

“One Faith, One Love, One Law”: Ruth Ross and the Humanitarian Treaty of Waitangi

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Abstract

It is now commonplace to believe that Māori were misled into signing Te Tiriti o Waitangi/the Treaty of Waitangi and misunderstood that it involved a cession of sovereignty to the Crown. This interpretation of the Treaty was first argued by Ruth Ross in her 1972 article, “Te Tiriti o Waitangi, Texts and Translations”, and many today continue to rely on that interpretation, including the Waitangi Tribunal. The following essay critiques Ross’s interpretation and finds it lacking in key areas. Most importantly, Ross misunderstood or ignored the explanations of the British humanitarians who authored or were later charged with upholding the Treaty. She also ignored the statements of the Māori leaders who signed and later sought to hold the Crown to its undertakings. Their statements make clear that the Treaty was not the fraud or misunderstanding that Ross first suggested and which many today believe. It was instead an exceptional and mutual declaration by the Crown and te iwi Māori that they would unite for their mutual benefit under the law and authority of God and the Queen, and that both parties would abide by the Christian principles of “love”.

Introduction

In 1862 George Selwyn – Bishop of New Zealand since 1841 and the leading humanitarian and defender of Māori rights in the colony – wrote to his brother about his work in New Zealand. He told him that it was a “work of love” that sought to bring about the “blessed spectacle” of “two races growing up together as one people upon the one common principle of faith in Jesus Christ and obedience to the Queen”.¹ As Selwyn stated later in the same year – this time to a large assembly of Kīngitanga – Māori and Pākehā had been united through the Queen by “one faith, one love, and one law”.² This was a simplified reiteration of what the missionary, Henry Williams, had told Māori when explaining the Treaty at Waitangi some twenty years earlier: that the Treaty was an “act of love” that sought to “secure to them their property, rights, and privileges” and that, in giving their consent, Māori had agreed to become “one people with the English, in the suppression of wars, and of every lawless act; under one Sovereign, and one Law, human and divine”.³

The great hope of the British humanitarians who authored that Treaty was that it would prevent the conflict and dispossession that had occurred elsewhere from happening in New Zealand. At the very time when the pursuit of profit and the absence of laws to control European settlers had created a crisis in the treatment of indigenous peoples in the empire, a renewed colonizing zeal within England was beginning to focus increasingly on the commercial possibilities of New Zealand. The so-called “Colonial Reformers”, led by Edward Gibbon Wakefield, sought to colonize the country and establish a “settler society” via a private company designed to “make money from it.”⁴ In the “settler mythscapes” of these men, New Zealand was “vacant, timeless, and brimming with promise”,⁵ while Māori were “just the tattooed warrior who stands between them and the acquisition of soil”⁶ – mere “savages” who could hold few claims to the land and who would eventually disappear as a race, whether through their assimilation or more inevitable demise. As the humanitarians understood, a colony founded on the principles of the New Zealand Company would not fail of “ruining and ultimately destroying the native tribes”.⁷

With settlement already well advanced – “Colonization has commenced”, said Henry Williams in 1838 – the British Government finally recognized that “...the only prospect of saving the Natives is by...taking them entirely under their protection.”⁸

This protection was to be achieved by instituting a new and “humane” system of colonization based on “justice to the aborigines”.⁹ That new policy had developed during the 1830s as humanitarian concern for the plight of indigenous peoples had increased. That concern culminated in the 1835–6 Select Committee Inquiry into Aborigines instigated by the leading humanitarian activist and writer of the time, Thomas Hodgkin, and chaired by the leading humanitarian within parliament, Thomas Fowell Buxton. The primary purpose of the inquiry was to consider measures that could be adopted to secure to aborigines “the due observance of justice and the protection of their rights”,¹⁰ and a number of the proposals brought up in that inquiry went on to inform policy making by the humanitarian lawyer and Under-Secretary of the Colonial Office, James Stephen, who was the principal author of the Treaty.

Central to the politically radical beliefs of these Christian men was the principle of equality that lay at the heart of the Christian message – “that God hath made of one blood all nations of men” – and the corresponding injunction to recognize every man as a “brother” and “love” them equally by treating them justly; Christian “love” and “justice” being the same thing.¹¹ At a time when humanitarians were seeking to better protect the poor and vulnerable in England by extending to them new civil rights, “justice” demanded that they likewise extend to Māori those same rights and legal protection. For most Europeans, the very idea of “savages”, “living in a state of nature, ranking – in point of political considerations – as equals of their European civilized brethren” was “shocking” indeed but, as the humanitarians believed, “in such light...we cannot otherwise than regard them”.¹² By affording Māori equal rights, and equal laws and a civil government with which to impartially defend those rights, humanitarians hoped to prevent the injustice that had occurred elsewhere and instead lay the basis for a peaceful and united nation.

As Governor Grey later put it, the goal was to form “one people” – to “incorporate the natives with the Europeans, to blend the interests of the two races” so as to “form one harmonious community, connected together by commercial and agricultural pursuits, professing the same faith, resorting to the same courts of justice”.¹³ At the same time, Crown officials were specifically instructed to protect and actively “defend” that which was important to Māori culture and identity, particularly language.¹⁴ Such a vision of peaceful co-existence was the very definition of Christian brotherhood and what humanitarians called “amalgamation”. Contrary to the assumption of many historians, “amalgamation” was not “assimilation”. “Amalgamation” was not the “stagnant equality of sameness” that Wakefield (and later governments) would advocate but the “constructive equality of oneness”¹⁵ or “unity in diversity” that was the constant refrain of the Scriptures. In this Christian conception, different peoples were “knit into one body” not by one culture but by “one faith”, and through “subordination to an authority standing in the place of God”.¹⁶ Herein lay the answer to the crisis of empire facing these men: not the removal or exclusion of Māori from the developing settler society (as had occurred elsewhere) but their equal inclusion and participation with settlers “on the basis of an equality in rights and privileges”,¹⁷ and New Zealand was “the first country colonised on this new and humane system”.¹⁸

Selwyn was sent to New Zealand with his close friend and the first Chief Justice, William Martin, to execute this vision and assist in “laying the foundations of the Government and of the Church in New Zealand on a sound basis” – that is, in accordance with Christian principles

and the rule of law. As Selwyn hoped, if they could succeed in “amalgamating the races”,¹⁹ Māori could not only “co-operate in the building up of a united nation”²⁰ but secure what no other indigenous group had: what Martin described as a “permanent and substantial share of the benefits of our colonization.”²¹ As Selwyn understood, what they were attempting was a “great experiment” – a chance for colonization on the “principle of Justice” for “almost the first time in our Colonial History”²² – with the Crown having “...avowed from the first that justice to the native people must be the groundwork of all its legislation”.²³

These words of love and faith and the law, and this vision of a peaceful and equal society, are hard to reconcile with or indeed even recognize in most contemporary accounts of the Treaty. Since the 1970s historical consensus has maintained that, while the British did intend to protect Māori from the worst effects of colonization, their primary purpose was to acquire sovereignty in order to procure Māori land and resources for the benefit of the Crown and settlers. The Crown, according to this consensus, secured that objective through a deed of cession that deliberately disguised the “full realities of imperial intentions” by mistranslating “sovereignty” as “kawanatanga”, and by assuring Māori of their continuing “rangatiratanga” or “independence”. The history that followed was in turn one of “conflict and dispossession” which left Māori fighting for both their land and autonomy.²⁴ In this view, there was nothing exceptional in New Zealand’s origins or in the conflict that occurred thereafter, with what happened after 1840 clear evidence of what the British always intended to happen.

While many historians contributed to the making of this historical consensus, perhaps none had more influence than Ruth Ross.²⁵ The Waitangi Tribunal, in its 2014 *Te Paparahi o Te Raki* (Northland) Report, described Ross’s article as “probably the single most important interpretive advance on the subject in modern times” because it had exposed “the unquestioning acceptance of myths about the treaty by an earlier generation of scholars”.²⁶ While Ian Wards had been the first to argue that the British sought to acquire sovereignty largely for their own interests – “There was no matter of moral principle, no pledge for the future”²⁷ given in the Treaty, he believed – it was Ross who widened Wards’ argument by shifting the focus away from British intentions to how Māori understood the cession of “sovereignty”. It was Ross who first argued that the English and te reo Māori texts of the Treaty did not reconcile and that, in ceding “sovereignty”, Māori were given to understand that they gave up only a lesser right of “governance” to the British, while they themselves retained “rangatiratanga” or independence. It was Ross who first accused Henry Williams of having deliberately deceived Māori when explaining and translating the Treaty, especially by his use of “mihinare Māori” – the language used by the missionaries that incorporated English concepts into spoken Māori – which Ross regarded as tantamount to a foreign language. According to Ross, Māori had no way to “judge the Treaty” except through what they knew of the “strange” new world of Pākehā and “the world in which Christ had lived and died”.²⁸ By then focusing on the changes made between drafts of the Treaty and posing what were often rhetorical questions – “Were the chiefs informed...?”, “Did Williams really believe..?” – Ross created a general impression of confusion and “carelessness” as to “what was a translation of which” that rendered the Treaty “so ambiguous and contradictory” in meaning, and its signatories so “...uncertain and divided in their understanding [that] who can say now what its intentions were?”²⁹ Indeed she “problematised the Treaty to an unprecedented degree”³⁰ and, in doing so, made talk of it as a “sacred compact” look like “sheer hypocrisy”.³¹ Ross thereby provided a ready answer as to the cause of the growing racial conflict of her day, and one that resonated with the international revision then occurring regarding British myths of a benevolent empire: the Treaty was not the honourable agreement of which its British authors had spoken but little more than a fraud.

