



[Back to "Patuone A Life" Index](#)

## Treaty of Waitangi

*Ngā tuhituhinga tuatahi o te Tiriti o Waitangi ko ngā moko o ngā rangatira o Ngāpuhi.*

The first signatures on the Treaty of Waitangi are the tattoos of the chiefs of Ngāpuhi.

The various processes related to the Treaty of Waitangi have been fully covered elsewhere by Wards (1968) and Orange (1996, 2000) and others so there is nothing to be gained by re-visiting them in great detail. Of greater interest are the various perceptions which were current prior to the signing and the ways in which these were a direct reflection of the complex dynamics to which allusion has already made above. Further, given the close involvement of Patuone and Nene in events leading up to, during and following the Treaty, a summary of these and their underpinning issues is useful.

The Treaty meeting was clearly conceived as an occasion. The invitations were sent out in advance and are clear evidence of this. That sent to Nene survives <sup>1</sup>:

No te 30 o nga ra o Hanuere, 1840

E taku hoa aroha:

Tenei ano taku ki a koe; na, tenei ano tetahi kaupuke manawa kua u mai nei, me tetahi Rangatira ano ki runga, no te Kuini o Ingarani ia, hei Kawana hoki mo tatou. Na, e mea ana ia, kia huihuia katoatia mai nga Rangatira o te Wakaminenga o Nu Tireni, a te Wenerei i tenei wiki tapu e haere ake nei, kia kitekite ratou i a ia. Koia ahau ka mea atu nei ki a koe, e hoa, kia haere mai koe ki konei ki Waitangi, ki taku kainga ano, ki tenei huihuinga. He Rangatira hoki koe no raua Wakaminenga tahi. Heoi ano, ka mutu taku,

Naku,

Na tou hoa aroha,

Na te PUHIPI

30th day of January, 1840

My esteemed friend:

This is my word to you once more; a ship will be arriving, bringing a chief from the Queen of England to be a Governor for us all. So, it is for this reason that all the chiefs in the nation of New Zealand should assemble here on Wednesday of this holy week to meet him. Therefore my friend my reason is to invite you here to Waitangi, to my home once more, to this assembly. You too are a chief of those united as one. That is it, my word is done. Yours, from your esteemed friend, Busby.

The invitation is sealed with wax and addressed: "Ki a Tamati Waka Nene, Na te Puhipi"; to Tamati Waka Nene, from Busby. A note added subsequently indicates:

This is the original document which was sent by the British Resident to Tamati Waka Nene, inviting him to the Waitangi Conference.

At the Conference the celebrated "Waitangi Treaty" was made, principally if not solely through the influence of Tamati Waka. G. R.

The circumstances the survival of the invitation are of themselves interesting. Clearly, to Nene it was a thing of value. The invitation sent to Patuone may also have survived but following his death and the dispersal of his estate at Waiwharariki, Takapuna, it may have been forgotten and either given to a family member or discarded. Certainly, however, the importance of the occasion is clearly communicated although even in Busby's words, the Governor appears to be already an accomplished fact. The initials G.R. are probably those of George Rusden who wrote about Patuone and Nene in his 1883 'History of New Zealand'.

With the Treaty and from the very beginning—whether due to a lack of general preparation, poor communication, poor understanding of the real issues or multiple other reasons—the Crown and its representatives seriously miscalculated and, in a sense, had to be rescued in sequence by the *mana* and public benignity of *rangatira* like Heke, Nene and Patuone. This fact became clear when against all apparent expectations of a *fait accompli*, to be sealed by ritual, the general mood of the assembled chiefs against signing effectively postponed the signing and spoiled the intended celebratory party. This should have been a lesson learned and suggests that what to at least some of the gathered chiefs was a binding pact and agreement, the Crown, for all its posturing, regarded it merely as a ritualised ceremony. Although it was years hence, the infamous judgement of Chief Justice Prendergast in 1877 which dismissed the Treaty as 'a simple nullity' and which therefore conferred no special right to a claim of Māori sovereignty based on customary land, was to be a major assault upon the descendants of all signatories. Prendergast's decision gave the government pre-eminence and allowed the use of legal means backed by legislation to secure an ever-widening imbalance and sense of sanctioned injustice. Further, much closer to the signing of the Treaty, both the process and the aftermath were significant in turning major figures like Heke to an extreme, contrary view. Ironically it was Heke, the very first to sign, whose example and oratory began to turn opinion in favour of the Treaty. Nene and Patuone's following counsel and skilled, persuasive oratory then carried the day, whatever the overt suspicion and

distrust which sat generally within the gathered chiefs. The proceedings had already been underway for some time with a clear tide of opinion going against the Governor when Patuone and Nene arrived.

