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# PORIRUA KI MANAWATU INQUIRY

# EVIDENCE SUMMARY FOR R P BOAST

# NGATI RAUKAWA: CUSTOM COLONISATION AND THE CROWN

RECEIVED
Waitangi Tribunal
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## 1. INTRODUCTION

**1.1** My full name is Richard Peter Boast. I am a Professor of Law and Queen's Counsel and a specialist legal historian. I have published numerous books and articles on New Zealand legal history and on the Native Land Court in particular. I have extensive experience both as counsel and as an expert witness in this Tribunal and in the Maori Land Court. My qualifications and background are set out more fully at pp 8-9 of my report and there is no need to repeat this here.

**1.2** My report[1] is dated 5 December 2018, and it took me approximately 3 years to write. It was written at the personal invitation of the late Iwikatea Nicholson and Ngawini Kuiti, with whom I had a long personal and professional relationship going back for some 20 years. This was not the first report I had written for Ngati Raukawa. I wrote a report for Ngati Raukawa (ki Waikato-Maungatautari) to support their negotiations with the Crown, and must disclose that I also acted as counsel for the northern section of Ngati Raukawa in this Tribunal's Rohe Potae Inquiry (this is stated at page 8 of my report) and also in other Tribunal urgency cases heard at Rotorua. I must also disclose that I have on numerous occasions given evidence on behalf of Ngati Toa, particularly in the Wellington Tenths and Northern South Island inquiries, something that Mr Nicholson and Ngawini Kuiti were very well aware of. I was also involved in the drafting of the Historic Account in Ngati Toa's deed of settlement. I was not involved in the drafting of the Historic Account for Ngati Raukawa ki Maungatautari-Waikato in their settlement deed, but my research report for that part of the iwi was relied on by those who did the drafting.

**1.3** My report is a long document of 688 pages of text accompanied by a supplementary volume of Appendices which cross-refers in turn to a substantial amount of primary evidence and some secondary sources where relevant. Obviously, my report cannot be condensed in its entirety into a presentation document timed to take no longer than 30 mins to present orally. Only principal themes and issues will be traversed. The report was quite challenging to write as the Project Brief required me to simultaneously write a narrative of Ngati Raukawa traditional history in the Porirua ki Manawatu region, while at the same time writing a critique of the Native Land Court, the records of which are one of the principal sources for constructing the historical narrative.[2]

## 2. DIVISION BETWEEN NORTH AND SOUTH OF THE MANAWATU RIVER

**2.1** When this report was commissioned there was no indication at that time that the report should be organised around issues relating to the north and south of the Manawatu River. This division has arisen only in the context of these hearings and it was not adverted to in any way in the Project Brief I received from CFRT (I do not mean to criticise CFRT, needless to say, only to make the point that the north-south divide was not seen as relevant when the technical evidence was commissioned). The Project Brief is set out and is discussed fully at pp 9-13 of my report. Nor would a north-south divide have occurred to me independently as a way of designing and

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1 R P Boast, *Ngati Raukawa: Custom, Colonisation and the Crown: Report commissioned by the Crown Forestry Rental Trust* (5 December 2018). For convenience this will be cited here as Boast, *Ngati Raukawa.*

2 Boast, *Ngati Raukawa*, 18.

structuring my report, and in my view a north-south divide is historically meaningless and in fact impedes, rather than assists with, properly grasping the issues at stake. It is obvious that some general issues of historic interpretation I address in my report, for example the effects of Christianity on Maori custom in the Porirua ki Manawatu region (chapter 6) can take no account of the north-side divide. There are no particular impacts that are more pronounced north of the river than south of it. Another example is the connections between Ngati Raukawa and the Kingitanga, a very important matter in my view. Need I even remark that political orientations had nothing to do with the river?

**2.2** In fact, the Ngati Raukawa history in the Porirua ki Manawatu region cannot, as a matter of logical analysis and for the purposes of writing a coherent historical narrative, be divided in this way. Ngati Raukawa's history can only be seen holistically rather than via an arbitrary dividing line based on land blocks and a river boundary. (I realise that this division is for hearing management purposes and convenience only.) My sense is that the Manawatu River was not a customary boundary of great significance, nor did Ngati Raukawa in the Porirua ki Manawatu region have any sense of being divided into 'northern' and 'southern' sections. The divide, if there was one, was between Ngati Raukawa in 'Kapiti' (the Porirua ki Manawatu region) and in 'Maungatautari', which meant not just the mountain but the southern Waikato region generally. As I note in my report, Ngati Raukawa people, including of course Ngati Whakatere people, Ngati Huia and people of other hapu, and Ngati Kauwhata people all thought of themselves as coming from 'Maungatautari', where the ancestral homelands of these groups all adjoined.[3] The divisions which mattered would have been those of descent and hapu, and on the whole those distinctions had developed in place in the southern Waikato-Maungatautari region long before Ngati Raukawa journeyed to the 'Kapiti' region. Much of my report is concerned with this complex history and I have attempted to tabulate which hapu of Ngati Raukawa migrated, which stayed put in the Waikato, and which did both. Moreover, the claimants had made it very clear to me that they wanted their history to be explored and narrated holistically. As I note in my report:[4]

> Moreover, it is my understanding that it is a strong preference of the PkM claimants that every endeavour be made to narrate their history in an integrated way. This view has been put to me very clearly at a number of meetings and via the feedback I have received from the Crown Forestry Rental Trust.

My report was designed and structured in the way it was in an effort to meet the wishes of the claimant community as best I could.

**2.3** I have discussed the north-south divide only to explain why it is that my report is not structured in this way, and also to make the point that even in terms of Crown actions (that is, rather than claimant self-perception) those actions north and south of the Manawatu boundary line had much in common.

**2.4** Nonetheless I have done my best to orient this brief of evidence according to the division of the inquiry district effectively into two sub-districts. The parts of my report which relate most to that part of the inquiry district north of the Manawatu River are chapter 9 (the Himatangi case), chapter 10 (the Rangitikei-Manawatu case), chapter 12 (Aorangi and Ngati Kauwhata), chapter 19 (Te Reureu and other reserve blocks), and chapter 20 (Concluding remarks). Some chapters

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3 Boast, *Ngati Raukawa*, 29.
4 Boast, *Ngati Raukawa*, 17.

of the report are very much further oriented even further to the north, as they are concerned with Ngati Raukawa and Ngati Kauwhata interests in Native Land Court blocks in the Waikato-Maungatautari region. Those chapters were written to provide a context for the impacts of the Native Land Court process in the Porirua ki Manawatu region. It is an important argument of my report that the effects of the Native Land Court on Ngati Raukawa and its affiliates and on Ngati Kauwhata were *cumulative* and rebounded on each other (the most obvious example of that being the Maungatautari cases in the Waikato, which I cover in chapter 15). Probably Ngati Kauwhata's most pivotal historical grievance are the obstacles they encountered in attempting to secure their interests at Maungatautari in the Native Land Court, difficulties that stemmed from their inability to attend the title investigations because they were obliged to attend Native Land Court hearings in the Porirua ki Manawatu region. This report was oriented towards Ngati Raukawa ki te Tonga as an entity, not towards particular land blocks.

