

Dissecting the Tiriti o Waitangi

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From the previous article, *True Tiriti – False Treaty*, Lt Governor Hobson only authorised the Tiriti o Waitangi to be signed, he never authorized an English version of the Treaty to be read, discussed or signed by the chiefs. Governor Hobson also had 200 copies of the Tiriti o Waitangi printed by the Church Mission Society but not one in English. This article dissects the Tiriti o Waitangi to understand its true meaning. To do this we will use the official translation made by Mr T E Young of the Native Department for the Legislative Council in 1869. The final draft dated the 4th February 1840, plus other translations of the time, also supports this translation. A copy of the translation and final draft are attached to *True Tiriti – False Treaty*, www.onenzfoundation.co.nz.

It must be remembered, Maori had been continually at war with each other since the “Boundary Wars” between Ngapuhi and others in 1795 and long before the introduction of the musket. While these wars were mainly for utu/revenge they were also fought for the “love of human flesh”. While Maori lived in constant fear of being killed and eaten, they were in greater fear of becoming slaves. By 1840, Maori had slaughtered an estimated 80,000 of their fellow countrymen and New Zealand was completely out of control, the reason the 13 Northern chiefs wrote to the King in 1831 asking him to become their protector and guardian, not only from the French but also from themselves.

See, "Maori Wars of the 19th Century" by S. Percy Smith.

With the 'genocide' Maori wars and the large investment by British subjects in New Zealand by 1837, Britain had to take more control of this country and its people. For three years the British Government discussed the best way to bring law and order to New Zealand, a country completely out of control. It was decided in 1839 to send Captain William Hobson half way around the world to cede New Zealand to Britain by Treaty for Britain to form a legal government to bring law and order as the chiefs had asked in 1831. Maori would be given the same rights as the people of England.

As there was no united government, congress or sovereignty in New Zealand in 1840 and each tribe was completely independent to the other, the Tiriti o Waitangi was signed between Lt. Governor Hobson on behalf of Her Majesty the Queen and 512 individual Maori chiefs on behalf of their individual tribes for their individual territories.

There is also no mention in the Tiriti o Waitangi that Maori were the 'indigenous people of New Zealand'. In fact they are referred to in the Tiriti as 'tangata maori' not 'tangata whenua' or 'the indigenous people.' S. Percy Smith and many others state that old Maori acknowledged they were not the 'tangata whenua' or 'first people'. This was also endorsed by Dr Ranginui Walker in 1989 in 'The Book of New Zealand Events'. Many archaeology sites and artefacts show there were people in New Zealand long before the 'tangata maori'.

The Tiriti o Waitangi was a very simple document that ceded (the territory) to Britain so that Britain could form a legal Government to make laws to bring protection and order to all the people of New Zealand irrespective of race, colour or creed. Unfortunately, the Tiriti has been confused with an English version Governor Hobson's secretary, James Freeman

compiled for overseas despatch. Governor Hobson never intended this English version to be read, discussed or signed by the chiefs. There was only one version of the Tiriti signed on the 6th February 1840 and that was the Tiriti o Waitangi in the Maori language. No English version was read, discussed or signed on that day.

The government, Waitangi Tribunal, universities, lawyers, government officials and others have combined both the Tiriti o Waitangi and the false English version that completely confuses the issue. Governor Hobson only made one Tiriti to be signed by the chiefs. This document was signed on the 6th February 1840,

"The treaty which forms the base of all my proceedings was signed at Waitangi on the 6th 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.

In 1986 the Fourth Labour Government replaced the Tiriti o Waitangi with five 'Principles' and turned the Tiriti in to a 'Partnership between the Maori and the Crown'. There was only one Principle in the Treaty of Waitangi to which Hobson and the chiefs shook hands and the whole gathering of over 2000 Maori and Pakeha gave 3 hearty cheers. ***"He iwi tahi tatou – We are now one people"***

The first part of the Treaty referred to Maori only. It explained if the Queen was to bring protection and order to the Maori and Pakeha living without laws, the chiefs must consent to the Queen's sovereignty over the whole land. Governor Hobson stating at Hokianga, *"That English laws could*

only be exercised on English soil". The 3 Laws of the Tiriti followed, then the consent by the chiefs; that they fully understood all the words of the Tiriti, therefore affixed their names or marks.

Dissecting the Tiriti o Waitangi

*Victoria, Queen of England, in Her kind thoughtfulness of **the chiefs and Hapus of New Zealand**, and Her desire to preserve to them their chieftainship and their lands, and that peace may always be kept with them and quietness, She has thought it a right thing that a Chief should be sent here as a negotiator with the Maoris of New Zealand – that the Maori of New Zealand may consent to the Government of the Queen of all parts of this land and the islands, because there are many of her tribe that have settled on this land and are coming hither.*

This explained to the **chiefs and Hapus of New Zealand** the intention of Her Majesty the Queen to protect the Maoris and their lands. The Maori may consent to the Government of the Queen to all parts of New Zealand because many of Her tribe have settle or are coming later.

Now the Queen is desirous to establish the Government, that evil will not come to the Maori or the Europeans who are living without law.

The Queen is desirous to establish a Government to make one law for both Maori and Pakeha so that evil will not come to them.

Now the Queen has been pleased to send me, William Hobson, a

Captain in the Royal Navy, to be Governor to all parts of New Zealand which may be given up now or hereafter to the Queen;....

