




Hon Dover Samuels
M.P. for Te Tai Tokerau
Minister of Maori Affairs
Associate Minister of Fisheries
Associate Minister of Tourism

15 MAR 2000

Denis Hampton


Tēnā koe Denis Hampton

Thank you for your letter of 10 February seeking the removal of government protection for Māori culture. The Associate Minister of Māori Affairs (Social Development), the Hon Tariana Turia, has received a similar letter from you and has asked me to reply on her behalf also.

It is depressing that many who purport to be concerned about preserving racial peace should be voicing such dangerously misguided views on how to achieve it. There is no future in insisting on a narrowly legalistic view of the Treaty. Instead, we need to look at its purpose, which was to ensure the harmonious living together of two peoples. This remains the issue today. The way the Treaty set about this purpose was to promise protection to Māori culture. There was, of course, no other way that Māori would accept Crown rule, and that, also, remains true today.

There are evidently a number of New Zealanders who believe that suppressing Māori culture will lead to racial peace. Put like this, it is obvious that nothing could be further from the truth. For Māori, as for all peoples, their culture expresses who they are. We cannot expect to achieve a unified and peaceful society while Māori feel that their culture is under threat or not valued in New Zealand. However, if Māori are able to feel that their culture is safe here, all New Zealanders will benefit from the increase in Māori participation and overall good will.

Heoi anō

Hon Dover Samuels
Minister of Māori Affairs

I will reply!

(DRAFT)

TAONGA

Professor Moorfield's concluding comments (ODT, 17.2.2000) are misplaced. The words that the concept of taonga is "central to the settlement of historical Maori grievances" were the Editor's, not mine. The focus of my article was not grievances, but ongoing Treaty obligations.

In response to the assertion that my research was shallow, I say that Prof Moorfield has really scraped the bottom of the barrel for examples to argue his case. Firstly, unsourced examples included in a dictionary published 50 years after the Treaty carry little weight with me.

Secondly, I do not share his confidence in the traditional stories collected by Grey. Their authors are unknown, and to quote from the preface to the third edition: "For the Maori was not an experienced writer, his letters not always clearly formed, and he had disconcerting habits, such as those of running two words into one."

In neither his article or the sources he quoted could I find any reference to language (te reo) as a taonga. Perhaps he felt that the haka's "rythmically shouted words" was proof enough!

More important than actual meaning is the matter of context. Article 2 of the Treaty was all about tangible property rights. The English version refers to "the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties." A translation of the Maori version refers to "lands, villages and all their treasures." To say that this included language and culture is bizarre. Were they really thinking of *haka* and *makutu* (sorcery) when they signed the Treaty?

It is of particular annoyance that Prof Moorfield (as did Lachy Paterson) completely ignored the main point of my article - that it is impossible to guarantee exclusive possession of intangibles. As I said: "Language and culture cannot be exclusive; they are available to us all."

If we are to be bound by the Treaty, we must first be absolutely sure what it intended, and what its signatories understood by it. The English version is clear; the Maori version far less so. Prof Moorfield has added little of value to the debate.



CABINET

CAB (97) M 34/5B(2)

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Minister of Maori Affairs

COPIES TO:

Prime Minister
 Deputy Prime Minister
 Treasurer
 Minister of Finance
 Minister of State Services
 Minister of Justice
 Minister in Charge of Treaty of Waitangi Negotiations
 Attorney General
 Minister of Education
 Minister of Commerce
 Minister of Communications
 Secretary, CSP
 Secretary, TOW
 Monitoring System

MAORI LANGUAGE POLICY: OPTIONS TO IMPROVE THE STATUS AND VITALITY OF THE LANGUAGE

References: CAB (97) 106, TOW (97) M 8/4

This minute amends and replaces TOW (97) M 8/4.