**2.5** It may help if I also clarify for the Tribunal which parts of my report do *not* focus on the northern part of the inquiry district, and these are chapter 11 (Kapiti Island and Ngati Whakatere), and those chapters dealing with the pivotal Kukutauaki and Horowhenua blocks (chapters 13 and 14). There is also the Himatangi-Tuwhakatupua case (chapter 21), which as it happens was confined to Maori land parcels on *each* side of the Manawatu (north and south banks). This somewhat neglected case was concerned with the effects of title investigations in the Native Land Court on title to river beds, a not unimportant point (I have prepared my evidence on the assumption this matter can be postponed to the later hearing). There are also chapters in the report dealing with general questions of interpretation and argument which relate to Ngati Raukawa issues with the Native Land Court generally. So I suppose that the Kukutauaki and Horowhenua blocks and Native Land Court cases will be my principal concern the 'southern' hearings (and perhaps also Ngati Whakatere's interests in Kapiti Island).

**2.6** I note that in the Tribunal directions of 3 February 2020 (Wai 2200,#2.6.86) it is stated (para.11) that the history of land alienation north and south of the river is "markedly different" (which is, in my view, correct in a general sense, as long as it understood that there were both Crown purchases and Native Land Court purchases north *and* south of the river), and where it is further observed that "the Rangitikei-Manawatu block, which, although slightly later in time, *was purchased without the involvement of the court*". This latter observation, is in my view incorrect. In fact, it is rather disappointing to me that there apparently may be this widespread perception, given the lengths I went to in my report to explore the close interconnections between the Rangitikei-Manawatu/Himatangi Court cases and the Rangitikei-Manawatu Crown purchase. The Native Land Court was in fact *closely* involved in the Manawatu-Rangitikei purchase. This is one of the main themes and arguments of my report. The Himatangi and Rangitikei-Manawatu cases cannot be understood without the context of the Rangitikei-Manawatu block purchase, and the converse is no less true: the purchase and the fixing of the reserves make no sense without an understanding of the Court processes. I will return to this important point later in my evidence. This does not, however, matter particularly for the purposes of the organisation of the hearings. The Tribunal directions do mention the Rangitikei-Manawatu reserve blocks, and it is pertinent to note that some (but not all) of those reserves were actually *created* by the Native Land Court, as is fully explained in my report. It is thus incorrect to think of a 'Crown purchasing/Reserves' North and a 'Native Land Court' south. Large scale Crown purchases south of the Manawatu River include the Porirua block purchase of 1847, which is very problematic in many ways and is a purchase which might well have some implications for Ngati Raukawa.[5]

[5] I have not been asked to investigate this purchase for the purposes of this Tribunal inquiry, although as it happens I am familiar with its history having researched this for Ngati Toa, and have given evidence

**2.7** To repeat, it is not a case of Crown purchasing and the Native Land Court to the north of the Manawatu, but rather the usual mixture of Crown pre-emptive purchasing, the Native Land Court, and Crown and private individualised share-buying, all of these processes going on northwards and southwards. There are major Native Land Court cases affecting Ngati Raukawa to the south (Horowhenua and Kukutauaki for instance, and to the north (Himatangi, Rangitikei-Manawatu, Te Reureu (for example), and Crown purchases south of the river (Porirua Deed 1847,[6] Wainui Purchase of 1859[7])and north of it (Rangitikei-Turakina purchase 1848-9,[8] the Te Awahou purchase of 1858,[9] the Te Ahuaturanga purchase of 23 July 1864,[10] and, of course, the Rangitikei-Manawatu purchase).

## 3. STRUCTURE AND CONTENT OF REPORT

**3.1** To put it briefly, my report is about the effects of the Native Land Court (and other judicial bodies[11]) on Ngati Raukawa, its affiliates, and Ngati Kauwhata. But that is not all that it is about. It is *also* about the pre-1840 history of Ngati Raukawa (to save constantly repeating myself, I should say that by 'Ngati Raukawa' I mean that in the widest possible sense), and of Ngati Kauwhata (who are distinct). I should also make the point here that while I see 'Ngati Raukawa' in a very broad sense, with strong and pivotal hapu identities, with Ngati Kauwhata standing much more to one side. Here of course I must defer to those with specialist expertise.

**3.2** The report is in two volumes, volume 1 is the text, which I wrote entirely on my own. Volume 2, the Appendices[12], was prepared with the assistance of Alexander P Boast who had a separate contract with CFRT to assist with the collection and collation of evidence. The Appendices volume is made up of supplementary material. Much of volume 2 is comprised of a collection of the evidence given in the Himatangi case as reported in the *newspapers*. Why was that necessary? Those who have studied the Native Land Court have tended to rely confidently on the material written in the Minute Books of the Native Land Court on the assumption that it is a full and reliable record of what was done and said in the Court. This confidence is in my view misplaced. Often it is not possible to know because the minutes are all that is left to go on. As it happens, however, with the Himatangi case the newspaper record is much fuller and is much more clear and easy to follow than the minute book material. In terms of the best evidence rule, the best evidence of the record in the all-important Himatangi case is the newspaper record. In my report I used both the minute book material and the newspaper record; probably the minute book record is generally reliable in substance and there are no really major omissions, but it has

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on this purchase and its historical context (including the Crown's military campaigns in the Hutt Valley in the 1840s and Governor Grey's unlawful detention of Te Rauparaha) in the Northern South Island and Wellington Tenths inquiries which can be easily located.

6 Boast, *Ngati Raukawa,* 218-220. This deed of 1 April 1847 was the first pre-emptive purchase in the Porirua ki Manawatu region; by this deed Ngati Toa sold to the Crown a large area from Ohariu (Makara) in the south to Wainui (Paekakariki) in the north. At the time of this transaction Te Rauparaha of Ngati Toa was in Crown custody in Auckland.

7 Boast, *Ngati Raukawa,* 226-227.

8 Boast, *Ngati Raukawa* 220-221,

9 Boast, *Ngati Raukawa,* 223-226

10 Boast, *Ngati Raukawa,* 227-233

11 See Boast, *Ngati Raukawa,* 12-13. The report is not concerned with *only* the Native Land Court (by which I include the Native Appellate Court) but also with the ordinary courts (Ngati Raukawa were involved in many Supreme Court and Court and Court of Appeal cases in the 19th century), special-purpose judicial bodies such as the Ngati Kauwhata Commission of 1881, and the Validation Court.

