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Te Tiriti O Waitangi He Karo Whakaora Mo Nga Tangata Maori He Reo Maori Me Te Reo Pakeha
Akarana: HE MEA TA E HENARE PERETE, I HOTERANI-TIRITI. 1887

Ko Te Tiriti O Waitangi: He Karo Whakaora Mo Nga Tangata Maori.

[NA HARE HAARII.]

Ko a tatou Rau tangata whaka-te-runanga kua tirohia tonutia taea noatia te ra nei te tautohenga a nga Maori, ra roto i te koata o nga Pakeha anake. Erangi ko te tikanga e tau tika ai nga whakaaro nga take me nga ohonga i here ai e arahi ai te hinengaro o nga Maori, ko te mea tika rawa ia me tirohia enei take me tenei tuunga, ra roto i te Koata me te whakaaringa a nga Maori ake. He mea maumau te whakanui korero mo te ahua o nga Maori ra runga i te whakaari me te Koata a nga Pakeha. Ko taku e whakaaro nei kia whakaaria nga Pakeha i runga ano i nga tikanga i runga ano i nga tirohanga kotaha, i kitea ia i mohio ia ara te Pakeha e nga Maori. Ano ka whiriwhiria tikatia tenei whaitake e tatou, tena pea e kore e ahua he ki to tatou titiro e kore pea tatou e miharo ki nga whakaaro me nga take e hiahia ai te Iwi Maori, kia tu ano he Kawanatanga mo ratou ake, motu ke i to nga Pakeha me a ratou tikanga.

Ko te Kawanatanga te tuunga whakahoa a te Iwi timata mai ana, i namata noa atu te mana Kawana a nga Maori ra runga i nga take o te hapu, ra runga i nga take o nga matua. Ko enei ia nga mana Kawana tuarangi i rongo ai i kite ai tatou, i nga whai korero o mua. Ko to matou Kawanatanga e hoatu ana i nga pooti ki nga tangata katoa, ki nga Maori e he ana, no te mea e hoatu ana te pooti ki nga tangata nanakia me nga tangata mahi tika, a rite tahi ana te mana o te tangata kino ki te tangata tika, ki a ia ki te Maori he mea he, he mea kuare tenei, kia rite te mana o te hunga kino me te hunga tika. He mea e tino whakahawea e nga Maori ko nga tikanga whakawai i tae ai te nuinga o a tatou Rau Tangata whaka-te-runanga hei mema hei mangai ki roto i te Paremete mo tenei whenua? nga take nga tikanga ranei, ano ka tae ratou ki reira hei whakatikatika i a ratou huarahi i muri i to ratou tapokoranga ka ahua pehea ranei a ratou rauhanga. Tenei pea koutou te mea nei e kakati rawa enei kii aku otira ka wewiti ano ahau i au i taua whakapae kakati e kiia nei naku, a me tahuri kau ahau ki te whakahaere i nga mea e kitea te ahua tahae me te aroha kore e kitea ana i nga mahi o a tatou kai hanga ture o Niu Tirlui, i te mahi maumau i nga tini miriona o nga moni (he mea nama) i runga i nga mahi hore he tikanga, i runga i nga mahi hore he hua. Mehemea ka aro atu o tatou kanohi ki nga kooti whenua Maori me era atu o nga kooti mo nga tautohe, nga kooti mo te hara ranei,

