

**ABUSE IN CARE ROYAL COMMISSION OF INQUIRY
FOSTER CARE INQUIRY HEARING**

Under The Inquiries Act 2013

In the matter of The Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions

Royal Commission: Judge Coral Shaw (Chair)
Ali'imua Sandra Alofivae
Dr Anaru Erueti

Counsel: Mr Simon Mount QC, Ms Kerryn Beaton QC, Dr Allan Cooke
and Ms Aroha Fletcher for the Royal Commission
Ms Rachael Schmidt-McCleave, Ms Julia White and
Mr Max Clarke-Parker for the Crown

Venue: Level 2
Abuse in Care Royal Commission of Inquiry
414 Khyber Pass Road
AUCKLAND

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TRANSCRIPT OF PROCEEDINGS

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Hearing opens with mihimihi, waiata and karakia tīmatanga by Ngāti Whātua Ōrākei

KAUMATUA: Tēnā tātou katoa, tuatahi ki a koe, ki a koutou. Me tīmatatanga o tēnei hui, o tātou hīmene ‘He Hōnore He Kororia.’

[Waiata He Hōnore]

KAUMATUA: He hōnore, he kororia ki te Atua, he maungārongo ki te whenua, he whakaaro pai ki ngā tangata katoa, hangai e te Atua he ngākau hou ki roto ki tēnā, ki tēnā o mātou. Āhua nei o teenei waa, manaakitia mai i o tatou ki te kaupapa o te rā nei. He piki te ora, he piki te kaha, he piki te māramatanga me te rangimārie i waenganui i a tātou āke tonu, ake, āmine. Kei te noho ki a koutou, āe, ka pai.

[10.04am]

KAUMATUA: I look out to the sea [inaudible] into the river, from Tāmaki river to the Waitematā to Okahu, Okahu to [inaudible] and out to [inaudible] into the land Ngāti Whātua sits on Takaparawhau to the marae of Ōrākei Tumutumuwhenua house. The authority of the people that have [inaudible] let it be. I salute you all that have come to support this hearing today. Welcome. Welcome to this event, for your and our collective families coming together to [inaudible] shared between us all, welcome, welcome [inaudible] and the good work that needs to be done, to [inaudible] be strong be steadfast and thank you all for coming today.

Thank you, thank you, thank you all. And our song.

What is the murmuring [inaudible] which I pluck from the north wind, the pillar that stands on the Waitematā harbour. [inaudible] gone to all of us gathered here today, thank you, thank you.

[Waiata Whakataka Te Hau]

CHAIR: Korohi te manu, takiri mai te ata, ka ao, ka ao, ka awatea. Tihei mauri ora. Ki te mana whenua arā ko Ngāti Whātua Ōrākei, tēnā kōrua, tēnā koutou, karanga mai, karanga mai. Ngā hau e wha, ngā iwi e tau nei, tēnā koutou katoa, otirā ki a koutou ngā purapura ora, ngā tangata katoa kua tae ā tinana mai, e matakitaki mā te ipurangi, nau mai ki ēnei hui tūmata nui. Nau mai, whakatau mai. Tēnei te mihi mahana ki a koutou katoa. Tēnā koutou, tēnā koutou, arā tēnā rā tātou katoa.

Welcome everybody to the 12th hearing of the Royal Commission into Abuse in Care. We are now commencing our final year of hearings, engagements, deliberations and report writing, and we do so with this very important hearing into foster care. It focuses on the experiences of people who, as children and as young persons, were placed by the State into foster care. Many of them were abused and many of them suffer from lifelong impacts.

1 I will leave it to counsel for the Commission to outline fully what is to come ahead
 2 for the week, for today and for the week, and I won't go any further into that. But for now,
 3 as Chair of the Royal Commission, I wish to thank all of the survivors and their families,
 4 their whānau, their supporters who have bravely agreed to give evidence in a public way at
 5 this hearing. It is important, if they have the courage to do so, that all of New Zealand
 6 Aotearoa New Zealand has the opportunity to listen, to hear, to share their pain and to learn
 7 from their experiences.

8 I also want to acknowledge the experts who through the week will be giving
 9 evidence to elucidate, illuminate some of the thinking behind these impacts and, more
 10 importantly, ways in which we can look to improve care for our children in the future.

11 So welcome to all of you who are attending this hearing, whether you are here in
 12 person or whether you are watching in on the livestream or even on a recording. We're
 13 grateful for your interest, your understanding and your presence.

14 I'd now like to introduce the two Commissioners who are sitting with me today.
 15 We'll start with Commissioner Dr Anaru Erueti.

