

COMMENT FROM THE NEW ZEALAND MĀORI COUNCIL

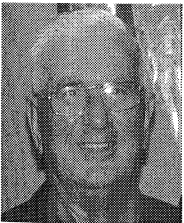
Jim Nicholls

On 23 February 2007, a small group of Hauraki Māori led by Ngati Hei used wire-cutters to cut through a fence to repossess land at Whenuakite that was leased to the Crown in 1869. Ngati Hei was advised



by their Pakeha neighbours that a "For Sale" sign had been placed by Landcorp on the 1100 hectare piece of Crown land that was "surplus to requirements".

Twenty years earlier the Crown also wanted to dispose of Crown land but its area included nearly fifty per cent of New Zealand. At the time, a Ngapuhi farmer, who was the head of a small pan Māori collective, believed that what the Crown was doing was wrong because within the areas that they had targeted to sell, were tracts of land that Māori claimed under the Tiriti o Waitangi.



His name was Sir Graham Latimer and his organisation was the New Zealand Māori Council. He brought three young lawyers together, Sian Elias, (now Chief Justice), David Baragwanath (now Judge of the High Court), and the late Martin Dawson (partner at

Russell McVeagh), to appeal the case. Because his organisation was wairua rich but cash poor he used his farm as security to cover the costs of the case.

So twenty years to the day we are here at this *In Good Faith Symposium* at the Faculty of Law, University of Otago, to reflect on the *Lands* decision which has set a positive direction for Treaty settlements and brought the two partners of the Tiriti closer together.

My thanks to our guest speakers; Sir Ivor, Sir Maurice, the Hon Mark Burton and Justice David Baragwanath (via video) and the Hon Mark Burton. I want also to thank Jacinta Ruru for her initiative and courage to plan and hold this symposium.

However I pose these questions to you: If this case were to happen today, who of you in the audience would be the David Baragwanath and the Sian Elias to lead this case? If it happened today, who would be the Judges of the Court of Appeal like Sir Ivor and Sir Maurice (and others) to weigh the evidence and preside, as they have, over this case? If it were to happen today who would be the applicant; the New Zealand Māori Council or some other such pan tribal organisation? And the respondent; would it be the Crown or might it be a Republic?

What is certain is that there will always be challenges by the tangata whenua, by Māori against the Crown either regarding historical grievances or in a settlement process which may benefit one to the disadvantage of the other.

And who will be the next Sir Graham Latimer to champion the Māori cause as he has done for the greater part of his life? As Sir Henry Ngata said in his introduction to Sir Graham's book, "The Māori Council is needed today as much as it ever was".¹¹¹ But perhaps the words might be amended to encompass the wairua of this symposium, 'The leadership that we have seen in this case, is needed today as much as it ever was'.

To the law students who are present, you have had a privileged and unique experience. You have heard the thinking of Sir Ivor and Sir Maurice who decided this case. And you have heard from the Honourable Justice David Baragwanath who argued this case. In the clients that you serve throughout your professional career you will be able to draw on the knowledge that you have gathered from this special experience and in including that knowledge in your brief, submission, or affidavit you will give mana to this occasion and to those who influenced this significant decision. Tēnā tātou katoa.

¹¹¹ Sir G Latimer, *New Zealand Māori Council: Self Determination* (Auckland: New Zealand Māori Council, 1988).