Evening Post 3 April 1998

Ngai Tahu claim: too little critical analysis

FRIDAY FORUM
DENIS HAMPTON

LATE last year, a deed of settlement was signed by representatives of the Government and the Ngai Tahu people. A Bill to ratify the settlement has now been introduced into Parliament and public submissions called for.

We have had presented to us what is increasingly recognised as an almost totally one-sided account of this proposed settlement. As a historical researcher of some experience, I will present a submission on behalf of many New Zealanders concerned that this claim has received too little critical analysis.

The submission will be based on research in a variety of sources. These include the Waitangi Tribunal's 1991 report, the evidence that was presented, and even more importantly, the evidence that was not presented. The latter includes early reports published in the Appendices to Journals of the House of Representatives.

It will be argued, firstly, that Ngai Tahu were left with adequate reserves of land but they did not make good use of them; secondly, that the Crown, though not legally required to, made a fair effort to provide education for the tribe's children; and thirdly, that the previous settlement of 1944 was amply discussed and accepted by the tribe.

In the course of this research, it was found that the Crown, acting on behalf of all New Zealanders was at best only half-hearted in making its case. Apparently it had difficulty in attracting historians to research and present evidence on its behalf. Whereas the claimants' witnesses appeared to have expertise and be well prepared, the same could not always be said for the Crown.

The evidence of the Crown's first witness had to be withdrawn in total. A later witness covering the same ground admitted that his own research was incomplete. Two others complained of having insufficient time to properly prepare their material.

Another, at the tribunal's request, involved the claimants in his research and said that without their help he would not have been able to present such a complete picture!

As well as their apparently being employed at short notice, at least two Crown witnesses had inappropriate backgrounds for their assignments. One's field of specialisation was the history of agricultural settlement in Canada. Neither appeared to have much, if any, prior experience in New Zealand historical research.

In a number of instances Crown witnesses failed to submit important evidence to the tribunal. Of particular note are the early reports of Rev James Stack on Canterbury Maori. In 1872 he noted that kumara, pumpkins, melons, turnips, etc, all favourite articles of diet, were no longer cultivated, the reason given that they required too much care. Though very fond of milk and butter, no household provided itself with these, "everyone shirks the trouble", he said.

Stack felt that one reason for the neglect of agriculture was the facility afforded "for the idle to live on the industrious". In 1879 he noted that the prevailing practice of leasing lands to Europeans fostered the habit of depending on others. He said "neither the pressure of want, nor the prospect of gain, nor the advice of friends, prevail to induce the Maoris here to cultivate their lands."

Crown witnesses, perhaps under instruction, appear to have taken particular care to avoid material such as Stack's. An earlier report by * Edward Mackay focusing on the tribe's "constitutional indolence" suffered similarly. A Crown witness ignored its main point and instead selected right out of context two small passages to give the impression that the tribe had insufficient lands.

Inexplicable to the impartial researcher is the fact that Crown witnesses had been told that their evidence was "not to be put forward in a manner partial to the Crown and that they must not act as advocates for the Crown". They appear to have followed this instruction to the letter, but in doing so could not adequately pursue their case.

The Waitangi Tribunal's report, when scrutinised, gives the strong impression that it went into its hearings predisposed to Ngai Tahu's cause.

Several examples show that it was far from even-handed in the way it dealt with evidence. Speculative comments that should have been ignored were at times given considerable weight.

A good example of this is seen in comments by Mat Rata in 1973, when advocating that payments from Ngai Tahu's 1944 settlement be continued in perpetuity. He speculated that "the beneficiaries may feel that this of itself can never be considered final and absolute payment". The tribunal, in its report, gave considerable weight to this comment but apparently ignored his statement made three months earlier that it "can be considered a just and equitable settlement" and that "the proposal has been well received by those concerned".

In addition, the tribunal wholly attributed Ngai Tahu's "parlous" condition to the Crown's repeated failure "to honour the principles of the Treaty of Waitangi".

It did not acknowledge other factors, eg that for much of the period prior to 1900, New Zealand was in a state of depression, during which Maori and European suffered alike.

Christchurch journalist Brian Priestley attended several sessions of the tribunal while advising Ngai Tahu in public relations for their claim. He later said that "it would be hard to imagine any public body less well organised to get at the truth".

This has been borne out by the findings of Alan Everton of Wellington, an acknowledged specialist in the history of the claim.

He concludes: "The inescapable conclusion to be drawn from the records is that the tribunal did not get at the truth, and any settlement of Ngai Tahu's claims based on its report will be nothing short of a fraud."

Other claims may well have merit; Ngai Tahu's is more than dubious. With so much at stake, the select committee considering the Bill must have concern for the historical truth of these issues. Until now this has been shockingly absent.

❐ Denis Hampton, who retired from 25 years in the Air Force last year, is a historical researcher who lives in Christchurch. *

* Correction: Alexander Mackay

* Correction: retired in 1985