

THE  
PRELIMINARY REPORT ON THE  
HAANE MANAHI  
VICTORIA CROSS  
CLAIM



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WAI 893

WAITANGI TRIBUNAL REPORT 2005



The cover design by Cliff Whiting invokes the signing of the Treaty of Waitangi and the consequent interwoven development of Māori and Pākehā history in New Zealand as it continuously unfolds in a pattern not yet completely known

A Waitangi Tribunal report

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The Honourable Parekura Horomia  
Minister of Māori Affairs  
Parliament Buildings  
WELLINGTON



The Waitangi Tribunal  
141 The Terrace  
WELLINGTON

16 December 2005

E te Minita o te Karauna, tēnā koe

Enclosed is our report entitled the *Preliminary Report on the Haane Manahi Victoria Cross Claim*. The claim was filed on behalf of Te Arawa in 2000 and concerns the citation recommending the award of a Victoria Cross (vc) to Lance-Sergeant Haane Manahi for his bravery and leadership at the battle of Takrouna in 1943. For reasons unknown, the recommendation was downgraded to a Distinguished Conduct Medal (DCM), which was then awarded to Lance-Sergeant Manahi in 1943. The claimants allege that the New Zealand Government has breached the principles of the Treaty of Waitangi by not consulting them or taking sufficient action to reinstate the original recommendation and obtain a posthumous vc for Lance-Sergeant Manahi. This is not, they say, a claim about an individual so much as a claim about the relationship between Te Arawa and the Crown, which has been built on the Treaty and the unstinting military service which Te Arawa has given the Crown over the past 160 years.

The Tribunal heard this claim at Te Papaiouru Marae in May 2005. We were impressed that a sense of grievance was shared by the whole of Te Arawa, and also by the wider community (both Pakeha and Māori) as represented by the Returned Services Association. Although our central North Island inquiry is a generic one, we agreed to make a preliminary report on this unique claim. We have not made findings or recommendations but rather provide an early indication of our views and suggest a path forward to resolve the matter.

We are satisfied that the New Zealand authorities acted appropriately in recommending Lance-Sergeant Manahi for a vc in 1943. His bravery and leadership were praised in the highest terms by his commanders, and are a common point of agreement between the Crown and claimants today. The recommendation was downgraded, probably in London, for reasons unknown. Since 1987, the Haane Manahi vc Committee (of the 28th Māori Battalion) has been trying to get the original citation reinstated and a vc awarded posthumously. The New Zealand Government has made informal approaches to the Palace to determine whether a formal recommendation to that effect would be received favourably. At this stage, we are satisfied that the Crown has acted in good faith in attempting to resolve

this matter and in informing the committee of the results. We think it unlikely that there have been any breaches of the principles of the Treaty.

Nevertheless, the issue has not been resolved and it is still causing hurt to Te Arawa and difficulties in their relationship with the Crown. That being the case, we suggest that:

- ▶ The claimants take heart from the Crown's public acknowledgement of Haane Manahi's bravery in our proceedings. Its public assurances must be of considerable importance in ending any speculation and offer the kind of official recognition of Manahi's exploits that Te Arawa has been seeking.
- ▶ The claimants and the Crown agreed that the citation is the best evidence of Manahi's gallantry. The commanding officers who made the recommendation did so in the full and best knowledge of all the circumstances of the time, including the conditions required for recommending a vc. It was in that knowledge that they made their original recommendation for a vc for Manahi. Given this agreement, the Tribunal respectfully suggests that the Crown and the committee work together on a joint submission to provide the basis for a formal approach to the Palace, following an informal approach if convention again requires it. If this suggestion is not followed, we may need to consider whether a Treaty breach has taken place. However, we trust that this will not be needed. If an approach by the parties is ultimately unsuccessful, the Tribunal may need to consider the ramifications of this.
- ▶ One major source of confusion arises from the circumstances of the alteration of the recommendation, and these are still unknown. This is an area where the Crown could well facilitate a joint research effort with the committee, to assist with the preparation of any future agreed submission to the Palace. A joint publication of research efforts in a memorial booklet might in itself materially assist with the recognition that both Te Arawa and the Crown agree is due to Lance-Sergeant Manahi.



Judge C Wickliffe  
Presiding officer



## ABBREVIATIONS

ANZAC	Australian and New Zealand Army Corps
app	appendix
c	circa
ch	chapter
comp	composer
DCM	Distinguished Conduct Medal
doc	document
ed	edition, editor
KCB	Knight Commander of the Order of the Bath
MC	Military Cross
P, PP	page, pages
para	paragraph
RSA	Returned Services Association
VC	Victoria Cross
vol	volume

Wai' is a prefix used with Waitangi Tribunal claim numbers

Unless otherwise stated, footnote references to claims, papers, and documents are to the record of inquiry, the index to which is reproduced in the appendix.



Haane Manahi, DCM

## THE PRELIMINARY REPORT ON THE HAANE MANAHI VICTORIA CROSS CLAIM

### 1. INTRODUCTION

The Haane Manahi vc claim (Wai 893) was filed with the Waitangi Tribunal in 2000 by the chairperson of the Te Arawa Māori Trust Board. It concerns the downgrading of a recommendation for a Victoria Cross (the highest possible Commonwealth military award for bravery) to a Distinguished Conduct Medal for an act of bravery by Lance-Sergeant Haane Manahi, in action at Takrouna (Tunisia) in 1943. Te Arawa argue that they have supported the Crown steadfastly in war, and that the culture of both Crown and claimants requires due recognition of outstanding contributions made in the service of our nation. Te Arawa claim that their requests to restore the original vc recommendation have not been handled adequately by the New Zealand Government and that this failure constitutes a breach of the principles of the Treaty of Waitangi. They seek recommendations that the Crown consult with Te Arawa and present a fully researched and agreed proposal to the Queen for her consideration.

#### 1.1 The reason for the preliminary report

On 23 May 2005, the Tribunal consulted parties on the possibility of making preliminary findings on specific claims as part of its stage 1 report on the central North Island claims. It appeared to the Tribunal that some case studies and specific issues had been fully researched and presented and that it was therefore possible for the Tribunal to make findings on registered claims dealing with specific blocks or very particular local issues.<sup>1</sup> But most claimants and the Crown indicated that they opposed such a course of action, and the Tribunal accepted the majority view.<sup>2</sup>

With regard to the Haane Manahi vc claim, however, counsel for the claimants argued that there were special circumstances justifying an exception to the Tribunal's decision. In particular, claimant counsel submitted that there should be an early report to enable a resolution of the matter before the next ANZAC Day celebrations, when the claimants wish to commemorate the sixtieth anniversary of the end of the Second World War. Such a report

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1. Paper 2.3.66

2. Paper 2.3.68

THE PRELIMINARY REPORT ON THE HAANE MANAHI VC CLAIM

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would be an exceptional one, and precede the main report on the stage 1 inquiry.<sup>3</sup> The Tribunal directed the Crown to make a specific closing submission on the vc claim, which was presented at our final hearing in November 2005.

In accordance with our ruling of 10 June 2005, we do not intend to make findings or recommendations in this preliminary report. But, having considered the evidence, the submissions of parties, and the request for an early report, we think that there is sufficient evidence for us to provide some indication of our views and to suggest a path forward in this matter. The claimants and the Crown have made full submissions on the issues. There is merit to the argument that this claim is damaging the relationship between the Crown and Te Arawa, that it is unique, and that it is capable of an early resolution. We accept, therefore, the claimants' proposal that we should provide an early report. The Crown has not, however, had the opportunity to lead evidence in reply (should it wish to do so), which means that our report is a preliminary one only.