There can be little doubt that all the *rangatira* who eventually did sign saw themselves as already pre-eminent in their own worlds. At that point of course, Māori vastly outnumbered settlers and transients and indeed, concerns about general security were to persist until well into the latter part of the century. Regardless of respective understandings of what the Treaty meant and its implications, *rangatira* signed it firstly as an enhancement to their *mana* and pre-eminence and not as part of giving it up. They also signed as an act of good faith and trust; as a partnership between them and the Crown in the name of Queen Victoria. Māori were not used to making deals with figureheads and working through proxies, thus the processes required much trust and honour on their part.

Patuone and Nene, along with others saw the Crown as part of a collaborative future; a future renewed and set upon a different course; as part of a process whereby the excesses of the old ways of traditional culture, amplified by the deadly processes of war and complicated by firearms, other deadly weapons and more efficient sea transport, could be reined back. To this extent, the expressions of *rangatira* need to be considered within the context of time and meaning; references by the assembled *rangatira*, including Patuone, Nene and Heke to the Governor as Father, Judge, Protector and Peacemaker, both during the processes related to the signing of the Treaty and subsequently, need to be considered in terms of Māori *tikanga*, *ritenga* and *kaupapa* and not merely as literal responses to context and situation. It was not about ceding anything but rather a desire of Māori to translate and perfect their chiefly authority within a new context. In this sense, the use of honorific and respectful terms like *Matua* implied there was a teaching role which Māori needed to access and therein take up examples to be followed. Similarly, Patuone's references to the New Covenant reflected, as did Heke's, recognition of an even higher authority than that of the Queen and her various agents, that of the *pākehā* God whose superiority had been so vigorously promoted to them. In so many ways, these multiple shifts in beliefs and values were cataclysmic.

Further evidence of a lack of understanding on the part of many *pākehā* involved in the various planning processes arose after the conclusion of the first day when the signing had not taken place and all expected the Māori chiefs to reconvene on Friday, 7 February. As it transpired and in ways so typically Māori, there was vigorous debate amongst the assembled chiefs following the conclusion of the first day's sessions and *pākehā* were completely surprised when the next morning, they learned that the matter was to be concluded so that the chiefs could return home to other matters of importance. There was also a question about food supplies being adequate for what had been planned as a two-day and not a three-day event. Other issues which arose came from Pompallier's concerns about the Catholics not being locked out of religious options and Colenso's ongoing concerns about the degree to which Māori *understood* what they were signing. These matters were further complicated by later arrivals receiving no direct, 'official' explanations and clarifications. In fact, concerns about the Protestant intentions on the part of Pompallier were considerable. The French priests collectively were also concerned about the capability of Archdeacon Williams and especially about his poor command of Māori. Because of his abject arrogance, Williams himself was immune to any concerns.

Thus, the 6th of February signing was in some ways 'accidental' and it created concerns for Hobson who, within the general importance and solemnity of the occasion, was focussed on procedural detail. It was this factor also which precluded any additional explanations or debates. In the event, the chiefs had probably reached the majority point of view where they wanted it concluded as much as they recognised its importance. It also suggests that their understanding of its details, such as was presented to them, was clear.

Initially therefore, their *mana* was intact, and the value and importance of their lands, resources and sovereignty, the benefits arising from commercial activities, alliances and associations were clearly perceived and anticipated as a positive benefit.

The chief Nopera Panakareao, in May 1840, not long after the signing of the Treaty observed confidently and in a very Māori way:

*Ko te atarau o te whenua i riro i a te Kuini, ko te tinana o te whenua i waiho ki ngā Māori.*  
(The shadow of the land goes to the Queen, the substance of the land remains with Māori).

Less than a year later in January 1841, his observation had reversed completely:

*Ko te tinana o te whenua i riro i a te pākehā, ko te atarau o te whenua i waiho ki nga Māori."*  
The substance of the land goes to the Europeans, only the shadow of the land will remain with Māori) 2.

Pragmatic recognition of the realities of change and a new order, in Patuone's case, had been further reinforced by his baptism on Sunday, 26 January 1840 by Archdeacon Henry Williams at Paihia. Patuone's third wife, Takarangi was baptised at the same time, acquiring the name Riria (Lydia) at that point. Nene had been baptised in 1839. In a sense, therefore, Patuone and other *rangatira* were both a bridge between two worlds and contributing creators to the new. For Patuone and later for others, baptism meant giving up the ways of the past and moving forward within the context of a new and changing reality and world, within which he was to play a significant role. It also signalled recognition that no matter what, the world of Māori was irrevocably changed and this is reflected in Patuone's own words, quoted in Davis:

"From my lips.

