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IN THE WAITANGI TRIBUNAL

BRIEF OF EVIDENCE OF

Distinguished Professor Dame Anne Salmond

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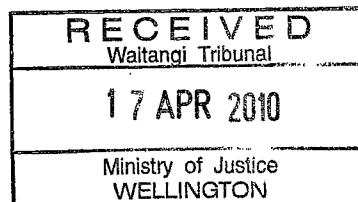


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1 INTRODUCTION

My name is Anne Salmond. I am a Distinguished Professor in Māori Studies and Social Anthropology at the University of Auckland; a Corresponding Fellow of the British Academy and a Foreign Associate of the US National Academy of Sciences.

As a teenager, I became close to Eruera and Amiria Stirling of Te Whānau-a-Apanui and Ngāti Porou, guides and mentors in Te Ao Māori; and later, to other knowledgeable elders, especially from Northland. I trained as a social anthropologist and linguist at the University of Auckland, and then at the University of Pennsylvania, where I was awarded a Ph.D in Anthropology in 1974.

I have written a number of books on Māori life, including accounts of early exchanges between Māori and Europeans in Northland and elsewhere; and papers on the historical semantics of Māori. Recently I have also written about the early contact period in Tahiti and elsewhere in Polynesia, gaining a comparative perspective on some of the issues before the Tribunal.

The Tribunal has asked me to revisit an earlier analysis of Māori understandings of the Treaty of Waitangi, written for the Tribunal during the Muriwhenua Land Claim in 1992. In that report, I addressed questions about the historical context in which the transactions and debates surrounding the Treaty of Waitangi took place; how various Māori participants may have understood the Treaty; and its likely impact upon their rights to land and other resources.

In preparation for this report, it has been indicated that I should not undertake further research. Of the questions now before the Tribunal, therefore, I will address that which is closest to my earlier brief - No. 5, *'How did Māori understand Te Tiriti / The Treaty? And, therefore, what was the nature of the relationship and the mutual commitments they were assenting to in signing Te Tiriti / the Treaty?'* For that purpose, I have examined a number of reports before the Tribunal, and an array of primary documents relating to the signing of the Treaty. I thank the Tribunal staff, particularly Barry Rigby, Jeff Abbott and Tina Mihaere for providing copies of many of these documents.

Although the phrasing of the Tribunal's question No. 5 suggests that Te Tiriti / The Treaty are alternative versions of a single historical entity, 'The Treaty of Waitangi,' I wish to argue from the outset that 'Te Tiriti' and 'The Treaty' are two very different documents, with divergent histories and implications. In my view, it is a fundamental error to blur the discussion of these two texts, as is so often done. Over the years, this persistent error has led to a confused and confusing historiography of the Treaty of Waitangi.

'The Treaty' in English, which was first drafted by James Freeman, the secretary of Captain Hobson, the Lieutenant-Governor elect (who had no knowledge of *te reo*

Māori) was subsequently revised by James Busby, the British Resident in New Zealand; and then edited by Hobson and his officials into a final version.

Although this final draft in English was read out by Captain Hobson at the beginning of the proceedings at Waitangi, it contributed little to the discussions with the *rangatira*, since most (perhaps all) of them did not understand it. For this reason the proposal in English is, strictly speaking, irrelevant to the question of what was agreed between the *rangatira* and the British Crown at Waitangi and elsewhere in 1840.

Nevertheless, as soon as the meeting at Waitangi was over, the Treaty in English was circulated as the ‘official’ version of the 1840 agreements, both in New Zealand and Britain. It subsequently became the focus of scholarly discussions (almost invariably in English) of the Treaty deliberations, and their political and legal implications. This, however, tells us more about imperial assumptions; subsequent relationships between Māori, the Crown and the settlers in New Zealand; and the intersections between historiography and power than it does about the promises that were exchanged between the *rangatira* and the Crown in 1840.

At the same time, the Treaty in English casts significant light upon the intentions of the British Government, Captain Hobson, and Henry Williams, among others, in those transactions. The fidelity of the translation equivalents between various sections of the Treaty in English and Te Tiriti is thus material to questions about good faith in the negotiations at Waitangi and elsewhere.

Te Tiriti, the proposal in Māori written by Henry Williams and his son Edward from Hobson’s final draft in English, and inscribed on parchment by Richard Taylor, is the text that was read out, debated and signed by many (but not all) of the *rangatira* during the meetings at Waitangi, Mangungu and Kaitaia.

Te Tiriti was aimed at a Māori-speaking audience, including many of the Europeans who attended the meetings, as well as the *rangatira*. After it had been signed by many *rangatira*, the version on parchment became the most authoritative account of what was in fact agreed between the *rangatira* of various hapu and the Crown in 1840.

Since no eyewitness accounts in Māori survive of these transactions, I will attempt to cast light upon contemporary Māori understandings of the agreements that were reached at Waitangi and elsewhere by

- A close examination of the text of Te Tiriti, including an historical-semantic analysis of some key terms, and the fidelity of their correspondence with sections of the Treaty in English. For this exercise, I have worked closely with Merimeri Penfold, a native speaker from Te Hapua and scholar of Māori;
- An inquiry into the Māori text of the Bible and other documents in ‘missionary Māori’ from the period, thus placing these terms in a wider contemporary linguistic context. For my earlier report, I worked closely with Cleve Barlow on this issue, a native speaker from Hokianga and expert on the historical linguistics of Māori, and drew upon his concordance of *Te Paipera Tapu*;

- A consideration of earlier and slightly later manuscripts written by Māori in Māori on related topics, for the same purpose;
- An analysis of the accounts of the debates at Waitangi, Hokianga and Kaitaia. Although these accounts record the various speeches in summary and in English, they are the best surviving evidence of the views and concerns expressed by the *rangatira*, and the assurances that they were given by the Crown and its allies at the time; and
- Reflection upon the historical and rapidly changing context in Northland at the time of Te Tiriti, including relationships among some of the key *rangatira*, and between these individuals and various European leaders.

It should be noted that apart from Te Tiriti itself, and those primary documents in Māori that were written at the time and survive in the public domain (none of which, to my knowledge, describe the Treaty transactions at Waitangi and elsewhere), the documents upon which this submission relies were all written by European observers. As will be discussed later, those accounts are inevitably partial, shaped and limited in many ways by the linguistic abilities, cultural presuppositions, understandings and interests of those observers. Any oral histories in Māori about Te Tiriti that have been handed down in the North, either in verbal or written form, will thus be significant in providing alternative insights into the perceptions and understandings of the *rangatira* who participated in the transactions. Others, who have access to this kind of evidence, will discuss it in their submissions. The purpose of this report is to consider the primary accounts that were written about Te Tiriti and the transactions at the time, as closely as possible.

2 TE TIRITI

2.1 A brief history of how Te Tiriti was drafted

Apart from some brief notes in Māori scrawled by the CMS missionary and printer William Colenso beside one section of his manuscript account of the Waitangi meeting; and one short section of his published account of the Waitangi debates on February 6, 1840, only one contemporary Māori language record survives in the public domain from the Treaty transactions at Waitangi, Mangungu and Kaitaia in 1840 - the parchment version of Te Tiriti in Māori, signed by various *rangatira* and Europeans at Waitangi, Waimate, Mangungu, Kaitaia, Waitemata and Okiato. The text below is a transcript of that parchment version:

Ko Wikitoria te Kuini o Ingarani i tana mahara atawai ki nga Rangatira me nga Hapu o Nu Tirani i tana hiahia hoki kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua, a kia mau tonu hoki te Rongo ki a ratou me te Atanoho hoki kua wakaro ia he mea tika kia tukua mai tetahi Rangatira – hei kai wakarite ki nga Tangata maori o Nu Tirani – kia wakaaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahikatoa o te Wenua nei me nga Motu – na te mea hoki he tokomaha ke nga tangata o tona Iwi Kua noho ki tenei wenua, a e haere mai nei.

Na ko te Kuini e hiahia ana kia wakaritea te Kawanatanga kia kua ai nga kino e puta mai ki te tangata maori ki te Pakeha e noho ture kore ana.

Na kua pai te Kuini kia tukua a hau a Wiremu Hopihona he Kapitana i te Roiara Nawi hei Kawana mo nga wahi katoa o Nu Tirani e tukua aiane, amua atu ki te Kuini, e mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atua enei ture ka korerotia nei.

Ko te tuatahi

Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoke ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu - te Kawanatanga katoa o o ratou wenua.

Ko te tuarua

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa. Otiia ko nga Rangatira o te wakaminenga me nga Rangatira katoa atu ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua – ki te ritenga o te utu e wakaritea ai e ratou ko te kai hoko e meatia nei e te Kuini hei kai hoko mona.

Ko te tuatoru

Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini – Ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

[signed] W. Hobson Consul & Lieutenant Governor

Na ko matou ko nga Rangatira o te Wakaminenga o nga hapu o Nu Tirani ka huihui nei ki Waitangi ko matou hoki ko nga Rangatira o Nu Tirani ka kite nei i te ritenga o enei kupu, ka tangohia ka wakaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu.

Ka meatia tenei ki Waitangi i te ono o nga ra o Pepueri i te tau kotahi mano, e waru rau e wa te kau o to tatou Ariki.

It is pertinent that Te Tiriti, signed by most of the chiefs assembled at Waitangi, was arrived at by a convoluted process of drafting and re-drafting, first in English, and then in Māori.

This process began when James Freeman, Captain Hobson's secretary, wrote down the first draft of The Treaty in English on board the *Herald*, probably at Hobson's dication.¹ This draft contained an early, abbreviated version of what became the preamble, and the first and third articles of the Treaty in English. The draft of Article 1 read: 'The United Chiefs of New Zealand cede to Her Majesty in full sovereignty the whole country;' and 'The United Chiefs of New Zealand yield to Her Majesty the Queen of England the exclusive right of Preemption over such Lands as the Tribes may feel disposed to alienate;' while Article 3 read, 'Her Majesty the Queen extends to the Natives of New Zealand Her Royal Protection and imparts to them all the Rights and Privileges of British Subjects.'

On 31 January this draft was delivered to James Busby, who revised Article 1 into its final form in English ('The Chiefs of the United Tribes of New Zealand and the separate and independent chiefs who have not become members of the Confederation cede to Her Majesty the Queen of England absolutely and without reservation all the rights and powers of sovereignty'); added the second article ('Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof, the full, exclusive and undisturbed possession of their Lands and Estates, Forests Fisheries and other properties which they may collectively or severally possess so long as it is their wish and desire to retain the same in their possession,') which survived almost untouched in subsequent

¹ Archives New Zealand, 1A/9/10.

drafts; and retained Article 3 as transcribed by Freeman.² Afterwards Busby polished the text in a third draft version.³ Neither of Busby's drafts has a preamble.

When Busby's polished draft in English was delivered to Hobson and his officials, probably on 2-3 February, they removed some rhetorical flourishes and a clause restricting the application of the Treaty to the Northern part of New Zealand. Hobson added a longer preamble which referred to the rapid increase of immigration from Britain and the evil consequences of a lawless state, seeking to point out the benefits of the agreement to Māori; but did not touch the three articles.

On 4 February Hobson took this fourth draft of the Treaty in English (which has not survived, except in transcripts, two of which are now held in Archives New Zealand) to Henry Williams, with a request that he translate it into Māori by the following morning.⁴ According to Henry Williams in later years,

On February 4, about four o'clock p.m., Captain Hobson came to me with the Treaty of Waitangi in English, saying that he would meet me in the morning at the house of the British Resident, Mr. Busby, when it must be read to the chiefs assembled at ten o'clock.

In this translation, it was necessary to avoid all expressions of the English for which there was no expressive term in the Maori, preserving entire the spirit and tenor of the treaty, which, though severely tested, has never yet been disturbed.⁵

That night Henry Williams and his son Edward, who according to his father was '*facile princeps* among Māori scholars, in regard to the Nga Puhi dialect, generally admitted, except in Waikato, to be the Attic (classic Greek) of New Zealand.'⁶ translated the English text into the first draft of Te Tiriti in Māori, which has not survived. After examining the draft of Te Tiriti the next morning, James Busby substituted the word *whakaminenga* for *huihuinga* to refer to the Confederation of Northern *rangatira*, which he had helped to establish.

According to Hobson, on the morning of 5 February:

I had appointed a levee to be held at Mr. Busby's house, at 11 o'clock, to which I invited all the principal European inhabitants, the members of the Church of England,

² Busby papers, Auckland War Memorial Museum Library AR MS 46 F6.

³ Archives New Zealand, Treaty room public display.

⁴ See Parkinson, Phil, n.d., Preserved in the Archives of the Colony: The English Drafts of the Treaty of Waitangi, *RJP/NZACL Yearbook 2004*, for a meticulous tracing of the history of these various drafts and transcripts. The 'official' text of The Treaty (in fact a transcript of the final English Treaty, but certified as a faithful translation of the Maori text of Te Tiriti by Williams), was sent by Hobson to Gipps, the Governor of New South Wales, and then to the Secretary of State in Britain (This can be found at PRO CO 209/7, 13-5). See commentary on p.46 of this report.

⁵ Williams, Henry quoted in Hugh Carleton, ed., 1948, *The Life of Henry Williams, Archdeacon of Waimate* (Wellington, A.H. and A. W. Reed), 312-3.

⁶ *Ibid*, 313.

the members of the Church of England and Catholic missions, and all the officers of this ship [the *Herald*], for the purpose of explaining to them the commands I had received from Her Majesty the Queen, and of laying before them the copy of a treaty which I had to propose for their consideration.’⁷

This must have been a copy of the final draft of the Treaty in English, although the Europeans in attendance at the levée had little time to absorb its contents. According to Colenso, during the levée Henry Williams, Busby and Hobson were still working on the proposal in Māori, and how to present it to the *rangatira*. At this stage, then, Te Tiriti in Māori was still in draft form.

Just an hour after the levee began, at 12 p.m., a large crowd of settlers, *rangatira* and other Māori assembled under ‘spacious tents, decorated with flags, which had been previously erected at Waitangi by the direction of Captain Nias, of this ship [the *Herald*].’⁸ Captain Hobson addressed the chiefs, with Henry Williams interpreting. Captain Robertson of the *Samuel Winter*, who later carried the official Māori text of Te Tiriti and the final draft in English to Governor Gipps in New South Wales, gave a brief account of Hobson’s speech in the *Sydney Herald*, adding that:

The Treaty was then read by His Excellency, and a translation of it by the Rev. Mr. Williams, the substance of which was to the same effect as the address, after which several of the Chiefs addressed his Excellency.⁹

In Colenso’s notebook, there is a verbatim transcription (with many abbreviations) of Hobson’s address. This is very like Robertson’s account, although at the end of Hobson’s speech, it added, ‘One thing I’d ask. Do you think it better for yr. Country to be ruled by the Q. Who has not other Int. But yrs. Or those persons who come here with no other desire but to purchase lands for themselves.’¹⁰

According to Hobson, at the beginning of the meeting:

I explained to [the *rangatira*] in the fullest manner the effect that might be hoped to result from the measure, and I assured them in the most fervent manner that they might rely implicitly on the good faith of Her Majesty’s Government in the transaction. I then read the treaty, a copy of which I have the honour to enclose; and in doing so, I dwelt on each article, and offered a few remarks explanatory of such passages as they might be supposed not to understand. Mr. H. Williams, of the Church

⁷ William Hobson to Lord Normanby, Her Majesty’s Ship *Herald*, Bay of Islands, 5 February 1840, Despatch #40/8 in BPP 311, 8-9, Encl. 3 in No. 4.

⁸ Ibid.

⁹ *Sydney Herald*, 21 February 1840. See also the account in Colenso’s manuscript account of the transactions on 5 February 1840, Colenso Papers, ATL MS-Papers-003103.

¹⁰ William Colenso, Notebook for 1839, Hawkes Bay Museum, Napier; see also W. Colenson, Diary April 1837, ATL-MS-0582, 32.

Missionary Society, did me the favour to interpret, and repeated in the native tongue, sentence by sentence, all I said.¹¹

In Henry Williams's later reminiscences, he remarked:

In the midst of profound silence, I read the treaty [Te Tiriti in Māori] to all assembled. I told all to listen with care, explaining clause by clause to the chiefs, giving them caution not to be in a hurry, but telling them that we, the missionaries, fully approved of the treaty; that it was an act of love towards them on the part of the Queen, who desired to secure to them their property, rights and privileges; that this treaty was as a fortress for them against any foreign power which might desire to take possession of their country, as the French had taken possession of Otaiti [Tahiti: an event which did not take place for another two years, although in 1839 the French had sent a frigate to Tahiti to force the acceptance of Catholic missionaries].¹²

William Colenso's more detailed account of this part of the proceedings contains none of this, but appears to be a rendering of Hobson's remarks in English, rather than Williams's elaborations in Māori. It is immediately apparent, then, that the relation between the surviving documents and any explanations that were given in Māori to the assembled gathering at Waitangi is complicated, and far from literal.

As we shall see, during the Waitangi meeting on 5 February, the accuracy of Williams's translations was contested by bi-lingual Europeans on several occasions.

At the end of the meeting, the *rangatira* were asked to think over the proposals, with an expectation that they would meet again on 7 February. According to Williams, on the evening of 5 February,

There was considerable excitement amongst the people, greatly increased by the irritating language of ill-disposed Europeans, stating to the chiefs in the most insulting language that their country was gone, and they were now only *taurekareka*. Many came to speak upon this new state of affairs. We gave them but one version, explaining clause by clause, showing the advantage to them of being taken under the fostering care of the British Government, by which act they would become one people with the English in the suppression of wars and of every lawless act; under one Sovereign and one Law, human and divine.¹³

Williams blamed much of this unrest upon Bishop Pompallier, the leader of the Catholic mission in New Zealand. As he explained to Coates, the Secretary of the CMS,

The Popish Bishop has been endeavouring to poison the minds of the natives, but has not succeeded. Many of the Chiefs hung back for some time, having been told that

¹¹ Hobson to Normanby, 5 February 1840.

¹² Williams in Carleton, ed., 1948, 313.

¹³ Ibid, 313-4.

they would be sent on to the roads to break stones, as the convicts of Port Jackson, and to labour as they do.¹⁴

Indeed it seems that Pompallier, although he tried to be circumspect, did warn the *rangatira* about the implications of Te Tiriti, and that they were in danger of losing their *mana*. As Captain Lavaud reported five months later, Pompallier told them ‘that it is only a question of knowing whether it is preferable for you to recognise and obey a great European chief, rather than live as you have lived until now.. I will add, however, that you must give mature consideration before signing, because the Europeans are strong.’ Lavaud added, ‘The chiefs did not want to hear talk of obedience; they supposed that Captain Hobson would be an additional great chief for the Europeans only, but not for them.’¹⁵

When they spoke with the *rangatira* that evening, the CMS missionaries spoke unanimously in favour of Te Tiriti. As Wesleyan Rev. Samuel Ironside, recorded five days later:

The Governor’s proposal was to me very fair, & calculated to benefit the natives, so I gave it my sanction, believing a regular colonisation by Government certainly much better than the irregular influx of convicts & runaway sailors, which infests the country at present.¹⁶

While Henry Williams and other missionaries were persuading the *rangatira* to sign, Rev. Richard Taylor, concerned that if the next meeting did not occur until 7 February, almost all of the *rangatira* would have gone home, sent a message to that effect to Hobson, and offering to give notice to the *rangatira* that the meeting would resume the next day. According to Taylor,

His reply was favourable and the rough copy of the treaty was sent to me to get copied... I sat up late copying the treaty on parchment and kept the original draft for my pains.¹⁷

When the the *rangatira* assembled on the afternoon of 6 February, Henry Williams read out Taylor’s transcription of Te Tiriti on parchment (the version that was signed, and is now held in Archives New Zealand), once again acting as an interpreter for the proceedings.

Clearly, Henry Williams played a pivotal role during the Waitangi Treaty transactions, both in drafting Te Tiriti and explaining its provisions in Māori, clause by clause, during the 5 February meeting, and later that evening in discussion with many of the chiefs; and as English-to-Māori and Māori-to-English translator throughout the

¹⁴ Williams to Coates, Paihia, 13 February 1840, CMS Letters Received 1838-1840, CN/M11, 706-8, ATL Micro Collection 4, Reel 33.

¹⁵ Lavaud, quoted in Low, 1990, 191.

¹⁶ Ironside, Rev. Samuel, Diary, 10 February 1840, ATL MS Papers 381, Mic 474.

¹⁷ Taylor, Rev. Richard, Journal, Vol II, typescript AWMML, MS 161, 187-203.

deliberations. He was not, however, recognised as one of the better translators among the missionaries – Edward Williams, William Williams, William Puckey, James Hamlin, Robert Maunsell and the Wesleyan John Hobbs¹⁸ had that reputation – nor does he seem to have acted as a faithful translator, at least during the Waitangi meeting, excising some comments unfavourable to the C.M.S. missionaries.¹⁹

Henry Williams's original draft of Te Tiriti in Māori (which was kept by Rev. Richard Taylor) has not survived, nor do we have any detailed account apart from Williams's own brief précis, of the clause-by-clause explanations that he gave to Māori at Waitangi in their own language. The parchment text in Māori, although it may not be an absolutely faithful version of Williams's original draft in Māori, is thus the only evidence in Māori of what was read out to the chiefs and debated in Māori at Waitangi on 5-6 February 1840, and subsequently was read out, debated and signed at Mangungu and Kaitaia.

Although the Treaty in English was also read out at Waitangi, in relation to the agreements with the *rangatira* of various *hapū*, it is best regarded as a preliminary draft document. It does, however, provide the basis for Te Tiriti, the Māori text that was debated and finally signed at Waitangi and elsewhere, which must be regarded as the official record of the agreements between the *rangatira* and the Crown.

2.2 Historical-semantic translation of Te Tiriti

It is impractical and not very useful to discuss each word and phrase of the parchment text that was read, debated and signed in Māori in the North in 1840. I append below a translation of Te Tiriti on parchment, in which Merimeri Penfold and I have attempted to capture in English the most likely sense of the various phrases of that document as they may have been understood by Northern *rangatira* when Te Tiriti was read out to them in 1840.

This translation has been enriched by a consideration of five 'back-translations' (ie. Māori to English translations of Te Tiriti) made during the 1840s by Māori -speaking Europeans (although these must be used with caution, given the translators' variable mastery of Māori, and their differing political interests):

- One in Busby's handwriting (the so-called 'Littlewood' Treaty) on notepaper belonging to James Clendon, the American consul, who was eager to procure a

¹⁸ Note that William Williams and Robert Maunsell were the principal translators of Te Paipera Tapu; and that William Puckey and James Hamlin were also regarded as fine speakers of Maori [Williams, William, ed. Frances Porter, 1974, *The Turanga Journals: Letters and Journals of William and Jane Williams* (Wellington, Price Milburn, for Victoria University), 44, 316. According to Octavius Hadfield, Maunsell was 'by far the best Maori scholar in the country, and his translations (especially from the Hebrew) are really beautiful, but they are at once idiomatic and literal. Archdeacon W. Williams comes next to him tho' at some distance' (quoted in *ibid*, 315-6).

¹⁹ See the debate at Waitangi, p. 36-7, 39 of this evidence.

faithful rendition of Te Tiriti in English to send to his superiors in the State Department in Washington;²⁰

- Another by an anonymous individual, also made for Clendon – quite a faithful rendition;²¹
- A back-translation by Gordon Brown, a timber merchant at Horeke, also evidently drafted for Clendon;²²
- Another by Richard Davis, the C.M.S. missionary, who was also involved in the transactions;²³
- One by Samuel Martin, a Scottish lawyer in New Zealand).²⁴

The fact that these ‘back-translations’ were requested by various authorities suggests a clear recognition by various European authorities that Te Tiriti and the Treaty in English were significantly different; and that they needed an accurate translation of the text in Māori that was read out, debated and actually signed, since this was the ‘real’ agreement with the *rangatira*. No detailed ‘back translation’ of Te Tiriti by Henry Williams has survived, although there is a free running account in English of its various sections, sent by Williams to Bishop Selwyn in July 1847.²⁵

Historical-semantic translation:

Victoria the Queen of England in her caring concern [*mahara atawai*] for the *rangatira* and the *hapū* of New Zealand, and in her desire that their chieftainship [*rangatiratanga*] and their land should be preserved to them, and that lasting peace and also tranquil living [*te Rongo... me te Atanoho hoki*] should be theirs has thought it right that a *Rangatira* should be sent - as a mediator [*kai wakarite*] to the māori people [*tangata maori pl.*] of New Zealand – that the māori *rangatira* might agree to the Governorship [*Kawanatanga*]

²⁰ Archives New Zealand, NA Series 6544; see Parkinson, n.d., 89-90 for the text.

²¹ Holograph, Auckland Central City Libraray, Clendon House papers, NZMS 705, Box 1, Bundle 1, no.1; see Parkinson, n.d., 90-91 for text.

²² Brown, Gordon, in Clendon papers, APL NZMS 705, Box 1 Bundle 1 no. 8); see Parkinson, n.d., 91-2 for text.

²³ Davis, Richard, quoted in Coleman, John Noble, 1865, *A Memoir of the Rev. Richard Davis, for thirty-nine years a missionary in New Zealand* (London, James Nisbet)m 455-6; see Parkinson, n.d., 88-9 for text.

²⁴ Martin, Samuel, 1845, *New Zealand in a series of letters*, Appendix I, 360-3; see Parkinson, n.d., 92-3 for text.

²⁵ See Parkinson, n.d., 93-4 for the text. Although Parkinson has provided a ‘synthesis’ of these back-translations of Te Tiriti in his paper, this is of limited value, since it represents a synthesis of the understandings of Māori-speaking Europeans at the time. Rather, a valid back-translation of Te Tiriti should be based on the understandings, not only of Henry Williams, who wrote it, but more importantly, of the *rangatira* who heard it read out, and signed the document at Waitangi and elsewhere. This requires a historical-semantic approach, as taken here.

of the Queen over all parts of the land and the islands, since many of her people have settled in this land, and others are yet to come.

Now the Queen wishes that the Governorship should be established, so that evil may not come to the māori people and the Pākeha who are living without law [*ture*].

Now the Queen has been pleased that I, William Hobson, a Captain in the Royal Navy, should be sent [*tuku*] as Governor for all those parts of New Zealand which are now or shall be released [*tukua*] to the Queen, and declares to the rangatira of the Confederation [*whakaminenga*] of the tribes [*hapu*] of New Zealand the laws [*ture*] that are spoken here:

The first

The *rangatira* of the confederation and all of the *rangatira* who have not joined that confederation give completely [*tuku rawa atu*] to the Queen of England forever – all the Governorship [*Kawanatanga*] of their lands.

The second

The Queen ratifies [*whakarite*] and agrees to the unfettered chiefly powers [*tino rangatiratanga*] of the *rangatira*, the tribes and all the people of New Zealand over their lands, their dwelling-places and all of their valuables [*taonga*]. Also, the *rangatira* of the Confederation and all the other *rangatira* release [*tuku*] to the Queen the trading [*hokonga*] of those areas of land whose owners are agreeable, according to the return [*utu*] agreed between them and the person appointed by the Queen as her trading agent [*kai hoko*].

