

(Orange, C., 1990)

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1832

## Busby, James

1802–1871

Viticulturalist, British Resident, farmer, politician, newspaper editor

This biography, written by Claudia Orange, was first published in the Dictionary of New Zealand Biography, vol 1, 1990.

James Busby was born in Edinburgh, Scotland, on 7 February 1802, the second son of Sarah Kennedy and her husband, John Busby, a mineral surveyor and civil engineer. James Busby studied viticulture in France before accompanying his parents to New South Wales, Australia. The family sailed from Leith in the *Triton*; on 24 February 1824 they arrived at Port Jackson where James's father had been appointed to survey coal resources and to construct Sydney's water supply.

James Busby took up a grant of 2,000 acres in the Hunter River district and began to experiment with vine-growing; in 1825 the first of his several papers on viticulture was published in Sydney. At the same time he obtained employment in the public service as superintendent of the Male Orphan School's farm at Cabramatta, near Liverpool. When he lost this position in 1827 he was given temporary employment as collector of internal revenue.

Busby returned to England in February 1831. He made a four month tour of Spanish and French vineyards. He also impressed the Colonial Office with informative reports on colonial matters, including viticulture, pauper emigration, Crown lands, the jury system and the state of New Zealand. The last gained him appointment there as British Resident.

Returning to Sydney in October 1832, Busby married Agnes Dow at Segenhoe, on the Hunter River, on 1 November. They were to have six children. He left for New Zealand on the *Imogene*, arriving at the Bay of Islands in May 1833. Agnes Busby joined him the following year and they settled at Waitangi, where Busby erected a two-roomed residence.

Busby's main duties, outlined in instructions from Governor Richard Bourke, were to protect 'well disposed settlers and traders', to prevent outrages by Europeans against Maori and to apprehend escaped convicts. However, apart from the occasional naval visit, Busby was provided with no means of enforcing his authority. The British government refused to station a warship in New Zealand; as a civilian, Busby was not entitled to troops. His appointment to an independent territory precluded his holding magisterial office; he had no powers of arrest and was unable to take sworn testimony. His role was limited to that of a mediator in matters affecting British subjects alone, and a kind of race relations conciliator in disputes between Maori and Pakeha. Not surprisingly his record in both areas was unimpressive. Bourke, who disliked Busby and considered an inadequate appointment worse than none, had little sympathy for Busby's predicament; and Bourke's council, which resented New Zealand being a charge on the New South Wales treasury, treated Busby's requests for money with uncompromising parsimony.

Busby had been urged by Bourke to utilise chiefly authority, to direct Maori towards a 'settled form of government', so that their leaders might eventually accept collective responsibility for enforcing regulations on Maori and European alike. Busby resolved to commit his 'whole strength' to this objective. On 20 March 1834 he held a meeting of chiefs at Waitangi to choose a national flag. This flag was recognised by the Admiralty and New Zealand-built ships were granted certificates of registration by Busby in the name of the independent tribes of New Zealand. Busby regarded this as a first step to a 'confederation of chiefs'.

When it became known that Baron de Thierry was planning a sovereign and independent state in Hokianga, Busby called a second meeting on 28 October 1835. He persuaded 34 chiefs to sign a Declaration of the Independence of New Zealand, and to ask the Crown for protection. Further signatures brought the total to 52. The signatories pledged to assemble at an annual Waitangi congress to frame laws. Nothing came of the congress, but the declaration, acknowledged by the British government, provided one reason for making a treaty of cession in 1840. The declaration would later be significant as a mark of Maori national identity.

In his many dispatches to New South Wales, Busby made much of his difficulties. Outbreaks of tribal fighting in 1836–37 in the Bay of Islands, Rotorua and elsewhere, finally prompted him to report that he considered his position untenable. In May 1837 Bourke sent William Hobson to report on the situation. Busby recommended the establishment of a British protectorate with the Crown administering affairs in trust for all inhabitants. Chiefs would assist, while going through a period of tutelage, and the protectorate would be gradually extended over the country. However, Hobson's report, advocating the establishment of 'factories', and correctly considered by Busby to be inadequate, found favour with the British government. Hobson, early in 1839, accepted appointment as consul to negotiate a treaty of cession with Maori.

Busby was well aware of the shortcomings of his position as British Resident. His appointment had encouraged British trade but had provided no protection, so that British subjects at the Bay of Islands had petitioned repeatedly for more effective official support. Busby's role as kaiwhakarite, or intermediary, in dealing with Maori, was also limited in effect. However, it established the basis for Maori acceptance of further British intrusion. When Hobson arrived at the Bay of Islands on 29 January 1840 Busby gave him every assistance. He set up a meeting with northern chiefs at Waitangi on 5–6 February and played an important part in drafting the Treaty of Waitangi. Its second article, which incorporates guarantees of chiefly authority, seems to have been his work.

