

# **Government Ignores Constitutional Charter**

## **An Election Discussion Paper, 2017**

To: All Members of Parliament.

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### **“Government Ignores Constitutional Charter”**

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There is no excuse for the government and people such as Attorney General, Hon Christopher Finlayson and Leading Constitutional Lawyer Sir Geoffrey Palmer, the man trusted to write a new Constitution ignoring Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840. Surely they are not that ignorant of how New Zealand separated from New South Wales and became an independent British Colony with its own political, legal and justice systems. They must know the Treaty of Waitangi only placed New Zealand under the laws and dependency of New South Wales from the 21 May 1840 until the 3 May 1841, just 12 months!

## **“Ignorance is no excuse for committing an unlawful act!”**

The Government, including Te Papa and our new Governor General, Dame Patsy Reddy should know better than to refer to the Treaty of Waitangi as our **“Founding Document”** and **“A partnership between Maori and the Crown”**. Te Papa, our National Museum refusing to display Queen Victoria’s Royal Charter.

While the Treaty of Waitangi gave Britain sovereignty over all the islands of New Zealand and tangata Maori, *“the same rights as the people of England”*, it was not our **“Founding Document”**. It was an “agreement”, not a “partnership” between tangata Maori and Queen Victoria.

Queen Victoria and/or Lt. Governor Hobson did not have the power or authority to give tangata Maori any special rights or privileges in the Treaty of Waitangi not already enjoyed by all the people of England, and none were given.

After each tangata Maori chief signed the Treaty of Waitangi on the 6<sup>th</sup> February 1840 at Waitangi, Lt. Governor Hobson shook their hand and repeated the words *“He iwi tahi tatou – We are now one people”*. Tangata Maori became British Subjects and British Subjects cannot be in “partnership” with the Queen or the Monarchy.

The Treaty of Waitangi placed New Zealand under the laws and dependency of New South Wales on the 21 May 1840, therefore was not our **“Founding Document”**.

At the time the Treaty of Waitangi was being signed, Britain had no idea of whether it would gain sovereignty over the whole country or only parts of the country, therefore, Britain could not make any formal plans of how Britain would rule New Zealand until Britain knew the results of the Treaty, so temporarily place New Zealand under the laws and dependency of

New South Wales.

Once Britain confirmed over 500 North Island chiefs had signed the Treaty, sovereignty over the North Island was declared by Treaty and over the South Island by discovery as virtually the whole of the South Island had been sold before the Treaty was signed by the South Island chiefs travelling to New South Wales to find buyers. Over 700 Deeds of Sale still remain in the New South Wales Supreme Court.

On the 21 May 1840 when Britain declared sovereignty over all the island of New Zealand and tangata Maori had become British Subjects, the Tiriti o Waitangi had served its purpose and was filed away as it was of no further use except as an historic document.

The 1975 Treaty of Waitangi Act dragged it out of storage and has continually allowed its translation to be distorted to give Maori special rights and privileges over their fellow New Zealand Citizens never intended by those that signed it in 1840. The Waitangi Tribunal allowing the Treaty to be interpreted to make it fit the claim before it to succeed.

Academics such as Dr Margaret Mutu, Professor of Māori Studies at the University of Auckland, have continued to distort the translation of the Tiriti o Waitangi to benefit Maori only until they have completely destroyed a once noble language. To tamper with a document of National importance must surely be fraud.

Once Britain declared sovereignty over all the islands of New Zealand, which has never been challenged by any other country, all the people of New Zealand came under the laws of New South Wales until the 3 May 1841 when the Royal Charter made New Zealand into a British Colony and all the people of New Zealand came under the laws of New Zealand.

The Treaty cannot be breached as it made no laws, it made tangata Maori British Subjects, *"with the same rights as the*

*people of England"*, under one flag and one law. The Treaty was unique to New Zealand as it gave tangata Maori, *"the same rights as the people of England"* without so much as lifting a finger.

The only claims Maori have against the Crown are either alleged breaches of the laws of New South Wales or New Zealand, which should only be heard under normal court procedure, not by the apartheid Waitangi Tribunal that interprets and twists the Treaty to make sure the claim is successful.

