

4895

Title: Constitutional Review - Submission 2013
From: David Marshall,
Napier

Submission:

a) Size of Parliament

The nominally 120 members are more than is needed to run a country of 4.5 million people if the structures and processes are modified to cope efficiently. I am opposed to any increase in numbers and recommend that there are no more than 100 representatives – all to be elected, i.e. no list MPs.

b) The length of term of parliament – Should the term be fixed?

With no Upper House or a Citizens' Veto of unacceptable legislation, there is an argument for a shorter term and more frequent elections. A longer term than the present three years however, gives a party more time and stability to implement its policies. On balance, I favour a four-year term.

c) Should the Election Day be flexible or fixed?

Currently the Prime Minister fixes the date with the subsequent benefits to his/her own party. Whilst a fixed date may open things up to electioneering and lobbying, I do not believe it is a major problem as long as the electorate can vote democratically.

d) Should the number of electorates stay the same?

No. The electorates should be adjusted to accommodate a maximum of 100 seats and all list members should be eliminated.

e) Should the method of calculating the size of electorates be changed?

The system needs to be fair to all participant parties. The change of electoral boundaries in the past has tended to be arbitrary between Labour and National over areas where they have dominated in previous elections. It is doubtful if there will ever be a perfect system but it should be as fair as possible. I am opposed to separate electorates based on race. Therefore, the Maori electorates should be eliminated.

f) Should electoral integrity legislation be reintroduced?

Yes. In view of yet another example of a party member losing the confidence of his own party during this current term of parliament, I believe that the electoral integrity legislation should be reintroduced to both stop party hopping and also MPs staying on in parliament after they have been dropped from their own party.

g) Should the Maori Electoral option (separate Maori roll) be retained or abolished?

It should be abolished, as no representation should be based on race alone. New Zealand is a multi ethnic and multi cultural country and all citizens should have equal rights, based on citizenship, not on race.

h) Should the parliamentary Maori seats be retained or abolished?

They should be abolished because they are based on race. Currently there are 23 Maori politicians in parliament, which exceeds their demographic representation and proves the point. Winston Peters has made the point that Maori find the need for separate representation demeaning.

i) Should local government Maori seats be retained or abolished?

They should be abolished for the same reasons expressed above.

j) The role of the Treaty of Waitangi within our constitutional arrangements:

The Treaty has become a divisive document. From being a declaration of sovereignty, it has been distorted into a means of obtaining special privileges and resources, and creating deep racial divisions into our modern day society.

k) Bill of Rights issues (for example, property rights, entrenchment)

The rights of all citizens should be the same. This includes property rights.

l) Should the protection of property rights be included in the Bill of Rights?

Yes

m) Written constitution:

New Zealand should retain its present flexible constitutional arrangements that consist of a collection of written statutes, conventions, and common law rights that together set out the basic rules by which we are governed. Our elected Members of Parliament who are accountable to the electorate should hold all law-making power. New Zealand does not need a new written constitution. It should avoid anything that gives the ultimate law-making power to un-elected judges

4590

From: Felicity Marshall
To: <constitutionalreview@justice.govt.nz>
Date: 5/08/2013 3:18 p.m.
Subject: Submission for CAP. Please submit today.
Attachments: Why I do not think the Treaty of Waitangi should be made a formal part of our constitution.pdf

Submission to the Constitutional Advisory Panel.

Felicity Marshall

Marlborough.

30 July 2013.

Email:

I do not think the Treaty of Waitangi should be made a formal part of our constitution.

I am a native New Zealander but I have no Maori DNA. My children are 7th generation New Zealanders.

To expand my perspectives on the world my parents took me to live in and experience Australia when I was a teenager, in part so that we could appreciate better the history and connection we had with our own country, New Zealand. My family was not wealthy, in fact part of our leaving was so that we could afford to keep our family home situated in the wilds of the upper South. I remember crying when we were told of the decision to be made because my whole sense of myself and my history, as handed down to us by my parents, was bound up in this land and the area surrounding it, an area that my family had been intimately involved with for time longer than my young mind could comprehend; to me it was 'forever'. In practical terms it was around 130 years. In our New Zealand life we knew and visited the resting places of our forebears, and paid regular visits to our extended family members. We learnt family history and were taught to behave respectfully and appreciate the connection that we had with these people.

We moved to Australia to save our heritage. In the end we all, bar one, returned as young adults. To further my career I moved to Australia again as an adult for a few years where I met my (5th generation) New Zealand husband. We had 3 children and uppermost on our mind was to return them as small children to their homeland to grow up with the same connections we had and to enable them to remain connected to their extended family. We have settled in the area of my birth and my family history and connection. These children are now the 7th generation of our family to fish for whitebait in our family area streams. My grand niece and nephews are 8th generation. Our children have learnt the stories of our ancestors in these places and been shown the places where their grandparents, great grandparents and great great grandparents tramped among the hills and forests, negotiated the swamps and estuaries, harvested the flax and instilled in their own offspring

the values which we hold important today. These values, in our family, have always been a deep respect for the land and the sea, and the importance of our caring for them to the best of our ability. I have shown my children the trees their grandfather and great grandfather planted to help stabilize the coastline along where we came from. I have pointed out the places where all our composting waste was buried; places now supporting healthy old trees. I have shown them the long walks we used to go on collecting seeds, grasses, leaves and flowers to make collections and learn more about our native fauna, which my father loved with a passion. We moved to houses with bare grass lawns and he would create beautiful native ecosystems, some of which still survive today.

We lived a pretty simple, but full life. Most of our food came from our vegetable garden. Our outings were to beaches, mountain tracks, swimming holes and, if we could convince mum enough, the local dump. We sat on our picnic rug and ate sandwiches and drank tea and milo. We camped in tents, or stayed with extended family. Our entertainment was the sand dunes and the beach, the sinky islands of sand, running the hills and trails to the West coast beaches we loved.

My father and grandparents first had electricity and hot water on tap in 1938. Like many people from his era, my father's life was not easy. He found his peace and his passion in the bush and the mountains. He was attracted to my mother because they shared these deep-seated values of attachment to the land and to family. He was embraced by my mother's family and became a part of her history up the top of the South.

When I pass over a certain bridge out in the middle of nowhere, I feel like I am coming home to our land. It may be hard for a city person to understand but the scent of the dirt is meaningful to me and connects me immediately with an entire history that goes much deeper than just me. The smell of the sand on a warm day and the sting of the blown sand on my bare legs as we wander out in the wind to gather from the cockle and pipi beds that my family have treasured for generations are what is meaningful to me.

My parents have only ever known New Zealand as their home. I recall my father's pain and despair when he began reading, 20 or 30 years ago now, that only people with Maori DNA truly understand the land, truly care for the land and are attached to it in a spiritual sense, and my mother's despair and anger when she read how New Zealanders need to understand that Maori have a sense of family, and a connection to family and a depth of spirituality that other people can only dream about. Such comments show a deep disrespect for, and lack of understanding of New Zealand culture as it came to us from

European places. Disrespect and misunderstanding travels in both directions, not just one.

Where ever we went and lived my parents welcomed all comers into our home. My father was forever bringing home people he had met to share in our family's hospitality. My mother taught us that we must be kind to others and one year when I didn't want a certain girl at my birthday party my mother insisted that she be invited and made welcome. As it turned out, the girl was a Jehovah's Witness and was not allowed to attend anyway, but she turned up at my door with a present for me (a stencil set of micky mouse characters) to say Happy Birthday and then leave. I was devastated as I could not comprehend how a child was banned from birthdays just because of her parent's belief system. It was clear that she was desperate to come and join in, and my Mum sent her off with some cake (which had not yet been cut, but was cut for her) and some small gifts. Mum's lesson to me was that although we must be respectful of other people's beliefs, people can suffer within those belief systems, especially those who cannot speak for themselves, and we must not ourselves ban them from taking part and we must not make assumptions about why people are the way they are.

One of the joys of my life as a child and teenager was being in the water. There was nowhere we went that we didn't try to find somewhere to swim. Winter or summer, fine or wet, cold or hot, swimming was our life. Over at the West Coast beach where we hung out my mum would warn us of the dangers of swimming in the surf; she took us and showed us the grave of the poor young man, buried next to my grandfather, who had drowned when washed off the rocks at this beach. She hunted out rock pools for us to swim in instead that she knew would be safe. My footwear, more often than not, was bare feet and I shunned shoes whenever I could, apart from gumboots which usually ended up filled with water from yet another eeling expedition down the creek.

When I went to an Australian school for one year at the age of 9, I was dismayed that we had to wear shoes at school. Our first ever night in Australia we stayed in Kings Cross in a small hotel and I remember cart-wheeling down the street in my roman sandals and splashing around the sparkingly lit up El Alamein fountain thinking what a foreign land this was compared to my homeland. I felt a love for my New Zealand much as one feels the sudden bond with one's newborn child; overwhelming and (you just know) forever. Experiencing being away from New Zealand at this age seemed to strengthen my attachment to my country. For the first time ever I truly appreciated what

it meant to me. I could feel just how deeply embedded in my bones my own homeland was.

I feel very sad about some of the things that Maori people of old lost when New Zealand was colonised by Europeans. I can recognise what it would be like to have my whole life upended and things that I took for granted changed beyond recognition. I know my own family has suffered loss and unfairness in their past histories, sometimes on a massive scale, and these experiences of the past have impacted on my life today.

I have also experienced the trauma of discovering, through research of the written record, that a long held and cherished belief about our family of origin, that has been handed down verbally for many decades, was not true.

Whilst I believe that all individuals need to be treated with respect and given a chance, I also believe that it is human nature to see opportunity and to take it in order to further one's own and one's family's ambitions. I am writing this submission today because I believe that my own family's future opportunities and our connection with our land are threatened and I am grateful to have the chance to have my say.

I also believe that New Zealanders have worked very hard to redress the wrongs of the past that have been done to Maori and to honour the Treaty of Waitangi as it was written and intended in 1840.

I do *not* accept that the treaty is a living document. I believe that it is so flawed and questionable as to be dangerous. I believe that the "principles" adduced in the 1970s are a modern day creation that play into the hands of certain New Zealand families who see that they can benefit at the expense of all other New Zealand families into the future in perpetuity and this, I believe is wrong and divisive.

You say in your booklet "the conversation so far" that "It is possible to view the principles as a pragmatic way of enabling decision makers to give effect to the spirit and intent of the treaty and to take care of the relationships established by the treaty without being limited by the differences in the wording of the treaty." Yes, it is *possible* to do this. But it is *also possible* to view these principles as a ploy of a certain portion of the population to gain power and control over the rest of the population based purely on a small amount of DNA that they have and which others don't.

You say that "the conventions [of the judiciary and government] are based on democratic principles". There is nothing democratic about the way the Treaty of Waitangi is being used and interpreted. You acknowledge that the Waitangi Tribunal has played a large part in formulating what is "fair". I do not accept

that the Waitangi Tribunal has been a fair and democratic body. I believe that the evidence that is coming out shows more and more just how unfair the entire process is, and how biased towards a respect for the rights and beliefs and memories of people with Maori DNA and a tribal outlook is, compared with the bias it shows *against* people with no Maori DNA. As such, I believe that what has been decided by the Waitangi Tribunal thus far is suspect, in terms of truth and fairness. I realise that we cannot reverse what has been done and decided (just as Maori of old could not reverse the arrival of the Europeans once it had happened) but we must fight to make sure that no further wrongs are perpetrated by this body against New Zealanders without Maori DNA and tribal affiliations. To have the Waitangi Tribunal as the body that "is responsible for defining what the Treaty means in a modern Context" is wrong. The Tribunal is an undemocratic, stacked body which should be abolished.

Lloyd Geering, in his 2002 book, *Christianity Without God*, made the observation that "the modern secular world, with all its faults and problems, represents a new but legitimate stage in the Judeo-Christian cultural stream". I.e., our secular New Zealand culture today stems primarily from our Christian past. If any document is to be considered our founding document, even by today's secular majority, it would have to be the Christian bible and all the associated writings that go along with that. There are Maori beliefs that have evolved their own place in New Zealand, usually for people with Maori DNA, but sometimes for those of non Maori descent as well. These need to be respected but in no way should they be considered a foundation of our secular society. Furthermore to consider that the Treaty of Waitangi in any way illuminates clearly the Maori values that should be held in primacy in our Culture is wrong. That sort of information does not exist in the 1840 treaty document. The simple example of the morphing, by Maori sympathisers, of the word *taonga*, from property procured by the spear into (in the late 20th century) all things of value both tangible and intangible is a prime example. If ever there was a case of a group altering a concept to enable them to gain benefit at the expense of others, this is it.