nga kooti mo te whakahaerenga i nga ture mo te hara. Tena ranei tatou te whakaaro e tatuu he ahua paimarire nga whakaaro a nga Maori i roto i taua hau e nga ai ratou i aua kooti. E mohio ana tatou ko a tatou kooti whenua Maori me nga whakaaro mo aua kooti e matau ana tatou kahore hei-u-pono, otira e kite ana tatou i te whakarihariha te weriweri me te whakahawea o nga Maori e whaiwhakaaro ana mo aua kooti. E mohio ana tatou kei a ratou te kaha me te mana e tika ai nga roro i te taha Maori. E ahei ranei tatou te whakateka ko a tatou kooti tautohe i nga wa maha hei rakau ena mo te mahi tahae? Ko a tatou Kooti Kiri-mini, ara nga kooti mo nga hara taimaha i etahi wa e takahi kino ana, otira e kitea ana tatou i ia ra te wikitoriatanga o te hara me te kino i nga taupa nga arai o te tika. E whakapehapeha ana tatou i to tatou mana haere i runga e nga huarahi whakatangatanga nga huarahi o nga mahi whakaaro me nga tini mahi raweke o te mohiotanga me to tatou mahi whakaako i pote nei te whenua te whakahaere. E whakaputa ana tatou i to tatou ahua rangatira e whakaputa ana tatou ki te pai me te tika o a tatou ture i ahua tika tetahi me tetahi; i te wa e taurekareka ana tatou ki o tatou minita whakahaere i nga ture, i te wa e maumau ana aua minita i o tatou taonga me o tatou puna e whai moni ai tatou a i tetahi o a ratou ringa e whakataimaha ana tatou ki nga pikaunga rikarika o te mahi takihi. A e hoatu ana e tatou ki nga ringa o te iwi ra runga i te mahi whakaako nga tao me nga rakau o te pakanga. Otira kua kore tatou e tiaki i nga tino puna o te ora kahore i araia aua puna o te ora ki nga puapua o te whakapono me te tika. Na konei e kite ana tatou, i ia ra i o tatou kooti nga korero teka whakarihariha, tena a Hatana te keru (i ena huarahi) ahakoa porori nga tuunga o te whakawa tika me te kawanatanga me nga tikanga whakahoa a te tangata kia horo rawa kiraro. Te korero tika ki te aroaro o te kaiwhakawa e hara oti tena i te rakau e mohiotia ana hei papatu hei kakaro i nga ringa o a tatou roia. He rakau tena e titiro reka atu ana e nga tangata tohunga me nga tangata e rangona niutia ana. Tena pea aua tangata te whakaaro e Karaitiana ratou. E kore ra ahau e kii e tohe ana enei roia kia korero teka, e kore ahau e kii e aki aua roia i te tangata kia korero teka, otira e kite tonu ana tatou e hapai tonu ana i te kore awangawanga taua rakau nanakia kino, no te mea e mohio marire ana ratou tena taua rakau te ora mai na, nohea e ngaro ana taua rakau ki te tangata e tae atu ki a

tatou kooti ki te matakitaki.

Waihoki ko tenei hara e kitea ana e whakahoa ana kiroto i nga Pakeha i wehi ai te Maori mo tona iwi i nga tau e haere ake nei, ara ko tenei tino mea ko te mahi haurangi me tera atu ano o nga whiu nanakia o te mahi whakahoa tangata ara te mahi puremu te tokohi, na enei mea i kawea atu te pouri me te mamae ki nga tini kainga a nga Maori. Na konei i kaha rawa ai te Maori i whai take rawa ai ia kia motuhia kia tu ano hei Kawanatanga mo tona iwi ake, kia miharo ranei tatou mona ka wiri mona ka wehi ina kahaere ki nga kainga whakahoa a te Pakeha; tenei taua mahi whakahoa a te Pakeha te whakaweti i te oranga o tona iwi. Kua hoatu e tatou ki nga Maori kua whakaakoria

e tatou kia inu i taua kapa, ara taua wai i uru ai te mate me te Tumanako-kore. Me tuku atu ranei e tatou kia kaua e mana, a ratou tohenga a ratou okenga me a ratou inoi mo tenei Tiriti tapu kia kaua e whakapumautia i te mana Nui Runanga kua akina ratou e Ingarangi kia inu rawa i te kapa tae noa nga apo paruparu. Kua kore rawa te Iwi Maori, he morehu torutoru nga mea e toe ana, i mua hei nui to ratou kaha to ratou whakapehapeha, kahore i wikitoria nga patu o te Pakeha i waenga parae o te Pakanga: Erangi ko a ratou ope kua riwha kua Pakaru i nga mahi me nga kinoi e whai haere i nga huarahi o te whakanohoanga tangata i enei wa.

He puawai reka i whakatokia e te mahi toa a nga Mihanere o namata. I muri mai i a ratou nga tangata i rui ai nga purapura no nga rekereke no nga whakato haunga o te mate a ko taua paihana whakamate kua kawea mai taua iwi ki te tahataha o te ngaronga rawatanga. Me miharo ranei tatou mo nga Maori ka tu wehi ana kei pangia ratou e nga taru o te whakahoa tangata e mate haere ai ratou e whakaweti nei i te oranga o to ratou iwi.

No te Tiriti o Waitangi tae noa ki te tau 1865 whakaaetia e te Runanga nui o Ingarangi e kore e tika kia tuku atu ma nga Pakeha o te Koroni e Kawana i nga Maori notemea tera nga whakaaetanga me nga take na Ingarangi i whakaae e kore e tika kia pareo i nga huarahi o te pono. No te timatanga mai o te koroni taea noatia taua wa ko nga mea a te Maori i waiho i raro o te mana o Ingarangi. Inaianei ko te Kawana o te koroni, Koia anake te kaiwhakaari i te Kawanatanga o Ingarangi e kore e ahei te whakanoa i nga kupu o ana Kaunihera i whakaritea hei awhina i taua Kawana (ara nga Minita o Nui Tireni) No Konei i hoki ai te reo Kawanatanga o Ingarangi ki te kore noa iho. Na konei e pono rawa ana, e tuku ana e te Karauna a Ingarangi ki etahi atu nga mea e kore e taea e taua karauna te whiu ki tahaki, mehemea ka pena, ka riwha te Tiriti o Waitangi i taua karauna ano. E tohea ana e au ko nga mana i tukua ma nga Maori ra runga i te Tiriti o Waitangi me whakaotia i runga i te kore here i nga tikanga o nga whaikorero whakamana o Niu Tireni, ko nga ture kainga ko nga whakamahinga ranei e kore e tika kia whakararua pehea ranei nga mana i tukua tonutia mai i te mana waenganui o te Rangatiratanga o Ingarangi.