At the meeting on 8 September 1997, following reference from the Cabinet Committee on Treaty of Waitangi Issues, Cabinet:

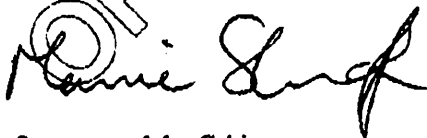
agreed that:

- i Article II of the Treaty of Waitangi guarantees to Māori protection of their taonga;
- ii the Waitangi Tribunal and the courts agree the Māori language is a taonga; and
- iii the Māori Language Act 1987 provides statutory recognition of this;

b agreed to the following statement as a summing up of the Crown's obligations to the Maori language:

"that the Crown and Māori are under a duty derived from the Treaty of Waitangi to take all reasonable steps to actively enable the survival of Māori as a living language";

- c noted that the Crown's obligation to the Māori language is not absolute or unqualified, and that in the opinion of the Privy Council the Crown is not required to go beyond what is reasonable in prevailing circumstances; the Crown's other responsibilities as the Government of New Zealand is a factor to be taken into account when determining what is reasonable;
- d noted that the Waitangi Tribunal, the Court of Appeal and the Privy Council have all commented that the Māori language is in an extremely vulnerable state, and that urgent action is required to protect it;
- e noted that empirical data (Census 1996; NMLS 1995; NZCER 1973-78 survey) indicate that the Māori language is in a vulnerable state;
- f agreed that the decision referred to in paragraph (b) above requires options, policies and processes to protect and promote the Māori language;
- g noted that work is already proceeding on the Māori language strategy [CAB (96) M 2777 refers];
- h directed Te Puni Kokiri (lead), the Department of the Prime Minister and Cabinet, Treasury, the Ministries of Commerce and Education, State Services Commission, in consultation with Te Taura Whiri i te Reo Māori (Maori Language Commission) to report back to the Cabinet Committee on Strategy and Priorities on 26 November 1997 on a range of options, policies and processes to improve the status and vitality of the Māori language. This report is to:
- i provide a problem definition;
 - ii outline and analyse the Government's current outputs related to Māori language;
 - iii consider the role of the Government in protecting, promoting and revitalising the Māori language;
 - iv consider processes for identifying the responsibilities of Māori towards the language, in consultation with Māori;
 - v outline possible policy approaches to improve the status and vitality of the Māori language, within current resources;
 - vi outline a programme for consultation.



Secretary of the Cabinet

**Leader of the Opposition**

House of Representatives
Wellington

1 March 2000

Denis Hampton

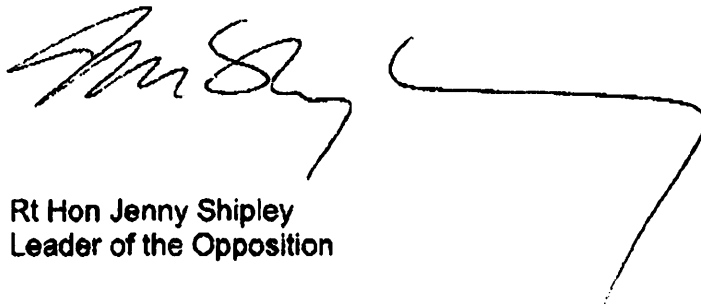

Dear Denis

Thank you very much for your letter concerning the Privy Council's interpretation of taonga.

I was very interested in your argument and will reflect on it further.

Thank you for taking the trouble to send through your letter and the attachment and also your stimulating comments.

With warm regards



Rt Hon Jenny Shipley
Leader of the Opposition

Promising! I have written back and included copies of the follow-up articles.



Parliament Buildings, Wellington, New Zealand
Telephone 64 4 471 9838 Facsimile 64 4 472 2075

Bruce Mason



17/2/00

The Editor
Otago Daily Times

The word 'taonga' is capable of meaning any 'treasure', tangible and intangible, that Prof. John Moorfield (ODT 17/2/000) and others ascribe to it. Meanings are destined to change over time and in different contexts. However liberal interpretations to include intangibles such as "language" must be excluded by the Treaty of Waitangi which is the context in which researcher Denis Hampton challenges the concept of intangible 'taonga'.

Under Article 2 the Crown "guarantees" to Maori the "the full exclusive and undisturbed possession" of their lands etc "and other properties" (taonga). The key words are "guarantee", "exclusive" and "possession".

As Mr. Hampton points out, it is nonsense to claim exclusive possession of a language, let alone fairies as now suggested by Prof. Moorfield.