"Hearken o European side, – This is a word of farewell from me to you while I am in possession of my faculties, for I may shortly go hence. O my European friends, be good to the Māoris, for you have been my shelter until now, and the shelter of my people, and you have manifested benignity to the Māori race. Let you and the Māoris be united in purpose. I deprecate all wars between the Europeans and the Māoris. O that the Māoris may act with due caution lest they heedlessly arouse the anger of the English"  
(pp.122-123)

While some might read this as a literal statement, a statement of supplication to the English, in a very Māori way, it is also a subtle warning. Patuone had seen the British arrive and from nothing, rise to prominence. Absolute power he knew merely required time, determination and numbers, the latter coming from the inevitable tide of settlers and the enactment of laws to support *pākehā* designs and intent. In invoking the notion of the Europeans as a shelter, a *whakaruruhau*, Patuone was suggesting that they provided an umbrella beneath which new learning could take place and, in a sense, he was bidding for time with his people, realising the precariousness of the entire situation. His plea that Māori and *pākehā* be 'united in purpose' reflects one of the underpinning objects the Treaty was supposed to deliver. His wish is also that war not come between the two peoples. In expressing the view that *pākehā* had shown benignity to Māori leaves unspoken that the reverse has been true as well. The core problem remained that the Treaty was an alliance of convenience with inherent inequality. The other truly significant point is that Patuone speaks in terms of 'Māori' and 'the Māoris' and the 'Māori race': he is again promoting the notion of a unified Māori nation.

Further, like all *tohunga*, Patuone knew the old Ngāpuhi prophecies 3 which predicted the arrival of the *pākehā* and the changes which would

arise; that of Maori:

It will not be very long before I die, nor very long after I am dead, that a god will come on the crest of the wave, and ghosts will be on his back. That god will be like the canoes in appearance, but he will be much larger, and he will sail all over the ocean, over everywhere. He will never be mistaken in his course over the ocean; he will sail away, and will not be seen by the people. After a long disappearance another god will appear, who will be like the former one. The first god will come by the aid of sails, but the latter by the aid of fire."

and of Te Matapo:

"*Taihoa, ka tae mai tetahi iwi, he iwi kiritea; ko nga toki, he toki kahakore; ko nga waka, he waka puni, he mea pani ki te ware.*"

(In time a certain people will arrive, a fair skinned people, whose axes will not be lashed to their handles and whose vessels will be smeared with tree gum."

There were other predictions known to Patuone and those which he himself made, and in the in the ways of the *tohunga*, Patuone knew that while *karakia* could not stop the *pākēhā*, and the pathway ahead would be difficult, eventually what he stood for would be borne out and his people would achieve justice:

"In the flow of time, like the meandering river, my people eventually will reach the great ocean" (Oral family history).

and:

The coming of the *pākēhā* was foretold and although these came, few at first, we awaited the rising tide knowing that our lives would be forever changed. At first this was priestly knowledge, in the keeping of the guardian that crossed the skies, the signs which were revealed. We knew all. And then it became the knowledge of all people" (Oral family history).

For all the debates about the Treaty, that the British Government had at least some prior appreciation of the complexities of the New Zealand situation and of the need to proceed with caution. As Orange points out, while it preferred to allow its 'interests' to be promoted through persons and activities other than official business and linkages, this being cheaper and easier to manage since these various agents were effectively on their own, events were subsequently to draw the British inevitably and relentlessly into a more considered and formalised arrangement.

It is probable that in the lead-up to the Treaty, the British establishment was still highly sensitive about the loss of the American colonies and the major material and other efforts expended in seeking to retain them. While the matter of New Zealand was on a much smaller and to some, a more trivial scale, it is probable that within the channels of power in England, caution prevailed on the basis of these past unfortunate colonial experiences. In a proud speech made to an emergency session of Parliament by King George III (1738-1820) on the 26th of October 1775 [4](#), the situation with the Americas was laid bare: the later impacts on New Zealand policy are clear:

Those who have too long successfully laboured to inflame my people in America by gross misrepresentations and to infuse into their minds a system of opinions repugnant to the true constitution of the colonies, and to their subordinate relation to Great Britain, now openly avow their revolt, hostility and rebellion. They have raised troops, and are collecting a naval force; they have seized the public revenue, and assumed to themselves legislative, executive and judicial powers, which they exercise in the most arbitrary manner over the persons and properties of their fellow subjects; and although many of these unhappy people may still retain their loyalty and may be too wise not to see the fatal consequence of this usurpation, and wish to resist it; yet the torrent of violence has been strong enough to compel their acquiescence till a sufficient force shall appear to support them.

The resolutions of Parliament breathed a spirit of moderation forbearance... I have acted with the same temper; anxious to prevent, if it had been possible, the effusion of the blood of my subjects and the calamities which are inseparable from a state of war; still hoping that my people in America would have discerned the traitorous views of their leaders and have been convinced that to be a subject of Great Britain, with all its consequences, is to be the freest member of any civil society in the known world.