I often hear now the statement from Maori that if other new Zealanders question their version of the Treaty or speak against it, then those New Zealanders clearly haven't been "educated" enough and that they recommend that the government undertake more and better "education". It is as though their idea of being right is so entrenched that they are unable to engage meaningfully in any debate about the history of New Zealand or about the written documentation which New Zealanders in recent years have been

scrutinising themselves, outside of the government and its appeasement agendas. It is insulting and childish for these people of mana to treat other new Zealanders who disagree with them in this way.

Maybe, in some ways and in some places, the Maori memory has been wrong. This needs to be acknowledged.

I will never forget my father going through the references in the Claudia Orange book, *The Treaty of Waitangi*, which had a huge influence on New Zealanders' good faith towards Maori grievance, and showing me how she had represented the references in a way that, to him (and to me) was not what was actually being said. My father had taken the trouble to search out the original references used by Ms Orange because it was important for him to understand the detail behind the hype. He has also shown me similar areas in James Belich's book *I Shall Not Die*, in which the references don't accurately represent the text attributed to them. I have become very aware of just how vulnerable we are to being "educated" to an agenda, rather than to the truth.

You say that part of the Treaty was about the "absolute Authority for chiefs to be chiefs". Chiefs are the rulers in tribal society. Tribal society is not democratic. Those at the bottom of tribal structure are, I believe, far worse served than those at the bottom of a democratic society. Those in the middle do not have the same democratic rights to oust the tribal elite that we have in a democracy. It is in the interests of the tribal elite to retain their power and control, and to expand it, as this is a direct benefit to their family and descendents in a way that being in charge in a democracy is not. Tribalism is a negative step for the majority of people. When a democratic country is set up to essentially "co-govern" with a tribal elite then we are taking a massive step backwards. We are entrenching a group of people and beliefs that will only ever benefit a small portion of society. Not only that but we are stripping the rights and sense of belonging, ownership and responsibility that all New Zealanders should be able to feel for their country in order to make it strong and good.

One of the largest most consistently disenfranchised groups in history has been (and continues to be) Women. Women in New Zealand only got the vote in 1893, in Britain it was in 1928, 88 years after the Treaty of Waitangi was designed and signed. Although the Crown at that time was headed by Queen Victoria she was not representative of women. The laws she oversaw were all laws conceived of and written by men in which *they made assumptions* about

what women wanted and what was good for them (possibly). The point is, *Women themselves had no say*; no say in who was elected, no say in who managed their society, including that part of British Society that represented the Crown in 1840. At that time there were at least 13 million women supposedly represented by the British Crown who in fact *had no rights and effectively no formal say in any government dealings*. The Treaty of Waitangi was conceived of, formulated and executed by men, essentially for men. *Fifty percent of my ancestors were therefore completely barred from any chance of any formal input into this document.*

I believe that had society at that time treated women fairly and equally (and there was no reason why they should not have been doing so) then the creation and outcome of any treaty agreement would have been vastly different. For instance, women may well have insisted that all signatories of any treaty agree to treat women with equality in all areas of public and private life. They may well have refused to sign any treaty without this clause being included. We will never know because this did not happen.

So we have a Treaty signed 180 years ago, of which no agreed on proper English version exists, that was designed without any formal reference to or input from 50% of my (and everyone else's) ancestors, ie ***with no formal female input at all*** and you are saying it should be treated as a living document! **This is so wrong**. The Treaty of Waitangi was a document of its time, between men. The Crown did its best at the time, but it was a flawed era in which the vast majority of women had no say at all. For this reason alone the Treaty should never be considered the basis for any "living" document now or into the future. It served a purpose at a time, but that time has now passed.

Between them, my children have about 20 generations of New Zealand blood. An Australian born adult who has never lived in New Zealand, but has 1/64 Maori DNA in them, can marry a Chinese Australian and move to New Zealand and have more rights than my children do. This is all because of a piece of paper signed almost 200 years ago, whose meaning is, despite official government line, still debated.

Further, if one of my children were to marry the above Australian, then that branch of my grandchildren will have more rights than the rest of my grandchildren in what is supposed to be a democratic country. I see how I argue and disagree with my brothers and sisters about things. We are not perfect. Sometimes grudges are held for many years in families. The idea that one branch of my family, into the future, can hold power over another branch and can seek favours from the government available to them for no other reason than that they have a miniscule portion of DNA in their blood is terrible.

Along the same lines, it is only in very recent times that more equality for women has been achieved. This has only happened because we are a democratic society. To encourage the bolstering of a Maori tribal set-up through entrenching the Treaty of Waitangi in our constitution means that we are taking equality backwards for all bar a few tribal females. I look at it from the point of view of a grand-daughter of mine, say, who has a small amount of Maori DNA and wants to access the benefits that come with that; benefits that her grandparents have paid towards through their taxes which were given by the government to Maori tribes so that they can run those tribes as they see fit. If this grand-daughter has the good luck to be close family to a chief, and if she agrees to behave in the way that they decree, then maybe she will not experience the inequality in a way that bothers her. If she marries a commoner in the hierarchy, then her ability to benefit fully from the tribe will be purely dependent on her following the tribal belief system, a system which is renowned for its primitive treatment of women who are not at the top of the pyramid.

Yes, maybe that will change, as our society has changed, but we have no guarantees. I do not believe we should support, into the future, a dual system of governance in which this sort of issue remains unresolved. As a country we have only so much money to go around. I believe it is in the best interests of the vast majority of New Zealanders that the system we put our heart and soul into is the democratic system.

I believe that Maori society before the arrival of the Europeans was basically a violent and incredibly stressful society to exist in. Much that is good and has benefited the descendants of Maori has come from European beliefs and knowledge.

New Zealanders have made many mistakes but they have tried to atone for those mistakes. The outcome is not perfect but it is good enough. When I was younger I paid the government for a lifetime driving licence. I signed the document and accepted the agreement. The government later, and unilaterally, decided that it was in the best interests of the country to cancel my lifetime license, without my agreement. The government was able to do that. The government does have the power to do that.

The government can and should see the treaty in the same light. It is not our founding document. It has been morphed into something I don't believe it was ever intended to be. I do not believe there is enough evidence, from the 1840s to show that either side believed that Maori would co-govern, or be in partnership with the Crown. I believe if you look at belief systems from that time you could never accept that the Crown would have signed on that basis. If either side that was signing can be shown to have misunderstood the intent

of the treaty then the debate we should be having now should be centred much more clearly around whether the treaty should be consigned to history. There should be shows and programs, with government support, helping "the other side" to put their voices just as Maori have been supported to put their voice.

I believe that as a society we are a long, long way off being ready to debate whether the treaty should be a part of any future constitution.

We know that in every big debate in society there is a pendulum. First it swings one way, then another, then back again, until it finally rests in the middle somewhere. It is only once the pendulum of treaty debate finally stops swinging that we can consider how, if at all, to use the treaty into the future in New Zealand. Right now we have experienced the treaty debate swing from nothing, far over to the Maori rights side. It is only just beginning its swing to the other "Rights for all New Zealander's" side. Until this swing has happened fully and completely and then come back again (and looking at the Maori swing we are here talking about giving it at least another 30 to 50 years) **we must not lock the treaty into any sort of position of ultimate authority over New Zealanders. I.e. We must NOT include it in the constitution.**

I feel very uncomfortable when I hear commentators refer to anyone who is part of the pendulum swing away from Maori rights as a "redneck" or a "racist". My father has worked hard and long to bring treaty issues into mainstream consciousness from a New Zealander's point of view. He is not perfect but this sort of language is insulting to him as an elder of my community. It is unfair and shows a gross lack of understanding and disrespect. These people deserve their say and the time in which to say it. To mock them and put them down in order to shut them up reveals an immaturity in the entire debate (a fault present on both sides, I agree). While the debate we are having remains this immature then it is dangerous and wrong to enshrine the Treaty of Waitangi in the constitution.

Finally, I believe that many people are scared of talking out about the Treaty because they are fearful of being called names and of being put down. Maybe also, having not experienced growing up in the New Zealand countryside, they cannot conceive of the feelings of attachment and belonging that exist in any New Zealander who has their roots in these areas. If they don't identify with this feeling themselves then it is easier for them to agree that it must be a **Maori** spiritual thing. My experience is that **it is not**. The connection with the land and its history, with its future and its preservation, with its deep connections to family and wellbeing, is a human thing. I have this connection

to my land. I had the good luck to be brought up in a society and a family where my connection with the land was nurtured and valued. Our love of our place and our land was valuable. We had to sell the small piece of land we owned some years ago to free up money to support extended family in trouble. I grieved long and hard for our place. I dream about it regularly still. I take my children back frequently on pilgrimages to all the places we know and love. My mother is old and increasingly frail and our next trip is to take her back to reconnect before she passes on. The ashes of our ancestors are in the trees and the sandunes and the sea. The skeletons of the sharks and whales we have buried on our beach are in our minds. We don't "own" the land that we love and dream of. We no longer even own our own small piece to return to without cost, but we are free to go to our area, to go places and to share that spirituality with our children and with others. Having said this there are already areas of great importance to my family that have been handed to Maori control that we cannot go to freely. By handing "ownership" or control of any more of this land to Maori into perpetuity; by making it so that I might have to get permission and explain myself to someone who is supposed to be more connected merely because almost 200 years ago, one of their ancestors was there at a certain time when a piece of paper that we can't even agree on was signed, is to destroy forever the deep connection with land and country that all New Zealanders should have the opportunity to experience and develop should they so desire. The land and the sea of New Zealand are my spiritual and my physical home. They are also the spiritual home of many with Maori DNA. What you are doing through your modern day principles is saying to me that there is now a Maori priesthood in New Zealand through whom I must seek absolution in order to be fully immersed in my country. Furthermore it is a priesthood that I can never aspire to be a part of, no matter what my beliefs, because I do not carry the "right" DNA. This is racist. It is apartheid in the making and it is wrong and dangerous. It is for these reasons that I state, as strongly as I know how, that I do not support the Treaty being made a formal part of our constitution.

Felicity Marshall

889

From:
To: <constitutionalreview@justice.govt.nz>
Date: 21/05/2013 7:13 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Frederick John Marshall Organisation Name: CommuniTrees Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Postal Region Postal Post Code:
Postal Country: New Zealand Submission: Ok, so I'm going to try and be simple about my
thoughts on a written New Zealand Constitution.

First off, I like the opportunity for having a say, and I think direct democracy is important, as so many times in history those given power have abused it.

I think there need to be checks and balances with regard to how the government can pass and enact laws. I believe the people have the ultimate power in allowing this sort of thing to happen, and I believe we must have the power to remove from power those who abuse their power.

On the treaty:

The treaty gives sovereign rights to Maori. End of story. They are sovereign. On par with the crown. Not a ward of the state, but a power in their own right, and deserving of respect as such. They were here first.

On the bill of rights:

Right of religion (or freedom from religion, which I would include easter holiday and christmas trading holidays)

Freedom of speech

Freedom of assembly (rights to protest and to organise)

Freedom of dissent (right to not agree with the government, and to actively disagree)

Right to life, liberty and the pursuit of happiness (so long as nobody gets hurt)

The right to do what is necessary to right wrongs, such as in the case of the ploughshares at

waihopai. To avoid potential corporate or international domination of New Zealand and Maori sovereignty.

Rights of the environment (to enshrine in law protection of the biosphere, that which is the basis of all our lives. The environment is not something to be commodified and compromised, but to be left and to be strengthened)

On Maori Representation:

Maori should be represented. Their culture is not the same as the colonial culture, nor should it be forced to be. I think Maori protocol should be present and incorporated into our system, as well as there being separate channels of process.

In general:

I believe strongly in personal freedoms, that life is about more than being a productive worker, and that earning a living is not the be all and end all of what it means to be a New Zealander. I think so long as people are not being hurt, we should be allowed to live free of domination by government and police.

I believe the government should be taking a more active role in securing the sustainable resilient future that is required in the coming future. Personally I'd like to see a campaign of planting food bearing trees, permaculture style food forests in all towns and cities in the country as part of the government's efforts to eliminate poverty. It wouldn't cost much and would be of great benefit to the people.

I believe the increasingly intimate relationship with international finance, mining, and general corporate interests demonstrated by the current government is at odds with the wellbeing of the average New Zealander, and even worse for coming generations. I think there needs to be a real concerted focus on local level resilience and governance, from food to finance to housing, with a strong emphasis on sustainability and environmental restoration.

It's only with a strong and healthy environment, and abundant healthy food that we can hope to have a strong and healthy society.

