TE WIREMU, TE PUHIPI, HE WAKAPUTANGA ME TE TIRITI

HENRY WILLIAMS, JAMES BUSBY, A DECLARATION AND THE TREATY

RECEIVED
Waitangi Tribunal
05 AUG 2010
Ministry of Justice
WELLINGTON

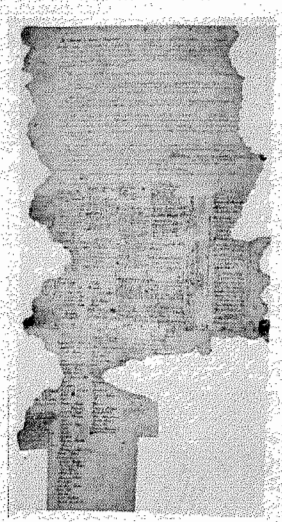
Presentation of Evidence by Samuel Carpenter

Panguru, Hokianga, August 2010

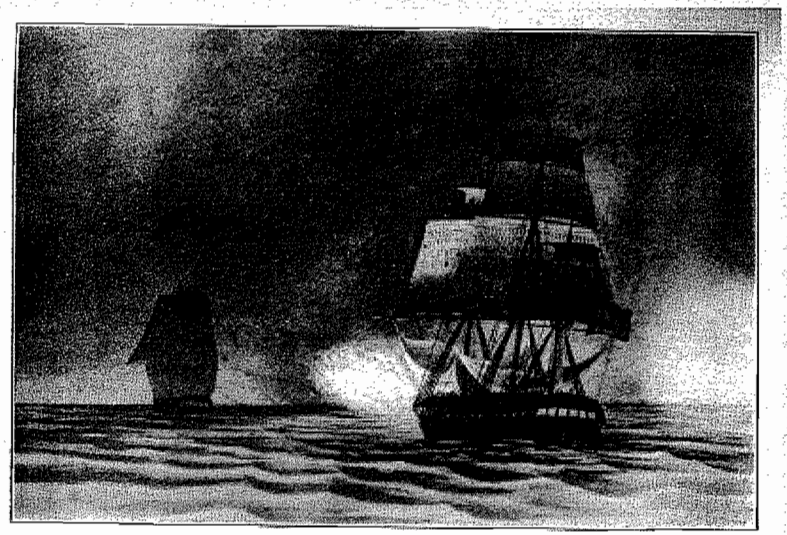
OFFICIAL

The Tribunal's 7 Issues:

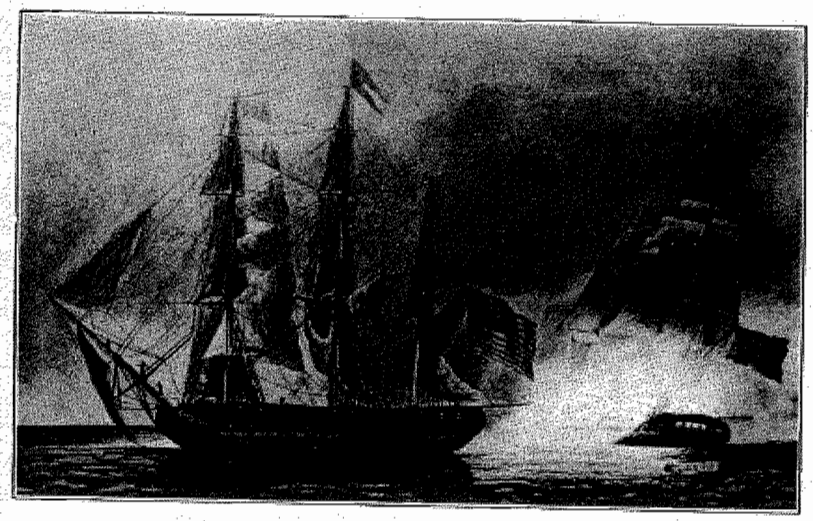
1) Maori understandings of He Wakaputanga/ the Declaration
2) Crown understandings of He Wakaputanga/ the Declaration
3) The effect of He Wakaputanga/ the Declaration
4) The relationship between He Wakaputanga and te Tiriti/ the Treaty
5) Maori understandings of te Tiriti/ the Treaty
6) Crown understandings of te Tiriti/ the Treaty
7) The effect of te Tiriti/ the Treaty