The Treaty of Waitangi was never intended to be our **"Founding Document"**, it was solely to find out whether tangata Maori would give up their sovereignty to Britain and become British Subjects under British rule. Over 500 tangata Maori chiefs signed their names or their marks for them and their people to become British Subjects under British rule of one flag and one law.

From 21 May 1840 until the 16 November 1840, the British Parliament debated whether to leave New Zealand under the dependency of New South Wales or become a separated British Colony with its own Governor and Constitution to form a government. This could only be established by Royal Charter.

On the 3 May 1841, Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840 separated New Zealand from New South Wales with a Governor and Constitution to form a government under one flag and one law, irrespective of race, colour or creed.

Queen Victoria's Royal Charter/Letters Patent is held in the Constitution Room at Archive New Zealand under the title, "ACG083411A19R21434434. Charter of 1840. Constitution of the Colony of New Zealand into a separate colony. 16 November 1840". See below.

The Constitution of the Colony of New Zealand was our true

**“Founding Document”** and first **“Constitution”** as it separated New Zealand from New South Wales and made New Zealand into an independent British Colony with a Governor and Constitution to form a government to make laws with courts and judges to enforce those laws.

The government, its agencies and Te Papa our National Museum have for some reason deliberately keep Queen Victoria’s Royal Charter/Letters Patent from the People of New Zealand, completely ignoring it in favour of the Treaty of Waitangi. But in so doing have racially divided the People of New Zealand into Maori and non-Maori that was never intended by those that signed the Treaty in 1840 with the words, *“He iwi tahi tatou – We are now one people”*.

Without Queen Victoria’s Royal Charter/Letters Patent, New Zealand would have remained under the laws and dependency of New South Wales without a **“Founding Document”** or its own **“Constitution”**, but the British Parliament decided to separate New Zealand from New South Wales and make New Zealand into an independent British Colony on the 3 May 1841. **The day we must all honour and celebrate with pride, the day we became an “Independent Colony”**.

It is now over to the People of New Zealand, both Maori and non-Maori that they honour our ancestors wish in 1840 to become one people under one flag and one law, *“He iwi tahi tatou – We are now one people”*. Not allow a few self-appointed Maori leaders and a past Governor General, the Rev Sir Paul Reeves threaten the government with violence and/or a civil war if Maori did not get their own way, which was aired on the ABC TV Four Corners Programme called “Trick or Treaty” screened in Australia on the 5 March 1990.

The Governor General is the Queens Representative in New Zealand. They are responsible in giving Her Majesty’s Royal Assent to Bills for the Bills to become Acts of Parliament, but with racial comments like this and our new Governor

General having no idea of New Zealand true history, no wonder we have and will continue to have, racial problems in New Zealand.

All New Zealand's laws had to be in accordance with the **Constitution** provided by Queen Victoria's Royal Charter and examined and approved by the British Parliament, but without the government recognising Queen Victoria's Royal Charter as our true **Founding Document** and first **Constitution**, it has continued to give Maori special rights and privileges over all others citizens never intended by the Treaty of Waitangi or Queen Victoria's Royal Charter.

Maori today refer to their ancestors as "tangata whenua" but over 500 chief that signed the Treaty of Waitangi in 1840 signed it as "tangata Maori" because they knew they were not the "tangata whenua" or the "Indigenous People of New Zealand".

It is unbelievable how governments have continued down this path without acknowledging Queen Victoria's Royal Charter. This can only be taken as a criminal act by those involved that should have known better.

**"Ignorance is no excuse for committing an unlawful act!"**

Governments have lead New Zealand "*down the garden path*" to end up where we are today, "**A complete bloody shambles**" that must be sorted out by first recognising and adopting the Royal Charter as New Zealand's true **Founding Document** and first **Constitution**.

The Treaty of Waitangi had nothing to do with making New Zealand into a British Colony with a Governor and Constitution to set up our political, legal and justice systems, it was only an agreement between the Queen and tangata Maori that gave sovereignty of New Zealand to Britain and made Maori British Subjects with the "*Same rights as the people of*

England", no more, no less!

After the 21 May 1840 New Zealand and its People were under the laws and dependency of New South Wales until the 3 May 1841 when Queen Victoria's Royal Charter gave New Zealand its own political, legal and justice systems under one flag and one law, irrespective of race, colour or creed, but under the watchful eye of Great Britain.

