

Ngai Tahu's Tangled Web

Alan Everton



The Treaty settlement process is an odd business. The government is about to hand over \$170 million, various choice pieces of South Island real estate, and assorted rights and privileges to the Ngai Tahu tribe as compensation for past breaches of Treaty 'principles.' According to one Minister of Maori Affairs, theirs is "the most meritorious of all Maori land claims." After 150 years a David, in the shape of one of New Zealand's smallest tribes, has triumphed in its battle to wrest a settlement from Goliath. Here is an opportunity for a symbolic lancing of an old and festering sore. A chance for Ngai Tahu to receive plaudits for persevering in its battle for justice and the Government to win points for being far-sighted and magnanimous.

Plans for a highly publicised hand-over ceremony have had to be shelved, however, because it would lack one vital ingredient - a large and appreciative audience. That is why Doug Graham looks grumpy and aggrieved. Try as he might, he has not been able to make the public see the justice in having today's taxpayers cough up for the "fact" that colonial governments in their dealings with the Maoris were breaching principles they had never heard of, and would have dismissed as absurd if they had. Graham would like his guilt-assuaging labours to be regarded as a victory for Ngai Tahu and a vote-getter for the government. But he suspects that the only people celebrating the occasion would be the anti-Treaty referendum organisers collecting thousands of new signatures.

Sadly for Graham, the public does not share his highly-developed sense of fairness, or his vision of a country with one law for the tangata whenua and a

different one for them. If it is any consolation to him, he is probably a man ahead of his time. A few more years of the intellectual establishment



propagating its revisionist version of New Zealand's history and he could have had carte blanche in the settlement process. As it is, there remains a stubbornly large proportion of the population that is immune to the propaganda.

They can be divided roughly into two groups: the racist and resentful, who think all Maoris are criminal bludgers or violent activists who should be shipped back to Hawaiki; and the confused and resentful, who regard Maoris as individuals little different from themselves, but cannot shake the nagging feeling that they are having something put over on them.

The first group is still small, but it has been growing ever since the State started sponsoring the Maori

renaissance. Its ignorance places it beyond the reach of the revisionists. The second group is much bigger and is the one pooping Graham's party and giving the revisionists a headache. Its members can remember being proud of New Zealand's good reputation for race relations, and they gag when asked to swallow the line that it was all a big lie. In their day Maoris did not nurse grievances about past injustices. Of course there were the Maori Wars and all that, but that had all been sorted out generations ago. Maoris had the same rights and privileges as they did, plus an entire government department looking after them, seats in parliament and their own team of All Blacks. They seemed as happy as the next bloke. Now they want the whole country back. The members of this group just cannot understand it.

They smell something fishy in these settlements, but they are not sure what it is or how to sniff it out. They have not read Claudia Orange and know nothing about Treaty 'principles.' If they did, they would not be any less confused. The principle applied by the Waitangi Tribunal to Ngai Tahu's claim seems to be the one that says you shall have your cake and eat it too. It found the Crown guilty of not ensuring the tribe's pre-European way of life remained intact, and equally guilty of not ensuring it enjoyed all the advantages of the white man's world. Ngai Tahu were entitled to keep their old hunting and fishing grounds, and have thousands of acres set aside as well for the time when it would pay to go sheep or dairy farming.

If the media was doing its job the public would not be in the dark, and Graham and the captains of the grievance industry would be looking for a more respectable line of work. But the press has shown a curious reluctance to turn the spotlight on the

settlement process. There are several likely reasons for its reticence. Many of its hacks are Graham's fellow packhorses in the guilt-toting business. They see nothing wrong with the process. Others may suspect it is a rort but be too fastidious to handle an unedifying story involving a minority race that risks being labelled Maori-bashing. But, charitably, the main reason may be the sheer size of the issue. The story of just one tribe's grievances is so long and involved that it defies packaging into a daily-sized article. Ngai Tahu have been in the grievance game for about 130 years. Before that they were in the land-sale game for about 30 years. Unravelling who did what to whom is a long and tedious job for which most journalists simply do not have the time.

And barring their way is the Tribunal's report, a 3-volume, 1,254-page doorstep of rare abstruseness and mind-numbing repetitiveness which is strewn with assertions in search of a supporting fact. Facts that weaken or negate Ngai Tahu's case are either buried, brushed over, or omitted altogether. In short, it is a marathon piece of special pleading. The records tell a different story, but Graham has obviously read only the Tribunal's account of events. Otherwise he could not have helped noticing that his "full and final settlement" will be Ngai Tahu's fourth.