Kua tautohea e etahi o nga ruanuku hanga ture o Ingarangi (kia whakama ra pea ratou) kahore i u pono te Tiriti o Waitangi inaianei kahore he here mo te Kawana-atanga o Ingarangi. E kii ko nga mana me nga tikanga o taua tiriti kua pareo kua hoatu ki te Kawanatanga Koroniara o Niu Tireni Mehemea ka whakaaetia peneitia hei whakaaetanga tenei. E hara tenei i te whenua e whaimana a Ingarangi i tenei wa. Mehemea i watea a Niu Tireni i te mana o Ingarangi i nga mahi ona ake ano, me te wateatanga o Amerika, tena e whai mana tonu te Tiriti o Waitangi e kore e ahei kia mawehe ka u pono ano taua tiriti ka mau tonu ano te here o aua kupu kia whakaritea e Ingarangi, ano no nianei i tuhia ai, e kore rawa e taea te whakanoangia ahakoa no namata i tuhia ai e kore e ahei kia tukua huhua koretia e kore e tika kia pareo nga tikanga (mana e mahi) i

o kiroto i taua tiriti ki tetahi atu kawatanga ki tetahi mana ke atu ranei ahakoa he iwi ke ahakoa he koroniara ranei. Kati ano te mea e motu ai enei herenga ona ko te whakaekenga o tetahi iwi ke, na mehemea ka riro te whenua i taua iwi i runga i te pakanga, a mutu ana te mana o Ingarangi kati rawa ano te mea e motu ai enei herenga. Otira nohea e taea tenei e wai ranei e wai ranei, hore rawa tenei kia uru ki a tatou whakaaro. Na ma te Kawanatanga o Ingarangi anake e whai mana ki te tuku tikanga tuturu ki te Kawanatanga o Niu Tireni ara nga mea e tautohea e taua Kawanatanga, hei whaka iti i nga Maori. Tena pea ka tika kia pa ano a Ingarangi kia whakaotia tikatia nga whakaaetanga o te tiriti, tena pea ka tika ano tona poka atu kia whakaritea e tenei Kawanatanga nga mea i mahue, nga mea i riwha o taua tiriti.

Na reira ka tika ano ma te Kuini i runga i te inoi kia whakaturia he pukapuka whaitikanga mo nga ture e hanga ana e to konei Kawanatanga kia kaua e pa kia kaua e whai mana ki nga whenua a nga Maori ake, waihoki ko nga ture a nga Maori ake me a ratou tikanga me a ratou ritenga Maori me whakangawariwari iho kia rite ano ki nga tikanga i pai mo nga tangata o aua wahi, a me kati ano nga ture ma ratou ko a ratou ture, kapea ana nga mea ke atu. Ara ko nga mana i whakaaetia i tuku atu kia te Kuini ra hekehana 71 o te Tinanatanga o Niu Tireni Mahi 15 me 16 o Wikitoria, upoko 72 e tino whaimana ana inaianei. I whakaae pono e te Tiriti o Waitangi ma nga maori anake te tino mana mo a ratou whenua. Otira ko enei whenua i nga wa ehia ranei, kua tangohia kinotia i runga i te pakanga i runga i te kii tito, i hara nui nga rangatira o aua whenua ki te kawatanga, ahakoa kahore ano tetahi maori kia kotahi kia mau i runga i taua ture i nga Kooti i whakaritea mo taua mahi. Kihai pea i iti iho te mana, Kihai pea it iti iho te mamae a nga Kooti Whenua Maori i runga i te huarahi pahua, i nga whenua a nga Maori i to te huarahi o te pakanga. E tohe ana ahau ko taua tikanga katoa o nga Kooti Whenua Maori e hara ana ki te Tiriti o Waitangi, a ka tika ano kia whakakorea enei Kooti e te Kawanatanga o Ingarangi.