Bruce Mason
Omakau

[Note to Editor: this letter is in my private capacity
AND NOT THAT OF PUBLIC ACCESS ZEALAND]



PRIVY COUNCIL OFFICE

Downing Street London SW1A 2AJ

Telephone Direct Line 0171 270-0485

Mr. Denis Hampton

Please address any reply to The Registrar

Your Reference

[Redacted]

Date 17th February 2000

Dear Sir,

Thank you for your letter of 12th February enclosing a copy of an article by you published on 1st February, which I have read with great interest.

Yours faithfully,

J.A.C. Watherston
Registrar



18 February 2000

Denis Hampton

Dear Mr Hampton,

I would like to acknowledge your letter of 10 February regarding your argument that the word "taonga" did not include language and culture in 1840, with proposed subsequent actions if one accepts this argument including reviewing government funding for Maori language, culture and heritage activities.

I believe the Crown clearly has a moral obligation to protect Maori language, culture and heritage. I also believe the Crown has a legal obligation under the treaty because I accept that Maori view their language as a "taonga" whether taonga is defined as "property" or "treasures" or any other near English language equivalent.

In your post script you ask regarding "tino rangatiratanga" - *Who today really knows what 1840 Maori understood by this term?* Many Maori today explain quite cogently what their ancestors understood by the term.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'K. Locke'.

Keith Locke, MP

Come on man - use your brains.

- 1. Article 2 of the Treaty clearly dealt only with tangible property rights.*
- 2. It is impossible to guarantee exclusive possession of intangibles.*

Seems as though he wants to believe everything Maori tell him - fool!

Denis Hampton

25 Feb 2000



Parliament House
WELLINGTON 1.



Telephone (04) 471 9999

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[REDACTED]

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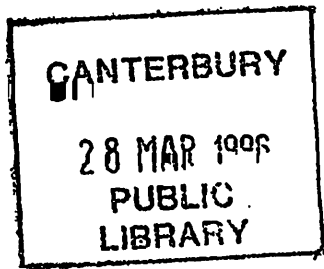
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25 Feb 2000

Tel (03) 349.8496



Tau Henare

TAONGA MAORI PROTECTION

ANALYSIS

Title	4. Application of Antiquities Act 1975
Preamble	5. Protection of tangible taonga Maori
1. Short Title and commencement	6. Taonga Maori Register
2. Interpretation	7. Taonga Maori Trust
3. Act to bind the Crown	

A BILL INTITULED

An Act to make provision for the preservation of the Maori cultural heritage in Aotearoa, New Zealand, and for related purposes

5 WHEREAS it is expedient to make provision for the preservation of the Maori cultural heritage in New Zealand:

AND WHEREAS the Government of New Zealand acknowledges:

- 10 (a) The occupation of New Zealand by the Maori people before the arrival of Europeans:
- (b) The importance to the Maori people and to the wider community of the Maori culture and heritage:
- 15 (c) That the Maori people of New Zealand are the rightful owners of their heritage and should be given responsibility for its future and control and management:
- (d) The need to make provision for the preservation of objects and places of religious, historical, or cultural significance to the Maori people:
- 20 (e) The need to accord appropriate status to Maori communities in their role of protecting the continuity of the culture and heritage of the Maori people:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

No. 166—1

1. Short Title and commencement—(1) This Act may be cited as the Taonga Maori Protection Act 1996.

(2) This Act shall come into force on the day on which it receives the Royal assent.

2. Interpretation—In this Act, unless the context otherwise requires,— 5

“Taonga Maori” means the tangible treasures or property as defined by Maori and which include physical artifacts.

3. Act to bind the Crown—This Act shall bind the Crown. 10

4. Application of Antiquities Act 1975—Provisions of this Act are in addition to, not in substitution for, the provisions of the Antiquities Act 1975 by—

(a) Establishing a register of prized taonga Maori as defined in section (2) of this Act: 15

(b) Establishing a charitable trust which has the authority to purchase taonga and expedite their return to New Zealand.