Sent on the 21 May 2013 at 19:12

9/4/13

416

G A Marshall

Received 16 April 2013

South Canterbury

Dear Sir

I am one of the 40% of New Zealanders who does not have a computer and therefore can not view your website I take it that a discussion is to be held to the view of a written constitution.

If this constitution is to be based in any way on the Treaty of Waitangi then the whole process becomes a farce.

A constitution must be without bias or favour to any group and must treat all citizens equally, this will mean of course no racially appointed/politically appointed seats in Parliament and no seperate electoral roll.

If by some miracle a written constitution should ever make it to draft it must be widely circulated through all forms of the media. It must then be voted on by all NZ citizens and put to a binding referendum.

The cynic in me tells me that this will never happen, there are far too many entrenched groups who will not be happy to surrender their special status.

My submission therefore is for a written constitution but only if it is based on a level playing field without any "special exemptions".

Leave the Parliamentary term at three years, if they are any good they can get another turn, if not out they go!

Yours faithfully,

G A Marshall

2558

From: Jeanette Marshall
To: <constitutionalreview@justice.govt.nz>
Date: 4/07/2013 1:15 p.m.
Subject: CAP Submission

Abolish

Jeanette

1358

From: "Kay Marshall"
To: <constitutionalreview@justice.govt.nz>
Date: 15/06/2013 4:32 p.m.
Subject: Constitutional Review

SUBMISSION

I BELIEVE NEW ZEALAND DOES NOT NEED A WRITTEN CONSTITUTION AND I STRONGLY OPPOSE ANY LEGISLATION OR REFERENCE TO THE TREATY OF WAITANGI BEING INCLUDED SHOULD ONE BE DRAFTED NOW OR IN THE FUTURE. WE AS A THRIVING COUNTRY HAVE MANAGED SO FAR WITHOUT THIS WRITTEN VERSION AND I OBJECT TO ONE BEING CONSIDERED NOW WITH THE TREATY BEING GIVEN MAJOR IMPORTANCE. WE ALL HAVE THE SAME OPPORTUNITIES, EDUCATIONALLY, PROFESSIONALLY AND UNDER THE HEALTH SYSTEM AND ANY LEGISLATION TO DIVIDE THIS COUNTRY WILL BE ILL ADVISED. WE SHOULD NOT BE ENDEAVOURING TO LEGISLATE FOR RACES NOT TAKING ADVANTAGE OF THE OPPORTUNITIES MADE AVAILABLE TO THEM. LET US MOVE FORWARD IN THIS REGARD, NOT BACKWARD.

MRS KAY MARSHALL

KATIKATI

4174¹¹

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
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Attachments: NZ Constitutional Review -Leigh Malcolm Marshall.docx

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NZ CONSTITUTIONAL REVIEW

SUBMISSION BY LEIGH MALCOLM MARSHALL

SUMMARY

- The size of parliament should be 100 MPs all representing electorates, and responsible only to those electorates.
- The term of Parliament should be 5 years, with the provision for binding referendums.
- There should be a fixed Electoral Term, not a fixed date for elections, with a right of the people to recall a government.
- Abolish the requirement that the South Island has 12 seats.
- Party-hopping must be banned – the MP must resign from Parliament.
- The Maori roll and Maori seats in Parliament and in local Councils must be abolished, and all race-based laws be removed from legislation.
- All current Treaty of Waitangi claims must be settled and then the Waitangi Tribunal abolished, and all reference to the Treaty removed from our laws.
- The Bill of Rights must be extended and entrenched.
- NZ should have an entrenched written Constitution with no reference to the Treaty of Waitangi, and which states that all citizens are equal under the law, and that there shall be no discrimination or preference based on race, culture or religion.
- NZ should have an entrenched written Constitution limiting the sum central and local government can raise by taxation as a percentage of GDP, and limiting expenditure to the sum raised.
- The written Constitution must limit the power of the Government to spy on its own citizens.
- The Treaty is not a partnership by which to govern NZ.

THE SIZE OF PARLIAMENT

1. It is to the eternal shame of the New Zealand Parliament that, in the November 1999 General Election, 84.8% of eligible voters were in favour of a House with 99 members, and yet no change was ever made. This must now be corrected.

WHY DOESN'T DEMOCRACY WORK IN NEW ZEALAND?

2. I believe the number of parliamentary seats should be reduced to 100. I believe this should be a sufficient number for a small country of only 4.5 million people, enjoying modern communications. The United States has 435 seats in the House of Representatives, and 100 in the Senate. That country of 320 million is governed by 535 politicians, or one per 59,800 persons. On the same ratio, NZ would have only 75 politicians.

So 100 should be plenty, and 120 is a waste of taxpayer's money.

3. Prior to the introduction of MMP, Government had 100 seats, and with MMP came the increase to 120 seats. Did the standard of government or its effectiveness improve? No it did not. Good government is not dependant on the number of seats.

THE TERM OF PARLIAMENT

4. I support any law that makes governments more accountable to the people they are supposed to

represent. Currently, we have a system of government that can best be described as 3-year dictatorships. As quoted in para 1 above, governments can too easily ignore the wishes of the people.

5. I therefore see the value of a 3 year term of government – it is our only chance to throw them out if the people so decide. But the drawbacks of a 3 year term are apparent.
6. There is a better way – a longer term with a mechanism for the people to better control the government. This can be done by using binding referendums.
7. Hence I support a 5 year term of Government PROVIDING binding referendums are introduced.
8. I support a 5 year term because one of the prime disadvantages of the current three-year term is that it does not encourage long-term policies, and that the regular elections mean there is too much focus on electioneering. A 5 year term will give governments sufficient time for their policies to take effect, and for the people to judge the success of those policies.

THE RIGHT TO CALL AN EARLY ELECTION

9. On the matter of the date on which elections should be held, I see no good reason for a prime Minister to have the right to call an election. As a society, we have currently agreed that elections should be every three years. Why should a PM alone be able to change that? The only reason for calling an early election is political expediency, and that is a poor reason indeed.
10. With a longer fixed term for parliament combined with binding referendums, I believe the people would have adequate control over parliament. However, it would be wise to include a provision, as the UK has, to be able to call an election before the full term date if 67% of the members of the House agree. The people must be able to petition for such a vote in parliament.
11. I therefore support a Fixed Electoral Term, not a fixed electoral date. Whenever a new government is elected, it should run for the fixed term, preferably five years, unless it is dissolved by a vote in the House.
12. To change the term of parliament, a referendum should be held at a general election, decided by a simple majority. I oppose such a change being brought about by a vote of the majority of members of the House, as they will only vote what suits them best, and not what is the best for the people. Turkeys do not vote for Christmas.

NUMBER AND SIZE OF ELECTORATES

13. I do not see any logic in an entrenched law that says the South Island must have 16 seats. This is just a cosy political arrangement from times gone by, and it should be abolished. The geographical size of electorates is not relevant in this modern age of air travel, internet communications, and a good roading system. The south Island should have its number of MPs determined on a population basis just like the rest of the country.
14. It goes without saying that it is important that all electorates have approximately the same population.
15. It is an irrelevant argument to state that seven Maori seats have to cover the whole country. The

solution to this is to abolish the Maori seats.

16. There should be a binding referendum in the next election to amend Section 35 of the Electoral Act with a simple majority of those voting deciding the issue, to delete the requirement that the South Island have 16 seats.

ELECTORAL INTEGRITY LEGISLATION.

17. Just as an election is an agreement of the people for a party to govern the nation for the electoral term, so too is the election of an MP an agreement that that MP would represent the electorate as an MP of that party. If the MP no longer wishes to be associated with that party, the MP should resign from Parliament and a bye-election held in that electorate.
18. Is legislation necessary on this matter? Yes it is. Does party-hopping undermines the public's credibility in Parliament? Yes it does. The right person(s) to make the decision about whether an MP should be required to leave parliament is the voter.
19. We should vote in a referendum at the next election to ban party-hopping. The MP by law must remain a member of that party for the full term of Parliament. That MP can decide to stand with another party, or stand as an independent, at the next election. Parliament has foisted employment contracts onto people, now MPs should be required to sign employment contracts.
20. Because list MPs are not voted in by an electorate, and as such have no "political contract" with the voters in that electorate, this law would not affect them. They would simply resign from Parliament and be replaced by the next person on the party list.
21. I agree that it is inappropriate for anyone other than voters to have the power to decide that an MP should leave Parliament. It is also appropriate that only voters should have the power to decide who should be in Parliament. But this does not happen under MMP - the party decides who will be on the list of possible MPs, and it is one of its major problems.
22. I am stunned that you write, on page 26 of the New Zealand's Constitution – The Conversation so Far (NZC-TCSF) document, that it is unconstitutional in Germany (to ban party hopping) because "all members, once elected, must be representatives of all the people and must be able to act in accordance with their conscience." Really? I thought that was how a representative democracy was supposed to work!

MAORI REPRESENTATION IN PARLIAMENT (AND IN LOCAL COUNCILS)

23. Maori seats were established by the 1867 Maori Representation Act, for the purpose, according to you, to "ensure that a guaranteed minimum number of members of parliament can represent Maori views and perspectives in the business of parliament." Governments in this country have patronised Maori ever since, and the time has come for it to stop. Apartheid – which I define as laws which favour, restrict, or apply to one race and not another, has been practised too long in New Zealand.
24. The 1867 Maori Representation Act was passed at a time when Maori were poorly educated, owned little land, and could not participate in government. None of this applies today. The Act title contains the word *Representation*, which was its goal at that time. Today, Maori are represented in Parliament under the MMP system anyway, and they have their own racist party.

25. When the Royal Commission investigated a change to the voting system in 1986, it recommended abolishing the Maori seats. It did not happen then for political reasons, but it should happen now, for equitable reasons.
26. I resent the fact that “electors of Maori descent” can choose whether to be enrolled on the General or on the racially-exclusive Maori roll. It is clearly racist, as only one racial group gets to choose. Furthermore, the Electoral Commission’s Nov 2012 statistics show that out of 424,000 Maori enrolled, 55% are on the General Roll with other New Zealanders, and only 45% are on the Maori Roll. So a majority of Maori themselves reject the Maori roll option. The statistics on the result of the recent Maori enrolment are available – 8857 moved onto the Maori roll, but 8261 Maori moved to the general roll.
27. While Maori are currently given their own electoral roll to vote in racially exclusive seats, they do not support the concept themselves. Proof of this lies in the recent Ikaroa-Rawhiti bye-election, when only 36% of enrolled Maori voted.
28. You ask whether there are ways of ensuring Maori views are represented in the business of Parliament, to replace or complement Maori seats. Yes there are – Maori views can be represented in local and national government exactly the same way mine are – by us all voting as equals in an election. The very question offends me.
29. Maori can demand nothing more than what the Treaty of Waitangi promised them. They signed up to the British system of government in this country, one that banned slavery and was based on democratic rule by the majority on an equal vote, without racial preferences.
30. Today, in a world of MMP and Maori political parties, the Maori seats are an anachronism and should be abolished as recommended by the Royal Commission. But it should not be for Maori themselves to decide if the Maori seats should be abolished. They will not vote against their own advantages. They will only vote for what is expedient from their own political viewpoint, not what we as a society, of which Maori are a part, decides on how we should organise ourselves.
31. It is of no surprise to me to learn that a Waitangi Tribunal claim (Wai 413) has been lodged on this matter. A claim that the Crown (read “people of NZ”) has an obligation to protect the right of Maori to be represented in Parliament is laughable. As equally pathetic is the Tribunal’s decision – that the people of NZ have a Treaty obligation to actively protect Maori citizenship rights, and in particular, existing Maori rights to political representation conferred under the Electoral Act 1993. The Tribunal lost its impartiality long ago, as is widely known. They should have added that the Treaty said all citizens in NZ would have equal rights, not special privileges to be enjoyed just by Maori. It could be argued that the Electoral Act 1993 conflicted with the Treaty.
32. You quote the decisions and recommendations of Royal Commissions and Review Committees on the matter of Maori seats. What about asking all voters for their opinion on abolishing the seats in a binding referendum? Then we will have a majority view, not the “absence of a consensus” that politicians have used to excuse a failure to act.
33. This is only to be expected of the type of parliament we have been afflicted with over recent years – for example, the people were never consulted when a major constitutional change such as abolishing the Privy Council took place.
34. The whole situation is complicated by the fact that to be on the Maori roll, one has to define who

Is a Maori. Why are we forced to separate ourselves into racial groups, when we should be building unity as a nation?