Shorn of the Tribunal's "Treaty principles" twaddle, the story of Ngai Tahu's claims is reasonably straightforward. The question then becomes simply one of whether the tribe was fairly treated when it sold its land to the Crown. Up till 1985 Ngai Tahu's claims were examined and re-examined in this light. In 1868 it was decided that some of the tribe had suffered through the non-fulfilment of a condition in one deed, and they were given land to discharge the obligation. In 1920 this settlement was revisited and further compensation was ordered. In 1944 the order was given effect to, and Ngai Tahu were awarded the sum of £10,000 a year for 30 years as a full and final settlement. In 1973, on the eve of the award's expiry, another settlement was made, providing for payments of \$20,000 a year in perpetuity.

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Then in 1985 the Treaty of Waitangi Act was amended and Ngai Tahu, having for most of the previous century voiced a single grievance involving just one of the 10 blocks of land it sold, found in all of the deals about 200 instances of alleged wrongdoing by the Crown. Claims that had died for want of corroborative evidence or been exposed as shams 100 or more years ago were resurrected, and new ones found besides. At the end of more than two years of sittings, the Tribunal decided that, according to the Treaty's newly-formulated and still evolving 'principles,' the Crown was guilty of "dishonour and injustice ... high-handedness and arrogance," and had caused Ngai Tahu "great detriment." They were entitled to "speedy and generous redress."

Making sense of the Treaty principles and how the Tribunal applies them to land claims is a story on its own. For now it is enough to outline the events by which the Crown acquired Ngai Tahu's land and let readers judge for themselves whether any of the purchases were inequitable enough to warrant enriching the sellers' great-great-grandchildren.

The irony in the charges levelled by the Tribunal is that the Crown from its first dealings with the Maoris was at pains to ensure its actions were unimpeachable. Heavily influenced by the Church Missionary Society, which regarded established European settlers as contaminating agents in the heathen paradise it was trying to Christianise, and prospective ones like the New Zealand Company as money-grubbing capitalists, the British colonial office committed itself to doing all it could to make the Maoris' transition from

the stone age to modern civilisation a painless one. In its land policy, the loopholes left by this benevolence have been exploited by Ngai Tahu ever since.

The Crown's paternalism was evident even before the Treaty was signed,

when, assuming that the Maoris needed protecting from predatory land sharks, it ruled that all earlier land purchases were invalid without its approval. Then by the Treaty itself it guaranteed Maori possession of their lands, which meant the whole of New Zealand once it stopped wavering over whether to invest primitive tribes with rights to land they never used. And it also gave itself a pre-emptive right to buy all Maori land, so they could not denude themselves of their estate a second time.

To the Maoris this must have seemed like a godsend, especially to a small tribe like Ngai Tahu, with the vast area it claimed title to, every acre of which it had sold by the time it signed the Treaty. By one conservative estimate pre-treaty land sales had netted Maoris consideration worth about £93,000, a

king's ransom in those days. Some of the buyers were speculators but there were many others who planned to utilise the land. Now, unless these sales met the land commissioners' strict guidelines, the land reverted to the Maoris for re-sale to the Crown. Even where a pre-Treaty sale was declared valid, the purchaser was entitled to no more than 2,560 acres.

Having a monopoly buyer for their land put Maoris in a vulnerable position, but here too the Crown was anxious to do the right thing. The future Governor was warned against making any contract which might, through the Maoris' ignorance, prove injurious to them, and he was instructed not to buy "land which would be essential or highly conducive to their own comfort, safety or subsistence." He was also told that, as the land was virtually valueless until the introduction of settlers and capital, the price paid should "bear an exceedingly small proportion to the price for which the same lands will be resold by the Government to the settlers." The main consideration the Maoris were to receive was the increased value which Europeans' enterprise would give to the land they retained.

The policy provides a rare example of State paternalism working out pretty well as planned. The Ngai Tahu almost invariably squandered their purchase money so the Crown in paying no more

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than a nominal price was really only damaging the livelihoods of grog-sellers and the vendors of Maori mana symbols. In fact, the Crown's idea of a nominal price compared favourably with what Ngai Tahu had asked of private purchasers. The lowest price it paid was £2,000 for 20 million acres, while a few years earlier Ngai Tahu had exchanged over 3,500,000 acres for goods worth £153. The value of their reserves soon made these sums look paltry. Barely a decade after they were set aside, the 14 reserves in Canterbury, totalling 6,000-odd acres, nearly all of "excellent quality," were valued at £50,000, and the 500 or so Ngai Tahu occupiers judged by a Native Department officer to be "probably the wealthiest of their race."

