IN THE WAITANGI TRIBUNAL WAI 1040

IN THE MATTER of The Treaty of Waitangi Act 1975

AND

IN THE MATTER of Pairama Tahere, Helen Lyall, Ellen Toki and Whito Arona

BRIEF OF EVIDENCE OF ELLEN TOKI FOR WAI 1538 CLAIMANTS TO BE HEARD IN WEEK THREE OF TE PAPARAHI O TE RAKI INQUIRY
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MAY IT PLEASE THE TRIBUNAL, the following brief of evidence is submitted on behalf of Ellen Toki by Counsel.

BRIEF OF EVIDENCE OF ELLEN TOKI

1. Maungapohatu te Maunga
Pateoro te Marae
Te Karae te awa
Ihutai te Hapu

2. Tena Koutou Katoa. Ko Ellen Toki tōku ingoa. Tētahi o ngā kaikōrero mo Te Ihutai, me wētahi atu o nga Hapu.

3. Ko Toki te tupuna. Ko Toki i moe a Rawhaki, ka puta ki waho ko Pangari, i moe a Wahi, ka puta ki waho ko Aporo, i moe a Moetonga, ka puta ki waho ko Toki, i moe a Waitote, ka puta ki waho ko Joe, i moe a Oriwa, ka puta ki waho ko te kaikorero ahau.

4. I was born in a whare nikau in 1939 in Te Karae, at a place called Te Totara. Te Totara is approximately 6kms north of Kohukohu township and is in the centre of the original Te Karae lands.

5. Te Totara is where Bishop Pompallier landed and said his first mass at the home of Thomas & Mary Poynton, on January 13th 1838 which was about a 1km further north of my present homestead.

6. I have lived almost all of my life in Te Karae and as a result I have been on our Marae and grown up listening to the korero of nga rangatira me nga kuia of Te Karae. During my life, I have been taught nga tikanga o tatou hapu o Te Karae and also Ngapuhi tikanga. I am and have been a kuia on our Marae for many years and during that time have carried out various roles including he kaikorero a wahine, he kai powhiri me nga kaitonotono o nga hapu rangatira. I continue these roles today, but part of my added role now is also to teach the next generation nga tikanga me nga kawa o Te Ihutai Hapu.

7. My korero today reflects some of the things I remember o nga korero o nga tupuna i tuku iho in relation to HeWhakaputanga and Te Tiriti

How did Maori understand He Whakaputanga / The declaration? And, therefore, what was the nature of the relationship and the mutual commitments they were assenting to in signing He Whakaputanga / The Declaration?

8. Firstly, during my lifetime I say, that all the korero of our tupuna from Te Ihutai, suggested that Te Ihutai was present at Mangungu when He Whakaputanga was signed and that Te Ihutai was part of that convenant.

9. Mangngungu is 3kms by water from the kaianga of our tupuna of that time and as Te Ihutai was a launching point it is inconceivable that Te TeRarawa paramount chiefs would not have come through and gathered Te Ihutai rangatira on their way to Mangungu.

10. Historic records of He Whakaputanga show that chiefs from North Hokianga including Te Huhu from Te Uri O Tai /Tu Moana Hapu of Te Rarawa iwi and also Nopera Panekareo from Te Paatu, Te Rarawa iwi signed He Whakaputanga. These Rangatira were paramount chiefs for Northern Hokianga and Kaitaia area and had the capacity by signing to bind Te Ihutai. Te Ihutai tupuna were major share holders of land at Te Paatu which is the connection to Panekareo. In addition paramount chiefs from Mahurehure including Mohi tawhai signed He Whakaputanga at Mangungu. Mahurehure Hapu was a close ally of Te Ihutai through inter Hapu marriage. These paramount chiefs from Mahurehure Hapu of Ngapuhi Iwi also had the capacity to bind Te Ihutai to He Whakaputanga.

11. My recollection of nga korero of Te Ihutai rangatira was that He Whakaputanga was our ancestors declaration to the world that Aotearoa was an independent and sovereign nation that was owned and under the control of Maori chiefs. The declaration merely confirmed what was known and understood by Maori for centuries following our own occupation of these islands by our tupuna Kupe.

12. In terms of what that meant in 1835 is also simple. It was a declaration by our ancestors that we were'nt savages as some mis-informed Europeans or Pakeha of those times might have wanted to believe but rather our ancestors saw themselves as race of noble people who lived in harmony with the natural world. They had well developed social structures and lived in accordance with a well defined systems of lores that were apart from minor regional differences more or less the same throughout the country.

How did Maori understand Te Tiriti / The Treaty? And therefore,what was the relationship and the mutual commitments it was assenting to in signing Te Tiriti / The Treaty?

13. (Te patai o te mohiotanga o Te Tiriti mo te iwi Maori -He tino tapu tenei kawanata). (Hei aha te whakaaroa o te iwi Maori e hinatia te Tiriti – Kia whakamanatia Te Tiriti, engari kaue whakaiti te mana o nga rangatira. Our ancestors never ceded sovereignty to Queen Victoria, although I understand now, that is what Lieutenant Governor Hobson believed he had achieved in 1840 when Te Tiriti / The Treaty was signed.

14. I tautoko the evidence of Patu Hohepa from Week 1 of the hearings in relation to his interpretation and translation of the meaning of nga kupu o Te Tiriti.

15. Taku whakaaroa o nga korero o toku tupuna o Te Ihutai I believe that our rangatira never gave up or surrendered their mana. Kia kore ngaro te mana o te rangatiratanga o te hapu- me te katoa. Retention of mana was absolute to the continuance of our hapu way of life, our tino rangatiratanga, mana whenua, mana moana within our rohe.

16. Hapu control of food resources from ngahere including manu and kiore. The same can be said of our kaimoana sea food. Te Ihutai rangatira had the authority and mana to carry out lore making roles and power to put in place rahui and I assert that if cession of sovereignty had been agreed to, all of these functions would've been lost by our rangatira.

17. As far as Wahine me nga rangatira o Te Ihutia are concerned He Whakaputanga is still relevant today although the early Governors and the settler government turned a blind eye to it .

18. For Te Ihutai hapu Te Tiriti is a sacred convenant that was signed by our tupuna and was to be honoured by both parties.

19. Te Ihutai has always honoured its obligations under Te Tiriti. The Crown on the other hand has done little to honour Te Tiriti but used it as a smoke screen to obtain legislative control and strip Maori of their rights like; compulsory taking of all hapu ancestral lands; destruction of coastal mahinga kai areas through mudflat reclamation; the blocking of Te

Karae awa; the deforestation of our ngahere for pakeha farms, destroyed food reserves and displaced most of Te Ihutai from their turangawaewae. This was never what Te Ihutai wanted but this is what happened.

20. Te Ihutai tupuna believed the ownership of their whenua including ahi kaa rights (nga whenua Maori tuku iho) was guaranteed. Te Ihutai expected the Crown to act as their protector under Te Tiriti but successive Governors and Governments has left Te Ihutai struggling to hold onto its identity, culture and land.

21. No reira, kua mutu ahau taku korero. Tena Koutou katoa

Signed D J Watkins Date: 26th July 2010

Acting Counsel for the Claimants