35. Michael Littlewood, the Director of the Retirement Policy and Research Centre at the University of Auckland, has argued that the present system for determining who is Maori, through having a smidgeon of Maori blood and *feeling* Maori, is such a flawed concept that has no place in a modern society. He explains that the distinctions between Maori electors and others, and between Maori MPs and others, are now indefensible. He says it is time to stop trying to define today's New Zealanders by race, as the process used by Statistics New Zealand is totally compromised since it counts only Maori ancestors, no matter how distant, and ignores all others.
36. I am, however, encouraged by the action of some local Councils, such as when the Waikato District Council did hold a vote on local Maori representation. The proposal was rejected.
37. You write on page 32 of the NZC-TCSF document that "as tangata whenua, Maori have a close and direct concern with the management of natural resources. Maori, therefore, have a close interest in local government to ensure their views and perspectives are represented."
38. This view is political garbage. It is written from a Maori-only perspective. Since when have Maori, who were responsible for the extinction of many species of fauna, proven to be "concerned" with the management of natural resources?
39. Likewise, the statement that "historically, iwi exerted kaitiakitanga, managing all of NZ's natural resources." Maori at the time of the signing of the Treaty would have had no concept of managing natural resources. That only came as the population increased; as natural resources became under exploitation; as Maori learnt to exploit political pressures; and as Maori learnt that making demands sometimes brought political rewards.
40. For the record, I do not expect the NZC-TCSF document to contain blatant falsehoods – Maori and the Crown did not agree through the Treaty of Waitangi – individual iwi and hapu and the Crown agreed through the Treaty. And I add that hapu and iwi agreed to become British subjects under Queen Victoria, all with equal rights with Pakeha at the time who were already British citizens.
41. The NZC-TCSF document on page 33 states that the Marine and Coastal Area (Takutai Moana) Act provides "opportunities for Maori to participate in coastal resource management decisions." This is deliberately deceptive. This appalling Act of legislation does not only give Maori the opportunity to participate in decisions, it actually gives Maori dictatorial rights over what shall happen in these coastal management areas via Planning Documents. These Planning Documents are imposed on local Councils, who must take them into account. Hence, the whole Marine and Coastal Area will be controlled by a minority racial group.
42. I greatly resent the legislation setting up the Auckland Council when it established the Maori Advisory Board, so that only this ethnic group has special provision to ensure its voice is heard. How do the lawmakers expect the views of Samoan, Irish, or Indian citizens to be heard?
43. My rates paid to Auckland Council go to this racially-selected group. It is offensive. The Maori Advisory Board should be abolished. How will our society work better if we always are setting up special privileges for separate racial groups? It is a nonsense.
44. This approach to local government is spreading. In the far North, a Unitary Authority Working

Waitangi partner with the Crown; and Recognise the place of He Whakaputanga o Te Rangatiratanga o Nu Tireni (Declaration of Independence – 1835) in the philosophy of iwi Maori in regard to authority in Aotearoa.” This *authority in Aotearoa* is deceptive talk for co-governance, which means 15% of citizens (Maori) getting 50% of the say. This is not democracy.

45. The bottom line is that Maori cannot claim any greater right to representation in local or national government than any other citizen. I believe there should be no legislation to guarantee them seats on local Councils or seats in Parliament.
46. The point is that racial preference is now being progressed at every level of society, and the push by the elite of Maoridom for constitutional rights to establish race, not citizenship, as the heart of our democratic affairs, would provide the over-riding mandate they have long been seeking.

THE ROLE OF THE TREATY OF WAITANGI

47. All good constitutions around the world establish the principle that all citizens are equal under the law. I simply cannot imagine living under any system contrary to this principle. Indeed, NZ strongly opposed the South African apartheid system that gave white people special political and legal privileges that were denied to blacks.
48. It is also clear, from studying the constitutions of the world’s people, that citizenship is a part of the constitution of a nation, but race, cultural identity, and religious identity are not. Sound constitutions are written for all races, cultures, and religions, so that they can live together as equals in peace and harmony.
49. The Treaty of Waitangi came about because the British, having had considerable experience at colonisation, recognised the potential damage it could cause, and there was a determination not to repeat the mistakes of the past, by protecting the rights of Maori. The instructions from the Colonial Secretary, Lord Normanby, to Hobson expressed an intention to deal with Maori fairly and to improve their situation while protecting Maori culture. His brief was to “treat with the aborigines of New Zealand in recognition of Her Majesty’s sovereign authority over the whole or part of those islands which may be willing to place under her Majesty’s dominion. The Queen... disclaims to seize on the islands of New Zealand unless the free intelligent consent of the natives, expressed according to their established usages, shall first be obtained.”

These were the real principles of the Treaty of Waitangi.

50. The Treaty as it was written has created much controversy. There is disagreement about what the wording of the Treaty means, about what should be the official version of the Treaty, and about what are the nebulous “principles” of the Treaty. The Treaty is so widely disputed today that there could not have been in 1840, in today’s legal terms, a “meeting of the minds”, so an agreement by definition cannot exist. No-one seems to agree on what they were agreeing to. There is modern-day talk of the Treaty being a “partnership”, which is simply a nonsensical concept because one cannot be a subject of the Queen at the same time one is a partner of the Queen.
51. It would therefore be a grave error to include any role of the Treaty of Waitangi in a future constitutional arrangement. It simply does not have what is required to form a solid basis for a constitution suitable for today’s multicultural world and that of tomorrow.
52. I am quite happy for any new constitution to refer to and acknowledge that the Treaty was the founding document for this nation, for that is exactly what it is, and that is all it is. It marked the

beginning of sovereign power and formal government in New Zealand.

53. The treaty was signed between the Crown and some hapu and iwi. Not all iwi in NZ at the time signed the Treaty. There were two distinct parties – iwi and hapu, and the Crown. The treaty established British government in this land, and all Maori in New Zealand became British subjects by the Treaty or by later proclamation. But with the NZ Constitution Act of 1868, the government of this land became a New Zealand government. Today, Maori are part of that government, they are members of parliament and they are Ministers of the Crown. Maori and the Crown have thus become one. For this reason also, it is fanciful to believe the Treaty should have any role in a constitution for the NZ of 2013.
54. For these reasons I strongly believe that the Treaty should have no role in our Constitutional arrangements. It is time to forget the past, and move forward as one people.

“HE IWI TAHI TATOU - Now we are one people”

Captain William Hobson, 6 February 1840

55. The NZC-TCSF document lists on page 35 three examples of parliaments obligations under the Treaty. The first of these is relating to the natural environment, but the Treaty does not contain the word “environment”. The second relates to guaranteed representation of Maori in the House, but the Treaty mentions nothing about special privileges of this nature. It actually implies the opposite – that all natives of NZ will be given royal protection and imparts to them all the rights and privileges of British Subjects. Under the law at the time, all British subjects had equal rights. Third, Parliament established the Waitangi Tribunal to hear and make recommendations about claims that the Crown had breached the Treaty.
56. Only Maori can make claims, so the Crown has no course for redress if iwi act contrary to the Treaty. The WT was intended to be an impartial advisor, but it is widely accepted as being biased towards the Maori point of view, it has re-written history from the Maori perspective, and it appears to be focused on re-establishing iwi in the co-government of this country.
57. I do not understand why the Declaration on the Rights of Indigenous Peoples is included in the NZC-TCSF document. It is not binding in NZ and it is irrelevant to this conversation.
58. We citizens of NZ can discuss the Treaty ad infinitum, but the fact remains it is a flawed document written in haste by amateurs, published in different languages with different meanings, and has been reinterpreted in so many ways to render it meaningless. Recently the Principles of the Treaty have been invented.
59. I am amazed that the NZC-TCSF document refers to these principles, which on page 36 are quoted as “been described as the underlying mutual obligations and responsibilities which the Treaty places on the parties. The principles reflect the intent of the Treaty, but are not confined to its express terms” REALLY? Do you believe that? So next time I have a bank mortgage, I can claim that it is not confined to its express terms, and miss payments if I want to. This is garbage!
60. Suppose for a moment there are principles of the Treaty. One of them surely must be that all parties would have equal status as British subjects. Why then are there seats in Parliament reserved for Maori?
61. Furthermore, there is no provision to amend the Treaty as times have evolved over the centuries, so iwi and hapu cling to the Treaty as if it was still applicable to modern life in NZ.

62. It is also nonsense to say, as the NZC-TCSF document does on page 37, that “since it was established in 1975, the Waitangi Tribunal has been the body responsible for defining what the Treaty means in a modern context.” The only body that can do this is Parliament, which has supreme governing power in NZ, and that body must reflect the will of the people.
63. It also quotes the judges of the Court of Appeal, that they noted that “the Treaty principles require the Pakeha and Maori Treaty partners to act toward each other reasonably and with the utmost good faith.” Why is language such as this used in a Crown document? First, Maori are not a partner with the Crown – the various iwi and hapu were never partners, they were only signatories to the document. If Maori are subjects of the Crown, they cannot also be partners of the Crown.
64. If the Treaty intended to cover future forms of property, such as radio frequencies, instead of using the word taonga, why did it not say “whatever property they have now or in the future”?
65. The NZC-TCSF document poses the question on page 39: “what will happen once all historical Treaty grievances are settled?” and goes on to say the Treaty will continue to impact the Crowns actions. This is not the future I want for New Zealand. I am sick of this so-called special relationship between the Crown and Maori, as I see the Government who demand taxes from me, use them for special privileges for one racial group.
66. The fact is that Treaty issues will never be settled, because claims will always continue to be of benefit to Maori. An example of this is, after receiving a massive settlement for their fisheries claim, Maori subcontracted the catching of fish to foreign owned rust-buckets with pitiful onboard working conditions. When there have been discussions about legislating for better working conditions on these boats, which would add to the cost of catching fish, the Maori reaction was to demand compensation for their reduced profits!
67. What concerns me more, is that over the decades I have seen Maori organisations adopt a role that shows they see themselves as a separate group, outside of mainstream NZ society, whose real purpose is to win back political control of this country that they signed away in 1840. This started with Maori seats in parliament, and has now extended to a demand for seats on local Councils. It embraces control of the coastline through the Marine & Coastal Area Act, and of course control of all rivers and natural resources. Echoing behind these demands is the appearance of Maori protests about “the tyranny of the majority”.
68. Much of the legislation passed in NZ today perpetuates this separation. Can we expect in future separate legislation for other NZ races, such as the Chinese, and Indian, each with our own set of laws separating us from other fellow Kiwis? This is not the way to build a stable and successful society.
69. Nothing could reinforce what is happening more than what is quoted on page 39 of the NZC-TCSF document: it refers to the Waitangi Tribunal flora and fauna report, whose title is “deliberately ambiguous” serving as a “reminder, if one is needed, that Aotearoa and New Zealand must be able to co-exist in the same place.” Do you mean that Aotearoa and New Zealand are two different peoples and nations? If this policy is followed, we will ultimately have a Maori government, and a Crown government, from which only conflict can ensue.
70. When Maori take claims to the Waitangi Tribunal for fresh water, geothermal resources, and the radio spectrum, I sadly conclude they do not want to share anything with others in NZ society, but ultimately wish to control it all for their own benefit.

71. If you don't think it can happen, this disastrous road to complete separation has already happened in the Church of England in NZ, even though it is an English church, a colonial church, and Maori had no promises made to them by that Church.
72. The NZC-TCSF document quotes the Minister of Justice discussion paper on the Bill of Rights on page 40. "The ... Treaty is always speaking and shall be applied to circumstances as they arise so that effect may be given to its spirit and true intent." This is an outrageous statement issued under the title of a Bill of Rights. A Bill of Rights should deal with protection of an individual from their government, but this nonsensical statement says that Maori will always have special rights, not yet invented but what-ever they may be as they arise, so that the "spirit and true intent" of an 1840 document, which no-one agrees as to meaning, can be put into effect!
73. The Treaty of Waitangi was originally proposed to protect Maori from the worst effects of colonialism, namely the loss of lands, which had happened in so many other nations at that time in human history. The land loss occurred anyway, but the real benefit came through intermarriage between the races, and how British government systems – education, courts, hospitals, police, etc established in this country helped carry the Maori race into the current century. The alternative, banishing them to their own separate, self-governing reservations, has never worked elsewhere in the world.
74. Hence I am strongly opposed to entrenching the Treaty of Waitangi into any legislation in NZ. One reason alone - that no-one really understands how to interpret it in the modern context, should be enough to convince it's most ardent supporter that it would be a disastrous move. Furthermore, I do not believe it will be possible to have Treaty rights that do not conflict with a Bill of Rights that must have non-discrimination at its core.
75. I believe that once all historical claims have been settled, the Waitangi Tribunal should be abolished, and all races in NZ told that they are now all individual members of different cultures and they will not be discriminated against, and neither will they receive any benefit or advantage based on race. It would not be the responsibility of any government to protect, promote or favour any one race, culture, or religion.

