

The Anglican Historical Society of New Zealand *Te Rōpu Hītori o te Hāhi Mīhinare ki Aotearoa*

A Sort of Cast-Off Stepdaughter - Established but not Established: Defining Anglican Sovereignty in Colonial New Zealand

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Abstract

On the 13 June 2007, the one hundred and fiftieth anniversary was marked of the signing of the constitution of what was then called a

Branch of the United Church of England and Ireland in the Colony of New Zealand,¹

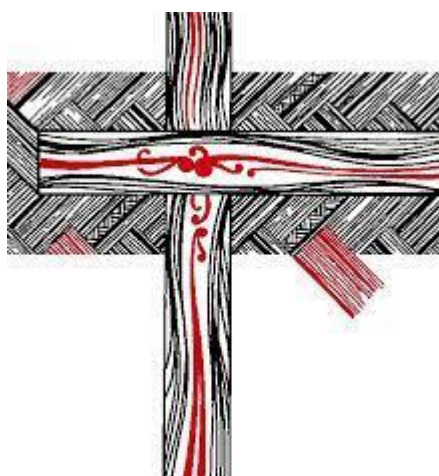
later known as the **Church of the Province of New Zealand,**

and now known as the

Anglican Church in Aotearoa, New Zealand and Polynesia

Te Hahi Mihinare ki Aotearoa ki Niu Tireni, ki Nga Moutere o te Moana Nui a Kiwa.

This article examines the making of that constitution and briefly examines how far it enabled nineteenth century New Zealand Anglicans to break free from the established church in England and claim their own sovereignty or the right to govern their own affairs.²



Despite the claims of 'Bishop' Brian Tamaki and others earlier in the year, Christianity has never been officially the state religion in New Zealand.³ That is not to discount, however, the influences which Christianity has had from the beginning in shaping New Zealand society. There has also never been a formally established church in New Zealand. Those who came from the Church of England, in the middle of nineteenth century, did, however, have various privileges which gave them almost a quasi or pseudo-establishment

status. This was seen, for example in the remuneration of Anglican colonial chaplains in Auckland and Wellington, the issuing by the British Crown of Letters Patent in 1841 appointing George Augustus Selwyn as Bishop of New Zealand, the payment of half his salary by the colonial office, and the status given to Selwyn as number three on the official precedent list. The refusal by the New Zealand Parliament in 1855 to take over from the colonial office the payment of Selwyn's salary was part of the ongoing loosening of the inherited and assumed Anglican ecclesiastical privileges in New Zealand and an indication of the widespread support among politicians for religious equality. G. A. Wood concludes that the political legacy of the 1850s was 'a complete divorce between Church and State, a complete equality between religious denominations, a State which was only in a nominal or partial sense a Christian one.'⁴

Anglicans, because of their establishment status in England, struggled more than any other

denomination to adapt their organisation to the colonial context. That struggle was complicated by the presence in New Zealand from 1814 of the Church Missionary Society (CMS), who were a voluntary society within the Church of England and who jealous guarded their own autonomy. The emerging Māori church, Te Hahi Mihinare, was already taking shape before the arrival of George Augustus Selwyn as Bishop of New Zealand in 1842. The CMS who paid the second half of Selwyn's salary were disappointed at his reluctance to ordain their lay missionaries and at the slow progress he made in ordaining Māori clergy. Selwyn for his part was at odds with the CMS over his right to station the missionaries. He had a strong sense of his episcopal authority and saw himself both as missionary bishop, overseeing the work of the CMS, and colonial bishop, responsible for the emerging settler church.⁵

The decade prior to Selwyn's arrival in New Zealand was one of ecclesiastical turmoil in England. The government intervention to restructure the church to meet the needs of the rapidly changing industrial society prompted the Oxford Movement or Tractarians. The Tractarians reacted to Erastianism or state interference, particularly now that Catholics and Nonconformists were in Parliament and sharing in the decision-making processes about the Church of England. Selwyn, an old-fashioned High Churchman was not a Tractarian, although he was sympathetic with their ecclesiology and held a high view of the role of the bishop and the ecclesiastical powers invested in him by his consecration.

