

# Archives New Zealand misleads the public!

It is interesting to note on letters received from Archives New Zealand is written: "*Kai pono ai te rua Mahara – Enabling trusted government information*", when the Chief Archivist, Mr Richard Foy's letter below is based on false information. Lt. Governor Hobson never made or authorised an English version of the Treaty of Waitangi to be signed by the tangata Maori Chiefs. The only English copy signed was one that was attached to Lt. Governor Hobson "official Maori Tiriti o Waitangi" that was printed by the Church Mission Society (CMS) and was used without authorisation, when space ran out on the "official Maori text". This English copy was compiled by Hobson's Secretary, James Freeman from James Busby's rejected draft notes and the reason why it differs so much from the Tiriti o Waitangi. See the letter below from the One New Zealand Foundation Inc. explaining why we cannot trust government information, especially from Chief Archivist Richard Foy.

07 NOV 2019

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Dear Mr Baker

**Official Information Act request (ref: 19/20-0344)**

Thank you for your request for official information from Archives New Zealand, received 21 October 2019. You asked:

*"On whose authority was this unauthorised English version of the Treaty of Waitangi published on Archives New Zealand website?"*

There are two English versions of the Treaty of Waitangi available on our website. The first is the translation by Professor Hugh Kāwharu, a former Waitangi Tribunal member. This is available underneath the heading "What the Treaty says: original Te Reo version and 1975 English translation".

Professor Kāwharu's translation was made to show how Māori would have understood the meaning of the text they signed. It was published in the book *Waitangi Revisited: Perspectives on the Treaty of Waitangi*, edited by Michael Belgrave, Merata Kāwharu and David Williams (Oxford University Press, 1989).

The second version, under the heading "What the Treaty says: original English version" is the text as set out on the Waikato-Manukau sheet. This sheet is the only English language sheet of the 9 signed sheets that make up the Treaty of Waitangi.

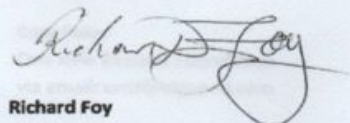
The authority for these two versions comes from the Treaty itself, and the Treaty of Waitangi Act 1975. The English text that appears on the Waikato-Manukau sheet is included as Schedule 1 of the Act.

*Kia pono ai te rua Mahara – Enabling trusted government information*

Auckland Regional Office, 95 Richard Pearse Drive, Māngere, Auckland  
Christchurch Regional Office, 15 Harvard Avenue, Wigram, Christchurch  
Dunedin Regional Office, 556 George Street, Dunedin

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz), or Freephone 0800 802 602.

Ngā mihi



**Richard Foy**  
Chief Archivist  
Archives New Zealand

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5 November 2019.

Mr Richard Foy,  
Chief Archivist,  
Archives New Zealand.

Dear Sir,

Thank you for your letter dated the 7 November 2019 below.

Richard, you may be able to fool half the people half the time, but you cannot fool all the people all the time!

Correct, there are two English versions of the Treaty of Waitangi available on Archives New Zealand's website, but both were unauthorised by Lt. Governor Hobson.

You then say, "*The first is a translation by Professor Hugh Kawharu, a former Waitangi Tribunal member*".

It seems you have completely overlooked or have no idea that this translation was made for the 1987 Court of Appeal hearing, (CA 54/87) where it is stated, *"Instead of repeating the two texts scheduled to the 1975 Act, I set out what a distinguished scholar, Professor Kawharu calls his, " Attempt at a reconstruction of the literal translation of the Maori Text. It was put before us on behalf of the applicants. The Crown likewise accepted this for the purpose of this case".*

**An attempt!** See page 663 of the 1987 Court of Appeal documents below.

This is not an English version, it was an unauthorised, *"Attempt at a reconstruction of the literal translation of the Maori Text"*, by a man for his people who were to gain most from the Courts decision. Kawharu even omitted the Preamble, which makes the Treaty impossible to understand or translate. Preamble = The introduction to a formal document that explains its purpose.

**The 1987 Court of Appeal (CA 54/87) should have been ruled "Out of Order" as it failed to use the two texts scheduled to the 1975 Act. Note: No English version was made or authorised by Lt. Governor Hobson. FACT!**

There was no English version of the Treaty of Waitangi made or authorised by Lt. Governor Hobson. His instructions to those gathering further signature after his untimely stroke was, *"The treaty which forms the base of all my proceedings was signed at Waitangi on the 6 February 1840, by 52 chiefs, 26 of whom were of the federation, and formed a majority of those who signed the Declaration of Independence. This instrument I consider to be de facto the treaty, and all signatures that are subsequently obtained are merely testimonials of adherence*

*to the terms of that original document".* Lt. Governor Hobson.