E patai atu ana ahau, he mea tika ranei kia whakawakia nga take o ia tangata o ia hapu o ia iwi mo to ratou whenua ki te aroaro o te Kooti o nga pakeha kia whakamatauria to ratou tika to ratou he ranei? Kihai te Tiriti o Waitangi i whakaararo kia toia te tangata maori ki te Kooti Whenua Maori kia tautohea tona mana mo tona whenua. He mea maminga kia kiia mana ake ma te maori te whakaaro kia whakawakia ranei kia kaua ranei, notemea e kite ana tatou mehemea kakore te Maori e haere atu ki te aroaro o te Kooti tena pea ka he i tetahi tangata ke, pena pea ka tu kino a ka pau tona whenua i te tangata kahore ona take ki te whenua. Ko te whaitake me te tika e kii ngatahi he mea pono mo nga hapu ake e whiriwhiri i nga take kia kitea kowai nga rangatira o te whenua. Kua whakapumautia e te tiriti o Waitangi ki nga Maori a ratou whenua katoa mo ratou anake me te mana noho ki runga i aua whenua i runga i te kore raru. Waihoki e kore e ahei kia whakararu nga Maori ra runga i nga ture i hanga ai e te taha kotahi ara i

hanga ai e te Runanga o Ingarangi, mehemea e kore tenei e tika ma Ingarangi, e tika koia ma te Runanga o Niu Tireni? Kahore.

Ka whakaaria e au tenei ture kia kitea te pewheatanga o nga whakaaro o a tatou Kaihanga ture i Niu Tireni i mua ake nei, ka whakahaerea e au nga Mana Whenua a nga Maori, i mahia i hanga i te tau 1858. He mahi i whakaaetia e te Runanga nui o Niu Tireni erangi i whakakorea e te Kuini "Kauaka tetahi Kooti o te Ture, Kauaka tetahi Kooti o te Tika ranei i roto o te koroni e mohio e ahei ranei kia mohio kia paa ranei ki tehea ranei tautohe ki tehea ranei take mo te mana me te Waitake noho a nga tangata Maori whaka te-waenga ia ratou. A kia whakaaturia hoki ko tenei kii ne tenei tikanga kua whakapumautia e nga Apiha o te Ture mo te Karauna o Ingarangi ka tuhia e au i muri nei nga whaituhinga no te pukapuka a Ta Wiremu Matenga mo te pakanga ki Taranaki i te tau 1860. "I te marama o Tihema i te tau 1859 i riro mai te whakaaro o nga Apiha Ture o te Karauna o Ingaranga mo tenei tautohe, e tika ranei e ahei ranei kia mana nga Maori o New Tireni i te mahi pooti ra raro i te Mahinga Whakatinanatanga. I taua tukunga whakaaro i penei tetahi wharangi. E taea ranei e ia (te Maori kotahi) te whakatu i roto i te Kooti o te Kuini i Niu Tireni tetahi take whakawa mo te takahi pokonoo? E whaimana ana te Kooti i runga i nga taonga tuturu i nga Takiwa Maori; ki to matou whakaaro ko te utu mo enei patai, ka utua ki tenei kupu, kahore, Na reira ka whakaarohia ko nga Apiha o te Ture mo nga Kooti Koroniarua kahore i whaimohiotanga mo enei tautohe, o te Mana Maori o enei tautohe ranei mo te noho whenua i runga i tehea tikanga i tehea tikanga ranei."

Ko te tikanga here whenua ka pono ma nga hapu ma nga rangatira ina, ka Maha nga whakaaetanga mo tenei mahi e nga kaiwhakaari o te kuini. E penei nga kupu e kite ana tatou i te pukapuka a Kawana Koa Paraone ki te Tiuka o Niukahira i tuhia i te 4 o nga ra o Tihema 1860 "Ko Ngapuhi i te taha whakararo me Waikato me Ngatimaniapoto i Waenganui me te takutai Hauauru, e pupuri ana i o ratou whaitaongatanga tuarangi inaianei ano, a i o matou hokohokonga no te Tiriti o Waitangi mai ano, kua whakaaetia ki nga whakaaetanga tokomaha to ratou mana mo nga hapu. Waihoki ko nga hokonga whenua kua whakaaetia e matou te mana o a ratou rangatira ruanuku mo te whakaae mo te kore whakaae mo te hoko i o ratou whenua."

I taua pukapuka o te kawana e kitea ana enei kupu "Ko te whaimana mo te whenua i roto i waenga o nga Maori o tenei whenua e rangi i ra te hapu ake kahore i ra te tangata ake, ko te whaimana a te tangata i tika ai, ko taua wahi i ngakia e ia tahi o ratou i o ratou ringa ake i whakaaetia ko aua wahi i mahia he whenua ma ratou, a tukua ana enei mahinga ki tenei whakapaparanga tai moa ki tera whakapaparanga; otira ko te mahi tuku ke atu i taua whenua i herea, kia tika ai ki nga whakaaro mo te noho tahi me te whakakotahinga o te Hapu, ma reira ka u pono te mana mahi aha ranei o ia tahi o nga tangata o te Hapu, ma reira

ka tohungia hereheretia nga whenua kia kaua e riro i nga tangata Ke." Na reira ka tohea e au, mehemea ka anga atu kia motuhia ma ia tangata te mana Maori o te whenua ara mehemea ka tahuri ki te wawahi i tetahi poraka whenua mo ia tahi o nga tangata o te iwi ahakoa i whakatinanatikatia te Kooti Whenua Maori ka he ano taua Kooti no temea e tahuri ana ratou ki te hapai i nga mana kihai nei te ture i tuku atu kia ratou; notemea, kua kite nei tatou, ko te wairua ara te tino whakapaupauranga o te Mana Maori i uru i o kiroti anake i to ta te Hapu Mana i to ta te iwi Mana.