Two months after his arrival in New Zealand, Selwyn wrote that he found himself 'in a position such as was never granted to any English bishop before, with a power to mould the institution of the church from the beginning according to true principles.'⁶ He had come from an established church, which supported him in his new diocese with some of the privileges of establishment, but

he was in a non-established context needing to put in place new structures to govern the church. The freedom and independence of action which Selwyn claimed, he found very difficult to exercise in the denominationally pluralistic missionary and colonial context. There was no blueprint for the Church of England in colonial territories. The struggle which Selwyn faced to define Anglican identity in New Zealand was also being faced in Canada, South Africa and Australia.

It was fifteen years before Selwyn was in a position to call the conference which met in Auckland in May and June 1857, to give constitutional expression to the 'true principles' which he held so dear. A local newspaper commented during the conference in 1857 that: 'There are few questions more perplexing to an English Churchman in the Colonies than the best mode of providing a maintenance for the clergy ... He comes out from the midst of a Church of venerable institutions and time-honoured endowments, to find the same Church stripped of all externals, with no ancient wealth, no long-descended patrimony, no prescriptive rights, a sort of cast-off stepdaughter, thrown upon her own resources without previous training for self-dependence.'⁷

The Church in England was established by law. It had privileges such as extensive endowments and a long history of participation in national affairs. At the same time the independent action of the Church was restricted by laws dating back to Henry VIII. Initially it was uncertain how far this English law applied in colonial territories. Selwyn, using his episcopal authority, had called synods of his clergy in 1844 and 1847 and been criticised in England for breaching the royal prerogative set out in the 1533 Submission of the Clergy Act. While the church in New Zealand had none of the endowments and few of the privileges of the English church, its right to control its own life independently of the British Crown was unclear.

In the ten years leading up to the constitutional conference in 1857, Selwyn was very active in exploring with bishops in Australia, colonial, ecclesiastical and legal authorities in England' and clergy and laity in New Zealand, possible ways of structuring the church. Various attempts were made in 1846, 1852, 1853 and 1854 to introduce legislation in the British Parliament that would regulate the church in colonial territories. Of particular concern were issues about the discipline of clergy, the support of the church from government funds and the implications of English law for colonial churches. These legislative attempts were all unsuccessful.

What was quite remarkable, for the time, was the process of consultation which Selwyn engaged in around the constitution of the church. Selwyn's willingness to call synods with his clergy was bold and innovative given the fact that in England, the Convocation of bishops and clergy had not been held since 1717. The welcome Selwyn gave to lay input, unusual in his day, provided the foundation for the later ready acceptance of the Constitution. Led by Sir George Grey, and Selwyn's close friend, William Martin, the chief justice, a notable list of people wrote to Selwyn in 1850 outlining a 'plan of Church Government.' Drawing on the model of the American Episcopal Church, they ensured that laymen would play a full part.⁸ While they were gender exclusive and anticipated that only 'adult males' would be given the ecclesiastical vote,⁹ it is interesting to note that fifteen women were among the Nelson signatories to the letter.¹⁰ What we take for granted today, the involvement of lay people in church councils in the Church of England in 1850s, was both novel and for many radical. Selwyn's own conservative 'true principles' on episcopal and clerical authority were modified by the democratising influences of more radical laymen like Grey, Martin and J. R. Godley, the leader of the Canterbury settlement, and his own pragmatic response to the colonial context. Without the benefit of regular income

from endowments, Selwyn found that he not only needed lay financial support, but that lay people had a significant contribution to make to church governance.

In 1850 Selwyn attended a conference of Australasian Bishops which suggested a series of measures to remove what they called, 'our present embarrassments', in relation to the doubts about the application of English ecclesiastical law in colonial territories.¹¹ Selwyn issued a pastoral letter in 1852 to 'The Members of the Church of England in the Diocese of New Zealand' spelling out general principles for the basis of a constitution which included the three distinct orders: bishops, clergy and laity, whose consent would 'be necessary to all acts binding upon the Church at large.'¹² These principles were considered at public meetings convened by Selwyn in Auckland, Wellington, Nelson, New Plymouth, Otakou, Whanganui, Lyttleton and Christchurch between May 1852 and February 1854 and a schedule of responses was drawn up and circulated throughout the church.¹³ Overall there was strong endorsement for the principles. In a Pastoral Letter in October 1853 Selwyn was still looking to England to gain 'the consent of the heads of the State and of the Church in England to some form of Church Constitution adapted to our circumstances and wants.'¹⁴

