KEI MUA I TE AROARO O TE RŌPŪ WHAKAMANA
I TE TIRITI O WAITANGI

BEFORE THE WAITANGI TRIBUNAL WAI 2180

IN THE MATTER OF the Treaty of Waitangi Act 1975

AND

IN THE MATTER OF THE TAIHAPE: RANGITĪKEI KI RANGIPŌ DISTRICT INQUIRY

BRIEF OF EVIDENCE OF SAMUEL DAVID CARPENTER

19 February 2019

CROWN LAW
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I, **Samuel David Carpenter** of Wellington, Historian, state:

1. Ko Pukekohe te maunga. Ko Waikato te awa. Ko Bombay te waka. Ko Ngā-Hau-e-Whā te marae. Ko Ngāti Pākehā te iwi. Ko Samuel David Carpenter tōku ingoa.

2. I have worked in the Treaty sector as an historian for a decade, including at the Waitangi Tribunal and Office of Treaty Settlements. I also have six years legal-practice experience.

3. I am currently working on a Ph.D. on early New Zealand political thought, *circa* 1830s-1860s. This is part of a Royal Society of New Zealand, Marsden-funded project at Massey University, led by Professor Michael Belgrave, which is exploring the extent to which a civil society was created or imagined in New Zealand that transcended the scattered European settlement and different Māori polities, allowing the wars of the 1860s to be seen as 'civil wars'.

4. I have undergraduate degrees in Arts and Law from the University of Auckland, a Masters in history (distinction) from Massey University, and Te Pōkairua Ngāpuhi-Nui-Tonu (Diploma in te reo Māori) from Tai Tokerau Wānanga (NorthTec).

5. I consider myself primarily as an historian of nineteenth century political thought in its New Zealand and broader British empire contexts.

6. I have previously given evidence in the Wai 1040 Paparahi o te Raki (Northland) inquiry.

7. I confirm that I have read the Code of Conduct for Expert Witnesses contained in Schedule 4 of the High Court Rules and have prepared my evidence in accordance with the Code.

Scope of evidence

8. I **attach** with this brief of evidence my report "The Native Land Laws: global contexts of tenure reform, individual and collective agency, and the structure of 'the Māori economy' – a 'landless brown proletariat'?"

9. This report responds to research questions asked of me by the Crown Law Office namely:

9.1 First, what were some of the 'real-world' concerns evident in the evolution of the Native Land Laws (**NLLs**)? In particular, how were tensions evident between individual control and collective control of lands?; how could Māori manage land collectively under European/British tenure or legal models?; could they do so under trust or agency concepts, or through incorporation?; even then, was there a limit to the efficacy or efficiency of such structures?

9.2 Second, was the intent, or probable result, of Crown policy and legislation (the NLLs) to turn Māori from a landholding people into a landless labouring class (or underclass), that is, a 'landless brown proletariat'?[1] In other words, was the intent to remove Māori from land ownership *or* was it to provide mechanisms by which land could be utilised in the modern economy - including under individual or collective Māori ownership?

10. The report provides a contextual analysis of the various land tenure (title or ownership) mechanisms and economic development concepts (or models) that were available at the time when the Native Land Laws (NLLs) were created and then amended, in particular in the first decade of their existence (1862-73). The report also considers the 1894 'committee' model in light of the critical context of the development of the joint stock company in Britain.

Signed:

Samuel Carpenter

[1] I understand that the phrase 'landless brown proletariat' was a phrase 'coined' by Sir Douglas Kidd during the Taihape Tribunal hearings as a way to characterise the intent of Crown policy on/for Maori in Taihape (and more generally) in the nineteenth century. It has been adopted as part of the research framing, in part because it allows a wide-angle testing of what the native land legislation meant and effected in its contemporary contexts.