Ko te Tiriti o Waitangi i tuhia i hanga mo nga Tangata tokorua ara te Kuini o Ingarangi me nga Rangatira Hapu o Niu Tireni. Na reira Ka Karanga atu nga Rangitira Hapu o Niu Tireni ki Te Tino Kawanatanga i te mana Waenganui o te Rangatiratanga o Ingarangi ki tetahi whakamaiengitanga mo nga tini taimaha i mahia i runga i te huarahi hara ki nga ture i te Koroniarua Kawanatanga o Niu Tireni, a ko aua mahi hara he tino whakariwhanga i taua Tiriti. Ko taua Tiriti e kore rawa e ahei te whakanoa i nga huarahi o te pono, e kore e taea te whakanoa Ki nga tikanga ture o nga Iwi o te Ao, Ko taua Tiriti me pono rawa te tautoko i runga ano i tona kaha i tona uaua nui.

Ko enei mahi hara kua whakahengia nei, ko te mahi tango huhua kore i runga i nga hara ki te ture, nga poraka whenua nunui ra runga i te pakanga me nga mahi ture kore a te Whare Runanga nui o Niu Tireni. Ina hoki te tangotangohanga ara te murunga whenua i nga ra o Hepetema, 1865, o te takutai timata mai ana i Whanganui tae noa ki nga Pari Ninihi ra raro i nga mana o te ture mahi mo te whakanoho tangata. Ko nga hokonga i ture kore ko nga wawahanga i ture kore; na te Kooti Whenua Maori enei mahi, kua whakaaturina e

au e he ana ki te tikanga o te ture Maori o Ingarangi e he ana hoki ki nga tikanga o nga Tangata Maori, e he ana hoki ki nga tikanga noho whenua a nga Maori ake. Ina hoki me titiro e tatou ki nga whaikii a nga Apiha o te Karauna o Ingarangi, e mea ana ko nga hokonga whenua, he tino mahi muru te ingoa tika mo ena hokonga. Whakarerea nga tautohe mo te whenua. E kowhetewhete ana hoki nga Maori mo etahi atu ano o nga mahi i mahia e te Kawanatanga o Niu Tireni i runga i te huarahi ture pokanoa i runga hoki i nga ture kahore i whakatinanatia, ara, i nga wa o te rongo-mau tuturu, e kore e tukua nga Maori kia hui, whakakorea ana e ratou nga whakaminenga ko te mahi herehere i nga Maori mo te pana i nga tangata takahi ture kore pokanoa i to ratou whenua ara a Te Whiti me te maha noa atu o ana hoa he mea tarerarera i nga uma i nga kainga o a ratou whanaunga herea ana mo nga marama ehia ranei, ki te whareherehere, mutu iho ka tukua kia haere, kahore i whakawakia i te kore take e whakawa ai, kahore aua tangata i hara ki nga ture i mohio ai tatou, notemea kahore he hara i takoto kahore he hara e ahei te whakapa kia ratou. I hereherea enei tangata i runga i te whakatakotoranga tikanga a te Kawanatanga i kiia hei oranga kei mate, ko tenei kii "Hei oranga kei mate" na te Tangata nanakia whakato. Na tenei tu tikanga i riro tahae ai nga tini miriona eka whenua a nga Maori, mo tenei oranga kei mate, kua takahia kia ngaro nga take katoa o te pono o te

tika o te honore, me te tika whaka-te-tangata, me nga tikanga katoa i tu marama ai nga huanui o te ture pono, na enei take i huna ai nga rohe whenua i whakakopa ai nga tohu o te Ture Maori o Ingarangi. Keihea te honore me te toa i puhaehae nga iwi katoa o te Ao kia Ingarangi. Keihea te honore me te whaitara i titiro whakamoemiti ai nga tini tauwiwi o te Ao, ina ka aro atu o ratou kano ki Ingarangi. Keiwhea ra? Keiwhea ra? Tukua ra a Ingarangi kia whakapararako i te inoi tika i te inoi pono a nga Maori; Tukua ra a Ingarangi kia whakahoe, kia parea ketia te Tiriti o Waitangi mareira ka waitohu makona ka taia nga hotiki o te kino (te hara e whakahawea) ki te tinana o Ingarangi ake ano ko aua tohu e kore rawa e taea kia murua horerawa e taea te mukumuku.