BILL OF RIGHTS ISSUES

76. It is enigmatic that the NZ government sees fit to pass a Bill of Rights Act in 1990, but did not see fit to pass an equally-necessary Bill of Responsibilities Act. There cannot be Rights without Responsibilities. I believe any citizen has the right to do anything they wish to do in a free world provided they do not harm or infringe the rights of others.
77. I am in favour of the Bill of Rights Act which clearly sets out the rights of individuals when interacting with the State. These rights are vitally important because of the imbalance of power that exists between an individual and the State. The State can arrest you, imprison you, and confiscate your money through taxes, so it is vital that its power is controlled.
78. You write on page 42 of the NZC-TCSF document that section 4 of the Act means that the state can act in a way that is inconsistent with the Act, but only if there is a clear power in law to do so. I have observed how government works over many decades, and I conclude that the government will always give themselves the power in law to do so, if needed. This is another reason why the Bill of Rights must be entrenched in a written constitution.
79. The NZC-TCSF document, on page 43, asks if the Act provides appropriate mechanisms to protect rights, and should the Act include additional rights, and if so which rights?

80. I do not know the details of the Act, and have never had to rely on it, but I assume the mechanisms contained in it are appropriate. Because I believe that individual and human rights are inherent rights and should be protected from removal by a government, they must be enshrined in a written constitution that is very difficult to amend without widespread support by a direct vote by the people. The Bill of Rights Act must be entrenched as a part of a written constitution. I agree that entrenchment can ensure the stability of key constitutional provisions.
81. I do not believe that the judiciary should have the power to strike down legislation. They should not be above the Constitution. But they will be interpreters of the Constitution, deciding how it applies to civil and criminal cases that come before it. It was interesting to observe how the Supreme Court in the USA recently ruled that the Constitution of that country did not prevent same-sex marriage, and any law doing so was unconstitutional.
82. One of the rights I think it should contain is the right to be free of oppressive taxation by a government. The Bill of Rights contains a number of rights which we enjoy today, including the right to life, to free speech, to non-discrimination, the right from illegal search and seizure, and the right to a fair hearing. But absent from these rights is the right to be free from oppressive taxation. What amounts to oppressive taxation is for society to determine, but I would regard oppression to mean when the government gets more from my labour and endeavours than I do. Why should a government be able to impose a tax rate of 75% for example, just because it wants to?
83. One important right that should be spelt out is the right of the individual to own property, not just the right to not have it arbitrarily removed. This is one of the common belief-systems we enjoy as a society, which should be enduring. We are a property-owning democracy, and it should stay that way, so no government could be elected and say from now on everything will be communally owned.
84. Other rights should include the right to privacy, which is becoming more of a concern in the modern world. A citizen should have the right to be in any public place he or she chooses, at any time, without a government recording that you were there, or what you said when you were there. It is even more important that the government be prevented from listening to any private conversation, unless a rigorous examination of the need has been exercised by the judiciary.
85. I do not support a proposal to include social rights in a constitution, as these are most likely to change over time, and any government of the day can vote to provide these benefits if they wish to as part of their social policy.

SHOULD NEW ZEALAND HAVE A WRITTEN CONSTITUTION?

PUT YOURSELF IN THE SHOES OF A JEW IN GERMANY IN 1933 – NOW DO YOU UNDERSTAND THE NEED FOR A CONSTITUTION TO LIMIT THE POWER OF GOVERNMENT, A CONSTITUTION THAT CANNOT BE CHANGED BY THE GOVERNMENT, BUT ONLY BY THE PEOPLE?

86. The current “constitution” of NZ is a collection of Acts of Parliament, Treaties, Orders in Council,

letters patent, decisions of the courts and their precedents set, and unwritten constitutional conventions. This is not a satisfactory situation. It is also unsatisfactory that NZ is one of only three countries in the world without a formal written constitution.

87. The fundamental purpose of a constitution is to limit the powers of government – to define the powers a government has over the rights of the individual, and beyond that leaving them free to live their lives as they wish.
88. The most well-known and widely quoted constitution in the world, that of the United States of America, was written with a view to overcoming the political and religious persecution that had been experienced in Europe, from where its immigrants had fled. Its central concept was that political power resided in the people, and they gave these powers to a government to rule over them only within strict limits.
89. That constitution begins with the famous Preamble setting out its purpose:
- We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.*
90. A visitor to NZ must find it incredulous that we have not, to date, been able to write down a simple set of rules about how to govern ourselves and what our goals are in doing so. To not have a written constitution surely invites a dictatorial government to enact any rules it wants at the expense of its citizens.
91. Much has been said about how having no written constitution is an advantage – how law-making in NZ can be flexible, for example, or how we can make it up as we go along. This does not establish good government under a set of principles that we all accept and understand. A constitution gives a government legitimacy.
92. NZ does have a “part” of a constitution – it has a Bill of Rights Act passed in 1990, which sets out the rights and fundamental freedoms of NZ citizens. Yet the government of the day had so little faith in the rights of its citizens that it did not become “entrenched”, which would have given it status as a supreme law, thereby eroding the doctrine of Parliamentary sovereignty. Section 4 of the Act specifically denies the Act any supremacy over other legislation. Hence the Bill of Rights Act, the freedom of the individual, in reality is under control of the government. It should be the other way around.
93. I have lived in the United States of America and have seen how its constitution is applied in day to day life. It is a powerful tool in limiting the power of government. It is interesting to see how the citizens of some countries in the world, such as Libya, Tunisia and Egypt, have thrown off the yoke of oppressive governments, and wish to have written constitutions so the rules about their freedoms are enshrined in law.
94. Most good constitutions in the world have two important features that ensure good government: the separation of powers into the legislature, the executive, and the judiciary, and the separation of religion from the affairs of government.
95. I believe that a written constitution in New Zealand should include limits on government

expenditure as a percentage of the GDP. We all know governments are wasteful; find it hard to live with strict financial controls; cannot refuse spending on social programs to win votes; have to borrow to fund this largesse; and ultimately put the citizenry in poverty through mismanagement (look at Europe). This must cease, and the only way to do this is to have a constitutional requirement that Government must run balanced budgets with limits on taxation.

96. The recent gross government debt to GDP ratio for Greece is 165%. The figure for NZ is 36%. The country would be more successful if it was 0%. The government cannot go on spending beyond its means.
97. This would also apply to local government – I am appalled that the Auckland Council now pays \$1 million a day in interest on borrowed money. It seems impossible for them to live within their income, which any Kiwi family has to do.
98. It is interesting to see how constitutions are regarded in other countries in the world. Take Egypt for example – they are currently going through their second revolution. The head of the army recently announced that he is “suspending the constitution”. He should be arrested as a traitor. A constitution must be entrenched so that only the people can change it.
99. For these reasons, I believe that NZ should have a formal written Constitution, which must be entrenched.

RESPONSIBILITIES OF THE CONSTITUTIONAL ADVISORY PANEL

100. I cannot conclude this submission without commenting on the terms of reference of the CAP. They are less than inspiring. I note that item 15c of the terms of reference of the CAP states that a responsibility is to “establish a forum... in a manner that is reflective of the Treaty of Waitangi relationship and responsive to Maori consultation preferences.”

This is offensive for the following reasons:

- Why has it already been decided that there should be a forum that is reflective of the Treaty? Who decided this?
- There should be no such thing as Maori consultation preferences. One racial group should not have their preferences take precedence over those of any other group.

Leigh Malcolm Marshall

2211

From: Philip Marshall
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 3/07/2013 1:22 p.m.
Subject: CAP Submission

I wish to see the Maori Seats abolished

Yours Sincerely
Phil Marshall

Sent from my iPad

3727

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 22/07/2013 8:39 a.m.
Attachments: Constitution.doc

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Trona Kathleen Marshall Organisation Name: Email:
Phone: Postal AddressA:
Postal AddressB: Postal City: Raglan Postal Region: Waikato Postal Post Code:
Postal Country: New Zealand Submission: Submission Upload: Constitution.doc

Submitted on the 22 July 2013 at 08:38

The Parliament should be limited to 100 MPs, all representing electorates and responsible only to those electorates.

The parliamentary term should be four years, and there should be provision for binding referendums.

Abolish the requirement that the South Island has 12 seats.

Ban party hopping

Abolish Maori seats in Parliament and in local councils

Settle all Treaty of Waitangi claims, then abolish the Waitangi Tribunal. Remove reference to the Treaty of Waitangi in our laws. The treaty should not be a partnership with which to govern New Zealand. All citizens should be equal under the law – not some have special privileges.

Cap on the number of immigrants allowed each year.

The Bill of Rights must be extended and entrenched.

- NZ should have an entrenched written Constitution which states that all citizens are equal under the law, and that there shall be no discrimination or preference based on race, culture, gender, sexuality or religion.

3933

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 12/07/2013 1:03 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tim Marshall Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Postal
Region: Marlborough Postal Post Code: Postal Country: New Zealand Submission: I
am against any mention of the treaty of waitangi in our constitution as it will give advantage to one
sector of our society thus making it an apartheid society. I believe the treaty, described by some as a
"living document" has been and will continue
to evolve to create un-earned wealth for a maori upper class at a huge social and economic cost to
the rest of society both maori and non maori. I do not believe the treaty is our 'founding document' , I
believe that accolade rests with the christian bible
- the treaty was an instrument used in the context of that time in history to stop maori annihilation of
their own race, by being offered equal rights / protection under the british crown with the settlers . I
believe maori welcomed this and willingly ceded
full sovereignty to the crown to complete the deal - until time passed and peace prevailed afterwhich
they have increasingly shown contempt of the treaty deal and greed has now got the better of them.
Politicians desperate for power are feeding that greed
and are consequently fuelling racial disharmony / division / separatism and inequality under the law.

Sent on the 12 July 2013 at 13:02

3811¹

From:
To: <constitutionalreview@justice.govt.nz>
Date: 24/07/2013 1:27 p.m.
Subject: CAP Submission

I wish to submit the following:

The three year parliamentary term should remain at three years, as it is at present. Four years is far too long to endure the damage from bad government decisions.
NO TO A FOUR YEAR TERM.

As we are a nation of many ethnic groups, all Maori seats in parliament should be abolished. Maori do not need special protection to ensure election. Any Maori stands as good a chance of being elected as any other person, with the same and equal opportunities as for any other candidate standing for election.
NO SPECIAL MAORI SEATS.

A written constitution would affect every man, woman and child in the nation and should be decided only by a binding referendum, with the result automatically becoming law.

NO TO A WRITTEN CONSTITUTION.

The treaty of Waitangi is now publicly regarded as a flawed document and has long outlived its usefulness as the terms and wording have been changed far beyond the original meaning. The treaty should now be consigned to history.

NO TO THE TREATY BEING WRITTEN IN TO ANY CONSTITUTION.

The Waitangi Tribunal should now be abolished as it is making recommendations based on the flawed wording of the treaty as it now exists.

NO TO THE WAITANGI TRIBUNAL AND TO ONE PERSON - CHRIS FINLAYSON - UNDEMOCRATICALLY HOLDING THE POWER TO GRANT CLAIMS BASED ON THE WORDING OF THE PRESENT TREATY.

Racial inequality is developing into apartheid in this nation, with claims for special privileges way out of control. This will become a bottomless pit from which we will never climb out. Benefitting only Maori is not the way to bring us out of the slide towards apartheid, an evil this country should guard against with all our strength. We need an entrenched Declaration of Equality in law to address and maintain equality and justice for every citizen, of all racial backgrounds. If Maori leaders truly have a heart for this nation's progress to do away with separatism, this is the only way forward, and they should support this, with no reference to the treaty of Waitangi.

YES TO THE DECLARATION OF EQUALITY BECOMING LAW IN THIS NATION.

C.Martin.

276

From:
To: <constitutionalreview@justice.govt.nz>
Date: 13/04/2013 1:14 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Fiona Martin Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City:
Postal Region: Auckland Postal Post Code: Postal Country: New Zealand
Submission: Regarding the Treaty of Waitangi, it is my view that the Treaty should be excluded from the constitution as it has for too long been the subject of great contention, debate and anger.

I think it is fine to refer to the Treaty of Waitangi as a founding document for our country, but for clarity's sake we need something that is far more robust in a legal sense, and one which has no room for misinterpretation.

I also think of this as an opportunity to move on from mistakes of the past and create a new constitution that we as a country can agree on together in the present rather than dwelling on a document drawn up in 1840. NZ is a very different place than it was then, the cultural mix is far more diverse and the attitudes are completely different.

Thank you,

Fiona Martin

Sent on the 13 April 2013 at 13:13

3749.