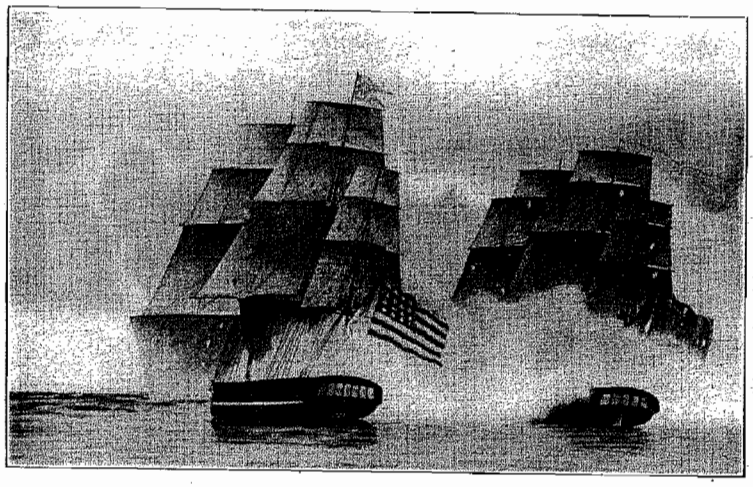
Henry Williams



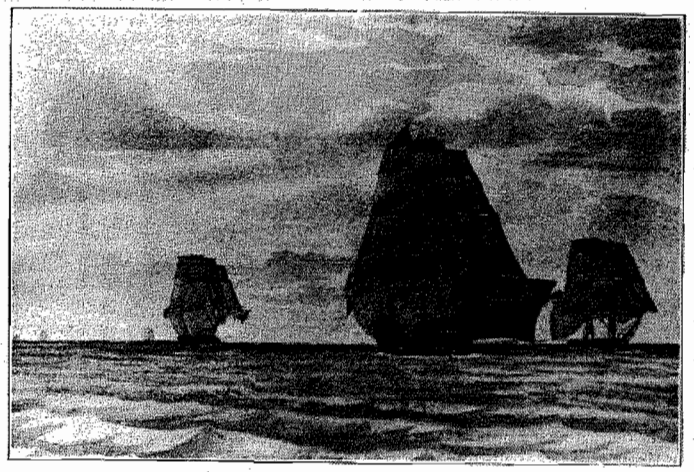
H.M.S. "Endymion" and "The President"
(1) The Chase