E patae ana nga Maori ra nga huarahi o te whai whakaaro ra nga huarahi o te Kororia o te mahi pono o te mahi tika kia whakapumauria tikatia e te Kawanatanga o Ingarangi te Tiriti o Waitangi.

No tehea wahi o te Moana nui
I ahu mai ai koutou
E te Iwi Maia! nohea mai ra
To koutou Whakatupuranga?
Tena pea koutou e mohio ana
E hara i tena e hara i tenei
Otira ano he Moemoea
He mahara iti me te po ao kapua
I kowhete miharo ki te puna ngaro
E ai te kii no Iharaira mai
He moe pea i kore nei hei tuunga
Karanga ana mai e koutou
Homai te tauira me nga tikanga
Kia kitea ai no Iharaira o matou
Tapuae, nga karakia me nga tau waiata
No hea ra! No hea ra!

E te iwi rangatira e
Whaihinengaro nui, no
Te Atua, i ahu mai
Aua tu whakaaro e
I whakamoemiti ra
Waenga, kapua, atarangi, e
Kohea te pouri ka rere nei?
Kahore kia rangona te reo—
Kino o te riri e
Taumaruru i runga kainga e
Te mate me te pouri e
Kohea te awa rere ai

I tere ai to waka e
I runga koa i to wai
Awa, i rere pouri haere ai?
Nohea te hihi o te ra
He whetu ranei e kitea e
Kia marama ai te pouri e
Tu mangu pouri kere e
Nohea te reo kia rangona
Kati ano ko paoro mamae e
No pouri tuatea me mate
I umere haere ai nga Waiata
I puta ai te pouri me te Mamae e

E te Atua atawhai
Torona mai to ringa
Kia whakaorangia mai
Te Iwi Maori e mate haere nei
Tuku atu to mana atawhai
Kia whakanuia to iwi ki te tihi
I hinga ai a Ihairaira e

The Treaty Of Waitangi:A Defence For The Maori People.

[BY CHARLES HARDY.]

OUR politicians have hitherto viewed the native difficulty from an European point of view only. To arrive at a correct estimate of the ideas, motives, and impulses which are controlling the native mind, it is necessary to view the situation from a native point of view. It is unnecessary to dilate upon the light in which the Maori is viewed by the European. It is more to my purpose to show how the European is regarded by the Maori; and when we have impartially considered this subject, it perhaps will not appear very strange that the Maori aspires to establish for the Maori race a government free from the control of European usages. Government, which is the foundation of society, has with the Maories, from time immemorial, been founded on the tribal or patriarchal system, and which is indeed the most ancient form of government of which we have any account. To the Maori, therefore, our form of government of universal suffrage, in which the vote of the vicious and worthless vagabond is of equal weight with that of the virtuous and honest citizen, is an anomalous absurdity. Not less contemptible to the native mind are the arts by which the vast majority of our politicians attain a voice in the parliament of the country; or once there, the motives which afterwards regulate their conduct. To free myself from the charge of asperity, I will simply refer to the palpably dishonest and unpatriotic spirit displayed by our New Zealand legislators in squandering millions of borrowed money on useless and unproductive works. If we glance at our Native Land Courts and at our other courts of civil and criminal jurisprudence, can we expect the Maori to be content in the atmosphere which he there breathes? As for our Native Land Courts, we well know the sentiments of distrust and aversion, of disgust and abhorrence, which intelligent natives have respecting them, and we know that they have the force of reason on their side. Can it be denied that our Civil Courts are too often mere engines of fraud, our Criminal Courts sometimes of oppression? But in them is almost daily illustrated the triumph of crime and vice over the barriers of justice. We boast of our advancement in civilization, in the arts and sciences, of our universal system of education; we boast of our freedom and our equal laws, whilst we are the mere slaves of ministers who squander our resources with the one hand whilst they impose the

galling yoke of excessive taxation with the other. By our secular system of education we place weapons in the hands of the masses, but we fail to protect the vital interests of society by the shield of religion and virtue. Hence daily, by foul perjuries in our courts, the arch-fiend himself is sapping slowly but surely the very

foundations of justice, of government, of society itself. Perjury—what is it but a recognised weapon both of attack and defence of our legal advocates—a weapon used with complacency by men of forensic skill and reputation, men who perchance consider themselves Christians? I affirm not that these advocates prompt the perjurer in his crime but that they use constantly and unhesitatingly this foul weapon of darkness, with a moral conviction of its existence, is only too palpable to the frequenter of our courts.