The biggest fishhook in the policy was how to decide how much land was enough. The yardstick adopted was an area "ample for their present and prospective wants." Obviously, this was an amount incapable of precise definition, and estimates of it varied over time with changes in land use. In the 1840s, when Wakefield's idea of a nation of small cultivators ruled, about 10 acres per head were reckoned enough for Europeans, and Ngai Tahu were set aside the same amount. A decade or so later, when it was apparent that large-scale wheat farming and pastoralism paid best, the estimate moved accordingly. By 1860 when 100 or so Ngai Tahu sold the west coast, they were reserved over 67 acres per head. Naturally, the Canterbury Ngai Tahu and others involved in the earlier sales now thought they had been short-changed, and so a grievance industry was born, despite the fact that the government doubled the size of their reserves over the next thirty years.

As a final protective measure, the New Zealand authorities were under an injunction to buy only from willing sellers. There was never any question about Ngai Tahu's readiness to part with their lands. In the 1850s, when they were down to their last good-sized block on the mainland, the Crown had to stall them off for several years for want of sufficient funds. True, they

had not always been keen on having European neighbours - they began by killing and eating the early sealers. But they quickly realised the advantages offered by European civilisation — muskets to match those of their enemies, iron tools to replace their stone ones, new crops like the potato, which flourished throughout their territory (whereas the kumara would not grow south of Banks Peninsula), livestock, better boats for fishing, better clothes and housing; the list was endless. Soon they were abandoning their old pas to settle alongside the shore-whaling stations, the better to find employment and trade.

There was another reason why Ngai Tahu were eager to welcome European settlers - to reduce the threat of attack from their enemies. Theirs was a sorry recent history. In the mid-1820s a feud between the northern and southern Ngai Tahu resulted in many deaths. Then about 1830 the North Island chief, Te Rauparaha, invaded their territory and in the ensuing battles, by one survivor's account, "hundreds and hundreds of our people fell, hundreds more were carried off as slaves, and hundreds died of cold and starvation in their fright." And about 1836 a measles epidemic further reduced their numbers.

Te Rauparaha decimated Ngai Tahu from their northernmost pa at Kaikoura to Akaroa, razing their largest pa at

Kaiapoi on the way. Their paramount chief was killed and the tribe fled south, or over the Port Hills to hideouts on Banks Peninsula. In the mid-1840s, when the Crown came to make its first purchases, Ngai Tahu were still recovering from the blow. An 1844 census put their numbers at fewer than 2,000, and found nearly two-thirds of their living below the Waitaki. Ruapuke, an inhospitable island out from Bluff, was now the stronghold of their new paramount chief, Tuhawaiki, and only five years earlier had sheltered about half the tribe. Even as late as 1848, when Governor Grey visited Akaroa, the locals were still fearful of further attacks. He found them anxious to sell him land and place a buffer of Europeans between themselves and their old enemy.

The protective measures built in to the Crown's early land-buying policy were based on the notion that the Maoris were innocent primitives, ripe for exploitation by unscrupulous white men. In fact, if anything, it was Ngai Tahu who saw the white man coming. By 1840 their chiefs were among the country's most experienced land-sellers. Sealers, whalers and other early Europeans had been buying plots off the tribe since the early 1800s. Tuhawaiki had been negotiating land sales since at least 1832, when he sold over one million acres in return for 60 muskets. By one account, in five transactions alone in the late 1830s Ngai Tahu sold about 15.5 million acres of their territory.

Leading up to the signing of the Treaty there was a flurry of land selling. Tuhawaiki at this time, along with four other Ngai Tahu chiefs, was on one of his numerous trips to Sydney, where they signed away their rights over all unsold portions of the South Island to a syndicate which included John Jones, a whaler-cum-merchant-cum-farmer who had already bought large tracts of territory off them. It is unlikely that the syndicate ever intended the agreement as anything more than a means of testing the legality of a proclamation of Crown pre-emption issued by the New South Wales Governor a short time before. But the consideration was real enough. Tuhawaiki and the rest of Ngai Tahu's foremost chiefs were given £200 and a promise of annuities of £100 a year for life.