H.M.S. Endymion" and "The President"
(2) The First Broadside

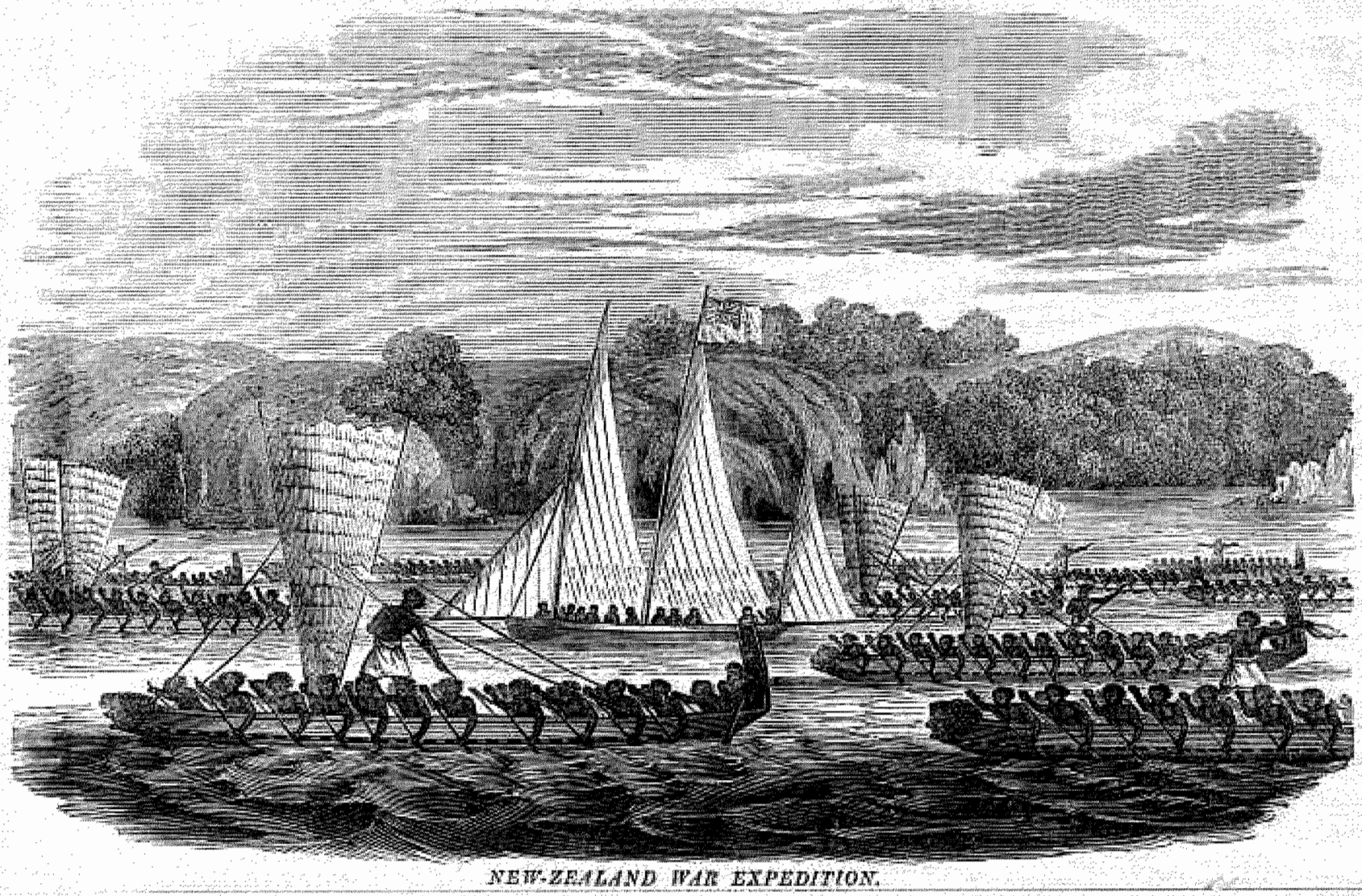


H.M.S. "Endymion" and "The President"
(3) The Engagement



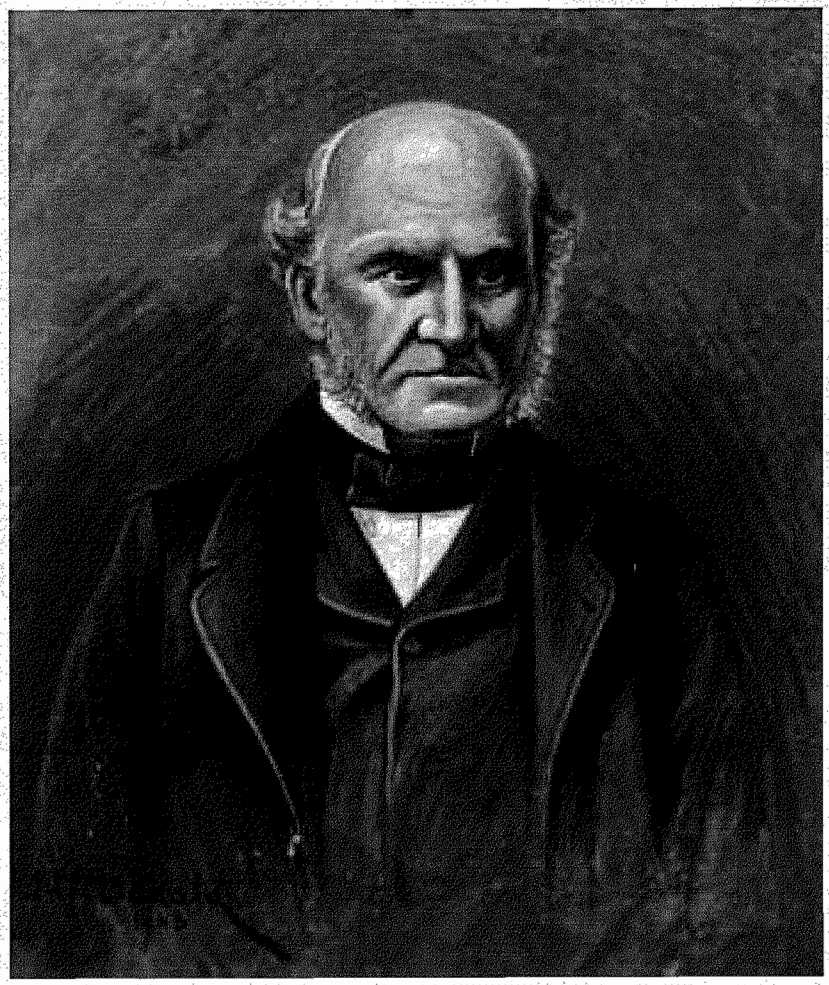
H.M.S. "Endymion" and "The President"
(4) Captive