During his visit to England in 1854 and 1855 Selwyn established that the Act of Submission was not binding on colonial churches and there were no legal obstacles to prevent members of the Church associating together to order their affairs. Selwyn also met with CMS leaders in London and presented them with a draft constitution for the Church in New Zealand. The CMS were unwilling to reply to Selwyn's question about the most satisfactory form of church constitution for New Zealand. They indicated, however, that they would not object to the Archdeacons, William Williams, Alfred Brow and Octavius Hadfield, three of their senior missionaries, being appointed bishops to new

dioceses.¹⁵ After further meetings with Selwyn and his reassurances that royal supremacy, doctrine and ritual would be upheld in the New Zealand Church, the CMS also agreed not to hinder their missionaries joining in discussions 'to adapt the United Church of England and Ireland to the local necessities of the Colony.' They reserved the right to give their missionaries advice on anything that was decided.¹⁶

After his return from England, Selwyn gathered together a notable group of men, who met as a constitutional convention over a four-week period at the newly built St Stephen's Chapel, Tauraurua, Auckland.¹⁷ Five of the seven laymen were colonial politicians. Two of them, Edward Stafford and Frederick Whitaker, served as premiers. Several of them were lawyers; William Swainson and Whitaker both served as attorney generals. The clergy included the senior CMS missionaries, Henry and William Williams, Alfred Brown, Octavius Hadfield and George Kissling who represented the Māori church and the missionary work begun in 1814. Three colonial clergy were also signatories, including Charles Abraham, soon to become the first bishop of Wellington. Selwyn as a bishop was joined by Henry Harper, who had recently arrived as the first bishop of Christchurch. Much has been made in recent years of the lack of Māori participation in this convention. Given Selwyn's delicate relations with the CMS and his negotiations with them in England, the presence of five senior CMS missionaries at the convention was seen at the time by the CMS and Selwyn as covering the needs of Te Hahi Mihinare.

On the first day of the conference Selwyn drew attention to three issues which he considered had received such unanimous support throughout New Zealand that they were non-negotiable. First, was the commitment to organising the church on the basis of 'three orders, Bishops, Clergy & Laity'¹⁸; second, was maintaining the doctrine and ritual of the Church of England¹⁹; third, was in giving general synod

'full power of regulation in the affairs of the church.'²⁰

The Constitution was innovative in reshaping the American Episcopal Church model. Provision was made for three separate houses of bishops, clergy and laity sitting together as one, but voting separately. Each house could thereby exercise a veto on the others. This put into effect the principle of co-operation between bishop and clergy that Selwyn defined in his Charge to the Synod at St John's College in 1847: 'neither will I act without you, nor can you act without me.'²¹ This co-operation was extended in 1857 to include laity. Synodical government at the provincial or national level, and diocesan synods at the regional level, became the backbone of the church at a time when the mother church had only just begun to revive clerical diocesan synods. It was another seventy years (1919) before the Church of England established a national Church Assembly with a house of laity, and one hundred twenty years (1970) before the English General Synod brought all three orders to sit together.

'Fundamental provisions' were written into the Constitution entrenching the Book of Common Prayer, the ordinal, the Thirty-nine Articles of Religion and the Authorized Version of the Bible as a way of safeguarding the integrity of the church's teaching, theology and ritual. At this point the Constitution was conservative, expressing a sense of loyalty to the Church of England and recognising the sovereignty of the Church of England and British Parliament in matters of Anglican doctrine and ritual. Godley's warning in 1852, that 'the lapse of time' and 'the wide difference of circumstances ... between the Church of England and New Zealand' could make changes in rituals and formularies necessary was not heeded.²²

In affirming the final authority of general synod in all matters, such as discipline, the nomination of bishops, and diocesan boundaries, the New

Zealand Church, rejected an established church model. In contrast to some other colonial churches they were unwilling to let the colonial parliament define church membership or have the right to change the Church's Constitution.²³ The underlying principle was enunciated as early as 1846, when Selwyn's former Eton friend, William Gladstone, who was then Secretary of State for Colonies, with the archbishop of Canterbury's support, raised the possibility of founding colonial churches on the basis of 'voluntary compact.'²⁴ Anglicans in New Zealand associated together by voluntary compact. Their doctrine and ritual were shaped by the fundamental provisions of their constitution and their life was expressed through synodical government at national and diocesan levels.