5. Protection of tangible taonga Maori—(1) The Ministry of Maori Development, Te Puni Kokiri, shall be made responsible for the monitoring and auditing of Government departments, Crown entities, and State enterprises to ensure the ongoing protection of physical taonga. 20

(2) Regional liaison officers shall be employed by Te Puni Kokiri to ensure the needs peculiar to each region of the country are met in the upholding of this Act and the Ministry shall report to Parliament on the performance of each agency pursuant to this Act. 25

(3) Multi-national corporations including foreign companies shall be required to include in their annual reports mechanisms and initiatives pursued in the protection of physical taonga. Prior to beginning operation in New Zealand, foreign companies must illustrate their practical commitment to, and understanding of, the need for protection of taonga Maori to Te Puni Kokiri. 30

(4) Te Puni Kokiri will establish an inspectorate to oversee the application of this Act with regard to multi-national corporations. 35

6. Taonga Maori Register—(1) There is hereby established a Taonga Maori Register to record the location of physical treasures held off-shore.

5 (2) The Taonga Maori Register shall record the origin of treasures and information relevant to its history and future.

(3) The Register shall be administered by the Minister of Maori Affairs in conjunction with the Taonga Maori Trust and Maori.

10 (4) Physical taonga Maori may not be sold or alienated without the prior consent of Maori sought by way of a thorough process of consultation.

15 (5) Te Puni Kokiri shall be responsible for a liaison programme to encourage communication about the importance of taonga and the requirement for museum authorities to advise the administrators of the Taonga Maori Register of the whereabouts of taonga Maori.

20 (6) There shall be in operation an amnesty of 12 months, to commence upon the passage of this Act, during which time guardians of taonga shall be able to inform the Taonga Maori Register of the locality and condition of taonga in their possession. The provision of such information does not necessarily prohibit continued ownership but merely assists protection.

25 **7. Taonga Maori Trust**—(1) There is hereby established a charitable trust to be called Taonga Maori Trust to assist with the administration of the Taonga Maori Register.

(2) The Taonga Maori Trust shall accept financial contributions from Government agencies, corporate groups, and individuals.

30 (3) The Taonga Maori Trust shall be subject to the provisions of the Charitable Trusts Act 1957.

35 (4) The Taonga Maori Trust shall assist in the return of bodily remains and other taonga which have been alienated from their iwi at the behest of Maori whanau, by utilising Trust funds and liaising with authorities in overseas countries, and where it is not possible to repatriate these taonga, efforts will be made to have them removed from display.

40 (5) The Taonga Maori Trust and Te Puni Kokiri shall co-operatively assist in the research of the history of taonga where ownership or origins are disputed, and may invoke the jurisdiction of the Maori Land Court if deemed necessary.

TAONGA MAORI

Mehemea kei te hiahia te tangata, rōpū rānei ki te tukua whakaaro nui mo te pūtea kōwhiri māori. Mā te tēnei tātari 20 o nga kape o aua whakaaro kua tukua mā te 5 o te rā o Pipiri 1996. Mēnā ka hiahia tētahi ki te tū-tū unana mā i mua o te aroaro o te Komiti Mō Ngā Take Māori, pānuitia mā tēnei ihus i te taha o te tūpācanga whakaaro. Tukua mā te ingoa o te tangata hei whakapā atu mā mātou, tōna wāhi noho me te nama waea. **Hōi anō, mā Jaine Cronin, Kaitiaki Tuarua o te Komiti Mō Ngā Take Māori, Te Whare o Bower, Te Whare Paremata, Te Whanga-nui-a-Tara. Waea (04) 471-9258. Waea-whakawāhi (04) 499-0486.**

TAONGA MAORI PROTECTION BILL

Persons or organisations wishing to make submissions on the above bill should forward 20 copies to this office by 5 June 1996. If personal appearance before the Maori Affairs Committee is desired, a request to that effect must accompany the submission together with contact name, address and telephone number. **Jaine Cronin, Assistant Clerk of the Committee, Maori Affairs Select Committee, Bower House, Parliament Buildings, Wellington. Telephone 471-9528. Facsimile 499-0486.**

SOL 901 888A

Tau Henare

TAONGA MAORI PROTECTION

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Weds after
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