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## Declaration of Independence 1835

*Whāia e koe e te iti kahurangi; ki te tuohu koe, he maunga teitei!*

Seek out that which is precious; should you bow your head, let it be to a lofty mountain!

The Declaration of Independence was a significant forerunner to the Treaty of Waitangi. Much of the motivation behind it arose from concerns related to the perceived intentions of nations and individuals and concerns that divisions would occur where such individuals or nations sought to do deals with individual chiefs and *iwi* and *hapū* groups. Concerns particularly singled out were the French and their assumed designs on New Zealand, and the intentions and pretensions of individuals like Baron de Thierry, now as comical from a contemporary viewpoint as they were serious at the time. Also, from the earliest days of settlement, Māori *rangatira* were made well aware of the facts of history, both from the teachings of others, their reading and their own travels beyond the shores of Aotearoa.

The declaration was adopted at Waitangi on October 28, 1835 where a major *hui* had been arranged. Initially, thirty-five high-ranking chiefs representing *iwi* and *hapū* from the far north to the Hauraki Gulf signed the declaration and subsequently other concerned chiefs from further afield also signed, notably Potatau Te Wherowhero of Tainui and Te Hapūku of Ngāti Kahungunu <sup>1</sup>. James Busby, the British Resident in New Zealand sent a version in English to the Under Secretary of State at the Colonial Office in London on 2 November, 1835. There was therefore a sense of urgency attached to the process and a clear desire to lay the concerns and the facts of the matter of sovereignty directly before the British Government. Many of the settlers and itinerant visitors to New Zealand were British, as were the missionaries and therefore, the focus of *rangatira* on Britain as a major naval power as a source of support, can be readily explained.

Apart from the repercussions arising from the massacre of Marion du Fresne, the concerns in relation to the French had been precipitated by events in Tahiti where, in an age of colonial expansion, they had effectively beaten the British to stake a claim of sovereignty. Although general British indifference, procrastination and bureaucracy were largely the cause, with the French later staking a settlement claim in Akaroa on the South Island of New Zealand and the entire country being a rather larger and more substantial prize, the feeling developed that it was important not to be out-manoeuvred by the French again, even if the South Island alone figured in their alleged intentions. It appears to be more a matter of the British not wanting the French to have any part of New Zealand rather than the British having a major, intrinsic interest in it themselves. In fact initially, British involvement in New Zealand is better viewed as a case of dallying and being pushed into a role rather than it having been taking it up with any great interest, enthusiasm or commitment.

The Declaration is well expressed and made up of four sections. In the name of the hereditary chiefs and heads of the tribes, the first section declares the independent country of the Northern Tribes of New Zealand, designated as the United Tribes of New Zealand. The second section declares that all sovereign power and authority resides collectively, entirely and exclusively in the hereditary chiefs and heads of tribes and indicates that neither any other legislative authority will be allowed to exist nor any function of government to be exercised without their authority or appointment, under laws to be enacted in Congress. The third section details the chiefs' intentions to meet in Congress at Waitangi in Autumn each year to frame laws for the dispensation of justice, preservation of peace and good order and regulation of trade. Section three also issues a cordial invitation to the southern tribes to lay aside their private animosities and to "consult the safety and welfare of our common country" by joining the United Tribes. The fourth section thanks the King of England, William IV, for his recognition of their flag <sup>2</sup> and requests that he continue to be "the parent of their infant state" and its "Protector from all attempts upon its independence."

Drawn up by James Busby and the missionary Henry Williams, the Declaration was produced by the mission printer William Colenso. In addition to Busby and Archdeacon Williams, the other witnesses were James Clendon and Gilbert Mair <sup>3</sup>, both described as merchants and without doubt, both with an eye on commercial opportunity arising from dealing with and through a united body.

In a despatch dated 25th May 1836, addressed by Lord Glenelg <sup>4</sup>, Secretary of State for War and the Colonies to Governor Major-General Sir Richard Bourke <sup>5</sup> in Sydney, New South Wales, the points are made that:

With reference to the desire which the chiefs have expressed on this occasion to maintain a good understanding with His Majesty's subjects, it will be proper that they should be assured, in His Majesty's name, that He will not fail to avail himself of every opportunity of showing his goodwill, and of affording to those chiefs such support and protection as may be consistent with a due regard to the just rights of others, and to the interests of His Majesty's subjects.

The Declaration is interesting and significant on a number of fronts. Firstly, regardless of the influence and motives of Busby and others in preparing and promoting it, it represents a significant attempt to express a united commonality of focus and purpose as well as the notion of a united state. While there is an emphasis on sovereign power and authority residing "entirely and exclusively in the hereditary chiefs and heads of tribes in their collective capacity" there is also an exhortation directed at the Southern tribes to "lay aside their private animosities and to consult the safety and welfare of our common country by joining the Confederation of the United Tribes." Thus, on a much grander scale than a traditional alliance for mutual advantage, the Declaration, while a product of the realities of its time, did for the first time seek a truly national unity of multiple and highly complex sovereign interests.