The Queen sent Lt Governor William Hobson to be Governor of all parts (territories) of New Zealand that the chiefs may give up now or at a later date. There was no united Government or sovereignty in New Zealand in 1840. The chiefs only had control over their individual territories for as long as their tribe could protect them. Over 500 chiefs gave up their individual territories to Her Majesty the Queen in 1840 and New Zealand was declared a British Colony under English law. *English law could only be exercise on English soil.*

....and he give forth to the Chief of the assembly of the Hapus of New Zealand and other chiefs the laws spoken here.

Once the chiefs gave up their territories to the Queen, they lost all rights to their land, their settlements and all their property. The three laws that followed explained to the chiefs, the tribes and all the people of New Zealand the rights they would be given under English Law, British Sovereignty. The laws were based on English Law.

The First Law.

The Chiefs of the Assembly, and all chiefs also who have not joined the Assembly, give up entirely to the Queen of England forever all the Government of their lands.

The chiefs must also give up entirely to the Queen forever all the Governments of their lands. There could only be one Government under one Sovereignty.

The Second Law (First part).

*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.*

The Queen agreed and guaranteed to give the chiefs, the tribes (the Maori) and **all the people of New Zealand** (the Pakeha) the full rights to their lands, their settlements and their property.

Note. This is the only time '**all the people of New Zealand**' is used in the Tiriti o Waitangi, at all other times the people are specifically called, chiefs, hapu, tangata maori or Pakeha. In this part of the Tiriti, it referred to '**all the people of New Zealand**' irrespective of race colour or creed.

As the chiefs had sold or had contracts over 2/3 of New Zealand at this time, Hobson had to also guarantee the Pakeha people the rights to their lands, settlements and property. Large areas of land had been sold by the chiefs to the New Zealand Company at Wellington, Wanganui and Taranaki, which had in turn been on sold to the immigrants from Great Britain, as well as most of the South Island had contracts over it by the few South Island chiefs. There were also many private sales to the missionaries, whalers and timber merchants etc. At the time there were over 2000 Pakeha living in New Zealand, whose rights also had to be protected under English law.

The Second Law (Second Part)

But the Chiefs of the Assembly, and all other chiefs, gives to the Queen the purchase of those pieces of land which the

proprietors may wish, for payment as may be agreed upon by them and the purchaser who is appointed by the Queen to be Her purchaser.

The chiefs could only sell their land they wanted to sell to the Queen's purchaser. While this was to stop the dubious speculators, it was mainly to make sure the seller was the legal owner and land sold was first surveyed so that legal boundaries and titles of ownership could be given. Land sold before the Treaty was investigated and if found to be a dubious purchase was returned to the original owner. Most purchases were also reduced to 2560 acres (4 square miles) as well as purchasers that could not afford to bring their claim to court (most of the South Island), had their purchase returned to the Maori.

The Third Law

*This is an arrangement for the consent to the Government of the Queen. The Queen of England will protect **all the Maoris of New Zealand**. All the rights will be given to them the same as Her doings to the people of England.*

As Maori had given up their territories and the government of their lands to the Queen they must now consent to the Queen's Government. The Queen's Government would protect all the Maoris of New Zealand with the same rights as the people of England.

The Consent

Now, we the Chiefs of the Assembly of the Hapus of New Zealand, now assembled at Waitangi. We, also the Chiefs of New Zealand, see the meaning of these words; they are taken and consented to altogether by us. Therefore are attached our

names and marks.

From the chief's speeches, they fully understood the meaning of the words of the Tiriti o Waitangi. They understood they must give up their individual territories to the Queen for Her to form a legal Government to bring protection, law and order to all the people of New Zealand irrespective of race, colour or creed under on sovereignty.

This done at Waitangi, on the six day of February, in the year one thousand eight hundred and forty, of our Lord.

The Tiriti o Waitangi was the only document authorised to be signed by Lt Governor William Hobson and the only document signed by the chiefs on the 6th February 1840 at Waitangi.

Conclusion.

The Tiriti o Waitangi was a very simple document agreed to by both parties; Lt Governor Hobson on behalf of Her Majesty the Queen and the 512 Maori chiefs on behalf of their individual tribes. While the Tiriti is not in our legislation, we are told by our academics it is not a legal document in International Law. Would Britain send Captain William Hobson, a ship and crew half way around the world if it was not a legal document in International Law? The Tiriti o Waitangi was accepted by the two major powers at the time, America and France and has never been challenged in International Law. France also wanted sovereignty of New Zealand but accepted defeat on the 20 July 1840, *"That sovereignty had been procured in a manner such as could be approved by other nations"*. The Proclamations were published in the London Gazette on the 2nd October 1840, that British Sovereignty was gained over the North Island by Treaty and over the South

Island by Discovery and New Zealand became a British Crown Colony under one sovereignty and one law.

After the Treaty was signed, "the chief's placed in the hands of the Queen of England, the Sovereignty and authority to make laws. Some sections of the Maori people violated that authority, war arose and blood was spilled. The law came into operation and land was taken in payment. This in itself is Maori custom – revenge – plunder to avenge a wrong. It was their chiefs who ceded that right to the Queen. The confiscations cannot therefore be objected to in the light of the Treaty".

"Some have said these confiscations were wrong and that they contravened the Treaty of Waitangi, but the chief's placed in the hands of the Queen of England, the Sovereignty and authority to make laws. Some sections of the Maori people violated that authority, war arose and blood was spilled. The law came into operation and land was taken in payment. This in itself is Maori custom – revenge – plunder to avenge a wrong. It was their chiefs who ceded that right to the Queen. The confiscations cannot therefore be objected to in the light of the Treaty". Sir Apirana Ngata, Minister of Native Affairs, M.A., LL.B. LIT.D. – 1922.

The End.

Prepared by Ross Baker. One New Zealand Foundation Inc.
10/3/2012.

