

Report 99.638

File: E/1/3/1 (sm)

28 October 1999

Report to the Chair and Councillors of the Wellington Regional Council

From: Mike Gibson, Councillor

Constitutional Law Conference, 20 and 21 August 1999

1. Purpose of Report

To express gratitude for my being your representative at the Constitutional Law Conference held on Friday, 20 August and Saturday, 21 August 1999 and to report briefly thereon.

2. Personal

(1) Thank you for the opportunity to be the Council's representative at the Conference. It was not only relevant to a significant part of my background and continuing interests but also to our Council's increasing involvement with central government and with constitutional matters in general. In my opinion a Regional Council presence at the Conference was a useful reminder that local government forms an essential element in a country's constitutional set-up. In this respect some experience of constitutional history and jurisprudence was not at all unhelpful.

(2) Some personal exchanges with US Supreme Court Judge Antonin Scalia (whom I had not previously met) and with ex-Prime Ministers David Lange and Sir Geoffrey Palmer were particularly valued.

3. The Conference

(1) The Conference was attended to its capacity of, perhaps, 350.

(2) Highlights included:-

(i) a sight of the personal differences between Judge Scalia (appointed to the Supreme Court by President Reagan in 1983) and Professor Nadine Strossen, President, American Civil Liberties Union. These differences concerned "Liberty", on the one hand, and "Community", on the other hand. (In this respect, a considerable irony lies in the use of the phrase "Civil Liberties");

(ii) the quality of the presentation from Andrew Butler of the Victoria University Faculty of Law;

(iii) comments on native peoples, particularly by Canadian Supreme Court Judge (and ex-Minister of Justice) Ian Binnie and by Annie Mikaere of the University of Waikato Faculty of Law.

(3) The general conclusion of the Conference was that a specific “event” would be needed in order to bring about constitutional change in New Zealand. (Perhaps surprisingly, the outcome of the “monarchy” referendum due to be held in Australia on 6/11/99 was not seen as such an “event”).

4. **Iwi Relationships**

The only **attachment to this Report is a copy of the speech by Annie Mikaere** which is particularly relevant to our efforts at reaching an understanding with iwi concerning our developing future relationship with Maori.

5. **Conference Material**

The speeches made by the following are also available:

Andrew Butler, Faculty of Law, Victoria University, Wellington
 Dr James Allan, Faculty of Law, University of Otago, Dunedin
 The Hon Justice Ian Binnie, Justice of the Supreme Court of Canada
 Professor Hilary Charlesworth, Director, Centre for International and Public Law, Australian National University
 Paul Rishworth, Faculty of Law, University of Auckland
 Professor Nadine Strossen, New York School of Law, President, American Civil Liberties Union
 Grant Huscroft, Faculty of Law, University of Auckland
 The Hon Elizabeth Evatt, United Nations Human Rights Committee
 Professor Scott Davidson, Faculty of Law, University of Canterbury
 The Hon Justice Eddie Durie, High Court of New Zealand, Chair of the Waitangi Tribunal
 The Rt Hon Sir Douglas Graham, Attorney-General, Minister in Charge of Treaty Negotiations
 Annie Mikaere, Faculty of Law, University of Waikato, Hamilton
 Professor Jeremy Waldron, Columbia University, New York
 Professor Andrew Sharp, Department of Political Studies, University of Auckland

A book, or booklet, of the Conference is, reportedly, in the pipeline and a contribution from Judge Scalia has been sought for that planned publication.

MIKE GIBSON
 Councillor

Attachment – Copy of Speech