12 R P Boast and A P Boast, *Ngati Raukawa: Custom, Colonisation and the Crown: Report Commissioned by the Crown Forestry Rental Trust: Vol II: Appendices, Document Bank, and Maps.*

to be admitted that the minute book record is often very disorganized and difficult to read, and much of the cross-examination and submissions of counsel is missing. Counsel for both Ngati Raukawa (Thomas Williams) and the Crown (Fox) gave lengthy submissions and made various oral submissions and applications during the proceedings, which are recorded patchily at best in the minute books and very fully and comprehensively in the newspapers.[13] Also at times there is no evidence recorded in the minute books at all, most crucially in the Rangitikei-Manawatu case of 1869, where there is nothing to work with except scattered material in archival sources and in the newspapers.[14]

## 4. GENERAL HISTORY OF NGATI RAUKAWA AND NGATI KAUWHATA

**4.1** Much of my report is concerned with the pre-1840 history of Ngati Raukawa and Ngati Kauwhata before 1840, focusing in particular in the conflicts in the Waikato and the migrations to the Kapiti region in or around the 1820s. Chapter 4 is focused on events in the Waikato and on the migrations of Ngati Toa, Ngati Raukawa and other groups from the Waikato and North Taranaki to the Porirua ki Manawatu region, while chapter 5, ' Ngati Raukawa in the Porirua ki Manawatu region, circa 1830-1850, deals with events and tensions in the Porirua ki Manawatu region itself. This latter chapter considers Ngati Raukawa and Muaupoko and the "The kindness of Whatanui", Te Whatanui's and Taueki's boundary (this is of importance at Horowhenua, and need not be dealt with here), with conflicts between Ngati Raukawa and Whanganui in the 1830s, the Ngamotu migration from North Taranaki in 1832, the Battle of Haowhenua in 1834 and its political consequences, and the Battle of Kuititanga in 1839. The two battles mentioned, were serious conflicts (Haowhenua was extremely serious and very destabilising) between Ngati Raukawa and Te Ati Awa (always referred to simply as 'Ngati Awa' in historical records, with not much effort to differentiate between Te Ati Awa proper, Ngati Mutunga, and even Ngati Tama).

**4.2** This chapter also covers Ngati Raukawa's role in the conflicts between the Crown and Maori in the Wellington region in 1846. In these complicated conflicts Ngati Rukawa were supportive of Ngati Toa and Te Rangihaeata (who withdrew to Poroutawhao) and Te Rauparaha (kidnapped and detained by the government), but kept out of the military conflicts. To narrate this history properly at this hearing would take up an inordinate amount of time.

**4.3** The narrative of the traditional history I wrote is based principally on Native Land records, supplemented by some other primary sources and secondary works (especially the work of Dr Angela Ballara). As I note in my report, the evidence about Ngati Raukawa's pre-1840 history, is amazingly full.[15] The Minute Book evidence is an indispensable record, and my report is largely based on material from the Otaki, Waikato, Wellington, Nelson, Otorohanga and Chatham Islands Minute Books (especially the first two). The Minute Book record, while indispensable, has its complexities and problems, which I need not traverse here but which I discuss fully in my report. [16]

**4.4** My report very briefly covers the broader connections between Ngati Raukawa and other iwi in the Waikato region, and traverses briefly the Ngati Raukawa conquest of the Waikato Valley.

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13 For example, the opening address of T C Williams, given in Maori, is found in only a brief translation at (1868) 1C Otaki MB 194-195 but there is a much fuller translation printed in the *Wellington Independent* Vol XXII, Issue 2648, 14 March 1868, p 5. See Boast, *Ngati Raukawa,* 291-2.

14 Boast, *Ngati Raukawa*, 15.

15 Boast, *Ngati Raukawa.* 12.

16 Boast, *Ngati Raukawa*, 36-45.

Political relations in this area had become very complex by circa. 1900.[17] Complexity developed into full-scale conflicts after 1900, these conflicts including the spill-over effects of the attacks by Bay of Islands groups on Hauraki and Hauraki's withdrawal inland. (These events became pivotal to the various Native Land Court cases relating to Ngati Raukawa and Ngati Kauwhata interests in the Maungatautari area, the Native Land Court devising a historical narrative according to which Hauraki groups moved inland and were in their turn defeated and evicted by Ngati Haua in alliance with central Waikato groups, giving Ngati Haua and their Waikato allies title to Maungatautari by *take raupatu*, Ngati Raukawa and its hapu and Ngati Kauwhata having supposedly abandoned Maungatautari by migrating to the Kapiti region. (Ngati Raukawa and Ngati Kauwhata have never accepted this narrative).

**4.5** To prepare a full summary of Ngati Raukawa's pre-1840 history even in the Porirua ki Manawatu region would take a long time to write and present. This history raises very complex questions of interactions with other groups in the region, notably Ngati Toa, Ngati Apa, Muaupoko, and Rangitane – and also others. The post-migration history is complex and full of conflicts of varying degrees of intensity, for example the very serious conflicts between Te Ati Awa and Ngati Raukawa in the Otaki-Waikanae area.

## 5. NGATI RAUKAWA AND THE NATIVE LAND COURT: GENERAL POINTS

**5.1** I assume that there is no need here to dwell at any length (or at all) on the origins of the Native Lands Acts and the Native Land Court, a legal-historical question which I have written about extensively in various books and articles and which of course the Waitangi Tribunal has repeatedly considered in numerous inquiries. The Court was directed to grant titles to land on the basis of "Native custom"[18], or as we would say, Maori customary law (or Maori custom law). In my report I cover the purposes and functions of the Native Land Court, the Ten Owners rule under s 23 of the Native Land Act[19] (the Himatangi and Rangitikei-Manawatu cases both fell under the Ten Owners Rule and so did the first Maungatautari cases in the Waikato), s 17 of the Native Lands Amendment Act 1867[20] (very relevant to the Horowhenua block), the Court's inquiry process, the Court and Maori customary law and Maori social organisation, the '1840 Rule' (so-called[21]), the formalisation of doctrine by the Court, and various related matters. All this material is important in a general sense and I hope my analysis is helpful to all parties, but here I will confine myself to some specific points.

**5.2** Firstly, there is the question of the relationship between the Court and the Crown. This is much-debated. I must state here that I differ from some who have argued that the Court was not a 'true' Court, whatever that may mean, but was rather simply an agency of the Crown. I think that is untenable. The Court was imperfect in many ways, but it did not see itself as a Crown agency and did not ordinarily behave as a department of state. But it is in this respect that Ngati Raukawa's experience was somewhat unique. If I may quote from the text:[22]

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17 Boast, *Ngati Raukawa,* 102-103.