If Ross provided the foundation for what has become the dominant interpretation of the Treaty, it was Claudia Orange who made that interpretation famous in her now seminal work, *The Treaty of Waitangi* (1987).³² Picking up the “baton” passed by Ross,³³ Orange’s focus was on the history of the Treaty after 1840. As the Waitangi Tribunal later commented, in her analysis of the translation and explanation of the Treaty itself, Orange largely followed Ross and “articulated many of the same messages as her mentor”.³⁴ What Orange added was greater context and detail, and especially the important idea that whatever protective intentions the British had towards Māori were undermined not only by their determination to acquire sovereignty but by their inherently destructive policy of “assimilation”. According to Orange, the British sought not “to preserve traditional Maori society but ultimately to destroy it and to amalgamate Maori with the settler community”;³⁵ “amalgamation”, by this reading, being simply another word for “assimilation”. Though Orange acknowledged that the British did intend to protect Māori “from the worst effects of uncontrolled European contact”, she believed this was little more than “idealism” or rhetoric. Citing Ross, Orange argued that “Williams’s Maori text failed to convey the full meaning of the national sovereignty being conceded”, and that, “Couched in terms designed to convince the chiefs to sign,” his “explanation skirted the problem of sovereignty”.³⁶ As for Williams’s talk of love and law and equality, Orange believed this to be mere “window-dressing”, simply an expedient way of obtaining Māori consent: “For British officials, the religious understanding, like the humanitarian element, was merely part of the business of securing sovereignty”, she wrote.³⁷ Like Ross, Orange assumed that all the British sought was to acquire “sovereignty” in New Zealand, and that all Māori sought was to retain it. Thus the history she presented was all about this battle for sovereignty, as shown by her chapter titles: “Maori Sovereignty and its Demise”, “Challenges to Sovereignty” in the 1840s and 1850s and, finally, and inevitably, “A War of Sovereignty” in the 1860s.

Reprinted numerous times since its original publication in 1987, Orange’s work became what the Waitangi Tribunal described as “the essential reference point for most historical works about the treaty”.³⁸ Indeed Orange and Ross’s views on the Treaty came to shape the Tribunal’s own determinations, as evidenced in their findings in 2014 in the Te Paparahi o Te Raki (Northland) Inquiry in which they concluded that Māori had never agreed to cede sovereignty in the Treaty. So pervasive has this interpretation become that it is now rare to even hear the contrary voices of Selwyn and Martin or any other humanitarians. Few people acknowledge the role that the humanitarians had in making the Treaty, or that men like Selwyn and Martin were renowned for defending Māori interests and upholding the Treaty. Fewer still have critically assessed Ross’s work or the assumptions underlying it. Certainly, the recent biography of Ross by Bain Attwood provides little critical assessment of her article. That is because Attwood agrees with Ross that there is “little if any historical evidence” to show that Crown agents “conceived of the Treaty as a statement of principles that was to provide the foundations of the New Zealand nation”.³⁹ But as the following analysis of Ross’s article argues, the Treaty was not the sham or historical irrelevance that Ross believed it to be. The Treaty was what the humanitarians said it was: an honourable and indeed exceptional compact – a “covenant”, no less – that sought what Selwyn described as “high and even holy purposes”⁴⁰: to provide the foundation of a peaceful and united nation under the authority of the Queen and on the basis of a shared faith, shared laws, and the Christian principles of “love”.

Ross and the Humanitarian View of the Treaty

Ross argued that the “chief purpose of the Treaty was that the chiefs should cede their sovereignty to the Queen.”⁴¹ As noted, she relied on Wards in making this argument and was seemingly unaware that Wards’ “thesis” had received scathing criticism from Judith Binney and other leading historians. Binney stated that Wards’ analysis was based on a series of errors,

not the least being his “disregard” of the very clear statements made by successive officials as to the reasons for British intervention. According to Binney, Wards also misrepresented humanitarian policy as amounting to little more than “moral suasion”, while he assumed that the acquisition of sovereignty and the protection of Māori interests were mutually exclusive.⁴²

Ross herself never considered the stated reasons for intervention in her article or addressed the contrary opinions of other historians or their evidence. She simply accepted Wards’ argument that the British were motivated solely to acquire sovereignty through the Treaty and proceeded to assess how accurately “sovereignty” was translated into Māori. Unable to speak Māori,⁴³ Ross relied on readings of scriptures and other pre-Treaty documents to conclude that the Treaty’s translation of sovereignty as “kawanatanga” – “governance” – was inadequate, and that “mana” should have been used. Henry Williams, who helped draft and explain the Treaty, was bilingual and had lived among these communities for sixteen years as a trusted friend and advisor by the time the Treaty was signed. Irrespective, that Williams used the word “kawanatanga” rather than “mana” was, Ross believed, a deliberate omission on his part. It was, she said, “no accidental oversight”.⁴⁴

Williams denied any notion that he had deceived or confused Māori when asked by Selwyn to explain what he had said at the Treaty signings. Williams stated that he had “no doubt” that Māori understood themselves to have surrendered “to the Queen for ever the Government of the country, for the preservation of order and peace”. In return for this cession, he had guaranteed the rangatira “their full rights as chiefs, their rights of possession of their lands, and all their other property of every kind and degree”. According to Williams, the Treaty was the “Maori Magna Charta”. It was an “act of love” – an act of justice, no less – that was intended to lay the basis for “lasting peace”.⁴⁵ Ross neither cited Williams’ statements nor sought to explain them. She seemed to regard Williams’ talk of “love” as all part of the “woolly-mindedness”⁴⁶ that she believed surrounded the Treaty as a whole. Ross never considered the possibility that Williams meant what he said, and that what he said constituted the very substance of the agreement.

Underpinning Ross’s analysis of the texts and translations in the Treaty was a more fundamental misunderstanding: that the “sovereignty” the British sought in 1840 was “perfect settler sovereignty” or the “conflation of sovereignty, territory, and jurisdiction”.⁴⁷ Certainly, this was the “sovereignty” the Crown had assumed by the twentieth century and the sovereignty Ross herself would have been familiar with. Where she erred was in assuming that this was the sovereignty the British sought in 1840.⁴⁸ As Ross stated, the key question in her analysis was “whether the concept of territorial sovereignty is adequately contained by ‘kawanatanga’”.⁴⁹ However, as Louis Chamerovzow – lawyer for the humanitarian Aborigines Protection Society – later explained, what was actually sought and agreed to by the Crown in 1840 was that the Crown be given the overriding authority to govern and make laws alone. Chamerovzow called this “magisterial jurisdiction” and defined it as “a right on the part of the British Crown to protect them [Māori] against the evils of irregular settling, and to bring them under civilized law and rule, modified to their condition”.⁵⁰ Martin said the same thing: that “The rights which the Natives recognized as belonging thenceforward to the Crown were such rights as were necessary for the Government of the Country” and which they called “Sovereignty” and the Natives “Kawanatanga” – “Governorship”. According to Martin, while this authority was “unknown” to Māori in that it constituted a higher and national authority charged with governing for the peace and benefit of all, Māori “conceded such powers” to “avert the evil consequences which must result from the absence of Law”.⁵¹

What was not included in that “sovereignty” was territory or underlying title – what Chamerovzow described as “that peculiar privilege of the Crown’s, by which it is asserted that all unoccupied lands vest in it by right of prerogative”.⁵² As James Stephen stated when drafting instructions to Hobson in July 1839, he thought it likely Māori would not “understand...the distinction, so familiar to ourselves, between the rights of Sovereignty, and those of property”. He thought Māori would believe that “a general acknowledgement of the Sovereignty of the Queen would involve a Cession of the Lands which they still retain”, and he anticipated that Hobson would have to reassure them that the cession of sovereignty would not affect their property rights.⁵³ Stephen was right. According to Chamerovzow, the chiefs would not agree to the Treaty “until they were assured their proprietary rights would be scrupulously respected to their fullest extent” and that, “in acknowledging Queen Victoria as their lawful sovereign, they did not surrender the proprietorship of a single inch of soil”.⁵⁴ This was why, said Chamerovzow, the Crown added “the special clause in their favour in article two of ‘the full, exclusive, and undisturbed possession of their estates, forests, fisheries, and other properties which they may collectively or individually possess’”.⁵⁵ According to William Swainson, first Attorney-General, Governor Hobson then “carefully explained to them that it was the Sovereignty, and not the land, that would pass to her Majesty by virtue of the proposed Treaty.”⁵⁶ As Martin also stated, while Māori conceded such powers as were necessary for the “due exercise” of governance, “To themselves they retained...the ‘tino Rangatiratanga’, the ‘full Chiefship’, in respect of all their lands.”⁵⁷

As Chamerovzow stated, the term “sovereignty” was therefore “limited by the second article of the Treaty”; an understanding that found its “most logical” reiteration, he said, in the famous statement by the Te Rarawa rangatira, Nōpera Panakareao, “that the shadow of the land goes to Queen Victoria but the substance remains with us.”⁵⁸ Thus when Earl Grey, prompted by the New Zealand Company, later attempted to justify the taking of so-called “waste lands” by declaring “sovereignty” to have included territory, Lord Stanley, Secretary of State for the Colonies, famously replied that he was “not prepared to break faith with the Maoris” by “setting aside the Treaty”.⁵⁹ Selwyn put it more forcefully still, declaring he would rather be “cut into pieces” than “resign the natives to the tender mercies of men who avow the right to take their land”.⁶⁰

One hundred years later the Crown had a different view of the sovereignty it had acquired by the Treaty. As Ross knew, “most of the controversy” around the Treaty when she wrote her article in the 1970s concerned Māori objections to the Crown’s assertion of territorial rights. Ross seemed to regard these objections as spurious given she assumed the sovereignty ceded in the Treaty included Māori territory, and that Māori had only begun protesting against such claims by the Crown in the twentieth century.⁶¹ Māori had in fact been resisting the taking of any of their territory without their consent since the 1840s. The Crown, too, clearly understood both in 1840 and in the twenty years following that the Treaty did not give it the right to assume control over any Māori land without their consent. As Martin stated, it was only in 1860, when the Crown sought to enforce a land sale in Taranaki that was not approved by the chiefs, that “The power to take the land without the consent of the native owners” was, “for the first time, claimed” by the Crown.⁶² That it was the Crown, and not Māori, who changed its position about the Treaty does not appear to have been considered by Ross. But, as Chamerovzow observed in 1846, “if the Treaty has been misunderstood, it is not by the New Zealanders, who regard it as a guarantee of their peculiar proprietary rights, but by the Colonial authorities, who would appear desirous of acquiring more than the terms of the compact entitle them to”.⁶³

Understood in this way – that the Treaty’s authors intended the use of “sovereignty” in article one to mean “governance” and not include territory – the use of “kawanatanga” was a faithful translation that accurately reflected the substance of the agreement. That the Treaty guaranteed that Māori would retain “rangatiratanga” or chieftainship in article two was likewise appropriate given that it was made specifically “in respect of all their lands” and with the clear intention of defining the nature of the property being guaranteed – that is, tribal property which would remain under the control and authority of the chiefs. As Martin explained, the Treaty “carefully reserved to the Natives all then existing rights of property...” by recognizing “the existence of Tribes and Chiefs” and assuring to each their “Tribal right” to land and “other of their property”.⁶⁴ “This Tribal right was clearly a right of property”, he stated, and it concerned “the enjoyment and alienation of land, and that only”.⁶⁵ Thus, the clause for pre-emption that followed it in which Māori agreed to only sell tribal property to the Crown and not to settlers.