In 1947 we adopted the Statute of Westminster which granted full sovereign powers to New Zealand in domestic as well as foreign affairs with all the people of New Zealand becoming New Zealand Citizens under one flag and one law, irrespective of race, colour or creed.







**Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840.**

Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840 is held in the Constitution Room at Archive New Zealand, Wellington with Governor Hobson's Final Draft dated the 4 February 1840 and the 7 copies of the Tiriti o Waitangi that were signed by Lt. Governor Hobson and over 500 tangata Maori chiefs in 1840.

There is also one copy of a CMS printed Tiriti o Waitangi authorised by Lt. Governor Hobson that was read and discussed at Waikato because the "official" copy of the Tiriti o



Waitangi had not arrived and the first 5 Waikato tangata Maori chiefs signed this copy and had it witnessed by Rev Robert Maunsell.

Unfortunately, space ran out on the CMS printed copy and another 39 chiefs signed an unauthorised English version of the Treaty that had been compiled by Hobson's secretary, James Freeman from James Busby's early draft notes that Robert Mausell must have had on hand. These 2 documents were to be treated as one. One, the "office" copy that was read and discussed at Waikato and the other, just to hold the overflow of signatures when the CMS printed copy could hold no more signatures

When the Waikato Tiriti o Waitangi was handed into Lt. Governor Hobson to be signed, it was record that 44 signatures had been collected at Waikato, 5 on the authorised CMS printed copy and 39 on Freeman's unauthorised English version.

Lt. Governors Hobson's signature on Freeman's unauthorised English copy is either a forgery or was signed when Hobson was extremely ill with a stroke when he would have had no idea of what he was signing. Lt. Governor Hobson never made or authorised an English version of the Treaty to be signed by the tangata Maori chiefs, stating, *"All signatures that are subsequently obtained are merely testimonials of adherence to the terms of that original document"*. That document being, the Tiriti o Waitangi signed at Waitangi on the 6 February 1840".

**We must all honour and celebrate with pride Queen Victoria's Royal Charter on the 3 May every year as our "Independence**

**Day". The day we became one people under one flag and one law, irrespective of race, colour or creed. *"He iwi tahi tatou – We are now one people"*.**

For further information, [www.onenzfoundation.co.nz](http://www.onenzfoundation.co.nz) or [onzf@bigpond.com.au](mailto:onzf@bigpond.com.au)

## CONSTITUTIONAL CHARTER OF NEW ZEALAND

CHARTER FOR ERECTING THE COLONY OF NEW ZEALAND, AND FOR CREATING AND ESTABLISHING A LEGISLATIVE COUNCIL AND AN EXECUTIVE COUNCIL, AND FOR GRANTING CERTAIN POWERS AND AUTHORITIES TO THE GOVERNOR FOR THE TIME BEING OF THE SAID COLONY.

Victoria, & c. to all whom these presents shall come, greeting.