18 Boast, *Ngati Raukawa,* 65-67. See e.g. Native Lands Act 1862 s2, s7; Native Lands Act 1865, Long Title, s 23, etc.etc.

19 Boast, *Ngati Raukawa,* 53-55. This section also covers the Native Equitable Owners Act of 1886.

20 Boast, *Ngati Raukawa,* 56-58. This block was awarded to Keepa Te Rangihiwinui in 1873, with Keepa as certificated owner and 143 Muaupoko individuals as the 'registered' or 'certificated' owners.

21 Boast, *Ngati Raukawa,* 69-74. The Court developed numerous exceptions to the 'Rule'.

22 Boast, *Ngati Raukawa,* 83.

> In a number cases the Crown was the direct and open opponent of Ngati Raukawa in the Court itself. In the all-important Himatangi case of 1868 Ngati Raukawa claims were countered by the Crown *in the Courtroom*, represented by William Fox, a powerful politician and experienced barrister. As will be seen, Fox cross-examined Ngati Raukawa and Ngati Kauwhata witnesses at length, went out of his way to mock and humiliate Ngati Raukawa's counsel [TC Williams] and – more importantly – the Crown had a direct stake in the outcome of the case. In the Rangitikei-Manawatu case the following year the same thing happened, except that the Crown was represented at that time by the Attorney-General, Sir James Prendergast. After the case Prendergast, as Attorney-General was involved in the making of a Proclamation which extinguished the Maori customary title to the lands within the boundaries of the Rangitikei-Manawatu block. Ngati Kauwhata, too, were directly opposed by the Crown, in their case in the Ngati Kauwhata investigation in 1881. Suffice to say that in this inquiry Maori were directly and openly opposed in the Native Land Court by very influential and powerful figures linked to the government of the day.

**5.3** It is often believed that that of the Native Lands Acts of 1862 and 1865, which established the Native Land Court and are the starting-points of the modern statute-based system of Maori land tenure, the 1862 Act was comparatively unimportant. This is incorrect, and in fact many cases were decided under the 1862 Act, but mainly in Northland. The fact that the really important Act was actually the 1862 Act has implications for understanding the political background to the legislation.[23] There is also the question as to what cases in the Native Land Court were actually about. Mostly, in my view, they were about historical events and how those events should be interpreted and given effect to at the present day. It is very noticeable how many of the most important Native Land Court cases are concerned with the consequences of the so-called 'musket wars' periods of about 1810-1835.[24] Cases relating to Ngati Raukawa and Ngati Kauwhata are no exception.

**5.4** In my report I discuss the 'opportunity costs' of the Court. By this I mean it is probable that the advent of the Native Land Court stymied the efforts of Maori to develop mediation systems of their own, including special komiti or Runanga and the practice of inviting senior or especially respected or expert chiefs from outside the district to mediate in land disputes. Something like the latter appears to have occurred in the case of Te Reureu block for example.[25]

**5.5** Another general point is that the issue of reserves in Crown purchase blocks and Native Land Court title investigations cannot be neatly separated, because: (a) as pointed out some reserve blocks were first created by the Native Land Court; and (b) reserves set aside by Crown purchase deeds were subsequently investigated – and often, partitioned and repartitioned – by the Court. One example of the latter is Te Reureu. I also consider in my report the Native Land Court's approach to Maori traditional history.[26] My general impression is that the judges of the Court believed that they were able to create reliable narratives of pre-European Maori history based on testimony given in Court and on whakapapa given in evidence.[27]

**5.6** The fact that Ngati Raukawa, Raukawa hapu, and Ngati Kauwhata, had migrated to the Porirua ki Manawatu region while at the same time had maintained their customary rights in their 'Maungatautari' ancestral homelands caused particular problems:[28]

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23 Boast, *Ngati Raukawa,* 49-50.
24 Boast, *Ngati Raukawa,* 60.
25 Boast, *Ngati Raukawa,* 81. Rangatira who were involved in the Te Reureu arrangements included Renata Kawepo and Mananui Te Heuheu Tukino.
26 Boast, *Ngati Raukawa,* 24-28.
27 Boast, *Ngati Raukawa,* 26.
28 Boast, *Ngati Raukawa,* 29.

> Managing Court cases in these two widely-spaced regions [i.e. 'Maungatautari' and 'Kapiti'] caused severe practical problems. Groups such as Ngati Kauwhata and Ngati Raukawa had to do their best to maintain a presence in large Native Land Court cases affecting their lands going on in different regions, which could be heard at more or less the same [time] at Otaki, Levin, and Wellington or at Cambridge, Kihikihi or Otorohanga. Ngati Kauwhata, for example, faced severe problems because they could not participate in separate cases going on at once and were forced to make a choice. By not attending a pivotal case in the Waikato, they had to try to make for the consequences by seeking reinvestigations and rehearings, which proved to be very difficult and usually unsuccessful.

**5.7** The Native Land Court first began to deal with Ngati Raukawa lands in the Porirua ki Manawatu region in 1866, very soon after its establishment in 1865. These earliest cases were all concerned with lands *south* of the river, around Otaki.[29] These were investigations into very small parcels of land, mostly (I believe) parcels originally marked out as part of the Anglican settlement at Otaki. These cases will have given Ngati Raukawa very little inkling as to what was coming. The Native Land Court probably seemed at first to be a relatively unthreatening institution. The Himatangi case of 1868 and the Rangitikei-Manawatu case of 1869 were vastly different, because of their scale and also because of their interconnection with the Wellington Provincial Government's Rangitikei-Manawatu purchase. If I may quote from my report again:[30]

> The first thing to note about the Himatangi case of 1868 (and the Rangitikei case of 1869) is their sheer scale, a marked contrast with the earlier Otaki cases. Ngati Raukawa found themselves catapulted from small-scale inquiries to sections at Otaki into a massive courtroom drama in which their customary rights were placed in issue in a highly forensic setting where they were challenged by William Fox, a powerful politician and barrister, who called witness after witness to challenge their claims. One disturbing aspect of the case must have been the way in which Fox treated Octavius Hadfield and Samuel Williams, who Ngati Raukawa will have known well and regarded as trusted advisers.