That article two was a guarantee of property and did not concern chiefly authority or issues of government does not mean that the British did not anticipate chiefly authority continuing. On the contrary, they absolutely depended on it doing so, especially to secure the land and resources needed for the development of the colony, and within the Treaty’s explicit guarantee of chiefly control over property was an implicit recognition that the chiefs would continue to retain their positions of authority within their communities and a large degree of practical power and influence. Crown officials clearly expected that the chiefs would also use that power to assist the Crown in exercising the “governance” ceded in article one, particularly in the early years when there was little in the way of any local or central government. It was to facilitate just such participation that many chiefs were subsequently appointed “Assessors”, while various British laws and institutions of justice were “modified” in order to accommodate them and Māori tikanga.

But what that did not mean was what Ross went on to argue: that Māori leaders were given to understand that they would be “independent” or exempt from the overriding authority of the Crown. Ross’s evidence for this was Martin’s statement that the Crown guaranteed to Māori “rangatiratanga” – “full Chiefship”. What she omitted was Martin’s proviso that followed: that they retained rangatiratanga “in respect of all their lands”. Ignoring that proviso, and noting that “rangatiratanga” had been used in the 1835 Declaration to signify “independence”, Ross concluded that its inclusion in the Treaty would have given Māori to understand that “the Queen had guaranteed them something more than possession of their own lands”⁶⁶ – namely, their full independence or autonomy. But as Martin clearly stated, article two was concerned only with property and the “enjoyment and alienation of land”. As “a simple right of property”, that right had “nothing whatever to do with Government or Administration”, stated Martin, and was therefore in no way “incompatible with the Queen’s Sovereignty”.⁶⁷ Ross had misunderstood what “rangatiratanga” meant.

While most historians today have followed Ross and continue to assume that article two guaranteed Māori independence – Ned Fletcher is the latest to argue that the Treaty “confirmed tribal and chiefly independence” and that British law and authority was intended to apply only to settlers⁶⁸ – this is to misunderstand not only article two but also the humanitarian goal of “amalgamation” and the decisive change in policy it constituted. As Martin stated, “kawanatanga” meant “the Government of the Country”, and that government was always intended to apply as much to Māori as to Pākehā, and for good reason: the promised protection of Māori rights and property could not be achieved without it.

Fletcher is correct to say that there had previously been “a general practice for sovereignty to accommodate native systems of government and law” elsewhere in the empire.⁶⁹ Where he errs is in thinking that the British followed that policy in New Zealand.⁷⁰ As Martin explained, “There are two modes of colonising: one, by which the people of the territory...” are “brought within the dominion of the Crown, yet may remain in nearly everything else as independent as before; and a second, by which they may be brought (as far as possible) even from the beginning within the law and political system of the colonizers. By the one system they remain (at least for a time) foreigners; by the other they become subjects. The former has been exemplified in North America; the latter, here in New Zealand.” When colonizing North America, the British had assumed at the outset only “external dominion” – that is, their right to colonize as against any other foreign party. As “against the natives of the country, they asserted no rights”, stated Martin. The “internal dominion” – “by which all persons and things within the territory should become subject to one Legislature” – was simply “left to be acquired gradually” by subsequent individual treaties. In the case of New Zealand, however, having recognized its independence since 1817 and “abandoned any right which might have been grounded on the discoveries of Captain Cook” before the signing of the Treaty, the Crown could make no claim on the country. It was thus “thought necessary and right to obtain by an express compact the assent of the native population to the establishment of the English Government...” and “bring the natives at once (as far as possible), within the protection of that Government and the dominion of law. So, whilst in North America the external dominion was at once assumed, and the internal dominion left to be acquired afterwards...in New Zealand”, said Martin, “the attempt was made to acquire at once both the internal and the external dominion by one Treaty made once for all.”⁷¹

There were practical reasons as to why the British insisted upon securing internal as well as external sovereignty in New Zealand. While Fletcher states that the British believed “New Zealand would be a colony of a few maritime settlements” only, and that it was therefore “...possible to keep the Europeans apart and to allow Māori to continue to manage their own affairs”, in fact Crown agents and missionaries alike were well aware by the later 1830s that no such separation was possible. Not only was colonization occurring but “systematic colonisation” was about to commence, and while in the vastness of a country like North America “the native tribes stood as small but almost independent nations” alongside the British, it was recognized that New Zealand was comprised of “numerous tribes occupying a small country” that were already “intermixed with the colonists”.⁷²

Beyond such practical considerations lay more important issues still – what Martin described as “special considerations of justice and humanity which led the Home Government to desire to establish...some settled form of government” at the outset: namely, so that they could protect the “just Rights and Property” of Māori from the “evils” of “a lawless state of society”.⁷³ As Lord Normanby, Secretary of State for the Colonies, stated in 1839, what the Treaty sought to address was the absence of any “civil government” or laws to restrain people and maintain the “Peace and Good Order” upon which a successful and functioning society depended.⁷⁴ British humanitarians believed that, as John Locke had defined it, true liberty and peace were only possible when all men agreed to unite under a governing authority to administer laws and protect rights equally for their equal benefit. For British humanitarians, these rights existed not as the Americans defined them – as universal human rights associated with the individual – but in the more classical sense as “civil” rights. These were the rights that came with the inclusion of all men⁷⁵ as citizens in a civil society governed by law, justice, and the morality that the humanitarians believed could only come with Christian faith. According to many Britons, Great Britain had, by the early nineteenth century, achieved the greatest expression of such a

civil and religious society, with the process of democratisation that began with the Magna Carta having continued with the successive concession of “rights and privileges” to ever more subjects. By the 1830s a renewed movement – led by the same humanitarians who authored the Treaty – had begun to include not only the poor and vulnerable within Britain but also their “coloured” brethren within the empire in what was effectively a civil rights movement, the first such movement for the “coloured”. For Māori to likewise acquire those same rights and protection, it was necessary that they, too, become subjects of the Queen and henceforth “acknowledge one Head”.⁷⁶

What they were asking Māori to agree to in 1840 was therefore the very essence of the social contract embodied in the Magna Carta and that which forms the basis of any democracy: to consent to recognize the authority and laws of a civil government in exchange for the equal protection of their property, rights and privileges. The Māori cession of sovereignty in article one was thus the *necessary* means of realizing the guarantees of rights and protection afforded in articles two and three. As Hobson explained at Waitangi when specifically questioned as to why British governance should also extend to Māori, “English laws could only be exercised on English soil”.⁷⁷

As Governor Browne later reiterated to Māori, New Zealand was “the *only* Colony” where the indigenous people had been “...invited to unite with the Colonists and to become one People under one law”: “In other places the people of the land have remained separate and distinct, from which.... Quarrels have arisen; blood has been shed, and finally the aboriginal people...have been driven away or destroyed. Wise and good men in England considered that such treatment...was unjust and contrary to the principles of Christianity”, and New Zealand was the “*first* country” in which every Māori subject was “protected by the same law as his English fellow subject”.⁷⁸ As Martin also told Māori, there would be “one law for all”.⁷⁹

But while “the framers of the Treaty desired to bring all the natives of these islands into the position of subjects of the Crown”, according to Martin, the Crown did not seek “the introduction at once amongst the New Zealanders of the minute and technical forms of English law”. What was sought, initially at least, was to only put in place what Martin described as “the substance of the law” – namely, “legal protection for life; legal protection for property”.⁸⁰ Both Normanby and Russell reiterated that, in the new colony, any “laws and customs” contrary to the “first principles of morality” – notably, warfare, cannibalism and slavery – were to be repressed and the criminal law enforced, so as to ensure that “the Queen’s sovereignty...[was] vindicated, and the benefits of a rule extending its protection to the whole community...made known”. In “other respects, the natives were to be left to their own usage”.⁸¹ As the Chief Protector, George Clarke, reported in 1842, those that signed the Treaty had exactly this understanding. While they acknowledged “the Queen’s supremacy”, they understood British interference would be limited to “grave cases such as war and murder, and all disputes between natives and Europeans”, and that their own customs could continue.⁸² As Lord Stanley further reported two years later, New Zealand was “the first example of an uncivilized race peaceably incorporated with an European population, and subject to our Laws by no other compulsion that that of equal justice and firm moderation, and without any sudden disruption of their own social ties, or any violent interference with their native usages”.⁸³

The gradualism of the humanitarian approach in governing Māori was important, for Ross was right on one point. As Martin acknowledged, “The work of collecting signatures” had been “...hasty and incomplete”, especially in the “central districts”. As George Clarke reported in 1842, those who had not signed the Treaty believed the Government only had a right to interfere

in disputes with Europeans.⁸⁴ But as Martin stated, the “great object” was to “To let the authority of the Crown quietly grow in the land” – to enable all Māori, “by good Management”, to “gradually learn the meaning of the Queen’s sovereignty by practical experience of the benefits flowing to themselves from it, and so...come to an intelligent appreciation and acceptance of the new system of things”. He believed that, “The contrast seen and felt between the effects of lawlessness and law; the manifest benefits of an order of things which should allow the natives to accumulate property and enjoy the fruits of their labour, would (it was hoped) wean them gradually from their old habits into ours, until a more complete establishment of our system should become practicable”.⁸⁵ Grey and Martin would later herald the Crown’s success in achieving such “appreciation and acceptance” by Māori of Crown sovereignty.⁸⁶ By the 1850s, even Pōtatau Te Wherowhero – the Waikato leader (and future Māori king) and most prominent non-signatory to the Treaty – had become a staunch supporter of the Governor and well known for his constant refrain to “Hold fast to love, to the law, and to the faith”.⁸⁷

A key means by which the Crown secured the support of many of these rangatira was through the promise of developmental assistance. According to Governor Browne, in assuming the governance of the country, the Crown undertook to not only “maintain the stipulations of...[the] Treaty inviolate” but “watch over the interests and promote the advancement of her subjects without distinction of Race”.⁸⁸ As the humanitarians were aware, for Māori to achieve equal advancement alongside Pakeha was dependent on more than just a declaration of equal rights. Nor did equal advancement equate with treating people the same. Real equality, in the only terms in which it was possible to achieve it – in opportunity not outcome – demanded that the Crown also provide Māori with the skills and educational, social and economic assistance they would need to level the playing field and enable them to participate and benefit equally.