The third

In recognition of this agreement to the Governorship of the Queen – the Queen will care for [*tiaki*] all the māori people [*nga tangata maori* pl. *katoa*] of New Zealand and give [*tukua*] to them all and exactly the same customary rights [*tikanga rite tahi.*] as those she gives to her subjects, the people of England.

[Signed] W. Hobson Consul and Lieutenant Governor

Now we the Rangatira of the Confederation of the hapu of New Zealand assembled here at Waitangi, and also we the Rangatira of New Zealand see the likeness of these words. We accept and agree to all of this, and so we sign our names and marks.

This is done at Waitangi on the sixth day of February in the year one thousand, eight hundred and forty of our Lord [*Ariki*].

2.3 Some key words and phrases in Te Tiriti:

2.3.1 *The Preamble*

nga Rangatira me Nga Hapu o Nu Tirani

This phrase, which the contemporary Europeans all translate as ‘the Chiefs and Tribes of New Zealand’ raises a number of questions.

First, it indicates that at this time in Northland, *hapū* (often translated as ‘sub-tribe’ today) were the dominant form of descent group, and at that time, translated as ‘tribe.’

Second, it indicates that by 1840, *rangatira* were recognised as the most senior leaders of descent groups. In a number of other regions (including Tūwharetoa, Tainui and Tai Rawhiti), however, *rangatira* were out-ranked by *ariki* (or high chiefs), sacred leaders who were treated with great veneration. Significantly, when Te Tiriti was taken to their districts, none of these *ariki* (including Te Heuheu Mananui; Potatau te Wherowhero and Te Kani a Takirau) would sign.

Although by 1840, there is no mention of *ariki* in the North, the historical records are unequivocal that earlier in the contact period, there were *ariki* or ‘high chiefs’ in Northland. These individuals were highly *tapu*; spoken of as *atua* (beings from Te Po, ‘gods’); presided over the most *tapu* rituals, including those for *kai-rarawa* (ritual eating of conquered chiefs and warriors); carried around to stop their sacred feet from touching the ground; ate from carved storehouses where their food was kept apart; and sat on the roofs of houses or on high carved platforms during the gatherings of the people. In the North, too, as is well known, some women were also given this title.

According to John Liddiard Nicholas, for instance, a young man who accompanied Samuel Marsden on his first visit to New Zealand in 1814, at that time there were three main *ariki* in the North from the Cavalles to the River Thames – Tara, whose influence extended on the south-east side as far as Bream Bay; Kaingaroa, the *ariki* over the territory from the Cavalles to the north-east side of the Bay of Islands; and Te Haupa, whose mana extended over the southern-most district to Hauraki. Tara’s younger brother Tupi was his war-leader; while Kaingaroa’s younger brother Hongi Hika led his men in battle.²⁶ When Nicholas and Marsden visited Kaingaroa and his mother at their *pā* at Waimate, they found them each sitting on elevated carved stages six feet above their people; and Kaingaroa’s mother also had her own *pataka*.²⁷

²⁶ Nicholas, John Liddiard, 1817, *Narrative of a Voyage to New Zealand performed in the years 1814-5, in Company with the Rev. Samuel Marsden I & II* (London, James Black & Son], I:288-9.

²⁷ *Ibid*, I:338-9: ‘In the centre of this town we were shown the seat or throne of Kangeroa. It was curiously shaped, and raised upon a post about six feet above the ground, with some fanciful devices of some grotesque carving. There was a step to assist him in getting up, and it served him also for a footstool. On this throne, the chief, elevated above his people, dispensed his laws and issued his

Throughout the proceedings at Waitangi and elsewhere in Northland, however, *ariki* are never mentioned. By 1840, the nearest equivalent seems to have been a *tino rangatira*, or senior chief. There are a number of possible explanations, and no doubt the claimants will be aware of others:

First, it is possible that during the musket fighting in the 1820s and 1830s, in which warriors from Northland were centrally involved, the most senior inheritors of the *ariki* descent lines were killed or proved ineffective, giving way to the war-leaders (Hongi Hika, for instance);

Second, since the *ariki* were pre-eminently ritual leaders, the living embodiment of *atua* who played the leading role in the ceremonies for agriculture, fishing, canoe-building and war, their *tapu* status was antithetical to Christianity – and Christianity was introduced first and most intensively to Northland. In various prayers and in the Bible, ‘*te Ariki*’ was the term for Jesus Christ; and indeed, the only use of this term at Waitangi was in this connection. The date at the end of Te Tiriti is given as ‘the year of our Lord [*Ariki*] 1840, a reference to the birth of Christ.

Third, Sissons, Wihongi and Hohepa have suggested that in the North during the years before European arrival, new groups and alliances were forming, based in densely populated, heavily fortified sites;²⁸ and it is likely that the alliances that emerged in this way were headed by *ariki*. Although van Meijl has argued that ‘the musket wars only put senior or paramount chiefs, operating at the level of *iwi* and sometimes of *waka*, on the stage of inter-tribal politics for the first time in Māori history;²⁹ the historical evidence in Northland points in the opposite direction. *Ariki* were highly visible in Northland in 1814, but not in 1840, suggesting that the rapid and large-scale influx of European ships and settlers, with their tools, weapons, diseases and constant *hara* (breaches of *tapu*), and musket fighting had destabilised rather than strengthened these larger-scale alliances;

Fourth, kin group alliances were always unstable and shifting in Polynesia. In New Zealand, this instability was probably always greater in Northland, for environmental reasons. In Tainui, the different descent groups were linked by the Waikato River – *Waikato taniwha rau, he piko, he taniwha*. In Tuwharetoa, they clustered around Taupo-moana and Tongariro. In Northland, however, with its multitude of bays and harbours, each group could go its own way – *Ngā Puhi ko whao rau* – although in 1814, according to Nicholas, one could proceed by river from Hokianga to Lake Omapere and from there to the Bay of Islands – *Ka mimiti te puna o Hokianga, ka toto ki Taumarere*.

commands.. Convenient to this seat was another, reserved exclusively for the Queen Dowager, Kangeroa’s mother, and close to it a small box to hold her majesty’s provisions.’

²⁸ Sissons, Jeffrey, 1988, Rethinking Tribal Origins, *JPS* 97/2, 3.

²⁹ Van Meijl, Toon, 1995, Maori socio-political organisation in pre- and proto-history: on the evolution of post-colonial constructs, *Oceania* 65/4, 304-23.

Thus although various authorities are correct in claiming that by 1840, *ariki* or high chiefs were not visible in the North, this was evidently a recent development. If there had been *ariki* in Northland in 1840, the negotiations at Waitangi might have been quite different; and the terms of Te Tiriti.

i tana mahara atawai

This phrase, which we have translated ‘in her caring concern’ suggests that Queen Victoria herself had a personal care for the *rangatira* and *hapū* of New Zealand. Indeed, Te Tiriti is phrased throughout as involving the Queen both directly and personally in its various provisions. This, plus comments such as Williams’s that Te Tiriti was ‘an act of love towards them on the part of the Queen’ must have suggested to the *rangatira* that Te Tiriti was intended as a personal transaction between themselves and the Queen of England.

kia tohungia ki a ratou o ratou rangatiratanga me to ratou wenua

These phrases, which we have translated ‘that their chieftainship and their land be guaranteed to them’ suggests an indefinite but real threat to both chieftainship and land, no doubt that elaborated by Henry Williams in his claim that the French had already taken possession of Tahiti, and by Hobson himself in the stark choice he posed between the governorship of the Queen, and the dominance of the land sharks. They also include the key concept of *rangatiratanga*, upon which I comment at length below.

Kua wakaaro ia he mea tika kia tukua mai tetahi Rangatira

These phrases, which we have translated ‘(she) has thought it right that a *Rangatira* should be sent’ include the terms *tika* (appropriate, fitting, proper, according to precedent) and *tukua* (be sent, released, given – a key term in chiefly gift exchange). These terms evoke the language of chiefly reciprocity, and suggest that Te Tiriti was to be conducted in ceremonial style, with due attention to protocol and propriety and within an ethic of chiefly generosity. In Māori kinship politics it was not uncommon to seal an alliance by sending (*tuku*) a chiefly person from their own territory to another group as wife, husband, foster child or resident ally; and it is likely that the Queen’s *tuku* of the Governor was seen by the *rangatira* as creating a similar bond between Māori and Europeans.

hei kai wakarite ki nga Tangata maori o Nu Tirani

These phrases, which we have translated ‘as a mediator to the maori people [pl.] of New Zealand – introduce the concept of *kai whakarite* – one who makes things alike, or equal, a term used in early Māori translations of the Bible as a translation

equivalent for ‘judge’ (e.g. *Kai Whakarite* – Judges).³⁰ The role of *kai whakarite* as mediator in inter-*hapu* disputes had become familiar in the North as a role that the missionaries might usefully play, and the term *kai wakarite* was used by William Williams in an 1832 translation of an official letter to describe the role of the newly-arrived British Resident, William Busby, as a facilitator and mediator in Māori-European exchanges.³¹ The syntax of the phrase *ki nga Tangata maori o Nu Tirani* suggests that this *kai-wakarite* role was to be played, not so much with *hapu* as collectivities, as with their members as individuals.

At this time, too, the term ‘māori’ was an adjective rather than a noun; describing ordinary, indigenous individuals as opposed to the new arrivals or Pākeha. For this reason, ‘māori’ was written without capitals throughout Te Tiriti.

kia wakaetia e nga Rangatira maori te Kawanatanga o te Kuini ki nga wahi katoa o te wenua nei me nga motu

These phrases, which we have translated ‘that the māori *rangatira* might agree to the Governorship of the Queen over all parts of the land and the islands,’ introduce another key concept, that of *kāwanatanga*.

I propose to discuss both *rangatiratanga* and *kāwanatanga* in detail below, since these two concepts are central to debates over what the *rangatira* may fairly be said to have agreed to when they signed Te Tiriti.

Ko te Kuini e hiahia ana kia wakaritea te Kawanatanga

These phrases, which we have translated, ‘Now the Queen wishes that the Governorship should be established,’ suggest that the Governorship should be set up only after negotiations between the Governor and the *rangatira* had been successfully concluded; and again, that the Queen personally wished this to be done.

ki te tangata maori ki te Pakeha e noho ture ana

These phrases, which we have translated, ‘to the māori people and to the Pakeha who are living without law’ suggest that the laws were to apply to individuals, both indigenous and Pakeha.

³⁰ Barlow, Cleve, 1990, *He Pukapuka Whakataki Kupu o te Paipera Tapu: A Concordance of the Holy Bible* (Rotorua, Te Pihopatanga o Aotearoa), 85.

³¹ Orange, Claudia, 1987, *The Treaty of Waitangi* (Wellington, Allen & Unwin), 13, 16 – see Appendix I. See also Biggs’s discussion of *whakarite* in Biggs, Bruce, 1989, *Humpty Dumpty and the Treaty of Waitangi*, in Hugh Kawharu, ed., *Waitangi: Maori and Pakeha Perspectives of the Treaty of Waitangi* (Auckland, Oxford University Press).

Ture (derived from ‘Torah’ in the Bible] was a missionary-coined word used in Māori translations of the Bible as an equivalent for ‘law, ordinance, statue’ and the like;³² and in the 1832 letter introducing Busby, as a translation equivalent for ‘laws.’ By 1840 there were a number of Māori Christian communities who had devised (or been given) *ture*, or ordinances, to govern their daily affairs. *Ture*, I consider, would have been understood as European-inspired regulations, closely associated with the role of *kai wakarite* [adjudicator] in Biblical texts:

Exodus 19 (16): Moses:

When they have a matter, they come unto me, and I judge between one and another, and I do make them know the statutes of God, and his laws.

was translated in Māori:

Ka ai he mea ki a ratou, na ka haere mai ki ahau, maku e wakarite a tetahi ki tetahi; e whakaatu hoki ki nga tikanga a te Atua, me ana ture.

Although Williams later explained that in his clause-by-clause explanations of the Treaty, he urged upon the chiefs ‘the advantage of them being taken under the fostering care of the British government, by which they would become one people with the English, in the suppression of war, and of every lawless act; under one sovereign, and one law, human and divine,’ phrases in Te Tiriti such as those highlighted above suggest that *ture* would primarily apply to the currently unregulated relations between Māori and European individuals, and it seems probable that the *rangatira* understood the scope of *ture* in that way. According to Father Catherin Servant, who accompanied Pompallier to the meeting, the chiefs were not impressed by this proposal: ‘The majority of orators do not want the Governor to extend his authority over the natives, but over the settlers exclusively.’³³

Na kua pai te Kuini kia tukua ahau a Wiremu Hopihana ... hei Kawana mo nga wahi katoa o Nu Tirani e tukua aianeia a mua atu ki te Kuini

These phrases, which we have translated ‘Now the Queen has been pleased that I, William Hobson, .. should be sent as Governor for all those parts of New Zealand that are now or shall be released to the Queen,’ again emphasize the Queen’s personal involvement in the decision to send Hobson as Governor to New Zealand; and express this decision as an act of *tuku*, to be reciprocated by the *rangatira* in giving up (*tuku*) parts of the country to the Queen.

E mea atu ana ia ki nga Rangatira o te wakaminenga o nga hapu o Nu Tirani me era Rangatira atu enei ture ka korerotia nei

³² Barlow, 1990, 307.

³³ Servant, quoted in Low, P., 1992, French Bishop, Maori Chiefs, British Treaty, in John Dunmore, ed., *The French and the Maori* (Waikanae, Heritage Press), 203.

These phrases, which we have translated, ‘and she declares to the *rangatira* of the Confederation of tribes of New Zealand the laws that are spoken here’ introduce ‘*te wakaminenga o nga hapu o Nu Tirani*’ – the title given by the Northern chiefs (or more strictly speaking, by Busby) to themselves as a collectivity when they signed the 1835 Declaration of Independence. Not surprisingly, since Busby had invested a great deal in the Confederation, he insisted on the use of the term *wakaminenga* in Te Tiriti.

These phrases also describe the articles of Te Tiriti that follow as *ture* – laws or ordinances in the Biblical sense, a concept already in use by Māori Christian communities in the North, who were devising *ture* or laws (with missionary assistance) to govern the conduct of their own affairs..

2.3.2 *The three articles [ture] in Te Tiriti:*

Ko te tuatahi (The First):

Ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu – te Kawanatanga katoa o o ratou wenua.

These phrases in the first article, which we have translated ‘give completely to the Queen of England forever – all the Governorship of their lands’ constitute one of the key elements in the Treaty agreements.

Because *tuku* was a term used in chiefly gift exchanges (of *taonga* including heirlooms, men and women in marriage, and land), these phrases suggest an unreserved release of some kind to the Queen of England, and one involving their lands in some way. *Kāwanatanga*, which was used 74 times in the *Paipera Tapu* for ‘province’ or ‘principality;’ and in the Declaration of Independence for ‘function of government,’ always referred to a subordinated and delegated form of power. Māori aristocratic etiquette in chiefly exchanges, however, did not allow the prospective recipient of a *tuku* gift to indicate too definitively what it should be; nor could the prospective givers make too close an enquiry (at least in public) about what would be acceptable.

This made it difficult for the *rangatira* in public to ask precisely what *kāwanatanga* might entail – although some of them came close to it in both the Waitangi and Mangungu meetings. This also helps to explain the intensity of the face-to-face discussions after the formal proceedings with the missionaries and other Europeans, when the *rangatira* sought clarification of this and other matters. Indeed, at Mangungu, after local *pākeha-Māori* had more fully explained the implications of Te Tiriti, almost all of the *rangatira* asked to have their signatures excised from the document.³⁴

³⁴ See pp. 62-3 of this report.

Māori aristocratic exchanges were characterised by an open-handed generosity, with each side striving to win and retain *mana* by outdoing the other and by a certainty that the other side would feel compelled by fear of shame (*whakamā*) and loss of *mana* to reciprocate in a lavish manner. Given that Te Tiriti was presented to the *rangatira* as a personal transaction between themselves and the Queen of England, it would have been difficult for them to imagine that she would allow her *mana* to be compromised by any partial or stinting return for this *tuku* of *kāwanatanga*. At Mangungu, however, according to Frederick Maning, some of the *rangatira* put this etiquette aside, asking for cash before they would sign Te Tiriti – suggesting that they put this transaction in the same category as other practical agreements with Europeans. I will discuss the *rangatira*'s most likely understandings of *kāwanatanga* in 2.4 below.

Ko te tuarua (The Second):

Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangatira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa.

These phrases, which we have translated, 'The Queen ratifies and agrees to the unfettered chiefly powers of the *rangatira*, the tribes and all the people of New Zealand over their lands, their dwelling-places and all of their valued items,' suggest that within their own domains, under the new relationship the *rangatira*, *hapū* and people would retain autonomous control.

Rangatiratanga was an expression coined in missionary Māori, and it is almost impossible to translate into English. 'Chiefly powers' is a literal equivalent, but it is undeniably clumsy, and imports European ideas about indigenous leaders into the discussion. For the Māori participants in the proceedings, however, *rangatiratanga* related to a thoroughly familiar concept – everyone knew what *rangatira* could and could not do, even if they were not quite certain about *kāwana*, or Governors; and this phrase must have reassured those *rangatira* who feared that *kāwanatanga* might involve some more substantial surrender of their authority. If they were to retain unfettered chiefly powers within their own domains, then *kāwanatanga*, by contrast, must be some kind of circumscribed power – most likely that suggested in the Treaty preamble of *kai wakarite* – mediator, negotiator or adjudicator, particularly in disputes between Māori and Europeans. I will discuss the relationship between *rangatiratanga* and *kāwanatanga* at greater length below.

Taonga, which we have translated as 'valuables' (a more accurate translation than 'treasures' in 1840), could refer to a wide range of valued items (including body parts and people as well as objects), and this sweeping guarantee would also have reassured the *rangatira*. Although *taonga* was often translated by Europeans at the time as 'property,' this related to European philosophies of possessive individualism, which were not well established among Māori in 1840. While many Northern *rangatira* had become involved in the cash economy, they were still obliged to display their *mana* in

acts of open-handed generosity; although as Henare et. al. have argued, *taurekareka* or *pononga*, ‘slaves’ or ‘war captives,’ individuals who had lost their *mana*, could more readily retain goods and cash in their own possession.³⁵

Otiia ko nga Rangatira... ka tuku ki te Kuini te hokonga o era wahi wenua e pai ai te tangata nona te wenua: these phrases, which we have translated, ‘Also, the *rangatira* of the Confederation and all the other *rangatira* release to the Queen the trading of those areas of land whose owners are agreeable, according to the return [*utu*] agreed between them and the person appointed by the Queen as her trading agent [*kai hoko*],’ are perhaps the most obscure, and syntactically the most awkward in the text of Te Tiriti. Nor do they convey that the Queen would have the sole right to control the trading of land, ie. the ‘exclusive right of pre-emption’ in the English draft of the Treaty.

It must have puzzled the *rangatira* that so great an aristocrat as the Queen of England was so interested in *hokonga* or barter (*hokohoko* was translated in the Declaration of Independence as ‘trade’), to the extent that she was prepared to suggest a *tuku* by the *rangatira* of control over the trade in lands whose owners were agreeable, and the fixing of values (*utu*: balanced return) after negotiations between her trading agent and a willing land-trader. *Hoko* was a pragmatic kind of exchange, devoid of *tapu* and *mana*. Although *hoko* and *hokonga* were often translated by contemporary Europeans as ‘purchase,’ in fact these terms referred to both sides of such exchanges, in keeping with Māori philosophies of reciprocity.

As the *rangatira* wrote to King William in 1831, ‘*He hunga rawa kore matou he oi ano o matou taonga he rakau, he muka, he poaka, he kapana, he oi ka hokona enei mea ki ou tangata, ka kite matou i te taonga o te Pakeha*’ [We are a poor people; our valued items are timber, flax fibre, pigs and potatoes, which we exchange with your people; we have seen the valued items of the Europeans].³⁶ In 1832, too, in an official letter to the *rangatira*, Lord Viscount Goderich expressed his concern that ‘a close commercial intercourse’ [*hokohoko*] between the inhabitants of New Zealand and those of Great Britain might be disrupted; while in an address by James Busby to the ‘Chiefs and People of New Zealand’ in 1833, he gave an assurance of ‘safety and fair dealing’ [*kia tika ai te hokohoko a te pakeha ki te tangata maori, a te tangata maori ra hoki nei ki te pakeha*; lit. ‘so that the trading of the pakeha with maori people might be *tika* or ‘straight,’ and also that of the maori person with the pakeha’].³⁷

In the Declaration of Independence in 1835, furthermore, the *rangatira* had expressed their concern that peace might prevail, that wrong-doing might cease, and that exchanges [*hokohoko*] might be *tika* or proper: ‘*kia mau pu te rongu kia mutu te he*

³⁵ Henare, et.al, ‘He Whenua Rangatira’: Northern Tribal Landscape Overview, 2009, 517.

³⁶ Letter from Northern *rangatira* to King William IV, 5 October 1831, Archives New Zealand CO 201/211 microfilm.

³⁷ James Busby, Address to the Chiefs and People of New Zealand, 17 May 1833, in *Letter of the Right Honorable Lord Viscount Goderich, and Address of James Busby, Esq. British Resident to the Chiefs of New Zealand* (Sydney, Gazette Office), 6.

kia tika te hokohoko].³⁸ Although philosophies of possessive individualism were not widespread among Māori by 1840, the realm of *hokohoko* or pragmatic exchange (which characterised the cash economy) dominated their relationships with Europeans; and this realm was rapidly expanding among Māori in Northland.

Perhaps *hoko* or *hokohoko* [barter, or pragmatic exchange] was seen as one of those areas in Māori-Pākehā relations where the services of a *kai-wakarite* (mediator, adjudicator, negotiator) would be particularly useful.

Ko te tuatoru (The Third):

Hei wakaritenga mai hoki tenei mo te wakaetanga ki te Kawanatanga o te Kuini – ka tiakina e te Kuini o Ingarani nga tangata maori katoa o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.

This final *ture* of Te Tiriti, which we have translated, ‘In recognition of this agreement to the Governorship of the Queen – the Queen will care for all the Māori people [pl.] of New Zealand and give to them all and exactly the same *tikanga* [customary rights, conventions] as those she gives to her subjects, the people of England,’ defines the Queen’s personal relationship with Māori individuals as *kai-tiaki* (guardian, protector).

Kai tiaki operated in the realm of *tapu* and *mana*; and the Northern *rangatira* first invited King William IV to become their friend and protector in 1831, when they asked: ‘*Ka inoi ai kia meinga koe hei hoa mo matou hei kai tiaki i enei motu.*’³⁹ In 1835 Titore had written to King William, sending him gifts of a greenstone *mere*, two garments and some spars for his war-ships, to reinforce this relationship.⁴⁰ In the Declaration of Independence in 1835, the Northern *rangatira* asked King William to become their *matua* (parent, senior relative in the first ascending generation), bringing him (at least metaphorically) into the realm of shared *whakapapa* and kinship, with obligations to take care of his *tamariki* or children. This was an honorific gesture; a way of expressing respect for the King. Now Queen Victoria was being brought into this kind of relationship.

In return for the *tuku* [gift] *kāwanatanga*, then, the Queen was offering to become a guardian for the Māori people individually; and give [*tuku*] to them exactly the same *tikanga* [those things which are correct, proper, just right, ‘straight’] as her own subjects in England, thus putting them on an equal footing with the British.

³⁸ *He Wakaputanga o te Rangatiratanga o Nu Tireni* [Declaration of Independence], Auckland Public Library.

³⁹ Rangatira to William IV, 5 Oct 1831, CO 201/211.

⁴⁰ Titore to King William IV, quoted in Yate, William, ed. Judith Binney, 1970, *An Account of New Zealand* (Wellington, A.H. and A.W. Reed), Letter XXIII, 271.

Article 3 is another large promise, which the *rangatira* would have understood as a personal guarantee that in the new regime, the Queen would ensure that they were cared for, and that matters would be handled in ways that were *tika*, giving them exactly the same customary rights (and even the same ‘customs’ as British subjects, since the term *tikanga* can apply to a wide range of ‘right’ forms of behaviour). The idea of *tika* in Māori has many resonances with the idea of ‘justice’ in English; just as the idea of *mana* resonates with the idea of ‘honour.’ This offer would have been appealing to the *rangatira*, given the sense of injustice that many of them felt in their dealings with some white settlers. At the same time, however, it is not at all clear how the rights of British subjects, framed as they were within British law and a capitalist economy, could be reconciled with *tinu rangatiratanga*, framed as it was within *tikanga Māori*, in which resources including land were held collectively, and rights were shaped by principles such as *mana* and *utu* (so that war captives, for instance, who lost their *mana*, also lost much of their autonomy).

Within *tikanga Māori*, the personal commitments made by Queen Victoria in Te Tiriti would have been understood as backed by her *mana* and binding upon her descendants, which explains why over so many generations, Māori leaders would travel to Britain and seek audience with successive monarchs, asking them to honour the words of their ancestor, and ‘put things straight’ [*tika*] for Māori people.

In summary, we can see that Te Tiriti is expressed as a series of *tuku* [gift exchange] transactions between Queen Victoria and the *rangatira*:

- A *tuku* by the Queen of a chief as a *kai-wakarite* [mediator, adjudicator, negotiator] to Māori people;
- A *tuku* by the chiefs of parts of New Zealand to the Queen, now and in the future;
- A *tuku* by the chiefs to the Queen of *kāwanatanga*, and the right of *hokonga* [trading] of land through a *kai-hoko* [trading agent];
- A *tuku* by the Queen to Māori people individually of her protection, and *tikanga* [customary rights] exactly the same as those of her subjects in England.

In my view, most of the chiefs would have understood these exchanges as forging a personal, aristocratic alliance between Māori people and the Queen, with mutual, lasting obligations; and the Queen acting as guardian or *kai-tiaki* for Maori people, a significant spiritual as well as practical role in Maori terms. At the same time, they received unequivocal assurances that they would remain in control of their own lands, dwelling places and valuables. At Mangungu, however, there are indications that some *rangatira* placed this agreement (perhaps because of the clauses about *hoko* or trading) outside of the realm of chiefly gift exchange, and within the realm of pragmatic exchange or barter.

2.3.3 *The concluding section of Te Tiriti*

Ka tangohia ka wakaetia katoatia e matou, koia ka tohungia ai o matou ingoa o matou tohu: These phrases in the final paragraph of Te Tiriti, which we have translated ‘We accept and agree to all of this, and so we sign our names and marks,’ describe the signatures and marks that follow as *tohu* – the visible signs and reminders of the agreement that had been forged. The use of *tohu* was a standard element in aristocratic agreements and alliances, and in land deeds in the North and elsewhere. In the ceremonious language of Māori gift exchange, signifying a commitment by all parties and their descendants to uphold the relationship that had been established; to honour the gifts that had been exchanged; and to continue a pattern of reciprocal generosity at the risk of a fundamental collapse of *mana* (ancestral power to act) for the defaulting party.