1. Whereas by an Act of Parliament made and passed in the fourth year of our reign, intituled, "An Act to continue, until the 31st day of December 1841, and to the end of the then next Session of Parliament, and to extend the provisions of an Act to provide for the administration of justice in New South Wales and Van Diemen's Land, and for the more effectual government thereof, and for other purposes relating thereto," after reciting amongst other things that the said colony of New South Wales is of great extent, and, that it may be fit that certain dependencies of the said colony should be formed into separate colonies, and provision made for the temporary administration of the government of any such newly-erected colony, it is enacted, that it shall be lawful for us, by Letters Patent to be from time to time issued under the great seal of the United Kingdom, to erect into a separate colony or colonies any islands which now are or which hereafter may be comprised within and be dependencies of the said colony of New South Wales; and whereas the islands of New Zealand, at the time of the passing of the above recited Act, were comprised within and were dependencies of the said colony of New South Wales. Now know ye that we, in pursuance of the said recited Act of Parliament, and in exercise of the powers thereby vested in us, of our especial grace, certain knowledge, and mere motion, have thought fit to erect, and do hereby erect the said islands of New Zealand, and all other islands adjacent thereto, and lying between the 34th degree 30 minutes north to the 47th degree 10 minutes south latitude, and between the 166th degree 5 minutes to the 172d degree of east longitude (reckoning from the meridian of Greenwich) into a separate colony, accordingly. And we do hereby declare that from henceforth the said Islands shall be known and designated as the colony of New Zealand, and the principal adjacent islands, heretofore known as, or commonly called the "Northern Island" the "Middle Island," and "Stewart's Island," shall henceforward be designated and known respectively as "New Ulster," "New Munster", and "New Leinster".
2. And whereas by the said recited Act of Parliament it is further enacted, that in case we shall by any letters patent as aforesaid establish any such new colony or colonies as aforesaid, it shall be lawful for us by any such letters patent, to authorise any number of persons, not less than seven, including the governor or lieutenant-governor of any such new colony or colonies, to constitute a Legislative Council or Legislative Councils for the same, and that every such Legislative Council shall be composed of such persons as shall from time to time be named or designated by us for that purpose, and shall hold their places therein at our pleasure, and that it shall be lawful for such Legislative Council to make and ordain all such laws and ordinances as may be required for the peace, order, and good government of any such colony as aforesaid, for which such Legislative Council may be so appointed; and that in the making all such laws and ordinances, the said Legislative Council shall conform to and observe all such instructions as we, with the advice of our Privy Council, shall from time to time make for their guidance therein. Provided always, that no such instructions and that no such laws or ordinances as aforesaid shall be repugnant to the law of England, but consistent therewith so far as the circumstances of any such colony may admit; provided

also, that all such laws and ordinances shall be subject to our confirmation or disallowance, in such manner and according to such regulations as we by any such instructions as aforesaid shall from time to time see fit to prescribe; provided also, that all instructions which shall, in pursuance of the said recited Act, be made by us, with the advice of our Privy Council, and that all laws and ordinances which shall be made in pursuance of the said recited Act, by any such Legislative Council of any such newly-erected colony as last aforesaid, shall be laid before both Houses of Parliament within one month from the date of any such instructions, or from the arrival in this kingdom of the transcript of any such laws or ordinances, if Parliament shall then be in session sitting, or if not, then within one month of the commencement of the next ensuing session of Parliament. Now, therefore in pursuance and further exercise of the powers so vested in us as aforesaid in and by the said recited Act of Parliament, we do by these our letters patent authorise the governor or the lieutenant-governor for the time being of the said colony of New Zealand and such other persons, not less than six, as are hereinafter designated, to constitute and be a Legislative Council for the said colony, and in further exercise of the powers aforesaid, we do hereby declare that, in addition to the said governor or lieutenant-governor, the said Legislative Council shall be composed of such public officers within the said colony, or of such other persons as shall from time to time be named or designated for that purpose by us, by any instruction or instructions or warrant or warrants to be by us for that purpose issued under our signet and sign manual and with the advice of our Privy Council, all of which Councillors shall hold their places in the said Council at our pleasure.

3. And we do hereby require and enjoin that such Legislative Council shall, in pursuance of the said Act of Parliament, make and ordain all such laws and ordinances as may be required for the peace, order, and good government of the said colony of New Zealand, and that in the making all such laws and ordinances the said Legislative Council shall conform to and observe all such instructions as we, with the advice of our Privy Council, shall from time to time make for their guidance therein.
4. And whereas it is expedient that an Executive Council should be appointed to advise and assist the governor of our said colony of New Zealand for the time being in the administration of the government thereof, we do therefore, by these our letters patent, authorise the governor of our said colony for the time being to summon as an Executive Council such persons as may from time to time be named or designated by us in any instructions under our signet and sign manual, addressed to him in that behalf.
5. And we do hereby authorise and empower the governor of our said colony of New Zealand for the time being to keep and use the public seal appointed for the sealing of all things whatsoever that shall pass the seal of our said colony.
6. And we do hereby give and grant to the governor of our said colony of New Zealand for the time being full power and authority, with the advice and consent of our said Executive Council, to issue a proclamation or proclamations, dividing our said colony into districts, counties, hundreds, towns, townships and parishes, and to appoint the limits thereof respectively.
7. And we do hereby give and grant to the governor of our said colony of New Zealand for the time being, full power and authority, in our name and on our behalf, but subject nevertheless to such provisions as may be in that respect contained in any instructions which may from time to time be addressed to him by us for that purpose, to make and execute, in our name and on our behalf, under the public seal of our said colony, grants of waste land, to us belonging within the same, to private persons, for their own use and

benefit, or to any persons, bodies politic or corporate, in trust for the public uses of our subjects there resident, or any of them.