As Lord Normanby put it, the Crown recognized “other duties owing to the aborigines of New Zealand”. These duties “comprised in the comprehensive expression of promoting their civilization, understanding by that term whatever relates to the religious, intellectual, and social advancement of mankind”.⁸⁹ Humanitarians described their goal for the poor within Britain in exactly the same terms, and because the goal for both was the same: to empower the disadvantaged through a targeted program of education, training and religious instruction so that they could become not just Christians but Christian citizens – that is, active and contributing members of society.⁹⁰ It was called “self-help” within Britain and “Native Agency” in the empire and it was what we today would call “self-determination” in that it sought to provide not protection per se but to empower people to protect and advance themselves.⁹¹ As Grey put it, advancing Māori “in the arts of civilized life” was intended to give them “a prospect of standing on terms of equality with the European race”.⁹² It was to provide just such targeted assistance that a trust was established by Hobson (with Selwyn and Martin as trustees) in which at least 15% of the money raised from the sale of Crown lands was to be vested and used to provide Māori with the schools, religious instruction, medical care and any other such discriminatory assistance upon which real equality would depend.⁹³ The Crown would later tie these promises of development to land sales, and they were to prove equally crucial in securing land at prices both parties understood to be well below market value.⁹⁴

Through these measures, the humanitarians hoped Māori would not merely survive the Pākehā settlement to follow but prosper and develop equally with it. Settler and tāngata whenua would be as “one”. As Hobson declared at Waitangi in 1840, “He iwi tahi tatou”. While the missionary, William Colenso, famously translated this as “We are one people”, Colenso’s comparatively short time in the country told in his translation. According to the noted anthropologist, Joan

Metge, the word “tahi” also means “together”, while “tatou” signalled the “we” in question comprised two distinct groups. As Metge explained, “This short sentence...packs in a lot of meaning. A fuller English translation would be: ‘We two peoples together make a nation’.”⁹⁵ While invariably dismissed by historians as little more than a vague statement of assimilationist intent, Hobson’s words ably summed up the humanitarian vision for New Zealand of two peoples united in “oneness”.

Narrowly focused on texts and translations, Ross’s article made no reference to this humanitarian or British background to the Treaty or the stated intentions of its authors. Henry Williams’ statement that he regarded the Treaty as the “Maori Magna Charta” was simply dismissed by her in a single, rather derisive, question: “Did Williams really believe that the chiefs, the tribes, all the people of New Zealand had been given...all the same rights as those given to the people of England?”⁹⁶ In fact, Williams did, and so, too, did Māori.

Ross and the Māori View of Te Tiriti

While Ross ignored Williams’ explanation as to what he had told Māori at the Treaty signings, she also ignored evidence regarding what Māori leaders said at those debates, believing these records reflected a missionary bias.⁹⁷ Contrary to Ross’s claim, the recorded words of rangatira at Waitangi reveal that they were not baffled or misled by Williams’ use of “mihinare Maori”. As Binney later pointed out, many rangatira at Waitangi expressed a very clear understanding of what “kawanatanga” meant – that the Governor would “be high, very high” – and that this was “an intervening authority”.⁹⁸ They also understood that the new laws would apply equally to them, with Te Kemara famously expressing his fear that he could be “judged and condemned...more than that – even hung by the neck”.⁹⁹ As Binney also discerned, the debates followed the same pattern: first of suspicion and hostility followed by “questioning of the translations, discourse, and final acceptance”.¹⁰⁰

Putting aside that evidence, Ross chose to focus instead on the debate that later occurred regarding the meaning of the Crown’s pre-emptive right to purchase land and whether it prohibited Māori dealing with private settlers. Ross cited the Ngāpuhi chief, Hara, who asserted his continued right to “do what I like with my own” land, and suggested that this indicated that Hara did not understand what had been agreed in the Treaty. But misunderstanding pre-emption did not mean Māori misunderstood the Treaty as a whole. While Hara objected to having to sell land to the Crown only, he clearly understood that the Treaty constituted a cession of sovereignty. Indeed it was Hara who accompanied Major Bunbury in his Treaty negotiations outside of Waitangi and who explained the meaning of “sovereignty” to other chiefs. He did so by drawing a “diagram on a piece of board, placing the Queen by herself over the chiefs as these were over their tribes...” in order “to enable her to enforce the execution of justice and good government equally amongst her subjects”. Hara then explained that “the tribes must no longer go to war with each other, but subject their differences to her arbitration; strangers and foreigners must no longer be plundered and oppressed by natives or chiefs, nor they injured or insulted by white men”.¹⁰¹ Hara’s explanation matched perfectly how other signatories understood Te Tiriti as reported by George Clarke in 1842.¹⁰² As Chamerovzow concluded, “After such positive evidence, we imagine no one will affirm that the New Zealanders were incapable of comprehending the nature and the importance of the Treaty.”¹⁰³

Ross went on to cite evidence from the speeches given by Māori leaders at the national conference held at Kohimarama in 1860. What those speeches revealed, she said, was that Māori “set little store by the Treaty”. In support of this claim, she cited a comment made at Kohimarama by Pāora Tūhaere, leader of Ngāti Whātua, referring to some “talk about

Waitangi” as being “Ngāpuhi’s affair”.¹⁰⁴ But as Tūhaere went on to explain, he was not seeking to dismiss the Treaty made at Waitangi in making this comment. Rather, he was seeking to emphasise the importance and appropriateness of Kohimarama in bringing rangatira together in a national conference to talk with the Crown and make decisions. Tūhaere later also questioned how Ngāpuhi (and others) could have signed the Treaty only to then turn and fight, and suggested that they must have signed in “ignorance” or been “foolish” not to realise the “hook” of “sovereignty” contained with the gift of a blanket.¹⁰⁵ But as Kawiti’s own son, Maihi Pāraone Kawiti, later stated in response, the fault lay not with the Treaty: “...that Treaty was right. Let not this Conference condemn the Treaty of Waitangi. That which was wrong was the error of Heke and Kawiti”.¹⁰⁶ As Tūhaere himself was aware, Heke had been told that the flying of the British flag meant that their land was taken away¹⁰⁷ – that British sovereignty included territory. In cutting the flagstaff down, Heke sought not to reject the Treaty but to defend the rights guaranteed by it, and once the conflict had ended and Ngāpuhi had been reassured by Williams that the Treaty would be upheld, they later reaffirmed their loyalty to that Treaty and the Crown by erecting a new flagstaff named after the union first created at Waitangi. It was called “Whakakotahitanga o nga iwi” – the “Union of the Two Nations”.¹⁰⁸

Contrary to Ross’s claim, the speakers at Kohimarama did not “set little store by the Treaty”. Nor were they in any way “uncertain and divided in their understanding” of the Treaty. In fact they spoke of the Treaty in the very same terms as its humanitarian authors did: that it had created a “oneness” or union between the races based on “love”, a shared faith, and under the shared laws and authority of God and the Queen. As Arama Karaka of Te Uri o Hau explained,

I was about so high (but a child) when I saw the practices which obtained under the Maori law, and perceived that they were bad....When the Gospel was preached in this Island I asked my father, What is this? He preaches that we should believe in Christ, who was crucified that all men throughout the world might live....Then I embraced it...I said, this will put down all evil....Afterwards came Governor Hobson. They then told me of the laws of the Queen, and of the laws of England. Then I consented that you should be a parent for me, and that the Queen’s mana should be my mana....Your laws shall be my laws, let us be bound up that we may hold close together.¹⁰⁹

As Hori Kerei Te Kotuku of Tūhourangi and Tarawera also stated, he had not entered this union or received Christian faith and British laws “without consideration”, as Ross implied: “I did not search in ignorance. I saw its benefits, and then I embraced it.”¹¹⁰ Indeed these rangatira had consented to union with the British for good reason: because they believed it would provide the best means through which their people could be protected and advance. As Wiremu Tipene of Te Uri o Hau stated,

When the law of the Queen came as a protector for my body, then all were warmly clad. The laws of God and of the Queen guard the gates of death. I beheld and thought this is a sign of salvation.... I said, Christianity will guard the soul, and the law of the Queen will improve our temporal condition: there will I take refuge.¹¹¹

Far from reactively seeking to protect their traditional position and autonomy, Māori leaders in this early period showed what Alan Ward described as an “intellectual curiosity, boldness and willingness to innovate” that made clear that they “did not want to cling to an unmodified traditionalism”.¹¹² Their aim was far more visionary, and it drew on and complemented the humanitarian aspirations exactly: to maintain their own culture while utilising “the strengths of the West” in order to not only preserve their people and resources but modernise their way of life and “achieve, for their children if not for themselves,” a “genuine equality in economic

and social life”.¹¹³ As Tāmihana Te Rauparaha of Ngāti Toa stated at Kohimarama in 1860, “We are now following a new path”.¹¹⁴ Āpirana Ngata later described that vision as an inter-generational kaupapa that sought to integrate Māori values and tikanga with faith and the Pākehā world so as to foster both Māori culture and development: “Thrive in the days destined for you, your hand to the tools of the Pākehā to provide physical sustenance, your heart to the treasures of your ancestors to adorn your head, your soul to God to whom all things belong.”¹¹⁵ As the rangatira made clear in 1860, they had agreed to the Treaty because it promised to give them not only the protection and assistance they needed to realise this vision but the “Peace and Good Order”.