**1.2 A preliminary matter of jurisdiction**

Before proceeding with our report, there is a preliminary matter of jurisdiction to resolve. The Haane Manahi vc claim involves actions of the Crown in terms of the British military authorities in time of war, and of the Sovereign acting on his or her prerogative to award honours. The parties to our inquiry agreed that there are limitations on what the New Zealand Government could (and can) do as a result. The claimants submitted that their pleadings are 'against the Crown in the context of the Commonwealth as a whole and particularly the Crown in England'. None the less, they made the practical distinction that, in our proceedings, 'the Crown's jurisdiction is limited to the Crown in New Zealand. What Te Arawa seeks from the Crown in New Zealand is support and promotion of the case for recognising Haane Manahi to the fullest extent possible.'<sup>4</sup>

The Waitangi Tribunal's jurisdiction is confined to the Crown in right of New Zealand; in other words, to the actions of the New Zealand Government, the New Zealand military, and the Sovereign. This restriction applies to the historical events of the 1940s and to the recent attempts to restore the original recommendation and obtain a posthumous vc for Lance-Sergeant Manahi. Although it will be necessary to consider the actions of the British authorities in our report, the Tribunal confines its consideration of Treaty compliance to the Crown in right of New Zealand. The parties agreed that the matter before us is ultimately within the prerogative of the Sovereign to decide, not bound by the advice of either British or New Zealand responsible Ministers. For our preliminary report, we take the position that our jurisdiction is confined to the Crown in right of New Zealand for all matters of Treaty breach and for all matters of remedy.

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3. Claimant counsel, oral submission, 13 September 2005

4. Paper 3.3.94, para 8

## 2. THE CLAIM

The Wai 893 claim was filed in 2000 by Arapeta Tahana, then the chairperson of the Te Arawa Māori Trust Board, on behalf of the people of Te Arawa. The Manahi VC Committee, established in 1987 under the auspices of the 28th Māori Battalion, was entrusted with advancing the claim. The committee produced technical evidence and witnesses, and presented the claim at Tamatekapua, Te Papaïouru Marae, on 11 May 2005. The Tribunal heard historical evidence from Norman Bennett and Ernie Dix, and oral evidence from veterans of the battle of Takrouna. Lance-Sergeant Manahi's son, Te Rauawa Manahi, provided a helpful description of the battle.

In addition to the specific evidence, we also received evidence of the haka performed by Ngati Rangiwewehi and written for Haane Manahi, and we noted the strong support of the New Zealand Returned Services Association (RSA) for the claim.<sup>5</sup> The claimants and the RSA held a brief church service at the side of Haane Manahi's grave, which is situated in the Muruika urupa by St Faith's Church, Ohinemutu. The president of the Rotorua RSA, Tony Horton, delivered a moving eulogy. He stated:

We stand here today at Muruika Services Cemetery surrounded by the mana of many a warrior who served their King and country. A number of those that we mourn today were not so fortunate and lie in battle fields far away in foreign countries. As I stand at the foot of the tomb of Haane Manahi I am inspired by his bravery and his absolute courage in the face of a fearsome enemy.

We as the foremost organisation for Returned Servicemen within New Zealand fully support the call for a full inquiry into the circumstances surrounding the downgrading of the highly recommended citation for the Victoria Cross and feel that this matter needs to be given the highest priority given the frailness of those around us who served with this gallant hero.<sup>6</sup>

We were impressed that the claim represented the strongly held views of the Te Arawa people, in which they have the support of the wider community, as represented by the New Zealand RSA. We heard closing submissions from claimant counsel (September 2005) and Crown counsel (November 2005), and a claimant submission in reply (November 2005).

### 2.1 Historical account

Lance-Sergeant Haane Manahi (Te Arawa, Ngati Whakauae) was a member of the 28th Māori Battalion during the Second World War. He served in Greece and Crete and then North Africa. The 1940–43 North African campaign has been described by New Zealand military

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5. Document F89

6. Document J15. The full address is reproduced in appendix II of this report.

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historian Ian McGibbon as the ‘longest and most important land campaign fought by New Zealanders in the Second World war’.<sup>7</sup>

By April 1943, the Allied forces were engaged in an offensive against the remaining Italian and German defensive lines in Tunisia. As the Allies moved from the plains towards the high hills and passes held by Axis troops, they encountered fierce resistance. A key point in the Italian–German defensive lines at this time was Takrouna, a sheer limestone escarpment that rose steeply above the plains below. There were numerous olive groves around the base of Takrouna, interspersed with thick cactus hedges, nearly all of which had been mined. The hill country to the rear and on each flank provided significant defensive advantage, and every line of approach was covered by converged fire.<sup>8</sup> The old village of Takrouna stood near the top of the escarpment on gentler northern slopes. At the very top or pinnacle were the remains of an old stone fort, and further along and slightly lower was a rock platform known as the ‘ledge’, with very steep sides.<sup>9</sup> Several hundred Italian and German soldiers held the position, causing severe casualties to the advancing Allied army.<sup>10</sup>

The Allied attack on Takrouna began on the night of 19–20 April 1943. The attack was undertaken by the 5th Infantry Brigade of the 2nd New Zealand Expeditionary Force, under the overall command of Brigadier Howard Kippenberger and consisting of units from the 21st, 23rd, and 28th (Māori) Battalion. On that night, Lance-Sergeant Manahi was in command of a section of a platoon, whose objective was to capture the pinnacle at the top of the escarpment. During the attack, his platoon suffered heavy casualties, including their commander, and was reduced from around 30 men to 10. While the platoon was still under heavy fire, in the early morning of 20 April, Manahi took a small party of three men up the steep western precipice. This steep ascent required a climb of some 500 feet, the last 50 being almost sheer, and all the time under heavy fire from posts on the slope and sniping from soldiers on the pinnacle. On reaching the top, Manahi led his men in a brief fight, and some 60 enemy surrendered. The group was then joined by the remainder of the platoon.<sup>11</sup> Manahi then arranged for the prisoners to be taken down.<sup>12</sup>

The Italian and German troops still held the village below the pinnacle and the northern and western slopes, and subjected the group on the pinnacle to heavy fire and shelling, causing further casualties. The platoon sergeant was killed and the group was reduced to three. Lance-Sergeant Manahi took charge and the small group held their position, reinforced by a

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7. Ian McGibbon, *North African Campaign: Overview*, <http://www.nzhistory.net.nz/Gallery/north-africa/overview.html>, downloaded 10 December 2005

8. Joseph Cody, *28 (Māori) Battalion* (Wellington: Department of Internal Affairs, 1956), ch 11, p 291

9. See plans and photographs of Takrouna in evidence (docs F98, F56(a)).

10. Cody, ch 11; ‘Haane Manahi’, in Ian McGibbon (ed), *The Oxford Companion to New Zealand Military History* (Auckland: Oxford University Press, 2000)

11. Original VC citation for Haane Manahi, WO373/25, W3121 (docs F39, F56); doc I58

12. Cody, p 300

handful of others who had found their way up. An artillery observation officer who arrived ordered them to withdraw but Manahi and his men remained to hold the pinnacle.<sup>13</sup>

By late morning, rations and ammunition began to run out, and Manahi returned alone to the battalion base at the foot of the escarpment and took back supplies and reinforcements, the whole time under heavy fire.<sup>14</sup> During that afternoon, the Italians and Germans counter-attacked in force, some of them gaining a foothold. In the face of grenades and small-arms fire, Manahi led his men in close hand-to-hand fighting in the narrow alleys between the village and the paths leading to the pinnacle, before driving back the attack.<sup>15</sup> Shortly after this, his party was relieved and returned back down from Takrouna to rest.