In order to safeguard its property though, the Church found it necessary to turn to the New Zealand Legislature to gain approval for the Bishop of New Zealand Trusts Bill. The Constitution which had been included in a schedule to the Bill was deleted by the Legislative Council and parliament ended up approving 'a simple trusts act.'²⁵ John Hall, the Anglican Canterbury politician, commented during the debate: 'that the branch of the Church of England established here was an independent religious body, in no way connected with the State, but upon precisely the same footing, so far as its civil position was concerned, as the Wesleyan and Presbyterian communities; enjoying no other privileges, subject to no other obligations.'²⁶

While the 1857 Constitution recognised the independence of the Anglican Church from the New Zealand State, links with the British Crown continued. Five Letters Patent were issued in 1858, redefining Selwyn as Metropolitan of New Zealand, constituting three new dioceses, and placing Harper as Bishop of Christchurch under the jurisdiction of the Bishop of New Zealand.²⁷

In 1863, the Privy Council in the Westbury judgement, over a dispute in the South African

Church, declared that Letters Patent had no authority in colonies which had an independent legislature and that their church was 'in the same position as any other Religious body.'²⁸ In response, the New Zealand Anglican Bishops petitioned the Crown to surrender their Letters Patent. They affirmed their inherent episcopal powers, the primacy of their own Constitution, and acknowledged that the 'principle of the civil equality of all Religious Bodies' had been affirmed in the New Zealand House of Representatives.²⁹ No response was received to the bishop's petition, but no new Letters Patent for New Zealand Bishops were ever issued.

The greatest test the 1857 Constitution probably ever faced was the rejection of Henry Lascelles Jenner as the first bishop of Dunedin.³⁰ Selwyn had encouraged the archbishop of Canterbury to go ahead with Jenner's selection and consecration before gaining full support in New Zealand. When fears were raised about Jenner's ritualistic proclivities, division over his acceptability in Dunedin led the General Synod in 1869 to reject him. Harper wrote to the archbishop of Canterbury in 1874 telling him that the English bishops, led by Selwyn who had returned to England as Bishop of Lichfield and who tried to support Jenner's claims, had ignored 'the authority of the General Synod in the appointment of Bishops within the Province of New Zealand.'³¹ In the year he retired, Harper, with the Jenner affair in mind, declared that although 'The Colonial Church is thoroughly loyal in her attachment to the Mother Church' she was 'independent of her.'³²

Ironically, however, legislative help had to be sought by the general synod in 1928 when New Zealand Anglicans found themselves unable to use the 1928 English Prayer Book because it had been rejected by the House of Commons. Anglican ecclesiastical sovereignty could only be modified with requested State intervention. The Church of England Empowering Act, passed by the New Zealand Parliament, made it possible for

Anglicans to change their fundamental provisions. This opened the door for later changes that could not have even been dreamt of in 1857, such as the ordination of women, the ordination of the first diocesan woman bishop in the Anglican Communion, the adoption of the 1989 Prayer Book and the possibility of the revised 1992 Constitution.

The 1857 Constitution was both conservative and also creative. The slowness of the Church, compared with the State, in making it possible for women to vote and take part in church meetings at all levels of its life represented male and ecclesiastical conservatism. The complex issues surrounding Anglican Māori sovereignty and the exclusion of Māori from the governing structures of the post 1857 church were partly a problem of the Constitution's focus on resolving the issues of colonial church governance. The marginalisation of Māori within the church structures also reflected the ongoing failure of the church and its leaders to deliver what the President of the CMS hoped for in 1857: 'Native Christians under Native Pastors ... as an organised self-supporting Native Church.'³³ The Constitution's creative provision for associating missionary dioceses in the Pacific opened up significant connections that were to come first through Melanesia in 1861 and Polynesia in 1925. The revised constitution in 1992 gave institutional recognition to the separate Māori, Pakeha and Polynesian streams within the Church. The 'cast-off stepdaughter' of 1857 had grown to maturity and recognised her other siblings as her partners and equals. Attempts have been made, out of the experience of revising the 1992 Constitution, to contribute to the debate on a national Constitution for New Zealand.

Endnotes

¹ Henry William Tucker, *Memoir of the Life and Episcopate of George Augustus Selwyn, DD, Bishop of New Zealand 1841-1869, Bishop of Lichfield 1867-1878*. 2 vols. (London: William Wells Gardner, 1879).