It was the Bible and the missionaries that had first told Māori of the peace and order necessary for any community to flourish, and that this could only be achieved through a shared knowledge of God, and a shared commitment to the rule of law as instituted by God for humanity. As Martin later explained to Māori, in a society based on law, “There is no war...”, with “every man sitting in quiet possession of his wealth, and estates...attacked by no unlawful force, and affected by no fear”.¹¹⁶ In the Preamble to the Treaty the Crown promised to bring that “Peace and Good Order”, and twenty years later at Kohimarama the rangatira spoke of their desire for “justice, peace, and quietness”,¹¹⁷ and that they had placed themselves under the “shadow of the Queen’s wings”¹¹⁸ to achieve it. They spoke of having joined with Pakeha under the laws and authority of God and the Queen so that they could have “but one shadow to protect both Pakeha and the Maori – that the people of this Island may prosper”.¹¹⁹ They spoke of their expectation that both races would abide by these “two codes of Law – the one of God, the other of man” – and that Māori “should have a part [in the making] of the laws, and you” – the Crown and Pākehā – “the other part”.¹²⁰ And they spoke of “kotahitanga” – the “unity of [the] two peoples”¹²¹ – bound by “Christianity, the Laws, and Good-will” or “aroha”.¹²² As Lyndsay Head concluded from her own study of Māori language documents, for these Māori leaders, their relationship with the Crown was all about “citizenship” – about “belonging to the peaceful community, bounded by the rule of law and supported by the religion which law expressed”,¹²³ with the “tie that bound them into political kinship” being “love”.¹²⁴

As with the humanitarians, “aroha” – “love” – was an action concerned with justice and the balancing and re-balancing of relationships to achieve harmony. Aroha demanded good faith, equality and reciprocity in treatment, or what Pā Henare Tate later described as “affection, compassion, sacrifice and generosity, by the right and gratuitous exercise of *mana*”.¹²⁵ The rangatira at Kohimarama spoke repeatedly of this “love”. They spoke of their belief that the peace and mutual advancement they sought could only be achieved through mutual acts of “love” – that, as Te Ao o te Rangi of Tainui put it, “we should be kind to the Pākehā...as they are kind to us”.¹²⁶ They spoke of their loyalty, especially in selling land, as an act of love,¹²⁷ and that it was “through the *Law*” – through treating each other justly – “that we love one another”.¹²⁸ As Horomona Toremi of Ngāti Raukawa stated, citing the Gospel of St John – “This is my commandment, that ye love one another” – “our language has become yours”.¹²⁹ Indeed Christianity “provided the language for...conversation between them”¹³⁰ and was the very basis of their union with the Crown. Ross believed that Māori reliance on the Bible and missionaries could only have limited their understanding of what the Treaty meant.¹³¹ In reality, their Christian faith informed their understanding, for it meant Māori and the Treaty’s humanitarian authors shared not only the same God and code of civil behaviour but the very same politically radical vision: what Head described as “Equal treatment in a race-blind society governed by law”,¹³² through which all could equally prosper. As Hori Kerei Te Kotuku stated, he did not “search in ignorance” when considering the meaning of the Treaty: “I sought it carefully in the pages of Scripture.”¹³³

As many speakers at Kohimarama also went on to make clear, the conflict then facing the colony was not the “War of Sovereignty” that historians have defined it as. Certainly, that was how the Government and settlers chose to define it in order to justify their aggression and the seizure of land. But the conflict was not a fight about misunderstood words or a battle to see whose “version of the Treaty would prevail”.¹³⁴ The real cause of the conflict and growing distrust of the Kingitanga was something much more tangible: the Government’s refusal to honour the undertakings made in 1840.

Listen to us whilst we speak to you and explain our views and sentiments. They are the same as in time past, even from Governor Hobson’s time down to your own....We have always firmly adhered to you and to the Queen’s sovereignty. Do not suppose that we are holding to the New Zealand customs.¹³⁵

As Tūhaere sought to explain at Kohimarama in 1860, “sovereignty” was not the issue because they had long since acknowledged the Queen’s sovereignty. At issue was the Government’s failure to honour the Treaty by providing the legal equality and protection promised to Māori and advance their interests equally with Pākehā.

The rangatira at Kohimarama gave many examples of the unequal treatment they received. They spoke of laws that barred Māori from purchasing guns, leasing their own land, and serving on juries. They spoke of Māori communities not having roads that “bear comparison with those of the pakeha” or “schools for our boys and girls...whereby the maori race may prosper and be equal”.¹³⁶ They spoke of the Crown’s unfairness in refusing to enforce the law in tribal conflicts and insisted, “You must not say that we alone must see to this matter...we must work together.”¹³⁷ They spoke of the Crown’s failure to provide Māori with any legal means with which to determine claims to land which, they stated, had created numerous disputes that were frustrating the very peace and good order they had been promised and sought. The rangatira similarly complained that the Crown was breaching its duty of equality by refusing to give them Crown grants for their land which would enable them to sell to whom they pleased and thereby obtain fair prices, so that “we may be upon the same footing as the Pakehas”.¹³⁸ As Te Keene of Ngāti Whātua stated, “These laws are given to me to look at, not to participate in.”¹³⁹ Mohi Te Ahi-a-Te-Ngu of Ngāti Tamaoho and Te Ākitai Waiohua (a later Kīngitanga leader) said the same thing: “The Queen said there should be one law for Maori and the Pakeha. I sold my lands; but you keep the laws.”¹⁴⁰ As Martin understood, the Government had failed to show Māori “the manifest benefits” of the Queen’s sovereignty, and failed to exercise “its proper function of protecting life and property”.¹⁴¹

As the rangatira at Kohimarama also understood, such discrimination derived from a more fundamental failing: the Crown’s refusal to afford Māori an equal role with Pākehā in the local and national institutions that governed and made the law. As Ngāti Whātua rangatira stated, it was the Government who had “separated” Māori and Pākehā – “We consider that you have done so, for they are your councils which enact laws over people” and land and even the shooting of birds and which had “control over the Revenue, over public works, and over all things”, even though the “money belongs also to us”.¹⁴² They implored: “Let us be admitted into your councils. The Pakeha have their councils, and the Maories have separate councils, but this is wrong. The evil results from these councils not being one.”¹⁴³ Far from seeking autonomy or separation, what these rangatira sought was the equal inclusion and participation promised by the Treaty which, as they understood, was the only means by which they could realise what Mātene te Whiwhi of Ngāti Raukawa described as “the advantages of our position as subjects of the Queen”.¹⁴⁴ But as Selwyn recognised, Māori had been “shut out from all

share in the assemblies to which, as they well knew...they had a right to be admitted".¹⁴⁵ They had been denied their rights as "equals with the British",¹⁴⁶ and this was the underlying cause of the division facing the country in 1860. As Ngarongomau of Te Uri o Hau stated, "If the chiefs had been taken (into their councils) in days past, there would not have been any separation into two sides."¹⁴⁷

Rather than fostering equality and inclusion, the Crown had focused instead on securing land for settlers. Yet the undertakings made when acquiring that land – the promises of schools, hospitals, roads and other developmental assistance – had also been largely "forgotten or disregarded".¹⁴⁸ Denied the means to advance their communities, by 1860 many Māori had begun to see that "the more land they sell, the more they become impoverished".¹⁴⁹ Others had come to believe that the only means of securing the "order and laws" they sought and safeguarding their remaining lands was by uniting under a Māori king and forging an independent path.¹⁵⁰ As Martin realised, "among a people no less shrewd than ourselves, there has grown up a conviction that our policy is selfish and one-sided....They are not attached to our system, because it has presented so little to be attached to. It has secured to them no permanent and substantial share of the benefits of our colonisation", the very promise the Crown had made to Māori in 1840.

Many of those who fought the Crown in Taranaki likewise maintained that the issue was not – as the Government alleged – any challenge to the Queen's authority. At issue was the Government's refusal to honour its promise in article two to respect tribal control over property. As Rēnata Kawepō of Ngāti Kahungunu stated in a letter to the Government, "Do not listen to fabrications...to the effect that the Maoris are fighting against your sovereignty....They were loving subjects of yours..." who had lived for many years "under the peace-securing principles of religion" and had faithfully upheld the Queen's laws. What they sought was "not to trample upon the law; but rather to retain possession of the land which was handed down to them by their ancestors",¹⁵¹ and though "it be said this war is for sovereignty....it is for land....The Queen's sovereignty has been acknowledged long ago. Had it been a fight for supremacy, probably every man in this island would have been up in arms".¹⁵² Indeed it was not Māori but the Government which had broken the Treaty and the very laws and good faith that their union was based upon.¹⁵³ As Selwyn recognised, "The Queen, Law, Religion" had all been "thrust aside in the one thought of the acquisition of land",¹⁵⁴ with a trumped-up charge of "rebellion" used to disguise settler ambitions and justify their aggression. But as the rangatira at Kohimarama sought to remind the Government, "The Governor came to show love, he was not sent to fight."¹⁵⁵ "Where is the love of the Governor that we may know what union is?"¹⁵⁶

Because Ross did not understand the Treaty to be about "love" and faith and the law, she believed there was little talk of the Treaty by Māori at Kohimarama.¹⁵⁷ Even when Māori of her own day spoke of the Treaty's importance in guaranteeing their rights, Ross did not understand that they were reflecting an understanding that reached back to 1840. Ross wrote that she had heard Māori "yap away about the 'rights' guaranteed to them by the Treaty" but had dismissed such talk, believing these Māori to be confused because they had "never got around to reading the darn thing"¹⁵⁸ or, rather, understanding it in the way she did. The "average Maori" is "...as ignorant of the terms of his Great Charter as the average Englishman is of...his", she stated.¹⁵⁹ However, it was not Māori that were confused about the Treaty but Ross. Though she believed she had "tackled the whole thing from the Maori angle",¹⁶⁰ what she had actually presented was not the Māori view of the Treaty but the view of the Treaty's greatest critics: those disaffected New Zealand Company officials and settlers who fought hard

after 1840 to discredit the Treaty in order to free the colony of the very protections and restraints it imposed upon them, especially in relation to land.

