

looking paper for the extra signatures was a fateful one because Freeman later got a stricken Hobson to sign this 'overflow' paper on his sickbed, the Governor's tortured signature clearly indicating how seriously ill he was after his stroke. The signature was intended by Freeman to be acceptance of the signatures of the chiefs, but for the text on the paper to be valid, it would have had to be signed by Hobson before the chiefs signed and it would HAD to have been the officially authorised Treaty. Hobson had already declared at Waitangi that there was only ONE Treaty and all the signatures that were subsequently obtained were merely testimonials of adherence to the terms of the ORIGINAL document. Hobson would never have intended Freeman's cobbled together English version to become a founding document of the new nation.

In October 1840 a copy of the Treaty – the Maori text and the 'official' English text, with the overflow signatures and Hobson's signature – was sent to the Colonial Office in London. The dispatch was to record that both official texts were being sent as fair copies, authenticated by the lieutenant-governor, for filing. This is the only copy of the Treaty that has the words 'Treaty of Waitangi' at its head.

Government Response

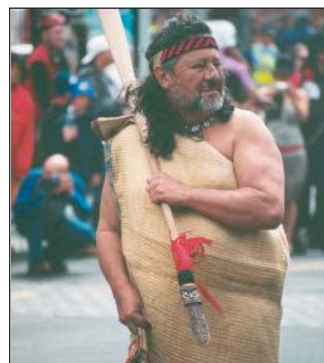
We asked PM John Key and Pita Sharples to respond to the February 2008 article on the Treaty of Waitangi and the 'Littlewood' Treaty. In a letter to Franklin eLocal, John Key explains: "The English text of the Treaty in Schedule One of the Treaty of Waitangi Act 1975 is the same as the English text signed by Maori at both Waikato Heads and Manukau in March and April 1840. My understanding is that this was the only English version of the Treaty signed by Maori. This text is the official English text of the Treaty and has been interpreted by the Courts and applied to the Waitangi Tribunal."

However, in his response, Pita Sharples writes "The Maori version of the Treaty of Waitangi recognised by the government is the document that was discussed, agreed to and signed by Maori chiefs and representatives of the Crown at Waitangi. This version is legitimate in its own right and does not require a corresponding 'final' or 'correct' English translation for its validity, as the article implies. The legitimacy of the Maori version of the Treaty is supported by international legal principles, such as *contra proferentum*, which give preference to the indigenous language version because it best reflects the understanding of those ceding rights."



John Key

Pita Sharples doesn't mention that 'Freeman's' version was accepted as the official English version of the treaty by the Treaty of Waitangi Act and called 'The English Treaty as Signed.' He is quite right when he says an English version – any version in English – could never be authentic and yet this paper, so different from Te Tiriti, has subsequently had a dramatic impact on interpretation of The Treaty of Waitangi and



Pita Sharples

Article two back translation 1869 (Government Commissioned Mr. T.E. Young, Native Department)

The Queen of England arranges and agrees to give to the Chiefs, the Hapus and all the people of New Zealand, the full chieftainship of their lands, their settlements and their property. But the Chiefs of the Assembly, and all the other Chiefs, gives to the Queen the purchase of those pieces of land which the proprietors may wish, for such payment as may be agreed upon by them and the purchaser who is appointed by the Queen to be her purchaser.

the relationship between Maori and Pakeha. The separate replies from the Prime Minister and Minister of Maori Affairs clearly show that they are not on the same page. The difference in their perceptions indicates how precarious it is for a fair and correct accord to be reached over the Treaty of Waitangi. Far from uniting the people as Hobson and the chiefs envisioned, the Treaty is now seen by many as a divisive document driving a bitter wedge between Maori and non Maori.

Understanding

A translation of the Treaty into English was obviously necessary at some point, because a bi-lingual society needed to understand what was agreed between the British and the chiefs in 1840. In 1869, The New Zealand Government commissioned an official back-translation of the Treaty, prepared by the Department of Native Affairs. That translation mirrored the clear meaning of the text of the English (Littlewood) draft written by James Busby and translated into Te Tiriti o Waitangi by Rev. Henry Williams on February 4, 1840. This original draft was lost in 1840, (it had been placed into the care of the solicitor of a member of Hobson's support team, US Consul James Clendon.) That solicitor was Henry Littlewood, whose descendents found the document in Pukekohe in 1989, so the draft had no influence on the later Maori Affairs back translation. Both independently confirm clearly what Hobson intended to convey by his text. But the chances of two peoples with two different languages and cultural perceptions agreeing on the text of the Treaty diminished dramatically with official acceptance of the 'maverick' English text. The word 'preemption' alone (in the Freeman text) has caused considerable legal argument. The difference between Hobson's original draft and Te Tiriti back-translation, compared with Freeman's flowery text can be clearly seen in the accompanying illustrations.

What Does the Treaty Mean?

The most critical difference between Te Tiriti and translations revolves around the interpretation of three Maori words: *kāwanatanga* (NZ governorship), which is ceded to the Queen in the First Article; *rangatiratanga* (chieftainship) which is retained by the chiefs in the Second; and *taonga* (property or valued possessions), which the chiefs are guaranteed ownership and control of, also in the Second Article. The English language versions recognise Maori rights to "property" or "properties," in the Freeman version. This has been interpreted today to imply physical and perhaps intellectual property (although this concept did not exist in the 19th century). The Maori treaty, on the other hand, mentions "taonga", meaning "treasures" or "precious things". In Maori usage the term applies much more broadly than the English concept of legal property, and since the 1980s courts have found