16 **COMMISSIONER ERUETI:** Ko te mihi tuatahi ki te kaikarakia, nāna te mana o te karakia i
 17 kawē i tēnei rā. Kei te mihi atu ki te moana e hora nei, ko te Waitematā e kau, e whiti ana i
 18 te motu tapu e te rangi [inaudible]. Ka whakaaro atu i a rātou kua mēne atu ki te pō, e ngā
 19 mate, haere, moe mai rā, moe mai rā. Ka tātou anō ngā waihotanga o rātou, kia ora ana
 20 tātou te kanohi ora, Ngāti Whātua ki Ōrākei te mana, te wehi, te ihi, tēnā koutou me ngā
 21 manaakitangi. E ngā ringa raupa o koutou, o mātou, o tātou me kī, tēnā koutou me ngā
 22 mahi i ngā rangi nei. Kei te mihi atu ki ngā purapura ora, ngā mōrehu, koutou i whakauru
 23 mai, koutou e mātakitaki mai ana ki tēnei uiuinga. Nā reira, tēnā koutou, tēnā koutou, tēnā
 24 koutou katoa.

25 **CHAIR:** Kia ora. Ali'imuamua Sandra Alofivae.

26 **COMMISSIONER ALOFIVAE:** Tēnā koutou katoa, Faatalofa atu I le paia ma le mamalu laufie,
 27 paia matagaluega ese, ae maise le paia lasilasi o e I aoteroa I Niu Sila o e ua faatasi I lenei
 28 taeao. Hello and greetings to our survivors and distinguished guests and to the different
 29 ministries and agencies who are with us today. A very special welcome to our nation of
 30 New Zealand and our communities watching the live on this momentous morning. Can
 31 I extend my greetings as well to the hapū of Ngāti Whātua o Ōrākei whose korowai
 32 provides us the spiritual covering. Thank you for the grace that is always extended to both,
 33 not only to the workplace but actually to all of those who are able to come into this building
 34 and to participate and to share. It's a privilege to stand alongside each and every one of you

1 this week as we receive, as we hear and as we journey together through our foster care
2 hearing. Malie.

3 **CHAIR:** Thank you. I'll now invite counsel, thank you. Good morning, Mr Cooke.

4 **OPENING SUBMISSIONS BY THE ROYAL COMMISSION**

5 **DR COOKE:** Tēnā koutou ngā rangatira o te pae, o te tēpu, tēnā koutou katoa. Ā huri noa ki te
6 haukāinga, e ngā mōrehurehu, tēnei te mihi ki a koutou, e ngā kaitautoko i tēnei kaupapa
7 whakahirahira. Ko Maungakiekie e tū ana, ko Waitematā e takoto ana. Ko Allan Cooke
8 tēnei. E tū whakaiti nei, e mihi atu ana. Tēnā koutou, tēnā koutou, tēnā tātou katoa.

9 Greetings to the Commissioners and to those at the table. To the mana whenua and
10 to the survivors and to those who come to support you, from One Tree Hill above us and
11 the Waitematā harbour below, greetings to you all. I'm Allan Cooke and I am lead counsel
12 for the foster care inquiry. I'm assisted by my co-counsel Aroha Fletcher. We are joined
13 today by our inhouse team led by Davinnia Tan. Aroha and I pay thanks to the contribution
14 the team has made over this year in leading to this hearing and enabling us to now play our
15 part. On behalf of us all I extend greetings to all who are here today.

16 I want to again acknowledge from the start the many survivors of the foster care
17 system of whom we shall hear from a very few but whose stories will be indicative of
18 those, many who were in that system and are either no longer with us or are still alive but
19 spread throughout the motu, and who in either event have contributed to this Inquiry.

20 I also acknowledge the whānau and friends of survivors of the foster system who
21 support and remember those who were in foster and family homes. This aspect of the Royal
22 Commission's inquiry is examining the experiences of those survivors of the foster system
23 being children placed in foster homes or family homes. They are children who were in the
24 legal care of the State and where the State was charged with their safety. The foster inquiry
25 importantly will be examining the experiences of all children, whether Māori, Pacific,
26 Pākehā who were in care. And when I refer to children during the course of this opening
27 statement, I am meaning, of course, all children who were in care.

28 And by the State, I'm talking of the institution that we now know as Oranga
29 Tamariki, the Ministry of children. Over the years since 1950, which is when the scope of
30 the Commission from 1950 to 1999, it has been the Child Welfare division of the
31 Department of Education, the Department of Social Welfare, and since 1989 until it became
32 Oranga Tamariki in 2017, variations of Child, Youth and Family.

