The Final Oral Examination
for the Degree of
DOCTOR OF PHILOSOPHY
(LAW)

Carwyn Jones
2003    York University    MA
1999    Victoria University of Wellington    BA/LLB

“The Treaty of Waitangi Settlement Process in Māori
Legal History”

February 18th, 2013
2:00 pm PST
Social Sciences and Math building, room A144

Supervisory Committee:
Hamar Foster, Faculty of Law, UVic (Co-supervisor)
Dr. John McLaren, Faculty of Law, UVic (Co-supervisor)
Dr. Christine O'Bonsawin, Faculty of Humanities, UVic
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Auckland (Additional Member)

External Examiner:
Dr. Kent McNeil, Osgoode Hall Law School, York
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Chair of Oral Examination:
Dr. Carolyn Crippen, Department of Educational
Psychology and Leadership Studies, UVic
Abstract

This dissertation is concerned with the ways in which Māori legal traditions have changed in response to the process of negotiated settlement of historical claims against the state. The settlements agreed between Māori groups and the state provide significant opportunities and challenges for Māori communities and, inevitably, force those communities to confront questions relating to the application of their own legal traditions to these changed, and still changing, circumstances. This dissertation focuses specifically on Māori legal traditions and post-settlement governance entities. However, the intention is not to simply record changes to Māori legal traditions, but to offer some assessment as to whether these changes and adaptations support, or alternatively detract from, the two key goals of the settlement process – reconciliation and Māori self-determination. I argue that where the settlement process is compelling Māori legal traditions to develop in a way that is contrary to reconciliation and Māori self-determination, then the settlement process itself ought to be adjusted.

This dissertation studies the nature of changes to Māori legal traditions in the context of the Treaty settlement process, using a framework that can be applied to Māori legal traditions in other contexts. There are many more stories of Māori legal traditions that remain to be told, including stories that drill into the detail of specific legal traditions and create pathways between an appropriate philosophical framework and the practical operation of vibrant Māori legal systems. Those stories will be vital if we in Aotearoa/New Zealand are to move towards reconciliation and Māori self-determination. The story that runs through this dissertation is one of a settlement process that undermines those objectives because of the pressures it places on Māori legal
traditions. But it need not be this way. If parties to the Treaty settlement process take the objectives of self-determination and reconciliation seriously, and pay careful attention to changes to Māori legal traditions that take place in the context of that process, a different story can be told – a story in which Treaty settlements signify, not the end of a Treaty relationship, but a new beginning.

**Awards, Scholarships, Fellowships**

2012  United Nations Indigenous Fellowship  
2011  Law Foundation of BC Graduate Scholarship  
2009-2010  University of Victoria PhD Fellowship

**Presentations**


**Publications**

1. **Jones, C.** “Whakaeke i nga Ngaru – Riding the Waves: Maori Legal Traditions in New Zealand Public Life” in T