Engagement between HMS *Endymion* and USS *President*, Jan 1815



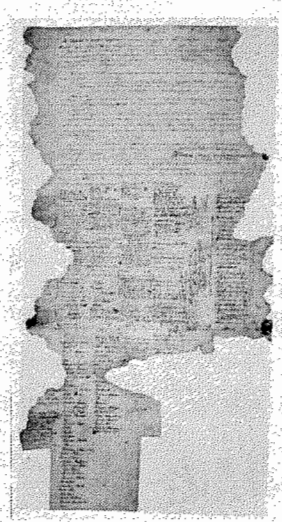
The mission vessel *Active*, accompanying a Ngāpuhi war party, 1833
(engraving based on identical sketch by H Williams)

James Busby



Issue 4: The relationship between He Wakaputanga and Te Tiriti/ The Treaty

'What, if any, was the relationship between He Wakaputanga/ The Declaration and Te Tiriti/ The Treaty?'



Article 1, Declaration

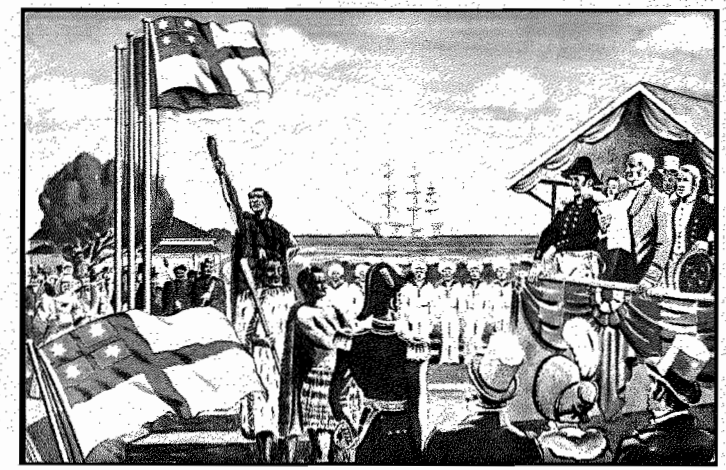
'Ko matou, ko nga Tino Rangatira o nga iwi o Nu Tireni i raro mai o Hauraki kua oti nei te huihui i Waitangi i Tokerau i te ra 28 o Oketopa 1835, ka wakaputa i te ***Rangatiratanga*** *o to matou wenua a ka meatia ka wakaputaia e matou he* ***Wenua Rangatira****, kia huaina, Ko te Wakaminenga o nga Hapu o Nu Tireni.'*

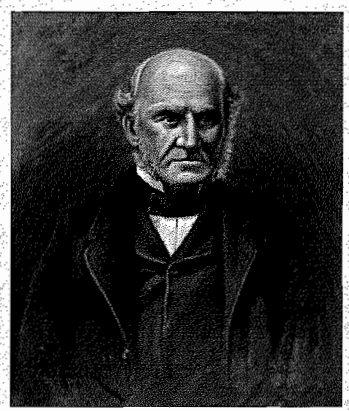
Article 2, Treaty

'Ko te Kuini o Ingarani ka wakarite ka wakaae ki nga Rangitira ki nga hapu – ki nga tangata katoa o Nu Tirani te tino ***rangatiratanga*** *o o ratou wenua o ratou kainga me o ratou taonga katoa...'*

‘The European Settlers are making rapid advances and are beginning to hold out threats. Should any encouragement be given to the Association, thousands would immediately come and over-run the whole country and the natives must give way. The only protection I can propose is that the English Government should take charge of the Country as the Guardians of New Zealand and that the Chiefs should be incorporated into a general assembly under the guidance of certain Officers with an English Governor at their head, and protected by a Military Force, which would be the only means of giving weight to any laws which might be established, and preserve that order and peace so much desired. The natives have many years since proposed that this should have been done and have repeated their desire from time to time.’