2.4 On Kāwanatanga and Rangatiratanga in Te Tiriti o Waitangi

2.4.1 *Linguistic considerations*

The words *kāwanatanga* in the Preamble and Article 1 of Te Tiriti, *rangatiratanga* in Article 2, and *kīngitanga* in the Declaration of the United Chiefs of 1835 are all constructed alike. A stative referring to a status or role – *kāwana* (Governor); *rangatira* (chief, aristocrat); or *kīngi* (King) takes a nominalising suffix (*-tanga*) to become an abstract noun describing the qualities of such a position in society, with its associated powers, obligations and privileges. *Rangatiratanga* is thus generally translated as ‘chieftainship;’ *kīngitanga* [perhaps the closest transliterated equivalent for ‘sovereignty’] can be translated as ‘kingship.’ and in strict parallel, *kāwanatanga* in 1840 is best translated as ‘governorship’ [the equivalent given by some of the contemporary European translators, and by William Martin, the first Chief Justice of New Zealand], or the state of having a governor with his privileges, obligations and powers;

2.4.2 *Uses in earlier texts in Māori*

The uses of *kāwana* [*-tanga*] and *rangatira* [*-tanga*] in Māori texts printed before Te Tiriti are a useful line of evidence on how these terms were used by European translators, especially in the North; and may also indicate something about how *kāwanatanga*, as a neologism, was understood by Māori in 1840 – in so far as they understood it at all.

In one of the earliest printed texts in Māori, an 1824 proclamation by Sir Thomas Brisbane as ‘Captain General and Governor in Chief’ promulgated in both English

and Māori, ‘governor’ was translated as ‘*ko te tino Rangatira waka shau*’ or ‘the great commanding chief,’ and no transliterated form was used.⁴¹

By 1830, however, in a catechism printed at Kerikeri, converts were promising ‘*kia wakahonore, kia rongō ki te Kingi me ona tangata ano hoki, kia rongō a ahau ki aku kawana, kai wakaako, tohunga karakia me aku rangatira*’ – to honour and obey the king and his people, and I will obey my *governors*, teachers and my *chiefs*.⁴² In the 1833 ‘Parts of the New Testament’ and the 1837 New Testament,⁴³ there were prolific references to *Kāwana* or governors, both in connection with Pontius Pilate and the governors Felix, Festus and Quirinius.

Kīngitanga was the standard translation for ‘kingdom’ in the *Paipera Tapu*, with 310 occurrences); although *rangatiratanga* was also used in this way (in the Lord’s prayer, for example, and 210 times in the *Paipera Tapu*). In missionary texts at the time, *rangatira* was used as a translation equivalent for ‘master, ruler, prince, lord.’ *Mana* was only occasionally used in the Māori Bible, as a translation equivalent for ‘power.’

Kāwanatanga, on the other hand, was used only 74 times in the *Paipera Tapu*, for ‘province’ (in the Roman Empire, provinces were characteristically run by governors) or ‘principality;’ and must have been an unfamiliar term to many of those involved in the Tiriti transactions.

The 1835 Declaration of Independence is perhaps the best and most reliable evidence of the semantic relationships between these terms in Northland in 1840. In this document, the *rangatira* declared their *rangatiratanga* or ‘independence’ and asserted their *kīngitanga* and *mana*, their ‘sovereign power’ and ‘authority.’ They also foreshadowed the possibility that they might delegate *kāwanatanga* or ‘function of government’ to someone whom they themselves had appointed. In such an arrangement, however, they would retain intact their *rangatiratanga* or independence and their *mana* and *kīngitanga* or sovereign authority or power. The Declaration is unambiguous, and the relationship between these key terms is very clear.

On the basis of this evidence, it seems that the best of the translation equivalents in Māori in 1840 for *sovereignty* (defined in *Blackstone’s Commentaries* as ‘a supreme, irresistible, absolute, uncontrolled authority... placed in those hands in which goodness, wisdom and power are most likely to be found’⁴⁴) would have been

- *mana* – power, efficacy deriving from the ancestors (quite close, in fact, to the ‘divine right of Kings’ in European political theory; and thus the best indigenous equivalent to sovereignty; which was used in the Declaration of Independence as a translation equivalent of ‘authority’); or

⁴¹ Sir George Grey New Zealand manuscripts, 4b, Auckland Public Library.

⁴² GNZM 8, 20.

⁴³ Ibid.

⁴⁴ Blackstone, Sir William, 1825, *Commentaries on the Laws of England* I-IV (London, T. Cadell), I:48.

- *kīngitanga* – the best of the neologisms, referring as it did to the status and powers of the sovereign. It was frequently used in the Bible as a translation equivalent for ‘kingdom;’ and in the English text of the Declaration of Independence, for ‘sovereign power;’ or
- *ko te kīngitanga ko te mana* – these two terms together, as used in the Declaration of Independence, for the avoidance of doubt.

Other possibilities included:

- *arikitanga* – another neologism, but one that referred to the highest human authority in Māori polities; or
- *rangatiratanga* – another neologism; used as an equivalent for ‘kingdom’ in the New Testament and the Lord’s Prayer; and for ‘independence’ in the Declaration of Independence.

If Henry Williams had used any of these words, one might agree that his translation of ‘sovereignty’ into Māori was reasonable.

No-one with any knowledge of Māori life in 1840, however, would have asked the *rangatira* to surrender their *mana*, which came from their ancestors, and was not theirs to cede. Its loss would have meant death and disaster to themselves and their people. It would also have been contradictory, and a folly to ask them to give up their *rangatiratanga*, their status and standing as leaders among their people; and in any case this had already been used in the text of Te Tiriti, where it was guaranteed to the chiefs and Māori people in Article 2. Nor is it likely that Henry Williams would have used the term *arikitanga* in Te Tiriti, given its association in missionary Māori with Jesus Christ.

This still left *kīngitanga*, however, the term used for ‘sovereign power’ in the Declaration of Independence.

Although Henry and Edward Williams used *kāwanatanga* instead as a translation equivalent for ‘sovereignty,’ this term was used (and not very often) in the official and missionary Māori of this period to refer to a lesser, delegated set of powers – such as governors over their provinces in Biblical texts; or for ‘functions of government’ to be exercised by individuals appointed by the United Chiefs, in the Declaration of Independence.

When the *rangatira* were asked in Te Tiriti to cede this kind of authority, which was European by definition and of a subordinate kind, this would have been more palatable than any of the alternatives. In the Declaration, as mentioned earlier, they had already foreshadowed the possibility that they might hand over such functions to someone whom they themselves had appointed (while leaving intact their *mana*, their *kīngitanga* and their *rangatiratanga*). In Te Tiriti, of course, *tinu rangatiratanga* was specifically guaranteed to them in Article 2. Nevertheless, uncertainty about the spheres in which *kāwanatanga* might operate meant that this part of Te Tiriti was still highly contentious.

In summary, one must conclude that in 1840, *kāwanatanga* was not an accurate or even a plausible translation equivalent for ‘sovereignty’ - ‘supreme, irresistible, absolute, uncontrolled authority.’ Rev. Richard Davis’s ‘back-translation’ of Te Tiriti, which translated *rangatiratanga* (which was guaranteed to the chiefs) as ‘entire supremacy,’⁴⁵ indicates that the missionaries were aware that what was proposed in Te Tiriti was a balance of powers, with the *rangatira* in the ascendant within their own domains.

The fact that so many subsequent commentators have claimed that at Waitangi and elsewhere, the *rangatira* ceded the sovereignty of New Zealand to Queen Victoria, tells us more about the political interests involved, the rhetorical dominance of the English draft of the Treaty, and perhaps unexamined assumptions about ‘those hands in which goodness, wisdom and power are most likely to be found’ (to quote Blackstone) than it does about the weight of the evidence.

2.4.3 *Historical Considerations*

In the North in 1840, the neologisms *kīngitanga* and *kāwanatanga* would have been largely interpreted with reference to Māori experience of kings and governors – either as presented to them in Biblical texts (especially for Christian Māori) or in direct or indirect knowledge of such individuals.

By 1840, Northern and other *rangatira* had acquired considerable knowledge of European systems of leadership. Many Māori, especially those from Northland but also from other parts of the country, had travelled overseas in European vessels – to England, America, India, other parts of Polynesia; but particularly to Port Jackson and Norfolk, where Governors or Lieutenant-Governors were in charge.

In 1793, for instance, Tuki, the son of a *tohunga* from Oruru in Doubtless Bay; and Huru-kokoti, the son of a *rangatira* from the Bay of Islands, were kidnapped and taken to Norfolk Island, where they lived for six months in Government House with Lieutenant-Governor P.G. King and his family.⁴⁶ Here they gained an intimate knowledge of King’s administration of this penal colony, including the local regime of floggings, confinement and other punishments for convict offences. King treated Tuki and Huru kindly and returned them to Muriwhenua laden with gifts, including iron tools, clothing, seeds, and pigs and potatoes, which were redistributed to their allies in Northland. Tuki and Huru were young but well-connected; and their adventures became well-known in Muriwhenua and the Bay of Islands; and Governor King enjoyed a high reputation in those areas for many years afterwards.

In 1805, too, Te Pahi, a *rangatira* from the Bay of Islands, and his five sons, travelled from the Bay to Norfolk Island and then to Port Jackson to stay with King, who was

⁴⁵ Davis, Rev. Richard, in Coleman, 1865, 455-6.

⁴⁶ Salmond, Anne, 1992, *Between Worlds: Early Exchanges between Maori and Europeans 1772-1814* (Auckland, Penguin).

by then Governor of New South Wales. Te Pahi stayed at Government House and ate at King's table, and showed a close and practical interest in European laws and policing. During their stay, for instance, two soldiers and a convict were put on trial for stealing pork from the King's stores, and when one of them was sentenced to be hung, Te Pahi pleaded for the man's life:

Exclaiming in a most furious manner against the severity of our laws for sentencing a man to die for stealing a piece of pork, although he admitted that a man might very justly be put to death for stealing a piece of iron, as that was of a permanent use, but stealing a piece of pork which, to use his own expression, was eat and passed off, he considered as sanguine in the extreme.⁴⁷

Evidently this experience of English law made a strong impression on Te Pahi, for in 1807, after he had returned home, a schooner that had been seized by convicts put into the Bay of Islands, where they tried to seize a whaler. Te Pahi seized the schooner as the convicts were making their attack and captured six of them. Governor King reported the outcome to Sir Joseph Banks in a sardonic note:

As this piratical attempt was regarded by his Majesty in a very different point of view to the crime of stealing a Piece of Pork, he hung the whole six, and desired the Captain of the whaler to tell King George and Governor King what he had done – and was sure they would approve it.⁴⁸

In subsequent years a steady stream of Māori travellers visited Port Jackson and made their way to other European colonies and to England, where they either managed (in the case of Hongi Hika and his attendant Waikato, for instance) or unsuccessfully tried (in the case of Ruatara and others) to meet the reigning monarch and members of the aristocracy. Like Britain, Te Ao Māori was an aristocratic society, with *mana* that flowed through senior descent lines, although this could be lost if the heir was weak and ineffective. Those *rangatira* who visited England quickly picked up the subtleties of rank in Britain, soon realising for instance that Samuel Marsden and his 'artisan' missionaries were of relatively low status; although they respected Henry Williams, who like King William and Captain Cook before him, had served in the Royal Navy.

In this early period the leading *rangatira* took it for granted that their status was comparable to that of Kings or Governors, naming themselves and their children after European dignitaries. By the 1810s, names such as 'Kawana Makoare' [Governor Maquarie] and 'Kingi Hōri' [King George] were in circulation in the North.⁴⁹ They also entered into gift exchanges with British monarchs. In 1820, for instance, King George IV presented a suit of armour with other gifts to Hongi Hika, which he proudly wore in battle. After the *ariki* Titore sent gifts to King William IV in 1827, he was sent a gift of armour; while in 1837, Patuone, whose father Tapua had met

⁴⁷ King in McNab, Robert, 1908-14, *Historical Records of New Zealand* (Wellington, Government Printer), I:265.

⁴⁸ King, Philip Gidley to Sir Joseph Banks, 16 November 1807, Mitchell Library, Sydney A83.

⁴⁹ See for instance, Nicholas, 1817, I:39-50.

Captain Cook and was presented with a red cloak, also received a suit of plate armour and a sword for supplying spars for naval vessels.

In New Zealand, however (unlike Tonga and the Society and Hawai'ian islands), it would prove impossible to establish an indigenous monarchy – perhaps because, as the European authorities would discover, the sheer scale and diversity of the country made it difficult to maintain a lasting control over remote areas. When Samuel Marsden proposed to Hongi Hika, for instance, that he should be set up as a King, and bring about peace in the North and other parts of New Zealand, Hongi replied that his people listened to him only in times of war. This was no doubt partly because it was Hongi's elder brother Kaingaroa who was the *ariki*, while Hongi himself was the war leader.

By 1840, one must conclude that Northern *rangatira* knew a great deal about kings and governors, whether by repute or from personal experience. This included a number of the *rangatira* who took part in the Treaty deliberations. In particular, they were well aware that a *Kāwana* was subordinate to a *Kingi* or *Kuini*; and that *kāwanatanga* was by implication a subordinate or delegated power.

The text of Te Tiriti does, however, indicate that *kāwanatanga* would involve the introduction of *ture* (laws), and *tikanga* (customary rights) for Māori people exactly the same as those in England, with the Governor acting as a *kai-wakarite* (mediator, adjudicator or negotiator). As mentioned earlier, in the Declaration of Independence the *rangatira* had already foreshadowed their willingness to entertain an arrangement in which they delegated *kāwanatanga*, or 'function of government,' to someone they themselves appointed; without disturbing their *rangatiratanga* [independence], their *mana* [authority] or their *kīngitanga* [sovereign power].

In Te Tiriti, however, it was not clear in which precise spheres *ture* and the *Kawana* as a *kai-wakarite* would be authorised to operate, or what would be the precise source of their authority. It seems likely from several references in Te Tiriti that *ture* and *kai-wakarite* would serve primarily to regulate individual Māori-European relationships and transactions (in trade or disputes, for instance); and that the source of their authority would be the alliance that had been forged between the *rangatira* and the Queen.

3 THE WAITANGI NEGOTIATIONS

3.1 Issues of translation

Having completed a close inspection of the Māori text of Te Tiriti with Merimeri Penfold, I will now turn to the various reports of the speeches that were made, both in Māori and English, during the 1840 Treaty transactions at Waitangi, Mangungu and Kaitaia. This is by no means a straightforward task.

3.1.1 The question of translation from Māori to English

Firstly, the surviving reports of the speeches during the Treaty transactions are invariably given in English (apart from snippets of quoted Māori), and all are given by reporters whose native language was English (rather than say, by bi-lingual Māori). When a secondary language is acquired, a speaker often continues to operate with the key concepts and presuppositions of their mother tongue; and in this context, problems of translatability, translation adequacy, translation accuracy and completeness arise.

Difficulties with **translatability** arise from fundamental differences between Māori and English world theories and semantic systems. Given these differences, some of the key concepts in the original speeches in Māori may have been impossible to render adequately in English, even if the translator could grasp them.

Furthermore, since the translators were neither native speakers of Māori, nor deeply grounded in *wānanga* (ancestral knowledge, as taught in the *whare wānanga* or schools of learning), they were often incapable of following the more allusive or subtle rhetorical devices used by the *rangatira* in their speeches – since Māori oratory is famously full of oblique references. In this case the problem of **translation adequacy** arises.

Also, since questions were raised during the Treaty transactions about the fidelity of Henry Williams's translations, the question of **translation accuracy** arises.

Finally, since many, perhaps all of the speeches are reported in summary, and some sections of the speeches criticising the missionaries were not translated at all by Williams, the question of **translation completeness** arises.

Among the missionaries, questions of the adequacy and accuracy of translation equivalents were much debated. In 1844, for example, the key C.M.S. translators of Te Paipera Tapu (William Williams, Robert Maunsell, William Puckey and James Hamlin) set up a 'Translation Syndicate' and devised a set of 'Canons of Translation,' which included the following precepts:

- That the first object is to carry the correct meaning of the original;
- That...(pure) native words be used in preference to those of foreign origin, where the former do not debase the sense intended to be conveyed;
- That English words, which are in general circulation among the natives be admissible, when no such native word can be found;
- That whenever a specific word can be found, easily expressing the idea, it be preferred to one or more general meaning.⁵⁰

None of these men were present at Waitangi in 1840, however; and Henry Williams was not among their number. Nor do we have reports in Māori of any of the speeches that were originally made to act as an independent check on the translated versions. Consequently, although we can be certain that the surviving records of the speeches were, as translations, fundamentally compromised in various ways, we cannot say precisely how this limits or distorts our understanding of the debates at Waitangi and elsewhere.

To further complicate matters, some of the reports appear to be records, not of the speeches themselves, but of the running translations given on the spot by Henry Williams and other interpreters to non- Māori speakers. William Colenso's accounts of the Waitangi speeches are almost certainly his own running translations of what was said by the speakers (although Colenso was also not among the recognised C.M.S. 'experts' in Māori), but almost all other records of the speeches are probably records of the interpreters' translations instead.

3.1.2 *Oral Performance to Written Text*

A further set of difficulties arise from the fact that while the original speeches were oral performances, given in most cases by individuals whose only or dominant mode of communication was oral (rather than literate), the surviving records are in writing. This has a number of complex implications.

To begin with, it seems probably that for the Māori participants in the Treaty transactions, the exchange of *whaikōrero* (speeches) was the key element in the proceedings. In many cases, *rangatira* who had spoken out against Te Tiriti still signed the parchment. In such cases, there must be an element of doubt about how far their signatures or marks signified assent, when their speeches had expressed a contrary opinion.

⁵⁰ Rev. William Cotton, quoted in Williams, ed. Porter, 1974, 317. Cotton described one of the meetings of the Syndicate as follows: 'Mr. Maunsell with a cushion on top of the Bishop's hat box, a tall deal case... on top of this he was squatting on his heels (for all the world like a burmese ido!) intently engaged on the Hebrew Psalms. They are [a] most merry set these Syndics, and Mrs. S. as she sits in the drawing room often hears a hearty laugh at a some very good joke' [ibid, 318]

The fact that their signs or marks were referred to as *tohu* (the visible signs of an agreement) in the text of Te Tiriti itself, however, suggests that they regarded the act of signing as significant; as does the efforts of some Hokianga chiefs to have their signatures cut out of Te Tiriti after the signing at Mangungu; and the comment, reported by Maning, that the signatures of so many *rangatira* made this document very *tapu*. On the other hand, it is by no means certain that European conventions about the signing of written contracts were fully understood by Northern chiefs in 1840 (despite the rapid spread of literacy, and their familiarity with the signing of land deeds and previous official communications, including the letter to King William IV in 1831, and the Declaration of Independence in 1835).

It is also the case that on such occasions, some speeches might be intended as oratorical pyrotechnics, rather than sober expressions of opinion. Several of the missionaries remarked of the speeches in opposition to Te Tiriti that it was ‘all for show,’ although as we will see in many cases, this seems improbable.

Furthermore, the written reports of the speeches made during the Treaty transactions in the North appear to have been produced in two ways. First, some reports (Colenso’s, for example) were made from notes jotted down at the time in longhand, and subsequently expanded, in which case those problems associated with retrospective accounts – accuracy, loss of detail, subsequent interpretation or elaborations) arise. Second, others were written from memory later that day or perhaps several days, weeks or in some cases years after the event (as in the case of Henry Williams’s reminiscences). All of the accounts of the speeches, as I have mentioned, appear to be synoptic paraphrases, rather than literal transcripts. None of the usual rhetorical flourishes of Māori oratory (*tauparapara*, *waiata*, *whakatauki*, for example) are evident in any of the translations, and yet is inconceivable that they were not part of the speeches on this important occasion.

To further complicate matters, some reporters (eg. Colenso), having ‘written up’ their original jotted notes in a first draft form, later added extensive material from their own memories of what had been said, or from those of other Europeans who had been present. In Colenso’s case, his amended, expanded and edited draft was also edited again for publication many years later. Furthermore, some of the reporters condensed the content of the speeches far more than others, and the accounts by different reporters on the essential arguments made by particular speakers do not always agree.

3.1.3 *The politics of translation*

All of those who attended the Treaty transactions had practical and ideological interests at stake, which shaped their understandings of what was said, and their subsequent accounts of what happened.

In addition, some of the reports are more visibly politically crafted than others. Henry Williams, for instance, would later adamantly defend the accuracy and adequacy of his translations at Waitangi (and the validity of his land deals); while as Ruth Ross and others have noted, James Busby, newly supplanted as British Resident by the incoming Governor, would exaggerate his role in drafting the Treaty. Almost all of

those who described the transactions blamed dissenting views from *rangatira* upon the influence of other Europeans, especially Pompallier and the French Catholic missionaries (except Pompallier, of course, who claimed a neutral stance; and Father Servant).

It is important to make the obvious (but often overlooked) point, furthermore, that all of those who recorded the speeches during the Treaty transactions were European (and most were British), whose interests and perspectives differed markedly from those of the orators whose speeches were being reported. For this reason alone, their accounts of the proceedings cannot be taken for granted.

In seeking to understand what was agreed at Waitangi and elsewhere, it will thus be crucial for the Tribunal to seek the other side of the story as far as possible – by reference to oral histories passed down in the North that may be presented as evidence, for instance.

If I were to attempt to address each of these issues in detail, this submission would rapidly escalate into a book. After these preliminary remarks, therefore, I will content myself with offering a brief assessment of each of the key reports of a particular Treaty transaction at the beginning of that particular section of this report.

3.2 The Waitangi accounts

The most important accounts of the 1840 Waitangi transaction were written by the missionary-printer William Colenso, who by then had been in New Zealand for six years. By 1840 he had printed great quantities of text in Māori, and it is probable that his grasp of the language was reasonable; although again, he is not mentioned as one of the most fluent speakers of Māori among the missionaries at this stage.

According to Colenso, his published account *The Authentic and Genuine History of the Signing of the Treaty of Waitangi*⁵¹ was written (presumably not long before its publication in 1890) ‘from notes taken at the time, for the Secretaries of the Church Missionary Society, London.’⁵²

A manuscript account by Colenso of the same event also survives, entitled *Memoranda of the arrival of Lieutenant Governor Hobson in New Zealand; and of the subsequent assembling of the Native Chiefs at Waitangi, the residence of James Busby, Esquire, on Wednesday, February 5, 1840, for the purpose of meeting His Excellency* is held in the Colenso papers in the Alexander Turnbull Library. This is a fluent account by Colenso, who as he said ‘also took part in [the Waitangi transactions] and wrote them down on the spot while fresh in memory,’⁵³ in part at

⁵¹ Colenso, William, 1890, *Authentic and Genuine History of the Signing of the Treaty of Waitangi* (Wellington, Government Printer).

⁵² *Ibid.*, 7.

⁵³ Colenso, Waitangi, 5 Feb 1840, ATL MS-Papers-1611; Colenso 1890, 5.

least from notes jotted down as the speeches were given, and subsequently added to and amended in manuscript. In the account that follows below, I will quote from Colenso's manuscript account of the Waitangi transactions, marking his additions and alterations in italics, and commenting on particular differences between this and his published account. In general, however, the published account is quite close to the manuscript version, with the following variations:

- Colloquial language in the original manuscript – eg. I'll, I won't, who'll etc. – has been formalised in the published account – I will, I will not, who will etc;
- The third person singular has been changed into its Biblical equivalents, so that 'you' becomes 'thee' or 'thou;'
- Contextual descriptions of the *rangatira*'s manner, dress etc. has been added in some places;
- The names of *rangatira* have been corrected in some instances, and in all cases their *hapū* affiliations have been added;
- Comments supportive of Busby and the missionaries have been added to the chiefs' speeches in a number of places;
- The rhetoric of the speeches has often been elaborated;
- Comments and one entire speech by Busby have been added, evidently as the result of edits added by Busby at Colenso's invitation, which Colenso 'faithfully copied (*ipissima verba*), inserting them where Mr. Busby had placed them',⁵⁴ on a manuscript copy other than the one that has survived; and a speech by Henry Williams, perhaps also added as the result of a similar invitation;
- A number of footnotes have been added to the published account with identifications of European speakers, comments on particular points in the speeches etc.

None of these edits and additions seriously altered the gist of any of the speeches that were given, with the exception of those by Busby and Williams, and possibly those by Heke and Nene.

The other surviving accounts of the Waitangi transaction – by Hobson in his short despatch to Governor Gipps of New South Wales on the evening of 5 February 1840;⁵⁵ by Rev. Henry Williams in a report to the C.M.S.⁵⁶ and in his later

⁵⁴ Ibid, 8-9.

⁵⁵ Hobson, W. to Governor Gipps, *Herald*, Bay of Islands, 5 February 1840, GBPP 311, 8-9, Encl 3 in No. 4, Despatch #40/8.

reminiscences,⁵⁷ by Rev. Richard Davis to the Secretary of the C.M.S.;⁵⁸ by Rev. Richard Taylor in his journal;⁵⁹ by Rev. Samuel Ironside in his diary;⁶⁰ by Captain Robertson of the *Samuel Winter* in his report to the *Sydney Herald*;⁶¹ by Felton Mathews;⁶² and by Bishop Pompallier and Fr. Servant to their superiors,⁶³ and by Bishop Pompallier as reported by Captain Lavaud,⁶⁴ are brief. I will incorporate useful details from these synoptic accounts in the discussions that follow.

3.3 The Context

The Treaty of Waitangi by Lindsay Buick;⁶⁵ *The Treaty of Waitangi* by Claudia Orange;⁶⁶ reports to the Tribunal by Manuka Henare et. al.,⁶⁷ Merata Kawharu⁶⁸ and Samuel Carpenter;⁶⁹ and accounts of the Bay of Islands in this period by Jeffrey Sissons, Wiremu Wihongi and Patu Hohepa,⁷⁰ Kathleen Shawcross,⁷¹ Jack Lee⁷² and Philippa Wyatt⁷³ have all been helpful in considering the broad historical context in which the Waitangi transactions took place. I do not propose, however, to attempt to repeat or synthesize their scholarship here.

⁵⁶ Williams, Rev. Henry to Coates, CMS Letters Received 1838-1840, CN/M12, 15-18, ATL Micro collection 4, Reel 33.

⁵⁷ Williams, Rev. Henry, in Hugh Carleton ed., 1948, *The Life of Henry Williams: Archdeacon of Waimate* (Wellington, A.H. and A.W. Reed), 311-8.

⁵⁸ Davis, Rev. Richard, to Secretary of the C.M.S., 8 February 1840, C.M.S. Letters Received 1838-40, CN/M12, 15-18.