In response, Glenelg's letter refers to "His Majesty's subjects" and indicates that they should be afforded support and protection "as may be

consistent with due regard to the just rights of others." It is significant that the reply was not directed to the collective chiefs themselves and is couched in delicate diplomatic terms which effectively commit to nothing. Considered from a Māori viewpoint, for all its subtlety the response is rather insulting and the end result, an opportunity lost.

The reason for this indirect response was probably due to the fact that Busby and the other sponsors of the Declaration were operating outside any formal approval process or authority and therefore the Declaration itself was perhaps regarded as having no real significance. There was also a clear suspicion of ulterior motives on the part of the sponsors. Certainly, Governor George Gipps <sup>6</sup> was later to indicate displeasure in relation to the Declaration, considering it:

...entirely a matter of his [Busby's] own concoction, and that he acted in it without any authority from either the Secretary of State, or the Governor of this Colony, who was his immediate superior: it was in fact a manoeuvre played off by him against the Baron de Thierry, and it is not even pretended that the natives could understand the meaning of it; still less could they assemble in congress and pass laws as Mr Busby, in his declaration, had made them to say they would do <sup>7</sup>.

Gipps, displaying the arrogance and patronising approach so archetypal of the time, clearly had no faith in the intelligence of Māori chiefs to organise or decide anything independently.

As much as the authorities might have regarded the Declaration as premature, official displeasure might also have been a result of sensitivity by the British authorities for having been caught, yet again, in the midst of inaction and indecision. Certainly, by way of excuse, official communication processes at the time were ponderous, not only because of the distances involved and the reliance on shipping, but also because of multiple levels within various power structures and complex chains of command. Orders therefore had to be processed through a staged and complex bureaucratic sequence, all in the name of the monarch. The monarch was titular head, but government officials and advisors did much of the real work of state.

On a policy level also, the British government had other interests and priorities and clearly felt that New South Wales—its appointed centre of power in the Pacific region—was sufficient given that there was considerable infrastructure there and it also had geographic proximity to New Zealand. The British government was also happy for trade to develop of its own accord through the efforts of merchants.

Indeed in 1817, as Ward points out:

British aloofness found statutory expression in an Act declaring that New Zealand was "not within His Majesty's dominions (p.2).

The capacities—or perhaps more correctly the *incapacities*—of the Colonial Office in London were of course to figure prominently in subsequent events.

Others certainly expressed doubts about the capabilities of the chiefs to understand what they were signing or requesting. This was to prove a long lasting perception for many *pākehā*, who could not comprehend the intellectual capacity of Māori *rangatira* in particular to grasp the highly legalistic *pākehā* terminology. The issue was more about *pākehā*, particularly those without fluency in Māori and thus without any capacity to explain things *accurately* in Māori, as was their responsibility to do so. Wakefield <sup>8</sup> offers a generally common view in relation to perceived incapacity and also suggests that the Declaration was a concoction:

Some interest in his proceedings [Baron de Thierry] had been excited in France, by means of the newspaper press. Not a little alarmed at the prospect, however slight, of a French dominion, the leading missionaries now joined with the more decent of the settlers at the Bay of Islands in desiring the establishment of a national power in the country. But instead of applying to the Crown for the full exercise of that British dominion which had resulted from the acts of Cook and the Government of New South Wales, they induced thirty-five chiefs of the little northern peninsula to sign a paper, by which they declared the independence of the whole of New Zealand as one nation,—formed themselves into an independent state, with the title of "the United Tribes of New Zealand",—agreed to meet in Congress "for the purpose of framing laws for the dispensation of justice" and other ends,—and invited the Southern Tribes to join the Confederation of the United Tribes.

There cannot be the least doubt that this document was composed by the missionaries at the Bay of Islands, and signed by the chiefs with as little real comprehension of its meaning as had attended the signature by natives of the deeds of feoffment drawn up by Sydney attorneys with blanks for the names of places (pp.9-10)

As has been suggested, Wakefield's optimism in relation to the British Government and its interest in and intentions toward New Zealand was as seriously miscalculated as his comments were ignorant. His comments are also rather suspect in view of his interests and those of his uncle, Edward Gibbon Wakefield whose notoriety would later impact considerably.