The next morning, 21 April, the Italians attacked Takrouna again, once again gaining a foothold. Lance-Sergeant Manahi was requested to go back to assist and took new volunteers with him. Manahi led one of two parties, which attacked and drove back the enemy, despite concentrated mortar and heavy machine-gun fire. All that day, the escarpment was heavily shelled, mortared and subject to continual machine-gun fire. Late in the afternoon, Manahi, on his own initiative, took two men and they worked their way around the northwest side of the escarpment, where there were several enemy machine-gun and mortar posts and two 25-pounder guns. 'With cool determination,' noted his commanding officers, Manahi led his party against the enemy, stalking one post after another, always under shell and machine-gun fire, until 'by his skill and daring he compelled the surrender of the enemy in that area.' His courageous action 'undoubtedly led to the collapse of the enemy defence and the capture of the whole Takrouna feature with over 300 prisoners, two 25-pounder guns, several mortars and seventy-two machine guns'.<sup>16</sup>

On the night of 21–22 April, Lance-Sergeant Manahi remained on the escarpment assisting in the evacuation of the dead and wounded and 'refused to return to his Battalion until this task was completed'. During that time, the area was being heavily and continually shelled.<sup>17</sup> The original citation for Manahi described his bravery and leadership as showing the highest qualities of an infantry soldier.<sup>18</sup>

The Takrouna action, although ultimately victorious, resulted in severe losses for the New Zealanders. According to claimant evidence, the 28th Māori Battalion went into action at Takrouna with 17 officers and 203 other ranks. After the action, 12 officers and 104 other ranks had been killed, wounded, or posted as missing. The wounded included their commanding officer, Lieutenant-Colonel Charles Bennett. The 21st Battalion suffered 171 casualties and

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13. Original vc citation for Haane Manahi, WO373/25, W3121 (docs F39, F56); doc 158

14. DCM citation for Haane Manahi, *London Gazette*, 22 July 1943 (doc F56)

15. Ibid

16. Ibid

17. Ibid

18. Original vc citation for Haane Manahi, WO373/25, W3121 (docs F39, F56); doc 158

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the 23rd Battalion 116.<sup>19</sup> A few weeks after the battle, on 13 May 1943, the Italian and German forces in North Africa surrendered and the Allies were victorious in Tunisia.<sup>20</sup>

The actions of those involved in taking Takrouna, and in particular the bravery and leadership shown by Lance-Sergeant Manahi, were widely acknowledged at the time. Manahi's military commanders in North Africa recommended him for a Victoria Cross (vc) award in May 1943, stating: 'His cool judgement, resolute determination and outstanding personal bravery were an inspiration to his men and a supreme contribution to the capture and holding of a feature vital to the success of the operation.'<sup>21</sup> Signatures on this citation include those of Major-General Kippenberger and Lieutenant-General Bernard Freyberg.

Historians have also acknowledged the significance of the action at Takrouna. Ian McGibbon described it as an 'epic fight', and Joseph Cody noted the congratulations from the Allied command to Kippenberger at the time for the 'magnificent efforts in the initial attack on Takrouna and in the action today which resulted in the capture of Takrouna village.'<sup>22</sup> The claimants' researchers, Norman Bennett and Ernie Dix, produced evidence before us of the significance of the action at Takrouna and the outstanding bravery involved. This included statements from military officers of the time, such as Sir Denis Blundell and Lieutenant-General Sir Brian Horrocks KBC MC, expressing their belief that Manahi's actions were worthy of a vc.<sup>23</sup>

The recommendation process for the vc award required the support of the military chain of command and senior military staff in London, and was finally a matter of royal prerogative; in other words, the King made the final decision. At some point in the process, the citation recommending Manahi for a vc was altered to show a Distinguished Conduct Medal (DCM). The typed letters 'vc' have been crossed out on the original citation, and replaced with the handwritten letters 'DCM'.<sup>24</sup> The DCM award for Lance-Sergeant Manahi was gazetted on 22 July 1943.<sup>25</sup> The DCM citation, as published in the *London Gazette*, is very similarly worded to the original vc citation, as far as we have been able to compare them. We note, however, that there are some significant changes. In particular, the wording of the gazetted DCM citation omits the statement that 'his cool judgement, resolute determination and outstanding personal bravery were an inspiration to his men.'<sup>26</sup>

Research to date has uncovered no definitive evidence as to who altered the recommendation from a vc to a DCM, or for what reason. The claimants have noted evidence (including later statements from senior military personnel in the New Zealand chain of command) that

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19. Document F56, pp 2-3

20. McGibbon, *North African Campaign: Overview*

21. Original vc citation for Haane Manahi, WO 373/25, W3121 (docs F39, F56); doc 158

22. Cody, p 308

23. For example, doc F39; doc F56, p 9

24. Partial copies of the original vc citation have been produced in documents F39, F56, and 158.

25. DCM citation for Haane Manahi, *London Gazette*, 22 July 1943 (doc F56)

26. Ibid



the recommendation was most likely altered by the British war authorities.<sup>27</sup> The amended wording of the DCM citation appears to support this contention. It seems clear that all the signatories on the original citation, right up to Generals Bernard Montgomery and Harold Alexander, were signing their agreement to the original wording. The amended text in support of the DCM award does not appear in the documents that they signed. None the less, the official reason or reasons for the alteration are not known, and the relevant records may no longer survive.<sup>28</sup>

At the time, there appears to have been some speculation that the recommendation was altered for ‘political’ reasons: namely, that a VC award had been granted to a 28th Battalion member (Lieutenant Ngarimu) just three weeks earlier, and therefore it was not expedient to make an award to another member of the battalion so soon. The news of the altered award seems to have been met with consternation and disbelief among the New Zealand Division, where Manahi’s exploits had quickly become legendary. The claimants have noted that senior military commanders expressed bitter disappointment. For example, they have noted the comments of Lieutenant-General Sir Brian Horrocks, one of the commanders in Tunisia, who wrote that, ‘it [Takrouna] was the most gallant feat of arms I witnessed in the course of the war and I was bitterly disappointed when Sgt Manahi whom we had recommended for a VC only received a DCM.’<sup>29</sup> Historian Monty Soutar has also noted that, within the 28th Battalion, the failure to award Manahi a VC contributed to a ‘sour taste’ when the battalion moved on to the Italian campaign.<sup>30</sup>

The official war history of the 28th (Māori) Battalion was published some years later, in 1956. This history, by Joseph Cody, recounts the battle of Takrouna in some detail. As part of this, Cody notes the kind of close, desperate, hand-to-hand fighting that was required for the attack and holding of Takrouna. He describes how at one point, whether knowingly or not, Italian soldiers threw a hand grenade into an old building where New Zealand wounded were sheltering, killing most of them. A fierce Māori counter-attack was mounted in which Italians, ‘whether they wanted to surrender or not’, as he put it, were shot, bayoneted, or ‘thrown over the cliff’.<sup>31</sup> This kind of account appears to have led to later speculation and rumour that there may have been some ‘unsoldierly’ conduct during the heat of the action, and that this affected the recommendation for a VC.