⁵⁹ Taylor, Rev. Richard, Journal, Vol II, typescript AWMML, MS 161, 187-203.

⁶⁰ Ironside, Rev. Samuel, Diary, 10 February 1840, MS Papers 381, ATL.

⁶¹ Capt. Robertson in *Sydney Herald* February 21, 1840.

⁶² Mathew, Felton, Diary, Te Papa Tongarewa, Museum of New Zealand.

⁶³ Pompallier, Bishop, in Correspondence Pompallier & Epalle, *Lettres de la Nouvelle-Zélande*, Lettre de 14 May 1849, Marist Fathers Archives Pompallier, Mic MS 669, Reel 3, ATL.

⁶⁴ Lavaud, C.F., ed. by P. Tremewan et. al., 1986, *Akaroa* (Christchurch), see discussion of these French sources by Low, P., 1990, Pompallier and the Treaty: A New Discussion, *NZJH* 24/2:190-9.

⁶⁵ Buick, Lindsay, 1914, *The Treaty of Waitangi, or How New Zealand became a British Colony* (Wellington, S. & W. Mackay).

⁶⁶ Orange, Claudia, 1987, *The Treaty of Waitangi* (Wellington, Allen & Unwin).

⁶⁷ Henare, Manuka et al. 2009, 'He Whenua Rangatira': Northern Tribal Landscape Overview, Crown Forestry Rental Trust.

⁶⁸ Kawharu, Merata, Te Tiriti and its Northern Context, Crown Forestry Rental Trust, 2008.

⁶⁹ Carpenter, Samuel, 2009, Te Wiremu, Te Puhipi, He Whakaputanga me te Tiriti: Henry Williams, James Busby, a Declaration and the Treaty, Waitangi Tribunal.

⁷⁰ Sissons, Jeffrey, Wi Hongi, Wiremu and Hohepa, Patu, 1987, *The Pūriri Leaves are Laughing: a Political History of Ngā Puhī in the Inland Bay of Islands* (Auckland, The Polynesian Society).

⁷¹ Shawcross, Kathleen, 1966, Maoris of the Bay of Islands 1769-1840, MA thesis, UOA.

⁷² Lee, Jack, 1983, 'I have named it the Bay of Islands' (Auckland, Hodder and Stoughton).

⁷³ Wyatt, Philippa, Old Lands Claims and the concept of 'sale,' MA thesis, UOA.

Rather, in the next section of this report I will focus sharply on the Waitangi transactions as reported in the primary documents, bringing that broader context to bear in particular places.

On January 29 1840, HMS *Herald* under the command of Captain Nias anchored in the Bay of Islands, with Captain Hobson, Lieutenant-Governor elect of New Zealand, on board.

James Busby (the British Resident), William Colenso of the Church Missionary Society went out immediately to the ship. By the next morning, Colenso had printed 100 circular letters from Busby, inviting each of the chiefs who had signed the Declaration of Independence or their representatives to come to his house the following Wednesday, 5 February, to meet the chief from the Queen of England who had arrived by ship '*hei kawana mo tatou*' [as a Governor for us [inclusive form]].⁷⁴ Circular letters were also sent to British residents in the Bay, inviting them to gather at the Kororareka Church on the afternoon of 30 January, to hear Captain Hobson read his Letters Patent and two proclamations, one extending the New South Wales jurisdiction to New Zealand and announcing that he had been appointed Lieutenant-Governor; and the other announcing that all land titles which did not derive from the Queen were invalid, and that a commission to investigate land purchases to date would be established.⁷⁵

On 30 January Henry Williams, who had just taken Octavius Hadfield to Wellington to take up his mission there, returned to the Bay of Islands with Iwikau Te Heuheu, the younger brother and fighting chief of the *ariki* Te Heuheu Mananui of Tūwharetoa. Iwikau later reported upon the proceedings to his brother, who would adamantly refuse to sign Te Tiriti.

When a messenger came to meet Williams, saying that Captain Hobson had arrived in the Bay as Governor of New Zealand, and wanted to see him as soon as possible. Williams was surprised, not knowing that the British Government had decided to take such an action. When he boarded the *Herald* the following afternoon, he welcomed Hobson warmly. By that time, as he later recalled, 'the Europeans [had] commenced using the most infamous and exciting language to the natives, that the country was now gone to the Queen, and that the Māori were *taurekareka* [slaves].'⁷⁶ Hobson's secretary John Freeman had already drawn up a draft of a Treaty (no doubt at Hobson's dictation); and after their meeting this was amended by James Busby, and then changed again by Hobson and his officials. This final draft was delivered to Henry Williams at 4pm, 4 February to be translated into Māori. During that day the *Herald's* officers improvised a large tent from the ship's sails (100 feet by 30, according to Captain Robertson of the *Samuel Winter*), which was erected in front of

⁷⁴ Circular assembling the Chiefs to meet Captain Hobson on his Arrival, in Printed Maori Material [1835-1876] ATL MS Papers 032-1009 (in McLean papers, MS Papers 0032).

⁷⁵ Proclamations, 30 Jan 1840, encl in Gipps to Russell, 19 Feb 1840, *GBPP* 1840, 560, 8-4

⁷⁶ Williams in Carleton, ed., 1948, 312.

Busby's house at Waitangi; its side ropes and poles fluttering with flags. A platform was set up inside the tent, with a table decorated with a Union Jack.

On 5 February at 9am, Lieutenant-Governor Hobson and Captain Nias arrived at Busby's house, where they and Henry Williams worked on the final draft of Te Tiriti in Māori. Colenso gives a vivid account of the flocks of canoes and boats that began to converge on the harbour and head towards Busby's house at Waitangi, where a large crowd assembled. At about 10.30 am Bishop Pompallier and Father Catherin Servant strode into Busby's house, both dressed in full canonicals. According to Rev. Richard Taylor of the C.M.S., Pompallier, 'a mild good-looking man,' wore a purple gown buttoned down the centre with purple stockings and an order suspended from his waist, with a large ruby ring on his hand.⁷⁷ At this impressive sight a buzz went up from the crowd – '*Ko ia ano te tino Rangatira! Ko Pikopo anake te hoa mo te Kawana!*' [He is the real chief! Only Pompallier is the Governor's friend!] In his published account, Colenso describes how he urged the other missionaries to follow Pompallier inside the house, 'for the sake of our position among the Natives.'

At about 11 am, Hobson and Nias in dress uniform, accompanied by Pompallier, walked in a procession behind the mounted police to the dais. Richard Taylor exclaimed, 'I'll never follow Rome!' – but although he tried to get between the Lieutenant-Governor and the French bishop, Pompallier stayed so close to Hobson that this proved impossible; and Taylor was forced to walk beside them. As he remarked furiously in his journal, 'The popish bishop.. professed much pleasure in giving his aid but I feel assured he came either as a spy or to get himself acknowledged as an important personage before the natives which I think he succeeded in doing.'

At the table, Rev. Henry Williams sat to the right of the Governor, beside Captain Nias; while Pompallier and Servant sat to the left of James Busby. The Superintendent of Police, Willoughby Shortland, came to the CMS missionaries and told them to rank themselves behind Williams – 'Go to that end and support your cloth.' The assembled chiefs, who sat in a semi-circle in front of the crowd facing the dais, no doubt took careful note of these manoeuvres. Colenso described the striking scene – Bishop Pompallier with his gold chain and crucifix shining on his dark purple habit; the *Herald's* officers in their uniforms; the dark-suited missionaries; and the chiefs, many of them wearing dogskin or *kaitaka* cloaks, others dressed in crimson, blue, brown or plaid blankets.

Hobson then began the meeting by speaking briefly to the Europeans in English, telling them that 'the meeting was convened for the purpose of informing the Native chiefs of Her Majesty's intentions towards them, and of gaining their public consent to a treaty now proposed to them. According to Colenso's manuscript account,

⁷⁷ Taylor, Rev. Richard, Journal, 1840, 188.

Hobson then said to the chiefs in English (with Henry Williams acting as interpreter):⁷⁸

Her Majesty Victoria, Queen of Great Britain, wishing to do good to the Chiefs and people of New Zealand, and for the welfare of Her Subjects living among you, has sent me to this place as Governor.

But as the Law of England, gives no Civil power to Her Majesty, out of her Dominions, her Efforts to do you good will be futile unless you consent –

Her Majesty has commanded me to Explain these matters to you, that you may understand them –

The people of Great Britain, are, thank God, free; and, so long as they do not transgress the Laws, they can go where they please, and their Sovereign has not power to restrain them. You have sold them lands here, and Encouraged them to come here. Her Majesty, always ready to protect Her Subjects, is, also, always ready to restrain them.

Her Majesty, the Queen, asks you to sign this Treaty, and so give Her that power which shall Enable Her to restrain them. – I ask you for this publicly: I don't go from one chief to another. –

I'll give you time to consider of the proposal I shall now offer you. What I wish you to do is Expressly for your own good, as you will soon see by the Treaty.

You, yourselves, have often asked the King to extend His Protection unto you. Her Majesty now offers you that Protection in this Treaty.

I think it not necessary to say any more about it. I'll therefore read the Treaty.

Here His Excellency Read the Treaty (in English) and Mr. W. Read the *following* Native Translation to the Natives –

The Treaty, having been read in Eng. and Native and liberty of speech granted to anyone to speak on the subject or make any inquiry relative to the same...

⁷⁸ Colenso, Waitangi, 5 Feb 1840, ATL. See also Captain Robertson's report of Hobson's speech:

His Excellency began by stating that England was, thank God, a free country. Englishmen could go to any part of the world they chose; many of them had come to settle here. Her Majesty always ready to protect, had also the power to restrain her subjects; and Her Majesty wished the Chiefs of New Zealand to protect as well as to restrain them, - he was sent by Her Majesty to request that object publicly; they themselves had often requested Her Majesty to extend her protection to them; what he did was open and above board; he did not go to one Chief in preference to another; he came to treat with all openly. He would give them time to consider the proposals he had come to offer; that what he was sent to do was expressly for their own good – and Her Majesty now offers them her protection by this Treaty; it was unnecessary to say more, but he would read it to them. *Sydney Herald*, 21 Feb 1840.

Instead of acting as a literal translator of these remarks, Henry Williams spoke to the chiefs, telling them (according to his own later account):

Not to be in a hurry, but telling them that we, the missionaries, fully approved of the treaty; that it was an act of love towards them on the part of the Queen, who desired to secure to them their property, rights and privileges; that this treaty was as a fortress for them against any foreign power which might desire to take possession of their country, as the French had taken possession of Otaiti (Tahiti).⁷⁹

At this point in Colenso's published account, an intervention by Busby was added:

That the Governor was not come to take away their land, but to secure them in the possession of what they had not sold; that he (Mr. Busby) had often told them that land not duly acquired from them would not be confirmed to the purchaser, but would be returned to the Natives, to who it of right belonged; that this the Governor would be prepared to do.⁸⁰

Now, according to Colenso's published account, Te Kemara suddenly spoke.

3.4 Speeches by the Rangatira at Waitangi

(1) TE KEMARA

The name of this rangatira as given in Colenso's original manuscript and as signed by proxy on the Treaty parchment is *Te Kamera*. Colenso's published account gives his name as Te Kemara and his *hapū* as Ngāti Kawa. By Te Kemara's own account during his first speech, the Treaty site at Waitangi was his land, and so he presumably spoke first as *tangata whenua* at the gathering. Sissons, Wihongi and Hohepa identify Te Kemara (also known as Kaiteke) as a Ngāti Rāhiri leader (Ngāti Kawa was a *hapū* of Ngāti Rahiri) who lived at Pākaraka. He was a visionary *tohunga* who could control the waters and foretell the outcome of battles. He played this role for Hongi Hika's forces in Hauraki at Totara Pā (1822), in Rotorua at Mokoia (1823), and in the battle with Ngāti Whātua at Te Ika-a-Ranganui (1825).⁸¹

Te Kemara was also a signatory to the 1835 Declaration of Independence. At Waitangi, he spoke strongly against the Governor, against the English, and against the loss of his lands to Busby and Williams, among others:

Health to thee, O Govr., this is *mine* to thee o Govr. – I am not pleased – towards you – I dont wish for you – I will not consent to your rem.g. [remaining] here – If you stay as Govr. perhaps Kamera will be judged and cond. [condemned] – Yes, indeed, more than that, Even hung by the neck – no, no, no, I shall never agree to your staying.

⁷⁹ Williams in Carleton, ed., 1948, 313.

⁸⁰ Colenso, 1890, 17.

⁸¹ Sissons, Wi Hongi and Hohepa, 1987, 37, 38, 49, 131.

Were all to be on an Equality, then perhaps Kamera would say yes – but for the Govr to be up and Kamera down! Govr high – up, up, up and Kamera, down, low, small, - a worm – a crawler! No, no, no – O Govr this *is mine* to thee, O Govr. My land is gone – gone – all gone, - the inheritances of my ancestors, fathers, relatives, all gone, stolen, - gone, with the Missionaries – Yes, they have it, all, all, all – that man there *the Busby and that, there*, the Wiremu, they *have* my land *the land on which we stand this day, this even this under my feet return it to me* – O Govr. Return me my lands – say to W. [Williams] return K [Kemara] his land – you (pointing to H.W. [Henry Williams]) you, you bald head man, you ... have got my lands ... O Govr I *do not* wish you to stay – you English are not kind like other foreigners – You do not give us good things – I say go back, - go back Govr. – we do not want you here – and Kamera says to thee Go back.

Interestingly, in his published version, Colenso added a comment at the end of Kemara's speech, 'leave to Busby and to Williams to arrange and settle matters for us Natives as heretofore' – an addition (from Busby?), quite contrary to some of the sentiments expressed about Busby and Williams in his original transcript.

In the published account, Colenso also added a footnote about Te Kemara's speech, 'And yet it was all mere show – not really intended, as was not long after fully shown, when they gave their evidence as to the fair sale, &c. of their lands before the Land Commissioners, I myself acting as interpreter.'⁸²

Kemara's first speech at Waitangi focused on three main issues – the Governor, and what would happen to the *mana* of the chiefs if he stayed in New Zealand (would the Governor be higher than the chiefs? Could he have a chief hanged? Would the Governor and the chiefs be equal?); the loss of lands, which had been stolen by the missionaries and Busby and whether the Governor would return them; and a negative of the English vis-a-vis other foreigners. His tone was angry and sceptical of the benefits of having a Governor in New Zealand.

(2) REWA [Manu Rewa]

Rewa's name was also signed by proxy on the parchment of Te Tiriti, and in his published account, Colenso identified his *hapū* as Ngai Tāwake. According to Sissons, Wihongi and Hohepa, Rewa (also known as Maanu) was a leader of Ngai Tāwake, and successor to Hongi Hika after his death in 1828.⁸³ Rewa seems to have been involved with Hongi Hika in the release of lands at Kerikeri to the Church Missionary Society in 1819,⁸⁴ and with his brothers Wharerahi and Moka, along with Titore and Tareha in the release of Waimate to the C.M.S. in 1830.⁸⁵ In 1826 Rewa fought alongside Te Kemara, Titore (Tareha's nephew) and Marupo (Te Kemara's

⁸² Colenso, 1890, 17-18.

⁸³ Sissons, Wihongi and Hohepa, 1987, 33, 34, 48, 49, 131, 134, 137, 140, 141, 144, 145, 147, 149.

⁸⁴ Lee, 1983, 87.

⁸⁵ *Ibid*, 151.

nephew) against Ngāre Raumati at Te Rawhiti in the Bay of Islands, and defeated them. At that time, he was living at Kerikeri.

In 1827, Rewa prepared a cargo of flax with the view of going to Sydney to get a ship;⁸⁶ in 1831 he visited Sydney with the C.M.S. missionary William Yate, bringing home a rumour that a French warship was about to come to the Bay of Islands to annex New Zealand and to avenge the killing of Marion du Fresne in the Bay in 1772. It was this report that had provoked a letter to King William IV, signed by thirteen major Northern *rangatira*, including Rewa himself. In 1835 Rewa signed the Declaration of Independence; and by 1840, he was probably in his mid-40s;⁸⁷ and according to Colenso was living at Kororareka (which he and Titore had taken during the 'Girls' War' of 1830) and had close links with Bishop Pompallier.⁸⁸ As a past ally of Te Kemara's, he spoke after him and in a similar vein, but beginning with a jovial greeting in English:

*How d'ye do Mr. Govr. This is mine to thee O Govr. – go back. Let the Govr. return to his own country. Let my lands be returned to me which have been taken by the Missionaries, by D. [Davis] and Clarke, and who and who, I have now no lands – only a name. Foreigners know Mr. Rewa, but this is all I have left – a name. What do native men want of a Govr. – we are not whites nor foreigners – this land is ours – but the land is gone – but we are the Govr. – we the chiefs of this our fathers land. I won't consent to the Govr's rem.g. No, return: What! This land being like Port Jackson, and other lands seen by the English?*⁸⁹

Rewa, too, focussed on the Governor – should he go or should he stay? – and asked for his lands to be returned. He stated categorically that the chiefs were the Governors of their own lands, and needed no Governor; and drew a parallel between New Zealand and Port Jackson, which as we have seen, he had visited in 1831.

In his despatch to Gipps on the evening of 5 February, Hobson recorded that Rewa had said, 'Send the man away; do not sign the paper; if you do you will be reduced to the condition of slaves, and be obliged to break stones for the roads. Your land will be taken from you, and your dignity as chiefs will be destroyed.'⁹⁰ Hobson added that Rewa was a follower of the Catholic Bishop, who had been prompted by ill-disposed whites. It was much more probable, however, that Rewa had come to his own conclusions about the benefits of having a Governor after seeing the treatment of the aborigines in the penal colony at Port Jackson.

⁸⁶ Binney, Judith, 2004, Tuki's Universe, NZJHR 38/2.

⁸⁷ Sissons et.al., 1987, 144.

⁸⁸ Colenso, 1890, 25.

⁸⁹ Colenso, 1890, 18-19.

⁹⁰ Hobson to Gipps, 5-6 February, 1840; see also Williams to Coates, 13 February 1840, 'Many of the Chiefs hung back for some time, having been told that they would be sent on to the roads to break stones, as the convicts of Port Jackson, and to labour as they do;' and Captain Robertson, 21 February 1840, 'They had been told that if they signed the Treaty they would become slaves, hewers of wood and drawers of water, and be driven to break stones on the road.'

(3) MOKA

Moka, Rewa's younger brother, also signed Te Tiriti with a mark. In his published account, Colenso described Moka's *hapū* as Patukeha, adding in a footnote that he too lived at Kororareka, near Pompallier's residence. Sissons, Wihongi and Hohepa comment that the families of Wharerahi (the eldest brother), Rewa and Moka had taken the name *Patukeha*, to remind them of the murder of their mother when she was weeding her turnip (*keha*) garden, and the need to take *utu*.⁹¹

Like Rewa, Moka had also signed the Declaration of Independence; and he took a similar line to his older brother during the Waitangi deliberations:

Let the Govr. return – let us remain as we were. Let my lands be returned – all of them. Those with Mr. Baker – *don't say they will be ret'd. Who'll obey?* Where is Clendon. Where is Mair? gone to buy our lands; notwithstanding the book of the Govr.

At this point, when Moka's words were translated to the Governor, Colenso's manuscript records in an addition that Hobson replied, 'All lands unjustly held wd. be returned – that all lands however purchased after the date of the Proclamn. wod. not be held to be lawful.'⁹²

Upon hearing this, Moka replied,

That's right Govr., that's straight – but stop, let me see, yes – yes indeed – Where is Baker? Where is the fellow? There he is – Come, return me my lands? [Baker according to Colenso came forward on the platform as said 'E hoki koia?' [Will it return?]. There Yes that's as I said – *No, no, no, all false, all false alike*, they wont return.

Moka's challenge was directed at Rev. Charles Baker of the Church Missionary Society, who responded in a way that cannot have inspired much faith in Hobson's assurances. Te Kemara, Rewa and Moka were all protesting about land transactions with the CMS missionaries, and asking for lands to be returned; but the precise grounds of their protests are not evident from the speeches.⁹³

After Moka's last remarks, a white man stepped forward and complained that Williams was not interpreting all that the *rangatira* were saying, nor was he translating all of the Governor's remarks. He suggested that a Mr. Johnson (who Colenso identified in his published account as 'an old resident, (dealer in spirits) of Kororareka' should be asked to act as an interpreter instead. When Hobson called Johnson forward, however, he demurred; asking only that Williams should speak so that everyone could hear what he was saying, and that he should interpret the chiefs'

⁹¹ Sissons et.al., 1987, 34.

⁹² Colenso, 1890, 19.

⁹³ Ibid.

orations in full: *'They say a great deal about land and missionaries which Mr. Williams does not translate to you, Sir.'*⁹⁴

Colenso later added a politic footnote in his published account, 'This can only refer to their immense amount of repetition: otherwise Mr. Williams translated fairly what they said.'

In Colenso's manuscript text, however, there is a major addition at this point which recorded speeches in English by James Busby and Henry Williams in their own defence (once again, possibly added at their instigation, giving them a retrospective opportunity to justify their positions):

(4) BUSBY

In this interpolation, Busby was reported as saying 'that allusion havg. been made to his poss.g large Tracts of Land – he was happy to say that he did hold some Land – but that he did not *make* any purchase *worth noting* until he was out of office – and then finding that after his 15 years Service *under* Govt, they had made no provn. for him or his family – he purchased Land, & only regretted that he had not done so Earlier – and that to a larger Extent. And that in all his purchases he had reconveyed to the Natives *both* habitations and cultivations by and unalienable deed of gift according to the no. of persons then residing thereon.'

In his published account, Colenso extensively rewrote this speech, adding the statement, 'I deny that the term 'robbed' has been used by the chiefs Te Kemara and Rewa with reference to my purchases of land, as indicated by the white man who spoke, and coupled by him with Mr. Williams by gestures, though not plainly by name. I never bought any land but what the Natives pressed me to buy, for which I always paid them liberally.'⁹⁵

(5) REV. HENRY WILLIAMS

Rev. Henry Williams was also reported to have spoken at this point, saying that he had asked the Governor to have the missionaries' lands to be brought first before the Commissioners who were to enquire into the validity of land titles; that the missionaries had 'laboured so many years in the land, when others were afraid to show their noses,' and therefore had a prior claim; that he had many children to provide for; and hoped that others 'will be able to show as good, and honest titles... as the Missionaries could do.'⁹⁶

The next two Māori speakers, Tamati Pukututu (identified by Colenso in his published account as from Te Uri-o-te-Hawato), who signed Te Tiriti by proxy; and Matiu (of Te

⁹⁴ Colenso, 1890, 20.

⁹⁵ Colenso, 1890, 21.

⁹⁶ Colenso, 1890, 20-21.

Uri o Ngongo) who signed his own name ‘Matiu Huka [?]’ on the parchment, were the first to speak in favour of the Governor:

(6) TAMATI PUKUTUTU

*This is mine to thee O Govr. Sit, Govr., sit a Govr. for us – for me –for all – that our lands may remain – that those fellows and creatures who sneak about looking for our lands [here the words *piritoka*, *piriawaawa*, translated in Colenso’s published account as ‘sticking to rocks and the sides of brooks and gullies’ are jotted in the margin] may not have it all – Sit Govr. sit for me, for us, a father for us... these chiefs say, don’t sit, because they have sold all their possessions – and they are filled – and have no more to sell. Sit Govr., sit – you and Mr. Busby.⁹⁷*

(7) MATIU

Sit Govr. sit – remain – You as one with the missions a Govr. for us – don’t return stay – a Govr. – a father – that good may abound &c.⁹⁸

Little is known in the published record about these two men, except that *Pukututu* was one of the signatories of the 1835 Declaration of Independence. Pukututu’s speech, as translated by Colenso, gibed at Te Kemara, Rewa and Moka for having ‘sold’ their lands. Since we do not have his speech in Māori, we do not know which term (*tuku* – to let go, release; or *hoko* – to barter, to trade; or something else) was translated here as ‘sell.’ He favoured the Governor as a protector against the land-sharks, and termed him a ‘father,’ a term echoed by Matiu (who was evidently literate, and no doubt mission-trained) in urging the Governor to stay.

Nothing was said here about ‘sovereignty,’ however. The debate was about the loss of land, and whether the Governor should stay or go. While the parchment text of Te Tiriti frequently mentioned the Queen, the orators did not. The Governor was present and before them in the flesh, and it was to him that they primarily addressed their remarks.

(8) KAWITI

Kawiti did not sign Te Tiriti at this time, fearing that his sacred *moko* would transfer his *mana* to the Governor, and his land. In Colenso’s published account, Kawiti’s *hapū* is given as Ngāti Hine.

Te Ruki Kawiti was a noted warrior and peace-maker, who had signed the 1835 Declaration of Independence. He was a resolute opponent of transfers of land to Europeans. According to Johnston’s account of the Kaitaia signing in late April 1840, Nopera Panakareao warned the official party at Kaitaia that ‘a conspiracy to compel

⁹⁷ Ibid.

⁹⁸ Colenso, 1890, 22.

the Governor to abandon the island had been attempted to be formed by some of the Ngapuhi chiefs who had not signed the Treaty especially one named Kawiti who resides on the Kawakawa.⁹⁹ Kawiti eventually signed with a mark in May 1840, after a special meeting with Hobson and under pressure from his people. He was later to ally with Hoani Heke in fighting against the Governor in 1845:

No, no, go back, go back. What do you want here, we don't want to be tied up, & trodden down, we are free; Let the Misss. remain, you return. I wont consent – to yr. remg. What! To be fired at in our boats by night? What, to be fired at in our Canoes by night? No, no, go back – there's no place here for you.¹⁰⁰

In his published account, Colenso extensively rewrote this speech (although not the gist of Kawiti's argument). Kawiti was concerned about the possible use of firearms and confinement against Māori people, including the *rangatira*. By 1840 in the Bay and elsewhere in the North, Europeans had frequently used firearms against Māori (from Cook's expedition in 1769 and du Fresne's in 1772 onwards); and *rangatira* had been confined, for instance by du Fresne's officers in 1772, and in many subsequent episodes. The missionaries did not use such tactics, and in February 1840 Kawiti evidently wished them to remain, but for the Governor to go.

(9) WAI

Wai had previously signed the Declaration of Independence, but of all the *rangatira* who spoke at Waitangi on 5 February 1940, he was the only one who never signed Te Tiriti. In his published account Colenso gave his *hapū* as Ngai Tawake; while in his testimony to the House of Lords in 1844, Brodie said that 'Awai' had been very much opposed to the Treaty, and he did not think that he had ever signed it. Wai spoke about bartering, and how he had recently been insulted by a Pakeha:

Will you remedy the selling, the cheating, the Stealing of the Whites, Governor? Yesterday I was cursed by a white man, is that straight? The White gives us a pound for a Pig, but he gives a white Four pounds for such a pig – is that straight? he gives us 1/- for a basket of potatoes but to a white he gives 4/- is that strait? No, no, they won't listen to you; go back – go back. *Have they listened to the Busby? Will they listen to you – a newly – arrvd. man?* Sit, indeed, what for? Will you make dealing straight?¹⁰¹

Wai's main concern was with the insults directed at Māori by whites; and with injustices in trading exchanges. He claimed that whites gave whites more for the same goods than they gave to Māori, and that they would not listen to the Governor, any more than they had listened to James Busby. The fact that a white man had just cursed

⁹⁹ Johnston, John M.D., 1840, Journal kept by John Johnston, M/D., Colonial Surgeon from his arrival at the Bay of Islands March 17 1840 to April 28 1840, Auckland Public Library.