## 6. THE HIMATANGI CASE, 1868 (Ch 9)

**6.1** As I have explained already, the Himatangi case of 1868, and the Rangitikei-Manawatu case which followed on from it the following year, were both interconnected with the Rangitikei-Manawatu purchase. At the core of the complexities was contestation between Ngati Apa and Ngati Raukawa in the lands between the Manawatu and the Rangitikei rivers. The Wellington Provincial government wished to acquire this vast region for the province and had commenced negotiations with Ngati Apa. Ngati Raukawa leaders, on the other hand, contended that Ngati Apa had no right to sell land south of the river, and that they had agreed with Ngati Raukawa they would not do so. The disputation reached back a few years earlier, over the leasing of land by Ngati Apa south of the river.[31] The dispute was a long and complex one. I am not able to analyse its full complexities at this time. There was a great deal of evidence on the Ngati Apa-

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29 On these earlier cases see Boast, *Ngati Raukawa,* 260-263. They will not be reviewed in this brief of evidence.

30 Boast, *Ngati Raukawa,* 263.

31 See evidence of Te Kooro Te One of Ngati Kauwhata, (1868) 1C Otaki MB 286-290, cited Boast, *Ngati Raukawa,* 267: "Remember the commencement of dispute with Ngati Apa and Ngati Raukawa in 1863 – first cause was the leasing of land".

Ngati Raukawa contestation given in the Native Land Court in the Himatangi case in 1868. Rangatira from other areas, such as Metekingi Paetahi of Whanganui, tried to mediate in the dispute (Metekingi described his efforts in the Himatangi case in person in 1868[32]). Other evidence points to wider political tensions, indicated by Ngati Apa suggesting to Ngati Raukawa that they should go back home to the Waikato and hand the mana of the land over to Ngati Apa, a suggestion that Ngati Raukawa rejected and came back with a counterproposal of their own, that the land be split into three sections (for Ngati Apa, Ngati Raukawa, and Rangitane). Ngati Apa rejected that in their turn.[33] It was in these circumstances that Isaac Featherston of the Wellington Provincial Government proceeded with the Provincial Government's purchase.

**6.2** In a petition sent to Queen Victoria in 1867 Parakaia Te Pouepa (later to be the claimant in the Himatangi case) described from the standpoint of Ngati Raukawa Featherston's activities when negotiating the Rangitikei-Manawatu block sale in the preceding year. In 1866 "Featherston came again", said Parakaia, "and made a determined effort to purchase our land".[34] He went on to describe Featherston's bullying behaviour, reminding them that the people consenting to the sale were the Crown's military allies.

**6.3** The purchase was carried out by purchasing of individual interests and by deed. Some of Ngati Raukawa, admittedly, sold their interests too, but many did not. So the issue now arose as to how much of the block the Crown owned following the conclusion of the purchase. As most of the non-sellers were Ngati Raukawa, that involved a determination of the relative interests of Ngati Apa and Ngati Raukawa in the Rangitikei-Manawatu block: and hence the Himatangi case.

**6.4** This case was an unusual one in many ways. One thing that made it so unusual was that it was held pursuant to a special statutory jurisdiction. It was not an ordinary investigation of title under the Native Land Act of 1865. In fact the Rangitikei-Manawatu block had been *excluded* from the ordinary operation of the Native Land Court by s 21 of the Native Lands Act 1861 and s 82 of the Native Lands Act 1865. This exclusion was done not to benefit Ngati Raukawa but was, rather, a concession to the Wellington Provincial government, giving to the latter a free hand to see its purchase through to its conclusion. Ngati Raukawa were very angry about the exclusion as it prevented them from having their customary interests in the Rangitikei-Manawatu block properly defined. Without this, they were at the Provincial Government's mercy. Ngati Raukawa's displeasure can be seen from a letter sent by Ihakara Te Hokowhitikuri (Ihaka Tukumaru) to Featherston in June 1865 where he lamented that "We have heard from the Pakehas that all the lands of this island are thrown open…by this new law, and that our lands only are left in prison and that we are now just like pigs confined in an enclosure".[35] "Dr Featherston," he added, "great is my sadness, all of us are sad". Ngati Raukawa made numerous efforts to have the exemption removed, including a petition to Queen Victoria.

**6.5** There was another statutory intervention in 1867. Section 40 of the Native Land Act 1867 allowed the *Crown* to refer to the Native Land Court the claims of "any person" claiming an

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32 See evidence of Metekingi Paetahi, as recorded in the *Wellington Independent* 7 April 1868, cited in Boast, *Ngati Raukawa* 269.

33 Memorandum in Maori by Ihaka Tukumaru, 23 May May 1863, MA 13/109/69a (English translation on file. See Boast, *Ngati Raukawa*, 270.

34 Petition of Parakaia Te Pouepa, 4 July 1867, reprinted in AJLC App 5 p 9, cited Boast, *Ngati Raukawa*, 276.

35 Ihakara Te Hokowhitikuri to Featherston, 14 June 1865, 1865 AJHR E2, 9, cited Boast, *Ngati Raukawa*, 275.

interest in the Rangitikei-Manawatu block. Only those who had not signed the Rangitikei-Manawatu deed were able to make a claim. This all explains why the Crown played such a major role in the case. The greater the share of the block that Ngati Apa were allocated as customary owners, the more that the Crown would obtain. In this way the Crown became committed to its own interpretation of customary rights and traditional history, and so had a material interest in convincing the Native Land Court of a particular interpretation, an interpretation that suited the interests of the state. The rights of any particular non-seller would have to turn on the relative interests of Ngati Apa and Ngati Raukawa. Again, if I may quote from my report:[36]

> This way of dealing with the issue meant, however, that the Court's determination would impact on how much land the Crown could plausibly be said to have purchased. The division between sellers and non-sellers was not evenly spread across the block and could not simply be divided pro rata; rather the non-sellers were concentrated amongst Ngati Raukawa. If the Court was prepared to accept that Ngati Apa, Muaupoko and Rangitane had[37] substantial interests in the area, any such finding *de facto* increased the Crown share of the block, (albeit, as noted, that there were some Ngati Raukawa sellers). If Ngati Raukawa had a customary title to the whole block and were mostly non-sellers, then the provincial government would have spent a great deal of money to very little purpose. The provision [i.e. s 40 of the NLA 1867] thus had the effect of turning the case into a contest between the Crown and those persons with interests who had not sold their shares. Ngati Raukawa were only nominally pursuing a claim against Ngati Apa and the other groups in the Himatangi block, the first part of the Rangitikei-Manawatu block to go to hearing in the Native Land Court. Essentially their opponent in the case was the Crown, or to be more precise, the Wellington Provincial Government.

