"aim in establishing close working relationships with the chiefs was to give him 'almost entire authority over the Northern part of the Island'."**

Your footnote for the quote from the letter states:

> **"Cited in Merata Kawharu, 'Te Tiriti and its Northern Context in the Nineteenth Century', (Report commissioned by CFRT), 2006, p.87."**

Did you read the full text of the letter when you prepared your main report or did you rely solely on Dr Kawharu's citation of it in her report?

A. 1. As indicated by my reference, I did not sight the full text of the letter (and nor does the full letter appear in the A.D.M. Busby work either) but instead quoted the extract in question as cited in the report of Merata Kawharu.

Q. 2. Attached is a copy of the letter, which is sourced from Augusta Dora Merewether Busby *A History of the Busby Family*, vol 2, New South Wales 1994, pp.415-416. The letter is dated 22 June 1833, roughly a month after Busby's arrival in New Zealand. Would you agree that the extract of this letter from which you quote is within the context of Busby describing the effect his presence had had on runaway convicts, particularly given that:

2.1 the extract occurs after a description by Busby of the effect his presence has had on runaway convicts (eg "I understand that before my arrival from 50 to 60 individuals had taken their departure"); and

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2.2 the extract comes before a description by Busby of his efforts at obtaining runaway convicts (eg "The 'Governor Philip' came here on 3rd. Inst, and the Commander remained at my request till I should ascertain whether I could not send him a number of runaway convicts. I paid a visit to the other side of the Island for the purpose, and when there I called on the Chiefs to bring to the Bay of Islands all the turbulent and mischievous characters of whom they complained, in their letter to the King, promising at the same time that the Governor would send down the blankets for everyone who should prove a convict")?

A. 2. Yes.

Q. 3. Would you agree that a reasonable interpretation of Busby's statement – "These effects are very apparent to the natives, and with them I expect to establish an influence which will give me almost entire authority over the Northern part of the Island" – is that Busby expects, with the assistance of rangatira, to gain influence and authority over runaway convicts?

A. 3. I accept that that is a possible construction that could be placed on the extract quoted. The capture of escaped convicts was one of the key tasks that Busby, working in conjunction with the northern rangatira, was expected to fulfil. It was explicitly mentioned in King William's response to the 1831 letter from the chiefs.[1] As I noted in both my report and summary, Busby was expected to exert his influence over the chiefs at an early date in order to bring about a more settled aspect of affairs. That was not merely a question of capturing convicts for return to New South Wales, but also envisaged the British Resident encouraging the chiefs to develop mechanisms through which he might be able to more easily exert some influence over the tribes. The official instructions issued to Busby prior to his departure for New Zealand in 1833 noted that 'it is expected that by the skilful use of those powers which educated man possesses over the wild or half-civilized savage, an influence may be gained by which the authority and strength of the New Zealand chiefs will be arrayed on the side of the

[1] Goderich to the Chiefs of New Zealand, 14 June 1832, GBPP, 1840 [238], pp.7-8.

Resident for the maintenance of tranquillity throughout the islands.'[2] The same instructions noted that:

> It is possible that by your official mediation the evils of intestine [sic] war between rival chiefs, or hostile tribes, may be avoided, and their differences peaceably and permanently composed. It is also possible, that at your suggestion, and by the aid of your counsels, some approach may be made by the natives towards a settled form of government, and that by the establishment of some system of jurisprudence among them, their courts may be made to claim the cognizance of all crimes committed within their territory; and thus may the offending subjects, of whatever state, be brought to justice, by a less circuitous and more efficient process than any which I have been able to point out.[3]

A key focus of my discussion of Busby's relationship with the northern rangatira was his efforts to develop more centralised governance mechanisms that would allow him to exert his influence over the tribes more easily. And, in fact, the letter to his brother dated 22 June 1833 goes on to provide additional evidence of this, with Busby writing that:

> I have been doing all in my power to get the Chiefs to act in concert, and intend by and bye to build them a Parliament House! where they will meet and discuss matters affecting them all. I have no fear that I shall be able to bring them forward in the formation of Political Institutions as fast as the circumstances of the people will permit; when I have once got them to assemble and decide questions affecting them all by the will of the majority, the foundation of a Government is laid.[4]

The British government's intention (along with that of Busby) was not merely 'to gain influence and authority over runaway convicts' but encompassed a wider range of goals, including (amongst other things) the elimination of tribal warfare, encouraging

[2] Bourke to Busby, 13 April 1833, GBPP, 1840 [238], p.4.
[3] ibid., p.6.
[4] A.D.M. Busby, *A History of the Busby Family*, vol.2, New South Wales, 1994, p.416, cited in Crown Memorandum, 5 November 2010.

an end to customs and practices deemed inconsistent with Christian morality, the introduction of a system of law modelled upon English principles, facilitating smooth trading relationships with New South Wales, and ensuring peaceful relations were maintained with those British subjects already resident in New Zealand. That Busby sought to get the northern chiefs to act in concert so that he could more easily influence their decisions and actions is obvious from the weight of available evidence. It would appear a thoroughly unremarkable conclusion to reach, and one that is not contradicted by the quote referred to, regardless of the particular construction placed upon it.