It should be noted that Cody cites no informants and gives no documentary references for the incidents he describes. Nor does he suggest that there was anything untoward in the kind of battle that occurred at Takrouna, or any poor treatment of prisoners. He describes how,

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27. Paper 3.3.144, paras 8–10

28. Document 154, p 2

29. Ibid, pp 3, 9–10

30. Monty Soutar, ‘Māori War Effort Overseas’, in Ian McGibbon (ed) *The Oxford Companion to New Zealand Military History* (Auckland: Oxford University Press, 2000)

31. Cody, pp 300, 305

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on a number of occasions during the action at Takrouna, prisoners were taken according to the conventions of the time. At the time the citation for the vc was written, the officers involved had full knowledge of the action, including the fierce fighting to hold the pinnacle, and they signed it and forwarded it to London within a few weeks. As Sir Charles Bennett put it, 'we all know that Manahi would not have been recommended for a Victoria Cross in the first place if it was thought by his superior officers that he was guilty of a grave misdemeanour'.<sup>32</sup> The citation for the DCM notes the 'fierce hand-to-hand fighting'. We are satisfied that the speculation and rumour arose later and were not a factor in the decision to change the vc recommendation to a DCM.

**2.2 Contemporary issues**

The alteration of the recommendation has long been a matter of concern for Te Arawa and they have made efforts over the years to overturn what they perceive as the downgrading of the recommendation. They want to end any negative speculation as to why the recommendation was downgraded and to obtain due recognition of Manahi's bravery. In recent years, Te Arawa have pressed the New Zealand Government to reopen the case and seek the restoration of the original vc recommendation, and the posthumous award of a vc instead of a DCM. In 1987, the Haane Manahi vc Committee was established to promote this approach. Although the New Zealand Government expressed doubts about the practicability of reopening the case, it did in fact have former Governors-General approach the Palace informally. The details of these approaches are not known to the claimants or to the Tribunal. In 1993, the committee petitioned the Government to recommend to the Queen that the vc be reinstated.

The Government wrote to the committee in 1993 and again in 1994, referring to informal approaches already made to the Palace.<sup>33</sup> These overtures were a necessary first step, in the Government's view, to deciding whether a formal approach to the Queen was appropriate. The Queen's Private Secretary had indicated in writing that Her Majesty was unwilling to reopen such cases so long after the event. In light of this, and also given the lack of what it considered further decisive evidence about the altered recommendation, and based on its knowledge of the protocols related to the vc, the Government advised the committee that pursuing the matter further was 'fruitless'.<sup>34</sup> Needless to say, the committee (and Te Arawa) were not satisfied that the New Zealand Government had exhausted all the options and continued to press for further action. The claimants allege that the Minister of Defence at the time, the Honourable Warren Cooper, suggested that allegations of improper conduct

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32. Sir C Bennett to Major-General W McKinnon, 19 January 1992, app 10 (doc 154, p 47)

33. Letters 1993, 1994 (paper 3.3.144, doc 158)

34. Prime Minister Jim Bolger to Sir C Bennett, 30 March 1994 (doc 158)

by Lance-Sergeant Manahi had harmed the committee's case. Not privy to the details of how the case was put informally to the Palace, and being very concerned about these allegations, the claimants have continued to seek a formal, fully consulted, and researched approach to the Queen.

### 3. CLAIMANT SUBMISSIONS

The claimants allege that the original alteration of the citation changing the recommendation from a VC to a DCM was a 'miscarriage of justice', because it failed to properly recognise Haane Manahi's bravery.<sup>35</sup> In their view, however, the main cause of complaint is the subsequent New Zealand Government handling of the case. They raise the principle of 'an ongoing relationship with the Crown requiring both parties to deal with each other in utmost good faith'.<sup>36</sup> This relates to 'fair governance of Māori and issues of equal citizenship', and 'building trust and respect for the future'.<sup>37</sup> In particular, the claimants are concerned that the Crown's actions with regard to the Manahi case have not reflected a genuine understanding of how important due recognition of his bravery has been to Te Arawa and to their view of their ongoing relationship with the Crown.

The claimants submit that the New Zealand Government has failed to recognise that Haane Manahi was a representative of Te Arawa, and that Te Arawa viewed due recognition of his heroism as an important part of their ongoing and future relationship with the Crown.<sup>38</sup> The claimants note that Te Arawa did not sign the Treaty, but have affirmed it in other ways. One very important way has been their long history of military service, including (but not limited to) service during the Second World War.<sup>39</sup> They claim that deeds of heroism during this military service, and due Crown recognition of them, have been important to maintaining and affirming the tribal prestige of the Crown's Treaty partner, and assisting a positive, ongoing relationship between the partners.<sup>40</sup>

The claimants allege that the Government has not acted effectively in the steps it took to reopen the case. Counsel argued, for example, that, in relying on private, informal approaches, the Government failed to provide properly for the expression of popular and expert opinion that may have caused the Queen to reconsider. The claimants also note that there are precedents for reconsidering VC cases. They are not asking for an upgrading of an original award to a VC or for a new award, but are seeking the reinstatement of the

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35. Paper 3.3.144, para 10

36. Paper 3.3.94, para 17

37. Ibid, paras 16–17

38. Ibid, para 9

39. Ibid, para 4

40. Ibid, paras 5–6

original vc recommendation, based on evidence of gallantry gathered at the time, which was considered worthy of a vc.<sup>41</sup> The claimants also submit that the absolute discretion retained by the Sovereign is enough to overcome all of the procedural problems raised by the Crown.<sup>42</sup> But the New Zealand Government has undertaken only informal consultations with the Palace. No formal recommendation on the case has actually ever been placed before the Queen.<sup>43</sup>

The claimants also allege that in adopting the course it did, the Government failed to adequately provide for the participation of Te Arawa (in this case through the Manahi vc Committee) as a Treaty partner. The committee was given no opportunity to contribute to, or check the accuracy of, any evidence presented in the informal approaches. Nor has there been any kind of public inquiry, which might better have established important facts of the case.<sup>44</sup> For example, the claimants are concerned that a statement by Sir Denis Blundell that the British had made a mistake over the recommendation may not have been adequately presented for consideration when informal approaches were made to the Palace.<sup>45</sup> For Te Arawa, therefore, this claim is about a failure of partnership and good faith on the part of the Crown, with resultant and significant damage to the Treaty relationship.

The claimants submit that the consequence (or prejudice) of the Government's actions has been distress to Te Arawa and damage to their relationship with the Crown. There has been rumour and speculation as to the reasons for the original alteration of the award, and this has extended to questioning the circumstances of the original act of bravery by Manahi, and concern about the Government's attitude to its Māori citizens gaining the vc. For example, they refer to rumours of alleged ill treatment of some Italian prisoners during the action at Takrouna, which may have influenced the alteration of the recommendation. The claimants feel that the recent private and informal approaches by the Government and its decision not to pursue the matter further have continued to fuel such rumours. The claimants cite alleged comments by the then Minister of Defence, the Honourable Warren Cooper, that such allegations may have harmed efforts to reopen the case.<sup>46</sup> They feel that their ability to identify and address this kind of speculation has been hampered by the nature of the recent process and their exclusion from it.

