



New Zealand House of Representatives
Te Whare Māngai o Aotearoa

Petitions Committee

Komiti Whiriwhiri Take Petihana

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Petition of Alistair Reese: Recognise oral agreement as part of the Treaty of Waitangi

Presented to the House of Representatives
by Greg O'Connor, Chairperson

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Petition of Alistair Reese

Recommendation

The Petitions Committee has considered the petition of Alistair Reese—Recognise oral agreement as part of the Treaty of Waitangi—and recommends to the Government that a policy process be initiated that considers ways in which the oral agreement at Waitangi could be formally recognised, and encourages the Government to consider using public engagement tools such as deliberative democracy as part of the process.

Request regarding the oral agreement of the Treaty of Waitangi

The petition received 503 signatures on the Parliament website. It was presented to the House by Greg Fleming on 23 February 2024, and requests:

That the House of Representatives legislate to recognise the oral agreement “4th Article” as part of the Treaty of Waitangi.

Background

We acknowledge two kaumātua of Ngāti Ranginui who initiated this petition, Patrick Nicholas (Pirirakau, Ngāti Hangarau) and Huhikakahu Kawe (Ngāi te Ahi, Ngāi Tamarāwaho, Ngāi te Rangi), who have since passed away. We recognise that the petitioner, Dr Alistair Reese, was asked by these kaumātua to join their work and is carrying on this petition in their memory.

This petition refers to an oral exchange between Governor William Hobson and Catholic Bishop Jean-Baptiste Pompallier at Waitangi on 6 February 1840. This exchange is often referred to as the “oral agreement” or “4th article” of the Treaty of Waitangi | te Tiriti o Waitangi.

Bishop Pompallier asked that a public guarantee be given to Māori that “free toleration” would be allowed in “matters of faith”.¹ After Governor Hobson replied that all creeds would receive protection, Church Missionary Society translator Reverend Henry Williams read out a statement:

E mea ana te Kawana, ko ngā whakapono katoa, o Ingarani, o ngā Weteriana, o Roma me te ritenga Maori hoki, e tiakina ngatahitia e ia.

The Governor says the several faiths of England, of the Wesleyans, of Rome, and also the Māori custom, shall alike be protected by him.

Terminology

This report reflects the petitioner’s use of “Treaty of Waitangi” to refer to the English language version of the treaty, and “Tiriti o Waitangi” to refer to the te reo Māori language

¹ Claudia Orange, *The Treaty of Waitangi*, Bridget Williams Books, Wellington 2011, as cited in the submission of Sir Geoffrey Palmer.

version. When this report refers to both versions, it uses either the word “treaty” on its own, or “the Treaty of Waitangi | te Tiriti o Waitangi”.

Submitters on this petition variously referred to the words read out by Reverend Henry Williams as the “oral agreement”, the “oral article”, and the “Fourth Article” of the treaty. This report generally refers to the text as the “oral agreement” except for when it directly quotes from a submitter’s own words.

Context of our consideration of this petition

At the time of our hearings on this petition, in late 2024 and early 2025, the Principles of the Treaty of Waitangi Bill was being considered by Parliament.² Significant debates were occurring about the Treaty of Waitangi | te Tiriti o Waitangi both within and out of Parliament. It was a time of increased discussion and debate about the way the treaty is recognised in the country’s constitutional and political arrangements.

Comments from the petitioner

Dr Reese said the treaty is the ethical and constitutional foundation of New Zealand. He said that formally recognising the oral agreement is a matter of justice and faithfulness to New Zealand’s founding document.

The petitioner told us that on 6 February 1840 Governor Hobson committed the Crown to tiaki (care for) the various expressions of faith in the land at that time—Anglican, Catholic, Methodist, and Ritenga Māori (Māori custom and practice). He said the written account by William Colenso of the conversation between Governor Hobson, Bishop Pompallier, and Reverend Williams is not disputed.