These chiefs, who included Taiaroa, the most notable Ngai Tahu chief after Tuhawaiki's death, were far from being naïve about the white man's ways. As Edward Shortland, protector of aborigines, noted after a tour through their territory in 1844: "Many [have] visited Sydney in the whaling vessels, and returned laden with presents, as the price of lands.... The result of their intercourse with Europeans is now very apparent; they have acquired considerable knowledge of English." Tuhawaiki he rated "one of the most intelligent Natives in New Zealand." Indeed, in Sydney he proved too smart for Governor Gipps. Hoping to win kudos by getting the chiefs to endorse his pre-Treaty treaty ceding sovereignty and the right of pre-emption to the Crown, Gipps had given them ten sovereigns each as an inducement, only to have the money disappear and his parchment remain unsigned.

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Tuhawaiki's Sydney land deal was to have repercussions for some time afterwards. For the moment though it is necessary to go back to 1838, when another land deal that figures prominently in three of the Crown's purchases had its genesis. In that year a French whaler, Captain Langlois, struck a bargain by which he thought he purchased all of Banks Peninsula for a down payment worth £6 and a promise to pay later goods worth £234. Langlois returned to France and, with the help of his government, formed a colonising company which aimed to people the peninsula with Frenchmen.

In August 1840 a boatload of colonists arrived and Langlois handed over the balance of the payment to the chiefs who had signed his deed. Also present was Iwikau, the Akaroa representative, who was absent at the original signing but now gave his consent to the arrangement. The colonists' first setback came when they sailed on to Akaroa. The local Maoris claimed the sellers had no right to cede Akaroa and repudiated Iwikau's share in the bargain, saying they had received none of the payment. So another purchase was arranged, although it is odd that three of the names on this deed were also affixed to the 1838 agreement, including that of Tikao, prominent later in the largest land sale to the Crown.

The colonists had only had a taste of the scope for double-dealing offered by the system of Maori land-ownership, however. They had barely settled in when other Europeans with claims to Akaroa began to surface. In all, the French discovered at least nine other parties able to contest their rights to the harbour, "most of whose titles," one historian noted, "were in some way derived from the Otago chief Taiaroa, who now appeared to employ his time perpetually in effecting sales to the peninsula."

The captain of the French warship sent to protect the colonists declared himself content to await the ruling of the Land Commission, but to his masters in France he despaired of it ever unravelling the purchases: "Everything, in his opinion, was tainted.... 'Either one has bought from natives who, not being proprietors, could not sell, or from some of the natives without the

adhesion of the tribe; or perhaps from Europeans who themselves had bought well or badly from the natives.... [This] is what is happening not only on the Peninsula, but in the whole of New Zealand.' "

When the Land Commissioners' Court sat in Akaroa in 1843, the Maoris, doubtless with the Crown's right of pre-emption in mind, denied the 1838 sale. Nor would they admit to selling the entire peninsula in 1840, saying they had only parted with portions of its four main harbours. Iwikau explained that they had made the sale "because we heard that Tu Hawaiki [sic] and Taiaroa and others had sold these lands to persons in Sydney. None of us agreed to these sales made by Taiaroa; we were all angry at them."

Tuhawaiki claimed his right to sell through an Akaroa-born ancestor. Taiaroa asserted his jurisdiction on the grounds that the locals had been defeated in battle and enslaved, and had lost their rights. The commissioners took the local Maoris at their word but, aware that Britain was negotiating with the French government over the purchase, made no recommendation. Eventually the British were to acknowledge the Frenchmen's right to 30,000 acres.

There is a postscript to these events worth adding at this point which also had

ramifications for the later Crown purchases. In 1845 the French made another attempt to secure their title by having the Maoris sign two further deeds and distributing goods valued at about £1,500. As the Maoris had made threats against the colonists, and the French warship was about to leave, one historian has surmised that this was more a payment of protection money for the 60 or so settlers left behind. In any event, when the Crown sought to include the peninsula in a purchase in 1848 it found Ngai Tahu were now adamant they had sold all of it to the French. Apparently the departing French had further insured the safety of the colonists by promising another payment which Ngai Tahu were then still hopeful of receiving.

The first officially sanctioned sale of land by Ngai Tahu, a 533,000-acre tract

known as the Otago Block, took place in June 1844. The buyer was actually the New Zealand Company, taking advantage of a brief period when the Crown waived its right of pre-emption. However, coming as it did just a year after the Wairau affair - a clash between settlers and Maoris led by Te Rauparaha which left 26 dead - the purchase was overseen by the Crown. The sale went smoothly. The company had an upper limit of £2,000 but Taiaroa and his fellow chiefs succeeded in wrangling £2,400 out of it. They retained four reserves totalling 9,615 acres for a resident population estimated at about 60, but reckoned in an 1853 census at 117. Among these was a 6,665-acre block adjoining the harbour which the company had been "most anxious" to acquire. More than two decades were to elapse before Ngai Tahu found a reason - a fictitious one as it turned out - to complain about this sale.