The claimants allege that the Crown has failed in its obligations to fully recognise the exploits of Haane Manahi. They accept that the Crown's jurisdiction regarding the vc is limited to the Crown in New Zealand and they want the New Zealand Government to promote the case for recognising Haane Manahi 'to the fullest extent possible'.<sup>47</sup> The claimants deny

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41. Paper 3.3.144, para 21

42. Ibid, paras 19–23

43. Ibid, para 26.2

44. Ibid, para 26.1

45. Ibid, para 29

46. Ibid, para 28.4

47. Paper 3.3.94, para 8

that there is any law, procedural issue, or convention to prevent the Queen from exercising her prerogative to award the vc to Manahi, as was originally recommended.<sup>48</sup> They want the New Zealand Government to make a formal recommendation for a vc award based on the facts of the case. If convention demands that a formal approach cannot be made without permission, then the claimants want a further informal approach, this time fully agreed with the Manahi vc Committee, following an inquiry into the facts. This is the only way they can be assured that the Crown has undertaken good-faith endeavours to address the matter.<sup>49</sup> They also say that an inquiry is now required to clear the possible smear from Manahi's name.<sup>50</sup>

Te Arawa (and the Manahi vc Committee) seek recommendations from the Tribunal that the Crown:

- ▶ Undertake a thorough and open inquiry into the Manahi vc case, including findings of fact as to Manahi's actions, the importance of the case to Te Arawa, and allegations of ill treatment of prisoners. The inquiry would also cover the steps already undertaken by the Government to reopen the case, the approaches that have been made to the Palace, and the information placed before the Palace.
- ▶ Reopen the dialogue with the Queen and Palace after the inquiry, based on agreed statements of fact. If convention demands that a formal approach not be made without permission, then a further informal approach, fully informed and agreed with the committee, should be undertaken.
- ▶ Undertake 'all reasonable steps' to have due recognition given to Haane Manahi within New Zealand and the Commonwealth.<sup>51</sup>

#### 4. CROWN SUBMISSIONS

The Crown acknowledges that the claimants and the Manahi vc Committee are genuinely committed to their cause. The claimant submissions, however, overstate the symbolic importance of the claim and underestimate the Crown's acknowledgement of Te Arawa's contribution to New Zealand's participation in the Second World War. The Crown does not dispute the significance of the Te Arawa contribution to the war effort, or the bravery of Lance-Sergeant Manahi.<sup>52</sup> Haane Manahi was 'a very brave soldier, who fought with considerable distinction during the attack on Takrouna in 1943' and his gallantry is 'not in dispute'.<sup>53</sup>

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48. Paper 3.3.144, paras 12–23

49. Ibid, para 33

50. Ibid, para 36

51. Paper 3.3.94, paras 10,18,19; paper 3.3.144, paras 33–37

52. Paper 3.3.111, para 4

53. Ibid, paras 6, 33

The Crown further submits that it has taken ‘all reasonable steps’ to recognise the valour of Lance-Sergeant Manahi.<sup>54</sup> In 1943, after the battle of Takrouna, the New Zealand military chain of command acknowledged Manahi’s bravery and recommended him for a VC award, ‘which they considered was appropriate in recognition of his acts of gallantry.’<sup>55</sup> The DCM awarded to Manahi was the second highest military honour that could be awarded at the time to a non-commissioned service member. It was awarded for distinguished conduct in action in the field. The Crown submits that the DCM was a significant recognition of Manahi’s gallantry at Takrouna.<sup>56</sup> The community has also recognised the gallantry of Lance-Sergeant Manahi, including naming a room after him at the RSA in Rotorua. The significance of the battle of Takrouna itself has been recognised by the naming of a barrack at Waiouru military camp.<sup>57</sup> It is the Crown’s view that this claim may best be resolved by further recognition of this kind. As encouraged by the former Prime Minister, the Right Honourable Jim Bolger, there are ways outside of the honours system in which Lance-Sergeant Manahi’s gallantry can be recognised by his whanau, iwi, and wider community.<sup>58</sup>

In recent times, the Crown has made inquiries of the Palace about the possibility of reopening the Manahi VC case. Various former governors-general made initial overtures to determine whether this would be appropriate.<sup>59</sup> The Crown submits that this took into account the position that awarding a VC is within the personal prerogative of the Queen and, in exercising this power after such a lapse of time, the Queen does not act on the advice of her responsible Ministers.<sup>60</sup> But the result has not been positive, as the claimants have noted. The Queen’s private secretary indicated that the Queen did not believe it would be right to alter the award so many years after the event. It was now general policy in Britain not to consider cases of upgrading awards for gallantry where long periods of time had elapsed, because ‘there can be no substitute for a careful assessment of the facts at the time.’<sup>61</sup> The view of the Queen, it was indicated, was that she prefers to uphold the decision of her father, that no further awards would be granted after 1949, and that no further consideration would be given to the issue of service medals after 1952.<sup>62</sup> These matters were explained to the Manahi VC Committee.<sup>63</sup>

The Crown submits that it is not known why, or by whom, the citation was altered and, given the time that has passed, it is unlikely that evidence will be found to explain this. The evidence provided by the claimants has not, in its view, resolved this important issue. The

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54. Paper 3.3.111, para 27

55. *Ibid*, para 28

56. *Ibid*, paras 9, 29

57. *Ibid*, para 31

58. *Ibid*, para 38

59. *Ibid*, para 30

60. *Ibid*, para 21

61. *Ibid*, para 30

62. *Ibid*, paras 23–24

63. *Ibid*, paras 11, 26

Crown noted that, considering the Queen's clear views on how she will operate her prerogative, a further request would be 'futile' and would itself 'question the mana of the decisions of the Queen and her late father'. It would be 'disingenuous' of the Government to offer to make such a request without any prospect of success. In this light, 'the making of a further request cannot be required of the Crown as a responsible Treaty partner'.<sup>64</sup>

## 5. TRIBUNAL ANALYSIS

This claim is not about the actions or reputation of Lance-Sergeant Manahi per se, although those matters are of course of great importance to his tribe and descendants. Rather, it is about the relationship between Te Arawa and the Crown, the long record of Te Arawa military service and sacrifice, and the due recognition of mana. It was clear to us at the hearing that Lance-Sergeant Manahi, his reputation, and official recognition of his gallantry belonged to all of Te Arawa – and not just to the tribe but to a generation of Māori and Pākehā who were called upon to make supreme sacrifices for their community, present in the returned servicemen and servicewomen who came to Tamatekapua to support the claim.<sup>65</sup> This coming together of two peoples in cooperation and mutual respect is, in our view, the heart of the Treaty. The Tribunal thinks it important, as we approach another ANZAC Day, to acknowledge the importance of symbols, of mana, and of the type of service and sacrifice represented by Lance-Sergeant Manahi. Standing at his graveside on the day of our hearing into the claim, Pākehā and Māori came together to acknowledge his and Te Arawa's contribution to the war.