Dr Reese said his petition does not seek to adapt, change, or reinterpret the treaty. His aim is to honour the treaty as it was explained and signed on 6 February 1840. The petitioner asked us to provide an avenue for consideration of the oral agreement. He believes it is an appropriate season “to restore full mana to the treaty”.

Cultural differences regarding oral and written agreements

Dr Reese said the treaty was an oral covenant before it was a written one. He noted that the assembled rangatira (chiefs) experienced the treaty negotiations as an oral event, rather than a written one. He said the decision of rangatira to sign was based on what they heard, rather than on what they had read. Explanations were given to the rangatira orally in te reo Māori by Reverend Williams, both for the written articles and the oral agreement, according to the petitioner.

Dr Reese said the oral agreement concerning the protection of different faiths was accepted by the assembled rangatira, as well as by Bishop Pompallier. The petitioner told us that the specific protection of “Ritenga Māori” persuaded some rangatira to sign the treaty.

² The Principles of the Treaty of Waitangi Bill was introduced in November 2024. It was considered by the Justice Committee between November 2024 and April 2025. The second reading of the bill was not agreed to by the House, so the bill did not pass into legislation. More information is available on [the Parliament website](#).

The petitioner maintains that an oral commitment has the same moral, legal, and constitutional weight as a written agreement, especially as part of a covenant entered into with a largely oral people. He said the Crown recognises the verbal commitment couples make in marriage, as well as commitments made in many contractual agreements, and so should also uphold its own oral commitment.

Western cultures prioritise the written word as the main form of record keeping, according to the petitioner. Dr Reese said that as the oral agreement itself acknowledges “Ritenga Māori”, recognising the oral agreement would also recognise that Māori oral cultures are equal to European written cultures. He said the denial of an oral agreement is a form of cultural prejudice.

The petitioner acknowledged that the written historical record does not show that the oral agreement was explained at other locations where the treaty was signed. However, he said that, regardless of what may have happened at other locations, it is clear that the Crown committed to the oral agreement at Waitangi.

Religious freedom or active protection of spirituality

The oral agreement at Waitangi has previously been described as a commitment to religious freedom. Dr Reese acknowledged the perspective that, as religious liberty is guaranteed under the New Zealand Bill of Rights Act 1990, there may be no further need to formally recognise the oral agreement. However, his opinion is that the significance of the oral agreement has yet to be fully debated and explained. He said “religious liberty” may be an inadequate description of its full meaning.

The petitioner feels that much of the discourse about the oral agreement has not recognised that there are differences between “guaranteeing religious freedom” and the concept of “tiaki” (to care for). Dr Reese said that his fundamental question is whether Governor Hobson committed the Crown at Waitangi to active protection of the “fledgling nation’s wairuatanga” (spirituality).

Some of us understood that Bishop Pompallier’s intention in intervening at Waitangi was to ensure that Catholicism could be practised in New Zealand, because there had been some doubt about whether that would be the case. Dr Reese said he had no doubt that European religious schisms were considerations in New Zealand in 1840.

Dr Reese said that the response to Bishop Pompallier’s request had “landed wider and more definitively than even [Bishop Pompallier] had expected in terms of ensuring that native Katorika (Catholics) would be protected”. The petitioner said the response reflected the “magnanimity of Governor Hobson towards the spirituality of the nation at that time”.

Implications of recognising the oral agreement

Dr Reese said that, before establishing the status of the oral agreement, many people jump to what they think would be the implications of formally recognising it. However, he said that his petition does not ask us to consider all the possible implications or repercussions of formally recognising the oral agreement. His request is that Parliament consider whether Governor Hobson made a commitment on behalf of the Crown to tiaki (care for) the faiths of the land. The petitioner said reflection about what that could mean needs wananga (learning and discussion). He believes those discussions are for a later time.

We asked whether the petition was motivated by debate about the Principles of the Treaty of Waitangi Bill. The petitioner replied that the petition had been started three years earlier and was not related to events being considered by the House. However, he said he believed it was “providential” that the petition had landed in Parliament at a time when there was a need for better education and considered reflection on the meaning of the treaty.