The next sale, in 1848, was to be the source of most Ngai Tahu complaints for the next 120 years. This was Kemp's purchase, a block of about 20 million acres containing most of present-day Canterbury, Westland and Otago. The purchase was made in advance of the arrival of the first of the New Zealand Company's Canterbury settlers, following Grey's meetings with Ngai Tahu in early 1848, at which he found them anxious to sell. The southern boundary cut the island to meet the Otago purchase. The northern limit was a line running from Cape Foulwind on the West Coast to Kaiapoi pa, the southernmost point of the Wairau purchase made the previous year from Te Rauparaha's Ngati Toa. The Ngai Tahu were upset about their old enemy selling territory they still thought of as theirs, but seemed satisfied when Grey promised that they would be paid for Kaiapoi.

In June 1848 the Crown's purchaser, H.T. Kemp, assembled some 500 Ngai Tahu from as far south as Otago at Akaroa. His limit was £2,000, to be paid in four yearly instalments, a sum which Grey, aware that the Otago Maoris had run through their £2,400 in an "improvident and hasty manner," thought "would be as large an amount as they could profitably spend, or was likely to be of any real benefit to them." Ngai Tahu asked £10,000, then £5,000, but were told that Kemp had only £500 to distribute and, as the captain of his ship was anxious to sail, they could have a day to think about it before the sale was called off. On 12 June the

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Ngai Tahu chiefs signed the deed and Taiaroa and Tikao were each given half the first instalment to distribute among the northern and southern branches of the tribe. Banks Peninsula was shown on the deed as having been bought by the French.

Kemp reported that "the whole of the proceedings gave [Ngai Tahu] general satisfaction." However, his immediate superior, Lieutenant-Governor Eyre, thought he had made a hash of the sale. Eyre faulted him for, among other things, "acknowledging a validity of title in the few resident Natives to vast tracts, the larger portion of which had ... never been made use of by them"; for not defining the number or extent of the reserves to be held by Ngai Tahu; and for executing a deed made out to the New Zealand Company instead of the Crown. The latter defect would necessitate the signing of another deed, Eyre decided, which would also correct his "unsatisfactory" provision for reserves. Kemp's excuse for not surveying these before the deed was signed was a reasonable one: the south was in the grip of a severe winter, which made traversing country rent by fast-flowing rivers a dangerous exercise. He had read out the original deed in Maori. Translated by him into English it guaranteed the Ngai Tahu "our places of residence and plantations" and provided that "when the land shall be properly surveyed hereafter, we leave to the Government the power and discretion of making us additional Reserves of land," the laying out of which Kemp assumed he would supervise when he returned in the spring.

Eyre, however, sacked Kemp and sent Walter Mantell, a novice in land-buying, to define "all the Native reserves," and then execute a new deed before Ngai Tahu could "take advantage of any opening left to them to extort further payments." Eyre was too late. Ever since, Ngai Tahu have been successfully exploiting the discrepancy between Kemp's "vague and indefinite" arrangements and Mantell's attempt to tidy them up, claiming that under the original deed they were promised more land. Mantell went south in August 1848 with instructions to make reserves

of a "liberal provision ... for their present and future wants" which under the new deed would be final. While laying out 15 reserves he reported problems at only two places - Kaiapoi and Waikouaiti.

At Kaiapoi the locals claimed not to have included a large tract of land in the sale, and demanded a reserve 10-15 kilometres wide stretching right across the island. They also insisted now that the southern limit of the Ngati Toa purchase be put back from Kaiapoi to Kaikoura, claiming Te Rauparaha had no right to sell the land in-between. Kemp had recorded no complaint on this score during about three weeks of discussions before the sale, and as both Kemp's deed and map fixed the boundary at Kaiapoi, Mantell left it where it was. He counted only about 40 Ngai Tahu living on the plains around Kaiapoi, but laid out a 2,640-acre reserve there to accommodate absentees from the time of Te Rauparaha's raids still living on the peninsula and points south. Although there was a lot of haggling, he reported that those present finally agreed to its limits.