The rebellious war now levied is become more general and is manifestly carried on for the purpose of establishing an independent empire. I need not dwell upon the fatal effects of the success of such a plan. The object is too important, the spirit of the British nation too high, the resources which God hath blessed her too numerous, to give up so many colonies which she had planted with great industry, nursed with great tenderness, encouraged with many commercial advantages, and protected and defended at much expense of blood and treasure.

For the King, this was the grand plan; that subjects of reason in the colonies of America would see the error of those advocating, promulgating and activating revolt. In reality, as history reveals, the outcome was rather different and King George III would forever be the King who lost the American colonies. Such a major setback could hardly fail to affect policy in future and invite the later caution with which the British proceeded in New Zealand. The world watched also as founder of the Sons of Liberty, Samuel Adams (1722-1803) proclaimed on 1st August 1776:

The hand of Heaven appears to have led us on to be, perhaps, humble instruments and means in the great providential dispensation which is completing. We have fled from the political Sodom; let us not look back, lest we perish and become a monument of infamy and derision to the world. For can we ever expect more unanimity and a better preparation for defence; more infatuation of counsel among our enemies, and more valour and zeal among ourselves? The same force and resistance which are sufficient to procure us our liberties will secure us a glorious independence and support us in the dignity of free, imperial states.

We cannot suppose that our opposition has made a corrupt and dissipated nation more friendly to America, or created in them a greater respect for the rights of mankind. We can therefore expect a restoration and establishment of our privileges, and a compensation for the injuries we have received, from their want of power, from their fears, and not from their virtues. The unanimity and valour which will effect an honourable peace can render a future contest for our liberties unnecessary. He who has strength to chain down the wolf is a madman if he let him loose without drawing his teeth and paring his nails [5](#).

These were the lessons being shared on several fronts with the Māori chiefs; that the greatest military machine in history had been humbled; the the British were not invincible and free, sovereign peoples *did* have choices [6](#).

The instructions from the British Secretary of State for the Colonies, Lord Normanby, to Hobson in August 1839 [7](#) maintained British caution: as

much as the attractions of New Zealand and its resources were manifest, it was observed that:

On the other hand, the Ministers of the Crown have been restrained by still higher motives from engaging in such an enterprise. They have deferred to the advice of the Committee appointed by the House of Commons in the year 1836, to enquire into the state of the Aborigines residing in the vicinity of our Colonial Settlements; and have concurred with that Committee in thinking that the increase of national wealth and power promised by the acquisition of New Zealand, would be a most inadequate compensation for the injury which must be inflicted on this Kingdom itself, by embarking in a measure essentially unjust, but too certainly fraught with calamity to a numerous and inoffensive people, whose title to the soil and to the Sovereignty of New Zealand is indisputable, and has been solemnly recognised by the British Govt. We retain these opinions in unimpaired force; and though circumstances entirely beyond our control have at length compelled us to alter our course, I do not scruple to avow that we depart from it with extreme reluctance.

The necessity for the interposition of the Govt has however become too evident to admit of any further inaction. The reports which have reached this Office within the last few months establish the facts that, about the commencement of the year 1838, a Body of not less than two thousand British Subjects had become permanent inhabitants of New Zealand, that amongst them were many persons of bad or doubtful character - convicts who had fled from our penal Settlements, or Seamen who had deserted their Ships; and that these people, unrestrained by any Law, and amenable to no tribunals, were alternately the authors and the victims of every species of Crime and outrage. It further appears that extensive cessions of Land have been obtained from the Natives, and that several hundred persons have recently sailed from this Country to occupy and cultivate those Lands. The spirit of adventure having been thus effectually aroused, it can no longer be doubted that an extensive Settlement of British Subjects will be rapidly established in New Zealand; and that unless protected and restrained by necessary Laws and Institutions, they will repeat, unchecked, in that corner of the Globe, the same process of War and spoliation, under which uncivilised Tribes have almost invariably disappeared as often as they have been brought into the immediate vicinity of Emigrants from the Nations of Christendom. To mitigate, and, if possible, to avert these disasters, and to rescue the Emigrants themselves from a lawless state of Society, it has been resolved to adopt the most effective measures for establishing amongst them a settled form of Civil Govt. To accomplish this design is the principal object of your mission.