### 5.1 Was there a miscarriage of justice in 1943?

The main claim relates to recent Government initiatives to restore the original vc recommendation and to obtain a posthumous award. But the claimants have referred to issues of 'fair governance of Māori and issues of equal citizenship' and allege that there was a 'miscarriage of justice' in the 1943 downgrading of the vc to a DCM.<sup>66</sup>

From the evidence available to us, there is no indication of official discrimination against Māori receiving military awards for gallantry. Lieutenant Ngarimu was awarded a vc just three weeks earlier. The issue is, therefore, whether there was some unfair treatment in the particular case of Manahi. There is speculation (for example, by Sir Denis Blundell) that the award of a vc to Ngarimu may have influenced the decision about whether another soldier of the Māori Battalion could or should get one so soon after:

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64. Ibid, paras 34–37

65. The claim was heard in the famous Tamatekapua whare at Te Papaïouru Marae, Ohinemutu.

66. Paper 3.3.94, para 17; paper 3.3.144, para 10

THE PRELIMINARY REPORT ON THE HAANE MANAHI VC CLAIM

5.1

I wrote the citation for a vc, Sergeant Manahi, and like the rest of the Division was disgusted when he was awarded an immediate DCM. I feel sure that here was an example, that even in the realm of bravery, politics played a part, and that the award to 2nd Lieutenant Ngarimu only some three weeks previously influenced the final decision.<sup>67</sup>

No evidence has been presented to this Tribunal about the existence of any policy during the Second World War, on the part of either the British or the New Zealand authorities, to restrict the numbers of Māori who might receive gallantry awards. A brief check of vc awards reveals that soldiers from other indigenous peoples were awarded the vc during the Second World War. This includes war heroes from India, Nepal, and Fiji, and the first Māori vc had been awarded just a few weeks previously.<sup>68</sup> In the case of Lance-Sergeant Manahi, there is no dispute before this Tribunal that his actions were very brave and that, as a result of those actions and taking all the circumstances of the time into account, his military superiors recommended him for a vc. It is not known why the vc recommendation was altered to a DCM. There is no evidence of reluctance to make the award to Manahi because of his race, or his bravery, or because of any alleged ill treatment of enemy soldiers. Ultimately, it is not for this Tribunal to judge whether it was fair, in the circumstances of the time, for the New Zealand chain of command's recommendation to be changed to a lesser honour. That responsibility remains with the Queen, should the matter be formally presented to her for a decision.

Our responsibility is to determine whether the New Zealand Government's actions have been consistent with the Treaty. In our view, the available evidence does not indicate that the process of alteration involved a miscarriage of justice *in Treaty terms*. The process allowed for changes to be made by the London authorities and the Sovereign. It seems clear, from the official record, that the New Zealand military chain of command did act as Te Arawa might have expected in 1943 by recommending Lance-Sergeant Manahi for the vc. Although there was understandable regret that the citation was altered, any New Zealand questioning of the vc committee decision in wartime was unlikely to have been thought appropriate. There is no evidence of lack of good faith or fair governance in the New Zealand Government's actions over the award in 1943, and therefore there was no breach of the Treaty at that time.

The claimants can, instead, take considerable heart from the submissions of the Crown at our hearing; namely, that there is no dispute about the bravery of Lance-Sergeant Manahi in 1943, which had led to the recommendation for a vc. Crown counsel also stated in oral submissions that she is not aware of any evidence that Manahi's case was harmed by rumours or allegations, either in 1943 or in recent approaches. Rather, she noted the private secretary's

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67. Document 154, p7

68. *List of Victoria Cross Recipients by Nationality*, [http://en.wikipedia.org/wiki/List\\_of\\_Victoria\\_Cross\\_recipients\\_by\\_nationality](http://en.wikipedia.org/wiki/List_of_Victoria_Cross_recipients_by_nationality), downloaded 6 November 2005



assurance of Her Majesty's admiration for Lance-Sergeant Manahi's bravery.<sup>69</sup> These public assurances provide a starting point for the official recognition of his bravery that Te Arawa have been seeking.

### 5.2 Treaty principles relevant to this claim

The main basis of the claim refers to the Treaty partnership between the Crown and Te Arawa, and the 'ongoing relationship with the Crown, requiring both parties to deal with each other in utmost good faith.'<sup>70</sup> In particular, the claimants appear concerned that the Crown's actions with regard to the Manahi vc case have not reflected a genuine understanding of how important 'due recognition' of his bravery has been to Te Arawa and to their ongoing relationship with the Crown. The claimants argue that the Crown has failed in its Treaty duty to consult them in its preparation for the informal approaches to the Palace, and in doing so has breached the Treaty principle of partnership.

Earlier Tribunals have described the principles that arise from the balancing of guarantees and rights in articles 1 and 2 of the Treaty of Waitangi. Briefly, Māori ceded kawanatanga (the rights and powers of government) to the Crown, in return for protection of the tino rangatiratanga of their lands, properties, and taonga. In article 3, Māori are promised the Queen's protection and the rights and privileges of citizenship. Although Te Arawa did not sign the Treaty, counsel argued (and the claimants made it clear in their evidence) that they have since affirmed the Treaty in their constant loyalty, support, and military service for the Crown. The Treaty has been signed, as claimant counsel put it, in Te Arawa blood.

The Waitangi Tribunal and Court of Appeal have identified principles that underlie the mutual obligations and responsibilities arising from the Treaty. According to the Mohaka ki Ahuriri Tribunal, these principles make the Treaty a guide to actions in future as well as past circumstances.<sup>71</sup> In the seminal *Lands* case, the Court of Appeal identified the cardinal principle of partnership between the parties, and their duty to act reasonably and in the utmost good faith towards each other, which in turn required the Crown to consult Māori on matters of importance to them.<sup>72</sup> In other words, the Crown could not act unilaterally on matters of importance to its Māori Treaty partner.<sup>73</sup>

The principle of partnership and the duty to act reasonably and in the utmost good faith have been referred to in numerous Tribunal reports. In the *Te Whanau o Waipareira Report*,

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69. Crown counsel, oral submission, 8 November 2005

70. Paper 3.3.94, para 17

71. Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, 2 vols (Wellington: Legislation Direct, 2004), vol 1, pp 18–19

72. *New Zealand Maori Council v Attorney-General* [1987] 1 NZLR 641 (CA)

73. Waitangi Tribunal, *The Mohaka ki Ahuriri Report*, p 23

for example, the Tribunal stated that the success of the Treaty partnership depended on the commitment of parties to work through problems in a spirit of goodwill, trust, and generosity.<sup>74</sup> These well-established and accepted Treaty principles form the basis for the Haane Manahi VC claim. The essence of the claimants' case is that the Crown has not consulted Te Arawa sufficiently in preparing its approach to the Palace. Further, the Crown has not acted in good faith in restricting itself to an informal rather than a formal approach, based on an unknown set of facts and arguments.

### 5.3 Considerations of Treaty breach

The Tribunal has already indicated above that there is no evidence that the Crown failed to act in good faith in 1943. The major question now appears to be whether the New Zealand Government has acted reasonably, in later years, to resolve the issue and to give 'due recognition' to Lance-Sergeant Manahi's gallantry. The unexplained alteration of the recommendation has certainly caused continuing distress to Te Arawa. They see it as a downgrading, which has been compounded by negative speculation about the circumstances surrounding the original acts of bravery. Te Arawa are deeply concerned about the impact of such speculation on the reputation of Lance-Sergeant Manahi. There has also been concern that the downgrading reflected an official failure to recognise the real worth of Te Arawa's contribution to the war effort and, therefore, of their relationship with the Crown.

The 'due recognition' sought by Te Arawa is intended to remove the grounds for this speculation and the damage they claim it is continuing to cause. They have decided that upholding the original VC recommendation is the best means of achieving this and, because this issue is so important to them, they have expected the New Zealand Government to recognise this and support them to the 'fullest extent' possible. Government actions to date concerning the reopening of the case have disappointed the tribe. Further, by not involving Te Arawa more fully (through the VC committee), the informal approaches have ironically revived just the sort of speculation that the claimants feel occurred in the wake of the original unexplained alteration of the award. This, in turn, has prolonged Te Arawa's distress, rather than resolving the issue.