The Anglican Church still carries with it something of its English comprehensive mentality, even although it has never been an established church in New Zealand. The presence of its cathedrals in major centres and the role they play in civic services, such as the ceremony marking the return of the Unknown Warrior to New Zealand in 2004 are indications of that. The pervasive influence of Christianity throughout New Zealand history, seen for example in the formulaic use of the Christian prayer to open sessions in parliament, still has remnants today.

It is intriguing that when the draft Statement on Religious Diversity was issued earlier this year, that the clause: 'New Zealand has no state religion'³⁴ provoked an outcry from some conservative Christians. The final version of that Statement replaced those words with 'New Zealand has no official or established religion.'³⁵ Given the decline in nominal church affiliation, the increase in 'no religion' and the growth of visible religious minorities, such as Hindus, Muslims and Buddhists, there is a question as to whether Brian Tamaki's affirmation that 'New Zealand is a Christian nation' is anything more than pulpit or political rhetoric harkening back to some golden age that is a shadow of itself.³⁶ Nineteenth century New Zealand institutional church life, as the Anglican example indicates, was constituted around the acceptance of voluntarism, adaptation to the denominationally pluralistic colonial environment, and the acceptance of the principle of religious equality. The religious challenge for New Zealand in twenty-first century, which the Statement on Religious Diversity attempts to meet, is to find ways to help society live with complex religious diversity with overlapping and sometimes conflicting religious narratives.

II, 107.

² This paper originated from a presentation given at the service held in Holy Trinity Cathedral on 13 June 2007 marking the 150th anniversary of the signing of the constitution. The revised version of the paper which appears in this article, was given at the New Zealand Historical Conference in Wellington, 25 November 2007.

³ See for example, 'Tamaki: Denying state religion like treason', *New Zealand Herald*, 17 February 2007, A9.

⁴ Wood, G A 'Church and State in New Zealand in the 1850s.' *Journal of Religious History* 8, no. 3 (1975): 270.

⁵ T E Yates, *Venn and Victorian Bishops Abroad: The Missionary Policies of Henry Venn and Their Repercussions Upon the Anglican Episcopate of the Colonial Period 1841-1872*. Uppsala / London: Swedish Institute of Missionary Research / SPCK, 1978, ch II: New Zealand 1841-1851, pp.44-75.

⁶ The Bishop of New Zealand to the Society for the Propagation of the Gospel, Auckland, 29 July 1842, 'Report of the Committee on New Zealand', GBPP, (Cmd 556), 1844, Appendix No. 16; G. no. 42, pp. 663-65; quoted in Allan K Davidson, and Peter J Lineham, eds., *Transplanted Christianity: Documents Illustrating Aspects of New Zealand Church History*. Auckland, (Palmerston North: Massey University Press, 1995), p. 76.

⁷ *New Zealand Quarterly Review*, quoted in *The Southern Cross*, 22 May 1857, p. 2.

⁸ Following the model of the American Episcopal Church their plan provided for 'a general Convention' [*A Letter to the Right Reverend the Lord Bishop of New Zealand from Member of the Church of England in that Colony*, (Bishops' Auckland: College Press, 1850), p. 4,] with an Upper House of Bishops, and a Lower House consisting of Clergy and Laity who would vote separately. The Doctrine and Ritual of the Church of England were to be inviolate.

⁹ *Ibid.*, p. 10.

¹⁰ *Ibid.*, p. 15.

¹¹ 'Minutes of the Australasian Synod', *Colonial Church Chronicle*, 4, (1850-51): 456.

¹² G A New Zealand, Pastoral Letter of the Bishop of New Zealand to the Members of the Church of England in the Diocese of New Zealand, St John's College, 19 April 1852, SJC MS, ANG 000/1/8(1) (iv).

¹³ General Principles of a Constitution for the Church in New Zealand, as approved by Public Church Meetings in the various settlements in the Diocese, Auckland diocesan Archives, General Synod, S1.

¹⁴ G A New Zealand, Pastoral Letter of the Bishop of New Zealand to the Members of the Church of England in the Diocese of New Zealand, St John's College, 5 October 1853.

¹⁵ *Documents Connected with the Proposal of the Bishop of New Zealand for the Settlement of New Zealand Church*, [printed as a private publication with no place, publisher, or date]. SJC MS, ANG 019/1/21.