While British Resident, Busby had begun farming and trading. By 1838 he had imported several hundred sheep and two bullocks, and was developing a vineyard, extensive vegetable gardens, and a forest nursery at Waitangi. In 1839 he made further substantial land purchases near Waitangi and at Waimate, Ngunguru and Whangarei, where he planned a timbermilling business with Gilbert Mair. He laid out a township called Victoria at Waitangi and offered lots to new settlers; but the scheme did not take off. Busby's landholdings were threatened by the decision to move the capital to the Waitemata, by Hobson's proclamations that all land purchased before January 1840 would be subject to investigation and by the subsequent decision to limit each claimant to 2,560 acres. Having declined a position in Hobson's administration, Busby went to Sydney in March 1840 to defend the validity of his purchases.

Leaving his wife and children in Sydney, Busby returned to New Zealand in November 1840. He found that the Waitangi property had been occupied in his absence and that its title was still under investigation. Although his claims to over 140,000 acres at Whangarei, Waipu and Ngunguru were also not settled, he persisted with a plan to develop a sheep and cattle station at Whangarei. At an estimated cost of over £4,000 he shipped stock and building materials from Sydney and, in 1840–41, brought labourers, shepherds, stockmen and mechanics to New Zealand at his own expense. But the stock did not flourish and the partnership with Mair was unprofitable. In June 1841 Busby went to Sydney in the first of several unsuccessful attempts to raise finance.

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With Agnes Busby and their children he returned to the Bay of Islands in November. Despite insecurity of title they continued to farm the Waitangi property, and Busby took up storekeeping as well. However, by the mid 1840s he was in serious financial difficulties. He had been granted over 3,000 acres at the Bay of Islands in 1844, but nothing had come of the Victoria township, and his timber trading interests were badly hit by the depression of the early 1840s. He had to mortgage the Waitangi lands to meet debts. In June 1844 he sailed for America where he traded 30 tons of kauri gum to reduce his debts. Concerned to prove that his land purchases were legal, he consulted Judge Joseph Story, professor of jurisprudence at Harvard University and an acknowledged authority on Indian title, who, according to Busby, supported his claims. Busby then visited England and lodged an appeal with the government. He was back in New Zealand early in 1846, having rejoined his family in Sydney.

Concern about his landholdings, or lack of them, became an obsession. Although Busby held deeds of sale for the Whangarei lands from the original Maori owners, the government declined to make him grants and tried to induce the Maori to sell the land a second time to the Crown. The government finally persuaded Tairārau to sell by assuring him, incorrectly, that Busby had been compensated. Much of Busby's time over the next 20 to 25 years was devoted to seeking redress. He was involved, to no avail, in litigation over his Whangarei lands in 1858, 1859 and 1862. In 1864 he travelled to England to plead his case with the Colonial Office; he was refused a hearing. His case was finally settled in 1868 when he received scrip worth £36,800 in compensation. But he could raise only £23,000 cash for the scrip, and he had spent nearly £14,000 in legal costs.

Despite financial worries and increasing deafness (for which he used an ear trumpet), Busby took an active part in public life. He represented the Bay of Islands in the Auckland Provincial Council from 1853 to 1855, and again from 1857 to 1863. From 1861 to 1863 he was editor of a bi-weekly newspaper, the *Auckland*, established in part to fight government policy on old land claims. He wrote a number of papers and pamphlets on land claims and on the early history of the colony. He considered himself the architect of the colony's foundation agreement, the Treaty of Waitangi, and resented other commentators. As time went on he became more and more inconsistent in his assertions.

In 1871 Busby visited England for an eye operation. At Penge, Surrey, on 15 July, he died of 'congestion of the lungs'. Three of his six children had predeceased him. Agnes Busby, who was with her husband in England, returned to live in northern New Zealand where she died, at Pakaraka, in 1889. She was buried in the Paihia churchyard.

James Busby, a well-read man of considerable ability, had welcomed the challenge of his appointment as British Resident, but it was evident from the outset that he would encounter difficulties. Neither the British nor the New South Wales government gave him adequate backing and Sydney newspapers were unrelentingly critical of 'Mr Borer Busby Junior'. He was sensitive to criticism and suspected affronts, and resented the appointment of Thomas McDonnell as Additional British Resident in Hokianga in 1835. An English visitor, with shrewd insight, observed that Busby was simply not 'Devil enough' to deal with a situation that called for a man of some 'Nouse'.

In his early New Zealand years Busby made few close friends, either European or Maori. In later years, embittered by his misfortunes, he became a tiresome memorialist for the cause of the 'old land claimants'. Partially bald, with a hawk-like expression, Busby stalked his enemies with a tireless zeal that critics alleged was fired by personal ambition. That the justice of his own case was tardily recognised has been largely overlooked. The picture regularly presented in the Auckland press, of a querulous and crotchety old nuisance, has obscured the significance of his role in establishing an official British position in New Zealand and his share in making the Treaty of Waitangi.

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