**There was no English version signed on the 6 February 1840 at Waitangi. Fact!**

As for the English version used at Waikato – Manukau. The first five tangata Maori chiefs who signed the Treaty signed the CMS printed Tiriti o Waitangi authorised by Lt. Governor Hobson which would have been read and discussed as most tangata would not have understood the unauthorised English version made by Hobson Secretary, James Freeman. It is also stated the signatures gained at Waikato – Manukau were 44. This would be the 5 on the CMS printed copy and the 39 on the unauthorised English version that was used to hold the overflow of signatures.

If this unauthorised English version is to be placed on Archives website, then it must be stated that only 39 tangata Maori chiefs out of more than 500 signed this version, therefore, it only relates to those who signed it or ruled as an unauthorised version signed in error.

Richard, I believe if you don't know our true history then you should not be the Chief Archivist at Archives New Zealand, which I also believe continues to mislead the people of New Zealand, either because you don't know our true history or maybe have a hidden agenda.

This is not "your" website, it is a website funded by the people of New Zealand who have the right to be told our true

history, not Archive's unfounded history!

Yours sincerely,

Ross Baker.

Researcher, One New Zealand Foundation Inc.

The principles of the Treaty are to be applied, not the literal words. As is well known, the English and Maori texts in the first schedule to the Treaty of Waitangi Act 1975 are not translations the one of the other and do not necessarily convey precisely the same meaning. The story of the drafting of the Treaty and the procurement of signatures from more than 500 Maori chiefs, including some Maori women of appropriate rank – events in which no lawyer seems to have played a part – is an absorbing one, but not within the ambit of this judgment. 30

Instead of repeating the two texts scheduled to the 1975 Act, I set out what a distinguished Maori scholar, Professor Kawharu, calls his “attempt at a reconstruction of the literal translation” of the Maori text. It was put before us on behalf of the applicants. The Crown likewise accepted it for the purposes of this case: 35

“Victoria, the Queen of England, in her concern to protect the chiefs and subtribes of New Zealand and in her desire to preserve their chieftainship and their lands to them and to maintain peace and good order considers it just to appoint an administrator one who will negotiate with the people of New Zealand to the end that their chiefs will agree to the Queen’s Government being established over all parts of this land and (adjoining) islands and also because there are many of her subjects already living on this land and others yet to come. 40 45

“So the Queen desires to establish a government so that no evil will come to Maori and European living in a state of lawlessness. 50

“So the Queen has appointed me, William Hobson a captain in the Royal Navy to be Governor for all parts of New Zealand (both those) shortly to be received by the Queen and (those) to be received hereafter and presents to the chiefs of the Confederation chiefs of the subtribes of New Zealand and other chiefs these laws set out here.

“The first  
“The Chiefs of the Confederation and all the chiefs who have not joined that Confederation give absolutely to the Queen of England for ever the complete government over their land.

“The second  
“The Queen of England agrees to protect the chiefs, the subtribes and all the people of New Zealand in the unqualified exercise of their chieftainship over their lands, villages and all their treasures. But on the other hand the Chiefs of the Confederation and all the Chiefs will sell land to the Queen at a price agreed to by the person owning it and by the person buying it (the latter being) appointed by the Queen as her purchase agent.

“The third  
“For this agreed arrangement therefore concerning the Government of the Queen, the Queen of England will protect all the ordinary people of New Zealand and will give them the same rights and duties of citizenship as the people of England.

Signed William Hobson  
Consul and Lieutenant Governor

“So we, the Chiefs of the Confederation and of the subtribes of New Zealand meeting here at Waitangi having seen the shape of these words which we accept and agree to record our names and marks thus

“Was done at Waitangi on the sixth of February in the year of our Lord 1840

The Chiefs of the Confederation”

Page 663 of the 1987 Courts of Appeal documents showing the Court instead of using the 2 texts scheduled to the 1975 Treaty of Waitangi Act, accepted an, “Attempt at a reconstruction of the literal translation of the Maori text”. What right did this Court have “To accept an ‘unauthorised”

*reconstruction of a literal translation of the Maori text”* by a man who was going to gain most for his people with his translation when there is an ‘official’ translation by Mr T E Young of the Native Department for the Legislative Council in 1869, plus many others on record.

**Another fraudulent translation of the Treaty of Waitangi, but this time for the 1987 Court of Appeal.**