**6.6** So the case was a complex and unusual one, closely linked to the purchase process, and indeed once the Native Land Court had made its decision relating to Himatangi many people were puzzled as to what the effect of the decision actually was. The Himatangi case and the Rangitikei-Manawatu cases, I should add, were not really two separate cases; rather they were two instalments of *one* case. Himatangi just happened to be the first part of the wider Rangitikei-Manawatu block that was heard by the Court, as it was the claim by Parakaia Te Pouepa and others whose hapu rights were concentrated at Himatangi. The Rangitikei-Manawatu case heard the following year was concerned with all the other non-sellers (again, mostly Ngati Raukawa). The case turned Ngati Apa and the groups linked to them as *de facto* allies.[38]

**6.7** I have devoted a substantial part of my report to covering the Himatangi case in detail, including the evidence called by Ngati Raukawa's counsel, T C Williams; that called by the Crown (represented by Fox), the opening and closing submissions for both sides, and the Court's judgment. Some groups, such as Ngati Toa, found themselves on opposing sides in the case, with Matene Te Whiwhi supporting the Ngati Raukawa case and Tamihana Te Rauparaha appearing as a witness for the Crown. There were religious and political divides in play. T C Williams belonged to the Williams missionary family (he was the son of Henry Williams) and was not a lawyer. He was an impassioned champion of the rights of Ngati Raukawa and was strongly committed to the Treaty of Waitangi, in the formation of which the Williams family and the Church Missionary Society had played an important role. Before the case began Williams had laboriously complied a collection of carefully-selected documents on the Rangitikei-Manawatu purchase, published in Wellington in 1867 in a pamphlet titled *The*

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36 Boast, *Ngati Raukawa,* 281.

37 I have omitted here the word 'retained', which I had in my original; I think the sense is clearer without it.

38 Boast, *Ngati Raukawa,* 282.

*Manawatu Purchase Completed, or, The Treaty of Waitangi Broken.*[39] This compilation was reprinted in London in 1868. In its preface Williams wrote he "held the opinion, in common with many others, that the Treaty of Waitangi has clearly been broken by the Government of this country in their dealings with the Natives for the acquisition of the Manawatu block".[40] Williams, as noted, was not a lawyer; but nor indeed were the presiding judges, Rogan, White and Smith, who sat with two Maori Assessors. (At this time it was the norm for Native Land Court judges, the Chief Judges aside, not to have legal qualifications.) Fox on the other hand was an experienced barrister and parliamentary orator with a witheringly sarcastic style. Which he used to great effect against Williams and against Anglican churchmen. Williams was not in Fox's league and he made a number of mistakes, but he tried very hard to present an effective case for Ngati Raukawa. He spoke Maori fluently and in fact gave his opening and closing submissions to the Court in Maori, with the leave of the Court (Fox objected, but in vain).[41] The claimants were the hapu of Himatangi to whom Parakaia Te Pouepa affiliated, these being Ngati Turanga, Ngati Te Au, and Ngati Rakau; Ngati Apa were nominal counterclaimants.

**6.8** A great deal of evidence was called by both Williams and Fox, and the case lasted for forty sitting days. It was obviously seen as pivotal by all parties. The Anglican Church played an important role in the case, which was heard at the 'Runanga House' at Otaki, Otaki being a long-standing Church Missionary society base. There was T C Williams as counsel, but also the Bishop of Wellington (Octavius Hadfield), the Reverend Samuel Williams, and the Rev Mr De Bois gave evidence in support of Ngati Raukawa. Also two of the principal Ngati Raukawa witnesses, Rawiri Te Whanui and Henare Te Herekau, were themselves Anglican clergymen. The Crown case, on the other hand, had a markedly anti-Church of England and anti-Treaty of Waitangi stance. Many Pakeha settlers tended to be somewhat anti-clerical and resented the criticisms of Pakeha and Crown behaviour made from time to time by prominent Churchmen such as Octavius Hadfield. Fox, as a prominent settler politician, had no liking for the Church Missionary Society or the Treaty of Waitangi; indeed the two were linked together in his mind seemingly. The Crown case was very well-resourced, and Fox made a number of attacks on the Treaty of Waitangi in submissions. Williams' understanding of the Treaty was a simple and straightforward one: it meant what it said, especially when it said that the chiefs and tribes were guaranteed possession of their lands (i.e. whatever lands they happened to have as at the time of the Treaty).

**6.9** The Court's decision (which is set out in full at pp 4-5 of Appendix II )was that Ngati Raukawa had not acquired the whole of the Rangitikei-Manawatu block on the basis of raupatu ("the evidence shows that the original occupiers of the soil were never absolutely dispossessed and never ceased on their part to assert and exercise rights of ownership"). The Court calculated that Parakaia Te Pouepa and his co-claimants (eight people in all) were entitled to 2/27 "of the block claimed", an area of 5,500 acres at Himatangi. The exact effect of the Court's decision is quite difficult to fathom, but what is clear is that in the Court's view Ngati Raukawa as such had only a shared interest in the Rangitikei-Manawatu block and, moreover, that only interests attaching to particular hapu could be recognised. So Parakaia Te Pouepa and his co-claimants did have interests at Himatangi; whether any other hapu of Ngati Raukawa anywhere else in the block remained to be decided. The 1868 decision, which caused a certain amount of

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39 Boast, *Ngati Raukawa,* 282-283

40 Williams, *The Manawatu Purchase Completed, or, The Treaty of Waitangi Broken,* (New Zealand Times, Wellington, 1867(, Preface ppp i-ii, cited Boast *Ngati Raukawa* 283.

41 Boast, *Ngati Raukawa,* 289-90. The Court ruled that because the Court was partly comprised of Maori Assessors it would be a "fair concession" to allow Williams to address the Court in the Maori language (ibid, 290).

puzzlement on the part of Pakeha newspaper commentators at the time,[42] was a kind of compromise. A little baffled by the decision, contemporaries grasped its main effect: that only comparatively small parts of the Rangitikei-Manawatu Crown purchase block belonged to Ngati Raukawa and only on the basis of occupational rights attaching to particular hapu. Ngati Raukawa's claim to the entirety of the area based on *take raupatu* could not be sustained. This was confirmed by the Native Land Court in the second decision, the Rangitikei-Manawatu case heard at Wellington the next year.

**6.10** Counsel for Ngati Raukawa, who were obviously disappointed by the Himatangi decision, applied for a rehearing. The rehearing application was drafted by Williams and is a document of some importance.[43] The rehearing application was referred to the judges who had heard the case and was declined.

## 7. THE RANGITIKEI-MANAWATU CASE (1869) (Chapter 10)

**7.1** The Rangitikei-Manawatu case was linked to, but was distinct from, the Himatangi case, in that while both cases related to the Rangitikei-Manawatu Crown purchase block, they were concerned with different groups of Ngati Raukawa non-sellers, the former with Parakaia Te Pouepa and the hapu whom he represented, and the latter with another ten outstanding claims. The Native Land Court gave a preliminary judgment in August 1869 and the second in September.