¹⁰⁰ Colenso, 1890, 22.

¹⁰¹ Colenso, 1890, 22-23.

him inspired a desire for *utu*. Under the circumstances, it is not surprising that Wai refused to sign Te Tiriti.

At this point, the proceedings were interrupted again, this time by a man named Jones (whom Colenso identified as a ‘hawker and peddler of Kororareka), another young man and the Pakeha who had first protested about the accuracy of the translations. They asked again that the speeches should be interpreted ‘for the whites to hear, and to have them done correctly;’ and Johnson, the old-time Kororareka resident who had earlier hesitated to act as a translator, was asked to step forward to translate Wai’s speech for the Governor.. which he was allowed to do by the Gov?

(10) PUMUKA

Pumuka, who later fought with Kawiti and Heke and was killed in the attack on Kororareka during the War in the North in 1845, now spoke in favour of the Governor. He was probably the first chief of major importance to do so. Pumuka signed Te Tiriti with his mark, and Colenso gave his *hapū* as Te Roroa. He, too, had been among the signatories to the 1835 Declaration of Independence:

Stay, Govr. rem [remain] for me. Hear all of you; I’ll have this man, a foster-father for me – Stay, sit, listen to my words. Govr., don’t go, remain.¹⁰²

In his published account, Colenso added to the end of Pumuka’s speech, ‘I wish to have two fathers – thou and the Busby, and the missionaries.’

(11) WARERAHI [Wharerahi]

Wharerahi signed Te Tiriti with his mark; in his published account, Colenso gave his *hapū* as Ngai Tāwake. He had previously signed both the letter to King William IV in 1831, and the 1835 Declaration of Independence. Wharerahi was the elder brother of Rewa and Moka, who had spoken against the Governor earlier in the proceedings. Along with Pumuka’s speech, his intervention in favour of the Governor, along with his status as *tuakana* to these two previous speakers helped to turn the tide of the debate:

Yes, stay, what else? Is it not good to be at peace? We will have this Govr. – what turn away? No, no –¹⁰³

Like the other *rangatira* at Waitangi, Wharerahi framed his contribution to the debate in terms of the Governor – should he stay or should he be turned away?

At this point in the proceedings there was a bustle, as Tareha and Hakiro had a long avenue made in front of the dais so that they could give their speeches ‘a-la-New

¹⁰² Colenso, 1890, 23.

¹⁰³ Ibid.

Zealand,' ie. by pacing backwards and forwards between making the key points in their orations.

According to James Busby (in a footnote in Colenso's published account), an unnamed chief from Waikare 'now spoke of the unjust dealings of the whites, saying that for a very little thing – a shilling – they wanted a pig as big as himself, and much more to the same purpose. Would the Governor cause them to give as large a payment as the article they got? Not much noted in the bustle.'

(12) HAKIRO

According to Colenso, Hakiro was the son of Tareha (interestingly, in this gathering, younger brothers generally spoke before their *tuakana* – eg. Rewa and Moka spoke before Wharerahi; and here a son spoke before his father); although he spoke on behalf of Titore, who had died. Hakiro signed the Treaty by proxy – 'Hakiro mo Titore kua mate' – Hakiro for Titore who has died. In his published account, Colenso gave Hakiro's *hapū* as Ngāti Nanenane, and reported that he lived at Kororareka near Pompallier's residence.

Titore was the deceased nephew of Tareha, who had visited Sydney in 1819 and signed both the 1831 letter to King William IV and the 1835 Declaration of Independence. As mentioned above, in 1834 Titore had sent his own letter to King William, sending him a greenstone *mere*, two cloaks and some spars, and receiving a suit of armour in reply. Sissons, Wihongi and Hohepa describe Titore as a major leader of Ngāti Rehia in the 1820s and 1830s; while Busby claimed that he was the most influential of the Ngāpuhi *rangatira* in preserving order in Kororareka and elsewhere. When Busby's house was attacked in the night, he had turned to Titore for help and protection.

Ngāti Nanenane was presumably part of Ngāti Rehia; and it seems that after Titore died in 1837, Hakiro became his successor. Hakiro spoke against the Governor:

Indeed! I say No, no, go back don't sit – What sit here for, we are not your people; we are free, we wont have a Govr. – return, return, leave us; - the Misss. [missionaries] and Mr. B [Busby] are our Matuas [parents].

Colenso also rewrote this speech for his published account, for dramatic effect rather in any attempt to revise its sentiments.¹⁰⁴

(13) TAREHA

Tareha, Hakiro's father, was a leading *rangatira* who had previously signed the 1835 Declaration of Independence. His son 'Mene' signed Te Tiriti on his behalf – '*Mene te tamaiti o Tareha mo tana matua.*' In his published account, Colenso gave his *hapū* as

¹⁰⁴ Colenso, Waitangi, 5 Feb 1840; Colenso, 1890, 24.

Ngāti Rehia, identifying him as an important chief who also lived at Kororareka near Pompallier's Catholic mission. In the past Ngāti Rehia had been allied with Ngai Tāwake, but on this occasion Ngai Tāwake were divided, with Wai, Rewa and Moka speaking against the Governor; and Wharerahi, Rewa and Moka's *tuakana*, speaking in his favour – although this could have been a strategic move, keeping open their options as a *hapū*.

Tareha added his weight, which was substantial (in every sense – he had great *mana*, and was also a very big man, as Cruise reported in 1820: 'In size and strength he seemed to surpass all his countrymen; though far from being corpulent, there was not an armchair in the country in which he could sit, and in Shunghie's tribe he was much looked up to for his bravery and skill in leading warriors to battle,'¹⁰⁵ to the anti-Governor party:

No Governor for me – for us – we are the chiefs – we won't be ruled. What, you up, and I down – you high, and I *Tareha*, the great chief, low? *I am jealous of you, go back, you shant stay*. No, no, I wont assent. *What for? Why? What is there here for you?* Our lands are gone – our names remain, *never mind*. Yes we are the chiefs – Go back – return – make haste away. We dont want you return, return –¹⁰⁶

Although in Colenso's published account, this speech was extensively re-written, these sentiments sound very like those of Te Heuheu Mananui, the *ariki* of Tūwharetoa, who spoke to E.J. Wakefield not long after the time of the Treaty:

Go back and tell my words to the people who sent you. I am King here, as my fathers were before me, and as King George and his fathers have been over your country.¹⁰⁷

In Colenso's original notes, he remarked that Tareha had dressed 'in a filthy mat, used only as a floor mat, but evidently dressed in this manner for the occasion.' In his published account, Colenso explained this satorial gesture as satirical– 'to ridicule the supposition of the New Zealanders being in want of any extraneous aid of clothing, &c. from foreign nations.' Colenso added that Tareha also carried a bundle of dried fern-root, as a statement of economic self-sufficiency: 'His habit, his immense size – tall and very robust (being by far the biggest Native of the whole district) – and his deep sepulchral voice, conspired to give him peculiar prominence, and his words striking effect: this last was unmistakeably visible on the whole audience of Natives.'

Tareha's speech as originally recorded by Colenso focussed on the question of *mana* – would the Governor rule the *rangatira*? Would he be high, and Tareha low? Tareha's answer to those questions was a resounding rejection of the Kawana.

¹⁰⁵ Sissons et.al. 1987, 17.

¹⁰⁶ Colenso, 1890, 24-25.

¹⁰⁷ Wakefield, E.J., 1845, *Adventure in New Zealand from 1839 to 1844* (), 112.

(14) RAWIRI

Rawiri Taiwhanga was literate, signing the Treaty with his own name – ‘Ko Rawiri Taiwanga.’ In his published account, Colenso gave his *hapū* as Ngati Tautahi. Rawiri Taiwhanga had fought with Hongi and Te Morenga on the East Coast in 1818; and with Hongi, Te Whareumu, Moka, Patuone and Nene at the battle of Te Ika-Ranganui in 1825. His son Hirini was named after Sydney, the town which his father had visited in the early 1820s.

Until now the debate had been fairly even – 3 speakers against the Governor; 2 for; 2 against; 2 for; 2 against – but at this point the balance began to shift in the Governor’s favour. Rawiri’s was the first of 5 speeches in succession in favour of the Governor, ending with orations by the powerful Hokianga chiefs, Tamati Waka Nene and Eruere Maehe Patuone. Like Rewa before him, Rawiri began with several phrases in English:

Good morning Mr. Govr. – very good you – our Govr. Stay – sit – that we may be in peace – a good thing this for us – yes, for us my friends – stay, sit – remain, Govr.¹⁰⁸

In urging the Governor to ‘sit’ [presumably *noho*], Rawiri raised an issue that Wharerahi had earlier referred to – that it would be good to be at peace. At least some of the speakers at Waitangi could see advantages in having a Governor as a means of ending inter- *hapū* fighting (although equally, Rawiri may have been referring to disputes with Europeans).

(15) HOANI HEKE

Hoani Heke was also literate, and signed the Tiriti parchment himself – *Hoani Heke no Te Matarahurahu* (John Heke from Te Matarahurahu). He had attended the Kerikeri C.M.S. school in 1824-5, and had a close relationship with Henry Williams, who acted as his advisor.¹⁰⁹ His second wife was Hongi Hika’s daughter. Heke remained a warrior, despite his conversion to Christianity – in 1833 he fought with Titore at Tauranga; and in 1837, narrowly escaped capture in a battle at Otuihu, in the Bay of Islands. He had previously signed the Declaration of Independence, and his signature was first on the Tiriti parchment. In his speech, he crystallised the doubts that many of the *rangatira* were feeling, but was persuasive in the Governor’s favour:

To raise up or to bring down? To raise up or to bring down? which? which? Sit Govr. If you return we are gone – ruined – what shall we do? Who are we? We dont know? Remain, a father for us – this is a good thing – Even as the W. [word] of God. – You go, no, no, then the French, or the rum sellers, will have us. Remain, remain. But we are children; its not for us, but for you, Fathers, Missionaries, for you to say, to

¹⁰⁸ Colenso, 1890, 25.

¹⁰⁹ Kawharu, Freda, Hone Heke, in 1987, *The People of Many Peaks: The Maori Biographies from the Dictionary of New Zealand Biography* (Department of Internal Affairs, Bridget Williams Books)

choose, we are children. – we don't know do you choose for us – you our Fathers – Missionaries.¹¹⁰

In Colenso's published account, Heke's speech was extensively re-written. His opening two sentences are ambiguous (was it the Chiefs, or the Governor who would be raised up, or brought down? - although he was probably expressing uncertainty about whether the chiefs would be raised or lowered by the Governor's arrival.¹¹¹

His answer to his own questions, as reported by Colenso, was to urge the chiefs to listen to the missionaries, 'our Fathers,' who would choose for them, their children. The image of missionaries as fathers to Māori was commonplace in missionary rhetoric, but here Heke may have been being ironic. In light of comments by other missionaries (see below) and Heke's own defiance of the Governor in 1844-6, it seems that Heke's real view of the Governor was ambivalent, to say the least.

It is also possible that Colenso, not fully versed in the rhetorical conventions of Māori oratory, simply misunderstood the import of Heke's speech (although Rev. Richard Taylor also thought that Heke spoke in favour of the Governor). According to Rev. Mr. Ironside, who with Rev. Warren (also of the Wesleyan Mission at Hokianga) had arrived late in the proceedings with Nene and Patuone, the Hokianga *rangatira*:

[Heke] was violent in his harangue against Captain Hobson, vociferating repeatedly in his native style, 'Haere e hoki' ('Go, return'). Tamati Waaka came to me and said his heart was pouiri (grieved) with Heke's violence, and the way Captain Hobson was being treated. 'Well,' I said, 'If you think so, say so;' whereupon Tamati sprang up and made his speech.¹¹²

This account is supported by comments written by William Baker on a (presumably printed) copy of Te Tiriti:

I remember distinctly being present during the whole of the meeting, that Hone Heke Pokai was very violent in his language, though he is not mentioned by Captain Hobson. A war of words ensued between Tamati Waaka Nene, who came in at this crisis, and Heke, the result of which was that Waaka removed the temporary feeling that had been created.¹¹³

It is possible, therefore, that Heke should properly be counted among those who spoke against the Governor, and not for him.

¹¹⁰ Colenso, Waitangi, 5 Feb 1840, ATL.

¹¹¹ Colenso, 1890, 25-26.

¹¹² Ironside, Rev. in Buick, 1914, 116.

¹¹³ Baker in *ibid*, 116.

(16) HAKITARA

Hakitara signed Te Tiriti with his mark; in his published account, Colenso gives his *hapū* as Rarawa. His speech is marked by a gap in Colenso's manuscript notes under his name; in the published account Colenso explains that this was because several people were talking about Heke's speech and manner; while Hakitara spoke quietly and was almost inaudible. He added, however, that Hakitara was 'in favour of the Governor's remaining.'¹¹⁴

(17) TAMATI WAKA NENE

Tamati Waka Nene signed his own name to Te Tiriti; in his published account, Colenso gives his *hapū* as Ngāti Hao. He was the younger brother of Patuone, who spoke next, and son of Tapua, a renowned *tohunga* and *rangatira* in the Bay of Islands, and Kawehau, a *rangatira* woman from Ngāti Hao in the Hokianga. According to Patuone, their father had met Captain James Cook in the Bay in 1769, and had been presented by him with a red cloak. It seems likely that Tapua (and his sons) regarded this gesture as establishing a chiefly alliance, which they later extended to other British (just as the Pomare lineage did in Tahiti, after Pomare I forged a bond friendship with Captain Cook). Nene and Patuone's mother was from Ngāti Hao in Hokianga, and they are often regarded as Hokianga leaders – but this is an oversimplification.

Nene took part in the great Northern *taua* to the south in the late 1810s, and became a major force in the Hokianga during this period, extending his protection to European missionaries and traders. In 1831, he, Patuone, Wharerahi, Rewa, Titore and others signed a letter to King William IV, a day before the French discovery ship *La Favorite* anchored in the Bay of Islands. Among other things their letter said, 'We have heard that the tribe of Marion [Marion du Fresne, who with a number of his men was killed and sacrificed in the Bay of Islands in 1772] is at hand, coming to take away our land. Therefore we pray you to become our friend and guardian of these islands.' Nene was baptised in 1839 and took the name Tamati Wāka (Thomas Walker) after an English merchant patron of the Church Missionary Society. At the Waitangi deliberations, Nene spoke strongly in favour of the Governor:

I shall speak to us – to ourselves – what do you say? The Govr. return – what *then* shall we do? - Is not the land gone? Is it not covered all covd with men, with strangers, over whom we have no power, we are down, they are up: - what! do you say? the Governor to go back! I am sick with you! Had you sd. so in old time – when the traders, & grog-sellers came – had you turned them back, then you cod. Say to the Govr. go back – and it wod. have been correct – and I would also have sd. go back – but now? No, no (turning to ye Govr.) O Govr. sit – I say sit, dont you go away – remain, for us, a father – a judge- a peacemaker – Yes – it is good – straight –remain –

¹¹⁴ Colenso, 1890, 26.

dont go away – *Heed not what Ngapuhi say – you stay – our friend & father O Governor.*¹¹⁵

Here, as in the subsequent Treaty transactions in the North, Ngai Tawake, Ngāti Rehia, Ngāti Kawa and Ngāti Hine were characterised as ‘Ngāpuhi’ (as according to Sissons et.al., the Northern alliance were termed during this period); and anti-Governor.

In his speech, Nene argued that the Europeans had already covered the land – ‘strangers, over whom we have no power, we are down, they are up;’ and that the land had already gone. Those against the Governor should have opposed the Europeans from their first arrival, but now it was too late. In urging the Governor to remain, Nene described his proper role as ‘father, judge, peacemaker’ – very close to contemporary understandings of *kai wakarite*) – a judgement he later felt inclined to retract after customs duties and restrictions placed on the felling of *kauri* were imposed by the Governor’s fiat in the North – acts which Nene as well as other *rangatira* regarded as illegitimate infringements on their chiefly rights.

Hobson’s gloss on Nene’s speech, which differs significantly from Colenso’s account, is also worth quoting in full:

At the first pause Neni came forward and spoke with a degree of natural eloquence that surprised all the Europeans, and evidently turned aside the temporary feeling that had been created. He first addressed himself to his countrymen, desiring them to reflect on their own condition, to recollect how much the character of the New Zealanders had been exalted by their intercourse with Europeans, and how impossible it was for them to govern themselves without frequent wars and bloodshed; and he concluded his harangue by strenuously advising them to receive us and to place confidence in our promises. He then turned to me and said, ‘You must be our father! You must not allow us to become slaves! You must preseve our customs, and never permit our lands to be wrested from us!’¹¹⁶

These divergences between Hobson’s and Colenso’s accounts of Nene’s speech are another useful reminder of the futility of expecting Colenso’s manuscript or published accounts to literally replicate what was said at Waitangi.

(18) PATUONE

Patuone, Waka Nene’s elder brother, signed the Treaty with his mark; in his published account, Colenso mentions that for some time by 1840 Patuone had been living on Waiheke Island ‘in the Thames,’ and that he had only returned north several weeks before the Governor’s arrival.

¹¹⁵ Colenso, Waitangi, 5 Feb 1840; Colenso, 1890, 26-27.

¹¹⁶ Hobson to Gipps, 5-6 Feb 1840, 8-9.

Like his brother, Patuone had taken part in the musket fighting during the 1820s, and was a noted warrior. In Hokianga he extended his protection to European traders, and in 1826 he travelled to Sydney with Captain J.R. Kent, to negotiate for ships to sail to the Hokianga to collect spars. In 1827, Rev. John Hobbs of the Wesleyan mission in Hokianga, reported;

I find that Patuone is not the greatest man in the river. A person by the name of Muriwai is considered by the natives as the father or head, and his cousin Taonui is considered the next, and perhaps Patuone may be the next. Muriwai's elder brother is still living, but as he is a man of slender talent he does not command any more respect than any other person.¹¹⁷

During the early 1830s Patuone fought in the Thames district as an ally of Ngāti Paoa, and married a young Ngāti Paoa woman. For the rest of the decade he spent much of his time in the Hauraki Gulf, living in different places and returning periodically to Hokianga. In 1831, he and Nene signed the letter to King William IV, and 1835 he signed the Declaration of Independence. In 1837 at Maraetai Patuone received a suit of armour and a suit of green clothes from the Crown for supplying naval ships with timber and other necessities.¹¹⁸

On 26 January 1840 Patuone was baptised by Henry Williams in the North, and with Nene he was one of the first signatories of Te Tiriti:

What shall I say? This is to thee, o Govr. sit – stay – you and the Misss. [missionaries] – and the Word of God – remain – that the French have us not, that Pikopo, that bad man, have us not. – Remain, Governor, sit, stay.¹¹⁹

Both Hoani Heke and Patuone mentioned 'the Word of God' in their speeches, and indeed Patuone was a very recent convert. He was the first speaker to express antipathy towards 'Pikopo' (Bishop Pompallier) and the French, a hostility that may very well have derived from the killing of Marion du Fresne and the subsequent punitive killings of Māori – also mentioned in the letter to King George IV in 1831.

As the most senior of the visitors, Patuone was the last of the *manuhiri* to speak. According to Pompallier he 'spoke at length in favour of Mr. Hobson, and explained, by bringing his two index fingers side by side, that they would be perfectly equal, and that each chief would be similarly equal with Mr. Hobson.'¹²⁰

(19) KAMERA [Te Kemara]

Te Kemara, the *rangatira* of the Waitangi lands, now rounded off the day's debate:

¹¹⁷ John Hobbs Journal, 20 Nov 1827, AWMML, MS 144

¹¹⁸ Patuone, in *People of Many Peaks*, 98; see also Patuone website, <http://patuone.com>.

¹¹⁹ Colenso, 1890, 27.

¹²⁰ Pompallier, Bishop to Captain Lavaud, July 1840, quoted in Low, 1990, 192.

No, no, who says stay? go away – I want my lands – Let us all be alike then remain, but the Govr. up, the Kamera down – no, no;

and here he ran up to Hobson , crossing his wrists as though handcuffed – no doubt as a riposte to Patuone’s gesture - and according to Colenso’s manuscript account, asked:

Shall I be like this? Like this? Eh! Say! Like this? He then caught hold of the Govr.’s hand, *shaking it lustily & roaring out*, How d’ye do – then again, & again and again – the whole assembly being convulsed with laughter.¹²¹

Te Kemara had not retreated from his earlier hostile position, nor his concerns about *mana* and the implications of the introduction of European laws. He ended the debate, however, on a hilarious note, shaking the Governor’s hand over and over again in burlesque style, and calling out ‘How d’ye do? How d’ye do?’

According to Colenso, the meeting ended in a roar of laughter. The Governor announced that the meeting would re-convene on Friday 7th February, and after three cheers from the crowd, they dispersed.

According to Felton Mathew, who came with Hobson to New Zealand as Surveyor-General:

[At the end of the speeches on February 5] one of the chiefs said, ‘Give us time to consider this matter – we will talk it over amongst ourselves, we will ask questions, and then decide whether we will sign the treaty.’ The speeches lasted about six hours, and the whole scene was one I would not have missed for worlds, and which I will never forget.¹²²

In Colenso’s 1890 published account, he added a story about an old *rangatira* from the interior who, after staring fixedly at Hobson as he was about to board the boat to return to the *Herald* exclaimed ‘*Auee! He koroheke! E kore e roa kua mate!* Alas! An old man! He will soon be dead!’¹²³

Colenso also mentioned a distribution of tobacco late that afternoon, which he thought had been mishandled and ‘occasioned much dissatisfaction among the Natives, and for some time I feared the result.’

3.5 The debate at Waitangi on 5 February 1840: Conclusions

I think it is plain that by the end of the debate on 5 February at Waitangi, the *rangatira* were still very uncertain about the implications of Te Tiriti.

¹²¹ Colenso, 1890, 27-28.

¹²² Mathew, Felton, Diary, Te Papa Tongarewa, Museum of New Zealand.

¹²³ Colenso, 1890, 29

On the question of *mana*, many of them concluded in their speeches that the Governor would set himself above them; and even Hoani Heke, who (according to Colenso) spoke in favour of the Governor, was unsure about this point. Several speakers said that if Māori and Europeans were to be equal under the new relationship, they would consent – but quickly dismissed the prospect of such a relationship as an improbable scenario.

On the question of *lands*, many speakers lamented the loss of their lands – some (according to Colenso's translations) saying that it had been stolen, others saying that it had been 'sold.' A number of speakers asked repeatedly to have their lands returned to them by the missionaries or by Busby, and very likely they were referring here to *tuku* transactions which they felt had not been honoured.

On the question of *laws*, a number of speakers expressed fears that they would be hung, shot or confined, or made to break stones on the roads, like the convicts at Port Jackson. This probably reflected reports from the visits made by a number of Northern chiefs to the penal colonies at Port Jackson or Norfolk Island, rather than (as Hobson suggested) suggestions made to them by self-interested whites.

On the other hand, several speakers referred to the desirability of peace, and the possibility that the Governor might be a *matua* (parent), a judge or a peace-maker. These speakers alluded to threats from the land-sharks, the French, or the rum-sellers, and some talked about the Word of God. A number of those who spoke in favour of the Governor signed their own names on the parchment, a skill that they had almost certainly learned from the missionaries, and others (for example, Patuone) were very recent missionary converts.

Above all, the debate at Waitangi focussed on the Governor – should he stay, or should he go? There can be little doubt that the *rangatira* knew that in signing Te Tiriti, they were agreeing to have a resident Governor – for there was an actual Governor before them, in his uniform, with a small contingent of mounted policemen and a warship in the harbour as visible signs of *kāwanatanga* – to pose the concrete question. Quite reasonably, then, it was as answers to that question – should the Governor stay, or should he go? – that each of their speeches were phrased. It was the wider implications and unintended consequences of these answers that troubled and confused them. At the end of the debate, however, Tamati Waka Nene's words to him at the end of the debate crystallised the *rangatira*'s concerns:

You must be our father! You must not allow us to become slaves! You must preserve our customs, and never permit our lands to be wrested from us!

And even this, from one of the most ardent supporters of the Governor at Waitangi, was a statement of hope and trust, and not of certainty.

3.6 The evening of 5 February

During the evening of 5 February, as mentioned earlier, there were intense debates among the *rangatira* about Te Tiriti and its implications. According to Henry

Williams, he and the other C.M.S. missionaries discussed Te Tiriti with some of these men again, clause by clause.

The food was running out, and according to Colenso, several of the chiefs said that 'they could not possibly remain so long at Waitangi; that they should be 'dead from hunger [*matekai*].' Hearing this, Rev. Richard Taylor sent a message to tell him that by 7 February, nine-tenths of the *rangatira* would have returned home, and asked him to recovene the meeting the next day. When he claimed to have received a favourable reply from Hobson, a message to that effect was sent to the *rangatira*.

3.7 The Signing at Waitangi 6 February 1840

At 9.30 the next morning, the missionaries set out from the Paihia mission station to Waitangi where a lesser number of *rangatira* and their people – about 3-400 – had already assembled. They were scattered about in small groups, 'talking about the treaty, but evidently not understanding it.' According to Colenso, everyone waited for the Governor, until at about noon, a boat arrived at Busby's places with two officers from the *Herald*. They reported that the Governor knew nothing of a meeting that day, and hurried back to the ship to fetch him. When the Governor eventually arrived, in plain clothes and without any of the *Herald's* officers, he said that he was willing to take signatures from any chief who wished to sign the Treaty, but that there still must be a public meeting the following day.

Hobson's own account is rather different, making the situation appear much less chaotic. According to him, at 10am on 6 February, he was informed that 'the chiefs, being impatient of further delay, and perfectly satisfied with the proposals I had made them, were desirous at once to sign the Treaty, that they might return to their homes... I therefore assembled the officers of the Government, and with Mr. Busby and the gentlemen of the missionary body, I proceeded to the tents, where the treaty was signed in due form by 46 head chiefs, in presence of at least 500 of inferior degree.' Rev. Henry Williams now read out Te Tiriti in Māori from the parchment copy that had been made by Richard Taylor the night before.