33 The State intervened in the lives of these children and removed them from the care
34 of their families and whānau. This was because the children were considered to be at such

1 risk of harm, abuse and neglect within their homes or within their whānau, that removal
2 was perceived as the only option in order to keep them safe. Children who entered State
3 care should not have suffered, nor undergone what then followed. The profound and
4 significant failure of the State to keep them safe when they were placed in foster homes and
5 family homes. Those children were not kept safe from physical, sexual, or emotional and
6 psychological abuse and neglect. Pēpē, tamariki and rangatahi lost connection with whānau
7 and with whakapapa.

8 This foster care inquiry will therefore play an integral role in the formulation of a
9 report on the Social Welfare system, and with this also including reference to the residences
10 and youth justice inquiries that are taking place as well. To this extent you will hear about
11 the Social Welfare system in that broader sense, in going beyond the experiences of
12 children who were in foster and family homes. This hearing and the subsequent Social
13 Welfare report will, as with the Inquiry as a whole, look at the specific experiences of
14 tamariki and rangatahi being by far the great majority of those who were removed by the
15 State. We know that many children who entered foster care and for Māori far too many,
16 they were on a pathway that took them from a family home – sorry, from a foster home into
17 a residence and thence into the criminal justice system. Their and their whānau’s losses
18 were immeasurable.

19 Between Monday and Thursday, you will hear from both survivor witnesses and a
20 number of specialist technical witnesses. They will show the failures of a care system that
21 was embedded within a fractured context of a colonising, Eurocentric, racist political and
22 economic framework extending over the Commission's terms of inquiry from 1950 to 1999.
23 Pēpē, tamariki and rangatahi who were placed in care were caught in a system that was not
24 fit for purpose.

25 This public hearing, which is limited in time, is the only visible tip – is only the
26 visible tip of the iceberg. It will afford only a glimpse of what occurred and a fraction of
27 what was endured. Not everyone will have the opportunity to speak in public, and not
28 everyone who speaks will be able to speak for as long as they might wish. From the outset
29 I acknowledge that there may be things left unsaid by people wishing to say them.

30 I do assure anyone watching or listening that we have made a very deliberate
31 decision to offer to as many people as possible the opportunity to acknowledge in this
32 public space and who were in foster care while balancing the competing demands in time,
33 the opportunity to tell their stories.

1 I'll now outline the structure of the hearing which will take place over these five
 2 days. In doing so it's not my intention to in any way appropriate or take over the life
 3 histories of the survivors you'll be hearing from. However, it will be helpful to outline
 4 something of what will take place over the next five days.

5 We're going to hear from 13 witnesses over today and through to Thursday. Some
 6 will be referred to by their names and others by initials. That some want to keep their
 7 identities private is a matter of utmost respect. Of those 13 witnesses you will be seeing 10
 8 in person and two by way of pre-recorded video. Two witnesses are now deceased, but their
 9 stories will nonetheless be heard.

10 On Thursday morning we will be looking at particular care environment. This is a
 11 family home operated by the Department of State now, of course, known as Oranga
 12 Tamariki. A caregiver abused young women placed in that home over many years. There
 13 will be evidence given in a closed session from three survivors. They were subjected to
 14 neglect and sexual abuse and consequential life lasting psychological abuse and trauma.
 15 Complaints were made of that abuse but ignored by authorities who should have acted.

16 On Thursday you will hear from two survivors, one in person, Erica Dobson and,
 17 and one Daryl Brougham via a video and then from his widow who will read from Daryl's
 18 biography about his journey in the system. [REDACTED] GRO-B

19 [REDACTED] GRO-B

20 [REDACTED]
 21 [REDACTED] GRO-B

22 This kōrero from both is, as with all of the survivors, powerful.

23 We're also going to hear from witnesses who will bring to the hearing their experience, and
 24 these will come from the academic arena, the social work profession, and with
 25 psychological, paediatric child health expertise. That will be relevant to the specific hearing
 26 and also to the broader Social Welfare report that is to be prepared. You will see them
 27 interspersed during the day through to Thursday. Each witness will bring their specific
 28 focus to the hearing. Their written and oral evidence will further assist the Commission in
 29 its appreciation of the experiences of survivors.

30 On Friday there are panel discussions involving certain of both our specialist
 31 technical advisors and our survivors. The morning is survivor led and will allow them to
 32 engage directly and informally with Commissioners about the foster care experience. The
 33 technical witnesses will be present and will be listening. There are two afternoon panels.

1 These will see participants engage in discussion which will look to what any future care
2 system, if there is to be one, will look and how it will operate.

3 After hearing this evidence and the discussion on Friday, we will no doubt be
4 reflecting on certain inevitable questions. There may be others beyond those that I'm now
5 going to set out. First, why were many of the children, tamariki, taken into State care for
6 whānau to our eyes seems to be quite inadequate and misunderstood reasons. Were they
7 acting out because of a pre-existing trauma? Was it for relatively minor offending, and we
8 you know, we'll hear from one witness it was stealing clothing. Were they just seen as
9 being naughty children? Were they seen as disabled in some way or the family seen as
10 inadequate.