“From the very beginning,” said Ross, “confusion has reigned over *what* was a translation of *which*”.¹⁶¹ She was seemingly unaware that it was Wakefield and his supporters who had deliberately fostered that confusion in order to question the Treaty’s validity. It was Wakefield and his supporters who first described the Treaty in the same terms that Ross would later use: that it was a sham and a fraud, little more than a “praiseworthy device for amusing and pacifying savages”.¹⁶² It was they who first argued that Māori were “incapable of comprehending the real force and meaning of the Treaty”.¹⁶³ It was Wakefield who first focused on the use of coined words in the Treaty – notably, “rangatiratanga” and “kawanatanga” – and suggested that these terms had been used by the missionaries to deliberately mislead Māori.¹⁶⁴ “I ask you,” repeated Ross, “can a ‘sacred pact’ be ‘faithfully and honourably kept’ when we don’t even know the meaning of its terms?”.¹⁶⁵ As the historian, George Rusden, observed in 1883, the “Treaty spoke so plainly for itself that it needed some effrontery to question its meaning...”, but the “constant endeavour of those who desired to defraud the Maoris was to depreciate it”.¹⁶⁶ Ross, in portraying the Treaty as a sham, had unwittingly repeated Wakefield’s misrepresentations.

She was not alone. As early as 1941 the Treaty specialist and Oxford professor, Trevor Williams, noted that numerous “politicians, lawyers and historians” had repeated “the objections to the Treaty” originally put forward by the New Zealand Company when critiquing British policy. By 1965 leading imperial historians were still seeking to draw attention to this, recognising that “Much of what is still being written about colonial administration...rests on the partisan and even malicious writings” of Wakefield and his supporters. But, as they also recognised, “Patterns of historical writing are notoriously difficult to change”, and in modern New Zealand today, many people continue to believe the Treaty to have been the misunderstanding that Wakefield first alleged.

Concluding Remarks

Ross once observed that, if only “Pakeha, instead of attempting to give the impression that no blame was on his side, openly acknowledged the blame, [and] the injustice...there would be more chance of a forward looking spirit of co-operation”.¹⁶⁷ She was right: the injustice and neglect of successive New Zealand governments toward Māori and the myth of fair dealing needed to be exposed. But in her desire to find the causes of that injustice and shake the society in which she lived, Ross had equated outcome with intention and misunderstood not only British intentions but Māori understanding of the Treaty.¹⁶⁸ As historian John Owens observed in 1986, simply because the Treaty was not subsequently honoured said nothing as to the original intentions of its authors. To say that the myth of fair dealing was fraudulent “is not to say the Treaty itself was fraudulent.”¹⁶⁹

Whatever its shortcomings, there can be little doubt of the importance of Ross’s article, and not only in shaping current understanding of the Treaty but in contributing to what has been an enduring historiographical shift. While Treaty scholarship since Ross has branched into many different areas, much of it has been driven by the same objective: to counter any claims of New Zealand exceptionalism by demonstrating our very sameness to other colonized nations. This has been above all evident in the widespread dismissal of Selwyn, Martin and other humanitarians as little more than “agents of empire”, and especially in the ongoing focus on those events that best conform to what is expected from the colonial encounter: the wars and later confiscation of land and “stories of violence and loss”.¹⁷⁰ As Ivan Sutherland once

observed, the “Maori contribution to the settlement of New Zealand has never been fully acknowledged”,¹⁷¹ not least because of an ongoing focus on the wars and a narrative of resistance and on the experience of the minority of Māori who fought. Underlying all has been a broad acceptance of the concept of “Two Worlds”: that Māori and Pākehā have completely disparate “ways of understanding the world” that can only lead to “fundamental misunderstandings”.¹⁷² Such a view has served to not only reinforce difference and distance but prevent understanding of the possible bases that once existed for union and co-operation. More than this, it has denied even the possibility that “reciprocity, mutual stimulation and creativity”¹⁷³ could also come with cultural interaction and, from this, positive cultural change.

Keith Sinclair was certainly never convinced by Ross’s argument.¹⁷⁴ He maintained that what humanitarians sought in 1840 was something exceptional for the time: to create a “biracial nation” based on a “new, non-racial concept of empire”.¹⁷⁵ As he understood, New Zealand was intended to be a society in which “Christian principles would prevail”,¹⁷⁶ and he believed those principles, and the “moral politics” they demanded of both Māori and Pākehā, were the real legacy of the Treaty, and not the conflict and injustice that had resulted to Māori from their later disregard.¹⁷⁷ There were other dissenters, too, but as James Belich once observed, it is always the “mainstream of interpretation” that is “the more widely received and accepted” and precisely because it can “accommodate the cherished preconceptions of the day”. It is the “general rule” that comes to “absorb, replace and dominate any exceptions” and, eventually, to silence them.¹⁷⁸

¹ George Selwyn to William Selwyn, 1861 cit. Philippa Wyatt, “British Humanitarians and the Founding of New Zealand”, PhD Thesis, Massey University, 2024, 1. See Wyatt for a full examination of the history and historiography of the humanitarian movement with specific regard to New Zealand.

² George Selwyn, October 1862, cit. John H. Evans, *Churchman Militant* (George Allen & Unwin), 91.

³ Henry Williams (n.d.) cit. Hugh Carleton, *The Life of Henry Williams, Archdeacon of Waimate* (Wilson & Horton, 1877), Vol.2, 12-14.

⁴ A.S. Thomson, *The Story of New Zealand: Past and Present, Savage and Civilized* (John Murray, 1859), Vol.2, 42.

⁵ Onur Ulas Ince, *Colonial Capitalism and the Dilemmas of Liberalism* (Oxford Academic, 2018), 129.

⁶ Montagu Hawtrey, *An Earnest Address to New Zealand Colonists, with Reference to their Intercourse with the Natives* (John Parker, 1840), 9.

⁷ Richard Davis, 1865 cit. J.M.R. Owens, “Missionaries and the Treaty of Waitangi: Revised text of a Lecture given to the Wesley Historical Society (N.Z.) at New Plymouth, 5 November 1985, by J.M.R. Owens” (Wesley Historical Society, 1986), 9.

⁸ Henry Williams’ Report to Church Missionary Society (CMS), 9 July 1838 encl. “Remarks of the Sub-Committee on Mr Coates letter to Glenelg, 23 July 1838”, CMS records CN/O 6 M215-6.

⁹ This was part of the title of the influential book by the prominent humanitarian, Saxe Bannister, *Humane Policy, or Justice to the Aborigines of New Settlements* (Thomas & George Underwood, 1830).

¹⁰ *Report of the Select Committee Report on Aborigines (British Settlements), With the Minutes of Evidence, Appendix and Index*, House of Commons, Great Britain, Vol.2, 1837, Vol.2 (reprinted 1966), 4-5.

¹¹ See Wyatt, “British Humanitarians”, 164ff.

- ¹² Louis Chamerovzow, *The New Zealand Question and the Rights of Aborigines* (T.C. Newby, 1848), 27–8.
- ¹³ Grey to Earl Grey, 17 March 1848, *Great Britain Parliamentary Papers (GBPP)*, 1847-8 (1002), No.37, 104.
- ¹⁴ Normanby to Hobson, 14 August 1839 in A. Mackay (ed.), *A Compendium of Official Documents relative to Native Affairs in the South Island* (Government Printer, 1872), Vol.1, No.6. See also Wyatt, “British Humanitarians”, 203ff.
- ¹⁵ This was how Martin Luther King Jr. described “integration” which was the same as “amalgamation”. See King cit. D. Allen, “Integration, Freedom and the Affirmation of Life” in T. Shelby and B. Terry (eds.), *To Shape a New World: Essays on the Political Philosophy of Martin Luther King Jr.* (Harvard University Press,), 149.
- ¹⁶ Henry Edward Manning, *The Unity of the Church* (John Murray, 1842), 76.
- ¹⁷ Selwyn, 1849 cit. Louise Creighton, *G.A. Selwyn, D.D. Bishop of New Zealand and Lichfield* (Longmans, Green and Co., 1923), 61.
- ¹⁸ Governor Browne’s address at “Conference of Maori Chiefs at Kohimarama, Auckland, on the 10th July, 1860” in *Proceedings of the Kohimarama Conference, Comprising Nos. 13 to 18 of the “Maori Messenger”*, Auckland, W.C. Wilson for the New Zealand Government, NZETC, 9.
- ¹⁹ Selwyn, 1849 cit. Louise Creighton, *G.A. Selwyn*, , 61.
- ²⁰ Henry Thomas Purchas, *A History of the English Church in New Zealand* (Simpson & Williams, 1914), 118.
- ²¹ William Martin, 1864 cit. M.W. Hancock, “Sir William Martin and the Maori People; a Study in Nineteenth Century Humanitarian Opinion”, 1950, MA Thesis, Victoria University, 1.
- ²² Selwyn, 28 May 1843 cit. Grant Phillipson, “‘The Thirteenth Apostle’, Bishop Selwyn and the Transplantation of Anglicanism to New Zealand, 1841–1868”, PhD Thesis, University of Otago, 1992, 272.
- ²³ George Selwyn, *A Charge Delivered to the Clergy of the Diocese of New Zealand, at the Diocesan Synod in the Chapel of St John’s College, on Thursday, September 23, 1847* (Francis and John Rivington, 1849), 18.
- ²⁴ Richard Hill, “Maori and State Policy” in Giselle Byrnes (ed.), *The New Oxford History of New Zealand* (Oxford University Press, 2009), 515. See Wyatt, “British Humanitarians”, for a full historiographical assessment of the construction of this orthodoxy. For a summary, see Philippa Wyatt, “Keith Sinclair and the History of Humanitarianism”, *New Zealand Journal of History (NZJH)*, 54, 2, 2020.
- ²⁵ Ruth Ross, “Te Tiriti o Waitangi, Texts and Translations”, *NZJH*, 6, 2 (1972).
- ²⁶ Waitangi Tribunal, *He Whakaputanga me te Tiriti: The Declaration and the Treaty, Report on Stage One of the Te Paparahi o Te Raki Inquiry*, Wai 1040, Vol.1, (Legislation Direct, 2014), 409-410.
- ²⁷ Ian Wards, *The Shadow of the Land, A Study of British Policy and Racial Conflict in New Zealand* (Department of Internal Affairs, 1968), 37.
- ²⁸ Ross, “Te Tiriti”, 137.
- ²⁹ Ross, “Te Tiriti”, 154.
- ³⁰ Rachael Bell, “Ruth Ross, New Scholar/Treaty Scholar”, MA Thesis, Massey University, 2005, 45.
- ³¹ Ross, “Te Tiriti”, 154.
- ³² Claudia Orange, *The Treaty of Waitangi* (Allen & Unwin, 1987).
- ³³ As Orange stated in *The New Zealand Herald*, 31 December 2008.
- ³⁴ Waitangi Tribunal, *He Whakaputanga me te Tiriti*, p411-12.
- ³⁵ Orange, *Treaty of Waitangi*, 2.
- ³⁶ Orange, *Treaty of Waitangi*, 56.
- ³⁷ Orange, *Treaty of Waitangi*, 91.
- ³⁸ Waitangi Tribunal, *He Whakaputanga me te Tiriti*, Vol.1, 411-2.
- ³⁹ Bain Attwood, “History and Myth: Why the Treaty of Waitangi Remains such a ‘Bloody Difficult Subject’”, 12 May 2023, *theconversation.com*. See Bain Attwood, ‘A Bloody Difficult Subject’: Ruth Ross, *Te Tiriti o Waitangi and the Making of History* (Auckland University Press, 2023).