The issue of understanding is significant and was of course to become a major issue with the Treaty of Waitangi in relation to terms such as *rangatiratanga* and *kawanatanga*. As a language, Māori always had the capacity to accommodate new terms but *pākehā* with an imperfect knowledge of the language and its richness and subtleties, either through ignorance or intention are themselves to blame for these matters of poor comprehension and explanation. In relation to the sale of land to Marsden, Wakefield questions this matter of comprehension further, and in this case, rightfully so:

The vendors in the case of Mr Marsden's purchase could not be supposed to understand the words—"together with all the rights, members, privileges, and appurtenances thereunto belonging, to have and to hold, the the aforesaid committee of the Church Missionary Society for Africa and the East, instituted in London, in the kingdom of Great Britain, their heirs, successors, and assigns forever, clear and freed from all taxes, charges, impositions, and contributions whatsoever, as and for their own absolute and proper estate forever (p.10).

It is doubtful that any explanation was given other than it was a simple transaction: goods for land. It is also doubtful that any exploration was undertaken of the Māori notion of land as being something given over for use rather than being 'sold' in the *pākehā* sense. Finally, in the matter of comprehension, most *pākehā* of the day and currently would not have understood the English legalise either.

It is clear that the Māori chiefs who signed the Declaration and the supposedly well-intentioned *pākehā* who supported them, should have been more adamant and vociferous about their aims, their intentions and their expectations. Had they been so, a much more satisfactory outcome would have been achieved and much of the later tragedy, avoided. The Declaration was a powerful idea and properly presented and promoted, it could have become a substantial and potent reality; it could have been the instrument for unification of all Māori sovereign interests, even in their

greatest diversity. The 'consent' of the British government was seen as being necessary and was sought on the basis that the majority of settlers and other non-Māori in the country were British. Māori also recognised that there was a *de facto* British presence right on their doorstep, in New South Wales, and the processes of establishing the other Australian colonies were well advanced. Further, since Sydney was a logical point of contact for the purposes of trade, and the issue of the flag had been resolved, logic determined that the British be given what was effectively, first choice. While the French were not likely to have been given an opportunity, due to their infamy in the Bay of Islands, the Americans certainly were potentially in the running as well.

The strength inherent within the notion of the Declaration was that it sought to assert something which Māori were to struggle with interminably thereafter: that of sovereign power in a collective, pan-Māori sense and the putting aside of *iwi* and *hapū* differences and identities to assert what they had in common. As foreign a concept as it was to them at the time, as Māori, unique to Aotearoa, this was an opportunity to create something additional—a truly *national*, sovereign identity, held collectively by the *rangatira*.

Why then did such a great idea fail? Perhaps it was because collectively, those who created it lacked the true heart, stamina and fortitude of spirit to present it and persevere. The British government of the day was not necessarily the insurmountable edifice it might have seemed and had a concert effort been made, the outcome for Māori might have been very different; they might not have been progressively dispossessed and marginalised within their own borders. Perhaps, therefore, those responsible gave up too easily in the face of perceived opposition to their proposals. Instead of listening to those who derided the idea and refused to give it any support or credence, there should have been an active seeking out of the intelligent voices in the British establishment of the day for whom this would have been a laudable concept, worth supporting and promoting.

If the allegation were ever true, that the Declaration was a fabrication of Busby and others, then we might have expected that it would not have been developed in any concrete form but merely proposed as an idea. The fact that it was developed suggests that much thought and planning had been invested in it to the absolute credit of all involved. The other important issue too, of course, is that the Declaration was an expression of the *rangatira* of the day with the power to influence others. Through the Declaration, the independence of the nation was made clear to all and it therefore also calls into question the legality of all that followed, including the Treaty of Waitangi.

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1. The origins for Ngāti Kahungunu were in the north, around Kaitiaki so in a sense, this was a "spiritual" return for Te Hapūku. ([back](#))
  2. The flag was important because the lack of one had created problems for New Zealand ships in trading activities to Australia: all shipping had to be registered under a flag otherwise goods were subject to seizure. ([back](#))
  3. Mair was later to gain considerable notoriety in campaigns, particularly leading the hunt for Te Whiti and other so-called 'renegades'. He was born in Whangarei and was eventually given the title Tawatawhiti, shortened to Te Tawa. The name lives on in Mairtown and Mair Park in Whangarei. Apart from within Te Arawa, respect for Mair is scant elsewhere. ([back](#))
  4. Baron Glenelg (1779-1866). ([back](#))
  5. Major-General Sir Richard Bourke (1777-1855). ([back](#))
  6. Sir George Gipps (1791-1847). ([back](#))
  7. Gipps, G. (1840). Speech of His Excellency Sir George Gipps in Council, on Thursday 9th July 1840, on the second reading of the Bill for appointing commissioners to enquire into claims of grants of land in New Zealand. Sydney: J. Tegg and Co. ([back](#))
  8. E. J. Wakefield, (1845). Adventure in New Zealand from 1839 to 1844, Vol. I. London: John Murray. Wakefield came to New Zealand as secretary to his uncle, the infamous Edward Gibbon Wakefield to whom attached a terrible notoriety and an equally infamous court case in England. ([back](#))

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