We asked the petitioner how he considers that the oral agreement could be incorporated into New Zealand’s legislation; for example, how the oral agreement could be written down in a way that could guide future generations. Dr Reese said there are still discussions to be held and questions to be answered about the relationship between treaty principles and treaty articles.³ However, wherever Parliament ultimately lands about the constitutional place of the treaty within New Zealand’s legislative framework, he advocates that the oral agreement should be acknowledged in the same way as the written agreement.

Comments from religious leaders

The petitioner’s written submission included a letter of support from Catholic Archbishop of Wellington, Paul Martin. On behalf of the New Zealand Catholic Bishops Conference, Archbishop Martin said that recognising the oral agreement would acknowledge the Māori way of making commitments as being equal to that of European cultures. He said the oral agreement recognises tikanga Māori and ritenga Māori, especially in the ways that faith is expressed.

Reverend Peter Taylor, President of the Methodist Church, provided a written letter of support and accompanied Mr Reese when he made his oral submission. He said that for the past 40 years the Methodist church has been on a spiritual and practical journey involving an equal sharing of power between te tangata whenua and te tangata tiriti. He said this work had led to greater trust and understanding by each partner of the other. Reverend Taylor said that honouring the treaty in this way had been good for both partners. He believes that, “as it has been good for the church, it will also be good for the nation”. He said recognising the oral agreement would honour the treaty in its wholeness.

Mr Reese was also accompanied by Archbishop Justin Duckworth, Anglican Bishop of Wellington and Archbishop of the Tikanga Pākehā in the Anglican Church of Aotearoa New Zealand, and Rebecca Packer, chief executive of the Sisters of Compassion and a deacon in the Anglican church.

Archbishop Duckworth said the Anglican church supports the kaupapa (principle) of the petition. He told us that, when he first visited Ratana Pā as a bishop, he was asked, “When are you as the church, as the midwife of the treaty, going to take responsibility?” He said the Anglican church had a special place in the origins of the treaty, as translators and propagators. Archbishop Duckworth said that, in committing to the treaty, Māori had taken the church’s word about what it meant. He said that gives the Anglican church a particular role in continuing to advocate that the treaty, including the oral agreement, be fully

³ The text of the Treaty of Waitangi | te Tiriti o Waitangi consists of a preamble and three articles. There are differences between the English and te reo Māori texts. Because of the differences between the language versions, the courts and the Waitangi Tribunal have focused on principles derived from the two texts of the treaty. For more information, see Te Tiriti o Waitangi | Treaty of Waitangi Guidance from the Cabinet Office, available on [the website of the Department of the Prime Minister and Cabinet](#).

honoured. The Anglican church, since 1992, has restructured itself in a way to give practical effect to the treaty.⁴

Rebecca Packer said the Sisters of Compassion is New Zealand's first locally grown religious order, started by Mother Suzanne Aubert in Hiruharama on the Whanganui River in 1892. Mother Aubert travelled with Bishop Pompallier to New Zealand to serve the Māori people. Rebecca Packer said tolerance and friendship were strategies of Suzanne Aubert's mission and engagement. She said that, in contrast to the division and violence of the colonial state, Mother Aubert "served Māori and Pākehā, Catholic and non-Catholic, all creeds and none". We were told that the leadership structure of the Sisters of Compassion represents an ongoing commitment to engage with iwi Māori and with the poor.

Comments from the Ministry of Justice and Te Arawhiti

We invited written submissions from the Ministry of Justice and Te Arawhiti | Office for Māori Crown Relations. Since our hearing, the Māori Crown Relations role has been transferred from Te Arawhiti to Te Puni Kōkiri.⁵

The Ministry of Justice told us it understands that there was an agreement to religious freedoms at the signing of the treaty. It said that, although the statement made by Reverend Henry Williams is sometimes referred to as the "fourth article", it was not recorded on any of the treaty documents. The ministry said that the Crown has never considered it as a fourth article of the treaty. The ministry said it regards the articles of the treaty as those set down in the English and te reo Māori versions, which are contained in Schedule 1 of the Treaty of Waitangi Act 1975 and Appendix A of the Cabinet Manual 2023.