At Waikouaiti, an old whaling station where a number of Europeans still lived, Mantell refused to accede to the Maoris' demand that their reserve encompass the pakehas' farms so they could evict them. He laid out an 1,800-acre reserve and told the locals, led by Horomona Pohio - "one of the most sullen evil-disposed Natives I have met with" - to take their demand to Governor Grey, noting in his report that, "So unnecessary to them is [this] piece of land ... that I must earnestly recommend that it be omitted from the Reserve." Grey, however, sided with the Maoris and 593 acres were added to their reserve.

Mantell had surveyed all the reserves when he received new instructions from Eyre. Grey had countermanded his original orders, probably believing that offering the Maoris a new deed to sign would create more problems than it would solve. Mantell was now told to proceed on the basis of the original deed, marking out only their residences and cultivations and assuring them they

would later receive any additional land thought necessary for their future wants. Mantell replied that, following his old instructions, he had already provided an area sufficient for "the present and prospective necessities of the Natives" and the reserves could be considered "finally arranged." These totalled 6,509 acres for a population of 646, or a little over 10 acres per head. Back at Akaroa, Mantell's most difficult moment came when he tried to make the second payment. At a number of settlements he had met with complaints from Ngai Tahu who had received nothing from the first instalment. Now, when he rejected the demands of Taiaroa and Tikao that they again receive £250 each, and insisted on dividing the money among the principal men of each village, he was subjected to a series of vituperative speeches from the pair, although Taiaroa later "came to me in private, and begged me to attach no importance to what he had said; and offered, if I would add £40 to [his] £60 ... to make the whole affair run smoothly." Mantell refused to be swayed and congratulated himself on having had the authorities cut off all liquor supplies, as he was "credibly informed that after the last distribution there were at one public house two men constantly employed from morning till night in serving the Natives with spirits. Had the Natives now the free use of ardent liquor, the consequences might have been deplorable." But when Tikao and the northern Ngai Tahu threatened to attack the southerners if he went ahead with the distribution, he abandoned the payment and, taking with him a representative from each camp, returned to Wellington to let Eyre rule on the dispute.

Apart from intermittent complaints about the position of the Ngati Toa boundary, and an unsuccessful appeal from the Maoris at Moeraki for a larger reserve, it was to be more than 20 years before Ngai Tahu complained that the terms of this agreement were not being fulfilled. In the meantime the Crown directed its attention to untangling the situation on Banks Peninsula and purchasing the Murihiku district below the Kemp block.

With no sign of the promised additional payment from the French, the peninsula Maoris were now claiming the land remained theirs. The New Zealand Company, meantime, had purchased the French company's rights

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on the peninsula, but its 30,000-acre award had never been surveyed. The Canterbury Association, soon to found Christchurch, wanted Lyttelton harbour as a port and appealed to Grey. The Maoris were willing to resell the peninsula but Grey was reluctant to acknowledge that they still had title to it. He considered Kemp's purchase had extinguished all the locals' claims to land, with the exception of their reserves. However, if there had been a "misunderstanding" he would direct that the land be considered a Maori reserve which they were entitled to surrender to the Crown for some "small payment."

Accordingly, Mantell went south again in July 1849 and secured the northern half of the peninsula from the hapus at Lyttelton and Port Levy (the latter being mainly Kaiapoi refugees) for £500, about twice the sum budgeted for. At Lyttelton, where a later census recorded a Maori population of 72, he made two reserves totalling 866 acres; at Port Levy, population 97, where he learned the locals were anxious to close the deal "lest Topi and Taiaroa should come and seize all," he marked off one reserve of 1,361 acres.--

At Akaroa he was unable to come to terms for the southern portion of the peninsula, home to about 90 Ngai Tahu. His old nemesis, Tikao, rejected his offer of £150 and reserves totalling about 1,880 acres, apparently still confident that the French would return and offer them some "enormous payment."

In October 1851, after approaches by Ngai Tahu, Mantell was engaged to purchase the Murihiku block. He marked out the reserves wanted by the locals and by May 1852 the deed was ready for signing. The Government was short of funds, however, and unable to remit the money. By August 1853 Mantell, now Commissioner of Crown Lands for Otago, was worried that Ngai Tahu would welch on the agreement, as they were being pressed by European squatters to sell them land directly. Concerned to clinch an agreement, he made an unauthorised withdrawal from his office's land fund, borrowed £500 on the security of his own property and assembled the claimants again. After "a long and anxious debate" he finalised a settlement.

