Treaty Issues Gathering at the Quaker Settlement, Whanganui, 23-25 July 2004 - Report by Murray Short

A group of about 30 Friends worked together at this gathering to update themselves on current issues and consider how to facilitate the Yearly Meeting decision to form a new group to keep the issues before the Society and when appropriate to represent the Society's views to the wider public.

We gathered just at the time that submissions were due to the Select Committee considering the Government's foreshores and seabed proposals. In fact we received news that there had been an extension to the deadline for these submissions. This seemed more than a happy coincidence and we decided that we should prepare an epistle from the gathering that would also serve as a submission. A copy of that epistle is published with this report.

The gathering heard from Michael Payne about his work on a Committee that is part of a Treaty-based governance structure for the Whanganui Regional Museum. This illustrated that such governance structures do work and can effectively provide for fuller Maori participation in decision-making. This is critical for a Museum that is regularly required to make decisions about the acquisition, treatment and care of Maori taonga. We considered briefly whether such arrangements also offer a model for Treaty relationships at the national level where current constitutional arrangements can be seen as leading to a form of "tyranny of the majority" in their effect on an indigenous population that is numerically in the minority.

Edwina Hughes from Peace Movement Aotearoa presented information about how the Government proposals for the foreshore and seabed not only constituted a breach of the Treaty of Waitangi but are also considered to contravene the NZ Bill of Rights Act, and the Human Rights Act and to be in conflict with several international human rights standards and conventions including:

- The 1948 Universal Declaration of Human Rights,
- The International Convention on the Elimination of All Forms of Racial Discrimination (ratified by NZ in 1972)
- The International Covenant on Civil and Political Rights (ratified by NZ in1978).

She encouraged us to stand with Maori in opposing the draft legislation. There are alternative ways of resolving the dilemma facing the Government and we need to press for a just outcome rather than an outcome driven by political expediency in the face of at times ill-informed public concern about access to beaches and shoreline.

We were fortunate to have with us two Friends from Barcelona, Imma Tubella Casadevall and Eduard Vinyamata Camp. Their description of the suppression of the Catalan language and culture in Spain had many parallels in NZ. One of their solutions over recent years was to broadcast sports commentaries and popular TV shows only in the Catalan language so that those who wished to follow them had to learn the language. This sort of tactic had resulted

in a rapid increase in the number of people who used the language, which now stands at about 95% of the population.

The decision to recommend the formation of a new Treaty Relations Group emerged toward the end of the gathering as a consequence of the various threads of thought being teased out and then woven together by participants over the course of the weekend.

As is always the case at Whanganui Settlement, the beautiful environment and the lovely care of local Friends contributed significantly to the success of the gathering. Participants departed in the knowledge that the spirit had been strong amongst us and our deliberations had resulted in decisions and commitments that felt right for us all.

EPISTLE FROM THE TREATY ISSUES GATHERING ALSO USED AS THE SUBMISSION TO THE SELECT COMMITTEE CONSIDERING THE FORESHORE AND SEABED BILL

This Statement was agreed by the above, largely Pakeha group, as our response to what we see are the injustices to Maori in the Bill.

We affirm our commitment to social justice based on our belief that there is that of God in everyone.

It is our wish at all times to honour the Treaty. We acknowledge that Maori as tangata whenua have customary rights, that these pre-date and are confirmed by Te Tiriti o Waitangi /The Treaty of Waitangi and need an appropriate means of recognition in law.

We believe the Bill is fundamentally flawed for several reasons including, most importantly:

a) Article II of both versions of the Treaty reaffirmed and guaranteed customary rights, and thus the Crown, in this Bill, is in breach of the Treaty.
b) It takes away from Maori the right to use the court process to determine property rights. This right is enshrined in the New Zealand Bill of Rights Act 1990.
c) It does not take account of relevant human rights standards. We refer, for example, to General Recommendation XXIII of the Committee for the Elimination of Racial Discrimination (18/08/1997) which provides that "States parties [...] recognise and protect the rights of indigenous peoples to own, develop, control and use their communal lands, territories and resources ...". In our view the Crown must recognise the pre-existing Maori customary property rights; then it will be in a position to give effect to this recommendation.
d) The manner in which the Bill attempts to codify Maori customary interests is restrictive and culturally inappropriate. We are concerned at the lack of true consultation by the Crown with Maori in developing the policy behind this Bill. Maori clearly expressed their rejection of the Government's proposals and indicated workable alternatives. These were ignored and the Crown has insisted on imposing its own solution on Maori. Public access to foreshore and seabed, and possible alienation of foreshore and seabed land have been raised as deeply held concerns by both Maori and Pakeha. Ngati Kahungunu have suggested for their rohe that a way of addressing these concerns is to provide for covenants on any title to land in the fore shore and seabed to preclude sale and ensure public access. Other iwi and hapu have put forward their own proposals for ways to address these concerns.

During our time together we heard from a member of our group who is involved in a bicultural governance structure set up for the Whanganui Regional Museum. This Museum holds a large collection of Maori taonga and has chosen a model which gives effect to tino rangatiratanga. We heard how the two parts of the Joint Council, the "Tikanga Maori House" and "Civic House", when faced with difficult issues, worked through these by listening to and talking with each other and allowing time. We give this as an example of the approach

needed by those in government in working on issues involving Maori. We recommend this approach.

We all, Maori and Pakeha alike, feel a strong connection with the land and foreshore; enjoyment and use of the beaches and coastal region have always been an intrinsic part of life in this country. There are therefore deep and genuine concerns about the potential loss of that enjoyment and use. We recognise that this strength of feeling makes it a difficult issue for Government.

We are convinced however that the draft legislation, in an attempt to deal with the concerns, will create further injustices and do further damage to relationships between the peoples of Aotearoa New Zealand. There are other ways of resolving our difficulties. In the interests of peaceful relationships, and for the sake of future generations, we must take the time to explore the issues properly together and strive for a more just outcome.

We are opposed to the Bill and ask that it be withdrawn.