**7.2** The case began in June 1869 when the Governor referred 'all questions affecting the title or interests' of the Maori non-sellers in the Native Land Court to the Native Land Court. The Court, as will be seen, found decisively in favour in Ngati Apa, with the leading judgment being given by Judge Maning. Judge Maning's judgment is widely available as it is printed in Chief Judge Fenton's collection of *Important Judgments of the Native Land Court* but much of the other material relating to the case has disappeared. No Court minutes from the 1869 hearing exist, or at least I have not been able to find them, and unlike the first (Himatangi) case there is very little newspaper commentary, probably the public largely having lost interest in the Rangitikei-Manawatu block by this time. Some material from this case can be found, however, in a large file of papers on MA 13/71 at National Archives in Wellington.[44]

**7.3** On this occasion the Ngati Raukawa claimants were represented not by Thomas Williams but by William Travers, a lawyer practising in Wellington, whose opening address is recorded in the manuscript notes on the National Archives file. Many people who spoke at the first (Himatangi) hearings also spoke at the second, including Matene Te Whiwhi of Ngati Raukawa. This time the Crown was represented by James Prendergast, the Attorney-General. The Native Land Court panel was also a different one, and this time was presided over by Chief Judge Fenton and Judge Maning.

**7.4** At the core of the evidence, once again, were the relative interests of Ngati Apa and Ngati Raukawa in the block. As Fox had done at the earlier hearing in the previous year, the Crown argued strenuously that there had been no conquest of the Rangitikei-Manawatu block by Ngati Raukawa. The Crown claimed that Ngati Toa, whose chief Te Rauparaha had allocated land to Te Whatanui of Ngati Raukawa, had in fact been close allies of Ngati Apa all along. In opening,

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42 Boast, *Ngati Raukawa,* 331-32.

43 See Boast, *Bgati Raukawa,* 332-335

44 For a full review of this important (and apparently little-known file see Boast, *Ngati Raukawa,*45.

Prendergast stated that "conclusive evidence would be placed before the Court that there never was anything in the nature of a conquest by Ngati Raukawa – that there never was a single fight between that tribe and the Ngatiapa – and that the claimants have never had possession of the land in dispute".[45] Moreover, the Crown "would show that previously to the coming of the Ngati Raukawas a firm friendship and alliance had been formed between the Ngatitoa and the Ngatiapa, which had been cemented by the marriage of Rangihaeata with Pikinga, a Ngatiapa woman of high rank".[46]

**7.5** The Court structured its judgment around the core assumption that Te Rauparaha and Ngati Toa had been in state of friendship and alliance with Ngati Apa at the time when Ngati Toa had invited the Ngati Raukawa chiefs to travel south to the Kapiti region, and indications to the contrary were explained away. According to the Court, Te Rauparaha at no time allocated land to Ngati Raukawa in the Manawatu-Rangitikei region. The Court's principal finding was that Ngati Raukawa "as a tribe" had no interests in the block, but there was some Ngati Raukawa occupation of the land by just three hapu, Ngati Parewahawaha, Ngati Kahoro, and Ngati Kauwhata, the Court treating the latter simply as a hapu of Ngati Raukawa. These hapu, the Court claimed, had been allocated rights on the Manawatu-Rangitikei block not by Ngati Toa but rather by *Ngati Apa.* These hapu at least had interests the block, in addition to the hapu allocated rights at Himatangi by the 1868 decision. (It needs to be recalled that in the preceding year the Court had found that Ngati Turanga, Ngati Te Au, and Ngati Rakau had interests at Himatangi. (Maning's judgment is analysed and critiqued in full in my report).

**7.6** In essence the two decisions of 1868-1869, put together, amount to a courtroom victory nominally for Ngati Apa and in reality for the Crown, with Ngati Raukawa receiving a consolation prize of the recognition of six hapu (one of which was actually Ngati Kauwhata). My view, as stated in my report, is that the historical narrative in the lengthy 1869 judgment is crude and untenable, and that the 1869 decision was an even worse outcome for Ngati Raukawa than the 1868 decision. Although I have not found any evidence of direct manipulation of the Court behind the scenes, the issues relating to the Rangitikei-Manawatu had long been controversial and widely reported in the newspapers, and certainly the outcome was one which Featherston and the provincial government wanted.

**7.7** Following the decision, which was greeted with much enthusiasm by the townspeople of Wellington[47], the extinguishment of Native Title over the entirety of the "Manawatu block" was gazetted on 16 October 1869, just over a month from Maning's decision. Following the decision, Featherston contacted the General Government and asked that the Maori title over the Rangitikei-Manawatu block be extinguished (the Wellington Provincial had no power to do this itself), and the proclamation was duly made by Prendergast as Attorney-General (who had or course argued the Crown case in 1869). Nothing was said in the proclamation about excluding Himatangi, so the Court's 1868 decision awarding that block to Parakaia's hapu was nullified too, perhaps inadvertently. In reporting the outcome of the case, some of the newspapers took the opportunity to aim a few swipes at Octavius Hadfield for his support of Ngati Raukawa (e.g. "whether the opposition of Archdeacon Hadfield and his friends was in any way connected with the grant of 10,000 acres promised to the Church by the Ngatiraukawa tribe or whether it was the result of ignorance is not for us to say"[48]).

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45 Prendergast, opening submissions in Rangitikei-Manawatu case, *Wellington Independent,* Vol XXIV, Issue 2872, 7 August 1869, p. 2, cited Boast, *Ngati Raukawa,* 343.

46 Ibid.

47 As is clear from the newspapers of the day; see Boast *Ngati Raukawa,* 339-40.

48 *Wellington Independent* (Vol XXIV, 28 September 1869) at 2, cited Boast *Ngati Raukawa* 340.

**7.8** Significant conflict over surveys came next. The provincial government was given immediate notice that the surveys would be opposed. Rangatira could not understand how it could be that the Maori title over the whole block had been extinguished. On 18 November, Kooro Te One, Tapa Te Whata, and others of Ngati Kauwhata wrote to the general government from Awahuri advising that the surveyor in the Oroua area, Stewart, had been sent away and that "we are not clear about the judgment of the Court, or about the notice that the native title has been extinguished".[49] My report deals at some length with the conflicts over surveys, using contemporary newspaper material – of which there is a great amount, the collisions over the surveys attracting considerable public and newspaper attention. Ngati Raukawa embarked on a campaign of obstruction of the surveys, the surveys being carried out by the government, these being surveys of the exterior boundaries and also the surveys of the reserves set out in the decisions of the Native Land Court. (Further reserves were defined later by McLean and were given effect to in legislation (Rangitikei-Manawatu Crown Grants Act 1873). The reserves in the Rangitikei-Manawatu block thus derive from two sources, those deriving from the Court and those from the later arrangements made by McLean. There was (and is) also Himatangi itself, which, as seen, was allocated to Parakaia Te Pouepa and his associates. Himatangi had a complicated after-history in its own right, which is set out in my report but which I will not traverse here.

