

# NZ officially becomes a British Colony

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Independent research by Ross Baker. 31 July 2016.  
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### Part 2.

#### Part 1.

#### Facts on the English Treaty of Waitangi.

New Zealand could only become an Independent British Colony by Royal Charter. Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840 officially severed New Zealand's link to New South Wales to become a separate Colony of the United Kingdom on the 3 May 1841. Our 'true' Founding Document and 'first' Constitution.

William Hobson had been appointed Britain's consul to New Zealand in 1839. He was instructed to obtain sovereignty over all or part of New Zealand by Treaty with the consent of "*a sufficient number of chiefs*". New Zealand would then come under the authority of George Gipps, the Governor of New South Wales and Hobson would become Gipps' Lieutenant-Governor in New Zealand.

Shortly before Hobson left Sydney in January 1840, Governor Gipps had issued a proclamation extending the boundaries of New South Wales to include such territory in New Zealand as might be acquired in sovereignty. The Legislative Council of New South Wales passed an Act extending to New Zealand the laws of New South Wales on 16 June 1840 and established

customs duties and courts of justice in New Zealand. The relationship with New South Wales was intended to last only while British sovereignty over New Zealand was being asserted.

On 21 May 1840 Lt. Governor William Hobson proclaimed British sovereignty over all the Islands of New Zealand; the North Island on the basis of "*cession through the Treaty of Waitangi*" and the southern islands, which was virtually unpopulated at the time, by "*right of discovery*". At this time, signatures to the Treaty were still being collected. Hobson wanted to declare the Crown's authority over the whole country because he had learned that the New Zealand Company had plans to set up its own administration around Cook Strait and the threat of the French annexing New Zealand to France. Once Britain obtained sovereignty over all the Islands of New Zealand, the Treaty of Waitangi had served its purpose and was filed away where it should have remained.

### **New Zealand could only become a British Colony by Royal Charter**

New Zealand could only become a British Colony and set up its own political, legal and justice systems by Royal Charter which was issued by Queen Victoria on the 16 November 1840. Even before Hobson's dispatch reporting his proclamations had reached London, his political masters had decided to make New Zealand into a separate colony. Queen Victoria's Royal Charter/Letters Patent for erecting the Colony of New Zealand also gave a Constitution to set up a nominated Legislative Council. The first Legislative Council was held on the 3 May 1841 with Lt. William Hobson being sworn in as the first Governor of New Zealand.

This vital piece of setting up New Zealand's political, legal and justice systems is completely ignored by Governments in favour of the Treaty of Waitangi and worst still, Attorney General, Hon Geoffrey Palmer's dreamt up, "Five Principles for

Crown Action on the Treaty of Waitangi", which deprived non-Maori of their rights under the Royal Charter.

The Treaty had nothing to with setting up New Zealand's political, legal or justice systems and should not be used by government when hearing alleged claims against the Crown.

The Treaty of Waitangi gave sovereignty of New Zealand to Great Britain and tangata Maori the same rights as the people of England under the laws and dependency of New South Wales, but New Zealand became a separate Crown Colony by Royal Charter and Letters Patent issued by Queen Victoria on the 16 November 1840. The Royal Charter was New Zealand's 'true' Founding Document and 'first' Constitution as it included all the people of New Zealand, irrespective of race, colour or creed and not just between tangata Maori and Queen Victoria as the Treaty of Waitangi.

Many politicians and most of the population do not know Queen Victoria's Royal Charter/Letters Patent even exists because the professional historians and the Government completely ignores it in favour of the Treaty of Waitangi. The Royal Charter was New Zealand's 'true Founding Document and 'first Constitution that separate New Zealand from the dependency of New South Wales to become an Independent British Colony with its own government to make its own laws.

Extract from page 1 and 2 of, *Regulations and other Subordinate Legislative Instruments: Drafting, Publications, Interpretation and Disallowance*, by Ross Carter, Parliamentary Council Office, Wellington.