I have already stated that we acknowledge New Zealand as a Sovereign and independent State, so far at least as it is possible to make that acknowledgement in favour of a people composed of numerous, dispersed, and petty Tribes, who possess few political relations to each other, and are incompetent to act, or to even deliberate, in concert. But the admission of their rights, though inevitably qualified by this position, is binding on the faith of the British Crown. The Queen, in common with Her Majesty's immediate Predecessor, disclaims for herself and for her Subjects, every pretension to seize on the Islands of New Zealand, or to govern them as part of the Dominion of Great Britain, unless the free and intelligent consent of the Natives, expressed according to their established usages, shall be first obtained. Believing however that their own welfare would, under the circumstances I have mentioned, be best promoted by the surrender to Her Majesty of a right now so precarious and little more than nominal and persuaded that the benefits of British protection, and of Laws administered by British Judges would far more than compensate for the sacrifice by the Natives of a National independence which they are no longer able to maintain, Her Majesty's Govt have resolved to authorise you to treat with the Aborigines of New Zealand for the recognition of Her Majesty's Sovereign authority over the whole or any parts of those Islands which they may be willing to place under Her Majesty's Dominion. I am not unaware of the difficulty by which such a Treaty may be encountered. The motives by which it is recommended are of course open to suspicion.

This followed a preceding observation which also alluded to the New Zealand Company that:

....a very considerable Body of Her Majesty's subjects have already established their residence and effected Settlements there, and that many persons in this Kingdom have formed themselves into a Society, having for its object the acquisition of Land, and the removal of Emigrants to those Islands.

The instructions include the analysis:

Her Majesty's Government have watched these proceedings with attention and solicitude. We have not been insensible to the importance of New Zealand to the interests of Great Britain in Australia, nor unaware of the great natural resources by which that country is distinguished, or that its geographical position must in seasons, either of peace or war, enable it, in the hands of Civilised men to exercise a paramount influence in that quarter of the globe. There is probably no part of the earth in which Colonisation could be effected with a greater or surer prospect of national advantage.

For all the concerns expressed, the caution and the apparent desire to look after the interests of Māori, the ongoing debate of which this was all part, was totally one-sided. In spite of the various enlightened statements made by Normanby, the prevailing view maintained that Māori were essentially incapable. Again, whether this arose from a complex mix of the perceived cultural superiority of British governance, paternalistic concern and general concerns on the part of missionaries and others, including Māori chiefs, about whaler, settler and transient lawlessness, Māori were still not considered worthy of inclusion as partners within the administrative structures which were clearly under consideration. For Māori, the countdown to dispossession had already begun.

The other significant issue of course is that good intentions are one thing and what is actually done another. Within the overall debate too, regardless of official British Government views and intentions and those expressed in the name of Queen Victoria (1819-1901) <sup>8</sup>, there were serious motives at work and the complex dynamics variously inherent within the settler population and the missionaries were soon to emerge.

Orange makes a very telling and significant observation in summation:

No longer were they [the British Government] considering a Māori New Zealand in which a place had to be found for British intruders, but a settler New Zealand in which a place had to be found for Māori (p.31).

The overall effects of the British lack of acceptance of Māori political capability—which began with the Declaration of Independence—were to carry over into the formal processes leading up the Treaty signing and the procedures on the day. Chiefs such as Rewa and Tareha openly expressed their concerns and indicated a clear understanding of the subtleties in meaning of pending events; others raised concerns which were suggestive of the duplicity of *pākēhā* and their capacity to conduct themselves honourably and as their words indicated. Moreover, it was not merely that a few chiefs understood: the assembled chiefs certainly had differing intellectual capacities but all understood completely what *rangatiratanga*

meant and the importance of their lands and others assets and resources. On the other hand, the extent to which there was any realisation about the true impact of *kāwanatanga* cannot be assumed, even in the face of extreme initial reluctance to accept what was proposed by the Treaty. Also, the fact that concerns related to land and the validity and 'legality' of previous 'sales' were raised early in preliminary proceedings, where some guilty *pākēhā* were seriously attacked, verbally, should have raised a warning that apart from clear suspicions about overall motives and intentions, there were also highly insightful Māori perceptions about process. Thus, a key question is precisely what the major players on the *pākēhā* side *wanted* them to understand?

A substantial report of the proceedings was recorded by Colenso <sup>9</sup> and this allegedly provides a full report of events. It records what specifically was said and by whom on both sides of the debate. According to Colenso, although there was a tide of opinion against signing, such views being put particularly by Te Kemara, Rewa, Moka, Kawiti, Wai, Hakiro, Tareha; others who spoke in favour were Tamati Puketutu, Matiu, Pumuka, Te Wharerahi, Rawiri, Heke, Hakitara, Nene and Patuone. Brothers Te Wharerahi, Rewa and Moka had thus self-aligned on different sides. The tide of opinion having been swayed, Te Kemara again raised his objections in summary for those supporting his view. The two sides of the debate centred upon two clear points of view—the Governor going or acting in his capacity for *pākēhā* alone; or remaining in his appointed capacity for all. Interestingly, recent and sustained research by Moka descendant, Brent Kerehona, suggests that, contrary to the assumptions of other writers, Moka did not sign the Treaty at all. Moka thus supported his verbal objections with a concrete refusal to in any way legitimise something to which he objected and strongly rejected. For Moka, this was a matter of chiefly principle and honour; *rangatiratanga* and its ascendancy over all.