After Hobson's arrival, Bishop Pompallier and Father Servant also appeared. Bishop Pompallier spoke to Hobson at this point, asking that it be publicly stated that his religion would not be interfered with under the new regime. Infuriated by his 'effrontery,' Henry Williams was asked to write this down (on a piece of paper, not on the parchment Tiriti). According to Colenso, Williams wrote '*E mea ana te kawana, ko nga wakapono katoa, o Ingarani, o nga Weteriana, o Roma, me te ritenga Maori hoki* [this last phrase inserted at Colenso's insistence, despite Williams's reluctance] *e tiakina ngatahitia e ia* – 'The Governor says that the several faiths of England, of the Wesleyans, and of Rome, and also Maori customs shall alike be protected by him.'

Now the *rangatira* were called to come forward and sign, but no-one moved until Busby began to call them up one by one from 'his (private) list,' with Hoani Heke's name the first of those still present. As Heke came forward, Colenso reports that he intervened, saying to the Governor:

Will yr. Ex.y allow me to make a remark or two before that Chief signs the Treaty?... May I ask yr. Ex.y whether it is Your opinion that these Natives undd. [understand] *the articles of the T. [Treaty] wh. they are now called on to sign?* I – this morning –

The Govr. If the Native *chiefs* dont know the contents of this Treaty it is no fault of mine – I wish them *fully* to understand it – I have done all I could to make them understand the same – and I really don't know how I shall be Enabled to get them to do so. They have heard the Treaty read by Mr. W. –

Mr. C True, yr. Ex.y, but the Natives are *quite* Children in idea – It is no Easy matter *I am aware* to get them *fully* to comprehend Document of this Nature; still, I think they ought to know something of it in order to constitute its legality – I speak under Correction – but I have spoken to some Chiefs, who had no idea whatever as to the purposes of the Treaty. –

Mr. Taylor You heard, Mr. C what this chief (pointing to Hoani Heke) said yesterday – that it was not for them but for the Misss., who understood the nature of these things to choose –

Mr. C Yes, Mr. T., that is the *very* point to which I was about to allude. – the Miss.s sho.d do so, but at the same time the M. sho.d Explain the thing in all its bearings to the Natives, so that it sho.d be their own act and deed – then, in case of a Reaction taking place, the Native co.d not turn round on the Miss.s and say – You advised me to *sign that paper* but never told me what the contents were thereof.

The Govr. I am in hopes that no such reaction will take place: I think that the people under your care will be peaceable Enough – I'm sure you will Endeavour to make them so – and as to those that are without why we must do the best we can with them.

Mr. C I thank yr. Ex.y for the patient hearing you have given me. What I had to say rose from a conscientious feeling on the subject, having sd. what I have I have dischg.d my duty.¹²⁴

It is also worth noting Colenso's account of this intervention in a letter to the C.M.S:

I believed, I do believe that the Natives did not fully understand what they signed.... Interests are beginning to clash – beginning did I say? They have long since begun to do so... how thankful should I be to the Lord (though I sometimes feel my poverty) that he has kept me from becoming possessed of land' [a sideways swipe at Henry Williams, some of the other missionaries and Busby for their land purchases].

After this exchange, epitomising the doubts and difficulties surrounding the Māori text and explanations of Te Tiriti, Hoani Heke signed the parchment, while Marupo, of Te Whānau Rara and Ruha of Ngāti Hineira made fiery speeches against it. Other chiefs also signed, including Ruha and then Marupo, who shook Hobson's hand and then tried to put on his hat.

¹²⁴ Colenso 1840: 115-6).

Eventually, Te Kemara also signed, after saying that Pompallier had told him ‘not to write on the paper, for if he did he would be made a slave of.’ Rewa followed after much persuasion from his companions and the C.M.S. missionaries; and some *rangatira* who had arrived from a distance also signed. According to Colenso, as each *rangatira* signed, ‘His Ex.y shook him by the hand ex.g ‘*He iwi tahi tatou*’—We are one people – at wh. the Natives were much pleased.’

After 46 *rangatira* had signed Te Tiriti, this part of the proceedings was ended by three cheers by the ‘Natives’ for the Governor. Colenso was asked by Hobson to arrange the distribution of a bale of blankets, potatoes and a cask of tobacco to the signatories, and he organised it so that each *rangatira* received two blankets, some potatoes and a quantity of tobacco, although according to Rev. Taylor ‘I believe the Blankets [Hobson] brought were so bad that the natives would not have thanked him for them he therefore was obliged to buy others.’¹²⁵ So ended the signing of Te Tiriti at Waitangi on 6 February 1840.

Over the next few days Hobson prepared a despatch to Governor Gipps in New South Wales, which included a transcript of Te Tiriti, and also a transcript of The Treaty in English in Henry Williams’s hand-writing, which bears the annotation, ‘I certify that the above is as literal a translation of the Treaty of Waitangi as the idiom of the language will admit of. [signed] Henry Williams.’¹²⁶

This annotation is an acknowledgement by both Hobson and Williams that the official text of the agreement with the *rangatira* was in fact, Te Tiriti in Māori. When Henry Williams certified his transcript of The Treaty as a faithful translation of Te Tiriti into the English language, however, this was the reverse of what had actually happened. This document was in fact a transcript of the final version of Treaty in English, the text that Williams himself had used as a basis in drafting Te Tiriti, the document in Māori that was signed by the *rangatira*. In addition, Williams changed the date on the document to 6 February, rather than 5 February, thus completing the reversal.

Given this textual history, it is clear that while the Treaty in English was a draft document, Te Tiriti is the official record of the agreements between the Crown and the *rangatira* at Waitangi.¹²⁷

As for the original parchment document of Te Tiriti, this was kept for a time in an iron chest by Willoughby Shortland, appointed Acting Colonial Secretary and Registrar of Records in March 1840. When the government buildings at Official Bay in Auckland burned down in 1840, this document survived, and eventually found its way into the basement of the Government buildings, where the parchment sheets were nibbled by rats. When they were discovered in this tattered condition by Dr. Hocken in the 1920,

¹²⁵ Taylor, Rev. Richard, *Journal*, 6 February 1840, 188.

¹²⁶ PRO CO 209/7, 13-15.

¹²⁷ Although at Waikato Heads, the *rangatira* signed the English draft of Te Tiriti, it is even more unlikely than at Waitangi that they understood it. It seems certain that they relied on Te Tiriti and any explanations in Māori in giving their assent.

my great-grandfather James McDonald, then the assistant Director of the Dominion Museum, assisted in their restoration.¹²⁸

Although the C.M.S missionaries had maintained a united front in support of this agreement in their discussions with the *rangatira*, some of these men were already very uncertain about its long-term impacts. As Richard Davis wrote to Coates at the C.M.S on 7 February, 1840:

Yesterday the treaty was signed by all the Chiefs in the Bay of Islands. It will be a time long to be remembered. Never was a savage nation placed under circumstances so favourable. Never was I so proud as now of being an Englishman... I look upon it with mingled feelings of pain & pleasure. I rejoice in the triumph of Missionary influence... But I cannot but look forward with trembling to our future prospects. A change will take place in the country. The natives will be exposed to many temptations to which they have been hitherto strangers. We have brought upon ourselves much ... from the injudicious manner in which we have purchased lands for our children. From thence we have every reason to suspect a severe trial.¹²⁹

By 1842 his fears seemed to be vindicated. He confided to Coates:

Your missionaries were the principal instrument in procuring to her Majesty the cession of Sovereignty – from the confidence reposed in them by the natives, that they would not on any account recommend to them any measure which would be prejudicial to their present or future welfare....

Some of us have already been reproached by the Natives as their betrayers – and have been threatened that we shall be the first objects upon whom their vengeance will fall should their well grounded fears of actual encroachment be realised – and we have reason to believe that from the part we took in inducing them to sign the Treaty we are looked upon by the Natives somewhat in the light of hostages for the fulfilment thereof.¹³⁰

¹²⁸ G.H. Scholefield, who wrote *Historical Sources and Archives in New Zealand* (1929), reported (on page 6) that 'I am informed by Mr. James McDonald that the original sheets were discovered in the basement of the Government Buildings by Dr. Hocken and taken care of by the Department of Internal Affairs.' According to family legend, James McDonald was with Dr. Hocken at the time that the discovery was made. As a film-maker and photographer, McDonald had worked closely with Sir Apirana Ngata on the 'McDonald films' recording 'traditional' Maori life and practices in Gisborne, Rotorua, Whanganui and the East Coast. An artist and accomplished carver, he also designed the New Zealand coat of arms, and the decorative scheme for the Maori Room in Parliament.

¹²⁹ Davis, Rev. Richard to Dandeson Coates, in CMS Letters Received 1838-40, CN/M11, 706-8, ATL Micro Collection 4, Reel 33.

¹³⁰ Davis, Rev. Richard in Williams papers, MS 335, 86-7, AWMML.

4 THE MANGUNGU TREATY TRANSACTION, 12-3 FEBRUARY 1840

4.1 The Sources

The chief sources for the Treaty transactions at Mangungu include a despatch from Lieutenant-Governor Hobson to the Marquess of Normanby on 16 February 1840, giving a condensed report on his trip to Hokianga and the proceedings there, but no detailed account of the speeches by particular *rangatira*,¹³¹ entries in Rev. Richard Taylor's journal from 11-14 February, 1840, which are again quite brief;¹³² and Shortland's report to Lord Stanley in 1845, which included 'Speeches of the chiefs at a Meeting held at Hokianga, for the purpose of obtaining the Adherence of the Native Tribes of that District to the Treaty of Waitangi' – a brief synoptic version in English of each speech, probably jotted down at the time from Rev. Hobbs's running translation.¹³³ In addition, Frederick Maning in his book *Old New Zealand* included an account of the Mangungu treaty transaction in his sketch, 'The War in the North.'¹³⁴ At that time Maning was a trader in the Hokianga, and son-in-law to one of the main *rangatira* who participated in the proceedings. His account is satirical in tone; but on a number of key points it appears to be accurate, and perhaps more so than Hobson's doggedly positive version of the proceedings.

4.2 Context

On 11 February 1840 Lieutenant-Governor Hobson, Captain Nias of the *Herald*, the official party, and Rev. Richard Taylor and Mr. Clarke of the Church Missionary Society travelled from the coast on horseback to the head of the Hokianga river. According to Richard Taylor,

the distance to the head of the Hokianga river might be about 16 miles, half of which was through a dense forest, the path often being obstructed by several fallen trees laying together, over which we had to leap our horses to the great danger of our necks and their legs.¹³⁵

¹³¹ Despatch from Lieut. Governor Hobson to the Marquess of Normanby, *The Herald*, 16 February 1840, *GBPP* 1840, 311, 10-12.

¹³² Rev. Richard Taylor, *Journal*, 11-14 February 1840, *AWWML*, II, 90-2.

¹³³ Willoughby Shortland to Lord Stanley, 18 January 1845, Response to Commons New Zealand Committee, *GBPP* 1845, 108, 3-10.

¹³⁴ Maning, Frederick Edward, 2001, *Old New Zealand and Other Writings* (London, Leicester University Press).

¹³⁵ Taylor Journal, 11 Feb 1840.

At Waihou, the former site of the Wesleyan mission station, they were met by at least a dozen boats carrying Wesleyan missionaries and local settlers, and an equal number of canoes. After a warm exchange of greetings, Hobson's party boarded several of the boats, and the flotilla moved down-river with the boats all flying the Union Jack. As they passed Horeke a salute of 13 guns was fired, and when the party arrived at the Wesleyan mission station at Mangungu, Hobson announced a meeting of chiefs the next day, to which all Europeans 'of every class and station' were also invited. That night Hobson, Nias, Shortland, Cooper, Felton Mathew and Richard Taylor all slept in one large room at the mission station. They must have been apprehensive about the outcome of the meeting, because as Henry Williams reported to Dandeson Coates at the C.M.S., 'The Europeans at Hokianga, we learn, have declared that no law shall regulate them.'¹³⁶

On the morning of 12 February, a large crowd of Māori assembled near the mission station – Hobson reported 3,000 'natives,' 4-500 of whom were *rangatira*, while Taylor reported 500 people. According to Hobson, they seemed disinclined at first to approach the mission station:

At the appointed time for meeting I was mortified to observe a great disinclination on the part of the chiefs to assemble. After some delay, however, they began to collect; and at last the different tribes marched up in procession, and took their seats, something in the same order as was observed at Waitangi. Still I could not fail to observe that an unfavourable spirit prevailed amongst them.

Hobson gave a short address to the Europeans assembled, and then spoke to the chiefs in English, with Reverend Hobbs of the Wesleyan mission acting as English-to-Māori and Māori-to-English interpreter:

I entered into a full explanation to the chiefs of the views and motives of Her Majesty in proposing to extend to New Zealand her powerful protection. I then, as before, read the treaty [in English], expounded its provisions, invited discussion, and offered elucidation.¹³⁷

4.3 The Speeches at Mangungu

According to Hobson,

The New Zealanders are passionately fond of declamation; and they possess considerable ingenuity in exciting the passions of the people. On this occasion all their best orators were against me, and every argument they could devise was used to

¹³⁶ William, Henry, to Dandeson Coates, 13 February 1840, CMS Letters Received, CN/M11, 706-8.

¹³⁷ Hobson to Normanby, 17 Feb 1840, *GBPP* 1841, 311, 10-11.

defeat my object. But many of their remarks were evidently not of native origin, and it was clear that a powerful counter-influence had been employed.¹³⁸

As at Waitangi, Hobson was inclined to blame ‘ill-disposed Europeans’ (in this case, Bishop Pompallier; the trader Frederick Maning; and the escaped convict Jackie Marmon) for any opposition from the *rangatira*.

The only account of individual speeches at Mangungu was that by Lieutenant Shortland, who was acting as Secretary to the Governor; and it is relatively brief. The speeches quoted here are thus as recorded by Shortland.

(1) TAINUI [Taonui]

This was almost certainly Makoare Taonui, one of the most senior chiefs present, and not his son Aperahama. Makoare had been to Sydney, and was probably on board the Hokianga-built ship *Sir George Murray*, which was not flying a national flag, when it was seized in Sydney in 1830, and its cargo impounded. It is possible that he met Governor Macquarie [Makoare] during that visit, because he took his name.

Since the death of his older brother Muriwai in 1828, Taonui had been the leader of the Hokianga *hapū* Popoto at Utakura, at the mouth of the Waihou River. His people ran the timber trade at Horeke and also a store for selling European goods. According to the Wesleyan missionary John Hobbs, in Hokianga, Makoare Taonui was regarded as senior to Patuone. Taonui had signed both the 1831 letter to King William IV and the Declaration of Independence, and later signed Te Tiriti with his mark. In the 1845 campaigns of the ‘War in the North,’ he would fight with Mohi Tawhai, Waka Nene, Rangatira of Pakanae and Nopera Panakareao of Kaitaia against Hoani Heke and Kawiti. At the Mangungu transaction, Taonui spoke strongly against the Governor’s having any authority over Māori people:

We are glad to see the Governor; let him come to be a Governor to the Pakehas (Europeans). As for us, we want no Governor; we will be our own Governor. How do the Pakehas behave to the black fellows of Port Jackson? They treat them like dogs! See! A Pakeha kills a pig; the black fellow comes to the door, and eats the refuse.¹³⁹

(2) PAPAHAIA

Wiremu Tana Papahia was a chief at Whirinaki, who according to Binney, had probably been baptised a Roman Catholic in Sydney in 1835.¹⁴⁰ Like Taonui, Papahia had signed the 1835 Declaration of Independence. Although he had already signed Te Tiriti at Waitangi with his mark (and the proxy signature Papahia no Te Rarawa), at the Mangungu transaction, he too opposed the Governor:

¹³⁸ Ibid.

¹³⁹ Speeches of Hokianga Chiefs, encl in Shortland to Stanley, 18 Jan 1845, *GBPP* 1845, 108, 10.

¹⁴⁰ Binney, 2004, 22.

What is the Governor come for? he, indeed! he to be, high, very high, like Maungtanina (a high hill near Hokianga), and we low on the ground, nothing but little hills; no, no, no! Let us be equal. Why should one hill be high and another low? This is bad.¹⁴¹

(3) MOSES

'Moses' was almost certainly Mohi Tawhai of Te Mahurehure, who lived around the Waima River. He was an expert in tribal history, and had signed the 1835 Declaration of Independence. Mohi Tawhai was adamantly opposed to land sales; and yet later he fought with Nene, Makoare and Aperahama Taonui and others against Hoani Heke and Kawiti in the 'War in the North.' His first comment was brief (at least as reported by Shortland);

How do you do, Mr. Governor? All we think is that you come to deceive us; the Pakehas tell us so, and we believe what they say; what else?¹⁴²

(4) TAINUI

Now Makoare Taonui spoke again (unlike at the Waitangi deliberations, where each *rangatira* spoke only once, at Mangungu a number of the *rangatira* spoke several times):

We are not good (or willing) to give up our land; it is from the earth we obtain all things; the land is our father; the land is our chieftainship; we will not give it up.¹⁴³

(5) KAITOKE

Kaitoke was a Mangamuka *rangatira* who had been much influenced by the prophet Papahurihia. In 1837 he shot dead two Christian converts, and in retaliation was attacked by Patuone and Nene, among others. After this fracas (in which he was wounded), Kaitoke moved to Whirinaki, where his daughter married Frederick Maning, the Irish trader who had settled at Onoke.¹⁴⁴ In *Old New Zealand*, Maning wrote a satirical account of the Mangungu Treaty deliberations, phrasing it as though it were Kaitoke's version of events:

More years passed away, and then came a chief of the *pakeha*, who we heard was called a Governor. We were very glad of his arrival, because we heard he was a great chief, and we thought he, being a great chief, would have more blankets, and tobacco, and muskets than any of the other *pakeha* people, and that he would often give us

¹⁴¹ Hokianga speeches, 10.

¹⁴² Ibid.

¹⁴³ Ibid.

¹⁴⁴ See Colquhoun, David, 1984, 'Pakeha-Maori: The Early Life and Times of Frederick Edward Maning, M.A. thesis, University of Auckland.

plenty of these things for nothing. The reason we thought so was because all the other *pakehas* often made us presents of things of great value, besides what we got from them by trading. Who would not have thought as we did?

The next thing we heard was that the Governor was travelling all over the country with a large piece of paper, asking all the chiefs to write their names or else make marks on it. We hear, also, that the Ngapuhi chiefs, who had made marks or written on that paper, had been given tobacco, and flour, and sugar, and many other things for having done so.

We all tried to find out the reason why the Governor was so anxious to get us to make these marks. Some of us thought the Governor wished to bewitch all the chiefs, but our *pakeha* friends laughed at this, and told us that the people of Europe did not know how to bewitch people. Some told us one thing, some another. Some said the Governor only wanted our consent to remain, to be a chief over the *pakeha* people; others said that he wanted to be chief over both *pakeha* and Maori. We did not know what to think, but were all anxious he might come to us soon; for we were afraid that all his blankets and tobacco and other things would be gone before he came to our part of the country, and that he would have nothing left to pay us for making our marks on his paper.

Well, it was not long before the Governor came, and with him came other *pakeha* chiefs, and also people who could speak Maori; so we all gathered together, chiefs and slaves, women and children, and went to meet him; and when we met the Governor, the speakers of Maori told us that if we put our names, or even made any sort of a mark on the paper, the Governor would then protect us, and prevent us from being robbed of our cultivated land, and our timber land, and everything else which belonged to us. Some of the people were very much alarmed when they heard this, for they thought that perhaps a great war expedition was coming against us from some distant country, to destroy us all; others said he was only trying to frighten us. The speaker of Maori then went on to tell us certain things, but the meaning of what he said was so closely concealed we have never found it out.

One thing we understood well, however, for he told us plainly that if we wrote on the Governor's paper, one of the consequences would be that great numbers of *pakeha* would come to this country to trade with us, that we should have abundance of valuable goods, and that before long there would be great towns, as large as Kororareka, in every harbour in the whole island. We were very glad to hear this, for we never could, up to this time, get half muskets or gunpowder enough, or blankets, or tobacco, or axes, or anything. We also believed what the speaker of Maori told us, because we saw that our old *pakeha* friends who came with us to see the Governor believed it.¹⁴⁵

According to Shortland, Kaitoke's first speech was as follows:

No, no, Mr. Governor, you shall not square our land and sell it; see, there, you came to our country, looked at us; stopped, came up the river; and what did we do? We gave you potatoes, you gave us a fish-hook; that is all; we gave you land, you gave us a

¹⁴⁵ Maning, 2001, 20-21.

pipe; that is all. We have been cheated; the Pakehas are thieves; they tear a blanket, make two pieces, and sell it for two blankets; they buy a pig for one pound in gold, sell it for three; they get a basket of potatoes for sixpence, sell it for two shillings; this is all they do, steal from us; this is all.¹⁴⁶

(6) TAINUI

Makoare Taonui now spoke for a third time, giving an astute analysis of imperial strategy. This prompted an angry response from Hobson, and a counter-retort from Taonui:

Tainui: Ha! ha! ha! this is the way you do; first, your Queen sends missionaries to New Zealand to put things in order, gives them 200L a year; then she sends Mr. Busby to put up a flag, gives him 500L a year, and 200L to give to us natives; now she sends a Governor.

His Excellency – Speak your own sentiments, and not what bad men have told you.

Tainui – I do; have I not been at Port Jackson? I know Governors have salaries.¹⁴⁷

As we have seen, Taonui had indeed been to Port Jackson, and his comments were penetrating.

It was probably this exchange which Hobson attributed to a chief ‘Papa Haiga;’ if so, Hobson’s version was rather more heroic in tone than Shortland’s version:

Towards the close of day one of the chiefs, Papa Haiga, made some observations that were so distinctly of English origin, that I called on him to speak his own sentiments like a man, and not to allow others who were self-interested to prompt him: upon which he fairly admitted the fact, and called for the European who had advised him to come forward, and tell the Governor what he had told him.¹⁴⁸

(7) EXCHANGE BETWEEN HOBSON AND FREDERICK MANING

Hobson continued;

This call was reiterated by me, when a person called Manning present himself [whom Hobson later identified in his despatch as ‘though not of a degraded class... an adventurer, who lives with a native woman... has purchased a considerable quantity of land, and being an Irish Catholic, is an active agent of the bishop [this last comment appears to have been quite untrue]. I asked his motive for endeavouring to defeat the benevolent object of Her Majesty, whose desire it is to secure to these people their just rights, and to the European settlers peace and civil government. He replied, that he

¹⁴⁶ Hokianga speeches, 10.

¹⁴⁷ Ibid.

¹⁴⁸ Hobson to Normanby, 17 Feb 1840, 11

conscientiously believed that the natives would be degraded under our influence; that, therefore, he had advised them to resist: admitting, at the same time, that the laws of England were requisite to restrain and protect British subjects, but to British subjects alone should they be applicable.

I asked him if he was aware that English laws could only be exercised on English soil. He replied, 'I am not aware: I am no lawyer:' upon which I begged him to resume his seat; and told the chiefs that Mr. Manning had given them advice in utter ignorance of this most important fact; adding, 'If you listen to such counsel, and oppose me, you will be stripped of all your land by a worthless class of British subjects, who consult no interest but their own, and who care not how much they trample upon your rights. I am sent here to control such people, and I ask from you the authority to do so.' This little address was responded to by a song of applause; several chiefs, who agreed with me, sprung up in my support, and the whole spirit of the meeting changed.

We have only Hobson's version of his sparring with Maning, however; none of the other sources mention it.¹⁴⁹

(8) NGARO

I have no background for Ngaro; he was the first speaker to speak in support of the Governor at this meeting:

Welcome, welcome, welcome, Governor! here are the missionaries; they came to the land; they bought and paid for it; else I would not have them. Come, come! I will have the Governor; no one else perhaps will say yes; but I, Ngaro, I will have him; that is all I say.¹⁵⁰

(9) MOHI

Mohi Tawhai now spoke for the second time, this time giving muted but sceptical support to the Governor:

Where does the Governor get his authority? Is it from the Queen? Let him come; what power has he? Well, let him come; let him stop all the lands from falling into the hands of the Pakehas. Hear, all ye Pakehas! perhaps you are rum-drinkers, perhaps not; hear what is said by us; I want all to hear; it is quite right for us to say what we think; it is right for us to speak; let the tongue of every one be free to speak; but what of it? what will be the end? our sayings will sink to the bottom like a stone, but your sayings will float light, like the wood of the whau-tree, and always remain to be seen; am I telling lies?¹⁵¹

¹⁴⁹ Ibid.

¹⁵⁰ Hokianga speeches, 10.

¹⁵¹ Ibid.

(10) KAITOKE

In speaking a second time, however, Kaitoke suggested that the *rangatira* might choose their own Governor – a possibility that had been foreshadowed in the Declaration of Independence:

Let us choose our own governor.¹⁵²

(11) RANGATIRA

Rangatira was a *rangatira* of Ngāti Oneone near the south head of the Hokianga harbour. He signed the Treaty with a mark, and the proxy signature ‘Rangatira, Pakanae.’ His brother Moetara had signed the letter to King William IV in 1831, and the Declaration of Independence in 1835. Rangatira stood to welcome the Governor, and castigated his own people for ‘selling’ the land to the Pakehas, for ‘letting it go.’

As in many early Northern land deeds, it is quite possible that the term *tuku* [let go, release – a term used in gift exchanges] was used here, and yet translated as ‘sold’:

Welcome, Mr. Governor! how do you do? Who sold our land to the Pakehas? It was we ourselves by our own free will; we let it go, and it is gone, and what now? what good is there in throwing away our speech? let the governor sit for us.¹⁵³

(12) MOSES

In Mohi Tawhai’s third and last intervention, he asked whether the Governor would inquire into land that had been ‘stolen,’ but appeared philosophical about land that had gone by ‘fair purchase.’ Again, however, it is impossible to know what Māori terms were used here:

Suppose the land has been stolen from us, will the Governor inquire about it? Perhaps he will, perhaps, he will not: if they have acquired the land by fair purchase, let them have it.¹⁵⁴

(13) TAINUI

In Makoare’s final contribution to the debate, he expressed for the first time some enthusiasm for the Governor. At the same time, however, he was adamant that land should not be ‘sold:’

¹⁵² Ibid.

¹⁵³ Ibid.

¹⁵⁴ Hokianga speeches, 11.

Lo! now for the first time, my heart has come near to your thoughts. How do you do? How do you do? I approach you with my whole heart; you must watch over my children; let them sit under your protection; there is my land too; you must take care of it; but I do not wish you to sell it. What of the land that is sold? Can my children sit down on it; can they, eh?¹⁵⁵

In response to Mohi Tawhai's question, it is likely that Hobson assured the gathering that an inquiry would be held into all land transactions to date, and that only those deals that were fair and proper would be upheld. Taonui was enthusiastic about this prospect. Of the land that had 'sold,' he asked about occupancy rights – an indication of uncertainty on this point. Again, it is impossible to know what Māori terms were used here, whether *tuku* – to let go, release; or *hoko* – to exchange, to barter, to trade.¹⁵⁶

It does seem, however, that Taonui was accepting the Governor as a 'protector' (probably the term *tiaki* was used here in some form, echoing Article 3 of Te Tiriti).