11 Second, why were they abused and hurt, and we will hear when they were taken
12 into State care? Third, why did nothing change? Despite all of the inquiries that have taken
13 place and despite all of the reports that have been written. Importantly, why was the spirit
14 of Puaoteata-tū lost, and I reiterate here the comments of my colleague Julia Spelman
15 in her opening at the Māori hearing, the Pākehā translation of that report is "come into the
16 light", why were the findings and recommendations not given the full light of day that they
17 deserved?

18 The full responsibility of this needs further investigation and we would anticipate
19 that the work of this Commission may provide answers to that question.

20 The next question. Since 1999, has anything changed? Or have the themes of
21 concern identified across this specific inquiry continued, and of course not overlooking the
22 other inquiries that have taken place.

23 Next, what structural changes are required to protect our children and whānau in the
24 future from abuse and neglect occurring in the first instance? And if there is that risk of
25 how children should be protected from harm.

26 How can families, whānau and communities be supported and resourced to protect
27 children and what can be done to avoid removal from families and whānau and then for
28 children to be nurtured and protected within their own families, whānau and community?

29 A first witness was to be Hemi McCallum. He sadly passed away earlier this year at
30 far too young an age. His sister Dannette is here today, as is his niece, Tania. Tania is going
31 to read Hemi's statement. He prepared this and it was signed and affirmed prior to his
32 death. This is a narrative that is quite typical of the experiences of those who were in the
33 care of the State. Later survivor evidence that you will hear will build on what Hemi has to
34 say. You will be immediately confronted by a most powerful narrative kōrero of a man who

1 was taken into care as an infant at the age of two years, and he accepted that as being
2 necessary of being taken in care.

3 What his statement tells us is that what was neither acceptable nor necessary were
4 the following: First, the multiple placements when he was in care, his suffering and
5 experience disconnection from whānau and from whakapapa. His receiving such terrifying
6 treatment for six years between the ages of nine and thirteen, and when with one family and
7 almost on a daily basis that he felt he wanted to die. On being forced to strip to a singlet,
8 Hemi being hit with hands and objects, being kicked with steel capped boots, being shot at
9 and witnessing the psychological abuse of animals being unnecessarily killed.

10 You will hear of Hemi reporting abuse but being ignored and complaints
11 down-played because he was a child in care and not deserving to be listened to, until on one
12 particular day through a series of fortunate circumstances, his social worker saw first-hand
13 what was going on. He was then 13 years of age and on that day, as he will say in his
14 statement and as you will hear, he was saved.

15 Hemi will also talk of other common themes experienced by those in care, of being
16 unpaid labour. He was not allowed in the family home apart from doing cooking and other
17 chores. He had to sleep in an old hut just big enough for his bed. Hemi's statement will
18 speak to the trauma that he suffered throughout his life after leaving care. There was
19 alcohol, crime and imprisonment. There were often offences of serious violence, and he
20 was violent in his relationships with women.

21 Although Hemi was a man who was able to find a way to break away from those
22 demons, he worked as a self-employed painter for many years. The ultimate impact of his
23 years in care were devastating, for him, for his children, two out of three who gravitated
24 into gangs, and for his whānau.

25 I've spoken in some detail about Hemi and his evidence. His story, although
26 differing in its specific details from other survivors, is entirely consistent with what are now
27 very clear survivor themes.

28 In closing, I acknowledge those who have done the work which has enabled this
29 foster care inquiry to take place. I have acknowledged my co-counsel Aroha Fletcher,
30 senior solicitors Davinnia Tan and Richard Roil, our solicitors John Dover, Helen
31 O'Connor, Caitlin Addison, Daryl Kouoi, Zita Steel, Angela Jones and Emily Moore and
32 I do not overlook in this respect the tremendous amount of work that has been undertaken
33 by Nick Reid who is our investigator.

1 I thank the evidence management team for their work and last for their assistance in
2 a number of ways, Simon Mount, Kerry Beaton, Erin James and Tom Powell. I imagine it
3 is not at all easy for people to talk to a Royal Commission about terrible wrongs that have
4 been done to them, or about choices and mistakes made throughout their life journey and
5 about the consequences that they have had to live with.

6 To those who have engaged with the Commission, we acknowledge your
7 contribution and trust that your coming forward to talk of your experiences will later be
8 acknowledged by the State recognising that transformational substantive and real change is
9 required. No reira, tēnā koutou, tēnā tātou, tēnā koutou katoa.

10 **CHAIR:** Kia ora Dr Cooke. Thank you. I now invite counsel for the Crown. Morning
11 Ms Schmidt-McCleave.