In the event, by effectively adjourning the procedures to Friday, 7th February 1840 and actually concluding them on Thursday, 6th February the *pākēhā* objectives were achieved virtually through a process outside of their control. It was perhaps a subtle final exercise of *rangatiratanga* before the new reality and order took over. Patuone presented a *mere pounamu* to Hobson and that evening was received by Hobson on board the *Herald* to dine. Aotearoa was now *de facto* the British Colony of New Zealand.

The fact of Patuone being received on board the *Herald* is significant. There is no indication in either official or family archives and oral history about this but clearly, aside from the *mana* point of view, there were reasons. Was this an act of friendship? Was this an acknowledgement of Patuone's supreme status in his eyes? Did Hobson hope to engage Patuone's influence to seek signatures from those other senior chiefs and kin who had not signed on the day, such as Waikato, Pomare and Kawiti? <sup>10</sup>

In one sense of course, the Treaty signings concluded one matter but opened up others. There was to be considerable debate and actual conflict arising from the Treaty, its implications and the ways in which it was regarded but equally, the different locations of signings, the degree of experience local Māori had with missionaries and *pākēhā* generally and the processes which supported those signings, introduced variability, as well as ongoing debates about validity since the 6th February was regarded officially as the definitive event for all. It is also unclear if the administrative miscalculations at Waitangi emphasised the need for clear, prior explanations to be given at subsequent signings. Further, given the long and complex history of interrelationships between *iwi* and *hapū* it is easily understood that for many others in the south, particularly those who were later to suffer military actions and land confiscations, the Treaty was ostensibly a matter *of* and *for* the north; *of* and *for* and *by* Ngāpuhi, this being further emphasised by the fact that large tracts of land south remained remote from effective *pākēhā* influence let alone any control. Then there were implications that the Treaty could be used as a vehicle for sorting out traditional disputes over territory.

Another significant part of the aftermath of the Treaty was the much-lauded perception and physical expression of it that the Queen of England and her government had done for Māori, something unique in all their dealings internationally with indigenous peoples: for this reason, it was suggested that Māori were unique and had a special place as equals within the British Empire. But, the price for this 'equality' was to be extreme and extracted ever more doggedly with the passage of time and consolidation of government power. Further, although it was to be a factor of much later importance in the overall attitude and capacities of the British Government, following the death of Prince Albert (1819-1861), the judgment and mental capacities of the Queen—if not her mental state itself—regardless of her long reign, were seriously questionable and the extent to which she was involved in or informed by advisors of all things being done in her name is another issue within a general pattern of systemic British machinations and manipulations. <sup>11</sup>

On the settler side, there was also considerable anxiety. As much as some appreciated that the British Government had achieved the matter of sovereignty by sleight of hand and had therefore established a system of governance which could and would wind back the undertakings of the Treaty under the guise of laws, it also meant controls on their activities in the interim. Then there was the matter of asserting effective control over what became through proclamation in May 1840 and Royal Charter later that year, New Zealand, the British Colony in its own right. Anxiety was of course, not merely confined to settlers.

With the Treaty concluded, the Governor proceeded with the establishment of the vestigial apparatus of state in the form of Executive and Legislative Councils and Government Officers. These appointed officers included Willoughby Shortland, Colonial Secretary; Francis Fisher, Attorney-General; George Cooper, Collector of Customs, Treasurer and Receiver-General; Felton Mathew, Surveyor-General; James Coates, Clerk to the Councils; Henry Tucker, Colonial Storekeeper; William Mason, Superintendent of Public Works; John Johnson, Colonial Surgeon; David Rough, Harbour Master in Auckland; and Thomas Paton, Postmaster. Edward Shortland was appointed Private Secretary; Mathew Richmond and Edward Lee Godfrey were appointed Commissioners of Claims to Grants of Land and James Coates was also appointed Sheriff.

Most significantly for Māori was the appointment of George Clarke as Protector of Aborigines, thus providing an official to look after Māori needs. With the issue of land acquisition, however, Clarke was expected to exercise a dual role. To his credit, his concerns were raised but equally, leading Māori were concerned, including Patuone and Nene. As much as they had supported the British Government and in a sense, having signed the Treaty, had therefore 'consented' to the instrumentalities of government and justice being set in place, they were equally aware of what the British had perpetrated upon native peoples elsewhere in their territories. Patuone in particular and other chiefs who had visited Australia or worked on ships knew all too well the plight of the Aborigines in the colonies of Australia and of various techniques used for their deliberate extermination, all aimed as securing unfettered control of the land. Although there was a recognition by Māori that the Aborigines led a different traditional style of life, were more transient and inhabited a far vaster and harsher land, this awareness and the Māori propensity to talk amongst themselves through extensive and influential *hui*, raised alarm which had to be addressed by Hobson through assurances. In another significant move, by then leading Māori were becoming highly literate in Māori and the Māori newspapers would soon provide another powerful means of effective communication for the spread of ideas, comment, news and awareness about the lessons of history and contemporary events of significance <sup>12</sup>. Another issue which would have greater implications as mistrust and discontent fomented in the north was the fact that leading Māori had also learned the lessons of history and the place of the British within it: visiting American whalers, the French Catholics, published books and teachings had informed them about the British defeat by the Americans in the War of Independence. Māori learned how this conflict based on injustice and colonial arrogance had been the forerunner to and inspiration for the French Revolution in 1789, which in a similar way had overthrown the French monarchy in a dramatic and bloody way. Closer to home and spread over a much longer time period, of interest to Māori,