Te Arawhiti commented that there is evidence of a verbal promise of religious freedom during discussions at Waitangi in 1840. It said, however, that it is not aware of evidence that a relevant promise was made at any treaty signing in other parts of the country.

Te Arawhiti told us that it and its predecessor, the Office of Treaty Settlements, had not acted on the basis that the promise by Governor Hobson to Bishop Pompallier is binding on the Crown or constitutes an article of the Treaty. It noted that the recognition in law of a fourth article of the treaty would give rise to potential issues of compliance, breach, and settlement.

Both the ministry and Te Arawhiti said that all New Zealanders are guaranteed the right to freedom of religion by the New Zealand Bill of Rights Act 1990. Section 13 of the Act recognises the right to freedom of thought, conscience, and religion, and section 15 of the Act recognises the right to manifestation of religion and belief. In addition, the ministry said, section 21 of the Human Rights Act 1993 includes everyone's right to be free from discrimination based on religious beliefs.

⁴ More information about the structure of the Anglican Church in Aotearoa, New Zealand and Polynesia is available [on the website of the Anglican Church](#).

⁵ The new organisation within Te Puni Kōkiri which holds responsibility for Māori Crown Relations is the [Office of Treaty Settlements and Takutai Moana | Te Tari Whakatau](#).

Comments from Sir Geoffrey Palmer

We asked Sir Geoffrey Palmer, as a constitutional expert, for his view on practical actions available to recognise the oral agreement.

Sir Geoffrey said that Dr Reese has made a significant contribution to the historical understanding of the treaty. He told us he thinks the oral agreement, or fourth article, is an important issue. He said that the petition makes a moral point that the treaty is a “sacred compact” and an ethical binding covenant that should be honoured.

Issues with legislating to recognise the oral agreement

Sir Geoffrey told us that he doubts whether a select committee process alone could resolve difficulties around recognition of the oral agreement. The three written articles and preamble of the Treaty of Waitangi | te Tiriti o Waitangi have not been enacted into statute law. Sir Geoffrey said he did not think it was a viable proposition that we could recommend that the oral agreement be legislated for by itself. He said that to legislate for the enactment of the oral agreement, or fourth article, when the three written articles were not dealt with in that way, would be “a strange thing to do”.

He said one option could be for Parliament to make a declaration recognising the oral agreement. However, he thought that was not likely to be viable in the political environment at the time of our hearing.

Good process for legislation regarding the treaty

Sir Geoffrey said any legislative process concerning the treaty should include research, preparation of papers which should be publicly available, and consultation. He said such an issue would need to go through an orderly legislative process, in which decisions about legislation were made only after deep analysis, development of policy options, interdepartmental consultation, and consultation with Māori. He told us it would be unwise to abridge that process.

Sir Geoffrey quoted from a submission from 50 King’s Counsel (KCs) on the Principles of the Treaty of Waitangi Bill which he considered relevant to our consideration of this petition:

Whether constitutional reform is required, and how that should incorporate te Tiriti, is a long-standing, complex and contentious issue in this country. A constructive and good faith national conversation is appropriate. In light of the history, this should be approached with the utmost care and respect. Those issues warrant a thorough and considered process, involving public education, engagement and consultation. Process is everything.⁶

Lessons learned from the debates about the Principles of the Treaty of Waitangi Bill, according to Sir Geoffrey, include that “you’ve got to go through a more elaborate process than the Petitions Committee”. He said that conversations about the oral agreement at this

⁶ Submission by King’s Counsel on the Principles of the Treaty of Waitangi Bill, paragraph 12, available on [the Parliament website](#).

point are based on moral arguments, rather than legal ones. He told us he thought that “what should be in the law is a different question”.

