

[The Clapham Sect and the Treaty](#)

Part 3 of 3 of “Creating the Colony of New Zealand” by the ONZF.

This is another vital part of our history that governments have completely ignored. The people of New Zealand have a right to know why the Treaty of Waitangi was drafted, by whom and whether it deserves the recognition it is given as our “Founding Document”.

The Clapham Sect was a group of aristocratic evangelical Anglicans, prominent in England from about 1790 to 1845, who campaigned for the abolition of [slavery](#), to protect indigenous peoples from colonial exploitation and to promote missionary work at home and abroad. The group centered on the church of [John Venn](#), rector of Clapham in south London.

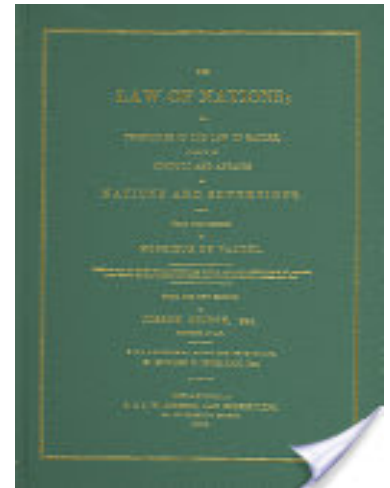


While little, if anything is published about the Clapham Sect in New Zealand’s history, it had a great influence on the instructions given to Captain William Hobson on the drafting of the Treaty of Waitangi.

The instructions given to Captain Hobson by Lord Normanby before he left New Zealand on the 25 August 1839 was drafted by Sir James Stephens, the Undersecretary for the Colonies and a very strong supporter and member of the Clapham Sect. Stephens had also drafted the “*Slavery Abolition Act of 1833*”.

From the time the 13 Ngapuhi chiefs asked King William IV to be their guardian and protector in 1831, the British Parliament had discussed ways to become involved in New Zealand but as Britain had other problems in its own country at the time, they were reluctant to become involved. In 1833 they sent a Resident, James Busby to stop the intertribal fighting that had destroyed half their population since 1820, but without forces it was soon found that Britain would have to take a more active role if the tangata maori were to survive. It was decided in 1837, the best way to take a more active role would be to extend the boundaries of New South Wales to include all the islands of New Zealand.

At the time, **The Law of Nations** recognized no other mode of assuming dominion/sovereignty in a country of which the inhabitants were ignorant of the meaning of sovereignty, and therefore incapable of ceding sovereignty rights. This was the case with the people inhabiting New Zealand, for whom it would have been impossible for Captain Cook to have obtained British sovereignty by cession. Tangata maori consisted of hundreds of small individual tribes without any form of united government continually at war with each other for territories. It was not realized at the time the people inhabiting New Zealand were not the indigenous people of New Zealand but a race/group of people that had arrived in New Zealand in the 14th century to find it already inhabited by another race/group of people called, tangata whenua or the indigenous people of New Zealand who were mostly driven in to the hills where they disappeared for good.



When Sir James Stephens learnt that Parliament was planning to extend the boundaries of New South Wales to include New Zealand, he drafted instructions for a treaty between the inhabitants of New Zealand and Queen Victoria in 1838, which was accepted by Lord Normanby, the Secretary of State for the Colonies.

This was the first time Britain had a treaty between the people of a country it was about to become involved, but the 1839 Charter included a clause stating, *“All the territories acquired in Sovereignty by Treaty within that group of Islands in the Pacific Ocean commonly called New Zealand”*, to satisfy the Clapham Sect.

While letters patent were issued under the Great Seal of the United Kingdom on the 15th June 1839 to extend the boundaries of New South Wales to include New Zealand there were no instructions issued by the British Parliament for the Treaty of Waitangi. By the Law of Nations, Britain had already gained sovereignty over all the islands of New Zealand when Captain Cook set foot in New Zealand in 1769, plus many New South Wales Acts that included New Zealand before the Treaty was signed. Over 2/3 of New Zealand had also been sold by the chiefs, some even travelling to New South Wales to sell their land with many of these pre-Treaty Deeds of Sale still sitting in the New South Wales Supreme Court. By 1840, many farms, townships and settlements had been established by the New Zealand Company in the lower North Island by British immigrants, colonisation was well underway by 1840. There was talk of forming republics if Britain did not become involved.