From: Garry Martin <
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 23/07/2013 4:32 a.m.
Subject: CAP Submission

To whom it may concern

I wish to submit that any new NZ constitution must not be Treaty of Waitangi based as NZ is a multi
cultured country and we are all New Zealanders and any one race based constitution would be
unacceptable and cause more division in a country that must go forward as one people and who all
have the same equal opportunity.

Garry Martin

4685

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 2:01 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Peter Neville Martin Organisation Name: Email: Phone:
Postal AddressA: Postal AddressB: Postal City: Auckland Postal Region: Postal Post
Code: Postal Country: New Zealand Submission: Hi Team

I believe a written Constitution should not give Maori anymore privledges than they have now. We are currently going through the Waitangi Tribunal Land Settlements, which offsets and finalises the land problems of the past. Most of the Technolgy we use today was discovered and developed after the signing of the Treaty. Therefore all New Zealanders should share equally in the use of this Technology, not with any particular ethnic group having extra income because they are Maori. Every New Zealander should benefit equally in this development. No extra benefits should arise because they happen to be Maori, giving them extra special rights and opportunities. Every Kiwi should have equal rights. We have Maori Politians in General Electorate Seats now, we don't need Maori Seats going forward. The Treaty is our founding Document, but all it gives Maori, is equal rights under the Treaty, as they had nothing before the Treaty was signed by most Tribes in 1840. The French would have treated them differently, if they had claimed NZ. We should all be equal going forward, no special rights for one Ethnic group.

I question whether we need a written Constitution, as our system has worked pretty well over the last Century.

Submitted on the 31 July 2013 at 14:00

Quick Submission

Your name:

Rodney Wallace Martin

Name of the organisation you represent (if applicable):

Postal address or email address:

Masterston

Maori Representation:

No separate special representation -
to be in total mix with all others

Treaty of Waitangi

should not, like any Global
Custom, Religion, norm, tradition -
be intractable or ⁱⁿ⁻capable of being
modified to suit the present where
a better present for human, animal,
environment would be adversely
affected by blind compliance to
something framed in the past

Bill of Rights Act

Retain existing provisions to be
always improved as passing time
dictates.

957 N.2. Constitution

Received 16 May

Have it written down into a single
document.

British monarch to always be our
head of state.

Electoral matters

Retain MMP

Less MPs rather than move

No Maori specific or other "pure
nationality" seats

Privacy and Confidentiality

Your personal information will be held in accordance with the Privacy Act 1993. This Act outlines the requirements for transparent collection, ethical use and secure storage of personal information.

The personal information you provide in this submission form will be used for the purposes of the Consideration of Constitutional Issues only.

**You can also make a submission online
at www.ourconstitution.org.nz**

4549

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 1/08/2013 11:14 a.m.
Subject: [RELEASED FROM QUARANTINE] [SUSPECT SPAM]

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tracey Martin Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB:
Postal City: Ohakune Postal Region: Manawatu Postal Post Code: Postal Country:
New Zealand Submission: The Māori seats in Parliament are indeed a unique feature of New Zealand's democratic system.

By having them, do we actually have democracy?

Did we, as a whole have a referendum on the subject?

I am not against any peoples having a voice, but by having Maori specific election rolls, Maori specific electoral seats and Maori specific MP's we are actually on the edge of having an apartheid political system.

Chief Tamati Waka Nene stated in 1840 that Maori could not turn back time, yet 173 years later there are still those trying to do so.

Either we are all New Zealanders as one or we are not.

If we are not, no need for a constitution, and we are a long way from needing one.

If we are, then we have a democratic system that technically supports all people, with everyone having the same opportunities to voice political agenda, to have influence on local government and to get involved at whatever level is comfortable for each individual regardless of sex, colour or creed.

Perhaps Maori would be more involved if as a race they were not singled out as 'special'.

After all, the youth of today go to great lengths to be the same as everyone else, to not stand out and not be separate or 'special'.

I do not believe Maori interests are overlooked, with or without the existence of the Treaty.

Submitted on the 31 July 2013 at 19:29

45499

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 1/08/2013 11:15 a.m.
Subject: [RELEASED FROM QUARANTINE] [SUSPECT SPAM]

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Tracev Martin Organisation Name: Email:
Phone: Postal AddressA | Postal AddressB:
Postal City: Ohakune Postal Region: Manawatu Postal Post Code: Postal Country:
New Zealand Submission: Reference the Treaty of Waitangi.

Any constitution for New Zealand must surely be in regard to all New Zealand peoples.

Therefore I do not believe that there is any place within a constitution for the inclusion of the Treaty of Waitangi.

The Treaty is a very old agreement between Maori and the Crown, and should not have any jurisdiction over the rest of New Zealand's peoples.

A constitution gives all New Zealanders the opportunity to move forward as one and while the Treaty remains, a portion of our people are looking to the past, and not to the future.

Currently the Treaty leaves New Zealand's public opinion divided, and I believe that any inclusion of the Treaty will fail to give a constitution any credence or national backing, and if included, will not represent the general feelings of New Zealand as a whole.

Thank you.

Submitted on the 31 July 2013 at 19:07

1442

From: Vickiegay Martin
To: <constitutionalreview@justice.govt.nz>
Date: 18/06/2013 6:52 p.m.
Subject: NO WRITTEN CONSTITUTION

New Zealand does not require one, and as a citizen I hereby, voice my submission and also emphatically oppose any legislation and or reference to The Treaty of Waitangi being included in a written constitution if one should be drafted either now or in the future. NO APARTHEID for our beloved Country. Equality for all, democracy to prevail.

V.G. MARTIN
N R MARTIN.

368

From:
To: <constitutionalreview@justice.govt.nz>
Date: 15/04/2013 9:32 a.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Alan Livesey Mason Organisation Name: Email:
Phone: Postal AddressA: Goodwind Postal AddressB: Postal
City: Postal Region: Manawatu Postal Post Code: Postal Country: New
Zealand Submission: If the commission was a 'level playing field' there might be some reason for
it, but it is not with the present representation.

It is not looking at the best for all New Zealanders, but wanting to run NZ on racial lines making the
country divisive. At the present time our constitution, or lack of one, is running the country
endeavouring to do the best for everyone, not just for an elite
few.

Incidentally as a taxpayer I hope I am not paying for all your one eyed advertising?!

Sent on the 15 April 2013 at 09:29

368a

From: Alan Mason
To: <constitutionalreview@justice.govt.nz>
Date: 5/07/2013 12:49 p.m.
Subject: Review

The Chairman,
Constitutional Panel.

Dear Sir,

I believe that race-based representation has no place in modern society, so I feel very strongly that it is time to abolish Maori seats. Our democratic rights should be based on citizenship, not race, so the Maori seats should be abolished, in the best interests of all citizens.

Yours faithfully,

Alan L. Mason MNZM

Feilding

423¹¹

From: Cliff Mason
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 30/07/2013 7:13 p.m.
Subject: CAP Submission
Attachments: Submission on Constitution.docx

Please find my submission attached.

Cliff Mason

Submission to the Constitutional Advisory Panel

Submitter: Dr Cliff Mason

LYTTELTON

Telephone.

e-mail: _____

This submission is made in a personal capacity and does not expressly represent the opinion of any organisation or group.

Introduction

- 1) I greatly appreciate the foresight of the Deputy Prime Minister and the Minister of Maori Affairs in commissioning the Review and establishing the structures to conduct it. It is making a significant contribution to discussion of matters that are of fundamental importance to our existence as a democratic nation. It is stimulating discussion about matters that have been widely ignored because of apathy, ignorance or fear. The Review has resulted in public meetings and media broadcasts in which a wide variety of relevant issues have been aired and expert and lay opinion expressed. The work of the Constitutional Advisory Panel supported by the Cross-Party Reference Group has been valuable as a process and I am sure the resulting Report will be pivotal in the advancement of our Nation.
- 2) It is important that this good work is continued after the release of the Report. The Report can in no way be considered an end point. Rather it must inform the decision of the People of New Zealand whether or not to establish a written Constitution and, if so, what matters it needs to include and provide for. I urge the establishment of an independent Commission to further this process; independence from existing political and judicial structures but legitimised by the mandate of the People established by means of a referendum.
- 3) It is important to proceed with further work on a Constitution as quickly as possible. This is to take advantage of the present period of political stability. This stability is very likely to be disturbed by coincident environmental and energy crises in the near future. Demographic changes could make the establishment of a national consensus that respects Maori tino rangatiratanga more difficult.

Crown-Maori Relationship Issues

- 4) The Treaty of Waitangi is a fundamentally important document and any Constitution must not only recognise this fact, but also do so in a manner that is broadly acceptable to New Zealanders and especially to the Maori descendants of the signatories. This will require an

extended and open conversation across our society. This conversation will inevitably unearth some prejudice and distrust but will also reveal the general good will that exists among all who have come to live in this wonderful country. It will be the measure of our strength as a society to see the process through. I am confident that the process will be both valuable and ultimately successful. Without such a process to recognise the Treaty, a formal Constitution for New Zealand is impossible.

- 5) I wish also to make a suggestion for a possible Constitutional arrangement. This is for an Upper House to be established in the NZ parliament composed largely or entirely of Maori. This could be sufficient to counterbalance the loss of constitutional power that would occur if the Crown was no longer an entity in a future New Zealand republic where the Treaty of Waitangi would not be operative. It would be a nice *quid pro quo* for the protection of Queen Victoria that the Treaty conferred.

Bill of Rights Issues

- 6) It is evident that the existing Bill of Rights Act is functionally inadequate. It has failed to prevent new laws from being retrospective, at least in spirit. Most seriously, it has failed to protect the “basic rights and freedoms that the Government should not interfere with.” This has been most egregious in the case of the citizens of Canterbury who have had their “democratic and civil rights such as electoral rights” removed by the indefinite withdrawal of the right to elect a Regional Council. That this infringement on rights has occurred despite a written appeal to the Governor-General and the oversight of the Attorney-General indicates plainly that our current constitutional structures and conventions are deficient. Parliament, constrained in its deliberations by inter-Party agreements, voted for the Environment Canterbury (Temporary Commissioners and Improved Water Management) Amendment Bill by a majority that the Governor-General could not, by convention, over-rule by withholding his Assent. That the Attorney-General also failed to identify the inconsistency of this Bill with The Bill of Human Rights Act raises serious questions about his empowerment and about the appropriateness of the post being held by a member of the Government. The Human Rights Tribunal has also proven powerless in this situation.

These events indicate the need for supra-parliamentary authority as would be provided by a formal Constitution.

- 7) The most important issue that needs to be added to the Bill of Rights is recognition of the importance of environmental matters. It is vital that there be recognition of the complete dependence of humanity upon the wider natural environment. The integrity of environmental elements and functions is a precondition for all human activities and for the rights guaranteed under the Bill of Rights. As a country with loudly expressed pride in its environmental assets and stewardship, it is utterly inconsistent that New Zealand, unlike the great majority of nations, has no overt recognition of the importance of the environment at a constitutional level. This recognition should be at least at the level of ensuring the human right to a healthy environment. I would prefer that it recognised independent rights of Nature.
- 8) As a long-standing member of Forest and Bird, I wish to strongly endorse their Submission to

the Constitutional Review which advocates for such recognition and identifies that this can occur in advance of any wider constitutional changes. Similarly I am strongly in support of the Submission of The New Zealand Fish and Game Council which is in the same vein.

Written Constitution

- 9) As New Zealand is among a tiny minority of countries without a written Constitution, it is time this was rectified, if just for international consistency. The putative disadvantages have not been proven to be significant in practice and the advantages (especially from environmental and human rights perspectives) have been realised to a great extent. As discussed above in relation to Canterbury, constitutional conventions are plainly insufficient in times of crisis. Neither is crisis the time to attempt the writing of a Constitution.
- 10) A Constitution should aim to bring a more deliberative process to government than the present system does, even with its Select Committees and other means by which opinions may be expressed. It should insist upon Ministerial responsibility to Parliament in a much more emphatic manner than the current arrangement in which Ministers are beholden to Caucus and in which, in the worst case (e.g. the National Government of the early 1980s), amounts to government by Prime Ministerial authority. An Upper House or similar deliberative forum is required and the use of Balloted Citizen Assemblies (see the work of e.g. Prof. Eric Olin Wright) is an exciting prospect that could see New Zealand again leading the world in democratic process. At least, the ability of citizens to direct questions to parliament should be instituted. Constitutional arrangements should supply uniformly distributed electoral funding to ensure interparty neutrality and negate undue political interference.
- 11) The process of establishing a mandate for change, legitimising an investigative Commission and drafting a written Constitution should reinforce the notion of government as the will of people and resolve the 'them and us' division that is so damaging to contemporary politics. It should definitely lead to perceptions of unity and ownership and promote a willingness to participate as citizens in a national community.