## 8. AORANGI AND NGATI KAUWHATA (Chapter 12)

**8.1** Chapter 12 of my report is concerned with Ngati Kauwhata and with the Aorangi block near Feilding. Part of this chapter deals with Ngati Kauwhata's separate and independent migration to the Manawatu, this section being based on Ngati Kauwhata evidence given in various Native Land Court cases and before the Maungatautari Commission of 1881. Ngati Kauwhata's migration history is no less complex than that of Ngati Raukawa, with some groups moving south, some staying, and much complex interaction between north and south. Aorangi is interesting because Ngati Kauwhata, Ngati Tauira (of Ngati Apa) and Rangitane had informally partitioned the block amongst themselves. The rest of the chapter is concerned the Aorangi investigation of title in 1873 and the Aorangi rehearing of 1878. There are some connections between the cases relating to Aorangi and the complex disputation over Horowhenua, the consideration of which can be postponed to the later hearing week.

## 9. NGATI KAUWHATA AND MAUNGATAUTARI (Chapter 15)

**9.1** Chapter 15 of my report is concerned with Ngati Kauwhata and the various Land Court cases and special investigations and inquiries relating to the Maungatautari lands in the Waikato. This block is nowhere near this inquiry district, and so chapter 15 was not included in the list of chapters in my report dealing with 'northern' blocks in the inquiry district (it is certainly 'northern' but not in the inquiry district. The extent to which this Tribunal can and should consider the Maungatautari cases is a matter for legal submission. I wrote this chapter because I was aware of the huge significance of Maungatautari to Ngati Kauwhata. In the title investigation of Maungatautari in 1868 (Maungatautari-Pukekura-Puahoe blocks) Ngati Raukawa's claim was unsuccessful and the land was awarded to Ngati Haua. Ngati Kauwhata repeatedly sought to have Maungatautari reinvestigated on the grounds that they were unable to attend the title investigation in 1868 because they had to appear in the Native Land Court in

[49] Kooro Te One, Hoani Meihana and others to McLean, 18 Nov 1869, *Evening Post*, Vol V, Issue 248, 27 Nov 1869, p 2, cited Boast, *Ngati Raukawa*, 353.

the Manawatu at the same time (this Manawatu case must be the Himatangi case: certainly the timing is right). Ngati Kauwhata's attempts to regain their traditional interests in Maungatautari are a long and bitter story of constant frustration. I have explored this history in detail because, so it was my understanding, that Ngati Kauwhata wanted me to; it should be noted that Maungatautari has not been enquired into and reported on in any other Waitangi Tribunal inquiry. I would be very happy to expand on the Maungatautari if invited to do so by the Tribunal or by counsel for Ngati Kauwhata, but there is no time to explore this matter fully at this hearing.

## 10. TE REUREU AND THE RANGITIKEI-MANAWATU RESERVE LANDS (Chapter 19)

**10.1** Te Reureu, an important farming area near Halcombe, is located on the southern side of the Rangitikei. It is the largest and most important of Rangitikei-Manawatu reserves set aside under the Rangitikei-Manawatu Crown Grants Act of 1873. Te Reureu has a very complex history of investigations and partitions in the Native Land Court, arising from the complexities caused by McLean's allocation of the block to four hapu: Ngati Maniapoto, Ngati Pikiahu, Ngati Rangatahi, and Ngati Waewae. How these hapu came to be occupiers at Te Reureu is a complicated and interesting story in its own right.

**10.2** Much of the subsequent litigation over Te Reureu was connected with the relative interests of these four groups. I suggest in my report that a principal cause of all the problems was one of the earlier decisions of the Native Land Court which allocated interests at Reureu on the basis of equal shares rather than by rights according to Maori custom. Once again, there is no time to deal with the full complexities of the Te Reureu case at length. It is an important matter, and one of some complexity.

## 11. INCONSISTENCIES IN THE NATIVE LAND COURT

**11.1** One argument that underpins my whole report relates to inconsistencies in the Native Land Court. The Court has been very inconsistent in two major areas, whether Ngati Raukawa had title to Horowhenua on the basis of conquest (not an issue for this hearing) and whether Ngati Raukawa and Ngati Kauwhata had lost rights to their lands in the Waikato when they 'abandoned' (supposedly) their Maungatautari lands when migrating to the Porirua ki Manawatu region. In some cases Ngati Raukawa and Ngati Kauwhata were unsuccessful for this reason and in others, most importantly the Rohe Potae case heard at Otorohanga in 1886, the Court was prepared to find that there was no abandonment and found in favour of Ngati Raukawa. It is well-known that Ngati Raukawa had and still have large interests in the Rohe Potae, particularly in the Wharepuhunga block, but again I cannot go into this here. Much of my report is concerned with exploring and analysing these inconsistencies. Again, I would be very happy to explain this more fully at some other opportunity. Such inconsistencies can also be found with the Horowhenua block, again dealing with respect to Ngati Raukawa's rights by conquest (over Muaupoko at Horowhenua, compared with Ngati Apa in the case of Himatangi/Rangitikei-Manawatu.

## 12. RANGIMARIE AND PENE RAUPATU STATEMENTS OF EVIDENCE

**12.1** I note that the Tribunal has granted leave to counsel for Te Hono ki Raukawa to put the question to myself and other expert witnesses set out at paragraph 14 of the Tribunal's directions of 3 February 2020 (#2.6.86). It may help if I deal with this now. I have read the Te Rangimarie statement only once, and did not see it until long after my own evidence had been completed and filed. At the time of preparing this brief of evidence I have not seen the Pene Raupatu

statement of evidence and have no idea what that is. With respect to the Rangimarie statement, which I have read and which I found very interesting and enjoyable to read, the answer to the question is 'No'. My recollection is that the learned authors of that document and I are substantially (if not wholly) in agreement (and indeed this is observed at numerous points in the statement itself). That aside, I am not comfortable on commenting on either statement in detail but will of course deal with any questions of clarification that I am directed to respond to by the Tribunal.

## 13. GENERAL CONCLUSIONS (Chapter 20)

**13.1** My concluding remarks are set out at pages 686-688 of my report, which, with the Tribunal's permission, I propose to simply read out (time permitting).

**13.2** By way of closing, I wish to thank Ngati Raukawa and Ngati Kauwhata for allowing me to become involved in this project, which I have found to be absorbingly interesting.

R.P. BOAST QC, Professor, Victoria University of Wellington.