Henry Williams, 11 January 1838





‘The articles of Confederation [the Declaration of Independence] having established and declared the basis of a Constitution of Government, it follows, I think, that the rights of a Sovereign power exist in the members of that confederation, however limited the exercise of those rights has hitherto been.’

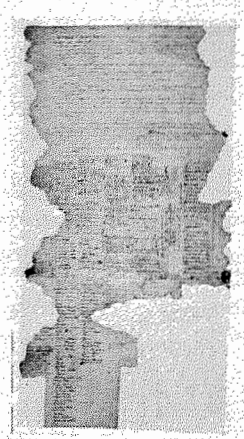
James Busby, 16 June 1837

Article 2, Declaration

*'Ko te **Kingitanga ko te mana** i te wenua o te wakaminenga o Nu Tireni ka meatia nei kei nga Tino Rangatira anake i to matou huihuinga, a ka mea hoki e kore e tukua e matou **te wakarite ture** ki te tahi hunga ke atu, me te tahi **Kawanatanga** hoki kia meatia i te wenua o te wakaminenga o Nu Tireni, ko nga tangata anake e meatia nei e matou e wakarite ana ki te ritenga o o matou ture e meatia nei matou i to matou huihuinga.'*

Article 1, Treaty

*'Ko nga Rangatira o te wakaminenga me nga Rangatira katoa hoki ki hai i uru ki taua wakaminenga ka tuku rawa atu ki te Kuini o Ingarani ake tonu atu – te **Kawanatanga** katoa o o ratou wenua.'*



‘We gave them [the chiefs] but one version [of the Treaty], explaining clause by clause, showing the advantage to them of being taken under the fostering care of the British Government, by which they would become one [Christian] people with the English, in the suppression of wars, and of every lawless act; under one Sovereign, and one Law, human and divine.’

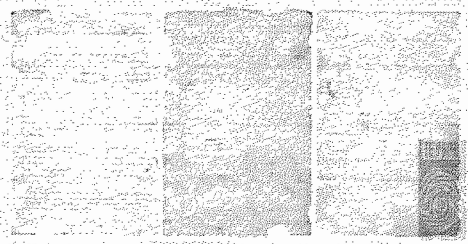
Henry Williams

Article 3, Declaration

'Ko matou ko nga tino Rangatira ka mea nei kia huihui ki te runanga ki Waitangi a te Ngahuru i tenei tau i tenei tau ki te ***wakarite ture kia tika ai te wakawakanga, kia mau pu te rongo[,] kia mutu te he[,] kia tika te hokohoko****, a ka mea hoki ki nga tauiwi o runga, kia wakarerea te wawai, kia mahara ai ki te wakaoranga o to matou wenua, a kia uru ratou ki te wakaminenga o Nu Tireni.'*

Preamble, Treaty

'...Na ko te Kuini e hiahia ana ***kia wakaritea te Kawanatanga*** *kia kaua ai nga kino e puta mai ki te tangata Maori ki te Pakeha* ***e noho ture kore ana****...'*



Article 4, Declaration

'Ka mea matou kia tuhituhia he pukapuka ki te ritenga o tenei o to matou wakaputanga nei ki te Kingi o Ingarani hei kawe atu i to matou aroha nana hoki i wakaae ki te Kara mo matou. A no te mea ka atawai matou, ka tiaki i nga pakeha e noho nei i uta, e rere mai ana ki te hokohoko, koia ka mea ai matou ki te Kingi kia waiho hei matua ki a matou i to matou ***Tamarikitanga*** *kei wakakahoretia to matou* ***Rangatiratanga****.'*

Article 3, Treaty

'Hei wakaritenga mai hoki tenei mo te wakaaetanga ki te Kawanatanga o te Kuini – Ka ***tiakina e te Kuini*** *o Ingarani* ***nga tangata maori katoa*** *o Nu Tirani ka tukua ki a ratou nga tikanga katoa rite tahi ki ana mea ki nga tangata o Ingarani.'*