This Tribunal has to consider what could reasonably be expected of the New Zealand Government to resolve the issue, and whether the actions it did take in the early 1990s were reasonable in the circumstances for a Treaty partner. The evidence indicates that the Crown has met Te Arawa wishes by looking into the possibility of reopening the case, but it has insisted that, because the award is a British one and a matter of royal prerogative, the proper protocols need to be observed. Further, the Crown has submitted that it has no new critical evidence regarding the alteration of the citation as grounds to relitigate the case. The Crown

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74. Waitangi Tribunal, *Te Whanau o Waipareira Report* (Wellington: Legislation Direct, 1998), p 222

also appears careful to emphasise that Manahi's whanau, iwi, and community might well seek alternative means of obtaining due recognition.

The claimants accept the need to follow proper protocols. They acknowledge in their submission in reply the convention that no formal approach may be made without permission.<sup>75</sup> They also appear to acknowledge that, even if they were to be involved in a new approach, it might not result in permission to formally reopen the case. In the final analysis, the award is not inevitable following a recommendation from our Government and remains a matter of royal prerogative.

The main concern of the claimants appears to be that they were not involved in the informal approach, that they have had to take on the burden of researching the case, and that they cannot be sure that all the facts they have uncovered have been adequately presented. In other words, they have not been as fully involved in the process as their partnership status requires. On the positive side, we doubt that anything precludes another approach to the Palace. The parties disagreed about the precedents cited in evidence and whether too long an elapse of time had taken place to permit a reinstatement of the original award. We accept that long-delayed vcs were awarded in the first decade of the twentieth century, when the British Crown decided to change the rules and allow posthumous awards to be made. Previously, the custom was for citations to be published in the *London Gazette*, stating that, had the person survived, he would have been recommended for the vc. With the change in the early 1900s, a number of vcs were awarded for acts of bravery decades before. New rules made mid-century preclude the issuing of further vcs for soldiers of the Second World War. But it appears to us that the claimants are correct when they argue that these rules do not prevent the reinstatement of an earlier recommendation (rather than the making of a fresh one). In any case, neither the claimants' nor the Crown's view has been put to the test of a formal approach to the Queen.

On balance, the Tribunal considers it unlikely that the actions of the Crown were in breach of the principles of the Treaty. The Crown did act on the concerns of the vc committee and Te Arawa in seeking to reopen the case. The Crown also followed normal established protocol in doing so, and informed the vc committee directly of the result. The claimants, in reply, have acknowledged and appear to accept that the Crown should act in accordance with such conventions and protocols.

Nevertheless, it seems clear to this Tribunal that, while the Crown has attempted to resolve the issue and has acted in good faith in doing so, the issue has not been adequately resolved and is still causing hurt to Te Arawa and difficulties for their relationship. In order to assist the determined and continued effort on the part of Te Arawa to resolve this matter, we make the following suggestions:

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75. Paper 3.3.144, para 33

- ▶ The claimants can now take heart that, as the result of this inquiry, the Crown has publicly restated its view that there is no dispute about the bravery of Lance-Sergeant Manahi in 1943. These public assurances must be of considerable importance in ending any speculation and offer the kind of official recognition of Manahi's exploits that Te Arawa have been seeking.
- ▶ The Tribunal notes that there was agreement between the Crown and the Manahi vc Committee before us that the citation is the best evidence that we have of Manahi's gallantry. The commanding officers who made the recommendation did so in the full and best knowledge of all the circumstances of the time, including the conditions required for recommending a vc. It was in that knowledge that they made their original recommendation for a vc for Manahi. Given this agreement, the Tribunal respectfully suggests that the Crown and the committee work together on a joint submission to provide the basis for a formal approach to the Palace, following an informal approach if convention again requires it. If this suggestion is not followed, we may need to consider whether a Treaty breach has taken place. However, we trust that this will not be needed. If an approach by the parties is ultimately unsuccessful, the Tribunal may need to consider the ramifications of this.
- ▶ Having heard the case and the controversy surrounding it in some detail, it is our view that a cause of difficulty to both the Crown and the claimants has been the lack of evidence on some aspects of this case. Manahi's acts of bravery seem well researched and are not in dispute. The major source of confusion arises from the circumstances of the alteration of the recommendation, and these are still unknown. This has been acknowledged by both parties. In particular, it would seem helpful to have a better understanding of the context in which vcs were awarded at the time, and how recommendations for these were made and altered, and the possible implications for the Manahi case. This seems an area where the Crown could well facilitate a joint research effort with the committee to assist with the preparation of any future agreed submission to the Palace. We also think that the joint publication of research efforts in a memorial booklet might in itself materially assist with the recognition that both Te Arawa and the Crown agree is due to Lance-Sergeant Manahi.

Dated at *Wellington* this *16<sup>th</sup>* day of *December* 2005

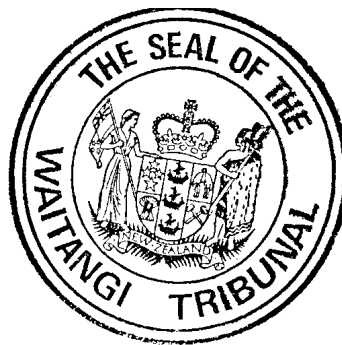
  
CL Wickliffe, presiding officer

  
J Baird, member



GH Herbert, member

  
A Parsonson, member





APPENDIX I

HAANE

The following haka was composed by Uenuku Fairhall and arranged by Howard Morrison junior and Inia Maxwell in January 1998. It is reproduced from document F89.

KUA EA TE NAMA

THE PRICE HAS BEEN PAID

*Haane! E koro e!  
Ka rongō, ka rongō!  
'He iwi kotahi tatou.'  
Ahakoa ko wai, ahakoa nō hea  
He tangata! He tangata! He tangata!*

*Koina tā rātou i kī ai!  
Ka horihori ngā ngutu tere!*

*Nā, ka rarapa te mura o te ahi.  
Kia hiwa rā! Kia hiwa rā!  
Ka rongō te iwi Māori!  
Ka rongō, ka rongō!  
Muia ngā tari hoia e te tini  
O ngā uri o Tū-matauenga.*

*He aha koa! He aha koa!  
Ko tā rātou i whakarite ai mō te pokai tara?  
He ngārahu Pākehā!  
Mā te karoro ngā kākā e arataki?  
Mahi kūware! Mahi tinihanga!*

*Ēngari tā Apirana mō te Niu Tirenitanga!  
He aha tā rātou i utu ai?  
Rātou i haere konihi mai i te maru o te Tīriti!*

*Ahakoa tō tātou kaha e kore e ea!  
Kore . . . Kore rawa!  
He utu nekeneke! He utu nekeneke!*

*Haane! E koro e!  
Tangata wehi kore, tangata maia!  
Tītoko-o-te-rangi, whakawhiti-o-te-rā.  
Ka haruru te whenua i Takaruna!*

*Haane! Oh, koro!  
We heard, we heard!  
'We are one people.'  
And no matter who, or from where  
We are people, we are people!*

*Well, that's what they had said!  
But fast lips tell lies!*

*Then the flames of hell burst forth  
Arise! Arise!  
The Māori people heard  
We heard! We heard!  
The recruitment offices were swamped with the  
many descendants of Tū.*

*But what of it! But what of it!  
What did they arrange for these warriors?  
Pākehā commanders!  
Does the seagull lead the forest's parrots?  
How ignorant! How underhanded!*

*What of Ngata's talk of citizenship?  
What price had they paid?  
They who snuck in under the shadow of the Treaty!*

*No matter how strong, we can never pay enough!  
Never, never!  
It is an ever-inflating price!*