8. Provided always, that nothing in these our letters patent contained shall affect, or be construed to affect, the rights of any aboriginal natives of the said Colony of New Zealand, to the actual occupation or enjoyment in their own persons, or in the persons of their descendants, of any lands in the said Colony now actually occupied or enjoyed by such natives.
9. And we do hereby authorise and empower the Governor of our said Colony of New Zealand for the time being, to constitute and appoint judges, and, in cases requisite, commissioners of oyer and terminer, justices of the peace, and other necessary officers and ministers in our said Colony, for the due and impartial administration of justice, and for putting the laws into execution, and to administer or cause to be administered unto them such oath or oaths as are usually given for the due execution and performance of these offices and places, and for the clearing of truth in judicial matters.
10. And we do hereby give and grant unto the Governor of our said Colony of New Zealand for the time being, full power and authority, as he shall see occasion, in our name and on our behalf, to remit any fines, penalties, or forfeitures, which may accrue or become payable to us, provided the same do not exceed the sum of fifty pounds sterling in any one case, and to respite and suspend the payment of any such fine, penalty, or forfeiture exceeding the said sum of fifty pounds, until our pleasure thereon shall be made known and signified to such Governor.
11. And we do hereby give and grant unto the Governor of the said Colony of New Zealand for the time being, full power and authority, as he shall see occasion, in our name and on our behalf, to grant to any offender, convicted of any crime in any Court, or before any judge, justice, or magistrate within our said Colony, a free and unconditional pardon, or a pardon subject to such conditions as by any law or ordinance hereafter to be in force in our said Colony may be thereunto annexed, or any respite of the execution of the sentence of any such offender for such period as to such Governor may seem fit.
12. And we do hereby give and grant unto the Governor of our said Colony of New Zealand for the time being, full power and authority, upon sufficient cause to him appearing, to suspend from the exercise of his office, within our said Colony, any person exercising any office or place under or by virtue of any commission or warrant granted, or which may be granted by us, or in our name or under our authority; which suspension shall continue and have effect only until our pleasure therein shall be made known and signified to such Governor. And we do hereby strictly require and enjoin the Governor of our said Colony for the time being, in proceeding to any such suspension, to observe the directions in that behalf given to him by our instructions under our signet and sign manual accompanying his commission of appointment as Governor of the said Colony.
13. And in the event of the death or absence out of our said Colony of New Zealand of such person as may be commissioned and appointed by us to be the Governor thereof, we do hereby provide and declare our pleasure to be, that all and every the powers and authorities herein granted to the Governor of our said Colony of New Zealand for the time being shall be, and the same are hereby vested in such person as may be appointed by us by warrant under our signet and sign manual, to be the Lieutenant-Governor of our said Colony, or, in the event of there being no person within our said Colony commissioned and appointed by us to be Lieutenant-Governor thereof, then our pleasure is, and we do hereby provide and

declare, that in any such contingency all the powers and authorities herein granted to the Governor or Lieutenant-Governor of our said Colony shall be, and the same are hereby granted to the Colonial Secretary of our said Colony for the time being, and such Lieutenant-Governor, or such Colonial Secretary, as may be, shall possess all and every the powers and authorities herein granted until our further pleasure shall be signified, therein.

14. And we do hereby require and command all our officers and ministers, civil and military, and all other the inhabitants of our said Colony of New Zealand, to be obedient, aiding and assisting to such person as may be commissioned and appointed by us to be the Governor of our said colony, or, in the event of his death or absence, to such person as may, under the provisions of these our letters patent, assume and exercise the functions of such governor.

And we do hereby reserve to us our heirs and successors full power and authority from time to time, to revoke, alter or amend these our letters patent as to us or them shall seem meet.

In witness, &c. witness, &c.

16 November 1840



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