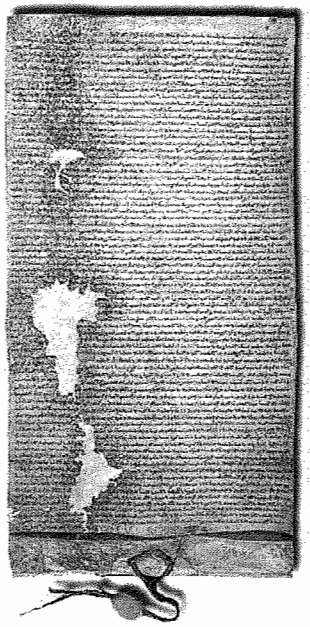
Issue 6: Crown understandings of Te Tiriti/ The Treaty

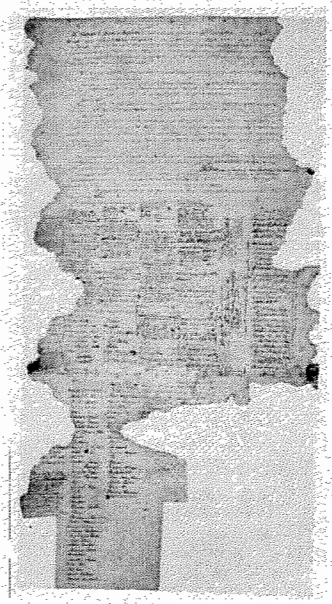
'How did the Crown understand Te Tiriti/ The Treaty? And, therefore, what was the nature of the relationship and the mutual commitments it was assenting to in signing Te Tiriti/ The Treaty?'

Magna Charta

‘My view of the Treaty of Waitangi is, as it ever was, that it was the Magna Charta of the aborigines of New Zealand.’

Henry Williams, 12 July 1847





An English definition of Government

‘Government’: form of community with respect to the disposition of the supreme authority

Johnson’s *Dictionary*, 1824

English definitions of Govern/ Governour, cont...

'*To* Govern': to rule as a chief magistrate; to regulate, to influence, to direct

'Governour': one who has the supreme direction; one who is invested with supreme authority in a state; one who rules any place with delegated and temporary authority

Johnson's *Dictionary*, 1824

The status of Rangatira under te Tiriti

‘Rank’: class, order; degree of dignity, eminence, or excellence

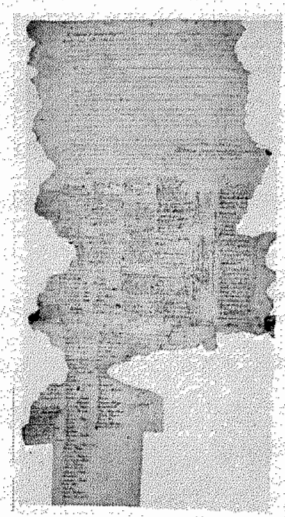
‘Right’: property, interest; power, prerogative; immunity, privilege

‘Privilege’: peculiar advantage; immunity, right not universal

Johnson’s *Dictionary*, 1824

Issue 7: the Effect of Te Tiriti/ The Treaty

‘What then was the effect of Te Tiriti/ The Treaty at 1840?’



Images above are as follows:

- front page image, drawing by T B Hutton of Hone Heke facing Henry Williams with taiaha, hui at Waimate mission station, 23 September 1844, from Journal of William Cotton, 1844, *St John's College Library, Auckland, New Zealand*

-image of He W[h]akaputanga on slides 2 (left-hand-side), 7, 8, and 13, (courtesy Te Papa, www.treaty2u.govt.nz)

- image of Te Tiriti on slides 2, 7, 11, 14, 16, and 20 (courtesy www.treatyofwaitangi.net.nz)

- Henry Williams' portrait on slides 3 & 12 (courtesy National Library, http://timeframes.natlib.govt.nz/, C Baugniet [del. et lith.] 1854. ref no C-020-005)

- 4 drawings of *Endymion* and *President* naval engagement on slide 4 (from W T Williams, ed, *Pioneering in New Zealand, Life of the Venerable Archdeacon Samuel Williams*, Private publication, 1929, St John's College Library)

- Drawing/etching of Ngāpuhi war party with mission ship *Active* on slide 5 (courtesy National Library, http://timeframes.natlib.govt.nz/, ref no. PUBL-0031-1835-1)

- image of one of the Magna Charta originals on slides 15 and 16 (courtesy www.kwls.org)

- James Busby's portrait on slides 6 and 10 (courtesy National Library, http://timeframes.natlib.govt.nz/, ref no. A-044-008)

- painting of choosing of te haki on slide 10 (courtesy National Library, http://timeframes.natlib.govt.nz/, ref no. 82-419-01)