*Haane! Oh, koro!  
A fearless man, a brave man!  
Sky-propper, sun-raiser.  
The land shook at Takrouna!*

THE PRELIMINARY REPORT ON THE HAANE MANAHI VC CLAIM

APPI

*He aha koa! He aha koa!  
He taumata anō tō te toa Pākehā!  
He kāpō nō te karu, he turi nō te taringa!  
Ka ngoto rawa te mamae me te whakamā!  
Kōhukihuki kau ana!*

*Toronā tītaha – tītaha!  
Nā rongō, nā kite, ko mōhio  
Rokohanga atu ko whakamā-whakaingo*

*Ata! Aitia rawatia  
Kia puta ki waho ko whakatakariri  
Ko Tū-ka-riri! Ko Tū-mata-uenga!*

*Tenā! Karu-kāpō – titiro mai!  
Tāringa-turi – whakarongo mai!  
Ka kite, ka kite!  
Ka rongō, ka rongō!  
Ko whakatakariri e haka atu nei!*

*Waewae takahia!  
Ringaringa pākia!  
Ko te iwi Māori e ngunguru nei!  
Kare rawa mātou e noho tamariki!*

*Kua ea pai te nama!  
Kei hea te rihiti?!  
Kua ea pai te nama!  
Kei hea te rihiti  
Arā! Ko te tohu Wikipōria  
Tenā! Hōmai! Hōmai!  
Hōmai rā!*

*But what of it! But what of it!  
Pākehā bravery is of another level!  
The eyes are blind and the ears are deaf!  
The pain and shame are intense!  
Making themselves keenly felt!*

*Turning to the side – to the side!  
Hearing and seeing begat knowledge  
And he came across the whimpering shame*

*Ata! She was roughly taken  
And so gave birth to anger  
To the angry! Tū the red eyed one!*

*So! Blind-eyes – look at us!  
Deaf-ears – listen to us!  
And you'll see, you'll see!  
And you'll hear, you'll hear!  
The angry one who dances here!*

*The stamping feet!  
The slapping hands!  
It is the Māori people who rumble!  
We will no longer be as children!*

*The price has been paid!  
So where is the receipt?!  
Give it! Give it! Give it here!*



APPENDIX II

**ADDRESS BY TONY HORTON**

The following is an address by Tony Horton, the president of the Rotorua Returned Services Association (Incorporated), which was delivered at Haane Manahi's grave in Muruika urupa, Ohinemutu. It was given in support of an inquiry into the circumstances surrounding the recommending of a Victoria Cross for Lance-Sergeant Haane Manahi. This text is reproduced from document J15.

The Rotorua Returned Services Association (Incorporated) have met here today in support of the submission by Ngati Whakaue to the Waitangi Tribunal for the restoration of the medallic recognition to Haane Manahi of the Victoria Cross.

Haane Manahi, Distinguished Conduct Medal, on his return home from the Second World War joined our association as a returned serviceman. He continued his membership up until his untimely death in 1986 as a result of a motor vehicle accident.

One of the aims of our long standing association is that we are responsible for the welfare of the ex services community in the greater Rotorua area. To this end we have taken it upon ourselves to support the call for justice to be restored and Haane Manahi given the due recognition for his feats in the battle of Takrouna.

We stand here today at Muruika Services Cemetery surrounded by the mana of many a warrior who served their king and country. A number of those that we mourn today were not so fortunate and lie in battle fields far away in foreign countries. As I stand at the foot of the tomb of Haane Manahi I am inspired by his bravery and his absolute courage in the face of a fearsome enemy.

We as the foremost organisation for returned servicemen within New Zealand fully support the call for a full inquiry into the circumstances surrounding the downgrading of the highly recommended citation for the Victoria Cross and feel that this matter needs to be given the highest priority given the frailness of those around us who served with this gallant hero.

We respectfully request that the Prime Minister be approached once again to raise this matter with Her Majesty Queen Elizabeth the Second.



APPENDIX III

**RECORD OF INQUIRY**

**RECORD OF HEARINGS**

**THE TRIBUNAL**

The Tribunal that heard the Haane Manahi Victoria Cross claim comprised Judge Caren Wickliffe (presiding), John Baird, Gloria Herbert, and Ann Parsonson.

**COUNSEL**

Counsel for the claimants were Donna Hall, Martin Taylor, and Murette Morrissey; counsel for the Crown were Peter Andrew, Sally McKechnie, and Damen Ward.

**HEARINGS**

The claim was heard as part of the generic central North island regional inquiry.

**RECORD OF PROCEEDINGS**

**Note:** this list comprises only selected documents relating to the Wai 893 (Haane Manahi Victoria Cross) claim. It is not a full record of proceedings and documents for either the Wai 893 claim or the Wai 1200 central North Island regional inquiry.

**1. CLAIMS**

**1.1.124 Wai 893**

A claim lodged by Arapeta Tahana for and on behalf of the people of Te Arawa, concerning Lance-Sergeant Haane Manahi's recommendation for a Victoria Cross, 8 November 2000

THE PRELIMINARY REPORT ON THE HAANE MANAHI VC CLAIM

APP III

**2. PAPERS IN PROCEEDINGS**

- 2.3.66** Presiding officer, memorandum concerning tangata whenua briefs, case studies, examples, and specific claims, 23 May 2005
- 2.3.68** Presiding officer, memorandum concerning preliminary findings, tangata whenua briefs, planning conference, applications of counsel, closing submissions, filing dates, and timetable, 10 June 2005
- 3.2.337** Crown counsel, memorandum concerning documents to be entered on record of inquiry, 29 July 2005
- 3.2.344** Wai 893 claimant counsel, memorandum concerning documents to be entered on record of inquiry, 3 August 2005
- 3.2.364** Wai 893 claimant counsel, memorandum concerning documents filed, 10 August 2005
- 3.3.94** Wai 893 claimant counsel, closing submissions, 8 September 2005
- 3.3.111** Crown counsel, closing submissions, 14 October 2005
- 3.3.144** Wai 893 claimant counsel, memorandum concerning submissions in reply, 2 November 2005

**RECORD OF DOCUMENTS**

**F. DOCUMENTS RECEIVED TO END OF SIXTH HEARING**

**F11**

- (a) 'The Manahi vc Committee', notes presented by Te Rauawa Manahi, undated

**F38** Tony Houghton, brief of evidence, 22 April 2005

**F39** Norman Bennett, brief of evidence, 22 April 2005

**F54** Arthur Midwood, brief of evidence, 22 April 2005

**F55** Chanz Mikaere, brief of evidence, 22 April 2005

RECORD OF INQUIRY

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F56 Ernie Dix, brief of evidence, 22 April 2005

(a) Photograph of Takrouna, undated

F57 List of additional witnesses for Haane Manahi (Victoria Cross) claim, 22 April 2005

F89 Uenuku Fairhall (comp), *Haane haka*, arranged by Howard Morrison junior and Inia Maxwell, 1 January 1998

F98 *Sgt Haane Manahi: Soldier, Warrior, War Hero*, visual presentation, undated

**I. DOCUMENTS RECEIVED TO END OF NINTH HEARING**

I54 'Victoria Cross Denied: the Case for the Posthumous Award of the Victoria Cross to 39099 NCE-Sergeant Haane Manahi DCM', undated

I58 Supporting documents filed by Crown, 29 July 2005

**J. DOCUMENTS RECEIVED TO END OF TENTH HEARING**

J15 Tony Horton, address, [11 May 2005]