According to Shortland, the chiefs Nene, Patuone, Rangatira and Taonui stepped forward at this point, and sang a song of welcome to the Governor.

(14) NENE

Tamati Waka Nene of Ngāti Hao had already spoken during the Treaty debates at Waitangi, where he and his brother Patuone were instrumental in having Te Tiriti signed there. On this occasion, however, he simply took the opportunity to repudiate any claim that he had sold land to Baron du Thierry, the French adventurer whose threatened arrival in Hokianga to claim 40,000 acres of land there (allegedly sold to him by Nene, Patuone and Muriwai) had provoked the signing of the Declaration of Independence in 1835:

Listen to me, Governor; all of you listen to me; this is my speech; if the Baron de Theyry wishes to claim my land, why is he not here today? No, no, it was never sold him, does he think he shall have it? no, no, he shall not have any of it. That is all I have to say.¹⁵⁷

(15) JOHN KING

John King, who had taken the name of the C.M.S. missionary who came with Thomas Kendall to upper Hokianga in 1819, was the nephew of the prestigious *rangatira* Muriwai (whom Kendall and King had met during that journey). Muriwai had died in

¹⁵⁵ Ibid.

¹⁵⁶ On this point, see Salmond, Anne, 1991, *Tuku and Hoko*, submission for the Waitangi Tribunal, Muriwhenua Land Claim; Mutu, Margaret, 1992, *Tuku whenua or Land Sale? The Pre-Treaty Land Transactions of Muriwhenua*, report for Muriwhenua Land Claim; Metge, Joan, 1992, *Cross-cultural Communication and Land Transfer in Western Muriwhenua*, for the Muriwhenua Land Claim.

¹⁵⁷ Hokianga speeches, 11.

1828, but not before he had taken Jackie Marmon, an escaped convict from New South Wales, as his *pākeha*, marrying him to John King's daughter. In his despatch to Gipps, Hobson complained about Jackie Marmon's as well as Maning's opposition to the Treaty:

Another person, altogether of a lower description [than Maning], known under the name of 'Jacky Marmon,' who is married to a native woman, and has resided in this country since 1809, is also an agent of the bishop. He assumes the native character in its worst form – is a cannibal – and has been conspicuous in the native wars and outrages for years past. Against such people I shall have to contend in every quarter....¹⁵⁸

Despite Hobson's suspicions about Marmon's influence, however, his father-in-law John King spoke in favour of the Governor:

My speech is to the Governor. This is what I have to say: it was my father [*matua*: father, uncle], it was Muriwai, told me to behave well to the Pakehas. Listen, this is mine; you came, you found us poor and destitute; we, on this side, say stay, sit here; we say welcome, welcome; let those on the other side [of the harbour] say what they like; this is ours to you; stay, in peace; great has been your trade with our land; what else do you come for, but to trade? Here am I, I who brought you on my shoulders (who have been favourable to the introduction of Europeans), I say come, come, now you must direct us, and keep us in order; that is all mine to you; if any one steal any thing now, there will be a payment for it. I have done my speech.¹⁵⁹

King seems to have accepted that the Governor would 'keep us in order' – to regulate trade and punish theft; but which pronoun he used here [the inclusive form *tātou* or the exclusive form *mātou*] would be crucial in interpreting the scope of the Governor's influence as King understood it. If he used *tātou* for 'us,' he was including the Governor and by implication the whites; and so accepting that the Governor and his laws would apply to whites and Māori; whereas if he used *mātou*, he was accepting the Governor's right to keep Māori people only (in their internal relations) in order, a very different arrangement. Again, this highlights the difficulty of assessing Māori understandings of Te Tiriti from evidence in English.

(16) AN ANONYMOUS CHIEF

Another, unnamed *rangatira* now stood to welcome the Governor:

How do you do? Here am I, a poor man: and what is this place? A poor place; but this is why you have come to speak to us to-day; let the Pakehas come, I have not any thing to say against it; there is my place, it is good land, come and make it your sitting place; you must stay with me; that is all.¹⁶⁰

¹⁵⁸ Hobson to Normanby, 17 Feb 1840, 11

¹⁵⁹ Hokianga speeches, 11.

¹⁶⁰ Ibid.

(17) DANIEL

'Daniel' was probably the signatory to Te Tiriti 'Daniel Kahika,' who wrote his own name. He was no doubt mission-trained, and spoke vehemently against land-selling, and the land-sharks:

What, indeed! do you think I will consent to other people selling my land? No, truly; if my land is to be sold, I shall do it myself; but no, I will not sell my land; I do not like the Pakehas to tease me to sell my land, it is bad; I am quite sick with it. This is my speech.¹⁶¹

After this, 56 'principal chiefs' came forward and signed Te Tiriti. According to Hobson, it was only with difficulty that he could restrain 'those who were disintitiled by their rank from signing their names.'

Maning's satirical account (purporting to come from Kaitoke) suggests that the signing at Mangungu was much more contentious than this:

After the speaker of Maori had ceased, then Te Tao Nui and some other chiefs came forward and wrote on the Governor's paper, and Te Tao Nui went up to the Governor, and took the Governor's hand in his and licked it! [kissed it?] We did not much like this, we all thought it so undignified. We were very much surprised that a chief such as Te Tao Nui should so; but Te Tao Nui is a man who knows a very great deal about the customs of the *pakeha*; he has been to Port Jackson in a ship, and he, seeing our surprise, told us that when the great *pakeha* chiefs go to see the King and Queen of England they do the same, so we saw then that it was a straight proceeding.

But after Te Tao Nui and other chiefs had made marks and written on the Governor's paper, the Governor did not give them anything. We did not like this, so some of the other chiefs went forward, and said to the Governor, 'Pay us first, and we will write afterwards.' A chief from Omanaia said, 'Put money in my left hand, and I will write my name with my right,' and so he held out his hand to the Governor for the money; but the Governor shook his head and looked displeased, and said he would not pay them for writing on the paper.

Now when the people saw this they were much vexed, and began to say to one another, 'It is wasting our labour coming to see this Governor,' and the chiefs began to get up and make speeches. One said, 'Come here, Governor; go back to England;' and another said, 'I am Governor in my own country, there shall be no other;' and Papahia said, 'Remain here and be Governor of this island, and I will go to England and be King of England, and if the people of England accept me for their King it will be quite just; otherwise you do not remain here.' Then many other chiefs began to speak, and there was a great noise and confusion, and the people began to go away, and the paper was lying there, but there was no one to write on it. The Governor looked vexed, and his face was very red.

¹⁶¹ Ibid.

At this time some *pakeha* went amongst the crowd, and said to them, 'You are foolish; the Governor intends to pay you when all the writing is done, but it is not proper that he should promise to do so; it would be said that you only wrote you names for pay; this, according to our ideas, would be a very wrong thing.' When we heard this we all began to write as fast as we could, for we were all very hungry with listening and talking so long, and we wanted to get something to eat, and we were also in a hurry to see what the Governor was going to give us; and all the slaves wanted to write their names, so that the Governor might think they were chiefs, and pay them; but the chiefs would not let them, for they wanted all the payment for themselves.

I and all my family made our marks, and we then went to get something to eat; but we found our food not half done, for the women and slaves who should have looked after the cooking were all mad about the Governor, so when I saw that the food was not sufficiently done, I was aware that something bad would come of this business.¹⁶²

According to Hobson, it was midnight when the Mangungu signing was finally over. Before he left, however, the *rangatira* invited him to a feast the following day.

At 10am the next morning, Hobson and his party went to the 'Hauraki' (Taylor added, 'the residence of Captain Macdonald,' ie. Horeke, where McDonnell lived), where 1000 warriors in their finest costumes welcomed him with a *haka*, 'dividing themselves into 3 companies and jumping up and turning their bodies half round at the same time making a peculiar sound and then all rushing in one mass against each other' (a sham fight, often performed before a *hākari* or feast). The small battery of guns at Horeke was fired in salute, and all the warriors fired off their muskets, accompanied by 'three hearty cheers' from the Governor's party. The Governor had provided a feast of 'pigs, potatoes, rice and sugar, with a small portion of tobacco to every man' for the crowd of 3000, which according to Hobson was 'partaken of in perfect harmony.'

Once again, however, Maning's account is much less glowing:

Next morning the things came with which the Governor intended to pay us for writing our names, but there was not much tobacco, and there were only a few blankets; and when they were divided some of the chiefs had nothing, others only got a few figs of tobacco, some one blanket, others two. I got for myself and all my sons, and my two brothers, and my three wives, only two blankets. I thought it was too little, and was going to return them, but my brother persuaded me to keep them; so we got into our canoe to go home, and on the way home we began to say, 'Who shall have the blankets?' And so we began to quarrel about them.

One of my brothers then said, 'Let us cut them in pieces, and give every one a piece.' I saw there was going to be dispute about them, and said, 'Let us send them back.' So we went ashore at the house of a *pakeha*, and got a pen and some paper, and my son, who could write, wrote a letter for us all to the Governor, telling him to take back all the blankets and to cut our names out of the paper, and then my two brothers and my sons went back and found the Governor in a boat about to go away. He would not take

¹⁶² Maning, 2001, 21-22.

back the blankets, but he took the letter. I do not know to this day whether he took our names out of the paper. It is, however, no matter; what is there is a few black marks? Who cares anything about them?

Well, after this, the Governor died; he was bewitched, as I have heard, by a *tohunga* at the south, where he had gone to get names for his paper; for this was his chief delight, to get plenty of names and marks on his paper. He may not have been bewitched, as I have heard, but he certainly died, and the paper with all the names was either buried with him, or else his relatives may have kept it to lament over and as a remembrance of him. I don't know. You, who are a *pakeha*, know best what became of it; but if it is gone to England, it will not be right to let it be kept in any place where food is cooked, or where there are pots or kettles, because there are so many chief's names on it; it is a very sacred piece of paper; it is very good if it has been buried with the Governor.¹⁶³

Maning's account of the Mangungu signing has been dismissed as exaggerated and inaccurate, but on several important points it accords well with other surviving evidence. On the question of Kaitoke's asking for his family's signatures back, for instance, Taylor recorded on 14 February that before they set off from the Wesleyan mission station, leaving behind Captain Nias (who was very ill with influenza):

The Governor was pestered with the chief who made such a favour of giving his name the night before; he wanted some more blankets.... and then he asked for money, the Governor gave him 5s which he afterwards refused to take and they were left on the beach. We had not proceeded much further before we were overtaken by a large canoe which brought a letter signed by 50 individuals stating that if the Governor thought that they had received the Queen he was much mistaken and then they threw in the blankets they had received into our boat; the governor seemed much annoyed.¹⁶⁴

Hobson's account of this episode was as follows:

On the morning of the 14th, when preparing to return here, I regret to say that notwithstanding the universal good feeling which subsisted amongst the chiefs on the day previous, two tribes, of the Roman Catholic communion, requested that their names might be withdrawn from the Treaty. It is obvious that the same mischievous influence I before complained of, had been exercised in this instance. I did not, of course, suffer the alteration, but I regret that the credulity of chiefs should render them so susceptible of unfavourable impressions.¹⁶⁵

On the matter of the signatures, too, Taylor reported that the first chief who asked for his signature back had said when he signed that the Europeans 'must now take great care of the deed and considered very sacred' – a comment that accords well with Maning's final remark from Kaitoke that 'because there are so many chiefs' names on it, it is a very sacred piece of paper.'

¹⁶³ Maning, 2001, 22-23.

¹⁶⁴ Taylor Journal, 14 Feb 1840.

¹⁶⁵ Hobson to Normanby, 17 Feb 1840, 11.

Kaitoke and his compatriots would have been horrified about that period in Te Tiriti's history when this sacred document was left to moulder in the basement of the Government buildings, and chewed by rats.

4.4 The Mangungu Treaty Transaction: Conclusion

The evidence of the speeches made at Mangungu supports a conclusion reached after considering the speeches at Waitangi – that in their deliberations, the *rangatira* were primarily asking about the Governor – should he stay or should he go?

In many respects, the debate at Mangungu was more sharp-edged than the exchanges at Waitangi. The *rangatira* at Hokianga were intensely suspicious about what an acceptance of a Governor might mean in practice. Would they be treated like the Aborigines at Port Jackson, and fed cast-off offal by the Europeans? Would the Governor be high, and the *rangatira* low? Would he 'square out' their land and sell it? Would he prove to have been just one more step in a European strategy of domination – first the missionaries; then Busby with his flag; then the Governor – all sent by the Queen? Or, on the other hand, would he protect them from the land-sharks? Would he investigate unfair land transactions? Would he control theft, and regulate trade to make it fair?

On the whole, it seems that the *rangatira* at Mangungu decided to accept the Governor as a protector, although on second thoughts (perhaps, indeed, prompted by Frederick Maning), Kaitoke asked for his signature back the next day, and a letter signed by 50 individuals (almost as many as those who signed Te Tiriti at Mangungu) was delivered to Hobson with his gifts of blankets, saying that 'if the Governor thought that they had received the Queen, he was much mistaken.' It is interesting that despite this last request to have signatures removed from the parchment, Hobson refused to entertain it, reporting to Normanby that 'I did not, of course, suffer the alteration.' Presumably he was acting on the basis that once a contract was signed, it could not be revoked by one party – a characteristically European conception of the matter.

5 THE KAITAIA TREATY TRANSACTION, 27-8 APRIL 1840

5.1 Sources

There are four main contemporary European accounts of the Kaitaia Treaty transaction. First, the Colonial Surgeon Dr. John Johnston wrote a vivid description of the entire transaction, including a record of each of the chiefs' speeches, 'verbatim as transcribed by Mr. Puckey who acted as Interpreter.'¹⁶⁶ His account is more detailed than any of the others, although his versions of the speeches are synoptic, rather than verbatim); and the speeches are quoted below as in Johnston, with extra material recorded in the other reports added where necessary. Second, Rev. Richard Taylor gave a reasonably full account of the Kaitaia transaction in his journal (April 23, 1830). Third, the Colonial Secretary Willoughby Shortland wrote a letter on 6 May 1840 briefly describing the transaction, but quoting Nopera Panakareao's speech in full.¹⁶⁷ In 1845 Shortland also enclosed a synoptic account of the Kaitaia speeches in a report to Lord Stanley.¹⁶⁸

All of these reports appear to be based on Puckey's translations of the *rangatira*'s speeches (rather than the speeches themselves), and they give very similar accounts of the essential arguments put forward by each of the speakers (although their versions of the *rangatira*'s names vary markedly).

In the account of the Kaitaia transactions below, I will give first the *rangatira*'s name as recorded by Johnston, then in succession the versions of their names recorded by Shortland, Taylor, and on the Treaty parchment – at Kaitaia, Puckey signed all the *rangatira*'s names for them. I have not given *hapū* affiliations for the *rangatira*, because these were not recorded at the time; and it is notoriously difficult to identify these retrospectively, given the multiple affiliations of many leading figures.

5.2 Context

On April 1840 a party including Colonial Secretary Willoughby Shortland (standing in for William Hobson, who was ill), Lieutenant Smart and two mounted policemen; Rev. Richard Taylor and Colonial Surgeon John Johnston left Paihia on Mr. Baker's boat, the schooner *New Zealander*. At Mangonui in Tokerau (Doubtless Bay) they took a local *rangatira* Waitimu on board as pilot, and sailed to Rangaunu, anchoring

¹⁶⁶ Johnston, John, M.D., 1840, Journal kept by John Johnston, M.D., Colonial Surgeon, From his arrival in the Bay of Islands, March 17 1840 to April 28 1840, Auckland Public Library.

¹⁶⁷ Shortland, Willoughby, Esq. to William Hobson, 6 May 1840, Auckland Public Library CO 209/7:259-62.

¹⁶⁸ Shortland, Willoughby Esq To Lord Stanley, Torquay, 18 January 1845, *BPP* 1845/ 108:3.

near the mouth of the Kaitaia River on 26 April. Taylor and Johnston went by boat up-river and then walked eight miles through the wet night to Kaitaia, being carried across quagmires and swamps by their Māori guides. On the night of the 26th they slept at the Kaitaia Mission station in Rev. Mathew's house, cared for by his wife, a daughter of Rev. Davis at Waimate, in his absence. Arrangements were made the next day for a meeting on April 18, and during the day Johnston walked around the station, which he described in some detail in his journal:

The [Settlement] consists of five good wooden houses – a handsome church with a spire and a Native Village situated on a plateau of moderate elevation standing out in the centre of a small valley, through which course the principal branch of the Awanui (great River), on its course from the mountains at the back of the settlement.. There are verdant paddocks of grass and clover which together with the gardens around the Houses give a cheerful and civilized aspect to the whole scene... It was a truly gratifying sight to see a church spire form part of a New Zealand landscape and to hear the evening bell summoning these people to prayers, where but a few years before might be seen the blazing fires of cannibal feasts, and the savage yells of bloodthirsty savages.

Mr. Shortland, Lieutenant Smart and the two mounted policemen arrived during that day, escorted by Rev. Puckey and many local Māori. When they arrived at Kaitaia, according to Shortland,

We were received with a discharge of musketry, and shortly after welcomed with a War dance, the firing continued throughout the evening, and at intervals during the night.

During the evening of 27th, groups of people continued to arrive at the Mission station, setting up temporary shelters made from branches, flax and *toitoti*, with floors covered with dried fern. At some time during the evening, Nopera Panakareao, whose signature to the Treaty they had primarily been sent to obtain, visited Mathew's house and questioned them about the Treaty. According to Johnston,

Noble called upon us in the evening to question Mr. Puckey as to the nature of the Treaty he was about to sign and particularly as to the meaning of the word Sovereignty [ie. since Panakareao was mono-lingual in Māori as far as we know, the word *kāwanatanga*], this was endeavoured to be made intelligible to him – He was a fine looking man with a dignified but rather grave air. He appeared to be about 40 years of age.

In fact, Panakareao – a leading *rangatira*, a warrior, and an evangelist who was literate in Māori – had written to Samuel Marsden in 1837, asking for a Governor to be sent to New Zealand '*tetahi Kawana mo tatou, hei tiaki ia taou*' (a Governor for us all [the inclusive pronoun *tātou*], to look after us all).¹⁶⁹ He was evidently very concerned about what powers the *rangatira* would be ceding to the Governor if they signed Te Tiriti, however, and what these would amount to.

¹⁶⁹ Panakareao to Marsden, 9 May 1837, MLA1994, 3:136-6, 139.

About midday on 28 April, Johnston described 500 men (400, according to Taylor) assembling around Mr. Puckey's house at the mission, some *rangatira* wearing dogskin cloaks, others blankets or clothes from European sailors; and formed a circle in front of the verandah with another circle of women and children behind them.

It should be noted that like the meeting held to debate the Declaration of Independence, each of these discussions with the *rangatira* were held in Pākeha settings – Waitangi in front of Busby's house; the Wesleyan mission station at Mangungu; and now the C.M.S mission station at Kaitai, rather than in *pā* or *kāinga*, places dominated by Māori.

When Nopera Panakareao arrived, he sat next to Shortland on the verandah – evidently treating this like the porch in front of a *whare nui* or 'meeting house.' Shortland now spoke to the assembled *rangatira*, with Puckey acting as interpreter. According to Johnston, he said:

That our Government had often been solicited by the Chiefs of New Zealand to send them a Governor, that she had at length consented to their wishes and has sent them a Governor to introduce the blessings of a Regular Government and British Laws and Institutions – and to protect them from white men who had latterly come in such numbers to their shores, many of whom being lawless men might injure them – that the Queen would not interfere with their native laws nor customs but would appoint gentlemen to protect them and to prevent them being cheated in the sale of their lands – that her Majesty was ready to purchase such as they did not require for their own use, to dispose of again to her subjects who she would take care were respectable men who would not harm them – He beseeched them not to listen to the falsehoods of designing men, whose only aim was to bring them into trouble, but to believe that what he said was the Truth, as they would ultimately see.

Johnston's account of Shortland's speech is the most detailed version of the kinds of explanations of the Treaty given by the British officials to the Northern *rangatira*. It accords well with the interpretations of the parchment text of Te Tiriti given so far in this report. Essentially, the *rangatira* were promised protection from lawless whites, and were explicitly assured that 'the blessings of a regular Government and British laws and Institutions' would not interfere with native laws and customs. The arrangement offered would involve a balance of powers, with the *rangatira* pre-eminent within their own domains; and the Queen and her appointed 'gentlemen' acting to protect Māori in relations between whites and Māori, to prevent them being cheated in land sales, and to control 'lawless' men who might otherwise injure them.

The Treaty was then read out in Māori by Mr. Puckey, and the *rangatira* were invited to speak.

5.3 The Rangatira's Speeches at Kaitaia

(1) PADUWERO

(Shortland: 'Taylor; Taylor: 'my namesake Reihana Teira Teiro,' signed Te Tiriti by proxy 'Reihana Teira Mangonui,' ie. 'Richard Taylor' from Mangonui)

Teira's speech was delivered 'walking rapidly up and down an open space left for the purpose... with much energy and gesticulation:'

We do not want a Shepherd (Governor). We were Gentlemen (Rangatiras) many generations before you came and you find us Gentlemen now. The Governor may be a good Master, but shall we not be stopped in getting firewood? Formerly we cleared any Spot we liked, burnt the wood from it, then someone came and liked the Spot and built a house upon it, then a quarrel took place. Will you prevent such doings? I have spoken.

Although Richard Taylor was mission-trained, he opposed the Governor, suggesting that his arrival would mean further impositions of the kind that were following land transactions in the North, where European patterns of fixed settlement which claimed all use rights within a bounded area were beginning to seriously impede the mobility and resource use patterns of local *hapū*.

(2) HUPPA

(Shortland: 'A Chief; Taylor, 'Matieu,' signed Te Tiriti by proxy, 'Matiu Huhu')

Matiu had also adopted a missionary-inspired name, but he spoke against the Governor, expressing doubts about the integrity of the Kaitaia missionaries:

The Governor according to report comes to kill all the people in the Land and Take it to himself. I never knew the meaning of the Treaty (Bukabuka [*pukapuka*: book] before a great many explanations had been given by those who had it read; It is said that a great many Pakeha's (strangers are coming to take the Land – that they come not for our good – that the Soldiers have come here to shoot us; and many sitting round here think that the Governor has not come as a Shepherd – It is said that Messrs. Puckey and Mathews know what is become of us but will not tell us. I have no more to say.

Huhu was concerned about land loss, increasing European settlement, and the role of the soldiers. Although Claudia Orange has said that 'on this occasion there was no dissension,'¹⁷⁰ this is an overstatement. Many of the Kaitaia speakers appeared very uncertain about Te Tiriti, and its implications.

¹⁷⁰ Orange, 1987, 82.

(3) COPPA

(Shortland, 'William;,' Taylor, 'Wiremu Wiriana Kupa' signed the Treaty by proxy, 'Kopa')

'They tell us that you are come to murder all the Mauris (Natives) but if your works were such as we have been taught to believe it would have been to preserve us – If your actions are like those of the Missionaries we would not be afraid of you – but I fear those soldiers' – pointing to the mounted policemen. 'From the time the missionaries came amongst us we have been at peace – Let not your tongues be set on fire – Others speak better than me – If you have anything good or bad to say – say it now. The Missionaries came for our good and they side with the Governor – (?) by them – Let us hear what you have to say now – dont go home and sit grumbling in your houses.' [According to Taylor he then made a grumbling noise and added, 'Let us have the great baskets and the little ones at once and all the baskets'].

Although Kopa was very doubtful about the soldiers, on the whole he put his faith in the missionaries and their advice, since they had brought peace to a turbulent district. The main point of his speech was to urge everyone to speak their minds freely.

(4) TIRO

(Shortland, 'Davis;,' Taylor, 'Rawiro Tiro;,' signed Te Tiriti at Hokianga by proxy, 'Tiro'):

I say yes for the Queen – Although others may disapprove of the Governor – I will approve of him – I wish to hold firm for the Governor – if he comes to take the land I will not have him, but if he comes as a Shepherd I will have him. You will say, what makes me Speak thus? I answer my own heart, much Land has been brought round about by the Pakehas – Let it not be said that the Land will be taken by the Governor, it has been disposed of before – I have spoken.

Tiro was the first speakers in all of the Northern Treaty transactions to mention the Queen, although Te Tiriti was presented to the *rangatira* as a pact with her; instead, they all spoke of the Kāwana. Tiro's chief concern was with the land – and he argued that much land in the district had already been bought by Pākeha (although again, we don't know what Māori term was used here for 'bought'- probably *hoko*); and that there was no good reason to suppose that the Governor would take land, since it had already been disposed of. If the Governor had come to take land, however, Tiro said that he would not have him.

(5) MAHANGA

(Shortland, 'Forde;,' Taylor 'Pordi;,' Apirana Ngata has 'Poari chief of Pukepto & Ahipara; signed Te Tiriti as 'Poari Te Mahanga'):

Let all our sayings be one! The Governor has taken no Land, it has been sold and taken before. My hearts and thoughts are with the Governor. I say Yes! I say Yes! Yes! Yes!

This was the first speech at Kaitaia that was unequivocally in support of the Governor.

(6) PILOTS

(Shortland, 'Marsden;' Taylor, 'Matinga;' signed Te Tiriti by proxy 'Matenga Paerata')

We shall not be made slaves by these people – Had we gone to other lands we might have been slaves, but these Men have come to protect us – Let not our hearts be dark. Let us not listen to words from afar; Let us see first; It is a sin to commit murder, to commit adultery to tell lies – If what we hear from our teachers are not lies, then what we hear from the Govr. is true.

Matenga's speech was an attempt at self-reassurance. The Kaitaia *rangatira* were clearly concerned for their *mana*, and their lands, but Matenga (who was Samuel Marsden's namesake) found it difficult to believe that the missionaries could sin by telling lies, and thus was inclined to believe that the Governor (whom they supported) was telling the truth.

(7) PADUWERO

(Shortland does not mention his second speech; Taylor, 'Reihana Teira'):

According to Johnston, Reihana Teira now 'again arose and seemed to have changed his mind since he first spoke either from fear or admiration of the Soldiers of the Mounted Police who were with Lieut. Smart on the Verandah for he only said, much to the amusement of all:

I have no friends before or behind but the Horsemen!

(8) TOKITAU

(Shortland, 'Toketau;' Taylor 'Tukitai;' signed Te Tiriti by proxy 'Tokitahi;' described by Johnstone as a 'fine-looking chief, a pagan not yet brought into the Missionary fold')

I have no place to give my friend the Governor – We were Gentlemen before, we may be greater now, Our clothes were formerly such as I have on (he was dressed in a native mat) but we shall now get blankets, shirts and trousers; our houses were once of Raupo, they will be better now, I have said.

Tokitahi said that he had no land to give [*tuku?*] to the Governor, but dwelt on the advantages of exchanges with Europeans – including European clothing and improved housing.

(9) TAUA

(Shortland does not record his speech; Taylor, 'Tuaa;' Johnstone records him as a 'pagan;' signed Te Tiriti by proxy 'Tuaa')

This is what I have to say; How are payments to be made? If I shall get a blanket for this little pig – pointing to a small one that had followed him – then I say, Let the Governor come.