- ⁴⁰ Selwyn to FitzRoy, November 1845 cit. Phillipson, ““High and Even Holy Purposes”: Selwyn in Treaty History” in A.K. Davidson (ed.), *A Controversial Churchman, Essays on George Selwyn, Bishop of New Zealand and Lichfield, and Sarah Selwyn* (Bridget Williams Books, 2011), 278.
- ⁴¹ Ross, “Te Tiriti”, 139.
- ⁴² See Judith Binney’s review of Ian Wards, *The Shadow of the Land*, NZJH, 3, 2 (1969), p199–202. See also Wyatt, “British Humanitarians”, 12–17.
- ⁴³ Bell, “Ruth Ross, New Scholar/Treaty Scholar”, 45.
- ⁴⁴ Ross, “Te Tiriti”, 141.
- ⁴⁵ Williams to Selwyn, 12 July 1847 cit. Carleton, *Life of Henry Williams*, Vol.2, 156.
- ⁴⁶ Ross, “Te Tiriti”, 153.
- ⁴⁷ Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788–1836* (Harvard University Press, 2010), 2.
- ⁴⁸ Her misunderstanding was revealed when she discussed pre-emption and Martin’s comments that the “right of the Crown, as between the Crown and its British subjects, is not derived from the Treaty of Waitangi” which Ross thought showed that officials believed sovereignty to include territory and that “the Treaty was irrelevant”. Ross had misunderstood Martin and the “rule” he was referring to. See Ross, “Te Tiriti”, 148-9 and Martin, “The Queen v. J.J. Symonds” in Enclosure no.33, Grey to Earl Grey, 5 July 1847, *GBPP*, 1847 (892), 68.
- ⁴⁹ Ross, “Te Tiriti”, 139.
- ⁵⁰ Chamerovzow, *The New Zealand Question*, 1848, 141. Emphasis in original.
- ⁵¹ Sir W. Martin, *The Taranaki Question* (Melanesian Press, 1860) (reprint from Hocken Library, University of Otago), 9-10.
- ⁵² Chamerovzow, *The New Zealand Question*, 141–2.
- ⁵³ James Stephen made this comment in draft instructions to Hobson in July 1839, but it was later deleted from the final version. See Donald Loveridge, ““The Knot of a Thousand Difficulties’, Britain and New Zealand, 1769–1840”, Report for the Crown Law Office, 17 December 2009, Wai 1040 Doc#A18, 155–6.
- ⁵⁴ Frank W. Boreham, *George Augustus Selwyn, Pioneer Bishop of New Zealand* (S.W. Partridge & Co., 1911), 97.
- ⁵⁵ Chamerovzow, *The New Zealand Question*, 142.
- ⁵⁶ William Swainson, *New Zealand and its Colonization* (Smith, Elder & Co., 1859), 81.
- ⁵⁷ Martin, *Taranaki*, 9-10. Emphasis added.
- ⁵⁸ After which Nōpera said, “We will go to the governor and get a payment for our land as before.” Nōpera Panakareao cit. Chamerovzow, *The New Zealand Question*, 153.
- ⁵⁹ Lord Stanley, February 1843 and 13 June 1845 cit. G. Rusden, *Aureretanga, Groans of the Maoris* (William Ridgway, 1888, reprint Capper Press, Christchurch, 1975), 6–7.
- ⁶⁰ Selwyn (n.d.) cit. Evans, *Churchman Militant*, 82.
- ⁶¹ Ross, “Te Tiriti”, 129, 141-2.
- ⁶² Martin, “Observations”, 8.
- ⁶³ Chamerovzow, *The New Zealand Question*, 143.
- ⁶⁴ Martin, *The Taranaki Question*, 9-10.
- ⁶⁵ Martin, *The Taranaki Question*, 27.
- ⁶⁶ Ross, “Te Tiriti”, 143.
- ⁶⁷ Martin, *The Taranaki Question*, 27.
- ⁶⁸ Ned Fletcher, *The English Text of the Treaty of Waitangi* (Bridget Williams Books, 2022), 494.
- ⁶⁹ Ned Fletcher, “There’s no clash between Te Tiriti and the Treaty”, 2 October 2022, e-tangata.co.nz.
- ⁷⁰ While Martin stated that, following the “evils” consequent upon the course followed in Australia, they had “reverted” to the “sound and just principles on which our earliest and greatest Colonies had been founded”, he was referring only to recognizing the rights and independence of indigenous peoples. See W. Martin, “Observations on the Proposal to take Native Lands under an Act of Assembly”, Enclosure No.2, Martin to Fox, 19 November 1863 in No.1, Grey to Newcastle, 6 January 1864, *AJHR*, 1864, Session 1, Appendix to E–No.2, 5.
- ⁷¹ Martin, “Observations”, 4–5.
- ⁷² Martin, “Observations”, 5.

- ⁷³ Martin, “Observations”, 4–5.
- ⁷⁴ Normanby to Hobson, 14 August 1839 in Mackay (ed.), *A Compendium of Official Documents*, Vol.1, No.6.
- ⁷⁵ When writers such as Locke spoke of “all men” or “mankind” they were referring to men only.
- ⁷⁶ Browne’s address, 10 July 1860, “Kohimarama”, 9.
- ⁷⁷ W. Hobson, February 1840 cit. Waitangi Tribunal, *He Whakaputanga me te Tiriti*, 379.
- ⁷⁸ Browne’s address, 10 July 1860, “Kohimarama”, 9. Emphasis added.
- ⁷⁹ William Martin, *Ko nga Tikanga a te Pākehā*, Akarana [Auckland], I taia ki te Perehi a Kawana, 1845, 22.
- ⁸⁰ William Martin, “Observations”, 5–6.
- ⁸¹ Hobson and Lord Russell cit. Martin, “Observations”, 7.
- ⁸² George Clarke, 1842 cit. Rusden, *History of New Zealand*, 315–6.
- ⁸³ Stanley to FitzRoy, 30 November 1844 cit. Wards, *The Shadow of the Land*, 32.
- ⁸⁴ George Clarke, 1842 cit. Rusden, *History of New Zealand*, 315–6.
- ⁸⁵ Martin, “Observations”, 6.
- ⁸⁶ Grey to Earl Grey, 17 March 1848, *GBPP*, 1847–8 (1002), No.37, 104. As Martin stated, “It is admitted on all sides that a great progress in the right direction was in fact made” by this time. See Martin, “Observations”, 6; Martin, *The Taranaki Question*, 84–7.
- ⁸⁷ Lyndsay Head, “Te Ua and the Hauhau faith in the light of the Ua Gospel Notebook”, MA Thesis, University of Canterbury, 1983, 76–7.
- ⁸⁸ Browne’s address, 10 July 1860, “Kohimarama”, 6.
- ⁸⁹ Normanby to Hobson, 14 August 1839 in Normanby to Hobson, 14 August 1839 in Mackay, (ed.), *A Compendium of Official Documents*, Vol.1, No.6.
- ⁹⁰ For a full discussion of the development of this policy see Wyatt, “British Humanitarians”, 199ff.
- ⁹¹ See Wyatt, “British Humanitarians”, 177–80; 201ff.
- ⁹² Grey to Earl Grey, 9 July 1849, *GBPP*, 1850 (1136), No.58, 195.
- ⁹³ Selwyn to *Society for the Propagation of the Gospel*, 1843 cit. Hancock, “Sir William Martin”, 15–6.
- ⁹⁴ See P. Wyatt, “Crown Purchases in Muriwhenua, 1840–1865”, Wai-45, #H9 (1993); P. Wyatt, “Ngati Whatua o Kaipara ki te Tonga and the Crown, 1840–1869”, Wai-674, #F4 (1998).
- ⁹⁵ Joan Metge, “Ropeworks: He Taura Whiri”, *Waitangi Rua Rautau Lecture*, 2004 (rnz.co.nz).
- ⁹⁶ Ross, “Te Tiriti”, 154.
- ⁹⁷ Attwood, 21.
- ⁹⁸ Judith Binney, “The Maori and the Signing of the Treaty of Waitangi” in *Towards 1990, Seven Leading Historians examine Significant aspects of New Zealand History* (Government Printer Books, 1989), 20–9.
- ⁹⁹ Te Kemara (Ngāti Kawa), 16 February 1840 cit. T. Lindsay Buick, *The Treaty of Waitangi, How New Zealand Became British Colony* (Thomas Avery and Sons Ltd., 1933), 142.
- ¹⁰⁰ Binney, “The Maori and the Signing of the Treaty of Waitangi”, 20–9.
- ¹⁰¹ Chamerovzow, *The New Zealand Question*, 151–152.
- ¹⁰² George Clarke, 1842 cit. Rusden, *History of New Zealand*, 315–6.
- ¹⁰³ Chamerovzow, *The New Zealand Question*, 151–152.
- ¹⁰⁴ Ross, “Te Tiriti”, 142. Orange repeated this argument.
- ¹⁰⁵ See discussion 26 July 1860, “Kohimarama”, 35–6; 27 July 1860, 42–3.
- ¹⁰⁶ Maihi Paraone Kawiti (Ngāti Hine), 3 August 1860, “Kohimarama”, 71–2.
- ¹⁰⁷ Tūhaere (Ngāti Whatua), 27 July 1860, “Kohimarama”, 43. See also Martin, “Observations”,
- ¹⁰⁸ Hori Kingi Tahua (Ngāti Manu), 11 July 1860, “Kohimarama”, 18–9.
- ¹⁰⁹ Arama Karaka (Te Uri o Hau) 1 August 1860, “Kohimarama”, 51–2.
- ¹¹⁰ Hori Kerei Te Kotuku (Tuhourangi, Tarawera), 18 July 1860, “Kohimarama”, 37.
- ¹¹¹ Wiremu Tipene (Te Uri o Hau), 1 August 1860, “Kohimarama”, 51
- ¹¹² Ward, *A Show of Justice*, 311–3.
- ¹¹³ Ward, *A Show of Justice*, 311–3.
- ¹¹⁴ Tāmihana Te Rauparaha (Ngati Toa), 17 July 1860, “Kohimarama”, 22.
- ¹¹⁵ Apirana Ngata, 1949 cit. Rawinia Higgins me Paul Meredith, “Story: Ngā Tamariki”, *Te Ara, The Encyclopedia of New Zealand*.