Thank you for the opportunity to make this Submission. I would be eager to participate in any future activity in the field of constitutional matters.

Cliff Mason

30th July, 2013

3647

From: Liz Mason <lizmason@justice.govt.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 16/07/2013 5:54 p.m.
Subject: CAP Submission

Please abolish Maori seats. It is an insult to suggest they need preferential advantages over any other race

yours Sincerely
Elizabeth Mason

4080

From: Pam and Rod Mason
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 5:41 p.m.
Subject: ACP submission
Attachments: Submissionconstitutionalreview13.doc

Hi,

Please find attached our submission to the 2013 Constitutional Review.

We would appreciate acknowledgement of receipt of our submission via email.

With thanks,

Regards,

Pam & Rod Mason

Pam and Rod Mason

Mr. R.A. & Mrs. P.A. Mason,

Mosgiel,

Email:

29 July 2013.

Submission to NZ Constitutional Review 2013

Our submission will be of a general nature.

Introduction

Apart from some coverage on National Radio and the odd article in newspapers most people are unaware of the Constitutional Review. This state of affairs is not satisfactory, as the Constitutional Advisory Panel cannot form a clear picture of how New Zealander's feel about the future of their legislative and judicial systems. One can only come to the conclusion that people must be happy with the status quo or there would be more citizens showing an interest in future constitutional matters. There is also a view that the Advisory Panel has a political dimension arising from the National/Maori Party coalition agreement.

A written Constitution

We believe that the present unwritten constitution based on common law principles dating back to the 1215 Magna Carta works well and is flexible and able to adjust with the times. We have our Bill of Rights, Human Rights, Race Relations and many other acts of parliament that protect and reflect our sense of what it is to be a New Zealander. We hold our elected representatives to be accountable for our aspirations and what is in the best interests of New Zealand and not simply for a wealthy elite.

When we consider the unpleasant and at times dishonourable way politics work in the USA with an inflexible and often unworkable written (rigid) constitution we would not want to go down that track. If we had a written constitution the sovereignty of unelected judges could well usurp Parliament. At least with our present unwritten constitution we can vote out governments if they stray too far from why they were voted in. We do not want or need never-ending legal arguments and litigation with too much power given to a few unelected people. The principle of the separation of power: parliament, judiciary and the executive needs to be preserved.

Parliamentary Term Length

We believe that the three-year term is preferable from the point of view of an elector. Four-year terms may be more efficient and preferred by political parties. However, we would rather keep the three-year term as a brake on governmental incompetence and arrogance. Three years is a long time to put up with a poor government. If a government is governing well they will be granted another term, so what is the problem.

Treaty of Waitangi being embedded in the Constitution.

At the present time the Treaty of Waitangi is part, and we emphasis part, of our unwritten constitution. To subjugate every act of Parliament to the Treaty would only incite racial division and would not be acceptable to many citizens. Having regard to the Treaty when acts of parliament are enacted as well as having regard to human rights, privacy issues, discrimination and other legislation protect our citizens in an equal and a non-discriminatory way. Our constitution reflects "Who we are". We have a diverse and multicultural society. We would very much be against thrusting the Treaty of Waitangi as superior law above all other parts of our unwritten constitution.

Upper house

New Zealand abolished the upper house in 1950. Some thought should be given to resurrecting such a "check and balance" on the tendency of Parliament to rush legislation through under urgency. It is unseemly and at times could be viewed as undemocratic.

Maori Seats

One must wonder why New Zealand has retained special rights for one section of the community. With the introduction of MMP it was advocated that candidates of Maori decent would hold their own and even increase their representation in the House of Parliament. That has come to pass.

It could be considered that it is insulting to have separate Maori seats to empower those of Maori decent to be represented. It is saying that Maori could not do it on their own. In the same vein why are there not seats reserved for Women, there is inequity in representation there. The result of only 7,000 extra names added to the Maori Roll this 2013 Maori Option indicates that many Maori prefer the General Roll.

When a person is elected to Parliament that person is supposed to act on behalf of all New Zealanders. Being racially selected undermines this principle. This could also be true of seats being put aside for councils based on race alone. If an area has a large ethnic base then block voting would fix any inequity of representation.

Conclusion

- We do not support a written constitution, we are happy with the flexible and workable status quo. Parliament should be sovereign!!
- We do not want to go to a four term electoral cycle. Three-year term is just fine.
- We do not want to make the Treaty of Waitangi superior law. It is only one part of our unwritten constitution.
- The retention of Maori seats is denigrating. They are no longer required. People of Maori decent are well and able to become Members of Parliament without artificial representation arrangements.
- We like the idea of an upper House to act as a check and balance on rushed legislation. Good legislation takes time.

Thank you for the opportunity to forward this submission.

3516

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 11/07/2013 12:06 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Richard Massam Organisation Name: Self Employed Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Lower Hutt Postal Region: Wellington Postal Post Code:
Postal Country: New Zealand Submission: I would firstly like to introduce myself. I was born in Wellington and have spent most of my life in New Zealand. Through my job I have spent 14 years working in Australia, Singapore and the USA with my wife and 4 kids. All my children were born overseas in 3 different countries. These nations are all very different and all have a large and different range of political and cultural issues to deal with. They all face the issue of employment problems, illegal immigrants, pollution/greenhouse gas emissions, health issues, multiple races and religions living together and the issue of wealthy people living alongside poor people and a Government attempting to be fair to all.

In my view, New Zealand first and foremost needs to stick together. There are too many examples to name why this is important. One that everyone understands is probably rugby. There is no logical reason other than passion, a common goal and a united focus as to why in this professional era, a tiny country like New Zealand is able to dominate a professional internationally played sport year after year. And everyone in the world knows about the All Blacks even in the remotest corners of Asia. The value this brings to New Zealand is of course immense.

So when I say "stick together" I mean we have to do everything in our power to prevent a divisive culture. We should never let race or religion get in the way. We only have to look at the Middle East or a decent chunk of Europe to see what can happen. This means that we cannot allow the Treaty of Waitangi to be included in our constitutional arrangements. It would technically be possible for a judge to argue more special privileges to Maori. We have many cultures to look after in New Zealand and the undercurrent of bitterness that exists to today towards special treatment is already unhealthy, it is a sleeping giant and needs to be dealt with.

My second point focuses on the rich/poor divide. This exists in all countries. One thing we are all familiar with is the "tall poppy syndrome". In the US and Singapore they celebrate success. If someone does well they say "good for you" ... in NZ we say "lucky for some". The difference is huge. I'm not sure we can change a culture overnight but we can treat people fairly and use economic logic. The bottom line is, without the successful people and Companies paying tax the country would go bust. We cant "tax the super rich" as Hone says, ... why, because they will simply leave. We had people up in arms about reducing tax on the Hobbit and all the revenue we've "lost". The simple reality is that these films will be made elsewhere unless we make it conducive for them to stay. And having the full tax rate multiplied by zero still equals zero, so a reduced rate by a lower rate is without question a positive result.

This principle clearly applies to individuals as well, and we need to stop the flow out of New Zealand (or the lack of desire to return) by not over penalising those that are successful. If you want to see this

If you told anyone 30 years ago that a country with no natural resources (not even water), could be where they are today they would simply not believe you. All the tax breaks and nimble decision making to attract large companies has paid off. They are the

That is "regular" people like taxi drivers, restaurants, and hotel workers. And even at reduced tax rates, there is positive income versus the alternative of high rates times zero.

Thank you

Sent on the 11 July 2013 at 12:05

1448

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 18/06/2013 8:17 p.m.
Subject: <http://www.ourconstitution.org.nz/> form submission

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: alanna kathleen massey ratna Organisation Name: Email Address:
Phone: Postal AddressA: Postal
AddressB: Postal City: tauranga Postal Region: Postal Post Code:
Postal Country: New Zealand Submission: I am against any inclusion of the Treaty of Waitangi in
any constitution that NZ might have now or in the future because to include the treaty is apartheid.
Maori people are already treated with privilege that is tantamount to separatism. I do not want
my children to grow up in what is rapidly becoming an apartheid nation.

Sent on the 18 June 2013 at 20:16

2034

From: Graeme Massey <
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.gov...
Date: 2/07/2013 5:15 p.m.
Subject: CAP Submission

Maori seats should be abolished, they are racial, it makes me sick.

I would not be allowed to start up a European Party. Everything is done to humour them(Maori).

We should be one country one people, no separatism.

Graeme Massey

4112

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 29/07/2013 9:51 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Davne Jeffery Matatia Organisation Name: Email:
Phone: Postal AddressA: Postal
AddressB: Postal City: Dunedin Postal Region: Otago Postal Post Code:
Postal Country: New Zealand Submission: New Zealand should become a Republic :)

Submitted on the 29 July 2013 at 21:50

5233

newzealand.govt.nz

Panekuiini

Ko tēnei mea te kaupapa ture ko ngā ture me ngā tikanga katoa ka noho hei whāriki mō te whakahaere i tō tātou motu me tā tātou noho tahi.

Kōrerotia mai ō tūmanako mō tō tātou whenua, me ngā kaupapa nūnui ki a koe ina whakarite tikanga tātou mō ōna whakahaere:

How would or would this affect Te Tiriti o Waitangi. ~~Is~~ Māori are fighting for lands that once belonged to Māori. How would this affect Māori fighting for their land, - (Taonga) Is Te Tiriti o Waitangi claim the only way to fight/re-claim?

He kōrero atu anō mō te Whakawhitinga Kōrero mō te Kaupapa Ture ā, ka āhei te tāpae kōrero mai mā te ipurangi ki www.kaupapature.org.nz

Secretariat
Constitutional Advisory Panel
C/o Ministry of Justice
DX SX 10088
Wellington

Ingoa/Ngā Ingoa:

Toni Matena

Kāinga i-mēra, Poutāpeta rānei:

☐ Tohua te pouaka kia whiwhi pūrongo auau mā te i-mēra

6088.2

1351

From: Mather
To: "constitutionalreview@justice.govt.nz" <constitutionalreview@justice.govt.nz>
Date: 15/06/2013 1:18 p.m.
Subject: Treaty Issues

New Zealand does not need a written constitution and I strongly oppose any legislation or any reference to the treaty of Waitangi should one be drafted now or in the future.

Greg Mather,
Tauranga.

4626

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 12:15 p.m.
Attachments: Submission to the Constitution.docx

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Donald Paschal Matheson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Wellington Postal Region: Postal Post Code: Postal Country: New Zealand
Submission: Submission Upload: Submission to the Constitution.docx

Submitted on the 31 July 2013 at 12:12

Submission to the Constitution

From Don Matheson

31 July 2013.

1. What are my aspirations for Aotearoa New Zealand?

There are three aspirations that I have for New Zealand that the proposed constitution should address:

A. That we live in a fair society where all citizens have the capabilities to choose lives they have reasons to value.

B. That the environment in which we live is protected and restored where necessary.

C. That sovereignty and mana of all people in this land is valued and changes to sovereignty are conducted in an open transparent and thoughtful manner.

D. That we continue to build on the principles of partnership, participation and protection as expressed in the Treaty of Waitangi.

A. That we live in a fair society where all citizens have the capabilities to choose lives they have reasons to value.

Currently we do not live in a fair society. Income, employment, education, health, life expectancy and housing are very poorly and unfairly distributed in our society. To be born poor, Maori or Pacific means a lower life expectancy and less access to the capabilities necessary to lead a flourishing life. As Amartya Sen puts it, many of our people are not in a position to choose the life they have reason to value. In health care access for example, New Zealand lags behind many other comparable countries. In terms of income inequality, the differences between rich and poor are increasing, and on the current trajectory, those on benefits and low wages can look forward to a future where they are increasingly marginalised from full participation in society because they lack the material means to participate fully.

B. That the environment in which we live is protected and restored where necessary.

Currently we are depleting the natural ecosystem on which life depends. Rivers are increasingly contaminated, global warming is threatening the global weather system and displacing populations, indigenous forests are being depleted. As a child, I played in a clear fast flowing river. Recently I returned to that river to show my children – it was choked with weeds from excessive nutrient runoff from changed agricultural practice in the area. We are dis-inheriting future generations by bequeathing them an unsustainable ecosystem which they depend on to live.

C. That sovereignty and mana of all people in this land is valued and changes are conducted in an open transparent and thoughtful manner.

Globalisation needs to be accompanied by stronger global governance, which means that there are tradeoffs to be made between local sovereignty and cooperative global action. Currently there is a discussion going on under the Trans Pacific Partnership Agreement that may reduce our sovereignty, and allow international companies to sue the government under new policies and laws known as Investor-State Dispute Settlement. If it goes ahead, we risk damage to our innovative economy, our pristine environment, our health, and the ability to shape our own future. Of major concern is that this discussion about reducing our sovereignty is being conducted in secret. There may well be good arguments for reducing our sovereignty for the benefits of regional and global agreements. However, there needs to be a better process whereby we have the right to know what is done in our name and to have a say.