within the Pacific there were also the United States and British activities in Hawaii and those of the French in Tahiti <sup>13</sup>. In the Māori mind, therefore, the evils and excesses of empire had a terrible and bloody precedence, as had their overthrow. In another sense, the events and lessons of history provided hope and potential for freedom. As unique as Māori were treated as native peoples—a fact about which they were to be reminded endlessly—they also realised they were not alone.

In the immediate aftermath of the Treaty and regardless of status, however, given the geographic challenges in setting up a full administration in New Zealand, the New South Wales legislature and Governor George Gipps, still exerted a major influence on New Zealand. As could be expected, land and specifically land acquisitions prior to the Treaty, came under the attention of commissioners and legislators. Many of these claims, subsequently called 'Old Land Claims' were seriously questioned. Gipps' New Zealand Land Claims Bill in May 1840 was the first step in seeking redress. Effectively the Bill provided for commissioners to determine claims and whether they had been concluded fairly. But the Bill also provided for lands greater than 2560 acres to be returned as surplus and thereby become Crown land. Aside from offending claimants—and indeed, many transactions had been totally unsatisfactory for Māori 'sellers'—the Bill also questioned the capacity of Māori to make decisions related to the sale of lands and what was deemed in their terms to be a fair price. This was quite apart from any notion of sovereignty prior to the Treaty. Thus, lingering concerns over paternalistic approaches and what the true post-Treaty reality meant for Māori surfaced anew. Gipps already had extremely low *mana* in the eyes of senior Māori who had signed the Declaration of Independence and who were subjected to his remote thoughts and actions in refusing to deal adequately with their approaches to the Colonial Office and therefore his actions related to the Bill added to the overall concerns. After all, if Gipps was prepared to treat *pākēhā* in this manner, given his earlier-expressed views of Māori incapacities, what would he care in relation to mere natives? Māori concerns were thus placed on full alert.

There were two critical dynamics within all the events associated with these Old Land Claims and the work of the commissioners. The first was a lingering suspicion that in spite of assurances from Hobson and then FitzRoy, the Crown intended to acquire land by whatever means it could. The second was that literate Māori also had the fair expectation as 'equals' that through the rights engendered in the Treaty, all legislation affecting them should be published in Māori as well.

In the matter of post-Treaty land sales, the second article of the Treaty gave the Crown the sole right of purchase of such lands deemed by Māori as available for sale. Again there was much debate whether Māori understood this exclusive agency or 'pre-emption'. Apart from this, lingering suspicion about the government's involvement grew with evidence that, regardless of assurances that the 'pre-emption' right accorded to the Crown was designed to ensure that Māori were not disadvantaged or exploited, the difference between Crown purchase and on-sale prices exposed the lie for what it was. Furthermore, Māori perceived a difference between the acreage of lands required by settlers which were modest and the accumulating acreage under control of the Crown. As much as the administration wanted to set up funds to cover itself and its needs, no amount of explanation would settle the unease. As is so often the case in situations where there is a lack of clarity arising from flawed processes, concerns remained. Another effect of the differential between purchase from Māori and sales to settlers was that intermediaries increased prices which then raised Crown objections. The entire situation was thus increasing in complexity which then led to doubts about the value of the Treaty itself. With accumulating lands from old claims and a limited budget, the Crown was in danger of being able neither to sell nor buy. Another effect which was clear to some was that purchase and sale of land was directly linked to patterns of settlement, this being something the government could control through the release of land for sale in places it deemed settlement to be desirable, needed and able to be supported with required infrastructure.