¹⁶ William P Morrell, 'Selwyn's Relations with the Church Missionary Society.' In *Bishop Selwyn in New Zealand 1841-68*, edited by Warren Limbrick, (Palmerston North: Dunmore Press, 1983), 90.

¹⁷ The signatories were: Bishops – G A Selwyn (Bishop of New Zealand, H J C Harper (Bishop of Christchurch); Clergy: Henry Williams, William Williams, R B Paul, AN Brown, Octavius Hadfield, D J Abraham, G A Kissling, James Wilson; Laity: E W Stafford, Fredrick Whitaker, Henry John Tancred, William Swainson, T M Haultain, R K Prendergast, Thomas Hirst.

¹⁸ Minutes of Conference, Auckland 1857. SJC MS, ANG 019/1/14, p. 4.

¹⁹ Minutes of Conference, Auckland 1857. SJC MS, ANG 019/1/14, p. 4.

²⁰ Minutes of Conference, Auckland 1857. SJC MS, ANG 019/1/14, p. 4.

²¹ [G A Selwyn], *A Charge, Delivered to the Clergy of the Diocese of New Zealand at the Diocesan Synod*

in the Chapel of St. John's College, on Thursday, September 23, 1847, (London: Francis & John Rivington, 1849), p. 90.

²² Copy of a letter from Mr Godley, Chairman of Committee of Church Meeting to the Bishop of New Zealand on church Constitution, 19 April 1852. SJC MS, ANG 019/1/7.

²³ *First General Synod of the Branch of the United Church of England and Ireland in New Zealand. Held at Wellington in March and April 1859.* (Wellington: *New Zealand Spectator*, 1859), p. 5.

²⁴ W E Gladstone to [Frederick-Rogers], Colonial Office, 27 March 1846, SJC MS, ANG 019/1/3.

²⁵ Wood, 'Church and State in New Zealand', p. 266.

²⁶ *New Zealand Parliamentary Debates*, 1856-58, p. 439.

²⁷ W P Morrell, *The Anglican Church in New Zealand*. Dunedin: Church of the Province of New Zealand, 1973, p. 65.

²⁸ Extract from the Judgement of the Lords of the Judicial Committee of the Privy Council on the Appeal of the Reverend William Long v. the Right Reverend Robert Gray, D D Bishop of Capetown; delivered June 24, 1863, *Proceedings of General Synod*, 1865, p. XXIII.

²⁹ Petition of the Bishops of the Anglican Church in New Zealand, 1865, to the Queens Most Excellent Majesty, *Proceedings of General Synod*, 1865, p. XXII.

³⁰ For the 'Jenner affair' see Allan K Davidson, "Businesslike, Benign but Ageing': Harper as Primate." In *Shaping a Colonial Church: Bishop Harper and the Anglican Diocese of Christchurch 1856-1990*, edited by Colin Brown, Marie Peters and Jane teal (Christchurch: Canterbury University Press, 2006), p. 217-22.

³¹ Harper to Tait, 26 May 1875, Lambeth, Tait Papers, vol. 214, f. 162. See also letters to Harper from O Hadfield, 13 April 1875; W G Cowie, 20 April 1875; W Williams, 22 April 1875; S T Nevill, 4 May 1875, CADA, BHIL 1/1.3/30, 31, 32, 34.

³² Harper to Emma ?, 5 March 1980, CADA, BHOLB28, pp. 20-22.

³³ Lord Chichester to Right Honourable H Labouchere MP, Church Missionary House, 2 June 1857. MS 60/107. The exclusion of Māori from the debates on church government in part resulted from the CMS control of the Māori Church and the CMS desire in the 1850s to develop a self-governing, self-supporting Māori Church. Another reason for Māori exclusion was the way in which the constitutional and legal issues faced by Selwyn were seen as primarily problems to do with the colonial Christianity and how it could govern itself in a non-established context.

³⁴ *New Zealand Herald*, 17 February 2007, B6.

³⁵ National Statement on Religious Diversity, Clause 1.

http://www.hrc.co.nz/hrc_new/hrc/cms/files/documents/18-Oct-2007_09-30-04_Booklet_2.pdf , accessed 30 November 2007.

³⁶ Brian Tamaki, 'Religious heritage in jeopardy', *New Zealand Herald*, 26 February 2007, A11.