D. That we continue to build on the principles of partnership, participation and protection as expressed in the Treaty of Waitangi.

The Treaty is our founding document and one which gives me great pride as a New Zealander.

Its focus on partnership, participation and protection provide a firm base on which to build further our constitution.

2. How do I want our country to be run in the future?

I am hoping the constitution can hold the government of the day to account for making progress in addressing the core values as discussed above: equity, the environment and changes to sovereignty.

Currently the short electoral cycle mean that we do not have a system of government that is able to address these long term issues. They need a sustained focus over a generation, rather than an electoral cycle.

1466

From: "Matheson"
To: <ConstitutionalReview@justice.govt.nz>
Date: 19/06/2013 2:07 p.m.
Subject: Re: The Constitution Conversation

Submission to.. Secretariat, Constitutional Advisory Panel

I believe that the "New Zealand Constitution" applies ; and "must continue to apply" to all; [a] Native New

Zealanders [those born in New Zealand.. irrespective of ethnic background] and [b] those "naturalised" by

immigration; without favour by skin colour or perceived racial background.

This belief therefore denies the inclusion of the "Treaty of Waitangi" as a part of our Constitution now or any time in the future.

The Treaty was an agreement between the British Crown and the Maori Chiefs who signed it in 1840 and any

subsequent redress should have and should be between those two parties. [an African Country has recently

been awarded several million "Pounds" from the British Crown for a similar situation]. Not paid from the State

funds of those who now constitute the countries population.

The New Zealand Constitution applies to all all New Zealanders under the conditions, "and amendments" of

New Zealand becoming a "Dominion" in 1907. [In reality the "Queen's /King's" direct influence in our affairs

ceased at that point in time] There are no racial or ethnic preferences included in our Constitution now and

there is no logical nor legal reason why they should be included for the future.

The present "climate" of "Greed by, and favoured treatment to" certain groups is nothing more than that

created by Political Parties "Vote catching" and endangers the peace-full lifestyle that N.Z. has enjoyed for

the past 104 years.

The Treaty was not a "founding" document. it was an agreement between the Queen and Maori chiefs. .

The New Zealand we have today has evolved in the same way as many other "colonised" countries have and

the success of our growth as a "Stable, productive and Peaceful" community is admired by many other countries around the world.

A very large proportion of those who now claim "favouritism" because they are "Maori" are more "other race"

than Maori, having names like Tom, Dick, and Harry, but use a very "slim" Maori background. to qualify for a

Tribal relationship. They completely ignore and, in many cases, insult their other bloodline relationships.

The New Zealand Constitution must be "Fair and Just" for all new Zealander's regardless of skin colour or ethnic background.

The Treaty of Waitangi; in it's multitude of interpretations does not have a place in "Our Constitution".

Yours sincerely... Graeme W. Matheson. [full contact details

below]

From: ConstitutionalReview@justice.govt.nz

Sent: Wednesday, June 19, 2013 10:49 AM

To: |

Subject: The Constitution Conversation

Dear Graham

Thank you for your interest in the Constitution Conversation. Unfortunately your submission did not

come through.

Could you please send it again? If you prefer you can email your submission to this address or post it to:

Submissions
Secretariat, Constitutional Advisory Panel
C/o Ministry of Justice
DX SX10088
Wellington
Regards

webmail@constitution.org.nz 19/06/2013 10:27 + NZST
Sent from The Constitution Conversation.

Full Names: Graeme William Matheson

Organisation Name: N.A.

Email:

Phone: (

Postal AddressA: ,

Postal AddressB: L

Postal City: Tauranga

Postal Region: Bay of plenty

Postal Post Code: ,

Postal Country: New Zealand

Submission:

Sent on the 19 June 2013 at 10:27

=====

4809

From: <webmaster@ourconstitution.org.nz>
To: <constitutionalreview@justice.govt.nz>
Date: 31/07/2013 4:18 p.m.

Sent from The Constitution Conversation #link:<http://www.ourconstitution.org.nz/>.

Full Names: Kate Matheson Organisation Name: Email:
Phone: Postal AddressA: Postal AddressB: Postal City:
Oakurs Postal Region: Taranaki Postal Post Code: Postal Country: New Zealand
Submission: 1. What are my aspirations for Aotearoa New Zealand?

There are three aspirations that I have for New Zealand that the proposed constitution should address:

A: That we live in a fair society where all citizens have the capabilities to choose lives they have reasons to value.

B. That the environment in which we live is protected and restored where necessary.

C. That sovereignty and mana of all people in this land is valued and changes to sovereignty are conducted in an open transparent and thoughtful manner.

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Currently the short electoral cycle mean that we do not have a system of government that is able to address these long term issues. They need a sustained focus over a generation, rather than an electoral cycle.

Submitted on the 31 July 2013 at 16:18

1784

M.J.Matheson

Te Puke :

CONSTITUTION REVIEW submission

Constitution: the system of basic laws and principles of a government; society etc; a document stating these specifically . (Geddes and Grosset English Dictionary)

The above description is clear and simple. To have such a constitution that is as it should be, easily understood and interpreted and inclusive of all those who come under its rules. I believe such a constitution for New Zealand is not desirable nor possible in the foreseeable future.

Trust in Government

M.M.P.

I have little trust or faith in government or parliament in New Zealand. This all the more so since the MMP system came into being. Promises and suggestions that New Zealanders would have a say on it's existence and continuance through revue process and/or referenda were, and it appears, always intended as a delaying tactic until MMP was so entrenched that it's removal or replacement would be nigh on impossible. Of course 'tinkering' around the edge of the system would be seen as to have 'listened to the people'.

The tail wagging the dog scenario whereby smaller parties/partners sell their loyalty through demands of their own that would otherwise not see the light of day. Examples: 'anti-smacking' legislation, foreshore and seabed fiasco, family assistance package, marriage equality and etc.

List members of parliament owe no allegiance to an electorate. Even those soundly rejected in an electorate vote can still enter parliament through the list. All M.P.s should be in parliament via the will of the people via the ballot box.

The constitution review came about not because of it's necessity but to appease and reward the Maori party for it's support by the National Government.

Parliamentary Term

Where we have present and past governments ignoring the wish of the public during a three year parliamentary term why should their public adopt a masochistic four year term? A party manifesto sets out the goals for that party should it gain office. On that among other matters, government is elected yet even those manifestos hold little water when the baubles of power are attained. Examples: MMP

review, foreshore and seabed, Maori seats, and etc. A four year term would allow even more time for the government to disregard public demands and wishes.

Binding Referenda

There are no checks and balances on government. Government relies on entrenched public apathy to pass policy. Aligned with this is the reluctance of 'kiwis' to overtly stand up to question policy lest they would be shouted down. It is not in their nature. These policies would not pass muster if put directly to the people. The murmurings in the workplace, social groups and the wider public arena reflect this. These murmurings are getting louder and have and still are being stifled through political swear and trigger words such as racist, bigot, redneck, homophobe, intolerant, and etc. Such is the placid nature of New Zealanders that these same people keep their views to their peers or through such as talk-back radio. This will not always be the situation in the future.

Binding peoples initiated referenda will allow the public real say in the country they call home. A per centage pass mark would need to be clear but given that parliament can pass legislation at 51% then surely parliament would accept that 51% of the public who vote for change/or not would be sufficient to determine an outcome binding on government.

Voting

Voting in general elections, bye-elections and referenda must be compulsory. It is the duty of citizens to reflect the importance of this opportunity in our society. Detractors of course will conveniently quote 'choice' of not to vote and supply arguments for such reasoning. Any such arguments can be countered mainly through allowing possibly seven days duration for voting and just as importantly forms should contain a box that can be ticked 'no confidence' as this appears to be the main reason for low poll attendance.

Treaty of Waitangi

The Treaty of Waitangi is a millstone around the neck of all New Zealanders. It did have, in the 19th century, a profound and well meaning affect on New Zealand and the peoples of New Zealand at that time.

It is conveniently forgotten that many Maori chiefs actively sought intervention from the Crown via a treaty to bring an end to tribal warfare as well as to bring law and order to the non-Maori population.

'Principles'

It was a very simple treaty; not any more. Extremely vague 'principles' of the treaty are being interpreted to suit the present and the future that have very little bearing on the situation in 1840. Acting on these 'principles' has lead to dramatic changes that are not extended to the wider population. Examples: Foreshore and seabed, lake beds, airwaves, air space above such as lakes, seats on councils and public boards as of right, preferential treatment re education, local body rates on maori land, various quota, and etc.

Given that the Treaty and it's 'principles' are ever-speaking and open to interpretation – which even those are apt to change – there will **never** be an end to claims. Full and final settlements can never be a

reality as can be seen in past such settlements. Ngai Tahu settlements, full and final 4 or 5 times in the past, are a glaring example of this. Government promises to the contrary are mischievous and misleading to the public.

Inclusive

The Treaty of Waitangi is not inclusive. Such a requirement is vital if it was to be foisted on the public as a major foundation for a written constitution. The Crown and Maori lay claim to a 'partnership' in the Treaty. Glaringly obvious is the absence of a non-Maori perspective or representation in the Treaty. The Crown represents itself not non-Maori New Zealanders. Pakeha (foreigner/alien) have no voice in or claims to the Treaty and indeed are alienated from any benefit from the same. The Government enters into dialogue with Maori in all matters seen as concerning Maori. The same privilege is not extended to non-Maori under the guise that Maori are special and more deserving than others.

The Treaty as a required foundation of a written constitution suggests having a cultural history is the exclusive domain of Maori. If the majority of non-Maori are to be continually referred to as pakeha (foreigner) or Europeans then they should be able to retain their heritage and culture in such a constitution. The Magna Carta and Privy Council could be a starting point. The only plausible explanation for including one and not the other is that a divided population is easier to control and manipulate. History reveals this fact well,

Benefits?

The Treaty of Waitangi has morphed into a grievance industry where victim-hood is now the norm for those who look back not forward. No amount of money or goodwill can appease this affliction. There appears to be little or no 'trickle-down' in Treaty settlements despite the monetary and facilities included. Iwi and their leaders have become no different than other corporations. That is the 'fat cats' become fatter. The concepts that this is necessary so that all tribal members can benefit in the future is as plausible as suggesting that claims are finite. Should such actions concern what Maori do with 'their' money? No provided that the settlement is final but as mentioned there is no guarantee of this.

Separateness

The Maori seats in Parliament have served their purpose and retaining them reinforces preferential treatment and separateness. There are no specific seats for non-Maori.

Departments based on race must be abolished. For example, Maori and Pacific Island departments.

The Maori electoral roll must be abolished. There is no such separate roll for other ethnicities.

The W omens' Affairs ministry and department must be abolished. There is no such department for men.

The above is just a small example of how divided New Zealand really is. A written constitution will not be a panacea for uniting the country and will just reinforce this divisiveness.

Republic

The Westminster system, law and it's structure, and the Governor General position have served New

Zealand well for a long period.

Abolishing the Upper House and access to the Privy Council was not in the public interest but rather self-serving for governments of the day. New Zealand is not better off for losses such as these as is mentioned earlier re checks and balances and the lack of them.

A leader, president or such, I assume would be elected at large. Given New Zealand's fixation for political correctness this would never be acceptable. Even under the current system this can be seen in many appointments such as; Race Relations Conciliator/Commissioner, Governors General, Supreme Court, and even the constitutional panel, and etc. New Zealand, therefore, is not ready nor mature enough to become a republic.

If the only or main reason to make New Zealand a republic is to remove any trace of the monarchy then this is an insidious attack on the heritage and culture of the vast majority of New Zealanders. Would those who champion such a cause be also prepared to treat Maori and their King/Queen with the same contempt? We all know that would not happen. Once again why then can Maori culture and history be recognised through Treaty matters and government yet non-Maori culture and heritage rooted out and eradicated?

Constitutional Panel

The tipping point. Any hope of a serious, open and bipartisan debate on a written constitution, for me, went out the door when the 'racially-stacked' panel was revealed.. Then came the television advertisements with Bernice Mene (on the panel) and Pio Terei which were clearly not for the non-Maori audience.

If my scepticism was misplaced re a fair 'hearing' in this debate it was soon dispelled when Mr Sharples on launching the panel said, "An important part of the review process will be consultation with Maori, particularly on the place of the Treaty of Waitangi in our constitution." I know the same consideration will not be given to non-Maori.



M J Matheson