Accordingly, FitzRoy introduced waivers allowing direct sales by Māori to purchasers on condition that a per-acre fee be paid to the Crown. Although this solved one issue, not surprisingly, it then created others. The entire issue of purchases and sales and had been predicated upon a system of Māori land tenure which did not recognise individual property rights. As well as setting up tensions within Māori communities where sales were effected by those without authority to sell, it exposed the activities of chiefs who exercised their hereditary right of decision, applied to a new transactional area: sales of lands for material gain, modest as it was. The matter became complicated by who came to benefit from these sales, as meagre as the returns might have been. Thus in a subtle way, the authority of chieftainship—*rangatiratanga*—was being opened to question and another seed of change was sown. It was a significant move. Allied with Christianity, British 'justice' also undermined the previously inalienable right, residing within *rangatiratanga* to decide matters of life and death. Further, the notion of all being equal before the law added another subtle dimension to a process of emancipation from any chiefly authority or tyranny over others: the Treaty, for all its flaws, was thus a far-reaching catalyst of unforeseen consequence. While Māori would also continue to accord those of *rangatira* status and noble birth great respect, their days of absolute control were over. Allied with these issues were complications arising from hereditary rights through occupation and conquest of lands and also with ownership of lands which comprised the boundaries between different groups and which had been in effect buffer zones. Then there were uncertainties where *pākēhā* had married Māori, acquired land rights through this and then had children. Over time and particularly where land had been exchanged for goods, the permanency of land and the flimsy and transitory nature of many goods acquired in exchange came into sharp focus. Then there were the complications arising from land re-sales with Māori perceiving that these were for a price which far exceeded what they were paid initially. Thus, tensions and temperatures were rising steadily.

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1. The original is in the Auckland Institute and Museum Library. [\(back\)](#)

2. The potent imagery of shadow and substance was to figure very prominently in much Māori thought subsequently as well: Wi Tako voiced similar sentiments in 1870 when he spoke of 'the body of law' being with *pākēhā* and the 'ghost of it' with Māori. See AJHR: 1870, F. No. 7. [\(back\)](#)

3. These were reported by S. Percy Smith. See JPS No. 31 September 1899 Vol. VIII No.3, p.142. Smith's source was Patuone's Ngāpuhi kin, Pangari, c.1820. Patuone himself spoke of such matters but also, throughout the Pacific, *tohunga* predicted the same coming of the white man. See also Salmond, 'The Trial of the Cannibal Dog', pp.320-21 for the chant of the priest Vaita. [\(back\)](#)

4. Extracts: speech of King George III to Parliament, 26 October 1775. See 'The Folio Book of Great Speeches' in references, pp.78-79. [\(back\)](#)

5. *Ibid*, p.81. [\(back\)](#)

6. The pragmatic view taken by chiefs like Patuone and Nene, however, was that it was better to avoid the consequences of a major military campaign. Although the Declaration of Independence of 1835 had sought to establish a political unity, inevitably in the longer term there would have been a military dimension as well as part of the essential enforcement of laws. This may have been another reason why the Declaration was received so coolly overall by those with the power of decision within the ambit of the British government. [\(back\)](#)

7. "Instructions from the Secretary of State for War and Colonies, Lord Normanby, to Captain Hobson, recently appointed H.M. Consul at New Zealand, concerning his duty as Lieutenant Governor of New Zealand as a part of the Colony of New South Wales, dated 14 August 1839." (MS CO 209/4, pp. 251-81). ([back](#))

8. Queen Victoria assumed the throne from 20th June 1837, following the death of King William IV. She was the last British monarch of the House of Hanover. ([back](#))

9. The Trail of Waitangi: The Authentic and Genuine History of the Signing of the Treaty of Waitangi, 1890. ([back](#))

10. In the event it was Pomare who induced Kawiti to sign the Treaty. On the same occasion, Te Tirarau was also induced to sign. Kawiti and Pomare were more closely related to Te Tirarau than Patuone and Nene. ([back](#))

11. Royal diseases and deaths remain a fascinating side-issue where madness and other serious afflictions had a long history in the royal bloodlines. Had Māori known about this particular history, they might have had second thoughts about the precise nature and extent of the Royal *mana* to which they were subscribing and the attendant *whakapapa* of the Queen. ([back](#))

12. The Māori tradition of *hui* and debate in open forums meant that even where few present at any such gathering were literate, all present were informed about issues of the moment and could participate in consideration and deliberations and thus contribute to decisions made and opinions formed. ([back](#))

13. On 23rd December 1826, the United States and the Hawaiian King, Kamehameha II, signed a Treaty now known as the Hawaii-United States Treaty. The term for Hawaii in currency at the time was the Sandwich Islands. A Convention was signed on 30th January 1875 and a supplementary one on 6th December 1884. The matter of sovereignty was also critical in these arrangements. In Tahiti, although there were British and French expeditions and interests, Bougainville declared it a French possession in 1768, naming it Nouvelle Cythère. Although the London Missionary Society arrived in 1797 and began the process of evangelisation, the British lost ground and influence steadily. In 1842 Tahiti was declared a Protectorate of France and finally on 27th December 1880 King Pomare ceded the territories fully to France. ([back](#))

[Back to Top](#) | [Back to "Patuone A Life" Index](#)