The Treaty was not a Charter issued by *“Victoria by the Grace of God”* or letters patent issued under the Great Seal of the United Kingdom, it was a very simple document that had been drafted to satisfy the Clapham Sect. Lt. Governor Hobson had been given instructions by Lord Normanby drafted by Sir James Stephens, a member of the Clapham Sect on drafting a treaty to obtain as many territories from the chiefs as possible, *“but without force”*, and that is exactly what Lt. Governor Hobson achieved, sovereignty over all the Islands of New Zealand on the 21 May 1840 for the boundaries of New South Wales to be extended to include all the islands of New Zealand, which was accepted by all other Nations.

Another reason a treaty was entered into, the instructions given to Hobson stated, *“I have already stated that we acknowledge New Zealand as a sovereign and independent state so far as at least*

possible to make that acknowledgement in favour of a people composed of numerous dispersed petty tribes, who possess few political relations as to each other, and are incompetent to act or even deliberate in concert". The Law of Nations recognized no other mode of assuming dominion in a country, of which the inhabitants are ignorant of the meaning of sovereignty.

Stephen also wrote, "*Sovereignty of New Zealand had been recognized by the British Government*". The British Government believed sovereignty had been claimed by the tangata maori by James Busby's Declaration of Independence but it had been a complete failure. The signatures to this Declaration pledged to assemble annually to form laws for the promotion of peace, justice and trade, but the ever present intertribal tension and fighting took precedence over political co-operation, as always, and it was abandoned within 12 months without one meeting taking place. As only 52 northern chiefs had signed the Declaration, there is no way they could have claimed sovereignty over all the islands of New Zealand, the Declaration was a complete failure in recognizing tangata maori sovereignty.

By 1840, 2/3 of New Zealand had been sold to people from other lands and tangata maori were only minor land owners, therefore could hardly claim sovereignty over all the islands of New Zealand.

Without the Clapham Sect taking an interest in New Zealand, it is unlikely there would have been a treaty between tangata maori and Queen Victoria. No other country Britain had declared sovereignty had the inhabitants been given, "*the same rights as the people of England*" or after the treaty had been signed, had the land they wanted to sell given titles then purchased by the Crown, in some cases, many times over. Even the 2/3 of land that had been sold by the chiefs before the treaty was signed, in most was returned without compensation and repurchased by the Crown at a later date once the true owners were known and titles issued.

So the question must be asked, "Was the Treaty of Waitangi, "*a legal necessity*" or just a document without any real authority to satisfy the Clapham Sect"? If the Clapham Sect had not become involved in a treaty between the tangata maori and Queen Victoria, Britain could have "legally" ceded New Zealand under the Law of Nations as it had with all the other countries it had declared sovereignty.

There is no mention of the Treaty of Waitangi in Queen Victoria's Royal Charter/Letters Patent of 1840. After the treaty had served its purpose on the 21 May 1840 and Britain had declared sovereignty over all the islands of New Zealand, the treaty was filed away by the British Government; tangata maori had become British Subjects, therefore, "*Given the same rights as the people of England*". There was no mention of a, "*Partnership between tangata maori and the Crown*" in the Treaty of Waitangi or Queen Victoria's Royal Charter of 1840 because, "**British Subjects cannot be in Partnership with the Monarchy**"!

Did Britain need to claim sovereignty by treaty? There is no doubt Britain had gained sovereignty over all the islands of New Zealand by the Laws of Nations long before the Declaration of Independence, the Clapham Sect became involved or the Treaty of Waitangi was drafted and signed. The Treaty of Waitangi was a document drafted by Sir James Stephens to satisfy his members of the Clapham Sect and while it was not required to claim sovereignty over all the islands of New Zealand, it certainly did as confirmed by Queen Victoria's Royal Charter of 1840 that made New Zealand into British Colony on the 3 May 1841.

There are only two Letters Patent issued by the Great Seal of the United Kingdom that made New Zealand into a British Colony.

1. The Charter of 1839 that extended the boundaries of New South Wales to include all the islands of New Zealand.
2. Queen Victoria's Royal Charter/Letters Patent that separated New Zealand from New South Wales and made New Zealand into an independent British Colony.

Queen Victoria's Royal Charter/ Letters Patent dated the 16 February 1840 being the document that founded New Zealand as a British Colony on the 3 May 1841 under one flag and law, irrespective of race colour or creed, **our true Founding Document and first Constitution and the day we *all* must celebrate as our Independence Day!**

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