The price in the deed was £2,000 but Ngai Tahu had demanded a £600

premium for being kept waiting, which Mantell urged the Governor to pay. This was agreed to, and it was only later that Mantell learned that the Murihiku chiefs had six years earlier agreed to a sale with Grey for no more than £2,000, an understanding that they had confirmed within the previous year.

Mantell, instructed to provide "ample" reserves, laid out seven covering 4,875 acres, exclusive of a five-acre life-reserve he made for two elderly women and a boy who refused their relatives' request to join them on their reserve across the river. He counted just 151 Ngai Tahu in the block, with 127 still on Ruapuke Island, although it appears from his census that another 218 Ngai Tahu in the Otago and Kemp blocks had some claims in the district.

By the mid-1850s the Crown was under the impression that it had bought all Ngai Tahu's lands bar Stewart Island. In fact it was barely halfway there. In 1854 there had been some question whether Mantell's dealings with the Akaroa Maoris had resulted in a settlement, but he was firm that they had no right to any land bar the reserves he had awarded, although they were still entitled to £150. In the meantime the Crown had settled the whole of Banks Peninsula on the Canterbury Association, which was selling and leasing the land to settlers. In 1856, however, it ran up against Akaroa Maoris who refused to retire to Mantell's reserves, and it was only when an official was despatched to pay them the £150 and see that they moved that the Crown learned it had not gained title to the land.

The Akaroa Maoris had given up waiting for another payment from the French and were ready to sell. The officer reported that they appeared to have a just claim, but there was a hitch. The Kaiapoi Ngai Tahu had told him they would persuade the Akaroa Ngai Tahu not to sell unless the Crown first settled their claim to the land north of Kaiapoi, for which it had already paid Ngati Toa £3,000. His impression was that they would settle for £150. He also reported that the Akaroa Maoris, in return for a reserve on each side of

Akaroa harbour, offered to abandon the Little River district, which was "much desired by the European settlers."

The claim to the lands north of Kaiapoi was a questionable one. Their version had them avenging Te Rauparaha's raids and chasing him back to Kapiti Island, where he released some Ngai Tahu slaves as a peace-making gesture. However, Alexander Mackay, a Native Commissioner and Ngai Tahu's strongest ally in its later claims against the Crown, had Te Rauparaha worshipping Ngai Tahu in their last battle, and freeing his slaves under missionary influence. He had little doubt that "but for the spread of Christianity, and the timely establishment of European

settlements ... the scattered remnants of [Ngai Tahu] would have been exterminated by their more powerful enemies." Certainly the tiny handful of Ngai Tahu recorded north of Kaiapoi in censuses in 1844 and 1848 hardly betokens a victorious tribe reclaiming its territory.

The job of settling these two claims was given to W.J. Hamilton, a local official. At Akaroa he found the Ngai Tahu were now unwilling to settle for £150 unless they received a 400-acre reserve at Little River in addition to two similar-sized plots adjoining the harbour, to which he agreed. In his discussions with Kaiapoi Ngai Tahu he was told by Whakatau, the Kaikoura

chief, that his hapu also had rights north of Kaiapoi, notwithstanding the fact that he had shared in the payment for Kemp's purchase and had later accepted £60 in return for surrendering "all claims to the lands in the vicinity of Kaikoura." Now, Hamilton reported, he was willing to cede them to the Crown for £150 and two reserves totalling 1,000 acres.

At Kaiapoi Hamilton was quickly disabused of the idea that the Ngai Tahu would settle for £150. They now demanded two large reserves in addition, although there were no Ngai Tahu settlements between Kaiapoi and Kaikoura, almost the entire block being occupied by sheep-farmers. Failing this they wanted £500 cash. Hamilton, having no authority to make reserves, offered to add £50 to the £150 with

The protective measures built in to the Crown's early land-buying policy were based on the notion that the Maoris were innocent primitives, ripe for exploitation by unscrupulous white men. In fact, if anything, it was Ngai Tahu who saw the white man coming.

which he had been provided but the Maoris would not budge, and agreement was reached only after he had handed over the £200 and promised to "use my influence to obtain the full sum of £500." The Government heeded his appeal and paid the extra £300.

James Mackay, cousin of Alexander, struck similar problems while purchasing the Kaikoura block in 1859. Whakatau was now asking £5,000 and denied having ever offered it for £150. And he now demanded a reserve of 100,000 acres, specifying an area that included three sheep stations and threatening to evict the occupiers if his demands were not met. He also insisted his land included that lying between the Waiau and Hurunui rivers, already sold by the Kaiapoi Ngai Tahu to Hamilton, although he was present at that sale and had signed the deed without objection. This would be the third time the Crown purchased this particular block of about 250,000 acres. There was protracted haggling, but when Mackay called their bluff by making a "false start" for Lyttelton, the Maoris agreed to settle for £300 and nine reserves totalling 5,565 acres. Whakatau's hapu at this time was about 80-strong.