We asked whether Sir Geoffrey thought that recognition of the oral agreement would be a relatively uncontroversial aspect of treaty recognition, compared to other aspects. Sir Geoffrey said legislating for the oral agreement alone would raise expectations about the legal status of the written articles. He said his constitutional view was that it is “not really appropriate to recommend legislation for the fourth article”.

Other forms of engagement

Sir Geoffrey suggested that we could consider instead recommending other forms of engagement on this question. He recommended that we consider suggesting that the Government investigate the techniques of deliberative democracy as a way of clarifying the issues in the treaty. These kinds of processes draw people together to learn about, listen, discuss, and debate important policy questions. He said that “such processes break down the appeal of simple solutions to complex problems” and enhance the legitimacy of decisions taken.

Sir Geoffrey cautioned that consulting properly with the public requires spending money and going into the issues in depth. He said that such a process would need to be conducted by skilled people, with appropriate resources provided for it. He told us that legislating before doing adequate research and analysis to properly understand public opinion would not produce a lasting outcome.

Our response to the petition

We thank the petitioner and submitters on this petition for their thought-provoking contributions to a challenging question.

As the submission from the Ministry of Justice noted, the written text of the treaty is included in Schedule 1 of the Treaty of Waitangi Act 1975 and Appendix A of the Cabinet Manual 2023. In addition, there are many other references to the treaty in legislation and court decisions. However, we acknowledge Sir Geoffrey Palmer’s advice that there are still legal and constitutional uncertainties about the formal status of the written text of the treaty. We realise that there are additional political and legal difficulties in seeking formal recognition of the oral agreement.

We heard examples, from the church leaders we spoke with, of New Zealanders feeling a personal sense of commitment to the treaty and choosing to honour it in the ways that were available to them in their own lives and communities. We acknowledge, similarly, that some New Zealanders, such as those from church communities, also have a personal commitment to the oral agreement at Waitangi.

We acknowledge that the oral agreement was not included in the treaty’s written text, and that there is no written record of it being discussed at treaty signings other than at Waitangi on 6 February 1840. We agree with the petitioner that this is not, in itself, a reason that the oral agreement should be overlooked. At the same time, we acknowledge that recognition of the oral agreement, alongside the constitutional place of the treaty’s written text, is far from being a settled matter in New Zealand society.

Sir Geoffrey emphasised that any proposal to make or change legislation concerning the treaty should go through an orderly legislative process. We are mindful of his caution that such a process would need to be more detailed than our consideration alone. His view was that any decisions about treaty legislation should be made only after deep analysis, development of policy options, interdepartmental consultation, and consultation with Māori.

We wish to record our desire to see formal policy and consultation undertaken that considers ways in which the oral agreement at Waitangi could be formally recognised. We recommend to the Government that a policy process be initiated that considers ways in which the oral agreement at Waitangi could be formally recognised, and encourage the Government to consider using public engagement tools such as deliberative democracy as part of the process.

Appendix

Committee procedure

The petition received 503 signatures on the Parliament website. It was presented to the House by Greg Fleming on 23 February 2024 and referred to us that day. We met between 11 April 2024 and 12 February 2026 to consider it. We received written submissions from the petitioner, the Ministry of Justice, Te Arawhiti, and Sir Geoffrey Palmer. We heard oral evidence from the petitioner, who was accompanied by a group of church leaders, and Sir Geoffrey Palmer.

Committee members

Greg O'Connor (Chairperson)

Carl Bates (until 29 January 2025)

Kahurangi Carter (until 8 May 2024, and from 29 January 2025 until 11 February 2026)

Greg Fleming

Paulo Garcia (from 29 January 2025)

Francisco Hernandez (from 8 May 2025 to 29 January 2025)

Celia Wade-Brown (from 11 February 2026)

Related resources

The documents we received as evidence in relation to this petition are [available on the Parliament website](#).

Recordings of our hearings can be accessed online on the Parliament website at the following links:

- [Hearing with the petitioner on 24 October 2024](#).
- [Hearing with Sir Geoffrey Palmer on 13 February 2025](#) (from 8:35).