But it is also in the social vices of the European that the Maori sees a dread danger to the future of his race, especially in drunkenness and in that other terrific scourge of modern civilization, the social evil, which together have brought pain and anguish and sorrow to many a kainga. It is there fore not without powerful reasons that the Maori desires isolation and local self-government for his race. Can we wonder that he shrinks from a civilization which, far from saving, threatens the very existence of his race? We have given the Maoris to drink of that cup which to them is the cup of death and despair; shall it be said that against their struggles and their entreaties, against a solemn treaty ratified by the authority of the Empire, England has compelled them to drink that cup to the dregs? The Maori people are reduced to a mere remnant of their former strength and pride; unconquered by the arms of the European on the field of war, their forces have been shattered by the pernicious habits and vices inherent to modern civilization. Sweet flowers were planted by heroic labourers in the early mission field, but others followed after them sowing noxious plants, whose deadly poison has brought that race to the brink of destruction. Can we wonder then that the Maoris shrink from the contact of a civilization which, far from saving, threatens the very existence of their race?

From the Treaty of Waitangi to the year 1865 the Imperial Government affirmed that it could not consistently with honourable engagements hand over the natives to the management of the colonists. From the foundation of the colony to that time native affairs were under the control of the Imperial Government. At present the Governor of the colony, the sole representative of the Imperial Government, is bound to accept the counsel of his responsible advisers, the New Zealand Ministry, and thus the voice of the Imperial Government is reduced to a nonentity. The Crown in fact gives to others that of which it cannot dispossess itself without abrogating the Treaty of Waitangi.

I contend that the rights conceded to the Maoris by the Treaty of Waitangi must be exercised wholly free from the restraints and regulations of the statutes of New Zealand; for local legislation or administration may not interfere in any way with rights ceded directly by the central authority

of the empire. It has been contended by some British statesmen, to their shame be it said, that the Treaty of Waitangi is no longer binding upon the Imperial Government; and it is contended that so far as England is concerned, her rights and duties belonging to that Treaty have been transferred to the Colonial Government of New Zealand. To admit this were to admit that New Zealand is no longer a British possession. But were New Zealand to-day as free and independent from the control of England, in her internal affairs, as are the United States of America, the Treaty of Waitangi would still be as binding upon England as it was at the first moment of its existence. It is impossible for England to voluntarily transfer the duties imposed upon her by that Treaty to any other Government or Power, colonial or foreign. Nothing can free her from those duties but the absolute conquest of the country from her by force of arms, a contingency which it is impossible to contemplate can ever occur. The Imperial Government, therefore, not only has a right to interfere as between the Government of New Zealand and the Maoris, but duty and the honourable fulfilment of the Treaty on its part may so compel it to interfere. It therefore follows that "Her Majesty may properly be invited to provide by letters patent that the laws enacted by the legislature of the colony should not extend to the native territory; and that the native laws, customs, and usages, modified as might be thought desirable, should prevail therein, to the exclusion of all other law." In other words, that the powers granted to the Queen by section 71 of the New Zealand Constitution Act, 15 and 16 Vict., cap. 72, are still in full force.

By the Treaty of Waitangi the Maoris were solemnly guaranteed the "full, exclusive, and undisturbed possession" of their lands. But these lands have ruthlessly, in very many instances, been taken from them by force of arms, under pretence of their owners being guilty of high treason, although not a single Maori has ever been convicted of that crime by a competent court of law.

Not less effective, perhaps not less cruel, have been the Native Land Courts in dispossessing the natives of their lands. I contend that the entire system of Native Land Courts is a contravention of the Treaty of Waitangi, and as such, ought to be abolished by the Imperial Government.

I ask, is it any part of the Treaty of Waitangi that the claims of individuals, of hapus, or of tribes, should be submitted to an European court to test their validity? To compel a native to prove his claim in a Land Court was clearly never contemplated by the Treaty, and it is mere sophistry to urge that it is optional with the natives to take advantage of these courts, seeing that a native who neglects to prosecute his claim in these courts is certainly liable to be placed in the false position of a counter-claimant, nay, even to entirely lose his land through the artifices of a mere pretender. Reason and justice alike proclaim that the tribes themselves are the true arbiters of ownership. The "full, exclusive, and undisturbed" possession of their lands, guaranteed by the

Treaty of Waitangi to the Maoris, cannot be

disturbed by any *ex post facto* legislative enactments of the Imperial Government itself, much less of any Colonial Legislature.