Johnstone added:

The true spirit of trade shown in this remark was very characteristic of Maori character and created a general laugh.

Many of the *rangatira* in the Northern Treaty transactions expressed a desire that trade [*hokohoko*] with the whites should be fair.

(10) RIPA

(Shortland, 'Busby;' Taylor, 'Puihipi Ripi;' signed Te Tiriti by proxy 'Puihipi, Pukepoto & Ahipara,' identified by Apirana Ngata as 'Puihipi te Ripi.'

Before Pakehas came, we loved our own people, but sometimes a quarrel took place, then we made peace, and rubbed noses (alluding to the mode of friendly salutation), then another fight but we and the Pakehas are good friends, other Islanders may come and break the peace and make war between us – but I am here solitary.

I am glad you are come to take care of me – Let our hearts be one; but if quarrels happen between ourselves, or between Maori's and Pakehas, how are they to be settled. You are so far off (alluding to the Governor residing at the Bay of Islands). Murder and theft may be repressed but adultery carried on greatly; how is that to be remedied? (and on seeing some surprise expressed at his last remark he added, 'Do not think that I was to keep any of our bad habits unmentioned (He was a Christian chief of excellent character).

Ripa's speech is interesting in a number of ways. It mentioned 'other Islanders' (perhaps Polynesian crew members of whalers and other visiting ships) as potential enemies; listed murder, theft and adultery as local 'bad habits,' the last of which he said was still commonplace; and underlined the role of the Governor as adjudicator and mediator in disputes between Māori and Pākeha, asking how it could be carried out effectively in Kaitaia when the Governor lived in the Bay of Islands?

(11) PI

(Shortland, 'Pi;' Taylor, 'Pi;' this was 'Pi no Te Mahurehure, Waima' who had signed Te Tiriti with his mark at Mangungu)

It would be good to see all adulterers hung in a row!

- an intriguing interpretation of the 1840s British penal code!

(12) TAUHARA

(Shortland, 'Mathew;' Taylor, 'Matieu, a Wesleyan;' signed Te Tiriti by proxy, 'Matiu Tauhara')

Will a man be taken up, if he walks out at night? That is the only thing I have been afraid of. If a man steals at night it is right to punish it. This is all I have to say; Let all the Governor's people be as the missionaries; we have not been hurt by them.

No doubt Tauhara was reacting to the talk of hanging adulterers. He agrees that thieves should be punished, but was unhappy about the thought of being punished for 'walking out at night.' He supported the Governor if he and his people would be like the missionaries, who had done them no harm.

(13) WERA

(Shortland, 'Mattu;' Taylor, 'Martona Wera;' described by Johnstone as 'a fine young chief). Perhaps because he was young, he does not appear to have signed Te Tiriti)

If your thoughts are as our thoughts towards Christ, let us be one; We believe your intentions to be good.

Wera was explicitly making Christianity a meeting point between the Governor and Kaitaia people.

(14) WAIORA

(Shortland, 'Broughton;' Taylor, 'Broughton Waiora;' signed Te Tiriti by proxy, 'Paratene Waiora')

There is only one great man that cannot be killed and that is the tongue; it often stirs up great wars; My father Nopera was sitting in his house reading his Bible and they said he was gone to the North Cape to kill the people there; the Pakia Maoris (as they designate the white men that live with them) tell us many strange things, but I believe your words. [Shortland added here: 'Send away Pikopo (the Roman Catholic Bishop), send him back; he is the cause of strife among us.']

Waiora was referring to words of warning from some local Pākeha Māori (including Bishop Pompallier?) about the Treaty; but interestingly, he preferred to take the word of the Governor's representative.

(15) HUUU

(Shortland does not mention his second speech; Taylor, 'Matieu'):

Look at those men with the long feathers I do not like them, I do not like that man nor that man with the long knife (pointing individually to the Soldiers of the Mounted Police). I do not like being prevented from going to a Neighbours to light a pipe.

This concern that the soliders would restrict freedom of movement probably referred to the experience of curfews being enforced in the penal colonies (eg. Norfolk Island). Huhu was still very unhappy about the thought of armed Europeans enforcing their authority over Māori.

(16) NGARA

(Shortland does not mention his speech; Taylor, 'Wiremu;' signed Te Tiriti by proxy 'Ngare'):

Send the Catholic Bishop away, when a few people go from [??], the pikopo's (Catholics) open their mouths wide and say It is a fight.

Again, the influence of Pompallier and the Roman Catholic faith was cited as divisive.

(17) NOPERA

(Shortland, 'Nopera;' Taylor 'Nopera Panikarao (the Chief of the Rarawa), signed Te Tiriti by proxy 'Nopera Panakarao')

According to Johnston, Nopera, 'then arose and walking slowly backwards and forwards on the Verandah spoke as follows:'

Hear all of you, White Men and Natives. This is what I like, my desire is that we should all be of one heart – Speak your words openly – Speak as you mean to act – Do not say one thing and mean another – I am at your head. I wish you to cleave to the Governor – we shall be saved by it – Let every one say Yes! as I do – Now we have somebody to look up to.

I am jealous of the Speeches I hear from the Pakeha Maori's – Be careful not to listen to the words of bad White Men (Pakeha's) who say the Pakeha's will offend, but I saw it will be the Maori's – My Grand Father first brought Pakeha's to this very spot and the Chiefs approved of what he did and some went on board the Ships – He got much trade which he spread through the Island – Let us act properly, let the Ngapuhi's (here referring, as at Hokianga, to the Northern alliance in the Bay of Islands] do what they

like – The Pakeha's went to the Bay of Islands and were murder'd (alluding to the Massacred there of Marion du Fresne and part of this crew).

Let us do no harm to the Pakeha's. My Grand father did none – what has the Governor done wrong? The Shadow of the Land goes to the Queen, the substance remains to us – the Govr. will not take our food, we will get payment from him as before – Let all be of one mind – If the Ngapuhi's commit evil they will suffer for it –

The people in these parts have always been friendly to Strangers – they never went to Port Jackson and England to get firearms with which to kill their countrymen (an allusion to Hongi's visit to Gt. Britain from whence he brought Musquets). If you wish to be cut, go and fight with the Governor – Do not do as the people of Hokianga do, and wish to kill the Governor – Live peaceably with the Pakeha's –

We have now a Helmsman before everyone wanted to be steersman – before formerly everyone said Let me steer and we never went straight – Be jealous, look well into your hearts and commit no evil – The Ngapuhis did evil at the Bay and then suffered (recalling to their memory the revenge taken by the French for the slaughter of their countrymen). What man of sense would believe the Governor will take our food and only give us a part of it – If you have any thing else to say – Say on – if not finish and say Yes! Let all say Yes!

Johnston later remarked that 'Nopera's speech was evidently that of a man of reflection and the elegant figure by which he expressed the word Sovereignty showed that he had pondered deeply on his conversation of the previous evening, nothing could be more beautiful or expressive than 'The Shadow of the Land is to the Queen, but the substance remains with us.'

Nopera's speech at Kaitaia (like Shortland's) is important as a detailed elaboration of how some key Māori participants in the Northern Treaty transactions in 1840 understood the Treaty of Waitangi. If Shortland's speech was sincere (and there is no reason to suppose that it was not), then he was convinced that British laws and institutions, and the Queen's protection could be extended to New Zealand without Māori laws and customs, or the prerogatives of the chiefs being encroached upon. Panakareao evidently believed the same. He was convinced that the Governor would deal fairly with Māori people; that he would act as a helmsman for the canoe (*waka* - a commonplace metaphor for collective action in Māori, rather than a corporate descent-group, as some scholars have argued) – of Māori-Pākeha relations? – which would now go straight [*tika*]. His famous saying that 'the Shadow of the land is to the Queen but the substance remains to us' indicates a transfer of some spiritual kind to the Queen – appropriately enough, if she were to act as *kai-tiaki* (spiritual and practical protector) for Māori people.

At least at the time of the signing at Kaitaia (although he would soon change his mind), Panakareao was convinced that the guarantee of *rangatiratanga* safely secured Māori in the possession of their lands, and that the substance of the land would remain under Māori control. Johnston also evidently understood 'sovereignty' as supporting Māori rights to land, for he agreed with and approved of Panakareao's metaphorical explanation of the term.

After Panakareao's speech, according to Johnston:

This appeal so replete with good sense and good feeling delivered in a very impressive and commanding manner, was responded to by loud cries of "Ai, ai [Ae, ae]" (Yes, yes), and immediately stepping forward he touched the pen with which Mr. Puckey signed his name to the Treaty and was [?] by the other chiefs to the number of sixty-one, beginning with the next in rank and so on to the inferior Rangatiras. His wife named Elenora (by baptism) a Chieftainess in her own right signed her name opposite her husband's – the signatures being witnessed by the Gentlemen present completed the ceremony.

Each of the *rangatira* now shook hands with the official party, and then all joined in an ample feast provided by Panakareao (which he would not allow the Europeans to pay for). There was also a grand *haka* and sham fight involving about 400 warriors, all armed with muskets and wearing handkerchiefs instead of war mats around their waists. After this, the gathering of about 1000 people began to disperse. That evening the official party dined with Nopera in his sawn-timber house. They were served tea, pork, fine potatoes and bread baked by his wife Erenora, and sat on chairs around a table decorated with a tablecloth and set with china and cutlery. Nopera wore a cloak decorated with long fibres of yellow and black, and white and black feathers (*huia* feathers, a sign of high rank). His wife, Erenora, wore a European dress under her cloak. During dinner Nopera told the Europeans that

A conspiracy to compel the Governor to abandon the Island had been attempted to be formed by some of the Ngapuhi chiefs who had not signed the Treaty of Waitangi, especially one named Kawiti who resides on the Kawakawa. Some of the Hokianga chiefs had also been engaged and overtures had been made to him through his Wife who had lately been on a visit to Hokianga. He said they had been urged to it by the Pakeha Maoris who were bad men and had spread many falsehoods, but that he believed the Governor had come for their good and he and his Tribe would stand by him, this explained a part of his Speech in which he alluded to the wish of the chiefs of Hokianga to kill the Governor and it also verified what we had formerly heard at Waimate.

Johnston and Taylor both took this warning very seriously, and Shortland reported it in his letter of 6 May to Governor Hobson.

The following day Panakareao presented the Governor with a gift of about 12 tons of potatoes and *kūmara*, eight pigs and 'some dried sharks which were sent back,' (presumably because the Europeans could not stand the smell). The Governor's return gift, which was sent from Southey's house, included 12 bales of blankets and a cask of tobacco. For the first time the reciprocal etiquette of ceremonial exchange was fully followed in one of the Northern Treaty transactions.

6 THE TRIBUNAL'S QUESTION: CONCLUSION

The Tribunal has asked:

How did Māori understand Te Tiriti / The Treaty? And, therefore, what was the nature of the relationship and the mutual commitments they were assenting to in signing Te Tiriti / The Treaty?

In answer to question 5, I have argued that Te Tiriti and The Treaty are two very different documents, with divergent textual histories and political implications; and for that reason, it is a mistake to bracket them together. I have observed that this error has led to a confused and confusing historiography of the Treaty, which should not be perpetuated.

In my report, I have focused sharply on Te Tiriti, the text that was read out, interpreted in various ways, debated and finally signed by most *rangatira* at the meetings with representatives of the British Crown in Northland in 1840. I have concluded that this document (and only this document) provides an official record of the agreements reached between the *rangatira* of the various *hapū* and the Crown in 1840.

The Treaty in English, by way of contrast, is a draft text, on the basis of which Rev. Henry Williams produced Te Tiriti. Nor is the Treaty in Māori a simple and faithful translation of the Treaty draft in English. The differences between the two texts, however, do cast light upon the intentions and the integrity of the Crown representatives and their allies during the proceedings at Waitangi, Mangungu and Kaitaia; and can be considered in that connection.

During this report, I have stressed the challenges involved in interpreting the primary documents from the Treaty transactions. The *whaikōrero* by the *rangatira* on these occasions - the best surviving evidence of their understandings of Te Tiriti, apart from any oral histories that may be presented - survive only in synoptic, written versions in English, often taken directly from the translations in English which were given during the meeting. Although I have focused upon the parchment version of Te Tiriti, even that was a written text produced by a missionary who by all accounts, was not the most fluent speaker of Māori among his fellows. Te Tiriti (as its name implies), strictly speaking, is not a Māori document. It is rather a document in Māori; and one that might tell us more about missionary rather than about Māori understandings at the time.

At that time in Northland, the world was still predominantly *māori* (normal, ordinary, indigenous), with most Pākeha living in enclaves or attached to Māori kin groups. Indeed, many of the *rangatira* and their people in 1840 had been born and raised before the first Pākeha came to live ashore. In that kin-based cosmos, governed by *whakapapa* (genealogy), ancestors intervened in everyday affairs, *mana* was understood as proceeding from the *atua*, and *tapu* was the sign of their presence in the

everyday 'world of light.' Life was kept in balance by the principle of *utu* (reciprocal exchange), which governed relations between individuals, groups and ancestors. Attacks by insult, excessive generosity, witchcraft or violence upset such balances by diminishing the *mana* of the violated parties. In the speeches at Waitangi and elsewhere, one can see the concern of the *rangatira* that their *mana* should not be diminished or violated by any agreement with the British Crown.

Without a detailed understanding of these matters, and the Māori language of that period, the way in which the Northern *rangatira* understood Te Tiriti will remain obscure. As Henare et.al. point out, the logic of te Ao Tawhito (the old Māori world) in the North was embedded, not only in the patterns of *te reo*; but in the *wānanga* or knowledge taught in the *whare wānanga* or schools of learning; in the landscapes, their ancestral names and stories; in the art forms of carving, *kōwhaiwhai* and *moko*; in the structures of *waka* [canoes], chiefly houses, *kāinga* and *pā*; in the *hapū* or descent groups and their leaders; and in the very cosmos itself, with its parallel dimensions of Te Pō and Te Ao, and its layered underworlds and heavens. The fact that so much scholarship about the Treaty of Waitangi has been written without such in-depth study - as though its Māori context did not matter - illustrates the intimate links between history and power.

At the same time, in trying to understand the debates around Te Tiriti, a detailed grasp of historical change within a wider context is required. If Northern logic in 1840 remained essentially Māori, life in the North had also changed in many ways. In order to understand how to deal with the new arrivals, leading *rangatira* had travelled on European ships to Port Jackson, Norfolk Island, Britain and elsewhere to examine life in these places, bringing home new ideas and goods (including Hongi's cargo of muskets). Some of these men acted as patrons to the early missionaries, seeking to gain from their presence in various ways; while others acquired escaped convicts, runaway sailors or traders as their 'Pākehā,' often marrying them into their families. Many *rangatira* became 'middlemen' in the barter with Europeans, coming into contact with the cash economy; the pleasures of wealth; and the harsh realities of debt to European traders. From the early 1830s, increasing numbers of Māori were intrigued by Christianity, and the Bible, and some had become converts. By 1840 in the North, many had adopted at least some aspects of *tikanga Pākehā* (European names, clothing, household goods, literacy etc), although others remained resolutely loyal to *tikanga Māori*.

By 1840, too, the contact with Europeans had led to many unintended consequences. The old conventions for resolving disputes were disrupted by unequal access to European weapons, especially muskets, leading to raids that were unprecedented in scale and scope, and widespread devastation. Unequal access to European crops and other forms of wealth had disturbed the old reciprocal exchanges. Profound demographic shifts were generated by musket warfare; raiding for captives to work in agricultural plots, pig breeding and flax plantations for export; and the disruption of family life by forced migrations, new forms of work (including prostitution) and devastating introduced diseases, including those that caused epidemics. Many of the Pākehā arrivals operated outside the constraints of European morality and law, and yet at the same time considered themselves above the restraints of *tapu*. As the land transactions accelerated, the impacts of European settlement were spinning out of

control. There was also a lurking fear, especially among the *rangatira* from the Bay of Islands, that the French would return to avenge the deaths of Marion du Fresne and many of his men in 1772.

It was these challenges - a wish for peace, a fear of further land losses to Europeans and further diminutions of *mana* - that preoccupied the *rangatira* in trying to weigh up the Treaty of Waitangi. Indeed, without the European presence and its consequences, there was no need for such an agreement.

As other reports outline, Te Tiriti had been foreshadowed in He Wakaputanga o te Rangatiratanga o Nu Tirene, the Declaration of Independence in 1835, which in its turn had been provoked by fears of a French invasion. In the Declaration, the *rangatira* declared their *rangatiratanga* [independence] as a *Wenua Rangatira* [Independent land, land of peace], asserting their *kīngitanga* [sovereign power] and *mana* [authority]. While they reserved to themselves the right to make *ture* or laws, the *rangatira* had foreshadowed that they might delegate *kāwanatanga* [function of government] to 'persons appointed by them.' In the case of the Declaration, it appears that a draft declaration was read out to the *rangatira*, who discussed it, and amended the document to their satisfaction before they signed it with their *tohu*.

The drafting of Te Tiriti was much a less collaborative exercise. The text was drafted in English by Government officials and translated into Māori by Henry Williams and his son, without Māori input; and presented to the *rangatira* as a 'take it or leave it' proposition. From the British perspective, it seems that the balance of power had already shifted. The logic of the Treaty in English, of course, was European. Unlike the ancient Māori world, Te Ao Tawhito, ruled by *relationships* between ancestors and their descendants, the nineteenth century European world was governed by *laws* – natural laws (as understood by science) governing non-human phenomena; human laws, which regulated inter-personal and inter-nation relationships in an essentially impersonal way; and a retreating realm of divine law, expressing the will of God. *Sovereignty* legitimated the introduction of European laws to New Zealand, but for Māori, this would be no simple legal transformation. Rather, it would initiate the toppling of a kin-based cosmology.

The *rangatira*, however, did not sign the Treaty in English. It was Te Tiriti, a text in missionary Māori, that they debated in Māori, and most of them eventually signed with their *tohu* or marks. What, then, was the nature of the relationship and the mutual commitments to which they assented to in signing Te Tiriti? Although many of them were seasoned travellers, who knew about Governors and Kings, they were Māori cosmopolitans, not brown-faced Europeans. I think that most *rangatira* understood Te Tiriti, true to their own relational logic, as establishing an aristocratic alliance between themselves and Queen Victoria – and more immediately, with Governor Hobson. In that context, the Queen and her envoy promised to act as *kai-tiaki* (guardians, protectors), guarding Māori from spiritual as well as practical assaults from other Europeans. In the new order heralded by the arrival of Europeans, the Governor would serve as a *kai-wakarite*, a mediator, adjudicator and negotiator in the relationships between Māori and Europeans, to keep things *tika* – just, proper and correct.

While some *rangatira* were attracted by a hope of greater access to European wealth – of goods and trade – in supporting the Treaty; others were persuaded to agree to the Governor by the hope of a restoration of stability to a disrupted world. Although they saw threats in this new relationship to their *mana*, lands and freedoms, on these matters they were explicitly reassured by the missionaries' explanations, as well as by the Governor himself.

I do not believe, however, that in signing Te Tiriti, the *rangatira* ceded sovereignty to the British Crown. Although the English draft of the Treaty is unequivocal on this point, Te Tiriti – the 'real Treaty,' as Parkinson calls it - describes a very different arrangement. In this document, the *rangatira* ceded *kāwanatanga* to the Queen; and in missionary Māori in 1840, this was a subordinate and delegated power - one that they had already indicated they might be prepared to hand over to someone whom they themselves appointed. In their explanations during and after these meetings, the missionaries and Lieutenant Shortland at Kaitaia assured the *rangatira* that under the Queen's guarantee of *tino rangatiratanga*, they would retain absolute control over their *whenua* [lands], *kainga* [living places] and all of their *taonga* [valuables]; and 'that the Queen would not interfere with their native laws nor customs but would appoint gentlemen to protect them and to prevent them being cheated in the sale of their lands.' While the *rangatira* certainly agreed to the introduction of British *ture* and *tikanga* (customary rights and practices), and some were fearful about how this might affect their status and freedoms, it seems likely that most were convinced by these reassurances that the scope of these *ture* (and the Governor's role as *kai-wakarite*) would apply primarily to Māori-Pākeha interactions.

Overall, the relationship between the *rangatira* and the Crown described in Te Tiriti, and reinforced by these explanations, was one of a chiefly alliance, a balance of powers within largely autonomous spheres of action, with *ture* and the Governor's role as *kai-wakarite* probably applying to the interactions between them. Given their experience of chiefly alliances, and despite the advice of Pompallier and various 'Pākeha-Māori,' many of them believed the assurances they were given (for it was said at that time, great chiefs never lie), and signed Te Tiriti in the hope that in this alliance between themselves and the British Crown, the politics of generosity would prevail. The Governor would not intervene within territories that were controlled and owned by Māori, nor interfere with 'native laws and customs,' but rather, protect the *rangatira* and their people against unscrupulous, lawless whites. Nopera Panakareao summed up these expectations precisely when he said at Kaitaia, 'The Shadow of the Land goes to the Queen; the substance remains to us.'

At the same time, however, the Government officials and the missionaries knew that sovereignty, as Blackstone defined it, was an absolute form of power. Busby's 1837 despatch to the Colonial Secretary, which in many ways foreshadowed the British intervention in New Zealand, spoke of a Protectorate arrangement involving a possible government by the Confederated chiefs, but even that was to be an illusion:

In theory and ostensibility the government would be that of the confederated chiefs, but in reality it must necessarily be that of the protecting power. The chiefs would meet annually or oftener, and nominally enact the laws proposed to them; but in truth, the present race of chiefs could not be intrusted with any discretion whatever in the

adoption or rejection of any measure that might be submitted to them; moral principle, if it exist amongst them at all, being too weak to withstand the temptation of the slightest personal consideration.¹⁷¹

It seems likely that Henry Williams, who had a close acquaintance with Māori moral 'defects,' as his faith defined them, took a similarly pragmatic view of the Treaty. A former naval officer, he agreed in his meeting with Hobson (another naval officer) to promote the Treaty among the *rangatira*, and vigorously pursued that goal. It was, he wrote, the will of 'the Great Ruler of events' that the Treaty should be signed to the 'Glory of Her Majesty,' so that 'these poor natives' could be protected;¹⁷² and no doubt Williams truly believed at the time that the new regime would prove to be protective both in purpose and in practice - although some of the other C.M.S. missionaries had their doubts.

For this was the other aspect of Blackstone's definition of sovereignty - that this 'absolute, irresistible' authority must be placed 'in those hands in which goodness, wisdom and power are most likely to be found.' In 1840, very few if any Europeans believed that those hands were Māori. Old ideas such as those of the 'Great Chain of Being,' a cosmic hierarchy headed by God, followed by archangels, angels, seraphim and cherubim; Kings, aristocrats and commoners; barbarians (among whom Māori were often numbered) and savages (among whom Māori were sometimes also placed); and the more intelligent animals, still saturated popular thinking about the relationships between 'civilised' people and 'barbarians' and 'savages.' During the Enlightenment, the Great Chain of Being had evolved into stadial models of 'lower' and 'higher' forms of social life, and these, coupled with ideas of 'progress' and 'improvement,' meant that by 1840 in New Zealand, most Europeans (and certainly those in official positions) believed that as 'civilised' people, they were more 'advanced' than 'these poor natives' (Williams); 'children' (Colenso); 'savage nation' (Davis) or 'bloodthirsty savages' (Johnstone); and more capable of wielding judicial and legislative power.

Given these ways of thinking, there was little chance of a balance of powers between Māori and the Crown emerging in New Zealand, in spite of the countervailing principles of justice and honour, especially in upholding formal agreements with the Crown. Although the first Chief Justice, William Martin, for example, held fast to those principles in relation to Te Tiriti, he and others like him would prove to be in the minority. If Busby's 1837 letter foreshadowed the intention that 'in theory and ostensibility' the chiefs would have control while 'in reality it must necessarily be that of the protecting power,' this helps to explain understand why in 1841, Nopera bitterly reversed his poetic metaphor.

Intriguingly, however, the essential paradox in the Māori text of Te Tiriti may not lie between Articles 1 and 2 – between the cession of *kāwanatanga* and the guarantee of

¹⁷¹ Busby, James, 1837, quoted in Salmond, 1992, Submission for the Waitangi Tribunal, Muriwhenua Land Claim, 59.

¹⁷² William, Henry to Dandeson Coates, 13 February 1840.

tinu rangatiratanga, since these proved to be contradictory only after the fact. If a system of indirect rule, or a Protectorate had been established in New Zealand (as one might have expected from the various assurances that were given to the *rangatira*), then *rangatiratanga* and *kāwanatanga* need not have been irreconcilable.

It may be, rather, that the most fundamental contradiction in Te Tiriti lies between Articles 2 and 3 – between *tinu rangatiratanga*, the right of the *rangatira* and the people of various *hapū* to exercise autonomous control within their own domains, guaranteed in Article 2; and the promise by Queen Victoria in Article 3 to give to Māori as individuals all and exactly the same customary rights (or customs - *tikanga*) as her people of England. A world based on *whakapapa* and one based on individual rights were grounded upon very different assumptions about humanity and the relations between people and other forms of life – and thus, very different understandings of mutual rights and responsibilities. In the long run (or even in the short run, as the *rangatira* discovered when their *taurekareka* [slaves] began to claim their individual freedoms), *tikanga Māori* and *ngā tikanga rite tahi ki āna mea, ki ngā tāngata o Ingarangi* [customary rights exactly the same of her subjects in England] were, in fundamental respects, at odds with each other.

And yet, European notions of justice and honour, and Māori ideas of what is *tika* (right, proper, just) were sufficiently convergent in 1840 for arrangements to have been attempted that sought to honour and uphold the promises that had been exchanged (*tuku* or released) at Waitangi, with good faith on both sides. As soon as the meeting was over, however, those involved on the British side of the transaction replaced Te Tiriti with the draft Treaty in English as the ‘official’ account of what had been agreed between the *rangatira* and the Crown.

By that simple act, the balance of powers between *rangatira* and the *Kāwana* in Articles 1 and 2 became, in theory at least, absolute control by the Crown. Further, in the governance arrangements that were instituted soon afterwards, Māori were given no place, contrary to Article 3. From that time on, a history of conflict and bloodshed was almost inevitable - based at least in part on a genuine misunderstanding in Britain about what had been agreed at Waitangi (because the ‘official’ version sent to the British Government after the meeting, and certified as an accurate translation of Te Tiriti by Henry Williams, was in fact the Treaty draft in English, ceding sovereignty to Queen Victoria); and indignation and fury among many of the *rangatira*, who felt that they had been duped and betrayed.

Although some have questioned the validity of an emphasis upon the language of Te Tiriti and The Treaty, there is a *whakataukī* that goes to the heart of the matter:

He tao rākau e taea te karo; he tao kupu e kore e taea te karo

(A spear of wood can be parried; but never a spear of words).