- ¹¹⁶ As Martin explained to Māori in *Ko nga Tikanga a te Pakeha* (1845) cit. Hancock, 21–2.
- ¹¹⁷ Rangi (Waitaha), 10 July 1860, “Kohimarama”, 17.
- ¹¹⁸ Matenga (Tuhourangi, Tarawera), 18 July 1860, “Kohimarama”, 34; Parakaia Te Pouepa (Ngāti Raukawa), 11 July 1860, “Kohimarama”, 22; Wiremu Tipene Takahi, 7 August 1860, “Kohimarama”, 16.
- ¹¹⁹ Wiremu Tipene Takahi (Te Uri o Hau), 7 August 1860, “Kohimarama”, 15–6.
- ¹²⁰ Te Ahukaramu, 14 July 1860, “Kohimarama”, 20.
- ¹²¹ See, for example, Rihari, 10 July 1860, “Kohimarama”, 16; “Reply from Ngati Whatua No.2”, 17 July 1860 encl. in replies published 30 November 1860, “Kohimarama”, 26.
- ¹²² Rihari, 10 July 1860, “Kohimarama”, 16.
- ¹²³ Head, “Land, Authority, and the Forgetting of Being”, 258.
- ¹²⁴ Lyndsay Head, “The Pursuit of Modernity in Māori Society: The Conceptual Bases of Citizenship in the Early Colonial Period” in Andrew Sharp and Paul McHugh (ed.), *Histories, Power and Loss, Uses of the Past – A New Zealand Commentary* (Bridget William Books, 2001), 115.
- ¹²⁵ Henare Arekatera Tate, “Towards some Foundations of a Systematic Māori Theology, He Tirohanga Anganui ki ētahi Kaupapa Hōhonu mō te Whakapono Māori”, PhD Thesis, Melbourne College, 2010, 137–145.
- ¹²⁶ Te Ao-o-te-Rangi (Tainui), 24 July 1860, “Kohimarama”, 14.
- ¹²⁷ “Kohimarama”, *passim*.
- ¹²⁸ Horomona Toremi (Ngāti Raukawa), 16 July 1860, “Kohimarama”, 17.
- ¹²⁹ Horomona Toremi (Ngāti Raukawa), 16 July 1860, “Kohimarama”, 17.
- ¹³⁰ Head, “Land, Authority, and the Forgetting of Being”, 6.
- ¹³¹ Ross, “Te Tiriti”, 137.
- ¹³² Head, “The Pursuit of Modernity in Māori Society”, 115.
- ¹³³ Hori Kerei Te Kotuku (Tuhourangi, Tarawera), 18 July 1860, “Kohimarama”, 37.
- ¹³⁴ Vincent O’Malley, “What Caused the New Zealand Wars?”, 19 May 2019, e-tangata.co.nz.
- ¹³⁵ “Reply from Ngati Whatua to Governor’s Address, No.1”, 16 July 1860 encl. in replies published 30 November 1860, “Kohimarama”, 24.
- ¹³⁶ Tāmihana Te Rauparaha (Ngāti Toa), 25 July 1860, “Kohimarama”, 23.
- ¹³⁷ “Reply from Ngati Whatua to Governor’s Address, No.1”, 16 July 1860 encl. in replies published 30 November 1860, “Kohimarama”, 24–5.
- ¹³⁸ “Reply from Ngati Whatua to Governor’s Address, No.1”, 16 July 1860 encl. in replies published 30 November 1860, “Kohimarama”, 24–5.
- ¹³⁹ Te Keene (Ngāti Whatua), 11 July 1860, “Kohimarama”, 24.
- ¹⁴⁰ Mohi Te Ahi-a-Te-Ngu (Ngāti Tamaoho and Te Ākitai Waiohua), 25 July 1860, “Kohimarama”, 28.
- ¹⁴¹ Martin, “Observations”, 7.
- ¹⁴² “Reply from Ngati Whatua to Governor’s Address, No.1”, 16 July 1860 encl. in replies published 30 November 1860, “Kohimarama”, 24–5.
- ¹⁴³ Tūhaere (Ngāti Whatua), 13 July 1860, “Kohimarama”, 41–2.
- ¹⁴⁴ Matene Te Whiwhi (Ngati Raukawa), 16 July 1860, “Kohimarama”, 15.
- ¹⁴⁵ Selwyn (n.d.) cit. Evans, *Churchman Militant*, 89.
- ¹⁴⁶ Selwyn to Coleridge, 26 December 1865 in H.W. Tucker, *Memoir of the Life and Episcopate of George Augustus Selwyn, D.D.*, Cambridge, Cambridge University Press, 1879 (reprint 2011), Vol.2, 209.
- ¹⁴⁷ Ngarongomau (Te Uri o Hau), 1 August 1860, “Kohimarama”, 54–5.
- ¹⁴⁸ Martin, “Observations”, 9.
- ¹⁴⁹ F.D. Bell cit. Martin, “Observations”, 9.
- ¹⁵⁰ Swainson, *New Zealand and the War*, 19ff.
- ¹⁵¹ Swainson, *New Zealand and the War*, 114.
- ¹⁵² Renata Kawepo to Featherston, 23 July 1861, encl. Martin, “Observations”, 16–7.
- ¹⁵³ Nepia Taratoa, Kingi Te Ahoaho and others to Governor Browne cit. John Stenhouse, “Churches, State and the New Zealand Wars”, *Journal of Law and Religion*, 13, 2 (1998-9), 491.

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- ¹⁵⁴ Selwyn to Edward Coleridge, 26 December 1865 in H.W. Tucker, *Memoir of the Life and Episcopate of George Augustus Selwyn* (Cambridge University Press, 1879, reprint 2011), vol.2, 209.
- ¹⁵⁵ Pauro, 16 July 1860, “Kohimarama”, 26.
- ¹⁵⁶ Tūhaere (Ngāti Whatua), 11 July, “Kohimarama”, 24.
- ¹⁵⁷ Other historians have also assumed this. See, for example, Lachy Paterson, “The Kohimārama Conference of 1860: A Contextual Reading”, *Journal of New Zealand Studies*, No.12 (2011).
- ¹⁵⁸ Ross, 21 August 1957 cit. Bell, “Ruth Ross”, 89.
- ¹⁵⁹ Ruth Ross, “The Autochthonous New Zealand Soil” in P. Munz (ed.), *The Feel of Truth, Essays in New Zealand and Pacific History* (A.H & A.W. Reed, 1969), 54-5.
- ¹⁶⁰ Ross, 23 June 1957 cit. Bell, “Ruth Ross”, 89.
- ¹⁶¹ Ross, “Te Tiriti”, 135.
- ¹⁶² Charles Buller, House of Commons, 17 June 1845, hansard.parliament.uk.
- ¹⁶³ Chamerovzow, *The New Zealand Question*, 151–2.
- ¹⁶⁴ Edward Jerningham Wakefield, *Adventure in New Zealand, from 1839 to 1844* (John Murray, 1845), Vol.II, 456-66.
- ¹⁶⁵ It was Wakefield and his supporters who also questioned whether Māori constituted a sovereign nation that could even have ceded sovereignty and who described the notion of “a native law of real property” as little more than a “fiction” – criticisms that have likewise come to be repeated by some historians. See Charles Buller, House of Commons, 17 June 1845.
- ¹⁶⁶ George Rusden, *Aureretanga, Groans of the Maoris*, 7.
- ¹⁶⁷ Ross, October 1955 cit. Bell, “Ruth Ross”, 78-9.
- ¹⁶⁸ Owens, “Missionaries and the Treaty of Waitangi”, 1.
- ¹⁶⁹ Owens, “Missionaries and the Treaty of Waitangi”, 1.
- ¹⁷⁰ Joanna Kidman and Vincent O’Malley, “Remembering and Forgetting Difficult Histories: The New Zealand Wars”, 24 October 2021, “BWB Talks”, [youtube.com](https://www.youtube.com).
- ¹⁷¹ I.L.G. Sutherland, *The Maori People Today – A General Survey* (New Zealand Institute of International Affairs, 1940), 45.
- ¹⁷² Anne Salmond, “Anne Salmond on the Treaty Debate: Māori and Pākehā Think Differently”, *Newsroom*, 15 December 2023.
- ¹⁷³ Joan Metge, “Ropeworks”.
- ¹⁷⁴ See Sinclair in “The Changing Perspective on New Zealand History” in W.S. Livingston, W.R. Louis (eds.), *Australia, New Zealand, and the Pacific Islands since the First World War* (University of Texas Press, 1979), 44.
- ¹⁷⁵ Keith Sinclair, “The Aborigines Protection Society and New Zealand: A Study in Nineteenth Century Opinion”, MA Thesis, University of New Zealand, 1946, 11.
- ¹⁷⁶ Keith Sinclair, “Why are Race Relations in New Zealand Better than in South Africa, South Australia or South Dakota?”, *NZJH*, Vol.5, No.2, 1971, 126.
- ¹⁷⁷ Keith Sinclair, “The Historian as Prophet: Equality, Inequality and Civilization” (1964) in *Great New Zealand Argument*, 3 March 2005, publicaddress.net, 3.
- ¹⁷⁸ James Belich, *The New Zealand Wars and the Victorian Interpretation of Racial Conflict* (Penguin, 1986), 332.