*"The first written law in force and enacted in New Zealand was subordinate legislation. New Zealand was initially a Dependency of its parent Colony, New South Wales. On 15 June 1839, the territory comprised in the commission of Sir George Gipps, Governor of New South Wales, was enlarged by Letters Patent. Gipps accordingly became the Captain-General and*

*Governor-in-Chief of the colony of New South Wales and of "any territory which is or may be acquired ... by Her Majesty, Her Heirs or Successors within that group of islands in the Pacific ocean commonly called New Zealand". The Governor and Legislative Council of New South Wales were authorised to enact laws for New Zealand as a Dependency".*

*"On 16 June 1840, the Legislative Council of New South Wales passed an Act providing for the extension to New Zealand of New South Wales laws, so far as they could be applied to New Zealand. In all, six New South Wales Acts were enacted for New Zealand".*

The Treaty of Waitangi signed in the first 5 months of 1840 by over 540 tangata Maori chiefs was a document to allow New Zealand to come under British Sovereignty/rule and the dependency and laws of New South Wales, which could not and was never challenged by other Nations. It also gave tangata Maori the same rights as the people of England under English law which was quickly accepted by the chiefs abolishing slavery, genocide, cannibalism and embracing Christianity among many of the chiefs and tribes of New Zealand. In 1990, our Attorney General, the Hon David Lange made a statement on the ABC "Four Corners" program, *"Did Queen Victoria for a moment think of forming a partnership with a number of signatures, a number of thumbprints and 500 people, Queen Victoria was not that sort of person".*

### **New Zealand Becomes a Separate Crown Colony by Royal Charter.**

Ross Carter, Parliamentary Council Office, Wellington continues, *"New Zealand became a separate Crown Colony by Royal Charter and Letters Patent issued by Queen Victoria on 16 November 1840. The Charter and Letters Patent created a Legislative Council to make laws. They also authorised that the Legislative Council to make, following any relevant Royal instructions, "all such laws and ordinances as may be required*

*for the [Colony's] Peace, Order, and good government". Royal Instructions provided that the Council comprised the Governor of New Zealand and at least six other persons (the Treasurer, the Attorney-General, the Colonial Secretary and three Senior Justices of the Peace). A quorum was five members including the Governor, who had the sole rights to propose ordinances and raise questions for debate and could rely on the support of the three permanent officials".*

The Treaty was never intended to be a document that set up our political, legal or justice systems in New Zealand, it was solely to allow Britain to gain sovereignty over all the Islands of New Zealand under the dependency and laws of New South Wales by asking 540 tangata Maori chiefs to give up their territories and governments to Queen Victoria. No more no less. It was solely a document, a contract between Her Majesty, Queen Victoria and 540 tangata Maori chiefs to allow Great Britain to rule over all the Islands of New Zealand.

Over the years it has been taken that the Treaty of Waitangi set up our political, legal and justice systems but this was achieved with Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840. This was our first Constitution under Great Britain's rule that separated us from New South Wales dependency and made New Zealand into an Independent British Colony with its own Governor, Constitution and government to make laws with courts and judges to enforce those laws, irrespective of race, colour or creed, but all under the watchful eye of Great Britain.

Queen Victoria's Royal Charter/Letters Patent has been completely ignored by our professional historians and governments. Te Papa does not even have a copy of it on its premises, therefore, misleading over 1.5 million visitors a year of New Zealand's true history!

**The Treaty of Waitangi Act 1975.**

The Treaty of Waitangi had nothing to do with setting up our political, legal or justice systems in New Zealand, therefore there should never have been a Treaty of Waitangi Act 1975 or the Waitangi Tribunal it created. The claims before the Tribunal are not Treaty claims; they are alleged breaches against the government or the Crown and should be heard by our courts today as they were in the 1930's and 1940's where most claims were "fully and finally" settled or in the case of the Te Roroa claim and many others, rejected.

If the claims before the Waitangi Tribunal were heard by the Courts where the claimant's "dreamt up and selective evidence" could be cross-examined and rejected, then most claims would fail due to lack of documented evidence held in our archives. The Treaty of Waitangi had nothing to do with setting up our political, legal or justice systems in New Zealand. In fact, Lt Governor Hobson was never instructed by Lord Normanby or had the authority to give Maori special rights in the Treaty that were not already enjoyed by all the people of England under English law, and none were give!

**A big ask; but we must put the Treaty where it belongs, tucked up in our archives and start using Queen Victoria's Royal Charter/Letters Patent dated the 16 November 1840 as our 'true' Founding Document and 'first' Constitution that set up New Zealand's political, legal and justice systems as intended, irrespective of race, colour or creed.**

**May 3, the day we must all celebrate our Independence.**

For further information, [www.onenzfoundation.co.nz](http://www.onenzfoundation.co.nz) and click on 'Royal Charter'.

***One New Zealand Foundation Inc.***

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