There still remained one Ngai Tahu claim to extinguish. Although Kemp's purchase included the land west of the alps, and Mantell earmarked money for the 100 or so Ngai Tahu living there, they claimed to have not seen a penny of it. Apparently Tainui, a son of the west coast's principal chief, who was then living near Kaiapoi, and Tikao and other east coast chiefs had spent it. Following the Kaikoura purchase, therefore, Mackay trekked west to offer the locals £150 and 500 acres in reserves as a settlement. He was unable to come to terms, however, the Ngai Tahu demanding £200 and a 200,000-acre reserve which included "the best of the land."

After a trip to the North Island to confer with his superiors, Mackay returned with authority to up his offer and increase the reserves to 10,000 acres. After months spent traversing the district laying out the reserves a deed was signed and £300 handed over. The reserves totalled 10,224 acres, 6,724 acres for individual occupation with the remainder to serve as an endowment. Among them was a 500-acre block on the banks of the Grey River, which included the

commercial heart of Greymouth when it sprang up following a gold rush in 1865. From 1866, when it was found the Maoris were illegally leasing their sections to Europeans, they consented to the Government administering this reserve. A decade later the 20-odd beneficiaries of the trust were receiving an average income of over £3,000 a year from the leases.

In November 1863 responsibility for Maori affairs passed from the British to the New Zealand government and the following year the settlers' elected representatives made their one and only purchase from Ngai Tahu. This was of Stewart Island, which the authorities had been dithering about buying since Topi first offered it to them in 1860.

They were hastened into action when it was suspected that Topi was using its unpoliced harbours to try and smuggle gunpowder to the warring northern Maoris. The terms of this deed were described by one historian as the most humane of any land purchase made from the Maoris. The payment was £6,000 divided into three equal parts, one paid at the signing, one invested and the income distributed annually, and the other used as an educational endowment. Nine reserves were made totalling 935 acres, for a resident population of just 25. Also, 21 of the nearby mutton-bird islands were set aside for Ngai Tahu's exclusive use. Interestingly, the 31 descendants of Ngai Tahu women sold to early European settlers on the island were provided for separately. At this time, it seems, these half-castes were not considered part of the Ngai Tahu tribe. Later the government took responsibility for ensuring that those of mixed descent had some land to live on.

With this purchase, in mid-1864, the government could be excused for thinking it had satisfied all Ngai Tahu claims in the South Island. Several reports would have led it to believe this. In 1856 the officer examining the Akaroa claim reported that, this apart, Canterbury Ngai Tahu were "well satisfied" with the Crown's purchases. The following year Hamilton, during his negotiations with Kaiapoi Ngai Tahu,

was told that "South of Kaiapoi all had been fairly bought, [the Crown's] ownership was unquestioned." And in 1861 the Kaiapoi hapu welcomed Grey back to the Governorship with a message that thanked his predecessor for arranging their "outstanding land claims and giving us a fair payment for them."

By 1872, however, the grievance industry was gearing up. Petition after petition was sent to the government outlining their complaints. Some of these were preposterous, including one that Kemp had threatened to send soldiers to kill them if Ngai Tahu did not sign his deed. However all were treated seriously. The Native Land Court was called upon, Parliamentary committees convened and commissions of inquiry mounted to tour the Ngai Tahu settlements. There is no evidence in all of this of the "high-handedness and arrogance" which the Tribunal saw in the Crown's actions. The attitude it took is more truly summed up in these words of the Land Court's chief judge, who in 1876, having inquired into the merits of one Ngai Tahu petition, concluded:

"There [is], as far as I can see, no ground whatever, either in law or equity, (technical or moral), for the position taken by the petitioners. And if the

petitioners were Europeans I can conceive no reason why any favourable consideration should be given to their prayer. But I am bound to add ... that it would be becoming the dignity and honour of the Crown not to inquire too minutely into the abstract rights of these persons, but to deal with them in a parental and liberal spirit.... if any error is made on our part in our relations with them I think it should be on the side of liberality."

That error is still being made. The Tribunal's cry is: "Surely Ngai Tahu have waited long enough." The response it should have got is, "Surely the taxpayer has been milked long enough."

To be continued.

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