

What if Maori have already sold the water?

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Rodney Hide | WEEKEND REVIEW |



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It would have been an extraordinarily prescient achievement if back in the day the Crown's agents included in their land purchases the rivers, the lakes and the streams. It would certainly solve some contemporary problems.

But no one could ever have imagined that a 2012 government would be checking and vetting its appointments to a specialist and perpetual tribunal to ensure their propensity to conclude that iwi and hapu own everything.

And that even by the tribunal's own appalling standards of research and argument it would plumb new depths to conclude that Maori own the nation's rivers and lakes because – among equally other fatuous reasons – the Maori once sang songs about them and believed in taniwha.

No one back in the mid-19th century could ever have reasonably foreseen that future governments would ever tangle the country in such a muddle and a mess. It would have been inconceivable.

To add to the gaiety of the nation I thought I would discover for readers what tribunal members are paid. Turns out it's a state secret.

The Ministry of Justice sniffily invoked s9(2)(a) of the

Official Information Act to protect the members' privacy and thereby refused to release their pay.

However, the ministry did state that the members hearing the water claim sat for eight days and got paid a total of \$184,826.28 in sitting fees. There were six of them. So their average fee a day is \$3850.59.

That's not bad. Sit through a few waiata, keep awake through the presentations and sign off the report your officers prepare.

And collect nearly \$4000 a day.

The only special requirement is to conclude that Maori own everything.

There is no intellectual grunt or research effort required because it's the conclusion that matters, not the logic, the argument or the evidence.

Indeed, tribunal reports dispense with logic, argument and evidence.

In declaring that iwi and hapu own the lakes, rivers and streams in 1840, the tribunal did allow that Maori could have chosen subsequently to sell them.

"The claimants accepted the possibility that treaty-compliant alienations may have taken place."

And so at this happy juncture let me introduce Hastings businessman Mike Butler.

He blogs for our interest at [BreakingViewsNZ](#).

He recently explained that the deed detailing the sale and purchase of the Upper Waikato land on September 15, 1864, included the waters, rivers, lakes, and streams.

The deeds themselves were compiled by New Plymouth missionary

Henry Hansen Turton, who was involved in numerous land transactions.

They were provided by veteran treaty researcher Ross Baker and are available on a Victoria University of Wellington website. I checked them for myself. It's true.

The particular sale included the land as described, "with its trees, minerals, waters, rivers, lakes, streams and all appertaining to the said Land or beneath the surface of the said Land".

That's right.

The canny officers of the Crown made sure that the purchase included the rivers, lakes, streams and aquifers.

Mr Butler says the clause runs through the various deeds he has looked at.

In a sane world, Crown Law would be beating a path to Mr Butler's door and paying him \$4000 a day to research and blog like fury.

The Prime Minister would be knighting him for his service to the country.

And there would be a statue commemorating the Rev Henry Turton's foresight.

That would be a sane and rational world.

In our world, Mr Butler can't even present his evidence to the tribunal.

He doesn't have standing.