

Treaty Intended to Unite now Divides

Whatever Happened to Te Tiriti o Waitangi?

A year ago Franklin eLocal magazine ran a story on Te Tiriti o Waitangi, the Littlewood Treaty, the 'Freeman' version of the Treaty and how events at Port Waikato in 1840 changed the course of the nation's history (www.elocal.co.nz/archives/Ed95). This February, we bring you the response to our article from Prime Minister Rt.Hon. John Key and Hon. Dr Pita Sharples, Minister of Maori Affairs. We continue to ask how the more than 500 documented signatures of paramount chiefs, signed in good faith on Te Tiriti o Waitangi on February 6, 1840 and on copies later elsewhere in the country, are now so casually disregarded. We ask why a 'maverick' English language version of the treaty signed later by only 39 chiefs, who were read a different text, is now consulted as one of the country's founding documents and basis of reference for all land claims to the Waitangi Tribunal.

We also emphasise a vital point: Te Tiriti o Waitangi was NEVER RATIFIED by Britain and carried no legal force in New Zealand for over a century, finally receiving limited recognition in 1975 with the passage of the Treaty of Waitangi Act. This Act used an unauthorised English version written by Hobson's clerk Stuart Freeman as a source for its interpretation of the meaning of the Treaty. In 1840, Governor William Hobson said (Referring to Te Tiriti o Waitangi): "This instrument I consider to be de facto the treaty, and all the signatures that are subsequently obtained are merely testimonials of adherence to the terms of the original document." The day Te Tiriti was signed at Waitangi, Hobson shook hands with each chief and said "He iwi tahi tatou." (We are now one people.) Both Hobson and the signatory chiefs have been betrayed and a bitter legacy forged for succeeding generations of New Zealanders.

To understand the saga of the Treaty of Waitangi, we have to return to colonial New Zealand. The country was a cauldron of discord. The Musket Wars of the early 1800s had devastated the Maori population and shady land deals from both Maori and Pakeha were threatening Maori tenure and the relationship between them and early settlers. During the Musket Wars, over half of all iwi suffered major population loss through battle casualties, cannibalism or enslavement, like the Moriori in the Chatham Islands, a few iwi, eg in Nelson, were exterminated. (Ref. Ron Crosby The Musket Wars - A History of Inter-Iwi Conflict 1806-45, Reed, Auckland, 1999)

In 1831, 13 rangatira (chiefs) from the Far North met at Kerikeri

to compose a letter to King William IV, asking for help to guard their lands from the threat of French annexation. In reply, the British sent James Busby in 1832 as British Resident in New Zealand. Two years later, Busby drafted The Declaration of Independence of New Zealand, which he and 35 northern rangatira signed at Waitangi on October 28 1834. This established that the sovereignty of New Zealand lay in the hands of the chiefs, under the title of the United Tribes of New Zealand. This agreement was ratified in 1836, but further constitutional steps were needed to establish a British colony.

On June 15 1839, the territory of New South Wales was extended to include the whole of New Zealand and NSW Governor George Gipps was appointed Governor of New Zealand. In May of that year, the New Zealand Company sent their first ship load of settlers, looking to the promised bright new land, while the French prepared to set up a colony at Akaroa. The New Zealand Company, headed by Edward Gibbon Wakefield, attempted to establish a separate colony in Wellington and had claims to around 20 million acres of land. Wakefield had studied colonisation while serving a three year sentence in Newgate Prison and his profit-motivated grand plans for colonising New Zealand were to embarrass the British and New Zealand Governments, antagonise Maori and leave hopeful new settlers in a precarious position. The stampede for land was well and truly on and there were no rules.

In the midst of this confusion, the British Consul to New Zealand, William Hobson, was instructed to secure a voluntary transfer of sovereignty from Maori to the Crown to make annexation of New Zealand by the Crown

lawful. A treaty was required to establish a British governor in New Zealand, but it also needed to recognise Maori ownership of their land and to give Maori the rights of British subjects. The British wanted to ensure the disorganised state of land sales was properly administered. Hobson's Declaration, read at Christ Church at Kororareka (Russell) upon his landing in New Zealand on January 30, 1840 had a number of proclamations. The first was the 1839 Letters Patent, in relation to the extension of the boundaries of New South Wales to include the islands of New Zealand - effectively, British annexation. The second was in relation to Hobson's own appointment as Lieutenant-Governor of New Zealand. The third was in relation to land transactions. It stated that the Queen would not recognise existing settlers' land titles. Most land had to go back to Maori owners for repurchase and henceforth had to go through the Queen's representative. (Article Two of the Treaty)



Captain William Hobson, Royal Navy