To show how completely this doctrine was once understood by the legislators of New Zealand I will quote a sentence from the "Native Territorial Rights Act, 1858," (an Act sanctioned by the General Assembly of New Zealand, although disallowed by the Queen)—"No court of law or equity within the colony hath or ought to have any cognizance of any question of, or affecting the title or right of occupancy of the aboriginal natives as amongst themselves." And to show that this doctrine has been upheld by the law officers of the Crown in England I will make the following quotation from Sir William Martin's pamphlet on the Taranaki War of 1860:—"In December, 1859, the opinion of the law officers of the Crown in England was obtained upon the question whether the aboriginal natives of New Zealand were entitled to the electoral franchise under the Constitution Act. In that opinion the following passage occurs: 'Could he (one native) bring an action for trespass in the Queen's Court in New Zealand? Does the Court exercise any jurisdiction over real property in a native district? We presume these questions must be answered in the negative.' It appears then that the law officers hold that the colonial courts have no cognizance of questions of native title or occupancy in any case."

That the right of alienation of land properly vests in the tribes and chiefs has been repeatedly recognised by the representatives of the Queen. Thus we find in a despatch of Governor Gore Browne to the Duke of Newcastle, dated December 4, 1860: "The Ngapuhi in the North and the Waikato and Ngatimaniapotu in the centre and West Coast held their ancient inheritance still, and in our dealings with them since the Treaty of Waitangi we have generally recognised not only their tribal rights in cases of sale, but the influence of their principal men in assenting to or preventing sales."

In the same despatch we find the following words: "The title to the land among the natives of this country was a tribal rather than an individual title. The individual right to possess whatever portion of the land was subdued by the labour of each member was undoubtedly recognised and transmitted from generation to generation; but the right to alienate land so held was one the exercise of which was restricted by the obvious necessity of maintaining the unity of the tribe, of securing the right to service from each member, and of preserving its land from going into the hands of strangers."

I contend therefore that in assuming to individualise the native title to land, *i.e.*, to divide a block of land amongst the individual members of the tribe, the Native Land Courts, even were they constitutionally created, would still be acting beyond their powers, because, as we have seen, the essence of the native title to land is tribal.

The Treaty of Waitangi was made as between the Queen and the chiefs of New Zealand. To the Imperial Govern-

ment, the central authority of the empire, therefore, do the chiefs of New Zealand appeal for relief from the many illegal acts committed by the Colonial Government of New Zealand, and which acts constitute of themselves breaches of that treaty which England is by her honour and by the law of nations bound to uphold with all her might.

These acts relate to illegal and unjustifiable confiscation of extensive tracts of land by force of arms and by illegal acts of the New Zealand Legislature; as, for instance, the confiscation in September, 1865, of the whole coast from Whanganui to the White Cliffs under the powers of the "New Zealand Settlement Act;" to illegal purchases and illegal divisions of land under the Native Land Court system, which, as I have shown, are illegal, not only according to Maori customs and tenure, but illegal according to the common law of England, as expressed in the opinion of the law officers of the Crown in England—purchases so called, but which are in reality mere acts of spoliation.

But besides question of land the Maoris complain of other arbitrary and unconstitutional acts of the Government of New Zealand; such as prohibiting the natives in times of profound peace from holding public meetings, the imprisonment of natives for ejecting illegal trespassers from their lands, the illegal imprisonment of Te Whiti and of large numbers of his followers—men who were torn from the bosoms of their families and detained many months in prison, and finally discharged without ever having been brought to trial—men who in reality were guilty of no crime known to the law, for none was, or could be, preferred against them. These men were imprisoned under the plea of political necessity—"Necessity the tyrant's plea," under which also millions of acres of land have been robbed from the Maoris—"Necessity," for which has been sacrificed every principle of good faith, of honour, of public morality, every principle of justice, and of the old landmarks of the common law of England.

Where is the honour and courage which once made the British nation the envy and admiration of the world? Let England reject the righteous prayer of the Maoris, let her repudiate the Treaty of Waitangi, and she will brand herself with an infamy which she can never erase.

The Maoris ask, with the force of reason and with the majesty of justice, that the Treaty of Waitangi be

honourably kept by the Imperial Government of England.

Whither beyond the ocean vast came ye,
O race heroic! whence your lineage sprung?
Nor this nor that ye ken. Yet as a dream,
A reminiscence dim as clouded night,
A secret something whispers that ye be
Descended from the stock of Israel's race.
And is this but an idle, baseless dream?
Your ancient sacred customs answer give,
Wherein analogy and parallel
To those of Israel's hallowed rites are found.

O race ennobled by high intellect
And God like attributes which men adore,
'Midst shadows, clouds, and darkness whither flee,
No more is heard the horrid voice of war,

Yet o'er your kaingas hover grief and death.
Down what dark river glideth your canoe,
Upon what swift and direful waters borne?
No gleam of sun or star to light the gloom,
But all is blackness desolate and dread!
No voice, save mournful echoes of despair,
Of melancholy pale, and dread funereal dirge.

O God! stretch forth Thy mighty arm to save
From cruel grave this forlorn Maori race,
Exert Thy power, exalt and reinstate
This people to that height whence Israel fell.